



Committee of the Whole Report

For the Meeting of November 15, 2018

To: Committee of the Whole **Date:** November 2, 2018

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: Rezoning Application No. 00653 for 205 Simcoe Street

RECOMMENDATION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00653 for 205 Simcoe Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council, and a Public Hearing date be set subject to an amendment of the existing restrictive covenant to add daycare as one of the permitted uses on the property, executed by the applicant to the satisfaction of City staff.

LEGISLATIVE AUTHORITY

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures; the density of the use of the land, building and other structures; the siting, size and dimensions of buildings and other structures; as well as, the uses that are permitted on the land, and the location of uses on the land and within buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application for the property located at 205 Simcoe Street. The proposal is to rezone from the C1-C Zone, Club District, to a new zone to allow for a preschool daycare.

The following points were considered in assessing this application:

- the proposal is generally consistent with the Traditional Residential Urban Place Designation as described in the *Official Community Plan, 2012 (OCP)*. The proposed use represents a "community service" use which is considered an appropriate use in all Urban Place Designations
- the proposal is generally consistent with the *James Bay Neighbourhood Plan, 1993*, which identifies as a goal the creation of easily accessible community-oriented services for residents.

BACKGROUND

Description of Proposal

This Rezoning Application is to allow for a 16-child preschool childcare program on the main storey of an existing athletic club building. The applicant intends to use the nearby playground at Ernest Todd Park as a play area. There would be no changes to the exterior of the building and the basement would continue to be used as an athletic club.

In addition to the zoning that applies to this site, there is also a restrictive covenant registered on title which limits the uses on the property to an athletic club or a dwelling unit with an accessory building. As part of this proposal, this restrictive covenant would need to be amended to add daycare as a permitted use. This would include any childcare permitted under the Provincial *Community Care and Assisted Living Act*, including a preschool.

Sustainability Features

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation Impacts

The applicant has not identified any active transportation impacts associated with this proposal.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings.

Land Use Context

The application site is flanked on the south-east and west by McDonald Park and community garden plots. Across the street are single-family houses and duplexes, with several multi-family apartments further along Simcoe Street. Also nearby are James Bay Community School along Oswego Street and a purpose built daycare along Montreal Street.

Existing Site Development and Development Potential

The site is presently an athletic club, owned and operated by the James Bay Athletic Association. Under the current C1-C Zone, Club District, the property is limited to the existing athletic club use.

Relevant History

In 1966, the City of Victoria sold the subject property to the James Bay Athletic Association (JBAA) for use as an athletic club. As a part of this, the property was rezoned to a commercial zone, which allowed for a 'club' use. The restrictive covenant was added to ensure that other commercial uses inappropriate for the area would not be permitted should the land be sold.

In 1985, the JBAA applied to Council to expand the building. As a part of this application, the property was rezoned to limit the uses on the property. As a result, both the covenant and the zone must be changed to allow for a use to that is not permitted in both documents.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the James Bay CALUC at a Community Meeting held on June 13, 2018. A letter dated October 23, 2018 is attached to this report.

ANALYSIS

Official Community Plan

The proposal is generally consistent with the Traditional Residential Urban Place Designation as described in the *Official Community Plan, 2012* (OCP), and the proposed use represents a “community service” use which is considered an appropriate use in all Urban Place Designations. The OCP further encourages multigenerational neighbourhoods and the creation of “quality, accessible and affordable daycare” spaces in order to foster community wellbeing.

Local Area Plans

The proposal is generally consistent with the *James Bay Neighbourhood Plan, 1993*, which supports the creation of community-oriented services, including childcare services, that are accessible to residents of the community.

The neighbourhood plan also identifies James Bay Community School and the McDonald Park site as a major service node in James Bay, contemplating the opportunity for integrated childcare services on these sites. As the proposal is located directly adjacent to these sites, it is consistent with supporting this area as a community service node.

Tree Preservation Bylaw and Urban Forest Master Plan

There are no Tree Preservation Bylaw impacts with this proposal.

Other Considerations

As outlined in the Relevant History of this report, in addition to the Rezoning, an amendment of the restrictive covenant is required. The proposed amendment would add daycare as a permitted use, which encompasses all childcare activities falling under the *Community Care and Assistance Act*.

The City's intention in the original sale of the property and the associated covenant was to help secure a community service by way of an athletic club. Amending the covenant to allow for daycare use without removing the existing restrictions keeps within the spirit of the property acting as a community service, while adapting to the changing needs of the community. Therefore, rather than removing the covenant from the title, an amendment to the covenant is recommended.

CONCLUSIONS

The proposed application to add a daycare use within the existing athletic club building is consistent with City policies. The proposal to amend the restrictive covenant on title to allow for daycare use would facilitate the use of the space as a community service, and meets the needs of the community without removing past restrictions on the property that were originally imposed

through the City sale of the land. Staff recommend that Council consider approving this application

ALTERNATE MOTION

That Council decline Rezoning Application No. 00653 for the property located at 205 Simcoe Street.

Respectfully submitted,



Chloe Tunis
Planning Analyst
Development Services Division



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager



Date:

Nov 7, 2018

List of Attachments:

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped October 11, 2018
- Attachment D: Letter from applicant to Mayor and Council dated October 11, 2018
- Attachment E: Community Association Land Use Committee comments dated October 23, 2018