



**CITY OF VANCOUVER**

**ADMINISTRATIVE REPORT**

Report Date: January 5, 2006  
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Meeting Date: January 19, 2006

TO: Standing Committee on Planning and Environment

FROM: Director of Current Planning

SUBJECT: 2936 West 4<sup>th</sup> Avenue - Report Back on Heritage Retention Through  
Transfer of Density

**RECOMMENDATION**

THAT Council advise the Director of Planning to proceed with the processing of Development Application DE409471 for 2936 W 4<sup>th</sup> Avenue.

**GENERAL MANAGER'S COMMENTS**

The General Manager of Community Services recommends the foregoing.

**COUNCIL POLICY**

**Heritage Policies and Guidelines - Policy on Heritage Designation:**

- The City's long term goal is to protect through voluntary designation as many resources on the Vancouver Heritage Register as possible
- Legal designation will be a prerequisite to accepting certain bonuses and incentives.
- The City may initiate designation of buildings of extraordinary merit. Prior to proceeding with designation, the City will address the question of a compensation package for the owner.

On October 20, 2005 Council resolved:

THAT WHEREAS:

1. The property located at 2936 West 4th Avenue is of significant heritage value;
2. City Council is desirous of protecting and preserving Vancouver's Heritage buildings wherever possible;
3. The building located at 2936 West 4th Avenue is slated for imminent demolition and redevelopment;

THEREFORE BE IT RESOLVED THAT Council is prepared to consider transfer of density to any zoning district within the Kitsilano area for the purpose of preserving the Heritage Building at 2936 West 4th Avenue, and that staff be instructed to work with the applicant toward this end.

**PURPOSE**

This report presents Council with staff conclusions on using transfer of density to retain the building at 2936 West 4th Avenue.

**BACKGROUND**

Kal Bachra, of Orca West Development Ltd., acquired the land where the building is located. With knowledge that the site was not on the Heritage Register, he submitted a development application on June 02, 2005 to construct a four-storey, mixed-use retail/residential building. While no final decision on this application has been made, the application is generally in accordance with the C-2 District Schedule.

While the building is not listed on the Vancouver Heritage Register, many individuals wrote in response to the public notification process and Council was presented with petitions expressing an interest in the preservation of the building at 2936 W 4<sup>th</sup> Avenue. The building is a pristine example of a pre-WWI commercial/residential building and of the resurgence of the Kitsilano's 4<sup>th</sup> Avenue in the 60's and 70's. One of the commercial tenants was the store Black Swan Records which specialized in jazz music. When the Register was established in 1986 it emphasised architectural merit and gave little priority to modest vernacular structures such as this one. This public call for retention of such structures reflects an emerging trend where community heritage values are not seen to be adequately represented on the Heritage Register. To address this issue, Council requested a staff report back on measures for upgrading the Register. The drafting of this report back is in progress.

While the building is not on the Register, staff, the Heritage Commission and the applicant responded to the community concerns by exploring various retention options using the City's tool kit of heritage incentives and concluded there was no viable retention option under Council policy. Exploration included transferring density within the four block long C-2 sub-area where the heritage site is located. In a final effort to retain the building, Council instructed staff in October, 2005 to consider a transfer of density to any zoning district within

the Kitsilano area and to work with the owner towards this end. This is a report back on the staff findings and conclusions.

## DISCUSSION

Within the broader transfer of density area defined by Council, staff identified a potential receiver site. Its owner is at the pre-application stage for a multiple dwelling development and is interested in purchasing and receiving transferable heritage density through a rezoning process. Staff's preliminary estimate is that the site could absorb approximately 13,000 sq.ft. of transferable density, valued at \$1.5 million, without negatively impacting urban design objectives for this and neighbouring sites.

Having identified a receiver site, staff entered into discussions with the owner of the heritage site to establish an appropriate amount of compensation for retaining and protecting the heritage building. Following the bonusing formula in the Heritage Policies and Guidelines, Real Estate staff determined \$1.5 million of transferable density is an appropriate amount of compensation for retaining this heritage building.

The owner's assessment is that \$3.5 million of compensation is required to offset the cost of retention and lost opportunities. Furthermore, he has advised that even if he were offered this amount of compensation, he is not keen on pursuing retention without a guarantee of the receiver site fulfilling its obligations. It is understood that a rezoning process would run concurrently on the receiver site to receive the transferable heritage density, and there is no guarantee that at the end of a lengthy process that the transfer would be approved. Staff reviewed and disagree with several of the owner's financial assumptions and see no way to justify his requested level of compensation. Furthermore the one receiver site identified does not have the capacity to receive such a large amount of transferable density and staff are not aware of a second receiver site to absorb any additional density.

In conclusion, staff recommend the City allow the development application for new development to proceed without retention. The owner collaborated with staff and the Heritage Commission in exploring heritage retention options. Having analysed these options the owner has concluded they are not viable for him to pursue. Even if he was interested in pursuing retention in exchange for transferable density, the two parties are \$2 million apart on the issue of compensation cost. The only way to resolve this issue is by imposing designation and relying on binding arbitration to establish the amount of compensation, which, as discussed in the following section, staff feel is imprudent in this instance.

### Alternative Options

As an alternative to Recommendation A, Council could use its authority under the Vancouver Charter to impose designation of the heritage building. Since 1978 Council has not imposed designation on property owners, but rather has directed staff to negotiate with owners mutually agreeable terms for designation. In situations where the City has designated property and the City and the owner cannot agree on the amount or form of compensation, the Charter mandates binding arbitration. For 2936 West 4th Avenue, binding arbitration poses the risk to the City that the arbitrator either does not recognize transfer of density as an acceptable form of compensation or that the compensation owing is much greater than the \$1.5 million estimated by staff. If either of these plays out, the City would be required to

compensate the owner through a payment for which there is no identified source of funds. Staff recommend against imposing designation as taking on these financial risks would be imprudent in the context of a heritage resource of recognized but not exceptional heritage value.

Staff also considered the City purchasing the heritage portion of the site. The heritage building occupies the corner of the site fronting on both Bayswater Street and 4<sup>th</sup> Avenue. Setting the issue of the source of funds aside for a moment, the owner is not willing to sell this portion of the site as he feels the corner location is critical to his commercial leases and residential sales in his development.

Lastly, staff explored moving the building structure to a City owned site in the surrounding Kitsilano area. One City owned site in the area is about to undergo redevelopment, but further investigation determined that the heritage structure could not be adapted to fit on the site and accommodate the program.

## FINANCIAL IMPLICATIONS

There are no financial implications to the City of Recommendation A. As noted, the alternative of imposing designation presents significant financial implications to the City that are difficult to predict at this time. Should Council determine that Recommendation A is not appropriate, a source of funds would have to be identified to address these potential costs.

## CONCLUSION

Staff, the owner and the Heritage Commission have explored several retention options for the heritage building at 2936 West 4th Avenue. From the staff perspective, the only economically viable solution is to transfer heritage density to a receiver site in the greater Kitsilano area. While the owner collaborated in the exploration process, he has analysed staff's transfer of density option and concluded he does not wish to pursue it. He would now like to proceed with demolition and redevelopment. In this situation, Council's only alternative is to impose designation. This is a fairly heavy handed approach, given the site was not on the Heritage Register when the owner purchased it. More important, imposing designation requires the City to compensate the owner through a process of binding arbitration. This route presents significant financial risk to the City.

Staff regret the loss of this heritage building as it typifies the earlier commercial character of West 4<sup>th</sup> Avenue. However, staff feel it would be imprudent to pursue retention through imposed designation and therefore recommend that Council advise the Director of Planning that Council concurs with the processing of the development application for 2936 West 4th Avenue in the normal manner.

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