



Committee of the Whole Report For the Meeting of September 8, 2022

To: Committee of the Whole **Date:** August 29, 2022

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

Subject: Temporary Use Permit with Variances Application No. 00024 for 1450 and 1452 Elford Street

RECOMMENDATION

1. That Council waive the standard practice of holding an opportunity for public comment for this application but direct staff to continue other standard practices related to sign posting and public notification, including a request for written commentary to come back to Council for consideration prior to issuing the Temporary Use Permit.
2. And subject to the required notification and advertising, Council consider issuing the Temporary Use Permit as follows:

“That Council authorize the issuance of Temporary Use Permit Application No. 00024 for 1450 and 1452 Elford Street, to permit the use as a seasonal cold weather shelter in accordance with:

 - a. Plans date stamped August 3, 2022.
 - b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. reduce the vehicle parking down to two stalls.
 - c. The Temporary Use Permit lapsing three years from the date of this resolution.”
3. That Council ratify the decision at the daytime session immediately following the Committee of the Whole Meeting.

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.

In accordance with Section 498 of the *Local Government Act*, Council may issue a Temporary use Permit with Variance that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

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 1450 and 1452 Elford Street. The proposal is to allow the continuation of a seasonal (October to April) youth cold weather shelter, known as the Out of the Rain Youth Shelter. The variance is to reduce the vehicle parking requirements from three stalls to one.

The following points were considered in assessing this application:

- The existing seasonal youth cold weather shelter is generally consistent with the Urban Place Designation in the *Official Community Plan, 2012* (OCP) and the *Fernwood Neighbourhood Plan*. The existing use is also generally consistent with the Housing and Homelessness policies and objectives in the OCP in that it supports the use of emergency shelters as noted in the housing spectrum.
- The subject property is split between the R1-B Zone, Single Family Dwelling District, and the R3-2 Zone, Multiple Dwelling District. Given the split zoning and history of use on the subject site, calculating the exact parking requirements triggered by the new use is challenging and while an increase in parking would be required, no additional parking is proposed. However, it is worth noting that the subject property currently has two off-street parking stalls which have served the use for the past 10 years and would be maintained.
- The seasonal youth shelter has been in operation at the current site for over 12 years with the operators only recently becoming aware that the use is not permitted.

BACKGROUND

Description of Proposal

The proposal is for a seasonal youth cold weather shelter to be operated in an existing building. The shelter operates between 8 pm and 8 am from October 15 to April 15 and provides up to 30 sleeping spaces for youth aged 15-25 years.

There is a variance requested to reduce the parking requirements down to two stalls.

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 are proposed in association with this Temporary use Permit Application, as there is no construction associated with this proposal.

Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code*.

Existing Site Development and Development Potential

The site is presently utilized for various Beacon Community Services programs in two existing buildings, including the Out of the Rain Shelter in the building at 1450 Elford Street.

No additional development is proposed through this application.



..... Split Zoning Boundary

Data Table

The following data table compares the proposal with the existing R1-B Zone. An asterisk is used to identify where the proposal does not meet the requirements of the existing zone.

Zoning Criteria	Proposal	R1-B Zone	R3-2 Zone
Site area (m ²) – minimum	1006.83	460.00	920.00
Density (Floor Space Ratio) – maximum	-	n/a	Varies – 0.3 to 1.6
Total floor area (m ²) – maximum	Existing	300	n/a
Height (m) – maximum	Existing	7.6	18.5 to 22
Storeys – maximum	Existing	2	6+
Site coverage (%) – maximum	Existing	40	Varies – 20-30%
Setbacks (m) – minimum			
Front	Existing	7.5	Varies
Rear	Existing	7.5 or 25%	Varies
Side (north)	Existing	1.5 or 10%	Varies
Side (south)	Existing	3.0	Varies
Parking – minimum	2* (within R1-B zoned portion of the site)	3	Undetermined
Bicycle parking stalls – minimum	11	1	Undetermined

Relevant History

The two-story building at 1450 Elford Street was constructed in 1905 as a single-family residence. City permit records indicate that it was converted to a school for the disabled in 1960 and has operated in a similar capacity since the conversion. The operation of the Out of the Rain Shelter at the site began in 2009.

The Temporary Use Permit application is required as a result of a complaint made to Bylaw Services, the investigation of which revealed the site is not appropriately zoned for the shelter use. The substance of the complaint relates to issues in the neighbourhood (noise, disturbance) that may not be directly related to the operation of the shelter. It appears that the concern has subsided, though the shelter has not been in operation since April.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on August 10, 2022 the application was

referred for a 30-day comment period to the Fernwood CALUC; however, the Fernwood CALUC had already submitted a letter in support of the Temporary Use Permit application. A letter dated July 25, 2022, is attached to this report.

An Opportunity for Public Comment is not a legislative requirement for TUPs under the *Local Government Act*. Each municipality in British Columbia has the authority to determine if there should be a public forum associated with the approval of Temporary Use Permits. The City's *Land Use Procedures Bylaw* states the following with respect to the City's requirements for an Opportunity for Public Comment:

31. Council may provide an opportunity for public comment before passing a resolution to issue:

- a. a development variance permit, other than a permit that varies a bylaw under Section 528 of the Local Government Act;*
- b. a development permit with variances;*
- c. a heritage alteration permit with variances;*
- d. a temporary use permit.*

Council may wish to consider waiving the Opportunity for Public Comment for this TUP application to allow this project to advance to the point of final Council consideration. This would facilitate necessary approvals being in place in time for the shelter to open as scheduled on October 15, 2022, and before the Council schedule break associated with the upcoming election.

While the staff recommendation includes the necessary language to waive the Opportunity for Public Comment, all other aspects of the process that ensure transparency and notification of the public would be maintained. The *Local Government Act* requires that a notice be placed in a newspaper and that mailed notice be provided within the distance specified in the City's bylaws for TUPs. In this instance, notification requirements involve adjacent properties, therefore, consistent with the City's *Land Use Procedures Bylaw*, mailed notice would be sent to owners and occupiers of the subject site and adjacent properties. This notice would still invite recipients to provide written comments on the proposal if they felt inclined. Also, in accordance with the City's *Land Use Procedures Bylaw*, a sign would be posted on the property notifying the public of Council's upcoming consideration of the matter along with an invitation to provide written feedback.

If Council would prefer to hold an Opportunity for Public Comment on this application, then the alternate motion is structured accordingly for Council's consideration.

ANALYSIS

Official Community Plan

The *Official Community Plan, 2012* (OCP) identifies this property within the Urban Residential place designation, which envisions attached and detached buildings up to three storeys. The existing two storey building is consistent with the OCP designation.

The OCP contains policies that encourage a range of housing types across the housing spectrum. The existing use as an overnight shelter addresses the need for non-market housing on the emergency end of the spectrum.

The OCP identifies this property within DPA 16A – General Urban Design. As the building is existing and no alterations are proposed, a Development Permit is not required.

The OCP also designates the entire City for the issuance of Temporary Use Permits for uses that would not be permitted on the lands for which they are proposed.

Fernwood Neighbourhood Plan

The subject site is designated in the *Fernwood Neighbourhood Plan* as Urban Residential, consistent with the OCP. The *Fernwood Neighbourhood Plan* does not specifically contemplate the type of shelter use that is presently occurring on site, but the buildings on site are consistent with traditional ground-oriented residential areas in Fernwood.

The *Fernwood Neighbourhood Plan* notes the role that all neighbourhoods in the City must play in achieving the actions contained in the *Victoria Housing Strategy*, which in turn highlights the importance of accommodating uses such as emergency shelters.

Regulatory Considerations

Two zones (R1-B Zone, Single Family Dwelling District, and R3-2 Zone, Multiple Dwelling District) apply to this site with a portion of the building under consideration bisected by the zoning boundary line. The arrangement of the building on the site requires consideration of the parking requirements for the entire property, which is complicated by the lack of data detailing the exact floor area of the building located at 1452 Elford Avenue. Determining the floor area would require, at minimum, a review of historic building permits and perhaps a building survey. As a result, a detailed parking breakdown has not been provided for the entire site, just for the building and uses under consideration through this TUP application. The subject site contains two parking stalls that meet the dimension requirements of Schedule 'C' in the Zoning Regulation Bylaw; however, the driveway can accommodate additional vehicles arranged in a tandem fashion.

Given that the present-day shelter use has been occurring for over a decade with no known parking issues, and that subject site is in a walkable area and close to bike routes and transit, the parking variance is recommended as being supportable. Additionally, there are four long term bike parking spaces and seven short term bike parking spaces available.

CONCLUSIONS

The seasonal shelter use has existed on the subject property for over a decade with no known issues until a recent complaint that may involve issues peripheral to the operation of the shelter. No site design or layout changes are proposed through this application. The built form is consistent with relevant OCP and Neighbourhood Plan policies, and the use is supported by OCP housing policies. The demand for parking to support the uses on site is low, and the parking variance is supported. For these reasons, it is recommended that Council consider supporting this application.

ALTERNATE MOTIONS

Option One – Hold an Opportunity for Public Comment

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

“That Council authorize the issuance of Temporary Use Permit Application No. 00024 for 1450 and 1452 Elford Street, to permit the use as a seasonal cold weather shelter in

accordance with:

- c. Plans date stamped August 3, 2022.
- d. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - ii. reduce the vehicle parking down to two stalls.
- d. The Temporary Use Permit lapsing three years from the date of this resolution.”

Option Two – Decline

That Council decline Temporary Use Permit Application No. 00024 for the property located at 1450 and 1452 Elford Street.

Respectfully submitted,

Geordie Gordon
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 August 3, 2022
- Attachment C: Parking Layout
- Attachment D: Applicant's letter to Mayor and Council
- Attachment E: Letter from Fernwood CALUC dated July 25, 2022.