



Committee of the Whole Report For the Meeting of August 3, 2023

To: Committee of the Whole **Date:** July 20, 2023

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

Subject: Temporary Use Permit Amendment Application No. 00028 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 amended Temporary Use Permit.
2. And subject to the required notification and advertising, and subject to Council's consideration of any written commentary received, Council consider amending the Temporary Use Permit as follows:
"That Council authorize the amendment of Temporary Use Permit Application No. 00024 and issuance of Temporary Use Permit No. 00028 for 1450 and 1452 Elford Street, to amend the condition that the permitted use of a youth shelter operate on a seasonal basis to year-round, in accordance with:
 - a. plans date stamped July 11, 2023
 - b. the Temporary Use Permit lapsing October 6, 2025".

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 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 (TUP) Amendment Application for the property located at 1450 and

1452 Elford Street. The proposal is to amend the existing TUP for a seasonal (October to April) youth cold weather shelter to allow the shelter to operate year-round. The reduction in vehicle parking requirements from three stalls to one is continued.

The following points were considered in assessing these applications:

- 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 seasonal youth shelter has been informally operating at the current site for over 12 years with the operators only recently becoming aware (in 2022) that the use is not permitted by zoning.

BACKGROUND

Description of Proposal

The proposal is to amend an existing TUP to allow the youth shelter use to change from seasonal to year-round. The existing permit was issued for a term of three years and expires in October 2025.

The existing age range of shelter clients would remain 15-25 years. The following operational conditions would change:

- hours would be increased from just overnight to 24-hours
- new person-centred supports (connections to other resources and outside supports) would be added
- number of beds would be reduced (downward from 25) to meet BC Housing funding and staffing requirements
- staff rounds outside would be increased, to reflect extended shelter operation hours

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*.

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.

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 to 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

A TUP to allow the youth shelter to operate on a seasonal basis (October to April) was previously approved by Council in October 2022. At the time of issuance, Beacon Community Services (BCS) only had adequate funding to operate the shelter on a seasonal basis. Since issuance, BCS has obtained additional funding to operate the shelter year-round and is now seeking that permission through an amended TUP. The *Local Government Act* gives a local government the authority to approve TUPs for a period of up to three years, and a one-time renewal of a TUP for up to an additional three years. The proposed amendment to the existing permit will not affect the expiration date of October 6, 2025.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on July 20, 2023, the application was referred for a 30-day comment period to the Fernwood CALUC.

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 be consistent with previous Council consideration of the existing permit where the Opportunity for Public Comment was waived.

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

The OCP permits the issuance of Temporary Use Permits for uses that would not be permitted under the current zoning of a lot, without going through a rezoning. This gives landowners the opportunity to trial uses that may be temporary in nature or assess the viability of the use long term. Temporary Use Permits may be renewed for a period of up to three years, after which the landowner would be expected to apply for rezoning.

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 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.

CONCLUSIONS

The proposed amendment would extend an existing use that has been permitted by an existing TUP and would have minimal additional impact on the area. The proposal is consistent with applicable OCP policies. Extension of the seasonal shelter use to year-round is recommended.

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:

- “1. That Council authorize the amendment of Temporary Use Permit Application No. 00024 and issuance of Temporary Use Permit No. 00028 for 1450 and 1452 Elford Street, to permit the use as a year round youth shelter in accordance with:
 - a. Plans date stamped July 11, 2023.”

Option Two – Decline

If Council opts not to amend the existing permit, no further action is required.

Respectfully submitted,

Geordie Gordon
Senior Planner
Sustainable Planning and Community
Development

Karen Hoese, Director
Sustainable Planning and Community
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Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Aerial Map
- Attachment B: Plans date Stamped July 11, 2023
- Attachment C: Letter to Mayor and Council dated June 30, 2023