



## Committee of the Whole Report For the Meeting of May 16, 2024

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**To:** Committee of the Whole **Date:** May 2, 2024

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

**Subject:** **Rezoning Application No.00854 and Development Variance Permit Application No. 00288 for 320 Cook Street and 1075 Pendergast Street**

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### RECOMMENDATION

#### Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated May 2, 2024 for 320 Cook Street and 1075 Pendergast Street.
2. That, after publication of notification in accordance with section 467 of the Local Government Act, first, second and third reading of the zoning regulation bylaw amendment be considered by Council.
3. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:
  - a. Secure the following Transportation Demand Management measures to offset the proposed parking variance, with terms to the satisfaction of the Director of Engineering and Public Works:
    - i. one BC Transit EcoPass for every two-stall shortfall provided for a minimum of a five year term and assigned to any employee or volunteer working on the property at no cost to the employee.
4. That adoption of the zoning bylaw amendment will not take place until all the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
5. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

6. That Council advance this motion to the daytime Council following Committee of the Whole Meeting of May 16, 2024.

### **Development Variance Permit Application**

That Council, after giving notice, consider the following motion:

- “1. That subject to the adoption of Zoning Regulation Bylaw, Council authorize the issuance of Development Variance Permit No.00288 for 320 Cook Street and 1075 Pendergast Street, in accordance with plans submitted to the Planning department and date stamped by Planning on September 18, 2023, subject to:
  - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. decreasing the vehicle parking from 33 stalls to 19 stalls.
2. That the Development Variance Permit, if issued, lapses two years from the date of this resolution.”

That Council advance this motion to the daytime Council following Committee of the Whole Meeting of May 16, 2024.

### **LEGISLATIVE AUTHORITY**

This report discusses a Rezoning Application. Relevant rezoning considerations include the proposal to amend the current CR-3M (Commercial Residential Apartment Modified District) to allow for the continuation of commercial uses on the second floor of the existing building and rezone the part of the land that is zoned R1-B (Single Family Dwelling District) to the amended CR-3M zone.

### **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.

In accordance with Section 489 of the Local Government Act, Council may issue a Development Permit in accordance with the applicable guidelines specified in the Official Community Plan. A Development Permit may vary or supplement the Zoning Regulation Bylaw but may not vary the use or density of the land from that specified in the Bylaw.

### **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 320 Cook Street and 1075 Pendergast Street. The proposal is to amend the zoning for the portion of the lot that is currently zoned CR-3M, Commercial Residential Apartment Modified District, to allow for the continuation of office, service commercial, retail and professional uses on the second floor of the existing building and rezone the portion of the lot that is zoned R1-B, Single Family Dwelling District, to the amended CR-3M zone.

In 2022, a Temporary Use Permit was granted to allow retail, personal services, general offices and professional offices on the second floor. This application is to permit the building to continue to be commercially tenanted on the second floor in keeping with how it has been used since constructed. The applicant is not proposing any changes to the building or deviations from its historic pattern of commercial use.

The following points were considered in assessing the Rezoning Application:

- The property has a split urban place designation, with the larger portion of the lot designated as Cook Street Large Urban Village and the smaller portion as Urban Residential according to the *Official Community Plan, 2012* (OCP). This proposal is consistent with OCP objectives to enable and foster mixed-use, commercial buildings and offices within Cook Street Village.
- The proposal is located within the Cook Street Large Urban Village District in the *Fairfield Neighbourhood Plan* which envisions mixed-use and commercial uses on the ground floor. The property has existing commercial uses on the ground floor and this application is to continue allowing commercial uses on the second floor, maintaining the requirement for commercial use on Cook Street.
- The site is in Development Permit Area 5: Large Urban Villages and recognises this area as a commercial node. A Development Permit is not required since no exterior alterations are occurring with this proposal.
- The two-storey building at 320 Cook Street was approved in 1978 for office commercial uses on both floors. The approved parking layout showed 19 parking stalls: 16 regular stalls and 3 small car stalls, which at the time, was the Bylaw-required parking for the proposed office use. At some point, commercial use of the upper storey ceased and the property lost non-conforming rights to commercial use above the ground floor.
- The property is split-zoned, with one portion of the lot zoned CR-3M, Commercial Residential Apartment Modified District, and the other part zoned R1-B, Single Family Dwelling District.

## **BACKGROUND**

### **Description of Proposal**

The proposal is to amend the part of the lot that is currently zoned CR-3M (Commercial Residential Apartment Modified District) to allow for the continuation of office, service commercial, retail and professional uses on the second floor of the existing building and rezone the part of the land that is zoned R1-B (Single Family Dwelling District) to the amended CR-3M zone.

### **Land Use Context**

The area is characterized by a mix of commercial, office and residential uses.

### **Existing Site Development and Development Potential**

The existing two-storey building is currently being used for personal services, restaurant (such as Starbucks and the Village Taverna) and office uses. There is 585 square meters of space on the second floor demised into three separate office spaces that are currently in use.

Under the current CR-3M (Commercial Residential Apartment Modified District) Zone, a wide range of commercial uses are permitted on the ground floor; however, the second floor is restricted to residential use.



Zoning Criteria	Proposal	Zone Standard CR-3M (Commercial Residential Apartment Modified District) Zone	Notes
Uses	<b>commercial on the second storey</b>	commercial on the first storey and residential above	
Height (m) – maximum	8.42	10.70	
Storeys – maximum	2	3	
<b>Setbacks (m) – minimum</b>			
Front (Cook Street)	<b>1.14**</b>	3.00-first storey 6.00-upper storeys	
Rear	<b>14.45</b>	6	
Interior	<b>0 – southeast 0.184** - east 2.735 - south</b>	Nil or 2.40 if one is provided	Non-residential adjacent lot
Flanking Street	<b>2.69</b>	2.40	
Parking – minimum	3* - in current zone 19* - overall property	33	
Parking location	Rear and side yard	Schedule C	
Bicycle parking stalls (long term) – minimum	6	n/a	Existing building
Bicycle parking stalls (short term) – minimum	2-4	n/a	Existing building

### Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, prior to submission of the application, it was posted on the Development Tracker along with an invitation to complete a comment form and an in-person meeting was held on May 29, 2023. At the time of writing this report, a letter from the CALUC had not been received.

Section 464(3) of the Local Government Act prohibits a local government from holding a public hearing for a rezoning application that is consistent with the OCP and is intended to permit residential development. This rezoning application does not meet the criteria for prohibiting a public hearing because there is no residential development associated with this application;

however, pursuant to section 464(2) of the Local Government Act, Council may choose to not hold a public hearing where the application is consistent with the OCP.

Notice must still be sent to all owners and occupants of adjacent properties as specified in the City's Land Use Procedures Bylaw advising that the public hearing is being waived prior to introductory readings of the bylaws. Should Council wish to hold a public hearing, an alternate motion has been provided at the end of this report. The associated development variance permit 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**

### Official Community Plan

The *Official Community Plan, 2012* (OCP) designates the larger portion of the property as Cook Street Large Urban Village which envisions low- to mid-rise mixed-use buildings that accommodate ground-level commercial, offices, community services and multi-unit residential apartments, with a public realm characterized by wide sidewalks, regularly spaced street tree planting and buildings set close to the street frontage, anchored by a full service grocery store or equivalent combination of food retail uses. The proposal aligns with the OCP in this regard by preserving commercial uses that are well integrated with surrounding community services and amenities, as well as by extending the lifespan of a structure which contributes to the diverse building stock in the area.

The smaller portion of the site is designated as Urban Residential in the *Official Community Plan, 2012* (OCP), which envisions low and mid-rise multi-unit buildings.

### Fairfield Neighbourhood Plan

The *Fairfield Neighbourhood Plan* designates the property within the Cook Street Large Urban Village District which envisions commercial uses on the ground floor, with a preference for active uses that support pedestrian traffic and visual presence. The proposal will allow the second floor of the building to remain activated, supporting the provision of employment opportunities and services in key sectors within Cook Street Village.

## **Development Variance Permit Application**

### **Regulatory Considerations**

#### Parking

The Zoning Regulation Bylaw requires 33 vehicle parking stalls. As there is no practical way to add parking on the lot, a parking variance to 19 stalls is proposed. This is considered supportable as the application proposes the following:

- one BC Transit EcoPass for every two-stall shortfall, for a minimum of a five-year term, assigned to any employee or volunteer working on the property at no cost to the employee
- short- and long-term bicycle parking in compliance with the Zoning Regulation Bylaw to reflect the quantity of bicycle parking that would be required for a new building.

These measures support the requested 14 stall motor vehicle parking stall variance and will provide future employees and volunteers of the building with sustainable transportation choices.

#### Tree Preservation Bylaw and Urban Forest Master Plan

There are no tree impacts with this application.

### **CONCLUSIONS**

The proposal to amend the CR-3M Zone to allow for the continuation of office, service commercial, retail and professional uses on the second floor of the existing building is consistent with the objectives of the OCP and the *Fairfield Neighbourhood Plan* and fit with the neighbourhood context with minimal impact. It is therefore recommended that Council consider supporting this application.

### **ALTERNATE MOTION**

That Council decline Rezoning Application No. REZ00854 for the property located at 320 Cook Street and 1075 Pendergast Street.

Respectfully submitted,

Manasvini Thiagarajan  
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: Plans date stamped September 18, 2023
- Attachment B: Letter from applicant to Mayor and Council dated June 13, 2023
- Attachment C: Correspondence.