



## Committee of the Whole Report For the Meeting of March 25, 2021

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**To:** Committee of the Whole **Date:** March 11, 2021

**From:** Karen Hoese, Director, Sustainable Planning and Community Development

**Subject:** **Rezoning Application No. 00731 for 1177-1185 Fort Street & 1043-1045 Linden Avenue**

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### RECOMMENDATION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00731 for 1177-1185 Fort Street and 1043-1045 Linden Avenue, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing be held, but that adoption of the Bylaw be held off until confirmation has been received that the lots have been consolidated.

### 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 1177-1185 Fort Street and 1043-1045 Linden Avenue. The proposal is to rezone from the R3-AM-2 Zone to a site-specific zone to legitimize the current commercial uses on-site following the termination of the Land Use Contract on November 9, 2020.

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 *Rockland Neighbourhood Plan*, which notes that heritage buildings should be retained and enhanced
- the site is presently comprised of two legal lots, which requires lot consolidation to maintain consistency with the *Zoning Regulation Bylaw's* requirement that buildings and parking stalls cannot cross property lines.

## **BACKGROUND**

### **Description of Proposal**

The property located at 1177-1185 Fort Street and 1043-1045 Linden Avenue was previously regulated by a Land Use Contract (LUC). However, in 2017 the City initiated a process to terminate any Land Use Contracts that were seen as overly permissive towards broad commercial uses. Upon termination of the LUC on November 9, 2020, this property became regulated by the underlying the R3-AM-2 Zone, Mid-Rise Multiple Dwelling District, and the existing commercial uses became legally non-conforming. The property owners have applied to rezone the property to ensure the commercial uses currently operating will continue to be permitted within the *Zoning Regulation Bylaw*.

The LUC secured four main items, which are noted below along with a description of ensuing changes:

- Heritage Protection of Building – subsequently protected with a Heritage Designation Bylaw
- Five Parking Stalls – there are currently only four parking stalls located at the rear of the property, because of an addition of a rear stairwell, approved by the City, that removed one stall in 1982. Unless parking is installed in the front yard, it is not possible to add any new parking to the property. However, this is not a recommended course of action because it would detract from the heritage aesthetic and create an unpleasant public realm along Fort Street
- Tree and Landscape Protection – a peach tree and a cedar tree, both located very close to the heritage building, were removed at some point in the past
- Permitted Uses – limited to residences, offices, personal services, cafes, and a variety of retail uses. 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 would be created for Council's consideration that permits the commercial uses found in the C1-FH Zone for buildings constructed prior to January 1, 2020.

The existing building currently straddles two lots, this irregularity would be addressed through lot consolidation which is proposed to occur after a Public Hearing but prior to final adoption.

### **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 existing heritage-designated building is currently occupied with several offices and one retail unit. Under the current R3-AM-2 Zone, the property could be developed for multi-unit residential purposes, but any physical changes to the exterior would require a Heritage Alteration Permit.

## Data Table

The following data table compares the proposal with the C-1 Zone, which is a standard commercial zone. 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 C-1
Site area (m <sup>2</sup> ) – minimum	862.5	N/A
Density (Floor Space Ratio) – maximum	0.75	1.4
Height (m) – maximum	10.06	12.0
Storeys – maximum	2.5	N/A
<b>Setbacks</b> (m) – minimum		
Front	8.3	6.0
Rear	6.85	6.0
Side (east) – when adjoining property is commercial	0.39	0
Flanking Side Street (Linden Ave)	2.55 – building <b>2.06 - porch posts **</b> <b>0 - stairs **</b>	2.4
Parking – minimum	<b>4 **</b>	12

## 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 among the 13

LUCs terminated by the City in 2017, and the LUC was officially terminated on November 9, 2020.

## **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 Rockland CALUC. The Rockland 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.

### **Rockland Neighbourhood Plan**

The *Rockland Neighbourhood Plan* strongly encourages conservation, maintenance, and enhancement of heritage properties. Staff believe this objective is achieved by permitting the commercial adaptive reuse of the heritage designated building to continue. The plan also notes that expansion of commercial activities along Fort Street should not be permitted; however the commercial uses on-site predate the *Rockland Neighbourhood Plan* and are therefore considered to be existing.

### **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. As part of the previous Land Use Contract, the landscaping was to be maintained and preserved. There is currently one birch tree on the property, and one sumac tree that is shared with the eastern neighbour. The rest of the landscaping consists of shrubs and lawn. A peach tree and a cedar tree, both located very close to the heritage building, were previously removed with no record as to their removal.

The subject property is located within Development Permit Area 7B(HC) – Corridors Heritage, which requires a Development Permit for landscaping changes.

## **CONCLUSIONS**

The proposal to rezone the property at 1177-1185 Fort Street and 1043-1045 Linden Avenue is consistent with the heritage goals in both the OCP and *Rockland Neighbourhood Plan*. Staff therefore recommend Council consider supporting this application.

## **ALTERNATE MOTION**

That Council decline Rezoning Application No. 00731 for the property located at 1177 Fort Street & 1043-1045 Linden Avenue.

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.**

**List of Attachments**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated/date stamped February 26, 2021
- Attachment D: Letter from applicant to Mayor and Council dated February 13, 2020
- Attachment E: Community Association Land Use Committee Email dated August 14, 2019.