



Committee of the Whole Report For the Meeting of December 7, 2017

To: Committee of the Whole **Date:** December 4, 2017
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Zoning Bylaw 2017 – Request for Clarification

RECOMMENDATION

That Council:

1. Receive this report for information.
2. Direct staff to report back to Council in early 2018 with strengthened policy and design guidelines for Old Town and Chinatown, to provide additional guidance for new developments to respond to the characteristics and special features of the areas.

EXECUTIVE SUMMARY

The purpose of this report is to respond to a request by Council for clarity on a number of comments identified by the Downtown Residents' Association (DRA) in a letter dated November 30, 2017 regarding the proposed Zoning Bylaw 2017 that will be considered at a Public Hearing on December 14, 2017. The information presented in this report is consistent with the information that has been previously presented to the public, the DRA and Council.

Zoning Bylaw 2017 has been developed to provide regulations that align with and implement, the Downtown Core Area Plan and that continue to respect the existing context, scale and built form of Old Town and Chinatown and their importance as a Heritage Conservation Area and as a National Historic Site. The new Zoning Bylaw also provides a range of improvements to better support City objectives related to economic development, improving development processes and providing more user-friendly regulations with improved clarity. Over the course of the project, the Zoning Bylaw 2017 has been refined based on extensive public feedback from residents, land owners, businesses and the development industry. Key improvements include improved definitions for brew pubs, distillery and winery, improved distinction between restaurants, bars and nightclubs, removal of light industrial and short-term rentals as permitted uses downtown, and the inclusion of updated off-street parking requirements for motor vehicles and bicycles.

Staff recommend bringing forward supplementary design guidelines for Old Town and Chinatown ahead of the planned five-year review of the *Downtown Core Area Plan*, which would more effectively address the DRA's concerns regarding new development that is complementary to the fine grain characteristics of these areas. These supplementary design guidelines would help to strengthen the policy direction and provide staff and Council with clear design expectations that can be applied through Heritage Alteration Permits and Development Permits.

PURPOSE

The purpose of this report is to respond to a request by Council for clarity on a number of comments identified by the DRA in a letter dated November 30, 2017 regarding the proposed Zoning Bylaw 2017 that will be considered at a public hearing on December 14, 2017.

BACKGROUND

Zoning Bylaw 2017 introduces new zoning regulations that are more simplified and flexible, more user-friendly, provide improved clarity and interpretation, reduce the need for site-specific zoning and variances, and reflect current trends that align and support the land uses and development forms that are outlined in the *Downtown Core Area Plan*.

On October 12, 2017, Council considered the proposed Zoning Bylaw 2017; as well as, initial comments provided by the DRA (Attachment A) and responses from staff, and directed staff to advance the Zoning Bylaw 2017 for first and second reading. At the Council meeting of November 23, 2017, Council gave first and second reading to the bylaw; however, as part of Council's consideration there were some questions raised based on the earlier comments from the DRA. At that meeting, staff committed to provide Council with further clarification on these comments prior to the public hearing on December 14, 2017. On November 30, 2017 the City received a second letter from the DRA (Attachment B) which generally included similar comments to those identified in their original letter. A list of comments from both letters has been compiled in this report along with a detailed staff response to each comment.

The process for developing Zoning Bylaw 2017 has included multiple opportunities for public input and feedback, and has also included several reports to Council to highlight key changes and confirm key directions. The last key consultation process occurred between March and April 2017 with individual meetings and presentations to stakeholder organizations including the DRA, Urban Development Institute (UDI), Downtown Victoria Business Association (DVBA), Heritage Advisory Panel and the Advisory Design Panel. A public open house was also held at City Hall on April 18, 2017, which was attended by residents, property owners, business owners, downtown and other surrounding community associations, developers and architects. The public also had the opportunity to provide feedback directly through email. More recently, staff also met with members from the DRA Land Use Committee on September 21, 2017 to review the key changes outlined in this report and to receive additional feedback. All of the various comments that have been received to date have been carefully considered for refining the Zoning Bylaw, including several comments from the DRA.

ISSUES & ANALYSIS

1. Key Changes to Uses and Regulations

At the meeting of November 23, 2017, Council raised questions related to uses, definitions and regulations. The key changes are summarized as follows:

a. Brew Pub, Distillery and Winery Definition

Based on public feedback, as well as through comments received through the City of Victoria Business Hub, the earlier definition of 'Brew Pub' has been amended to also account for the 'small-scale' production of spirits, wine and other alcoholic beverages. Although the range of products has been expanded, in all cases the area used for production cannot exceed 35% of the total floor area. These uses are also not permitted within 6m of the portion of a building that abuts a street or

pedestrian walkway, except if provided in conjunction with a retail component or food and beverage service. Together, these regulations help to limit these activities to 'small-scale' production and ensure that there are active commercial uses along the street frontage. These requirements are common to the Central Business District and Old Town Area and there are currently several site-specific zones within the CBD and Old Town that permit these activities with similar regulations. Opportunities to undertake a 'full-scale' brewery or distillery would only be accommodated as a light industrial activity within the city's industrial areas such as Rock Bay.

b. Drinking Establishment Definition

To provide improved clarity between uses such as restaurants, bars, pubs and nightclubs a new definition of 'Drinking Establishment' has been introduced. Drinking establishment means *facilities that are licensed through the BC Liquor Control and Licensing Act for the sale and consumption of liquor within the facilities and where entertainment is provided in the form of recorded music, live performances or a dance floor including but not limited to nightclubs, bars and pubs.*

In addition to this new definition, the previous definition of Food, Beverage and Entertainment Service has been renamed 'Food and Beverage Service' and no longer includes reference to 'Entertainment', dance clubs or nightclubs. This proposed distinction between restaurants and drinking establishments provides the public, Council and staff with improved clarity and understanding of each use as a permitted activity within the downtown and avoids blending these uses together or using ambiguous terminology to describe each use. It should be noted that in most current zones within the downtown area, bars, pubs and nightclubs are already permitted as a 'place of recreation'.

c. Light Industrial

Light Industrial has been removed as a permitted use from the Central Business District and Old Town zones. Light Industrial was identified as a permitted use in the earlier draft version of Zoning Bylaw 2017 to reflect a few industrial activities that were included in some older site-specific zones; however, industrial activities within the CBD or Old Town area are not in alignment with the objectives and policies of the Downtown Core Area Plan. Therefore, while Light Industrial is not included in the new zones, any existing 'light industrial' businesses would be permitted to continue their operation as legal non-conforming uses based on the provisions of the Local Government Act. This approach has also been taken to address some existing sites within the Old Town area that are currently permitted to operate with automotive services or as a service (gas) station. Both of these uses are not compatible with current policy directions; therefore, these sites are proposed to be rezoned to the Old Town District-1 Zone which will ensure that redevelopment of these sites is consistent with the surrounding zoning and policy directions for the Old Town area.

d. Short-Term Rental

Based on recent (September 21, 2017) Council direction on short-term rentals, this use has been removed from all of the new zones within the Central Business District and Old Town area. Zoning Bylaw 2017 will continue to include a definition for short-term rental given its link with home occupation regulations; however, it is not included as a permitted use. This change does not impact the operation of hotels, motels or hostels as they are captured under a separate definition of 'Hotel' which is a permitted use.

e. Off-Street Parking Requirements

A comprehensive set of off-street parking requirements for motor vehicles and bicycles is included within Part 5 of the Zoning Bylaw 2017. These updated requirements have been developed through a separate initiative to review the City's overall off-street parking regulations. As a result, off-street motor vehicle and bicycle parking is only required for residential development and hotels within the Central Business District, while the Old Town Area does not have off-street motor vehicle parking requirements given the tight site conditions and as a means to further encourage the retention and

re-use of heritage buildings. Currently in Old Town, the CA-3 Zone requires parking for hotels and residential uses, while the CA-3C Zone does not require parking except for larger offices greater than 2,850m² (30,655ft²). Part 5 also includes updated requirements for long and short-term bicycle parking including regulations for the design and placement of bicycle parking facilities.

2. Comments from Victoria Downtown Residents Association

City staff met with the Victoria Downtown Residents Association (Land Use Committee) several times over the course of the last year to provide them with an overview of the project, to provide them with copies of the draft Zoning Bylaw, proposed zoning maps and to receive comments and feedback that were used to refine the Zoning Bylaw. Following the last meeting on September 21, staff encouraged the DRA to submit a letter to Council with any outstanding comments that could be included with a staff report that was presented to Council on October 12, 2017. A copy of this letter along with a copy of a more recent letter dated November 30, 2017 are attached for reference. Each comment from the DRA has also been identified in the table below along with the related responses that staff have provided to the DRA at various meetings.

DRA Comments (Complete comments are contained in Attachment A and B)	Response in Zoning Bylaw	Rationale
Concern that reduced parking rates for smaller residential units (less than 40m ²), will encourage the development of micro units. Reduced rates should apply to units up to 55m ² in size.	No change in Zoning Bylaw	The new Off-Street Parking requirements contained in Part 5 of Zoning Bylaw 2017 are based on extensive research and analysis which indicate a lower vehicle demand/ownership for smaller residential units, therefore the proposed rate for condominiums has been reduced to 0.65 stalls per Dwelling Unit rather than the current rate of 0.70 stalls. This reduction is fairly minimal and is not considered an excessive reduction that would greatly influence the provision of unit sizes. Rather, as demonstrated through most residential projects, it is anticipated that private developers will continue to provide a variety of residential unit sizes that respond to market requirements. In addition, the suggestion of extending the reduced (small unit) parking rate for residential units up to 55m ² would likely result in new residential buildings being under parked as units of this size generate a higher parking demand (0.8 stalls/unit).

DRA Comments (Complete comments are contained in Attachment A and B)	Response in Zoning Bylaw	Rationale
Concern for ability of land owners to amalgamate multiple parcels which could result in a larger scale development. Suggestion that Zoning Bylaw should include a maximum building size for Old Town	No change in Zoning Bylaw proposed. More effectively dealt with through design guideline updates.	The ability to amalgamate parcels of land is not restricted or regulated through the Zoning Bylaw. A land owner has the legal ability to acquire multiple parcels and assemble them directly through the Land Titles Office. Integrating a pre-determined and fixed maximum building size in the Zoning Bylaw is not seen as the proper tool for guiding this aspect of development especially within the downtown area which has varying site conditions and unique building designs/functional needs. This approach would likely lead to on-going variances. Rather, it would be more appropriate to develop updated design guidelines for the Old Town area and Chinatown that provide improved guidance for how new developments should fit with the established context, scale and special Heritage Conservation Area characteristics of Old Town and Chinatown. Staff are also proposing that these additional design guidelines could be applied in advance of the review and update of the Downtown Core Area Plan which is scheduled for 2018.
Concern that Residential "Lock off unit" is included as a permitted use which could encourage their use as a Short-term rental.	No change in Zoning Bylaw	The inclusion of Residential Lock-off units within the Zoning Bylaw is in alignment with previous Council direction and the Victoria Housing Strategy. These units provide similar economic and social benefits as secondary suites however within the context of a multi-residential building. It should be noted that these uses currently do not exist therefore any new residential lock off units that are developed would not be permitted to be used for the purpose of short term rental which is no longer a permitted use.
Suggest that Northern Junk properties should have also been included in Zoning Bylaw 2017 map.	No change in Zoning Bylaw	The existing waterfront parcels immediately south of the Johnson Street Bridge were not included within Zoning Bylaw 2017 as they are currently undergoing a rezoning process (Northern Junk). However once the rezoning is approved, these parcels could be transitioned into Zoning Bylaw 2017. The parcels immediately north of the bridge were included as they have existing zoning which is similar to the zoning found throughout the Old Town Area (e.g. CA-3)
Concern that brewpubs and distilleries within residential buildings, can be problematic without requirements for specific mitigation measures.	No change in Zoning Bylaw	The inclusion of brew pubs within the new zoning bylaw has been communicated with the public and Council as far back as 2014. Staff agree that these uses require additional regulations therefore Zoning Bylaw 2017 includes new regulations for Brewpubs, Distilleries and Wineries that restrict the floor space used for production to a maximum of 35% as well as requiring the use to be setback a minimum of 6m from any wall that abuts a street, except were the use includes a Retail use or Food and Beverage Service. These regulations ensure 'small scale' production and the continuation of active street fronts. These restrictions are also similar to those that have been applied to several parcels within the downtown and Old Town Area. Any proposed use that exceeds these limits would be deemed to be larger in scale or full-production and would be better suited within an industrial area rather than the Downtown or Old Town Area.

DRA Comments (Complete comments are contained in Attachment A and B)	Response in Zoning Bylaw	Rationale
		In addition, these uses will continue to be subject to the BC Building Code for matters related to health and safety.
Concern that approval of Zoning Bylaw 2017 will end the need for rezoning applications and consultation with the CALUCS.	No change in Zoning Bylaw however potential to update related design guidelines.	Zoning Bylaw 2017 introduces updated uses however it does not confer increases in density. For example, the Old Town District-1 Zone maintains a maximum density of 3:1 and a maximum height of 15m similar to most existing zones in the Old Town Area and consistent with related policies. The site specific regulations in the Old Town Zone also identify specific parcels with existing density limits that are either less than 3:1 or higher than 3:1. This means that if a land owner is seeking a change in their current zoned density they will still require a rezoning process. Therefore Zoning Bylaw 2017 does not remove the need to rezone property or to avoid consultation with the CALUC. Introducing the new zones is also being conducted in accordance with a public hearing and all legal requirements, this will allow the updated and improved regulations to take effect, otherwise without a city-initiated rezoning process the multitude of existing site specific zones will continue to remain along with a range of outdated regulations and definitions. This would be contrary to the intent of providing updated regulations to improve clarity, certainty and improve the development review process.
Concern with no minimum required on-site motor vehicle parking for properties in Old Town especially if new large developments would not be required to provide parking.	No change in Zoning Bylaw	The standardized application of no minimum motor vehicle parking for Old Town is intended to support heritage conservation and to recognize existing site constraints which often result in the need for parking variances. At the same time, there have also been examples of new developments within the Old Town area that have provided on-site parking although the existing zoning may not have required parking. Staff have engaged extensively on this proposed approach with the community, development industry, businesses and Council as part of the review and update of the Off-street Parking Regulations. In general, this approach has been met with strong support and is viewed as pro-active.

OPTIONS AND IMPACTS

Option 1:

Direct staff to report back to Council in early 2018 with strengthened policy and design guidelines for Old Town and Chinatown for additional guidance for new developments to respond to the characteristics and special features of the areas. **(Recommended)**

This proposed approach would expedite the development of design guidelines to address some of the key concerns related to building size that have been identified by the DRA in advance of the five-year review of the Downtown Core Area Plan while also allowing Zoning Bylaw 2017 to advance to a public hearing on December 14, 2017.

Option 2:

Direct staff to develop updated policy and design guidelines for Old Town and Chinatown as part of the subsequent five-year review of the Downtown Core Area Plan.

This approach delays the development of design guidelines as part of the comprehensive review and update of the Downtown Core Area Plan that is expected to commence later in 2018.

Accessibility Impact Statement

The Zoning Bylaw 2017 provides regulations for land use and development on private property and does not have any direct impacts on accessibility as all new development on private property is subject to the requirements of the BC Building Code which address accessibility needs.

2015 – 2018 Strategic Plan

This project directly supports Objective 3: Strive for Excellence in Planning and Land Use, as the proposed Zoning Bylaw 2017 is anticipated to contribute to streamlining application processes by reducing the need for site-specific zones. This project also supports Objective 5: Create Prosperity through Economic Development, as the new zoning regulations serve to facilitate increased investment and development within the Downtown Core Area.

Impacts to Financial Plan

There are no impacts to the Financial Plan required to implement the new Zoning Bylaw 2017 or to develop the supplementary design guidelines. Resourcing for this project is identified in the Financial Plan including the development of additional zones in 2018.

Official Community Plan Consistency Statement

The development of the new Zoning Bylaw 2017 is in direct support of policy 6.3 of the *Official Community Plan* which supports the role of zoning to help implement the various land use designations, objectives, uses, built forms and densities that are described within the OCP Section 6: Land Management and Development.

CONCLUSIONS

The proposed Zoning Bylaw 2017 has been refined based on public feedback received earlier this year and is now suited to better implement the *Downtown Core Area Plan* and support other City objectives related to economic development, improving development processes and providing more user-friendly regulations with improved clarity. Expediting the development of supplementary design guidelines for Old Town and Chinatown would more effectively address the DRA's concerns regarding new development that is complementary to the fine grain characteristics of these areas.

Respectfully submitted,



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Community Planning Division

Alt.



Jonathan Tinney, Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:



Date: Dec 5, 2017

List of Attachments:

- Attachment A: Victoria Downtown Residents Association letter (October 4, 2017)
- Attachment B: Victoria Downtown Residents Association letter (November 30, 2017)