



THE CITY OF DAWSON

**AGENDA – SPECIAL COUNCIL MEETING #C20-18
THURSDAY, OCTOBER 1, 2020 at 12:00 p.m.
Council Chambers, City of Dawson Office**

- 1. CALL TO ORDER**
- 2. ADOPTION OF THE AGENDA**
 - a) Council Meeting Agenda #C20-18
- 3. SPECIAL MEETING, COMMITTEE, AND DEPARTMENTAL REPORTS**
 - a) Rezoning requirement on 5th Ave (Lot 1, Block U, Ladue Estate)
- 4. ADJOURNMENT**

THE CITY OF DAWSON

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REQUEST FOR SPECIAL COUNCIL MEETING #C20-18

As per Municipal Act Section 184, Special Meetings must be requested in writing by either:

- a) Mayor
- b) Two Councillors

Date of Request: September 30, 2020
Special Council Meeting request by: Wayne Potoroka, Mayor

Original signed by: _____ September 30, 2020
Mayor, Wayne Potoroka Date

1. Re-zoning requirement on 5th Ave (Lot 1 Block U Ladue)

To be held on: Thursday, October 1, 2020 AT 12:00 PM

Report to Council



For Council Decision For Council Direction For Council Information

In Camera

SUBJECT:	Intent of Fifth Street (west side of Block U, Ladue Estate) C1 Zoning	
PREPARED BY:	Stephanie Pawluk, CDO	ATTACHMENTS: None.
DATE:	July 24, 2020	
RELEVANT BYLAWS / POLICY / LEGISLATION:	Municipal Act Official Community Plan Zoning Bylaw	

RECOMMENDATION

It is respectfully requested that Council consider the intent of the C1 zoning of the west side of Block U, Ladue Estate and direct administration to either:

1. Uphold the current C1 zoning, as per the Zoning Bylaw; or,
2. Rezone Lots 1, 2, 3, 9, and 10 of Block U, Ladue Estate from C1 to R1 via a zoning bylaw amendment.

ISSUE

The west side of Block U, Ladue Estate (outlined in Figure 1) is zoned C1: Core Commercial in the 2018 ZBL. It has come to Administration's attention that the current uses of Lots 1, 2, 3, 9, and 10 of Block U, Ladue Estate (displayed in Figure 2) are R1: Single Detached and Duplex Residential.

This issue raises the following questions about the half-block under consideration:

- **Is this half-block zoned C1 for the intent of inciting a slow change to a C1 use over time and phasing out current R1 uses?** If so, the property owners of the R1 uses on these lots will not be able to enlarge, add to, or structurally alter their structures, as per s. 301 of the Municipal Act, due to the legally nonconforming status of their structures. This will eventually result in the inability to upkeep the structures, which will force the property owners to transition to a C1 use in the future.
- **Is there a desire to allow the current R1 structures to continue to exist in the future?** If so, these lots must be rezoned.

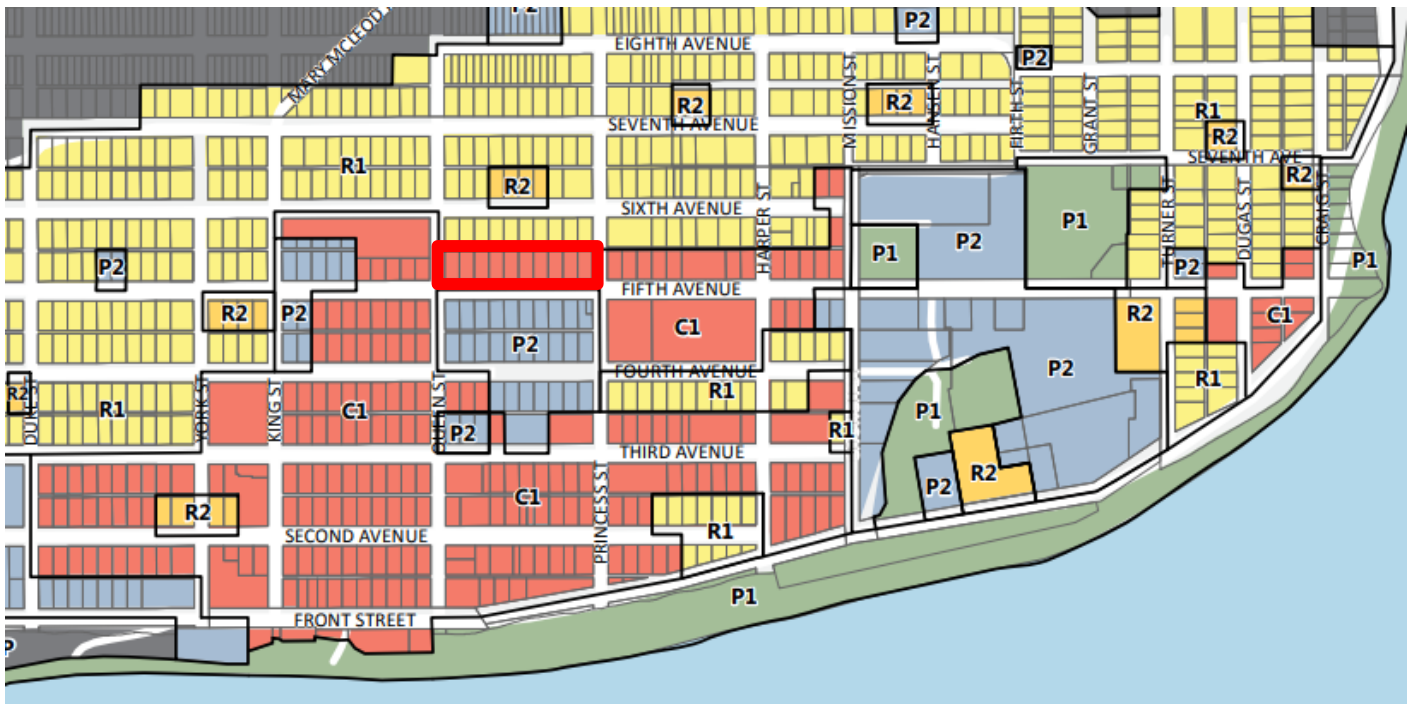


Figure 1: The area under consideration, the west side of Block U, Ladue Estate, highlighted in red.

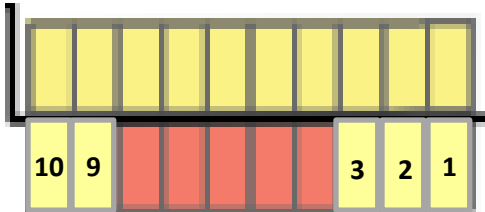


Figure 2: Lots 1, 2, 3, 9, and 10 of Block U, Ladue Estate currently have structures with R1 uses.

BACKGROUND SUMMARY

An applicant submitted a subdivision application for Lots 9 and 10 of Block U, Ladue Estate. There is a Yukon Housing duplex on Lots 9 and 10, which has existed since the 1980's. Through the assessment of the application, it was determined that the Zoning Bylaw does not permit R1: Single/Duplex Residential uses in the lots under consideration. A zoning bylaw amendment is not necessary in order to proceed with a subdivision; however, the property owners of the R1 uses on these lots will not be able to enlarge, add to, or structurally alter their structures, as per s. 302 of the Municipal Act, due to the legal non-conforming status of the structures. Through further examination of this half-block, it was found that R1 uses also exist on Lots 1, 2, and 3 of this block.

Administration is unsure of the intent of the Fifth Street C1 zoning. As such, administration requires direction prior to confronting inevitable future zoning bylaw amendment applications for Lots 1, 2, 3, 9 and 10 of Block U, Ladue Estate, which will be triggered by development permit applications to enlarge, add to, or structurally alter the structures on those lots.

The area under consideration (Figure 1) was zoned in the 1997 and 2009 ZBL as TS1: Downtown Service/Service Commercial. This zone allowed for a variety of commercial and institutional services, with single-detached dwellings listed as 'discretionary uses.' In the 2012 ZBL, this half-block was zoned as C1: Downtown Core Commercial. Thus, this half-block has been zoned for commercial-based uses as far back as 1997, and possibly longer (it is impossible to tell prior to 1997 as the zoning map is either absent or illegible). Hence, it is clear that this zoning was not a mistake made in the creation of the 2018 ZBL. As far as we know, as of the 1997 ZBL, these lots were zoned 'out of compliance' by changing their zoning to a commercial-based zone. This was likely a strategic decision made to incite a slow change to the new use over time by disallowing new developments that fit the old residential use.

Official Community Plan

The land use designation for the subject property is Downtown Core, which is intended to support a broad range of uses, including low- density residential. S. 6.2 states that “while the area will predominately consist of commercial and institutional uses, high- and low- density residential uses are also acceptable”. This statement lends credibility to allow for the continued existence of R1 residential uses for the purpose of contributing toward a vibrant and diverse commercial core. The Downtown Core area is intentionally broad in the OCP, and these spot rezonings would not contradict the OCP. It is the ZBL tool where more specificity is used to delineate where certain types of uses are either already existing or should be focused.

Zoning Bylaw

The lots under consideration are zoned as C1: Core Commercial in the 2018 ZBL. C1 uses are largely commercial and multi-residential in nature, and these uses are typically focused in the inner areas of the downtown core. Multi-residential is defined by the Zoning Bylaw as “any physical arrangement of three or more permanent dwelling units”. As per this definition, the current single detached dwellings and duplexes on the lots under consideration are not compliant with the current C1 zoning. Around the fringes of the downtown core, it becomes appropriate to have more zoning variability as the town transitions to predominately residential neighbourhoods.

Options

Option 1: Uphold the current C1 zoning, as per the Zoning Bylaw

While this block presently has a blended commercial and residential built form, as described above, it may be the desire of Council to uphold the current C1 zoning so as to incite a slow change to a C1 use over time by disallowing new developments that fit the old R1 zone. Considering how long this half-block has been zoned for commercial-based uses (as far back as 1997, and possibly prior to that), it is evident that the C1 zoning in the 2018 Zoning Bylaw was not a mistake.

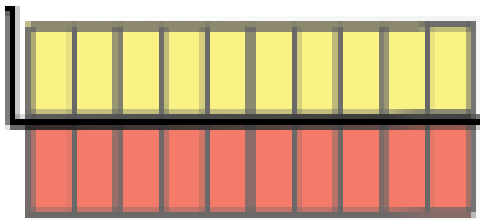


Figure 4: Current C1 zoning.

Option 2: City rezones Lots 1, 2, 3, 9, and 10 of Block U, Ladue Estate

This option is compliant with the OCP, as identified above. This option is also compatible with the existing function and scale of the neighbourhood. This block exists on the fringe of the downtown core and has a blended commercial and residential built form and neighbourhood character that renders a mix of R1 and C1 uses appropriate. If it is Council’s desire to allow the current R1 uses to exist in the future, Administration can pursue a zoning bylaw amendment that rezones Lots 1, 2, 3, 9, and 10 of Block U, Ladue Estate from C1 to R1 (as shown in Figure 3).

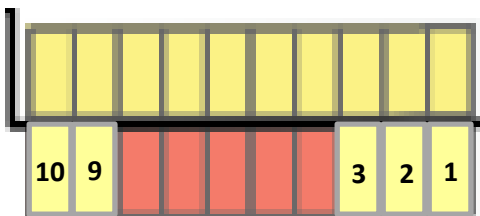


Figure 3: Rezone Lots 1, 2, 3, 9, and 10 of Block U, Ladue Estate from C1 to R1.

Option 3: Pursue zoning bylaw amendments from C1 to R1 as instigated by private property owner applications

This option means that the City does not hold the responsibility to rezone the lots under consideration. It allows the City to address each lot individually and delay this zoning decision until property owners apply for a zoning amendment. This option is not recommended because it allows for ambiguity and will eventually cause more work for the City in the long-term in addressing these issues on a case by case scenario, as the zoning amendment applications are brought forth.

APPROVAL	
NAME: Cory Bellmore, CAO	SIGNATURE: 
DATE: July 31, 2020	

GEORGE FILIPOVIC
B.A. (HONS.), LL.B.

BARRISTER & SOLICITOR

September 28, 2020

Mayor and Council
City of Dawson
Box 308
Dawson City, YT, Y0B 1G0
via email: info@cityofdawson.ca

**Re: Incorrect Zoning of 902 5th Avenue
(Legal Description: Lot 1, Block U, Ladue Estate, City of Dawson, YT, Plan 8388)**

Dear Mayor and Council,

I represent Robert Caley, who is in the process of purchasing a residence from his grandmother Joyce. I understand Joyce has been living in the residence since 1963.

It has come to our attention that the property is incorrectly zoned. It is zoned as “Core Commercial”.

The Closing Date for the sale is currently October 9, 2020 and involves a mortgage. I would thus appreciate if the matter could be resolved at your earliest opportunity (if the Zoning Bylaw needs to be amended, perhaps several readings can be held on the same day, etc.).

Thank you.

Sincerely,



George Filipovic