



Committee of the Whole Report

For the Meeting of January 19, 2022

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

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

Subject: Temporary Use Permit with Variances Application No. 00026 for 355 Catherine Street and 210 Kimta Road

RECOMMENDATION

1. 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 00026 for 355 Catherine Street and 210 Kimta Road, in accordance with:

 - a. Plans date stamped November 21, 2022.
 - b. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. increase the maximum floor area for non-residential uses within DA-4 from 1180m² to 2400m²;
 - ii. reduce the long term bicycle parking from 5 stalls to 0 stalls.
 - c. The Temporary Use Permit lapsing 130 days from the date of this resolution.”
2. That Council authorize placement of a temporary structure, for a period of no more than 130 days, within the area of the Statutory Right-of-Way registered as CA3962388.
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.

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.

In accordance with Section 498 of the *Local Government Act*, council may issue a Temporary Use Permit with Variances 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 355 Catherine Street and 210 Kimta Road. The proposal is to allow for a commercial exhibit within a large tent for a period of 130 days.

The following points were considered in assessing these applications:

- the short duration that the tent will be on-site would limit its visual impacts
- the proposal is generally consistent with the objectives in Development Permit Area (DPA) 13: Core Songhees to increase commercial vibrancy and vitality in former railyards and heavy industrial sites
- the proposal is generally consistent with the *Victoria West Neighbourhood Plan*, which envisions varied commercial uses in this area
- the variance to increase the floor area of non-commercial uses on Development Area 4 from 1180m² to 2400m² is supportable due to the short duration that the tent would be on the site
- the variance to reduce the long term bicycle parking from five stalls to zero stalls is supportable as the applicant is proposing the short term bicycle parking be operated as a bicycle valet, which in effect creates secure bicycle parking
- the proposed tent would be located over an existing water and sewer Statutory Right-of-Way. There are no concerns with this location due to the temporary nature of the structure and due to no ground penetration occurring.

BACKGROUND

Description of Proposal

The proposal is to allow for a commercial exhibit within a large tent for a period of 130 days. The tent is proposed to be primarily white with a graphic on the front displaying the show name and an image of the Starry Night painting.

There are two variances requested to increase the floor area for non-residential uses from 1180m² to 2400m² and to decrease the long term bicycle parking stalls from five to zero.

Sustainability

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

Sustainable Mobility

No sustainable mobility improvements beyond minimum City standards are proposed in association with this application.

Public Realm

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

Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code*. The show is all on one floor with wide aisles for accessibility,

Existing Site Development and Development Potential

The site is presently used for light industrial purposes including warehousing and woodworking. Large portions of the site, including two heritage buildings, are unused at this time. The site is zoned to permit residential, commercial and mixed-uses, with heights up to approximately 23 storeys and a maximum density of 2.0 Floor Space Ratio. There is also an active rezoning application pertaining to this site, which is presently being reviewed by staff and is unrelated to this Temporary Use Permit Application.



Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on December 13, 2022 the application was referred for a 30-day comment period to the Victoria West CALUC. At the time of writing this report, a letter from the CALUC had not been received.

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

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan* (OCP) identifies this property within DPA 13: Core Songhees, within which the *Roundhouse Design Guidelines 2008* (Revised 2015) are applicable to this property. However, the guidelines specifically speak to the master planned community, and therefore relate directly to the design of residential towers. Therefore, these guidelines are generally not relevant to this application.

The application does contribute to the overall objective of DPA 13 to continue to revitalize former rail yards and heavy industrial sites into areas of commercial use to increase vibrancy and strengthen commercial viability.

Local Area Plans

The *Victoria West Neighbourhood Plan* identifies the property within Core Songhees, which envisions varied commercial uses. The property is also within the Roundhouse master planned area. However, as noted earlier, the planning for the future of the Roundhouse site is being undertaken in association with a separate Rezoning Application.

Statutory Right-of-Way

The tent is proposed to be located on a portion of the property that has a Statutory Right-of-Way (SRW) in favour of the City for water and sewer infrastructure. There are no concerns given the temporary nature of the structure and that no ground penetration will occur during the construction and removal of the tent. The recommended motion includes wording to permit the structure to be located over top of this SRW.

Regulatory Considerations

The proposal crosses three Development Areas within the CD-12 Zone, each of which has different regulations. There are two variances associated with the proposal. The first is to increase the floor area of non-commercial uses on Development Area 4 from 1180m² to 2400m². This variance is supportable due to the short duration that the tent would be on the site. The second variance is to reduce the long term bicycle parking from five stalls to zero stalls. This variance is supportable as the applicant is proposing the short term bicycle parking will be operated as a bicycle valet, which in effect creates secure bicycle parking.

Potential Impacts of Temporary Use

It is anticipated that the temporary use will generate an increased level of traffic and activity in the area; however this property is zoned for residential and commercial activity that would greatly exceed what is proposed as part of this Temporary Use Permit. As part of this application, there would be 40 vehicle parking stalls, including four accessible stalls, and 20 bicycle parking stalls in the form of a bike valet. There are also potential noise impacts resulting from sound levels, associated with the exhibit permeating through the tent material. To mitigate potential sound

disturbances, the applicant notes the hours of the exhibit will be from 10:00am to 9:00pm, and the sound is a very low calm audio track.

CONCLUSIONS

The proposal to allow for a commercial exhibit within a large tent for a period of 130 days is generally supportable as it is consistent with the OCP and *Victoria West Neighbourhood Plan* objectives to increase commercial vibrancy and strengthen commercial viability. Staff recommend for Council's consideration that the application be approved.

ALTERNATE MOTION

That Council decline Temporary Use Permit with Variances Application No. 00026 for the property located at 355 Catherine Street and 210 Kimta Road.

Respectfully submitted,

Mike Angrove
Senior Planner – Development Agreements
Development Services Division

Karen Hoesel, 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 November 21, 2022
- Attachment C: Applicant's letter to Mayor and Council dated November 21, 2022.