



Committee of the Whole Report

For the Meeting of July 6, 2017

To: Committee of the Whole **Date:** June 16, 2017
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: **Request to remove off-site parking easement and covenant at 324/328 Cook Street**

RECOMMENDATION

That Council authorize the Mayor and City Clerk to execute a legal instrument, in the form satisfactory to the City Solicitor, to discharge off-site parking easement number EX143925 (as modified by FA103662) and covenant number EX143926 (as modified by FA103663) from the property located at 324/328 Cook Street.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations regarding the removal of an off-site parking easement and covenant from the property located at 324/328 Cook Street (Pic-A-Flic Site). The easement and covenant were registered on title in favour of 320 Cook Street (Starbucks Site) in order for this property to comply with the parking requirements under Schedule C of the *Zoning Regulation Bylaw*, when the need for additional parking at this site was required by an intensification of the uses.

The following points were considered in assessing this request:

- the off-site parking easement and covenant for six parking stalls were put in place on November 10, 2005 (and modified on August 30, 2006 to add an additional two stalls) to meet the parking requirements for the commercial uses of 320 Cook Street
- the use of 320 Cook Street has since changed and the off-site parking stalls at 324/328 Cook Street are no longer required to meet the Schedule C parking requirements
- there are 19 surface parking stalls at 320 Cook, which is enough to satisfy the parking requirements under Schedule C of the *Zoning Regulation Bylaw*
- any future change in use at 320 Cook Street would be reviewed for compliance with the parking requirements under Schedule C and if there was not enough on-site parking to satisfy the requirement of Schedule C, then an alternate arrangement or parking variance would be required.

BACKGROUND

The request is to remove the off-site parking easement number EX143925 (as modified by FA103662) and covenant number EX143926 (as modified by FA103663) from the property located at 324/328 Cook Street to allow for future redevelopment of the property. The original easement and covenant were registered November 10, 2005 to provide six parking stalls in favour of 320 Cook Street. The easement and covenant were modified on August 10, 2006 to add an additional two parking stalls to the agreement.

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. Later, when the use of the building changed to other commercial uses, the parking requirements increased and a portion of the required parking was provided off-site on the property located at 324/328 Cook Street and secured by easement and covenant.

The second floor of 320 Cook Street is now vacant; therefore, the off-site parking stalls at 324/328 Cook Street are no longer required to fulfil the parking requirements under Schedule C of the *Zoning Regulation Bylaw*, as the 19 on-site parking stalls are enough to meet the requirements based on the current ground floor restaurant and office uses of the building.

The property located at 324/328 Cook Street is zoned CR-3M, Commercial Residential Apartment Modified District. The CR-3M zone allows for a range of commercial uses, including restaurants and offices, provided they are located in the ground floor of a commercial-residential building. A commercial-residential building is defined in the CR-3M zone as "a building, the ground floor or which is used solely for one or more [commercial uses], and the floors above the ground floor are used solely for residential purposes". Therefore, commercial use of the second floor was considered legal non-conforming with regards to the provisions of the CR-3M zone. Given the commercial use of the second floor has ceased for a period exceeding six months, the legal non-conforming status is no longer valid. The future use of the second floor must therefore conform to the provisions of the CR-3M zone (i.e. solely residential use). As indicated in the applicant's letter to Mayor and Council dated April 27, 2017, the owner's acknowledge the change in the legal non-conforming use status and are evaluating residential conversion strategies for the second floor of the building. Any future use of the second floor would need to comply with the parking provisions of the CR-3M zone.


CONCLUSIONS

This request to remove the off-site parking easement and covenant at 324/328 Cook Street is supportable as the on-site parking at 320 Cook Street is sufficient based on the current use of the building. Staff recommend that Council consider supporting this request.

ALTERNATE MOTION

That Council decline the request to remove the off-site parking easement and covenant from the property located at 324/328 Cook Street.

Respectfully submitted,


Alec Johnston
Senior Planner
Development Services


Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: June 28, 2017

List of Attachments

- Subject map
- Aerial map
- Owner's Letter to Mayor and Council, dated April 27, 2017
- Off-Site Parking Easement No. EX143925 and Covenant No. EX143926
- Off-Site Parking Easement No FA103662 and Covenant No. FA103663