



## Committee of the Whole Report

### For the Meeting of May 6, 2021

---

**To:** Committee of the Whole **Date:** April 22, 2021

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

**Subject:** **Update Report for Rezoning Application No. 00701 and Heritage Alteration Permit with Variances Application No. 00236 for 1314 and 1318 Wharf Street (Northern Junk)**

---

## RECOMMENDATIONS

### Rezoning Application No. 00701

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00701 for 1314 and 1318 Wharf Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation of the following agreements, registered on title by the applicant, to the satisfaction of City staff:
  - a. Statutory right-of-way for public access over the area dedicated to the Harbour Pathway and the internal alley between the two heritage buildings, to the satisfaction of City staff;
  - b. Housing Agreement to secure 47 residential rental units as rental in perpetuity, to the satisfaction of the City Solicitor;
  - c. **A legal agreement to secure public realm improvements as indicated on Plans dated April 19, 2021; and**
  - d. A legal agreement to ensure that building amendments would be made along the north property line to comply with building code requirements should a building be proposed for the property located at 1324 Wharf Street.
2. That Council authorize the following encroachment agreements, to be executed at the time of the building permit approval, if the other necessary approvals are granted:
  - a. building encroachments in the City property at 1324 Wharf Street, with form and contents satisfactory to the City Solicitor and the Director of Engineering and Public Works;
  - b. **excavation encroachments in the City property at 1324 Wharf Street during construction at the fee of \$150/month per parking stall or \$750 plus \$25 for**

each square metre of excavation face supported with anchor rods, with form and contents satisfactory to the City Solicitor and the Director of Engineering and Public Works;

- c. excavation encroachments in Reeson Park (1300 Wharf Street) during construction at the fee of \$15/day for each 13 square meters of encroachment, with form and contents satisfactory to the City Solicitor, the Director of Engineering and Public Works, and the Director of Parks, Recreation and Facilities; and
- d. anchor-pinning in the City right-of-way, with form and contents satisfactory to the City Solicitor and the Director of Engineering and Public Works.

### **Heritage Alteration Permit with Variances No. 00236**

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00701, if it is approved, consider the following motion:

“That Council authorize the issuance of Heritage Alteration Permit with Variances Application No. 00236 for 1314 and 1318 Wharf Street, in accordance with:

1. Plans date stamped August 10, 2020.
2. The Conservation Plan for the Caire and Grancini Warehouse at 1314 Wharf Street, date stamped October 22, 2019.
3. The Conservation Plan for the Fraser Warehouse at 1316-1318 Wharf Street, date stamped October 22, 2019.
4. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - a. Reduce the required short term bicycle parking spaces from 10 to 0; and
  - b. Increase the maximum permitted height from 8 metres to 21 metres.
5. Final plans to be generally in accordance with the plans identified above, to the satisfaction of the Director of Sustainable Planning and Community Development.
6. The applicant provide details regarding their intended process for commissioning a story wall for the north elevation of the building, including an artist selection process, scope and content, and an explanation for how their project will consider the Indigenous cultural heritage of the waterfront public realm, to the satisfaction of the Director of Sustainable Planning and Community Development.
7. The applicant providing a lighting plan for the heritage buildings, to the satisfaction of the Director of Sustainable Planning and Community Development.
8. Heritage Alteration Permit lapsing two years from the date of this resolution.”

### **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.

In accordance with Section 483 of the *Local Government Act*, Council may enter into a Housing Agreement which may include terms agreed to by the owner regarding the occupancy of the housing units and provided such agreement does not vary the use of the density of the land from that permitted under the zoning bylaw.

In accordance with Sections 617 and 618 of the *Local Government Act*, Council may issue a Heritage Alteration Permit which may be subject to terms consistent with the purpose of the heritage protection of the property, including: (i) conditions respecting the sequencing and timing of construction, (ii) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures and (iii) security. Council may refuse to issue a Heritage Alteration Permit for an action that, in the opinion of Council, would not be consistent with the purpose of the heritage protection of the property.

## **EXECUTIVE SUMMARY**

The purpose of this report is threefold: first to present Council with information, analysis and recommendations regarding minor plan revisions in response to Council's direction in relation to Rezoning and Heritage Alteration Permit with Variances Applications for 1314 and 1318 Wharf Street (the Northern Junk Property); second, to provide an update to the recommended motion to ensure that the necessary legal agreements, required to capture the revised proposal, are prepared; and third, to seek Council's approval for encroachment agreements that would authorize temporary construction encroachments into Reeson Park and the City owned property at 1324 Wharf Street, to the north of the subject property.

The proposal is to rezone the Northern Junk Property from the IHH Zone, Inner Harbour Heritage District, to a new zone to increase the density for the redevelopment of the site with a six-storey building that retains and incorporates two Heritage Designated buildings. Council passed the following motion on October 1, 2020:

### **Rezoning Application No. 00701**

*"That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00701 for 1314 and 1318 Wharf Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once the following conditions are met:*

- 1. Plan revisions to include frontage works and building access consistent with the City's Subdivision and Development Servicing Standards, revised long term bike parking spaces to meet the requirements set out in Schedule C of the Zoning Regulation Bylaw and minor plan corrections, to the satisfaction of the Director of Sustainable Planning and Community Development and Director of Engineering & Public Works.*
- 2. That Council authorize the placement of Pad Mounted Transformer (PMT) on public property and work with the applicant to ensure the addition of the PMT is incorporated as an enhancement to the public realm with all associated expenses*

- being born by the applicant to the satisfaction of the Director of Sustainable Planning and Community Development.*
3. *Preparation of the following agreements, registered on title by the applicant, to the satisfaction of City staff:*
    - a. *Statutory right-of-way for public access over the area dedicated to the Harbour Pathway and the internal alley between the two heritage buildings, to the satisfaction of City staff;*
    - b. *Housing Agreement to secure 47 residential rental units as rental in perpetuity, to the satisfaction of the City Solicitor;*
    - c. *Section 219 Covenant to secure off-site tree replacement at a four to one ratio with a cash in lieu contribution with values set per the Tree Preservation Bylaw (Bylaw No. 05-106) for public realm improvements, and a cash in lieu contribution for offsite short term bicycle parking; and*
    - d. *A legal agreement to ensure that building amendments would be made along the north property line to comply with building code requirements should a building be proposed for the property located at 1324 Wharf Street.*
  4. *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; and*
    - b. *anchor-pinning in the City right-of-way.*

#### **Heritage Alteration Permit with Variances No. 00236**

*That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the Public Hearing for Rezoning Application No. 00701, if it is approved, consider the following motion:*

*“That Council authorize the issuance of Heritage Alteration Permit with Variances Application No. 00236 for 1314 and 1318 Wharf Street, in accordance with:*

1. *Plans date stamped August 10, 2020.*
2. *The Conservation Plan for the Caire and Grancini Warehouse at 1314 Wharf Street, date stamped October 22, 2019.*
3. *The Conservation Plan for the Fraser Warehouse at 1316-1318 Wharf Street, date stamped October 22, 2019.*
4. *Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:*
  - a. *Reduce the required short term bicycle parking spaces from 10 to 0; and*
  - b. *Increase the maximum permitted height from 8 metres to 21 metres.*
5. *Final plans to be generally in accordance with the plans identified above, to the satisfaction of the Director of Sustainable Planning and Community Development.*
6. *The applicant provide details regarding their intended process for commissioning a story wall for the north elevation of the building, including an artist selection process, scope and content, and an explanation for how their project will consider the Indigenous cultural heritage of the waterfront public realm, to the satisfaction of the Director of Sustainable Planning and Community Development.*
7. *The applicant providing a lighting plan for the heritage buildings, to the satisfaction of the Director of Sustainable Planning and Community Development.*
8. *That Council authorize the placement of Pad Mounted Transformer (PMT) on public property and work with the applicant to ensure the addition of the PMT is*

- incorporated as an enhancement to the public realm to the satisfaction of the Director of Sustainable Planning and Community Development.*
9. *Heritage Alteration Permit lapsing two years from the date of this resolution”*

The plan revisions respond to two items from Council's previous motion, namely:

1. Plan revisions to accommodate the placement of a Pad Mounted Transformer (PMT) on public property, incorporated as an enhancement to the public realm with all associated expenses being born by the applicant.
2. Plan revisions to include frontage works and building access consistent with the City's Downtown Public Realm Plan.

The updates to the staff recommendation include:

1. Recommending that Council direct staff to prepare the legal agreement to secure the public realm improvements reflected in these most recent plan changes.
2. Removing the recommendation to secure the cash contributions for off-site tree replacement and bike parking through a Section 219 Covenant, as these cash contributions will be secured through incorporation into the Zoning Bylaw amendment as conditions of bonus density.
3. Adding into the recommendation Council authorization to include excavation encroachments into City property during construction to facilitate the development and accommodate the retention of the heritage structures.

The above changes have been reflected in the revised staff recommendation.

## **Background**

When this proposal was previously presented to Council, the applicant had a number of unresolved issues at the front of the property. These details were not resolved because the placement of the PMT was not confirmed nor was the extent of anticipated frontage works. Since the COTW meeting in September of 2020, the placement of the PMT and the extent of frontage works has been confirmed and the plan changes reflect this resolution.

The PMT has been located at the south side of the property and is within Reeson Park in a plaza area, at street level. While meeting BC Hydro access requirements, the applicant has included planting and irrigation around the PMT to mitigate its impact, benches for public use and the relocation of light standards. All costs associated with this PMT location will be borne by the applicant. Additionally, a Statutory Right-of-Way (SRW) with BC Hydro will be required prior to building permit issuance once the final detail design of the PMT is completed.

Now that these frontage details are confirmed, the staff recommendation includes wording to secure these features, which are over and above the typical frontage work requirements.

Additionally, with respect to the Council resolution from October 1, requiring the preparation of legal agreements securing cash in lieu for tree replacement and short-term bike parking, it was determined that the most appropriate mechanism to secure these contributions would be through density bonus conditions within the Zoning Bylaw amendment.

## Construction Encroachments

In order to construct the development, the applicant has requested temporary encroachments into Reeson Park and the City owned property at 1324 Wharf Street, immediately to the north of the subject parcel. The proposed encroachments are illustrated on the attached geotechnical field review.

Policies and legal mechanisms do not exist that would authorize staff to approve construction encroachments within City parks or City owned parcels, therefore, Council approval is required.

To construct the building as proposed, and protect the heritage value of the existing buildings, the applicant has requested an encroachment into Reeson Park and 1324 Wharf Street. This option has been proposed by the applicant and while it is not the only option available, the applicant has confirmed this is the most viable due to the heritage value of the buildings and the high cost of construction for other methods.

The proposed encroachments would affect a portion of Reeson Park and six parking stalls, to the north, at 1324 Wharf Street for approximately 16 months during construction. In both cases, the encroachment extends up to approximately five metres beyond the property line for the length of the site. The park encroachment is estimated to be approximately 7% of the total park area, or 17.6% of the lawn/planted area (excluding the land below high tide line, shoreline and path).

The impact on Reeson Park users should be minimal as the remainder of the park and paths will be unaffected and will be available for continued use. The impact to the parking stalls can be managed through the regular administration of parking in this area.

As part of any encroachment agreements, the developer will be required to commit to the restoration of these areas and any other infrastructure that may be affected by the work. They will also be required to provide a security for this work (150% of the estimated cost).

For the park encroachment, there is no established fee schedule; however, using the fees for street occupancy and the Land Use Procedure Bylaw provisions, it is proposed that the fees be set as:

1. \$15/day for each 13 square metres of Reeson Park encroached upon, or
2. \$750 plus \$25 for each square metre of the excavation face supported by anchor roads.

The two fee options for the park encroachment address different construction methods and give staff flexibility to react to which ever construction method the applicant ultimately proposes. For the encroachment into the property at 1324 Wharf Street, the applicant will be required to pay the monthly costs associated with those parking stalls, \$150 per month, per stall.

The encroachment agreement will also contain the usual provisions requiring the developer to release and indemnify the City for all claims related to the construction or encroachment.

## **CONCLUSIONS**

The proposed plan revisions respond to the Council motion and the proposed revisions to the recommended motion secure the changes. The off-site location for the PMT is of benefit to both the proposal and the heritage conservation objectives contained in the *Official Community Plan, 2012*, and its incorporation into the public realm will provide additional public realm benefits

which offset its impact. The proposed encroachments into Reeson Park and the City owned parcel at 1324 Wharf Street are also minimal and help to retain the heritage buildings. To this end, the updated staff recommendation provides minor updates to capture the changes that have been made in response to Council direction.

Respectfully submitted,

Miko Betanzo  
Senior Planner – Urban Design  
Development Services Division

John O'Reilly  
Senior Heritage Planner  
Development Services Division

Karen Hoesel, Director  
Sustainable Planning and Community  
Development Department

**Report accepted and recommended by the City Manager.**

#### **List of Attachments**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped April 19, 2021
- Attachment D: Letter and Booklet from applicant to Mayor and Council dated January 11, 2021
- Attachment E: Geotechnical Field Review, dated October 15, 2020
- Attachment F: Staff reports and attachments for Rezoning Application No. 00701 and Heritage Alteration with Variances Application No. 00236 dated June 11, 2020 and September 17, 2020.