



Committee of the Whole Report

For the Meeting of June 3, 2021

To: Committee of the Whole **Date:** May 20, 2021

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

Subject: **Development Permit with Variances Application No. 00156 for 610 - 624 Herald Street and 611 - 635 Chatham Street**

RECOMMENDATION

That, subject to the preparation and execution of legal agreements to secure all residential units as rental, to the satisfaction of the Director of Planning and minor public realm plan corrections, 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. 00156 for 610 - 624 Herald Street and 611 - 635 Chatham Street, in accordance with:

1. Plans date stamped May 14, 2021.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. increase building height to 21.1m.
3. Registration of legal agreements on the property's title to secure all residential units as rental for 60 years or the life of the building, to the satisfaction of City Staff.
4. Council authorizing the street-level projecting canopies over the City Right-of-Way on Herald, Chatham and Government Streets, provided that the applicant enters into an Encroachment Agreement in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works.
5. Council authorizing 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.
6. 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.

In accordance with Section 498 of the *Local Government Act*, council may issue a Development Variance Permit that varies a *Zoning Regulation Bylaw* provided the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

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 properties located at 610-624 Herald Street and 611-635 Chatham Street. The proposal is to construct two buildings that range in height from four to six storeys with ground floor commercial units. Approximately 278 residential units are proposed, and the applicant has voluntarily offered to secure these units as rental for sixty years or the life of the building through a housing agreement. The variance is related to an increase in building height.

The following points were considered in assessing this application:

- The proposal is consistent with the form and character design guidelines in terms of achieving a contextually sensitive, infill proposal within Old Town. Diverse, articulated and human scaled building massing, paired with proposed high quality and detailed materials all contribute to achieving the consistency with the design guidelines.
- A height variance of over 6m is proposed, however this variance is exaggerated due to the sloping site and long parcel frontage and is mitigated through design strategies that set the upper floors back which reduces shadowing impacts and views of the upper storeys.
- The applicant has voluntarily offered to enter into a housing agreement to secure the units as rental for 60 years or the life of the building.

BACKGROUND

Description of Proposal

The proposal is for two rental residential buildings with ground floor commercial units ranging in height from four to six-storeys. Specific details include:

- two buildings designed as multiple smaller buildings of four, five and six storeys, spread over approximately half a city block
- a mix of unit types including 139 studios, 89 one-bedroom units, 48 two-bedroom units, and 2 three-bedroom units
- an internal communal courtyard for residents of the building
- one and a half levels of underground parking, accessed off Chatham Street
- communal amenity spaces within the building
- brick cladding of various colours on the Herald and Government Street frontages and a mix of corrugated metal and cementitious panel cladding on the Chatham Street frontage.

The proposed variance is related to increasing the building height from 15.0 metres to 21.10 metres.

Affordable Housing

The applicant proposes the creation of 278 new rental residential units which would increase the overall supply of housing in the area. As a development permit application, the *Inclusionary Housing and Community Amenity Policy* (2019) does not apply, however, the applicant has voluntarily proposed to enter into a housing agreement to secure the proposed units as rental for 60 years or the life of the building.

The owner also applied for Canadian Mortgage and Housing Corporation (CMHC) financing in April 2021, and if granted, the proposal will designate affordable housing units that will be monitored by the Capital Region Housing Corporation (per the applicant's letter to Mayor and Council attached).

Sustainability

As indicated in the applicant's letter dated March 24, 2021 the following sustainability features are associated with this application:

- compliance with the BC Energy Step Code, Step 3 for the residential component and Step 2 for the commercial component
- each apartment will be equipped with an energy recovery ventilator ("ERV") that will manage humidity and retain warm or cool air inside the envelope thereby saving energy and maintaining a consistent temperature with improved air quality
- the building will have a shared high-efficiency central hot water system to service the apartments
- native and/or drought tolerant plant species will be specified for the landscaped courtyard to reduce the amount of water required to maintain plant health
- all apartments will have operable windows and doors.

Active Transportation

The application proposes a bike wash station and repair room which support active transportation.

Public Realm

Frontage works to meet the Downtown Public Realm Standards are being offered in association with this Application and would be secured with a section 219 covenant prior to issuance of the Development Permit. This includes:

- enhanced sidewalk paving and decorative features
- additional street furniture, public benches and garbage bins
- street trees with soil cells on Government Street
- decorative bollards and pedestrian lighting.

Accessibility

The *British Columbia Building Code* regulates accessibility as it pertains to buildings. Accessibility measures beyond those contained in the British Columbia Building Code are not proposed. However, additional consideration has been given to the public realm and the

pedestrian experience. The proposed landscaping is consistent with the Downtown Public Realm Plan and significantly improves the pedestrian areas surrounding the proposal. Existing street furniture is proposed to be formalized and co-located, thereby creating clear pedestrian paths and the removal of obstacles.

Existing Site Development and Development Potential

The site is presently predominantly surface parking with a vehicle service station, maintenance garages and a single storey commercial building on Herald Street and Government Street. On Chatham Street, approximately 70% of the site is surface parking and a row of two storey, empty commercial buildings occupy the remainder of the parcel.

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 does not meet the requirements of the existing Zone.

Zoning Criteria	Proposal	Existing Zone OTD-1
Site area (m ²) – minimum	6077.48	n/a
Density (Floor Space Ratio) – maximum	3:1	3:1
Total floor area (m ²) – maximum	18,225.20	18,232.44
Height (m) – maximum	21.07*	15.0
Storeys – maximum	5	n/a
Setbacks (m) – minimum		
Front	0	0
Rear	0	0
Side (north)	0	0
Side (south)	0	0
Parking Total – minimum	207	184
Parking Residential – minimum	156	156
Parking Commercial – minimum	23	n/a
Visitor Parking – minimum	28	28
Bicycle parking Long Term – minimum	324 (10 commercial, 314 residential)	322
Bicycle parking Short Term – minimum	38 (10 commercial, 28 residential)	37

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on October 5, 2020 the application was referred for a 30-day comment period to the Downtown CALUC. A letter dated November 30, 2020 is attached to this report.

ANALYSIS

Official Community Plan

The *Official Community Plan*, 2012 (OCP) identifies this property within the Core Historic Urban Place Designation and in Development Permit Area (DPA) 1, Core Historic. In this DPA, the following guidelines are considered:

- *Downtown Core Area Plan* (2011)
- *Old Town Design Guidelines* (2019)
- *Guidelines for Fences Gates and Shutters* (2010)
- *Advisory Design Guidelines for Buildings, Signs and Awnings* (1981).

The relevant objectives of this DPA include:

- conserving and enhancing the heritage value and character of this area
- revitalizing the area through infill development with high quality architecture and sensitive, innovative new building interventions.

Downtown Core Area Plan (DCAP, 2011)

The key policies within the Downtown Core Area Plan (DCAP) relative to this application generally focus on building height and setbacks. Other policies in DCAP related to form and character overlap with policies in the Old Town Design Guidelines (OTDG), and in these instances, the OTDG take precedence. The proposal generally meets the building setback criteria in DCAP; however, the building height is calculated as approximately six meters taller than the maximum height envisioned, which is 15m. This aspect of the proposal is discussed further in the section entitled “Height Variance.”

Old Town Design Guidelines (OTDG, 2019)

The Old Town Design Guidelines are the main guidelines against which the form and character of this application is reviewed. The guidelines generally aim to encourage contextually sensitive new buildings and provide guidance in terms of building massing, street relationship and materiality.

Massing

A number of policies within the OTDG address massing and, typically, these policies look to encourage a diverse massing distribution, reminiscent of the smaller scale and character of development in Old Town. The application is consistent with these policies in terms of the diversity of building heights proposed and through the modulation of building mass into discreet smaller building blocks. By breaking up the building massing in this way, the existing rhythm and proportion of buildings in Old Town remains consistent. Small building recesses, setback entry

ways and a large vertical break in the building massing all help to give the impression of smaller buildings, reminiscent of the area context.

Street Relationship

In Old Town, traditionally proportioned ground floor heights, capable of supporting a variety of commercial uses are regulated by requiring applicants to achieve a minimum of four and a half metre, floor to ceiling height. This metric is consistent with the majority of commercial buildings in Old Town and generally helps to achieve a complementary ground floor commercial form and character. In previous versions of the application, this criterion was not achieved, however, through a redistribution of massing, this guideline has largely been met.

Other aspects of the proposal that are consistent with the street relationship guidelines include the frequent, identifiable and recessed entries proposed along all frontages, transparent ground floors, canopies and fine grain detailing.

Materials

The Old Town Design Guidelines call for high quality materials and diverse building expressions to complement and to be consistent with the existing form and character of the area. Consistent with these policies, a variety of brick cladding colours and approaches are proposed for the Herald Street frontage. Different cornice details, varying canopy approaches and diverse combinations of cladding all achieve the variety and quality promoted by the guidelines. Since the initial application, brick colours have been lightened and red brick has been added to better respond to the China Town Context

On Chatham Street, a more consistent material approach is adopted, with a mix of corrugated steel and cementitious panelling. Given the large variety and varying application quality, concerns regarding the use of cementitious panel were raised. However, through the Advisory Design Panel (ADP) meeting, staff commentary and the applicant's clarifications, staff are satisfied that the approach proposed meets the criteria for high quality materials. At the edge of Old Town and consistent with other buildings in the area, the corrugated steel cladding was also considered as meeting the intent of the design guidelines. Corrugated steel offers durability benefits and is reminiscent of the more industrial edge of the district.

Height Variance

The proposed density is within that allowed in the existing zone, 3:1 FSR; however, a variety of building heights have been proposed to spread the density across the site. This contributes to the proposed height variance, with heights ranging from four to six storeys as opposed to maintaining a uniform five-storey building height across the site. Despite this resulting in a larger height variance, a range of building heights are encouraged in the design guidelines, which promote a diversity of building forms similar to the historic form and character of Old Town.

The proposed height variance is roughly six metres, however, because heights are calculated from the average grade, based on the ground height around the entire site, this methodology results in exaggerating the variance. This is particularly amplified in this instance because of the long frontages involved in this application and the sloping site. The actual building heights, adjacent to the sidewalk, range from 15m to 18.5m.

Where the height variance is greatest, along Herald Street at the south east corner, the building has been set back by approximately 2m to conceal the visibility to the top floor. Along Chatham

Street, the storeys above the ground floor are set back from the property line by approximately four meters. While this setback was necessary to avoid high voltage overhead hydro lines, it also serves to mitigate the impact of height, particularly in terms of shadowing.

While in the past, the maximum Old Town building height of five storeys could be accommodated with a 15m building height, current building standards have pushed the typical floor to ceiling heights upward. Creating more liveable units within the five-storey maximum while still achieving commercially proportioned ground floors, also typically results in requests for height variances.

Taken together, the variety of buildings heights proposed, and the setback upper storeys help to mitigate the impact of the proposed height variance and reflect a preferable built form. Rather than seeking to maximize the density while minimizing variances, the applicant has responded to the design guidelines in a creative way to achieve a more contextually sensitive infill development.

Tree Preservation Bylaw and Urban Forest Master Plan

The goals of the *Urban Forest Master Plan* include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighbourhoods.

Currently, there are no trees on the subject lots. On Government Street, there are two existing hornbeam trees that would require removal due to development impacts. A total of seven street trees in grates have been proposed to be planted in continuous soil cells beneath the sidewalk to promote healthy growing conditions, two on Government and five on Chatham. Street tree planting is not possible on the Herald frontage due to existing underground utilities. On the development site, ten small-canopy trees in planters are proposed, with underground parking below.

Final locations for street trees and site servicing will be coordinated with the applicant, Parks, and Engineering prior to Public Comment, to ensure feasibility.

Tree Impact Summary Table

Tree Type	Total	To be REMOVED	To be PLANTED	Net Change
Onsite trees, bylaw-protected	0	0	0	0
Onsite trees, not bylaw-protected	0	0	10	+10
Municipal trees	2	2	7	+5
Neighbouring trees, bylaw-protected	0	0	0	0
Neighbouring trees, not bylaw-protected	0	0	0	0
Total	2	2	17	+15

Encroachment Agreement

With any project of this scale that has little to no setbacks, and requires significant 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) present no concerns to the public interest and do not impact any underground infrastructure; however, an Encroachment Agreement between the City and the developer is required. The staff recommendation provided for Council's consideration includes direction to allow staff to enter into such an agreement, if the application is approved by Council, and it is deemed necessary to facilitate the construction of the project.

A number of street-level canopies are also proposed along Government, Herald and Chatham Street, which project above the City right-of-way. These are encouraged in the Guidelines to provide pedestrian weather protection and welcoming streetscapes. 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.

Advisory Design Panel

At the Advisory Design Panel (ADP) meeting of January 27, 2021 (minutes attached), the Panel reviewed this application and recommended that the application be approved with the following changes (summarized):

- consider a stronger break or horizontal element between the ground floor and residential units above
- consider material changes such as a warmer brick pallet and omitting the use of corrugated steel
- consider a greater variation in building massing, including increased height, to reduce the repetitiveness of the building form
- consider increased landscaping opportunities where feasible
- increase the floor to ceiling heights on the ground floor to be consistent with the Old Town Design Guidelines.

The applicant subsequently made the following changes which addressed most of the ADP's recommendations:

- increased the distinction between the ground floor and the residential units above through material cladding proportion changes and horizontal banding
- introduced warmer and more varied brick cladding tones
- created a significant vertical break and recess in the building, varied the proposed building lengths to break up the repetitive massing and varied the building heights
- explored additional public realm landscaping opportunities however, existing underground utility locations prevented additional street trees from being added to the application
- increased the floor to ceiling heights at the ground floor.

Heritage Advisory Panel

On February 9, 2021, the application was also presented to the Heritage Advisory Panel. Although no aspects of the application involve a renovation to, or alteration of, a heritage

registered property, given that the subject parcel is located in Old Town, this additional level of analysis was sought by staff.

The Heritage Advisory Panel commended the applicant for the quality of their design and their response to the Old Town Design Guidelines, and recommended that the application be approved with the following changes:

- diversify the massing of the project, particularly the rooflines of the building, in order to reduce the repetitiveness and homogeneity of the proposal and to create visual interest while responding to the site context
- consider increasing the floor-to-ceiling height of ground floor commercial units to 4.5m, particularly the corner commercial unit at Herald and Government Streets
- consider increasing the street wall height on Chatham Street to be consistent with the form and character of Old Town
- diversify the brick colours in the project and make colours more consistent with those found in Chinatown and Old Town
- consider introducing boulevard trees along all three frontages in consultation with Engineering staff
- consider increasing the variety of storefront assembly designs through the use of wood assemblies, different types of canopies, awnings and lighting in order to enhance the pedestrian experience.

Many of the recommended changes were similar to those from the ADP and have been addressed in the current application.

Resource Impacts

The proposed public realm landscaping includes five new street trees, and their annual maintenance and irrigation costs reflect resource impacts as outline below.

Increased Inventory	Annual Maintenance Cost
Street Trees – 5 net new	\$300
Irrigation System	\$400

CONCLUSIONS

Large sites within Old Town are particularly difficult to redevelop in ways that are contextually sensitive. This is in part because Old Town benefited from both a more incremental approach to development and a richness and diversity that comes with time. This application, however, is largely consistent with the design guidelines for the area and that has resulted in a contextually sensitive, yet modern infill proposal. The only variance, for height, helps to increase the consistency with the design guidelines and, while a height variance remains, design strategies mitigate its impact. Overall, the form and character are consistent with the intent of the design guidelines, and, as a voluntarily purpose-built rental building, the application helps to address Official Community Plan objectives beyond current policy requirements. On that basis, staff recommend that the application be approved.

ALTERNATE MOTION

That Council decline Development Permit with Variance Application No. 00156 for the property located at 610 - 624 Herald Street and 611 - 635 Chatham Street.

Respectfully submitted,

Miko Betanzo
Senior Planner - Urban Design
Development Services

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 dated May 14, 2021
- Attachment D: Letter from applicant to Mayor and Council dated May 4, 2021
- Attachment E: Green Building Features Letter from applicant to Mayor and Council dated March 24, 2021
- Attachment F: Community Association Land Use Committee Comments dated November 30, 2020
- Attachment G: Heritage Advisory Panel Minutes February 9, 2021
- Attachment H: Advisory Design Panel Minutes January 27, 2021
- Attachment I: Correspondence (Letters received from residents).