



Committee of the Whole Report

For the Meeting of July 21, 2022

To: Committee of the Whole **Date:** July 7, 2022

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

Subject: Rezoning Application No. 00786 for 1105 Caledonia Avenue

RECOMMENDATION

That Council decline Rezoning Application No. 00786 for the property located at 1105 Caledonia Avenue.

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application. Relevant rezoning considerations include the proposal to specifically allow manufacturing as a permitted use on this property.

Enabling Legislation

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 1105 Caledonia Avenue. The proposal is to rezone from the CR-4 Zone, Upper Cook Commercial-Residential District, to a site-specific zone that will include manufacturing to the permitted uses within this zone for this property. The proposal is to allow Fernwood Coffee manufacturing use, specifically to roast and package coffee and to distribute for off-site sales. The other on-site uses (coffee shop and retail outlet) will remain unchanged.

There is no concurrent Development Permit application associated with this application, as the buildings and landscaping already exist. Three deviations from the current *Zoning Regulation Bylaw* standards have been identified: two variances will be embodied in the proposed zoning bylaw amendment should this application proceed, and one variance for long term staff bike parking will be resolved by reinstating three stalls.

On-site changes, implemented without City approvals, related to exterior seating, awnings and landscaping have also been identified and will require follow-up approvals through the Delegated Development Permit process, should this application be approved by Council.

If the Rezoning Application is declined, then the deviations from the Zoning Bylaw will remain outstanding and a Development Permit with Variances will be required to address these variances.

The following points were considered in assessing the Rezoning Application:

- The *Official Community Plan* places the subject property within the North Park Large Urban Village designation. This designation anticipates predominately mixed use commercial and residential uses, with commercial opportunities that serve the local population. Manufacturing uses are not contemplated within this designation
- The *Fernwood Neighbourhood Plan* (1994) envisioned that the commercial properties along Cook Street be rezoned to a commercial-residential zone (CR-4) to encourage mixed use in this corridor. This was completed in 2004. This zone does not contemplate industrial uses. The draft *Fernwood Neighbourhood Plan* envisions the continuation of mixed use in this node
- There have been a number of approvals on the subject parcel to address the limitations of the site for accommodating the business operations. The off-street vehicle parking is reduced to three stalls and is intended for customer use. The loading and storage facilities associated with the coffee roasting business are constrained and create points of conflict with the neighbouring residential properties, along with the activities associated with this type of manufacturing on a small site
- Staff are recommending declining this Rezoning Application as the intensity of manufacturing use with the associated activity and noise are challenging.

In the options section of this report, an alternate motion has been provided, which would advance a Temporary Use Permit (TUP), which offers an opportunity for the use to continue at this site for up to six years (three years with the option to apply for a renewal), which would provide the applicant time to make other arrangements. However, the applicant has indicated a preference for a permanent solution that they believe can be achieved through rezoning. The second option advances the application as submitted by the applicant and the third option advances the application as submitted with the addition of enhanced landscape screening.

BACKGROUND

Description of Proposal

This proposal is to expand the use of the subject property to allow manufacturing up to 25% of the total floor area of the existing building and its associated uses (storage, distribution) to take place. By allowing manufacturing as an outright permitted use, the proponents would be permitted to distribute the product for sale at other outlets, which is a reflection of the current situation.

For clarity, the use of the subject property for Parsonage Café and Fernwood Coffee is permitted in the existing zone and is not proposed to change. The roasting of coffee for use within these two businesses is permissible and can continue. The issue under discussion is the roasting, packaging and distribution of coffee for sales in other retail locations.

The differences from the existing *Zoning Regulation Bylaw* requirements are as follows, and will be captured in the site-specific zone should this application proceed:

- reduce the required distance of the accessory building (storage and bike shelter) from the principal building from 2.4 m to 1.72m
- eliminate the landscape strip (1m requirement) along the vehicle parking space along the Caledonia Street frontage.

The loss of long-term bike parking will be addressed either by reinstating the bike parking or through the variance process. In any event, the bike parking numbers are a change to the previously approved Development Permits and will need to be addressed depending on how this application proceeds.

Land Use Context

Upper Cook Street is characterized by a diversity of land use: restaurants and coffee shops, retail stores, a place of worship, multi-family residential and Royal Athletic Park. The area along Caledonia Avenue to the east is generally single-family or two-family homes.



Existing Site Development and Development Potential

The site is presently used as a coffee shop, coffee roasting and coffee sales and distribution centre. While on-site sales of product (coffee) roasted and packaged on-site is permissible under the *Zoning Regulation Bylaw*, manufacturing (the roasting, packaging and wholesale of coffee for sales offsite to over 200 outlets) challenges the intent of the Upper Cook Commercial-Residential District.

Under the current CR-4 Zone, Upper Cook Commercial-Residential District, the property could be developed for uses with this current zone, such as multiple dwellings or commercial-residential buildings, however, the parcel size (447 m²) would impose limitations on redevelopment potential.

Data Table

The following data table compares the proposal with the CR-4 Zone, Upper Cook Commercial-Residential District. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone. A double asterisk indicates an existing non-conforming status or previously approved variances. Explanatory notes provide information on deviations from previous approvals and other related information.

Zoning Criteria	Proposal	Existing Zone CR-4	Explanatory notes
Uses – manufacturing and wholesale use of up to 25% of floor area (48.19 sq.m)	New requested use*	Not permitted	Requires new zone
Site area (m ²) – minimum	447.65	N/A	
Density (Floor Space Ratio) – maximum	0.47:1	1.4:1	Floor area can be increased to 1.6:1 with a 5m SRW
Total floor area (m ²) – maximum	211	610	
Height (m) – maximum	3.8	12	
Storeys – maximum	1	4	
Separation space between buildings (within the site) (m) – minimum	1.727*	2.4	Required distance between accessory building (covered bike parking) and principle building
Landscape strip for vehicle parking space	0*	1.0	This area has been replaced with pavers
Setbacks (m) – minimum			
Front	3.67**	6	Non-conforming
Rear	7.61	6	
Flanking Street (north)	3.05	2.4	
Interior (south)	0.13	0	
Parking – minimum	3**	6	Parking variance and location (side yard) approved DPV No.00057

Zoning Criteria	Proposal	Existing Zone CR-4	Explanatory notes
Bicycle parking stalls – minimum			
Short term	14	9	DPV No.00057, 16 short term stalls were shown to offset parking variance; however only 14 stalls exist on site
Long term	3	3	DPV No.00057, 10 long term bicycle stalls were shown to offset parking variance, and this was subsequently reduced to 8 (DDP No.00192). There are currently none available and the proposal is to just meet the bylaw minimum.

It is noted that if this application does not proceed as a Rezoning Application, the applicant will be required to apply for a Development Permit with Variances to legalize the variances outlined above and to recognize the changes to the previously approved Development Permits.

Active Transportation

The application proposes the following features which support active transportation:

- bike racks for public – a total of 14 stalls are available for public short-term use
- bike parking for staff – a total of three stalls will be located in the accessory building. Note that currently there is no long-term secure bike parking for staff.

Public Realm

The public realm will remain generally at is appears at this time.

Relevant History

This property has been subject to a number of applications. The previous applications are described below:

Development Permit with Variance No. 00057 - Approved by Council January 2018

This was the first Development Permit with Variance application for the subject property when it changed from an auto upholstery to a coffee shop. The commercial use of the property for a coffee shop and retailer was permitted in the applicable zone. This application addressed changes to the exterior of the building and a vehicle parking variance. In order to mitigate the vehicle parking shortfall, bicycle parking was increased above Bylaw requirements. However,

this bicycle parking has been subsequently reduced by the operator:

- The long-term bicycle parking has been reduced from eight stalls to no stalls at this time. The accessory building intended for staff bike parking is used for storage, and the applicant is indicating that three bike parking stalls will be reinstated as part of the current rezoning application.
- The short-term bicycle parking was reduced from 16 to 14 stalls due to issues of securing manufactured bicycle racks of the proposed size; an additional bike rack for two bikes was required, however, it was not installed.

Development Permit (Delegated) No. 00192 – Approved by staff March 2018

Resulting from changes to the interior floor plan, changes to the façade (window) were required.

With respect to the bicycle parking, this application relocated the 10-stall covered staff bike parking from along the south property line at the rear of the property to an accessory building in the rear yard accommodating eight bikes.

Development Permit (Delegated) No. 00237 – Approved by staff July 2018

This Permit was for revisions to landscaping only.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the application was posted on the Development Tracker along with an invitation to complete a comment form from April 8, 2021 to May 9, 2021.

Additionally, the applicant participated in a virtual meeting with the Fernwood CALUC and approximately 60 residents on March 4, 2021. A letter dated March 18, 2021, along with the comment forms are attached to this report.

Other letters from the public are provided.

ANALYSIS

Rezoning Application

Official Community Plan

The *Official Community Plan*, 2012 (OCP) designates the subject property within a Large Urban Village. This designation contemplates the following uses:

- low to mid-rise multi-unit residential and mixed use
- commercial, including visitor accommodation
- live/work
- home occupations.

Most relevant to this business, in the Place Character Features for a Large Urban Village, ground-oriented commercial and community services that reinforce the sidewalk are encouraged.

The OCP identifies areas within the Industrial Designation and Core Employment as suitable locations for primary processing, warehousing and shipping. These areas are typically located in

the Rock Bay and Selkirk areas, and the zoning of these areas generally reflects these industrial types of uses.

While mixed-use is seen as a potential land use within a Large Urban Village, mixed-use is generally considered to be ground floor commercial with residential units above, or the inclusion of live/work units within a residential development. Industrial or manufacturing uses that involve wider distribution are not contemplated in this designation. Should Council opt to approve this Rezoning Application, it is recommended that the floor area dedicated to manufacturing and distribution be limited to 25% within the existing building to limit potential for expansion and to avoid the need for an OCP Amendment.

The *Official Community Plan* does provide an opportunity to consider a Temporary Use Permit for this property, which could potentially provide an allowance of up to six years for manufacturing on this property (three-year term plus the possibility of one renewal) and would allow the City to specify conditions under which the manufacturing can take place. However, the applicant does not wish to pursue this type of approval.

Fernwood Neighbourhood Plan (1994) and Local Area Plan Updates

The current *Fernwood Neighbourhood Plan* (1994) directed that the commercial properties along Cook Street be rezoned to a commercial-residential zone (CR-4) to encourage mixed use in this corridor. This was completed in 2004. This zone does not contemplate industrial uses. The draft *Fernwood Neighbourhood Plan* contains policies similar to the existing plan as they relate to a Large Urban Village.

The draft *North Park Neighbourhood Plan* contemplates an industrial/artisan area along North Park between Quadra and Cook but maintains the commercial – residential focus of the North Park Village Cook Street corridor.

Both the draft *Fernwood Neighbourhood Plan* and *North Park Neighbourhood Plan* are scheduled for Public Hearing on July 14.

Regulatory Considerations

The subject property is in the CR-4 Zone, Upper Cook Commercial-Residential District. This zone allows for a variety of uses, many of which are present in this area, such as:

- multiple dwellings
- commercial-residential buildings
- business offices
- retail store
- restaurants
- bakeries for the retail sales of products that are baked at that location and offered for sale at that location.

The intent of this zone is to facilitate the provision of goods and services to the local residents, and importantly, in a manner that is compatible with residential uses.

Any coffee roasting and packaging for distribution to off-site locations would qualify as manufacturing and would therefore not be permitted. For clarity, coffee roasting to be sold or consumed on site is permitted as it supports and is accessory to the café and retail outlet.

The most common industrial zones within the *Zoning Regulation Bylaw* (Light Industrial and Heavy Industrial) both preface the permitted industrial uses by stating the following:

The following uses are permitted, provided they are not noxious or offensive to any residential neighbourhood (or immediate neighbourhood) or the general public by reason of emitting odors, dust, smoke, gas, noise, effluent or hazard....

In essence, the intent is to protect a residential neighbourhood from the adverse impacts of industrial operations and limit the interference with the use and enjoyment of a residential property. The proximity of the uses to residential properties can pose conflicts, and an ideal situation would have such uses on larger properties that can create their own mitigating buffer areas.

Another critical component of industrial zones is the requirement for off-street loading spaces to accommodate any potential transportation and shipment of goods associated with industrial operations. There are no dedicated loading facilities on site and the loading takes place within the three on-site parking stalls or the recently installed commercial loading zone on Caledonia Street, which was installed on the south side of the street in 2021.

It is noted that three other coffee roasters in Victoria that market their product beyond their own storefront (Bows and Arrows, Mile Zero and Discovery) are located within industrial zones.

Other Considerations

Statutory Right-of-Way

Cook Street has been identified as an arterial street. The standard right-of-way for an arterial street is 30m. This additional width required for arterials will be used in the future to achieve *Official Community Plan* objectives such as providing enhanced facilities for walking, cycling, and public transit, as well as provide space for future trees as identified by the Urban Forest Master Plan.

To help achieve this minimum width on this portion of Cook Street, a statutory right-of-way (SRW) of 5.0 metres has been requested and the applicant has agreed to and identified this right-of-way on the plan submission.

Tree Preservation Bylaw and Urban Forest Master Plan

There is no loss of trees associated with this application. Currently there are two trees along the Cook Street frontage on the subject parcel. With the required SRW, these two trees will fall within the SRW. Tree assets located within an SRW must be maintained at the applicant's expense.

These conditions will form part of the SRW agreement, in the event Council chooses to move this rezoning application forward.

Additional Approvals

The applicant has undertaken changes, without City approvals, so that the on-site conditions now deviate from the previously approved Development Permits. The identified changes to the external seating layout and plant placement can be considered through the Delegated Development Permit process, while some changes that involve variances (such as the distance between the principal building and accessory building and the removal of the parking stall buffer) require Council approval.

The issue of the bike parking presents a challenge. In previous applications there was an oversupply of short- and long-term bike parking to mitigate the shortfall of vehicle parking from six vehicle stalls to three. The short-term bike parking has been reduced from an approved 16 spaces to 14 spaces, which still exceeds the minimum Bylaw requirement of nine spaces and has only a nominal impact therefore staff recommend this is adequate.

At this time, the long-term bike parking has been removed, which is contrary to previous approvals and represents an additional variance as three secure bike parking stalls are required to meet the minimum standard of Schedule C. The Council approval was for eight stalls, and the request is now to reduce it to three stalls. This is a significant reduction from the original proposal, however the applicant is indicating that this would be sufficient to meet the needs for long term secure staff bike parking. If three stalls are re-introduced then this does not trigger a variance, but this does require recognition of these changes in a new Development Permit. The absence any long-term bike parking is in contravention of the bylaw.

The following changes are considered relatively minor and could be considered through the Delegated Development Permit process:

- addition of a retractable awning and patio heater
- addition of planters and seating
- landscaping changes, including a requirement for permeable paving for any new hard surfaces
- revisions to the bike parking locations, provided minimum Bylaw requirements for bike parking are satisfied.

OPTIONS

Due to the unique circumstances of this application combined with challenges related to considering both the addition of non-permitted uses and changes to buildings, bike parking and landscaping on the site, three additional options have been prepared for Council's consideration.

Option One – Temporary Use Permit

As noted above, a Temporary Use Permit would be an option for allowing this use for an interim period (up to 6 years), during which time the applicant could fully explore options for the business. Although this is not the applicant's preferred outcome, the following motion would advance this option:

That Council instruct staff to work with the applicant to bring forward a Temporary Use Permit for Council's consideration that includes conditions to address the areas of concerns associated with the manufacturing and off-site sales associated with the roasting business as well as incorporating any required variances.

Option Two – Approve as Submitted

Council can approve the Rezoning Application as submitted:

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No.00786 for 1105 Caledonia Avenue limiting manufacturing floor area to 25% within the existing

building, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. The Statutory Right-of-Way agreement of 5.0 meters along Cook Street be registered on title.

Option Three – Alternative Motion Requiring Further Screening

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No.00786 for 1105 Caledonia Avenue limiting manufacturing floor area to 25% within the existing building, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Revisions to incorporate additional screening adjacent to the neighbouring residential lot.
2. The Statutory Right-of-Way agreement of 5.0 meters along Cook Street be registered on title.

CONCLUSIONS

The addition of manufacturing to the permitted uses of this existing commercial property is not anticipated under the OCP, the Fernwood Neighbourhood Plan, or the existing zoning. Therefore, it is recommended that the application by Fernwood Café, to add manufacturing use to allow the roasting and packaging of coffee and distribution for off-site sales, is not supportable.

Respectfully submitted,

Lucina Baryluk
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: Plans date stamped January 4, 2022
- Attachment C: Letter from applicant to Mayor and Council dated January 3, 2022.
- Attachment D: Community Association Land Use Committee Comments dated March 18, 2021
- Attachment E: Pre-Application Consultation Comments from Online Feedback Form
- Attachment F: Correspondence (Letters received from residents).