



City of Richmond

Report to Committee

To: Planning Committee
From: Wayne Craig
Director, Development

Date: October 4, 2021
File: 06-2270-07-02/2021-Vol
01

Re: Existing Non-Conforming Two-Unit Housing (Duplexes) Zoning Compliance Options

Staff Recommendation

That the staff report titled "Existing Non-Conforming Two-Unit Housing (Duplexes) Zoning Compliance Options" dated October 4, 2021 from the Director of Development be received for information.

Wayne Craig
Director, Development
(604-247-4625)

SB:blg
Att. 3

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Finance Department	<input checked="" type="checkbox"/>	
Law	<input checked="" type="checkbox"/>	
Policy Planning	<input checked="" type="checkbox"/>	
Transportation	<input checked="" type="checkbox"/>	
SENIOR STAFF REPORT REVIEW	INITIALS: 	APPROVED BY CAO

Staff Report

Origin

On October 5, 2020, the General Purposes Committee passed the following resolution:

That staff investigate how to make non-conforming two-unit dwellings compliant where they already exist and report back.

For Council's consideration, this report responds to the referral by providing information on the history of the non-conforming status of two-unit housing (commonly referred to as duplexes) and presents a number of options regarding addressing zoning compliance of the 188 properties with existing non-conforming two-unit housing located throughout the City (Attachment 1). This report is provided for information purposes, however should Council choose to pursue rezoning properties with existing non-conforming two-unit housing, a staff recommendation is included in the "Options for Addressing Zoning Compliance of Non-Conforming Two-Unit Housing (Duplexes)" section of this report.

This report supports Council's Strategic Plan 2018-2022 Strategy #6 Strategic and Well-Planned Growth:

6.5 Ensure diverse housing options are available and accessible across the housing continuum.

Findings of Fact

From 1956 to 1987, Richmond Zoning Bylaw 1430 permitted the development of either single-family dwellings or two-family dwellings (duplexes) in a number of residential zones. The bylaw was amended in 1987 to only permit existing duplexes and prohibit any new development of duplexes due to public concerns at the time regarding duplexes.

In 1989, the Richmond Zoning and Development Bylaw 5300 came into effect and excluded two-family housing (duplexes) as a permitted use, which resulted in all existing duplexes becoming legal non-conforming uses. However, due to property owners' concerns regarding the non-conforming status, a new zone was created for two-family dwellings (or duplexes).

From 1990 to 1995, a voluntary program gave property owners of existing non-conforming duplexes the opportunity to rezone to the new zone without having to pay a rezoning application fee. The program required confirmation of bylaw compliance through a building inspection and registration of a legal agreement on title, restricting the property to a maximum of two dwelling units. Through the program, approximately 354 properties were rezoned to the new zone.

In 2009, Richmond Zoning Bylaw 8500 came into effect and includes a number of zones that permit two-unit housing (duplex) use. The City has a long-standing approach of allowing properties with existing two-unit housing, conforming and non-conforming, to be rezoned and subdivided for single-family development.

Related Policies & Studies

Official Community Plan Area

The Official Community Plan (OCP) encourages a variety of forms of housing in appropriate locations to provide a range of housing choices, including two-unit housing. Rezoning properties in the City must be in compliance with policies and land use maps contained in the OCP. It would be contrary to the objectives of the OCP to rezone properties to accommodate existing non-conforming two-unit housing where those properties are subject to:

- Area plan and sub-area plan land use map designations that envision redevelopment with school, park, institutional, industrial, commercial, mixed use or more dense multi-family residential land uses. Where properties are designated for single-family development, an OCP amendment may be required to consider rezoning to accommodate existing non-conforming two-unit housing.
- City of Richmond 2041 OCP Land Use Map designations that envision land use redevelopment with park, non-residential, mixed use or more dense multi-family residential land uses.
- The Arterial Road Land Use Policy designations which envisions a more dense form of residential redevelopment and lane network that could be compromised if older existing two-unit housing sites are rezoned to facilitate reconstruction of a duplex instead of pursuing rezoning in accordance with the OCP.

Further information is provided in the “Analysis” section of this report.

Aircraft Noise Sensitive Development Policy

The OCP Aircraft Noise Sensitive Development Management Policy (ANSO) identifies aircraft noise policy areas. The Policy calls for an aircraft noise covenant to be registered on title prior to final adoption of a rezoning bylaw, which requires the property owner’s approval. Should Council wish to proceed with a City-initiated rezoning process, registration of an aircraft noise covenant on title would not be possible and would not be secured. It is possible for Council to approve a rezoning to accommodate two-unit housing use that does not include registration of an aircraft noise covenant without needing to amend the OCP.

Floodplain Management Implementation Strategy

All new construction must meet the requirements of the Richmond Flood Plain Designation and Protection Bylaw 8204, including flood construction level requirements.

Through rezoning applications, a flood indemnity covenant is registered on title to ensure property owner awareness that the City is located in a flood plain and of the Richmond Flood Plain Designation bylaw requirements. Registration of this covenant requires the property owner’s approval. Should Council wish to proceed with a City-initiated rezoning process, registration of a flood indemnity covenant on title would not be possible and would not be secured.

Analysis

Existing Non-Conforming Legal Status

Under the Provincial *Local Government Act* (Part 14, Division 14), a building that was constructed lawfully prior to changes to the zoning bylaw that removed the permitted land use, is considered to be a legal non-conforming use and is provided limited protection. The existing non-conforming use is permitted to continue with some restrictions related to continuity of use and soundness of the existing building. In the event that more than 75% of the value of the building above its foundation is damaged or destroyed, redevelopment would be required to comply with current zoning. Any new use of land or a building would be required to comply with current zoning.

In light of the legal non-conforming status provisions in the *Local Government Act*, the legal non-conforming status largely only impacts a property owner's ability to construct additional floor area or redevelop the property with a new duplex.

Existing Non-Conforming Two-Unit Housing (Duplexes)

There are currently approximately 507 properties containing existing two-unit housing (duplexes, or 1,014 principal dwelling units) located throughout the City. These include:

- 319 properties zoned for “two-unit housing” (i.e., RD1, RD2, RI1, RI2, and site-specific). 234 of these properties are currently strata-titled (for a total 468 strata units).
- 188 properties zoned for single-family or commercial development (i.e., RS1, RS2 and CC), with existing non-conforming two-unit housing (Attachment 1). 76 of these properties are currently strata-titled (for a total of 152 strata units).

Richmond Zoning Bylaw 8500 includes the following zones which allow “two-unit housing”:

- Standard zones: RD1, RD2, RDA, RI1, and RI2.
- Site-specific zones: ZD1, ZD2, ZD3, ZD4, ZD5, ZD6, ZT56 and ZT61.

OCP Compliance Analysis of Existing Non-Conforming Two-Unit Housing (Duplexes)

The 188 properties with existing non-conforming two-unit housing (Attachment 1) were reviewed to determine whether rezoning to accommodate two-unit housing would conflict with rezoning applications (Attachment 2) and would comply with the City's OCP vision (Attachment 3). The review process filtered out the following properties:

- 16 properties where a rezoning would conflict with recently approved or active rezoning applications.
- Nine properties envisioned for higher density mixed-use or multi-family forms of development.
- Eight properties envisioned for non-residential, industrial or commercial development.
- Two properties envisioned for school, park or institutional development.
- 31 properties envisioned for higher density arterial road forms of development.

The above review process leads to staff's conclusion that should Council wish to pursue rezoning properties to accommodate existing non-conforming two-unit housing, 122 properties are recommended to be considered for rezoning. These properties have been selected through the review process to filter out conflicts with recently approved or active rezoning applications and to ensure compliance with the City's OCP vision. This includes 29 properties envisioned exclusively for single-family development in specific area plans. Rezoning of these 29 properties may require an OCP amendment.

This also includes 32 properties located in areas that the OCP Aircraft Noise Sensitive Development Management Policy identifies as being subject to aircraft noise and registration of a restrictive covenant on title is listed as a requirement. Should Council wish to pursue a City-initiated rezoning process, the covenant registration would not be secured as it would require owner agreement.

Options for Addressing Zoning Compliance of Non-Conforming Two-Unit Housing (Duplexes)

In response to the General Purpose Committee referral to investigate how to make existing non-conforming two-unit housing (duplexes) compliant with zoning, staff provide the following three options for Council consideration:

- Option 1: City-Initiated Rezoning Process for 172 Properties with Existing Non-Conforming Two-Unit Housing (not recommended).
- Option 2: City-Initiated Rezoning Process for 122 Selected Properties with Existing Non-Conforming Two-Unit Housing (recommended).
- Option 3: Owner-Initiated Rezoning Application Process for Individual Properties with Existing Non-Conforming Two-Unit Housing (not recommended).

Option 1: City-Initiated Rezoning Process for 172 Properties with Existing Non-Conforming Two-Unit Housing Properties (Not Recommended)

Under this option, to make the land use of 172 properties with existing non-conforming two-unit housing compliant with zoning, the City's OCP would need to be amended and the affected properties would be rezoned to a new zone that included two-unit housing as a permitted use.

Of the 188 properties, 16 have been excluded as they have been rezoned or are subject to a current rezoning application (Attachment 2). A number of the properties are designated for alternate uses in the OCP. Rezoning these properties would be contrary to the OCP (e.g., where a property is currently designated for a different form of development), which is why this option is not recommended.

Option 2: City-Initiated Rezoning Process for 122 Selected Properties with Existing Non-Conforming Two-Unit Housing (Recommended)

Under this option, 122 properties with existing non-conforming two-unit housing that were selected to filter out conflicts with recently approved or active rezoning applications and to ensure compliance with the City's OCP vision would be rezoned to a new zone that included two-unit housing as a permitted use.

This option is recommended to provide two-unit housing permitted use to the selected 122 properties with existing non-conforming two-unit housing where it complies with the City's OCP vision. It is noted that 29 of these properties are located within area plans that specifically identify the properties exclusively for single-family development. An associated OCP amendment may be required to rezone these sites. For the selected properties, this option would result these properties being able to rebuild a duplex should they wish.

Should Council wish to proceed under this option, Council would need to provide direction to staff to consult with affected property owners and neighbours, prepare a staff report and zoning amendment bylaws, and make \$25,000 additional funding available to cover costs for property title searches and postage costs for consultation letters and Public Hearing notices as outlined in the "Financial Impact" section of this report.

Option 3: Owner-Initiated Rezoning Application Process for Individual Properties with Existing Non-Conforming Two-Unit Housing (Not Recommended)

Under this option, which is the typical process (status quo), new development would be required to comply with current zoning. On an individual property basis, owners wishing to secure zoning with two-unit housing permitted use may submit a rezoning application to the City and seek Council approval through the rezoning application review process.

In the meantime, the existing non-conforming two-unit housing can continue to be used and has some legal protection under the Provincial *Local Government Act*.

Zoning Amendment Considerations

Should Council direct staff to pursue rezoning selected properties with existing non-conforming two-unit housing, staff would need to conduct site visits, obtain and review the title of each of the selected properties. Staff would also recommend consulting with owners and neighbours of affected properties and further reviewing appropriate zone details prior to staff report, new zone and Zoning Amendment Bylaw preparation.

All of the selected 122 properties have single detached (RS1) zoning. On a preliminary basis, staff recommend the new zone be based on the standard two-unit housing (RD1) zone, which accommodates the existing density permitted under the RS1 zone and provides for limited additional floor area for a duplex in keeping with the City's standard RD1 zone. The new zone is recommended to have building envelope and setback provisions that are in keeping with single-family development and minimum lot size provisions to accommodate existing lot area and restrict subdivision potential of the selected properties.

The existing non-conforming buildings on the properties recommended for rezoning were constructed between 1944 and 1989. All but 13 were constructed in the 1960s and 1970s. Due to the age of the buildings and changes to zoning bylaw requirements over time, rezoning may create some existing non-conforming building elements such as setbacks, lot coverage, and building height. Some existing building massing and setbacks may be smaller or larger than a recommended zone allows and future redevelopment would be required to comply with the new zone, or the owner would need to seek rezoning in accordance with the City's OCP.

Public Consultation Considerations

Public notification for a Public Hearing is required to be provided as per the *Local Government Act*.

Typically a rezoning application is submitted to the City by a property owner, and the application process includes the following, ensuring awareness of the proposal:

- Rezoning application informational signage installation on the property.
- Public Hearing meeting agenda publishing on the City's website.
- Public Hearing Notice mailing to owners and neighbours.
- Public Hearing Notice advertisement in the local newspaper.

A rezoning process is considered to be city-wide if it affects 10 or more properties and 10 or more owners as per the *Local Government Act*. A city-wide rezoning does not include informational signage installation on affected properties or mailing consultation letters, and is not required to include mailing Public Hearing Notices to affected property owners or neighbours. The public is advised of city-wide rezoning processes through the City's standard Public Hearing Notice published in the local newspaper and Public Hearing agenda published on the City's website.

Should Council wish to pursue a City-initiated rezoning process for either all or selected properties with existing non-conforming two-unit housing, it would be considered a city-wide rezoning. To provide an opportunity for owners and neighbours of affected property owners to participate in the process, staff recommend the following:

- Rezoning application informational signage not be installed on the affected properties.
- Consultation letter mailing to affected property owners and neighbouring properties, using the same area as the Public Hearing notification area, prior to writing a rezoning staff report to share information and provide the opportunity for public input for Council consideration.
- Public Hearing Notice mailing to affected property owners and neighbouring properties in accordance with City requirements for individual rezoning applications to encourage participation in the Public Hearing process.
- Public Hearing Notice advertisement in the local newspaper.

Normally these costs would be covered by development application fees. Following standard practice for individual rezoning applications for the Public Hearing, staff estimate the cost for a City-initiated rezoning process for the selected 122 properties would be approximately \$22,000 to cover postage costs for the consultation letters and Public Hearing Notices. The estimated cost for a City-initiated rezoning process for the 172 properties would be greater. More information regarding covering costs is provided in the "Financial Impact or Economic Impact" section of this report.

Financial Impact

Funding would be needed for a City-initiated rezoning process to cover the costs of obtaining Land Title Office title searches for bylaw preparation and cost of postage for consultation letters and Public Hearing notification. These costs would normally be covered by development application fees.

Should Council wish to pursue the recommended City-initiated rezoning process for the selected 122 properties with existing non-conforming two-unit housing, Council would need to direct staff to include a one time additional level request of \$25,000 in the 2022 budget process for consideration (e.g., approximately \$3,000 for title search costs and \$22,000 for postage costs).

Should Council wish to pursue a City-initiated rezoning process for the 172 properties with existing non-conforming two-unit housing, the cost would be approximately 30% greater and would also require Council direction to cover the costs.

Conclusion

In response to a General Purpose Committee referral, staff have investigated how to make non-conforming two-unit housing compliant where they already exist. This report provides the following three options for Council consideration:

- Option 1: City-initiated rezoning process for 172 properties with existing non-conforming two-unit housing (not recommended), which would require funding.
- Option 2: City-initiated rezoning process for 122 selected properties with existing non-conforming two-unit housing (recommended), which would require funding.
- Option 3: Owner-initiated rezoning application process for individual properties with existing non-conforming two-unit housing (not recommended).

Should Council wish to direct staff to pursue rezoning the selected properties, the following direction is recommended: *'that staff be directed to pursue a City-initiated rezoning process for the selected 122 properties with existing non-conforming two-unit housing, and that a one-time additional level request of \$25,000 be included in the 2022 budget process for consideration.'*



Sara Badyal
Planner 3
(604-276-4282)

October 4, 2021

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SB:blg

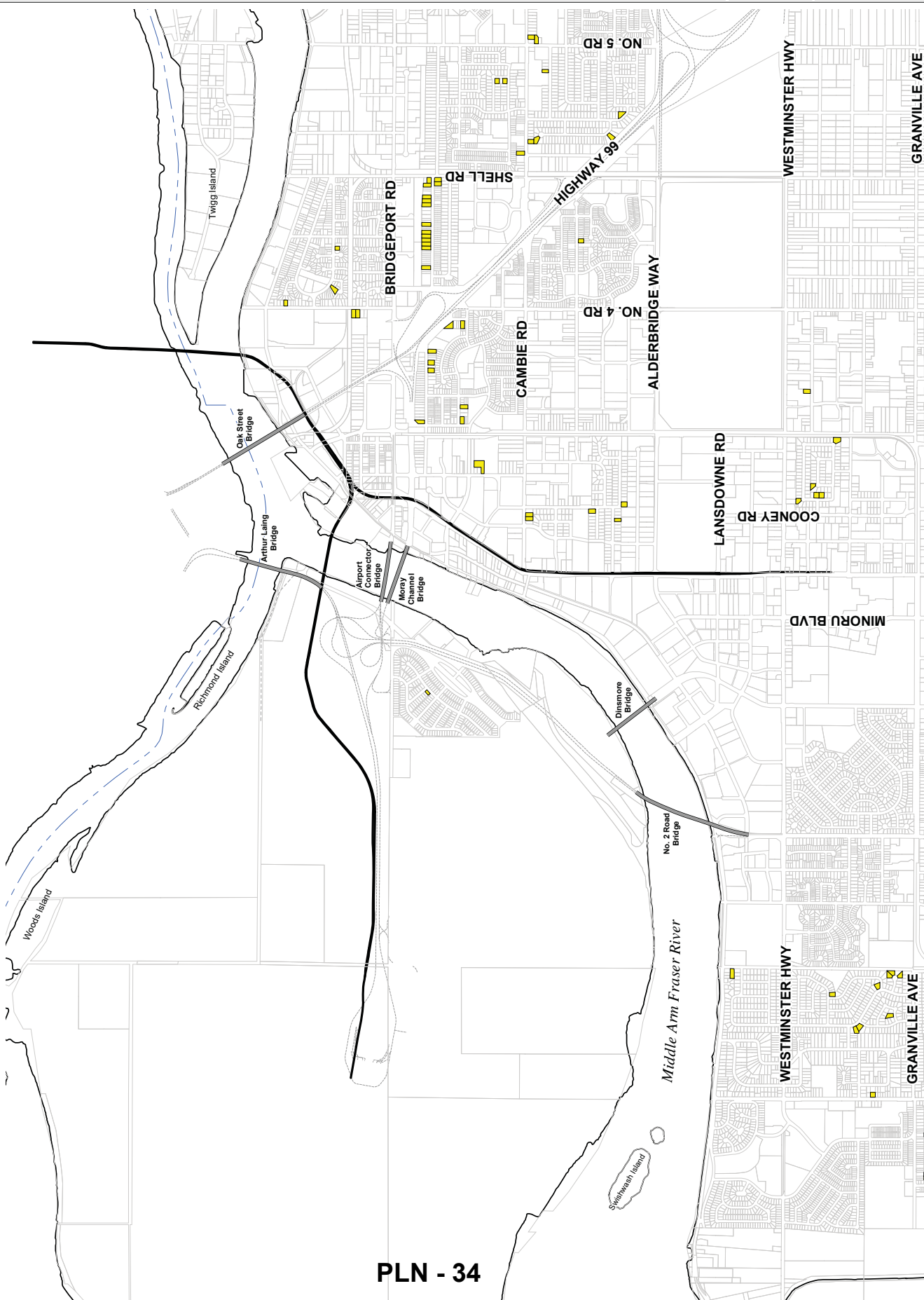
Attachments:

Attachment 1: Location Map of Existing Non-Conforming Two-Unit Housing (Duplexes)

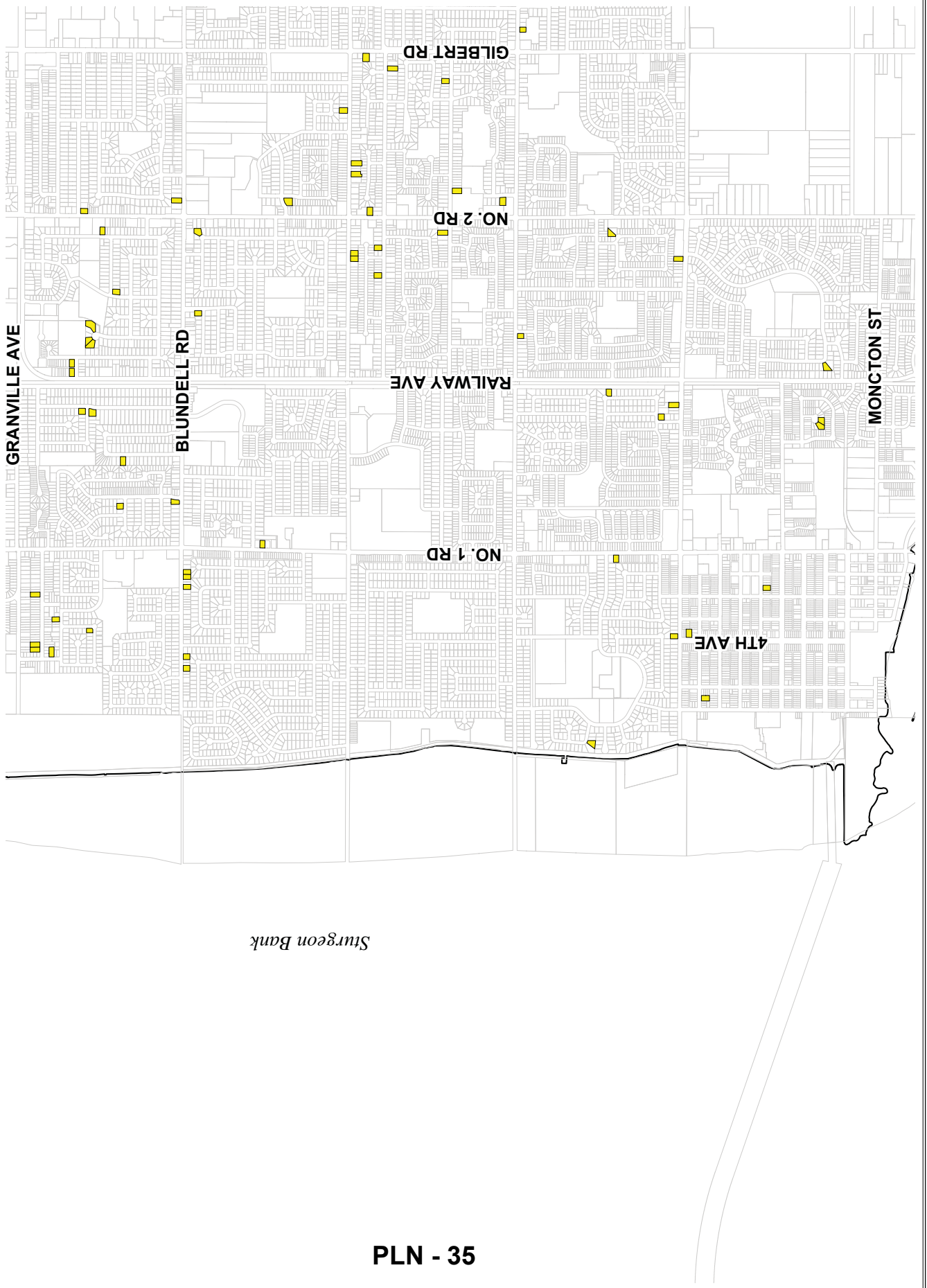
Attachment 2: Rezoning Application Review

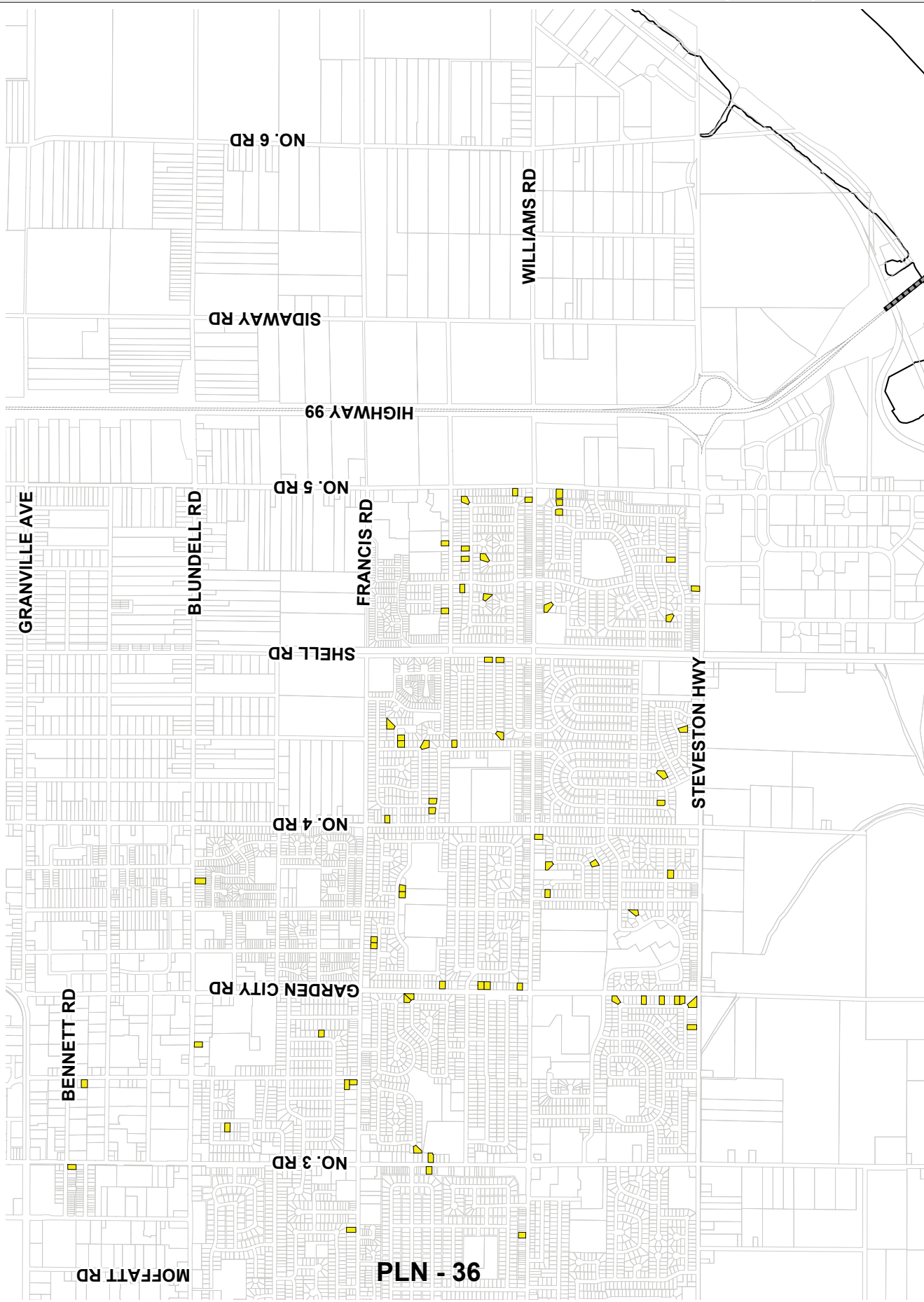
Attachment 3: OCP Compliance Analysis of Existing Non-Conforming Two-Unit Housing
(Duplexes)



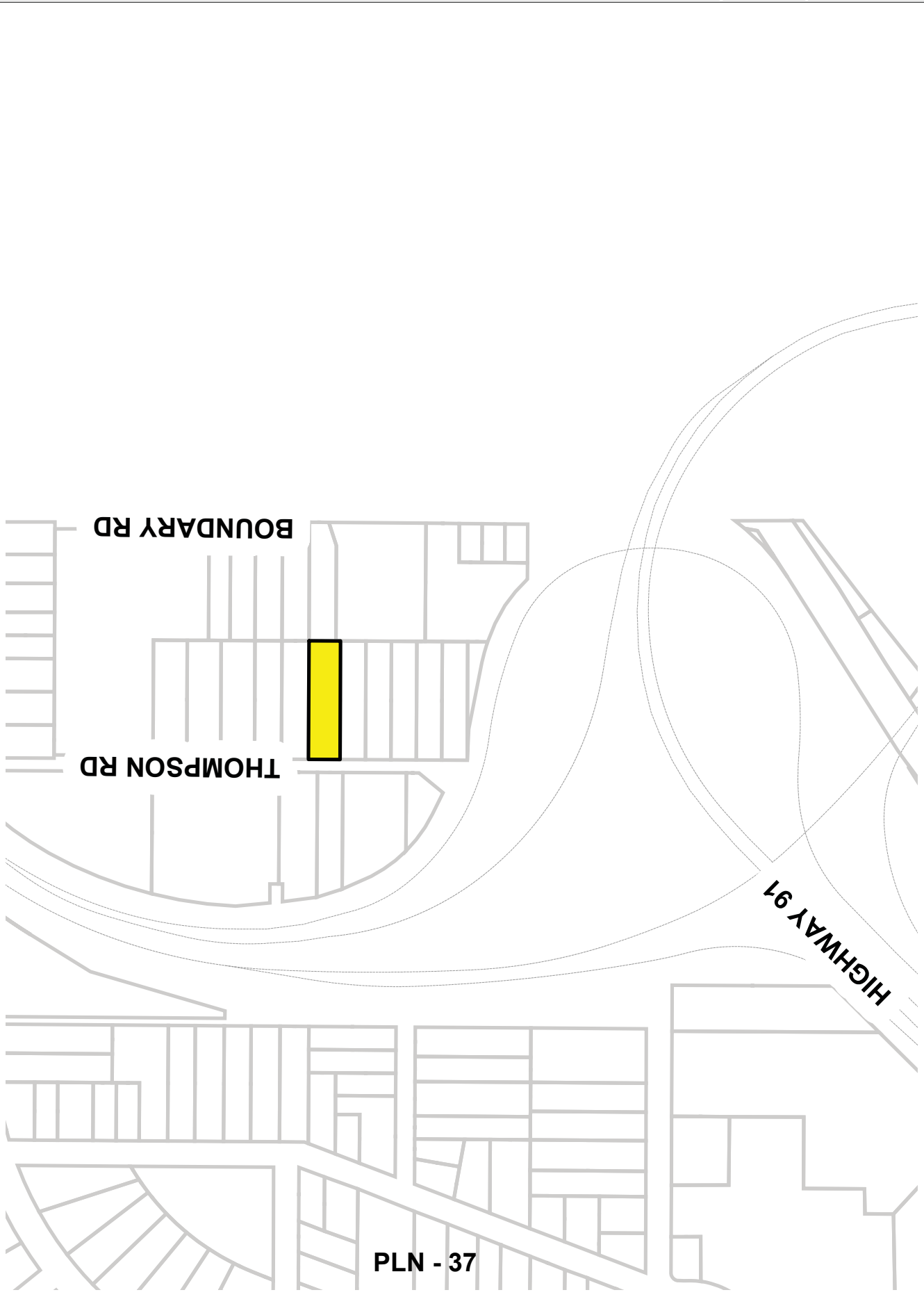


Existing Non-Conforming Two-Unit Housing (Duplexes) - Area 2



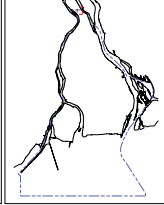
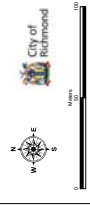


Legend
Parcel with Existing Non-Conforming
Two-Unit Housing (Duplex)



October 4, 2021
Prepared by: Urban Design

Notes:
1. This map is for informational purposes only and is not intended to be used for legal or financial purposes.
2. The City of Richmond is not responsible for any errors or omissions on this map.
3. The City of Richmond is not responsible for any damages or losses resulting from the use of this map.
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Properties with Existing Non-Conforming Two-Unit Housing (Duplexes)

Rezoning Application Review

Address	Application	Status
10500/10506 Finlayson Drive	RZ 05-318997	Approved rezoning and subdivision for 7 lots single-detached RS1/B
6731 Coltsfoot Drive/ 6740 Riverdale Drive	RZ 10-531043	Approved rezoning for 2 lots single-detached RS2/B, awaiting subdivision application
10760/10780 Bird Road	RZ 12-600638	Approved rezoning for 3 lots single-detached RS2/B, subdivision application under review
8151/8171 Lundy Road	RZ 14-668270	Approved rezoning for 2 lots single-detached RS2/B, awaiting subdivision application
10420/10440 Odlin Road	RZ 15-700202	Approved rezoning for 2 lots single-detached RS2/B, awaiting subdivision application
3760/3780 Blundell Road	RZ 15-712886	Approved rezoning for 2 lots single-detached RS2/B, subdivision application under review
3411/3431 Lockhart Road	RZ 15-716841	Approved rezoning for 2 lots single-detached RS2/B, subdivision application under review
11920/11940 Dunavon Place	RZ 15-704505	Approved 2-lot single-detached RS2/A rezoning, awaiting subdivision application
9600/9620 Glenacres Drive	RZ 17-772629	Approved rezoning for 2 lots single-detached RS2/C, subdivision application under review
11111/11113 Seafeld Crescent	RZ 18-829101	Approved rezoning for 2 lots single-detached RS2/B, subdivision application under review
3540/3560 Sexsmith Road	RZ 18-836123	Referred by Council for further review as part of larger land assembly development
11891/11911 Dunavon Place	RZ 19-850681	Pending final bylaw adoption, awaiting RZ consideration completion
3220/3240 Blundell Road	RZ 20 896900	Pending final bylaw adoption, awaiting RZ consideration completion
9931/9951 Parsons Road	RZ 20 905149	Pending final bylaw adoption, awaiting RZ consideration completion
8720/8740 Rosemary Avenue	RZ 21-934283	In circulation for staff review
10411/10391 Bird Road	RZ 21-938041	In circulation for staff review

OCP Compliance Analysis of Existing Non-Conforming Two-Unit Housing (Duplexes)

The 188 properties with existing non-conforming two-unit housing located throughout the City were reviewed and 122 of the properties were identified through the following selection review process as having the potential to be rezoned to a new zone that includes two-unit housing as a permitted use.

Summary Table

Area Plan Land Use Map Designation	OCP Land Use Map Designation	Arterial Land Use Policy Area	Aircraft Noise Policy Area	Properties	Recommendation
				188	Review existing non-conforming two-unit housing (CC, RS1, RS2)
				16	Do not rezone due to approved or current rezoning applications (1)
Does not accommodate				19	Do not rezone due to OCP conflict (2) (6)
None	Does not accommodate			0	Do not rezone due to OCP conflict (3)
None or accommodates	Accommodates	Envisions different form of development		31	Do not rezone due to OCP conflict (4)
None or accommodates	Accommodates			122	Review further and ANSD designations (6)
None or accommodates	Accommodates	None	2-4	32	Can be rezoned, but without aircraft noise covenant (5)
None or accommodates	Accommodates	None	5	90	Can be rezoned (5)

Notes:

1. Rezoning Application Review: 16 properties (Attachment 3) are not recommended for rezoning as the land use on these properties has been considered by Council or is currently being reviewed through a rezoning application process:
 - 10 properties have been rezoned to allow for single-family subdivision.
 - 3 properties are awaiting rezoning consideration completion to achieve rezoning adoption.
 - 1 property is part of a rezoning application for a larger land assembly that is being considered for a high density mixed use development and currently referred back to staff for further review.
 - 2 properties are under review through a rezoning application process to allow for single-family subdivision.
2. OCP Area Plan and Sub-Area Plan Land Use Map Review: 19 of the remaining properties are not recommended for rezoning due to being subject to a land use designation that does not accommodate two-unit housing:
 - 9 properties are envisioned for mixed-use or multi-family forms of development
 - 8 properties are envisioned for non-residential industrial or commercial development
 - 2 properties are envisioned for school, park or institutional development
3. OCP City of Richmond 2041 Land Use Map Review: None of the remaining properties are subject to a land use designation that does not accommodate two-unit housing.
4. OCP Arterial Road Land Use Policy Review: 31 of the remaining properties are not recommended for rezoning due to being subject to higher density arterial road redevelopment land use designations which envision different forms of development.
5. OCP Aircraft Noise Sensitive Development Policy Review: None of the remaining properties are subject to a policy area designation that does not accommodate two-unit housing.
 - 32 properties are designated High, Moderate and Notification Aircraft Noise Areas 2, 3 and 4, where registration of a restrictive covenant on title is listed as a requirement. The covenant registration would not be secured as it would require owner agreement.
 - 90 properties are designated Area 5, for which there are concerns and no requirements.
6. The remaining 122 properties may be considered for rezoning to a new zone that includes two-unit housing as a permitted use. 29 of these properties are envisioned for single-family development and may require OCP amendment to consider for rezoning to accommodate two-unit housing.