

REPORTS OF COMMITTEES

1. Committee of the Whole – April 20, 2017

1. Land Use Contract Termination - Phase 1

Motion:

It was moved by Councillor Coleman, seconded by Councillor Isitt, that Council direct Staff to draft a bylaw, and bring it forward for Council's consideration, that would terminate the following Land Use Contracts one year after its adoption:

1. H4795 for the property at 104 Dallas Road
2. G87520 for the property at 717 Market Street
3. E36725 for the properties at 902 Caledonia Avenue & 1911 Quadra Street
4. D5298 for the property at 910 Government Street
5. F14579 for the property at 1022 Pandora Avenue
6. A83118 for the property at 1112 Wharf Street
7. H821 for the property at 1175 Cook Street
8. F41707 for the property at 1177-1185 Fort Street
9. G97568 for the property at 1195 Fort Street
10. G34262 for the property at 1248 Fort Street
11. H3131 for the properties at 1633 Hillside Avenue & 3055 Scott Street
12. F67058 for the property at 1720 Cook Street
13. F87124 for the property at 1964 Fort Street

Carried Unanimously

3. CONSENT AGENDA

3.2 Land Use Contract Termination - Phase 1

Committee received a report dated April 13, 2017, from the Director of Sustainable Planning and Community Development regarding the early termination of thirteen of the City's Land Use Contracts.

Motion: It was moved by Councillor Coleman, seconded by Councillor Alto, that Council direct Staff to draft a bylaw, and bring it forward for Council's consideration, that would terminate the following Land Use Contracts one year after its adoption:

1. H4795 for the property at 104 Dallas Road
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10. G34262 for the property at 1248 Fort Street
11. H3131 for the properties at 1633 Hillside Avenue & 3055 Scott Street
12. F67058 for the property at 1720 Cook Street
13. F87124 for the property at 1964 Fort Street

CARRIED UNANIMOUSLY 17/COTW



Committee of the Whole Report

For the Meeting of April 20, 2017

To: Committee of the Whole **Date:** April 13, 2017
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Land Use Contract Termination – Phase 1

RECOMMENDATION

That Council direct Staff to draft a bylaw, and bring it forward for Council's consideration, that would terminate the following Land Use Contracts one year after its adoption:

1. H4795 for the property at 104 Dallas Road
2. G87520 for the property at 717 Market Street
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11. H3131 for the properties at 1633 Hillside Avenue & 3055 Scott Street
12. F67058 for the property at 1720 Cook Street
13. F87124 for the property at 1964 Fort Street

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations regarding the early termination of thirteen of the City's Land Use Contracts (LUCs). By terminating the LUCs the existing base zoning would take effect.

The following points were considered in advancing this Council directed work item:

- the Province has advised that all Land Use Contracts will be terminated on June 30, 2024 and new bylaws, if required for the affected lands, must be adopted by June 30, 2022
- the new legislation also allows a local government to, by bylaw, terminate a Land Use Contract that applies to land within the jurisdiction of the local government. The ability to terminate a LUC early is available until June 30, 2022
- removing LUCs will ensure uniformity with current City policies for future applications
- numerous other municipalities in British Columbia have begun the process of early termination of Land Use Contracts.

BACKGROUND

Land Use Contracts were legislated as a regulatory tool in place of zoning in the 1970s. The LUCs addressed development issues that zoning could not and in these cases Zoning was rendered inapplicable. LUCs were registered on land titles and could previously only be amended or discharged by agreement between both the Municipality and land owner. The legislation authorizing the use of Land Use Contracts was repealed in 1978; however, LUCs entered into prior to these legislative changes remain in force.

On May 29, 2014, the Province adopted Bill 17, *Miscellaneous Statutes Amendment Act*, which amended the *Local Government Act* to automatically terminate Land Use Contracts on June 30, 2024. Prior to termination, municipalities are required to have underlying zoning in place on any affected properties by June 30, 2022. Within this legislation, municipalities were given the power to terminate LUCs early. The process for termination of a LUC requires adoption of a bylaw following a public hearing; however, it only takes effect a year after the bylaw is adopted.

Numerous municipalities in British Columbia have already begun early termination of their Land Use Contracts. For example, the City of Surrey began the process on June 15, 2015, and the Resort Municipality of Whistler began on May 3, 2016. The City of Richmond has already terminated 93 LUCs.

On February 23, 2017, Council passed the following motion:

"That Council direct Staff to begin the early termination process for all Land Use Contracts throughout the City of Victoria."

Staff recommended within the attached report presented to Committee of the Whole to begin with a first phase of LUCs that permitted commercial uses, as commercial properties are more likely to undergo redevelopment.

ANALYSIS

Official Community Plan

The underlying zoning is consistent with the *Official Community Plan* for all thirteen properties recommended for Land Use Contract termination. A table identifying the properties, the underlying zoning and the OCP urban place designation is attached to this report.

Local Area Plans

The majority of the Land Use Contracts put forward for termination have underlying zoning that is also consistent with their respective local area plans. 1175 Cook Street is the sole property inconsistent with its local area plan, and this is due to the specificity of the Fernwood Neighbourhood Plan's designation. The designation is for "Rezoning to CR-3M Commercial Residential Apartment District Zone", whereas the underlying zoning is the C-1 Zone, Limited Commercial District. In the CR-3M Zone, commercial uses can only be located on the ground floor. In the C-1 Zone, commercial uses can be located on any floor. The current layout of the building has commercial uses located on all floors, which makes it compliant with the zoning but inconsistent with the neighbourhood plan. Maintaining the C-1 Zone would have minimal impact, and if necessary, the property could be rezoned at a later date; potentially through the local area planning process after more extensive community consultation and land use impact analysis had taken place.

Regulatory Considerations

The removal of existing Land Use Contracts will have minimal regulatory effects. Properties affected by a Land Use Contract already have an underlying zone that will be applied upon termination of the contract. With the termination of the Land Use Contracts a number of the buildings and/or uses would be in legal non-conformance with the Zoning Bylaw; however, the existing underlying zoning on these properties is consistent with the *Official Community Plan* and therefore undertaking a City-initiated rezoning is unnecessary.

Process

City Council must adopt a bylaw that terminates the Land Use Contracts. Within 30 days of adopting the bylaw to terminate a Land Use Contract, the City must give written notice to the land title office. In addition, written notice must be given to the land owner ten days after adopting a bylaw. The bylaw comes into force on the date that is at least one year after the date the bylaw is adopted. This is to give the property owners a period to adjust to the underlying zoning. The property owner also has the opportunity to extend the one year grace period through the Board of Variance, if undue hardship can be proven.

CONCLUSIONS

The first phase of Land Use Contract termination addresses properties where the LUCs allow commercial uses; however, in all instances the underlying zoning is consistent with the *Official Community Plan*. There is precedent among other BC municipalities to terminate LUCs prior to the sunset date of June 30, 2024. Appropriate underlying zoning is already in place on the thirteen properties affected by LUCs.

ALTERNATE MOTION

That Council choose from the list of thirteen properties to determine which Land Use Contracts to terminate.

Respectfully submitted,



Michael Angrove
Planner
Development Services



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: April 10, 2017

Attachments

- Table of Land Use Contracts to be terminated
- Committee of the Whole Report, for the meeting of February 23, 2017

Properties	Contract Number	Current Use	Underlying Zoning	Urban Place Designation (OCP)	Zoning consistency with OCP	Neighbourhood Plan Designation	Zoning consistency with Neighbourhood Plan
104 Dallas Rd	H04795	Residential	R3-L: Low Density Multiple Dwelling	Urban Residential	Consistent	Residential	Consistent
717 Market Street	G87520	Parking & vehicle storage	C-SS: Special Service Station	Large Urban Village	Consistent	Major Commercial	Consistent
902 Caledonia Ave	E36725	Residential & office	C-1: Limited Commercial	Core Residential	Consistent	Residential Mixed-Use District (5-6 Storeys)	Consistent
910 Government Street	D05298	Restaurants, shops, offices, public parking	CA-3: Central Area General Commercial	Core Historic	Consistent	Historic Commercial District	Consistent
1022 Pandora Ave	F14579	Residential & office	CA-1: Pandora Avenue Special Commercial	Core Residential	Consistent	Residential Mixed-Use District	Consistent
1112 Wharf St	A83118	Parking Lot	IHBA: Inner Harbour Bastion District	Core Inner Harbour/Legislative	Consistent	Inner Harbour District	Consistent
1175 Cook Street	H00821	Medical building, pharmacy, café	C-1: Limited Commercial	Core Residential	Consistent	Rezoning to CR-3M Commercial Residential Apartment District Zone	Inconsistent
1177 Fort Street	F41707	Office, retail	R3-AM-2: Mid-Rise Multi Dwelling	Urban Residential	Consistent	No Expansion of Apartment Zoning - Reduce Permitted Building Height	Consistent
1195 Fort Street	G97568	Medical/dental	R3-AM-2: Mid-Rise Multi Dwelling	Urban Residential	Consistent	No Expansion of Apartment Zoning - Reduce Permitted Building Height	Consistent
1248 Fort Street	G34262	Veterinarian	R3-2: Multiple Dwelling	Urban Residential	Consistent	Rezoning of Apartments to maximum of 3 to 4 Storeys (R3-A2 & R3-AM-2)	Consistent
1633 Hillside Ave & 3055 Scott Street	H03131	Commercial	C-1, C1-N & R1-B	Town Centre	Consistent	Areas of Greatest Stability	Consistent
1720 Cook Street	F67058	Commercial, residential, senior centre	CR-4: Upper Cook Commercial-Residential	Large Urban Village	Consistent	Mixed Use Residential, Commercial & Institutional - 4 Storey (C-1)	Consistent
1964 Fort Street	F87124	Restaurant, pharmacy, medical offices, optician	R3-A2: Low Profile Multiple Dwelling	Large Urban Village	Consistent	Maintain Current Zoning	Consistent



Committee of the Whole Report

For the Meeting of February 23, 2017

To: Committee of the Whole **Date:** February 10, 2017
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Request to begin early termination of Land Use Contracts

RECOMMENDATION

That Council direct Staff to begin the early termination process for all Land Use Contracts throughout the City of Victoria.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations regarding the early termination of the City's Land Use Contracts (LUCs). There are currently 42 LUCs within the City. A map showing the affected properties and a list of the LUCs can be viewed in Appendix A. Provincial legislation mandates that all LUCs will be terminated on June 30, 2024. As part of this legislation municipalities were given the ability to terminate LUCs at an earlier date. By terminating the LUCs the existing base zoning would take effect.

The following points were considered in advancing this issue to Council for consideration:

- the Province has advised that all Land Use Contracts will be terminated on June 30, 2024 and new bylaws if required for the affected lands must be adopted by June 30, 2022
- the new legislation also allows a local government to, by bylaw, terminate a Land Use Contract that applies to land within the jurisdiction of the local government. The ability to terminate a Land Use Contract early is available until June 30, 2022
- removing Land Use Contracts will ensure uniformity with current City processes on any future applications
- numerous other municipalities in British Columbia have begun the process of early termination of Land Use Contracts.

BACKGROUND

Land Use Contracts were legislated as a regulatory tool in place of zoning in the 1970s. The Contracts addressed development issues that zoning could not and in these cases Zoning was rendered inapplicable. LUCs were registered on land titles and could previously only be amended or discharged by agreement between both the Municipality and land owner. The legislation authorizing the use of Land Use Contracts was repealed in 1978; however LUCs entered into prior to these legislation changes remain in force.

On May 29, 2014, the Province adopted Bill 17, *Miscellaneous Statutes Amendment Act*, which amended the *Local Government Act* to automatically terminate Land Use Contracts on June 30, 2024. Prior to termination, municipalities are required to have underlying zoning in place on any affected properties by June 30, 2022. Within this legislation, municipalities were given the power to terminate Land Use Contracts early. The process for termination of a Land Use Contract requires adoption of a bylaw following a public hearing but it only takes effect a year after the bylaw is adopted.

Numerous municipalities in British Columbia have already begun early termination of their Land Use Contracts. For example, the City of Surrey began the process on June 15, 2015, and the Resort Municipality of Whistler began on May 3, 2016. The City of Richmond has already terminated 93 Land Use Contracts. Staff recommend for Council's consideration that the City of Victoria also begin the process to terminate Land Use Contracts.

A preliminary review of the City's remaining Land Use Contracts has been completed, which uncovered a total of 42 Land Use Contracts registered in the 1970s. A map showing the affected properties and a list of the LUCs can be viewed in Appendix A. Specific reasons for the registration of the various Land Use Contracts include, but are not limited to:

- permitting mixed-use developments
- restricting land to residential use
- requiring developments be built as shown on the submitted plans
- preserving heritage buildings.

The removal of the Land Use Contracts would:

- transition properties into the underlying base zoning where appropriate or may involve the creation of new zoning if there is discord between the relevant City policy and the existing underlying zoning
- ensure consistency with existing policy documents.

ANALYSIS

Official Community Plan

A number of the Land Use Contracts, which were created more than 40 years ago, are no longer consistent with the objectives and urban place designations of the *Official Community Plan* (OCP). Removal of the LUCs, and any necessary rezonings, will ensure the subject properties are consistent with the OCP.

Local Area Plans

While many of the Land Use Contracts are consistent with the property's respective local area plan, there are a number of LUCs that allow uses and building typologies contrary to the local area plan. In addition, a cursory review of the properties affected by LUCs revealed the underlying zoning is in most cases consistent with existing local area plans. In some cases rezonings will need to occur for the properties to be consistent with the local area plan.

Regulatory Considerations

The removal of existing Land Use Contracts will have minimal regulatory effects. Properties affected by a Land Use Contract already have an underlying zone that will be applied upon termination of

the contract. Any differences between the underlying zone and the current development/use would create a legally non-conforming scenario.

A small number of the Land Use Contracts will require a concurrent rezoning process in order to maintain consistency with the OCP and local area plans. For example, 225-247 Belleville Street and 680 Montreal Street are currently restricted to multi-residential and hotel uses within the Land Use Contract. The removal of the LUC would revert the properties to the underlying zoning, which includes the M-2 Zone, Light Industrial District. The M-2 Zone is no longer consistent with the OCP or the *Downtown Core Area Plan* for these properties, and as such a City-initiated rezoning may be recommended for Council's future consideration in conjunction with the Land Use Contract termination in order to prevent the potential for light industrial activities to occur on the property.

The removal of Land Use Contracts which were used to preserve heritage buildings would have minimal effect on the properties, as all of the buildings affected by LUCs are either heritage designated or heritage registered.

NEXT STEPS

Upon receiving Council's direction, Staff would begin the process of terminating Land Use Contracts starting with the LUCs that permit commercial uses. The affected commercial properties are more likely to undergo development and residential properties are more stable. It is recommended that commercial properties be the first priority. Staff have identified thirteen properties that permit commercial uses. The next steps would be:

- review the thirteen LUCs to ensure the underlying zoning is consistent with City policy and any heritage significance is protected
- engage property owners in a discussion regarding the purpose and desired outcomes of this initiative
- bring forward the LUCs for Council's consideration either on a case-by-case basis or in batches, depending on complexity.

Secondarily, Staff will focus on the remaining LUCs that affect residential properties.

IMPACTS

Impacts to Financial Plan

The process of early termination will be entirely City-initiated. As such, property owners will incur no cost unless the owner requests to rezone to a district not recommended by Staff or applies to the Board of Variance for an extension on the termination due to hardship. The financial impact to the City will be mainly through Staff hours. In addition, costs associated with hosting a Public Hearing (mailing notices to residents, posting signage on the site, etc.) and discharging the contract at the Land Title Office will be incurred by the City.

CONCLUSIONS

This request for direction to begin early termination of Land Use Contracts will ensure consistency between the land use regulations, the *Official Community Plan* and the various local area plans. There is precedent among other BC municipalities to terminate LUCs prior to the sunset date of June 30, 2024. Staff hours will be minimized, as appropriate underlying zoning is already in place on the majority of properties affected by LUCs.

ALTERNATE MOTION

That Council decline to direct Staff to terminate all remaining Land Use Contracts within the City of Victoria.

Respectfully submitted,

Michael Angrove
Planner
Development Services

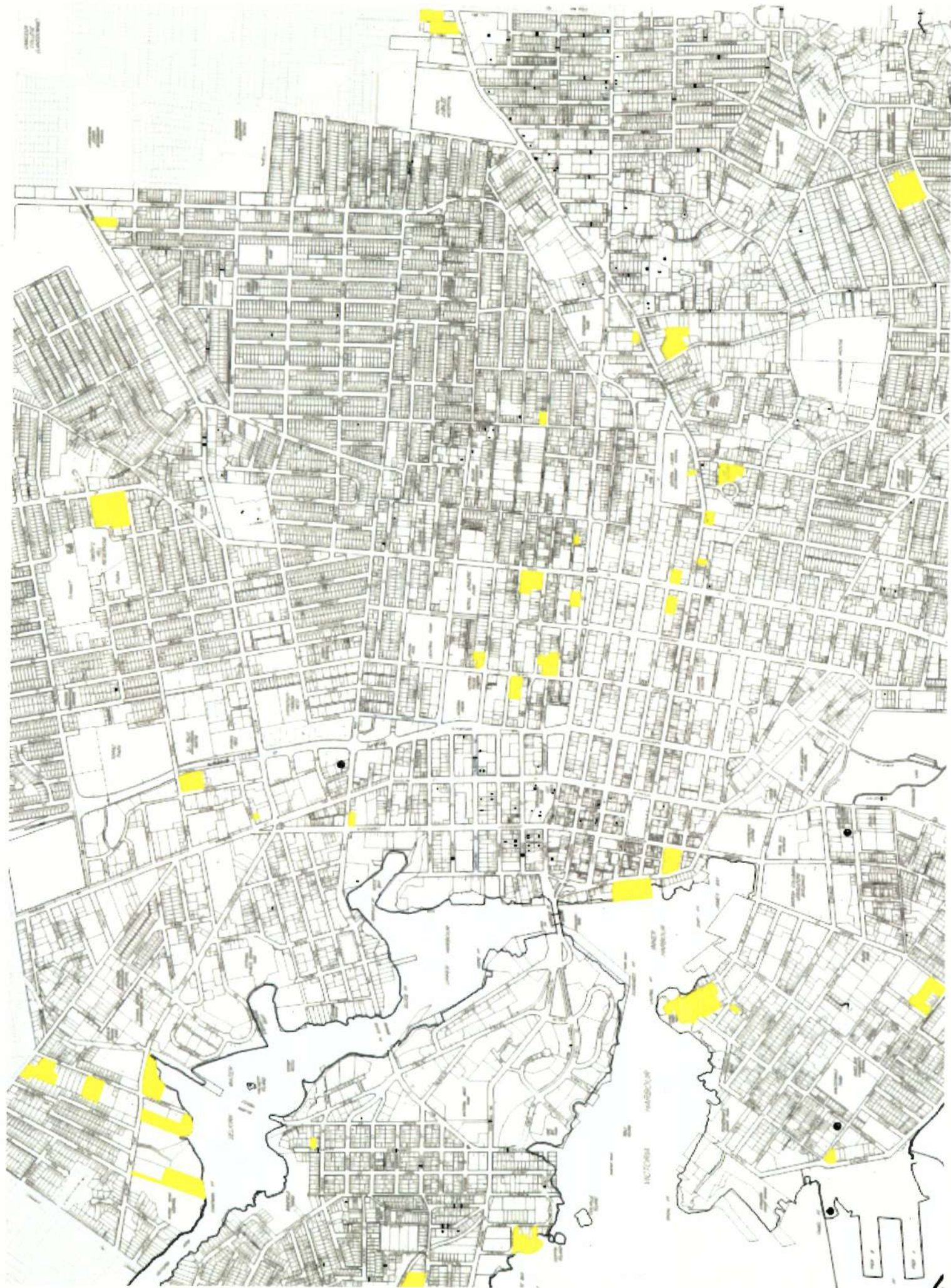
Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:

Date: _____

Appendix A

- Map displaying properties affected by Land Use Contracts
- List of properties affected by Land Use Contracts



LIST OF LAND USE CONTRACT ADDRESSES

Address(es)
925 Balmoral and 1613 Quadra
637 Bay
225,235,237,239,241,243,245,247 Belleville
337 Burnside Road E. and 3134-3142 Washington
902 Caledonia and 911 Quadra
1109 Catherine
1175 Cook
1720 Cook
2906 Cook
2920 Cook
2930 Cook
111 Croft
104 Dallas
120 Douglas
1780 Fairfield
1133 Fort
1177 Fort
1195 Fort
1248 Fort
1964 Fort
2022 Foul Bay
103-105 Gorge
215 Gorge
243 Gorge
910 Government and 525 Broughton
1304 Grant
760 Hillside
1633 Hillside and 3055 Scott
717 Market
930 Mason
1133 Mason
680 Montreal
2881 Nanaimo
875 North Park
1022 Pandora
949 Pembroke
1019 Pemberton
1613 Quadra
1911 Quadra
225 Quebec
730 Sea Terr.
614 Sea Forth

LIST OF LAND USE CONTRACT ADDRESSES

1402 Stadacona
1039 View
2902 Washington
3050-3056, 3070 Washington
1112 Wharf
734, 736, 738, and 740 Wilson

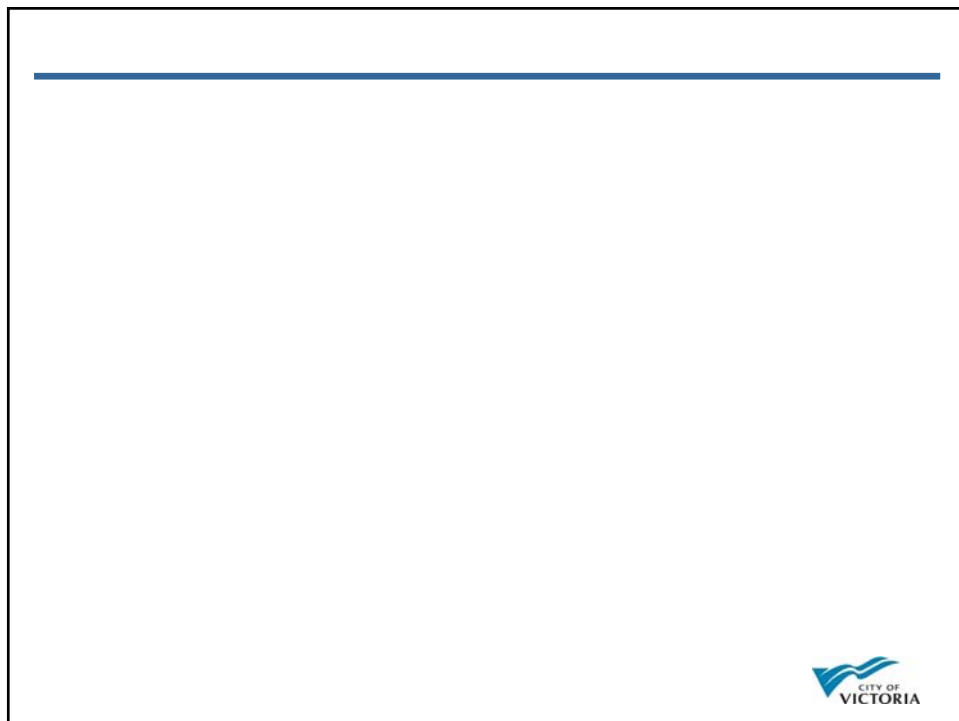
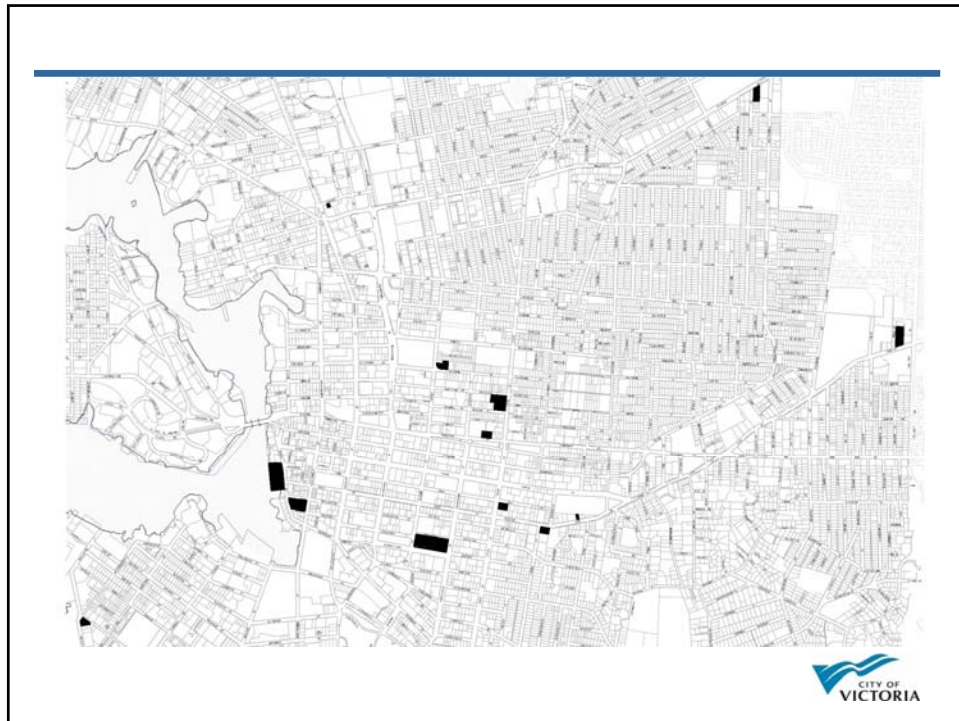
Land Use Contract Termination: Phase 1



Phase 1

- Focuses on properties that permit commercial activities:
 1. 104 Dallas Road
 2. 717 Market Street
 3. 902 Caledonia Avenue & 1911 Quadra Street
 4. 910 Government Street
 5. 1022 Pandora Avenue
 6. 1112 Wharf Street
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