



Committee of the Whole Report For the Meeting of November 5, 2020

To: Committee of the Whole **Date:** October 22, 2020
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: Rezoning Application No. 00727 for 1133 Fort Street

RECOMMENDATION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment and Land Use Contract Discharge Bylaw that would authorize the proposed development outlined in Rezoning Application No. 00727 for 1133 Fort Street, that first and second reading of the Zoning Regulation Bylaw Amendment and Land Use Contract Discharge Bylaw be considered by Council and a Public Hearing date be set.

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 546 of the *Local Government Act*, a Land Use Contract may be discharged by bylaw with the agreement of the local government and the owner of the property and following a Public Hearing.

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 1133 Fort Street. The proposal is to discharge a Land Use Contract (LUC) and to rezone from the R3-1 Zone to a site-specific zone in order to legitimize the current commercial uses on-site.

The following points were considered in assessing this application:

- the proposal is generally consistent with the *Official Community Plan*, as the proposal achieves heritage conservation objectives
- the property is generally consistent with the *Fairfield Neighbourhood Plan*, as conservation and possible adaptive re-use of heritage buildings is strongly encouraged
- the proposal is consistent with Council's direction to terminate all remaining Land Use Contracts in the City of Victoria.

BACKGROUND

Description of Proposal

The property located at 1133 Fort Street is currently regulated by a Land Use Contract (LUC), which restricts the property to be used for residences, office uses except medical offices, and antique stores. On June 30, 2024, all Land Use Contracts in British Columbia will automatically expire. Upon expiration this property will fall under the R3-1 Zone, Multiple Dwelling District, and the commercial uses would become legally non-conforming. The property owners have proactively applied to discharge the LUC and rezone the property to ensure the commercial uses currently operating will continue to be permitted within the *Zoning Regulation Bylaw*.

The LUC regulating 1133 Fort Street effectively secured four items. The first item was the legal protection of the heritage building, which has subsequently been protected under heritage designation. The second item is requiring a minimum of four parking stalls. There is currently a total of six parking stalls at the rear of the property, and Schedule C of the *Zoning Regulation Bylaw* would now require a minimum of five stalls. The third item is protection of trees at the rear of the property. The applicant has submitted correspondence from the City of Victoria Park Administrator to the property owner, dated July 18, 1980, which permitted the removal of one tree and confirmed that only one tree remained: a Weeping ash. This tree remains on the property to this day. Finally, the LUC restricted the uses to residences, office uses except medical offices, and antique stores. Permitting these uses through the underlying zoning is the subject of this application.

If the application is forwarded to a Public Hearing, a new site-specific zone will be created for Council's consideration that permits the commercial uses found in the CA-2 Zone, Fort Street Special Commercial District for buildings constructed prior to January 1, 2020. Additionally, the Land Use Contract would be discharged.

Sustainability

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

Active Transportation

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

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this Rezoning Application.

Accessibility

The British Columbia Building Code regulates accessibility as it pertains to buildings. At this time there are no proposed changes to the existing heritage building.

Land Use Context

The area is characterized mainly by multi-unit residential uses, with some commercial uses operating out of converted heritage houses.

Existing Site Development and Development Potential

The site and existing heritage-designated building are currently occupied with offices. Under the current R3-1 Zone, the property could be developed for multi-unit residential purposes, but any changes would require a Heritage Alteration Permit.

Data Table

The following data table compares the proposal with the standard CA-2 Zone, Fort Street Special Commercial District. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. Two asterisks are used to identify a legal non-conforming condition.

Zoning Criteria	Proposal	Zone Standard CA-2
Site area (m ²) – minimum	631	N/A
Use within 6m of front of the building at street level	Office **	Office not permitted
Density (Floor Space Ratio) – maximum	0.28	2.50
Total floor area (m ²) – maximum	179.81	N/A
Height (m) – maximum	9.89	15.50
Storeys – maximum	3	N/A
Setbacks (m) – minimum		
Front (Fort Street)	5.42 (building) 4.51 (stairs)	0
Rear (Meares Street)	10.42	0
Side (west)	6.8	0
Side (east)	2.41	0
Vehicle parking – minimum	6	0 (CA-2 requirement) 5 (Schedule C requirement)
Bicycle parking – minimum		
Short term	0	0
Long term	0	0

Relevant History

On February 23, 2017, Council directed staff to begin the early termination of all remaining Land Use Contracts within the City of Victoria. Staff subsequently brought forward reports that resulted in Council terminating 13 LUCs that were seen as overly permissive towards commercial uses. The Land Use Contract regulating the subject property was not among the 13 LUCs terminated by the City in 2017. The applicant is amenable to terminating the Land Use Contract at 1133 Fort Street as part of this application.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant had preliminary conversations with the Fairfield-Gonzales CALUC. The Fairfield-Gonzales CALUC concluded that a community meeting was not required for this proposal (Attachment E).

ANALYSIS

Official Community Plan

The subject property is designated Urban Residential within the *Official Community Plan, 2012* (OCP), within which commercial uses along arterial roads are only envisioned as part of mixed-use developments. However, the OCP also indicates that guidelines can be varied when goals towards heritage conservation are achieved. Staff believe the proposal is consistent with the OCP since the building is heritage-designated, the uses are already legally present on site and formalizing them in a new zone helps to ensure ongoing flexibility in the repurposing of this heritage resource.

Fairfield Neighbourhood Plan

The *Fairfield Neighbourhood Plan* identifies the property within the Fort Street Corridor, which is recognized as a special character area with its concentration of heritage properties with smaller scale commercial uses at street level. The subject property is also located within the Urban Residential designation of the Plan, which strongly encourages conservation and possible adaptive re-use of buildings of heritage merit.

Tree Preservation Bylaw and Urban Forest Master Plan

There are no Tree Preservation Bylaw impacts and there are no impacts to public trees with this application. The existing Land Use Contract protected three trees at the rear of the property. The applicant has submitted correspondence from the City of Victoria Park Administrator to the property owner, dated July 18, 1980, which permitted the removal of one tree: a Weeping ash. This tree remains on the property to this day.

The third tree is unaccounted for, with no formal record of its removal. However, the aforementioned letter from the Park Administrator identified only one tree was left on the property as of July 18, 1980, so the removal of the tree did not occur in recent years. Nonetheless, the focus of this application is on establishing a new zone that will formalize the existing uses.

CONCLUSIONS

The proposal to terminate the Land Use Contract and rezone the property at 1133 Fort Street is consistent with the heritage goals in the OCP and the Urban Residential designation in the

Fairfield Neighbourhood Plan. In addition, terminating the Land Use Contract is consistent with Council's direction in 2017 to terminate all remaining LUCs. Staff therefore recommend Council consider supporting this application.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00727 for the property located at 1133 Fort Street.

Respectfully submitted,


Mike Angrove
Senior Planner
Development Services Division




Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: October 26, 2020

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated September 15, 2020
- Attachment D: Letter from applicant to Mayor and Council dated January 21, 2020
- Attachment E: Community Association Land Use Committee email dated September 23, 2019
- Attachment F: Letter from Parks Department, dated July 18, 1980.