



## Committee of the Whole Report

### For the Meeting of May 21, 2020

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**To:** Committee of the Whole **Date:** May 7, 2020

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

**Subject:** Development Permit with Variance Application No. 00105 for 500, 504 and 506 Herald Street

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### RECOMMENDATION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of Development Permit with Variance Application No. 00105 for 500, 504, and 506 Herald Street, in accordance with:

1. Plans date stamped April 16, 2020.
2. Development meeting all *Zoning Bylaw 2018* requirements, except for the following variance:
  - a. allowing new construction and building features to be erected partly on one lot and partly on another lot (Administration, Part 1, Section 12).
3. Conditional upon:
  - a. the applicant providing security to replace two street trees (species to be determined by the Parks Department) on the frontage and to include grate, guard and structural soil to the satisfaction of the Director of Parks and Recreation; and
  - b. the applicant providing a financial contribution of \$1000 for two bicycle racks to be placed on Herald Street.
4. The Development Permit lapsing two years from the date of this resolution."

### LEGISLATIVE AUTHORITY

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 *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.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the revitalization of an area in which a commercial use is permitted, a Development Permit may

include requirements respecting the character of the development, including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

## EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variance Application for the property located at 500, 504 and 506 Herald Street. The proposal is to construct an upper floor addition and exterior stairs to an existing building for use as a brew pub (Herald Street Brew Works). A variance is required to allow the new building construction (rooftop patio, railings, trellis, kitchen structure and exiting stairs) to straddle an existing property line.

The following points were considered in assessing this application:

- This existing building is within DPA 1(HC) Core Historic. The building is not heritage-designated or registered, but nonetheless contributes to the Old Town industrial fabric and sense of place. The proposed changes to the façade are appropriate in the context and are generally in compliance with the *Old Town Design Guidelines – New Buildings and Additions to Existing Buildings* (2019).
- As it is an existing building, the property is exempt from providing bicycle parking. In anticipation of the number of staff and patrons, the applicant is proposing four short term bicycle stalls on site. A financial contribution will be made to provide two additional bike racks within the public right-of-way.
- In support of the Urban Forest Master Plan, the two street trees along the frontage will be replaced.
- The existing building is situated across two lots, and the variance is related to the new construction that straddles the lot line. This is not an uncommon situation for buildings of this era in Old Town or Chinatown, and is therefore supportable.
- The applicant will require additional approvals (building permit, liquor licensing, occupant load) to extend the brew pub seating (lounge license) on the roof deck and to reallocate some seating to the rear ground level patio.

## BACKGROUND

### Description of Proposal

The proposal is to renovate an existing building for a brew pub and add a third storey (roof top patio area). Specific details include:

- changes to the façade of the building (fenestration, new canopy, painting, signage and lights)
- creation of the third storey roof top patio area with seating for 99 patrons, with a stairwell and food preparation area
- patio area aluminium guards rails and trellises
- exterior stairs (rear elevation)
- staff bike parking for four bikes (short term).

The building is situated across two lots, which creates a conflict with the *Zoning Bylaw 2018* for the new construction (roof top patio, railings, structures related to food service and exit stairs).

The interior renovations for the brew pub are currently under construction.

This application does not deal with any changes to the Lounge Endorsement to a Manufacturer's License for additional seating on the roof top patio or reallocation of seating to the rear ground level patio area. This is a separate process, and the applicant has indicated that the additional required approvals will be sought after the processing of this application. In the interim, the roof top patio area would not be licensed and would therefore not serve alcohol until additional approvals are in place.

### **Sustainability**

The applicant has not identified any specific sustainability features associated with this proposal. The use of an existing building is an adaptive re-use, which generates less building waste than new construction.

### **Active Transportation**

The *Zoning Bylaw 2018* exempts existing buildings from providing short or long term bicycle parking (Part 5, Bicycle Parking Exemptions). Nonetheless, in recognition of the amount of staff and patrons that the business will generate, the applicant is providing four bicycle parking stalls at the rear of the building for staff. As these stalls are not weather protected or secure, these spaces would be considered short term.

Additionally, there are two existing bike racks along the Herald Street frontage, and two new bike racks will be added for use by patrons. Due to limited space in front of the building, the final location of the racks will be determined by the Engineering Department. The bike racks are valued at \$500 each, therefore a \$1000 fee will be required to be paid prior to the issuance of the Building Permit to cover the cost of the racks. The staff recommendation includes the necessary wording to ensure this occurs.

### **Public Realm**

No public realm improvements are proposed in association with this application, aside from the addition of bike racks and street tree replacement.

### **Accessibility**

The British Columbia Building Code regulates accessibility as it pertains to buildings. Only the ground floor of this building will be accessible.

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

The site is presently zoned Old Town District-1 Zone (OTD-1), *Zoning Bylaw 2018*. Under the current Old Town District-1 Zone, the property could be developed at a density of 3.0:1 Floor Space Ratio (FSR) and with the use as proposed for a brew pub. This zone allows for a range of uses including a brew pub, drinking establishment and food and beverage service.

### **Data Table**

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

asterisk is used to identify a legal-nonconforming situation.

<b>Zoning Criteria</b>	<b>Proposal</b>	<b>Existing Zone Old Town District - 1</b>
Site area (m <sup>2</sup> )	1372 (combined area of two lots)	Not specified
Density (Floor Space Ratio) – maximum	0.48:1 (combined density of two lots)	3:1
Total floor area (m <sup>2</sup> ) - maximum	329	
Height (m) - maximum	9.0 (to top of trellis)	15
Storeys	3	Not specified
Building over property line	<b>Yes *</b>	Not permitted
<b>Setbacks (m) – minimum</b>		
To all lot lines	Building 0.37cm from front lot line at closest point	0
Vehicle parking total	12	Not required in Old Town for lots less than 1100m <sup>2</sup> in area. Each lot is less than 1100m <sup>2</sup>
Vehicle parking location	<b>Rear yard **</b>	Required within a building if provided
<b>Bicycle parking stalls – minimum</b>		
Short term	4 (see Active Transportation)	Not required for an existing building
Long term	0	Not required for an existing building

## Relevant History

The building was constructed in 1895 for A & A Dowell for a cartage company. Over its history, the building has been used for warehousing, a theatre and retail space. It has been vacant the last few years.

On March 28, 2019, Council endorsed the following resolution with regard to the liquor license for this property:

*That Council direct staff to notify the Liquor and Cannabis Regulation Branch that Council supports the application to have a lounge endorsement added to the manufacturing license for a brewery, having hours of operation from 9:00 am to 12:00 am Sunday to Thursday, and 9 a.m. to 1 a.m. Friday to Sunday with an occupant load of 178 persons.*

Since that time, the Liquor Control and Cannabis Regulation Branch has issued an approval in principal for the manufacturing area of the brew pub. The lounge area has also received an approval in principal for Level 1 and the mezzanine; however, it is contingent upon obtaining occupancy and occupancy load approvals. The current approval in principal for the Level 1 of the lounge area does not identify any seating on the ground level patio at the rear of the building so this will also require an amendment to the approvals, which is as noted earlier, a separate process. The roof top patio area (99 additional seats) has not been part of the above-noted liquor licensing approvals.

The current zoning for the property (Old Town District-1 Zone) permits brew pubs, drinking establishment and food and beverage service as land uses within this zone.

A Delegated Development Permit was issued in August 2019 for minor changes to the façade, but as the applicant is proposing further changes to the façade, these changes are included in this application. A building permit is currently issued for the interior renovations.

## **Community Consultation**

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on January 3, 2019, June 10, 2019, November 3, 2019, January 30, 2020 and April 20, 2020 (revisions only) the application was referred for a 30-day comment period to the Downtown Residents Association. The DRA has not provided a formal response to this application.

This 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**

### **Development Permit Area and Design Guidelines**

The *Official Community Plan (OCP, 2012)* identifies this property within DPA 1, (HC) Core Historic. The most relevant guidelines applicable to this proposal are the *Old Town Design Guidelines for New Buildings and Additions to Existing Buildings (2019)*.

While the building is part of the Old Town industrial fabric, there is little architectural merit in the existing structure to pursue heritage status as the building facade has undergone many changes over its lifetime.

Specific changes to the front elevation of the building façade include:

- new double wide wood and glass doors to replace the commercial glass doors
- replacement of existing canopy over the entry with a simplified wood awning
- a new window with mullions to increase the amount of glazing at street level

- painted signage on face of building
- accent lighting above signage
- painting the existing cladding material and trim
- prefinished aluminum guard rail.

The materials, signage and palette are consistent with the character of the area. The addition of a new window will increase transparency on the ground floor, which is encouraged in the guidelines. The cladding materials (including the brick) have been previously painted and will be repainted in one colour which will help distinguish the building as a single entity. The lighting is appropriate to the scale and function of the building. The new guard rail in dark grey on the upper storey reinforces the former industrial character of the building and is similar to guard rails used in newer buildings in Old Town and Chinatown.

The changes to the rear of the building are mostly utilitarian in nature and this area is not visible from the Herald Street; as such, application of the design guidelines is limited. Changes to the rear of the building include:

- 1.8m high windbreak constructed of translucent glass and aluminum frame at patio level
- decorative wood trellis at patio level
- new exiting stairs
- two bicycle racks (four spaces)
- overhead doors for delivery
- new exterior doors at ground level
- refurbished concrete for patio area at ground level with guard rails
- space for tank for brewery operation.

## **Local Area Plans**

The *Downtown Core Area Plan* (2011) places the parcel within the Historic Commercial District, forming the primary hub for retail, entertainment and tourism within the Downtown Core Area, noting that the concentration of rehabilitated heritage buildings and attractive streetscapes serves to attract other uses. This application is consistent with the policy to locate active commercial uses at street level to encourage increased pedestrian activity.

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

There are two street trees (sour cherry) along the frontage of this property. These trees are in poor condition. In support of the Urban Forest Masterplan, the applicant has agreed to replace these with new trees, grate, guard and structural soil, with species determined by the Parks Department. Additionally, it is noted that the street trees are often stressed by construction and servicing, so it would be prudent to address this issue at this time. The staff recommendation includes the appropriate wording to ensure this occurs.

## Regulatory Considerations - Variance

In older parts of the City and prior to building inspection services, it is not uncommon that a building straddles one or more lot lines. As this is an existing situation, the variance to allow new building construction to straddle the existing lot line is considered supportable.

The option of consolidating the lots was discussed with the applicants, and this was not considered a feasible course of action for them at this time.

## CONCLUSIONS

This Development Permit with Variance Application only considers the changes to the exterior of the building, including the construction of a third floor patio area. As noted, the applicant will be required to apply for the appropriate approvals to include this third floor patio area as part of the overall lounge license for the brew pub in order to extend liquor sales on this level.

The front façade changes are generally consistent with the *Old Town Design Guidelines – New Buildings and Additions to Existing Buildings* (2019). The material changes will create a distinctive character to the building while still fitting in with the established streetscape.

The variance to allow new construction over a lot line is supportable, as this is an existing condition and having a building straddle a lot line in the parts of Victoria that were generally developed before regulations is not uncommon.

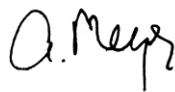
## ALTERNATE MOTION

That Council decline Development Permit with Variances Application No. 0015 for the property located at 500 – 506 Herald Street.

Respectfully submitted,



Lucina Baryluk  
Senior Planner  
Development Services



Karen Hoese, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:



Date: May 12, 2020

## **List of Attachments**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped April 16, 2020
- Attachment D: Letter from applicant to Mayor and Council dated March 5, 2020
- Attachment E: Letter from architect to Mayor and Council dated January 29, 2020.