



Committee of the Whole Report

For the Meeting of September 12, 2019

To: Committee of the Whole **Date:** August 29, 2019

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

Subject: Rezoning Application No. 00662 for 910 Government Street and 525 Broughton Street

RECOMMENDATION

That Council decline Rezoning Application No. 00662 for the property located at 910 Government Street and 525 Broughton Street.

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.

In accordance with Section 482 of the *Local Government Act*, a zoning bylaw may establish different density regulations for a zone, one generally applicable for the zone and the others to apply if certain conditions are met.

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 910 Government Street and 525 Broughton Street. The proposal is to discharge the Land Use Contract by bylaw and to amend the Old Town District 1 Zone (OTD-1) to include site-specific regulations that reflect the existing density, height and floor area of an existing building.

However, the existing density, height and total floor area associated with the existing building are in excess of those permitted in the Official Community Plan (OCP, 2012) and there are no policies within the OCP that would support enshrining an existing density that is inconsistent with the OCP with a Zoning Regulation Bylaw amendment. Therefore, staff recommend that the application be declined.

BACKGROUND

Description of Proposal

This Rezoning Application is to amend the *Zoning Regulation Bylaw* to permit the existing density, height and floor area of an existing building in order to discharge a land use contract.

The following differences from the Old Town District Zone are being proposed:

- increase the permitted density from 3:1 floor space ratio (FSR) to 3.18:1 FSR
- increase the permitted height from 15m to 18.11m
- increase the permitted total floor area from 17,580m² to 18,637.6m².

Affordable Housing Impacts

No new construction is proposed with this application, nor are any changes proposed for the existing tenure of existing residents and owners.

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 application.

Public Realm Improvements

No public realm improvements are proposed in association with this Rezoning Application.

Accessibility Impact Statement

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

Existing Site Development and Development Potential

The site is presently a six-storey mixed-use building containing commercial and residential units and is governed under a land use contract (LUC). The LUC does not prescribe typical zoning regulations (densities, uses, setbacks, heights, etc.) and instead makes reference to plans submitted at the time of construction as the basis for the contract. If the property were to be redeveloped, it would have to conform to the OTD-1, Old Town District Zone, which permits uses including multi-unit residential, commercial, hotel, office and drinking establishments, up to densities of 3:1 FSR and heights of 15m.

Data Table

The following data table compares the proposal with the zone standard OTD-1 Zone, Old Town District. An asterisk is used to identify where the proposal is less stringent than the existing Zone.

Zoning Criteria	Proposal	Zone Standard OTD-1, Old Town District
Density (Floor Space Ratio) – maximum	3.18 *	3.0
Total floor area (m ²) – maximum	18637.6 *	17580
Height (m) – maximum	18.11 *	15.00
Storeys – maximum	6.0	n/a

Relevant History

Since its construction in 1978, the property has been governed by a LUC rather than the City's *Zoning Regulation Bylaw*. LUCs were allowed in B.C. between 1971 and 1978 as a form of site-specific, contractual arrangement between local governments and landowners. The intent was to allow more flexibility than traditional zoning. When the LUC legislation was repealed in 1978, the existing contracts remained in place; however, no new contracts could be created. In 2014, the *Local Government Act* (LGA) was changed to terminate all LUCs by June 30, 2024, giving local governments time to ensure that zoning and other bylaws are in place when the LUCs terminate. In this legislation, municipalities were also given the ability to terminate the LUCs prior to that date. Council has directed City staff to initiate the process of early termination of LUCs throughout Victoria (approximately 42 in total, of which the 13 LUCs containing commercial uses have been terminated). This specific LUC is set to expire November 9, 2020. Once expired, whether rezoned or not, the underlying OTD-1 Old Town District regulations would take effect, which would be consistent with the OCP.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Downtown Residents Association CALUC at a Community Meeting held on April 30, 2018. A letter dated May 26, 2018 is attached to this report.

ANALYSIS

The subject property is located in the Core Historic Urban Place Designation in the OCP. Under this designation, buildings up to approximately five storeys with a density of up to 3:1 floor space ratio (FSR) are envisioned. Numerous other properties in Victoria exist with non-conformities in excess of what their underlying zone may permit. If land, a building or other structure is being lawfully used under the land use contract and the existing conditions would not be permitted under a new bylaw, the existing conditions may continue as a non-conforming use. The OCP does not provide policy to support "enshrining" the associated non-conformities, as these only apply to the existing building as agreed to at the time when the LUC was adopted. Additionally, the Downtown Core Area Plan also notes that any rezoning within the Downtown Core Area that is seeking an increase in density should result in the provision of public amenities or monetary contributions that support the policies and objectives of this Plan.

CONCLUSIONS

The existing density, height and total floor area associated with the existing building are in excess of those permitted in the OCP. The OCP does not provide policies that would support enshrining an existing building's inconsistency with current policies and regulations within the *Zoning Regulation Bylaw*. As such, staff recommended that the application to rezone be declined.

ALTERNATE MOTION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment to recognize the existing density, height and total floor area of the existing building for buildings constructed prior to 1980 as outlined in Rezoning Application No. 00662 for 910 Government Street and 525 Broughton Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set.

Respectfully submitted,



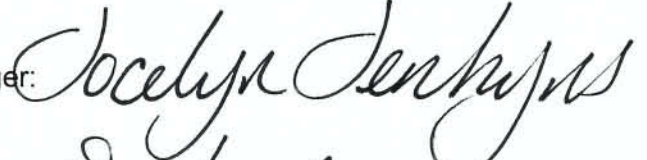
Miko Betanzo
Senior Planner – Urban Design
Development Services Division

JH



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

Sept. 6, 2019

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped October 1, 2018
- Attachment D: Letter from applicant to Mayor and Council dated August 22, 2018
- Attachment E: Community Association Land Use Committee Comments dated May 26, 2018.