



Committee of the Whole Report

For the Meeting of November 21, 2019

To: Committee of the Whole **Date:** November 7, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: Rezoning Application No. 00699 for 1306-1330 Broad Street, 615-625 Johnson Street and Parts of 622 and 630 Yates Street

RECOMMENDATION

1. That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendments that would authorize the proposed development outlined in Rezoning Application No. 00699 for 1306-1330 Broad Street, 615-625 Johnson Street and parts of 622 and 630 Yates Street; that first and second reading of the Zoning Regulation Bylaw Amendments be considered by Council and that a Public Hearing date be set once the following conditions are met:
 - a. Minor plan revisions to correct inconsistencies, to the satisfaction of the Director of Sustainable Planning and Community Development.
 - b. Preparation and execution of legal agreements to secure 2.98 metres of the western portion of 1314 to 1330 Broad Street and 615 to 625 Johnson Street, adjacent to the existing "lane," to the satisfaction of the Director of Engineering and Public Works;
 - c. Preparation and execution of a legal agreement securing public realm improvements to the "lane" and adjacent streets, including the provision of bicycle parking stalls, to the satisfaction of the Director of Engineering and Public Works;
 - d. Preparation and execution of a legal agreement securing interpretive signage that will be displayed both during construction and over the long term, to the satisfaction of the Director of Sustainable Planning and Community Development; and
 - e. Preparation of bylaws to reserve or dedicate the area that currently functions as a lane at the rear of the properties as a lane, subject to the satisfaction of the City Solicitor and the Director of Engineering and Public Works, and that Council consider approving these bylaws subject to Council approving Rezoning Application No.00699.
2. That Council consider the Heritage Designation of 1314-1324 Broad Street (the Duck's Building) and the western rubble wall of 615 to 625 Johnson Street, consistent with plans date stamped November 6, 2019, and concurrent with final consideration of Rezoning Application No. 00699, if it is approved.
3. That Council authorize the Mayor and City Clerk to execute encroachment agreements, to be executed at the time of the building permit approval, if the other necessary

approvals are granted, in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works for:

- a. building encroachments adjacent to Broad Street, Johnson Street and the Duck's Building Lane; and
- b. anchor-pinning in the City Right-Of-Way.

LEGISLATIVE AUTHORITY

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 482 of the *Local Government Act*, a zoning bylaw may establish different density regulations for a zone; one generally applicable for the zone and the others to apply if certain conditions are met.

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 1306-1330 Broad Street, 615-625 Johnson Street and parts of 622 and 630 Yates Street. The proposal is to rezone the Old Town District 1 Zone (OTD-1) to add site-specific regulations, which would allow an increase in density. The application would result in the heritage designation of the Duck's Building, located in the centre of the site, as well as the rubble wall located near the laneway at the rear of the property. There is also a request to increase the height and to vary the on-site bicycle and vehicle parking requirements, which will be discussed with the concurrent Heritage Alteration Permit Application.

A third-party economic analysis of the lift in land value resulting from the proposed increase in density has been undertaken. As detailed in the report (attached), the economic analysis determined that there is no lift from the proposed rezoning due to a drop in supported land value with a commercial land use and heritage restoration commitment as compared to a residential use, permitted under the existing zoning.

The following points were considered in assessing this application:

- the application is consistent with the *Official Community Plan* (OCP, 2012) and the *Downtown Core Area Plan* (2011) in terms of securing heritage designation and advancing public realm improvements as a trade-off for higher densities and heights
- the proposed overall density of 4.37:1 Floor Space Ratio (FSR) can be accommodated on the site in a way that is respectful of the heritage context of the area; additionally, due to the narrow street widths in the immediate vicinity, the additional density located above the fifth storey is rarely visible from closer vantage points
- in order to facilitate enhanced public access and views of the significant heritage façades at the rear of the property, the lane at the rear of the property would be widened and upgraded with a new surface
- the applicant has indicated a willingness to provide interpretive signage on the site to both highlight the engineering methods used to stabilize and seismically upgrade the Duck's Building during construction, as well as to identify, on a permanent basis, the historical significance of the Duck's Building and the rubble wall.

BACKGROUND

Description of Proposal

The purpose of this application is to rezone the property known as 1306-1330 Broad Street, 615-625 Johnson Street and parts of 622 and 630 Yates Street to add site-specific regulations which would allow an increase in density within the Old Town District 1 Zone (OTD-1). The proposal is for the rehabilitation of a heritage-registered building to be converted into a 134-room hotel along with the construction of two additions at the north and south ends of the existing building, across a consolidated development site.

The proposal includes the following major design components:

- seismic upgrading and rehabilitation of the façade of the heritage Duck's Building
- two distinct additions (5 and 6 storeys) responding to the two different streetscapes of Broad Street and Johnson Street, respectively
- rear laneway vehicle access and a car elevator at the rear of the building to access one level of underground parking with 18 stalls (which meet City regulations or 36 tandem stalls)
- Predominantly brick cladding on the new additions facing Johnson and Broad Streets with metal panel accents
- a stepped back sixth storey on the Johnson Street addition and a stepped back fifth storey on the Broad Street addition
- a massing reveal between the south addition and the Duck's Building.

The primary difference from the existing zone, which would be accommodated in site-specific regulations, would be an increase in density from 3.0:1 Floor Space Ratio (FSR) to 4.37:1 FSR (across the site). It is recommended that the requested increase in height and the modification to bicycle and vehicle parking standards be managed as variances, in association with the concurrent Heritage Alteration Permit application. This would ensure that the variances would not become an entitlement built into the zone, precluding future consultation and Council consideration in the event that this application was approved by Council but not built.

Affordable Housing Impacts

The existing building located at the corner of Johnson and Broad Streets currently contains eight residential one-bedroom units, which are occupied by tenants. A Tenant Assistance Plan has been submitted, and while it does not currently meet the Tenant Assistance Policy, the applicant has provided rationale for an alternative approach which staff support. For more details, see Attachment F.

Sustainability Features

The applicant has not identified any sustainability features associated with this proposal; however, it is noted that the existing Duck's Building would be retained and repurposed.

Active Transportation Impacts

End of trip cycling facilities are proposed on the ground floor of the proposed Hotel to encourage and support active transportation. Minor plan amendments are required to meet the long term bicycle parking requirements and Hotel loading zone criteria.

Public Realm Improvements

The following public realm improvements are proposed in association with this Rezoning Application:

- improvements to the rear laneway to create a publicly accessible area, including in-ground lighting, pavers, bollards and a defined walkway.

These improvements would be secured with a Section 219 covenant, registered on the property's title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment. Through the legal agreement, public access will be secured for all times of the day. Additionally, maintenance and liability would fall to the land owner.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings. At the ground level of the building, all entries are wheelchair accessible and convenient drop off locations are proposed at-grade within the building. Additionally, the main floor within the building provides ramped accesses to access all amenity spaces.

Land Use Context

The area is characterized by a range of commercial, mixed-use residential, office and transient accommodation uses.

Existing Site Development and Development Potential

The site presently contains a number of ground-floor commercial uses, entertainment uses on the upper storeys of the Duck's Building and eight residential rental units on the second storey of the building located at the corner of Johnson and Broad Streets. The site also contains a surface parking lot and a tattoo parlour. Additionally, a small rear area of the commercial properties located at 622 and 630 Yates Street are subject to this Rezoning Application.

Under the current Old Town District 1 Zone (OTD-1), the property could be developed for a range of commercial, hotel and residential uses up to a density of 3:1 floor space ratio (FSR) at a height of 15m.

Data Table

The following data table compares the proposal with the existing Old Town District 1 Zone (OTD-1). An asterisk is used to identify where the proposal is less stringent than the existing zone.

Zoning Criteria	Proposal	OTD-1 Zone
Site area (m ²) – minimum	1889	n/a
Number of units	134 (hotel)	n/a
Density (Floor Space Ratio) – maximum	4.37:1 *	3:1

Zoning Criteria	Proposal	OTD-1 Zone
Height (m) – maximum	18.81 *	15
Storeys – maximum	6 *	5
Setbacks (m) – minimum		
Front (Broad Street)	0 4.0 (lane)	0
Rear (lane)	0	0
Side (north)	0	0
Side (south)	0	0
Parking – minimum	20 *	35
Bicycle parking stalls – minimum		
Long term	10	9
Short term	0 * on site	9

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, the applicant has consulted the Downtown Residents Association CALUC at a Community Meeting held on May 14, 2019. A letter dated July 30, 2019 is attached to this report.

ANALYSIS

Official Community Plan

The *Official Community Plan* (OCP, 2012) designates the site within the Core Historic Urban Place designation which anticipates total floor space ratios (FSR) ranging up to approximately 3:1. Uses are anticipated to include multi-unit residential and mixed-use commercial buildings including retail, office and visitor accommodation. In terms of built form, the OCP notes that buildings will be up to approximately five storeys and set close to the sidewalk with high site coverage.

The OCP also contains policies which state that the above-noted policies “may be varied to achieve heritage conservation objectives where alternative guidelines are established for a heritage property or properties or a Heritage Conservation Area.” Additionally, in Section 8: Placemaking - Urban Design and Heritage, the OCP includes policies which state, “Continue to enable and support heritage conservation through incentives and allowances including ... bonus density provisions and zoning variances.” As such, staff are satisfied that an Official Community Plan amendment is not required.

The proposal is to increase the density to 4.37:1 FSR across the site as a whole. Currently the existing Duck's Building sits at a density of 3.47:1 FSR. The proposed overall density of 4.37:1 can be accommodated on the site in a way that respects the heritage context of the area; additionally, due to the narrow street widths in the immediate vicinity, the additional density located above the fifth-storey is rarely visible from closer vantage points and would not be visible from more distant public vantage points around the harbour.

Further analysis will be provided in relation to the concurrent Heritage Designation and Heritage Alteration Permit with Variance applications with regard to heritage aspects of this proposal; however, with regard to the above-noted OCP policies, staff recommend that the proposal is consistent with the policy's intent given that the proposal, if approved, would result in the Heritage Designation of both the Duck's Building and the rubble wall adjacent to the lane. Additionally, the removal of the shed addition at the side of 617 Johnson Street (beside the lane) and the opening-up and improvement of the lane will help make the rear elevation of the Duck's Building and rubble wall visible and accessible to the public. The heritage significance of these buildings would be further highlighted with the addition of interpretive signage, provided both during construction as well as over the long term.

It should also be noted that there are a number of other buildings located within the Historic Commercial District that exceed the density and height limits of these policies in nearby locations within the Historic Commercial District. Examples of other buildings exceeding 3:1 FSR and 15 metres in height are outlined below:

Address	Floor Space Ratio	Height (metres)	Number of Storeys
634 Johnson Street (Carlton Hotel)	5.23:1	23m	6
620 View Street (Central Building, adjacent to Trounce Alley)	~5.8:1 (~6.2:1 including rooftop enclosed area)	~20.9m	6 (8 including 2 stories of rooftop amenities)
801 Government Street (Belmont Building)	~6.9:1	~28.5m (at Humboldt Street) ~25.6m (at the north side of the lot)	8 (including rooftop access)
625 Courtney Street (The Magnolia Hotel)	4.6:1	20.3m	7
637 Fort Street (Yarrow Building)	~5:1	~20m	6 (7 including rooftop enclosed area)
1450 Douglas Street (Lim Bang Building (Hotel Rialto))	~4.3	~23m	6 (including rooftop access)
608 Broughton Street (The Sovereign)	5.1:1	34m	11 (13 including rooftop structures)

Downtown Core Area Plan

The Downtown Core Area Plan (DCAP) designates this site as being located within the Historic Commercial District. Key policies within this designation aim to retain and contribute to Victoria's competitive advantage as a destination for retail, entertainment and tourism. The addition of a hotel use at this location serves this objective well. Additionally, the proposal is consistent with objectives which aim to model sensitive integration of new infill and public realm improvements by exposing formerly concealed heritage aspects of the site along the rear laneway. Through the activation of this laneway, a formerly disused alley can provide a discoverable enclave, similar to the unique experience of other heritage assets throughout the City's Historic Commercial District.

The maximum density assigned to this area is 3:1 FSR and the maximum height is identified as 15 metres; however, the OCP in the context of the Density Framework also notes that "the retrofit, re-use and conservation of existing heritage buildings within the Downtown neighbourhood are also identified as integral components in retaining the attractive and unique historic streetscapes that are enjoyed by residents and visitors alike and that serve to enhance the public realm."

Further exploration of the relevant DCAP policies, as they relate to the concurrent Heritage Alteration Permit application, are discussed in the accompanying Heritage Alteration report.

Tree Preservation Bylaw and Urban Forest Master Plan

Minor plan amendments are required to confirm the tree retention and removal details and confirmation of the proposed shoring approach. Currently the plans indicate that three existing Ginkgo street trees, located on the Broad Street frontage, are to be removed as part of this application and replaced with five new Ginkgo street trees. Three Hornbeam trees located along the Johnson Street frontage are proposed for removal as they are currently too close to the building façade and will be negatively impacted by the proposal. The applicant will also be responsible for installing four new replacement street trees in this location. The large Pin oak at the corner of Johnson and Broad Streets is to be retained and protected during construction. However, inconsistencies on the landscape plans and arborist report necessitate plan revisions for confirmation.

Other Considerations

Dedication of Lane

The recommendation includes language for Council to consider a resolution to dedicate the area of land behind the proposal as an "official" lane. In practice, this resolution would have little effect since the area has functioned as a lane for several decades, and because of this, under the *Local Government Act*, it is considered a lane. The change would help ameliorate a number of potential building code issues related to the presence of windows and doors immediately adjacent to what is, under the building code, a titled piece of property rather than road or lane, allowing for an overall better building design.

Encroachment Agreements

A number of street level canopies and building cornices are also proposed along Broad and Johnson Streets, which project above the City Right-of-Way. These are encouraged in the Guidelines to provide pedestrian weather protection and welcoming streetscapes. In order to facilitate these canopies, the applicant is required to enter into an Encroachment Agreement with the City. Appropriate wording is included in the recommendation for Council's consideration.

With any project of this scale that has little to no setbacks and requires excavation, construction methods often require a form of underpinning which can result in material being left in the public Right-of-Way. The resulting material (typically rock anchors) presents no concerns to the public interest and do not impact underground infrastructure; however, an Encroachment Agreement between the City and the developer is required.

Density Bonus Policy

The proposal is within the Core Historic OCP Urban Place Designation and proposes a commercial Hotel project that includes the seismic upgrading and rehabilitation of a heritage building envelope and two additions of five and six storeys. As such, *Victoria's Inclusionary Housing and Community Amenity Policy* (IHP, 2019) does not apply. The proposal is also within an area exempt from the Density Bonus System described within the *Downtown Core Area Plan* (DCAP, 2011), meaning that the policies described in the Density Framework in DCAP are used to evaluate as opposed to the Density Bonus System. Objectives under the Density Framework seek to provide key public amenities that benefit local residents, businesses, visitors and employees to offset increases in density. To this end, a third party land lift analysis was undertaken (Attachment E).

The report provides a residual land value analyses which compares the amount a developer could pay for the land under its current zoning with a strata residential land use and at a density of 3.17:1 FSR, to a land value derived from the proposal with a FSR of 4.37:1 with a commercial hotel land use and heritage restoration commitments. The base density is set at 3.17:1 FSR as opposed to 3:1 FSR because the existing density of the Duck's Building is 3.47:1 FSR. When this density is spread across the site, it lifts the base density to slightly above 3:1 FSR to the 3.17:1 analysed in the lift report.

The report concludes that there is a loss in land value under the proposed development compared to the value under the existing OTD-1 Zone and, as such, it recommends that community amenity contributions would not be supported by this development.

CONCLUSIONS

This proposal advances a number of key objectives of the OCP and DCAP through the addition of an active hotel use to accommodate growth in the tourism sector, the Heritage Designation of the Duck's Building and the rubble wall adjacent to the laneway, as well as laneway improvements that model public realm improvements within an historic environment. Consistent with the OCP, a commensurate consideration of additional density has been made in response to the proposed heritage restoration and rehabilitation, resulting in a density of 4.37:1 FSR and a height of six storeys. Through an analysis of view studies and three dimensional modelling, the retention of the compact, diverse, low-scale and small-lot character of the Heritage Conservation District is apparent.

As noted in the report, there are existing examples of buildings within Old Town that approach similar density and height levels; given this particular context, site configuration, and the constraints and costs associated with retaining the heritage features of the Duck's Building and rubble wall adjacent to the lane as demonstrated by the applicant, the additional density represents a trade off in support of other policy goals. Based on these factors, staff recommend that Council support this application and advance it for further consideration at a Public Hearing.

ALTERNATE MOTION

That Council decline Rezoning Application No. 00699 for the property located at 1306-1330 Broad Street, 615-625 Johnson Street, and parts of 622 and 630 Yates Street.

Respectfully submitted,

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Senior Planner, Urban Design
Development Services

Andrea Hudson, Acting Director
Sustainable Planning and Community
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Report accepted and recommended by the City Manager:

Date: _____

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped November 6, 2019
- Attachment D: Letter from the applicant to Mayor and Council dated November 5, 2019
- Attachment E: Land Lift and Amenity Contribution Analysis dated November 4, 2019
- Attachment F: Tenant Assistance Plan dated November 6, 2019
- Attachment G: Community Association Land Use Committee Comments dated July 30, 2019
- Attachment H: Correspondence.