



Committee of the Whole Report For the Meeting of November 14, 2019

To: Committee of the Whole **Date:** October 31, 2019
From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development
Subject: Temporary Use Permit Application No. 00012 for 733, 737 and 741 Fisgard Street and 1620 Blanshard Street

RECOMMENDATION

That Council decline Temporary Use Permit Application No. 00012 for the property located at 733, 737 and 741 Fisgard Street and 1620 Blanshard Street.

LEGISLATIVE AUTHORITY

In accordance with section 493 of the Local Government Act, Council may issue a Temporary Use Permit. A Temporary Use Permit may allow a use not permitted by zoning, may specify conditions under which the temporary use may be carried on, and may allow and regulate construction of buildings and structures in respect of the use of which the permit is issued.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the revitalization of an area in which a commercial use is permitted, a Temporary use Permit may include requirements respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Temporary use Permit Application for the property located at 733, 737 and 741 Fisgard Street and 1620 Blanshard Street. The proposal is to demolish the existing building and create a surface parking lot for up to 61 stalls with associated landscaping to be utilized as the primary use on the lot for a period of up to 3 years. A Temporary Use Permit (TUP) is required because the zoning does not allow a surface parking lot as a primary use. Also required is an amendment to the Master Development Agreement currently registered on the property titles, related to a previous development application.

The following points were considered in assessing this application:

- the *Official Community Plan* (OCP, 2012) identifies the property within the Core Business Urban Place Designation, which does not support surface parking lots; however, TUPs are permitted in the OCP throughout the whole City

- the *Downtown Core Area Plan* (DCAP) designates the subject property in the Central Business District, which supports a concentration of commercial employment uses and complementary uses such as multi-residential, hotels, public institutions, as well as a pedestrian-oriented streetscape through active commercial uses such as restaurants, personal services and retail businesses. The Commercial Business District does not support surface parking lots, although it does support the provision of short-term publicly accessible parking
- the landscaping is generally consistent with the DCAP guidelines and Crime Prevention Through Environmental Design (CPTED) principles which includes well-designed landscaping that demarcates public and private areas without obstructing sightlines
- a variance would be required for surface parking that is not located within a building
- the proposal is not consistent with the Master Development Agreement associated with the site and previously approved by Council.

In staff's opinion, the application is not supportable given that it is inconsistent with the policy as summarized above. However, the proposal is for the temporary use of a site where the existing building has neared the end of its useful life and is slated to be demolished. Given this, compared to an empty lot, the temporary parking use would marginally improve the streetscape experience with the introduction of soft landscaping. In light of these factors, an alternate motion is provided should Council wish to advance consideration of this Temporary Use Permit, particularly given present concerns regarding a shortage of parking downtown.

BACKGROUND

Description of Proposal

The proposal is for a Temporary Use Permit Application for the property located at 733, 737 and 741 Fisgard Street and 1620 Blanshard Street to allow as a primary use a surface parking lot for up to 61 stalls with associated landscaping for a period of up to three years. The Temporary Use Permit does not supersede the Master Development Agreement registered on the properties. Accordingly, the proposal also includes an amendment to the Master Development Agreement to allow for this temporary use. The proposal involves the removal of two driveway crossings near the corner of Blanshard Street and Fisgard Street. Specific details include:

- removal of the existing commercial building
- 61 new temporary surface parking stalls
- landscaping along Blanshard and Fisgard Streets, as well as lighting throughout the property
- a variance would be accommodated through the TUP process if Council would like to approve it, in order to allow surface parking stalls not contained within a building
- amendment of the Master Development Agreement is also required to allow the temporary use.

Sustainability Features

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

Active Transportation Impacts

The proposal is for a surface parking lot for vehicles; therefore, 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 Temporary Use Permit Application.

Accessibility Impact Statement

The proposed surface parking lot will be accessible as there are no changes to the grades between the sidewalk and the subject property. One driveway crossing would be removed, which would be an improvement to accessibility by providing fewer grade changes along the sidewalk.

Existing Site Development and Development Potential

The three lots that comprise the site include a two-storey commercial building and associated front-yard surface parking as well as a legal non-conforming surface commercial parking lot at the rear. The applicant has stated that the building has reached the end of its useful life and would require upgrades to remain operational. Under the current Central Business District 2 (CBD-2) Zone, the property could be developed at a density of 3:1 Floor Space Ratio (FSR) up to 58m in height. An additional bonus density of up to 7.6:1 is permitted in exchange for the provision of a number of on-site and financial amenities. The CBD-2 zone permits a range of uses including commercial and residential. There is currently a Master Development Agreement registered on the properties, which is outlined in the Relevant History section below.

Relevant History

In 2007, Council approved a site-specific Rezoning and Development Permit Application to permit a new commercial building on the subject properties. Two subsequent development permits were issued in 2010 and 2012. These permits proposed the same design approved in the 2007 application and were required after both the first and second development permits expired. As part of the 2007 application, a Master Development Agreement was created and registered on the property titles. It was through these processes that the potential bonus density was established. While the site-specific requirements for the MDA still apply to the lots, the Development Permits have expired. A new Development Permit would be required for any future proposals. Further, the MDA agreement did not anticipate a temporary surface parking lot, and as such, must be amended to allow for this temporary use.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on October 11, 2018 the application was referred for a 30-day comment period to the Downtown Residents Association CALUC. A letter dated October 9, 2019 is attached to this report.

This application proposes a variance; therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variance.

ANALYSIS

The *Official Community Plan* (OCP) identifies the property within the Core Business Urban Place Designation, which does not support surface parking lots; however, TUPs are permitted in the OCP throughout the whole City. A TUP would allow a surface parking lot for a period of up to three years, with the ability to extend the permit for another three years subject to Council approval.

The Master Development Agreement was for the specific development proposal last approved in 2012. It did not anticipate a temporary surface parking lot, and thus an amendment to the MDA is required.

Downtown Core Area Plan

The *Downtown Core Area Plan* (DCAP) designates the subject property in the Central Business District, which supports a concentration of commercial employment uses and complementary uses such as multi-residential, hotels and public institutions as well as active commercial uses such as restaurants, personal services and retail businesses. New developments in the Central Business District are encouraged to locate vehicle parking at the rear or the building or below grade.

The proposal is located along Blanshard Street, which is identified in the OCP and the DCAP as a frequent transit corridor. The DCAP supports active commercial uses along frequent transit corridors along these corridors.

While the proposal does not meet the above objectives laid out in the OCP and DCAP, it is worth noting that the existing parking configuration also does not meet many of the same objectives in relation to surface parking and pedestrian-oriented built form. The proposal would add some landscaping along Blanshard and Fisgard Streets and would result in the removal of the two driveway crossings closest to the corner, which would improve the operation of the intersection. Council may therefore wish to consider the alternate motion in this instance.

Crime Prevention Through Environmental Design (CPTED)

The proposed changes to the landscaping are consistent with the DCAP guidelines and Crime Prevention Through Environmental Design (CPTED) principles, which includes lighting throughout the site as well as landscaping that demarcates public and private areas and does not obstruct sightlines.

Regulatory Considerations

The applicant is financially responsible for the removal and replacement of the driveway crossings as indicated on their plans, with a full height curb and sidewalk to City of Victoria standard.

CONCLUSIONS

The proposal to allow a temporary surface parking lot for a period of up to three years at the property located at 733, 737 and 741 Fisgard Street and 1620 Blanshard Street is generally inconsistent with the OCP and DCAP. Staff recommend for Council's consideration that the application be declined; however, the alternate motion provided below would be appropriate if Council wishes to consider it.

ALTERNATE MOTION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

“That, subject to the amendment of the existing Master Development Agreement to allow for a temporary surface parking lot, Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, authorize the issuance of Temporary Use Permit Application No. 00012 for 733, 737 and 741 Fisgard Street and 1620 Blanshard Street to allow for a temporary surface parking lot, in accordance with:

1. Plans date stamped June 20, 2019.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. Allow surface parking stalls.
3. The applicant providing a landscape cost estimate for the entire cost of the onsite landscaping in accordance with the Landscape Plan prepared by LADR Landscape Architects dated October 2, 2018 and a landscape security deposit in the amount of 120% of the Landscape Cost Estimate is payable to the City prior to the issuance of the building permit.
4. Council authorizing the amendment of the existing Master Development Agreement to allow for the temporary surface parking lot and clarify that the lands cannot continue this use once the Temporary Use Permit has expired, and to further provide a landscape plan for the site once the use has discontinued, provided that the applicant amends this agreement in a form satisfactory to the City Solicitor and the Director of Sustainable Planning and Community Development.
5. The Temporary Use Permit lapsing three years from the date of this resolution.”

Respectfully submitted,

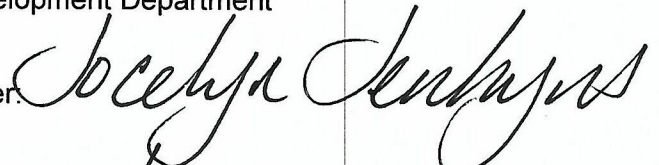


Chloe Tunis
Planner
Development Services Division



Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

Nov 5, 2019

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Letter from applicant, date stamped October 9, 2019
- Attachment D: Plans date stamped June 20, 2019
- Attachment E: Community Association Land Use Committee comments, dated October 10, 2019.