



COUNCIL REPORT

Report Date: May 07, 2024
Contact: Saul Schwebs
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RTS No.: 16377
VanRIMS No.: 08-2000-20
Meeting Date: May 28, 2024
[Submit comments to Council](#)

TO: Vancouver City Council
FROM: Chief Building Official
SUBJECT: 515 & 521 Hawks Avenue – Notice on Title

Recommendations

THAT the City Clerk be directed to file a Notice in the Land Title Office pursuant to section 336D of the *Vancouver Charter*, in relation to the properties at 515 Hawks Avenue and 521 Hawks Avenue (THE SOUTH 1/2 OF LOT 19, BLOCK 76, DISTRICT LOT 181 NWD, PLAN VAP196, PID:015-376-915 & THE SOUTH 1/2 OF LOT 20 BLOCK 76, DISTRICT LOT 181 NWD, PLAN VAP196, PID:015-376-923) indicating that Council has adopted a resolution relating to the property because there are Building By-law violations that a purchaser, unaware of the contravention, could suffer a significant expense if the By-law was enforced against the purchaser, and that further information respecting this resolution may be inspected at the offices of the City Clerk.

Purpose and Executive Summary

This report summarizes the Building By-law violations at 515 & 521 Hawks Avenue, and recommends that Council direct the City Clerk to place a notice on the title to the properties, regarding existing non-compliant unprotected openings and building construction at the south façade of 515 Hawks Avenue and the north face of 521 Hawks Avenue relative to the adjacent property line as established by subdivision. This will protect future owners by making them aware of contraventions that could result in significant financial hardship if the Building By-law were enforced, and facilitate the intended property subdivision on this Heritage Class B building.

Council Authority/Previous Decisions

Section 336D of the *Vancouver Charter* provides a mechanism whereby the City of Vancouver can advise prospective purchasers of a property of certain conditions or contraventions of City By-laws. The section provides that if the City Building Inspector observes:

- (i) an unsafe condition,

- (ii) a by-law contravention related to the construction or safety of buildings or structures, or
- (iii) if the contravention is of the nature that a purchaser, unaware of the contravention, would suffer a significant expense if the by-law were enforced against the purchaser,

then the City Building Inspector (also known as the Chief Building Official) may recommend to City Council that a resolution be adopted directing the City Clerk to file a notice on the title of the property in the Land title Office.

Section 336D of the *Vancouver Charter* is set out in Appendix “A”.

City Manager’s Comments

The City Manager recommends approval of the foregoing.

Context and Background

The site is situated on the 500 block of Hawks Avenue, with approximate dimensions of 61 feet in width and 50 feet in depth. The property comprises two buildings, with the addresses 515 Hawks Avenue and 521 Hawks Avenue. These buildings were designated by Council as protected heritage property in 2023, and are subject to a Heritage Revitalization Agreement with the City. The heritage designation and Heritage Revitalization Agreement contemplated the proposed subdivision of the properties.

The existing two buildings are currently non-conforming with the Building By-law, Book I (General), Division B, Subsection 3.2.3., with respect to their separation and construction. As a consequence of a proposed subdivision of the site (DP-2021-00929), a new property line will be established so only the building at 515 Hawks Avenue will remain non-compliant.

Neither building will be moved from their present location, but a new property line will be established between the buildings at the limiting distance of 1'-2" from the building at 515 Hawks Avenue and at the limiting distance of 8'-6 ¼" from the building at 521 Hawks Avenue. The property owners have engaged Steve Hart Architect and Murray Johnson, P. Eng. to produce a Building Code Report, analysing the effect of the proposed subdivision on the compliance of both buildings with the Building By-law. The Code Report is included as Appendix “B”.

Discussion

At the conclusion of the proposed subdivision, the limiting distance of 8' - 6 ¼" for the building at 521 Hawks Avenue will be in general conformance with the VBBL and no work is required to comply with the Building By-law.

The limiting distance of 1'-2" for 515 Hawks Avenue will continue to deviate from the Building By-law regarding the existing unprotected openings and exterior wall construction. Remedial measures to address this condition are not proposed by the owners as the proposed installation of sprinklers or other improvements at 515 Hawks Avenue would result in a significant burden to the owners and could impact the heritage character of the building.

The City Building Inspector (also known as the Chief Building Official) has recommended that the City Council consider a resolution to direct the City Clerk to place a notice on the title to the two properties in the Land Title Office. This notice would inform future purchasers of the significant financial burdens they could incur should the Building By-law be enforced. It will also facilitate the intended subdivision of the site containing these Heritage Class B buildings.

The proposed subdivision does not increase the risk of flame spread between buildings, because there is no physical change to the space between the buildings. The establishment of the proposed new property line will mean that only the building at 515 Hawks Avenue will not conform with the Building By-law and the owner of the 521 Hawks Avenue building may then seek removal of the notice on title on that property as part of the proposed subdivision. Both buildings currently share the same lot, and the notice on title will – in the short run - cover both buildings because of this. But after the proposed subdivision, staff will support the owner of the 521 Hawks Avenue building in removing the notice on the title to that property.

Financial Implications

There are no financial implications.

Legal Implications

The *Vancouver Charter* authorizes Council to direct the City Clerk to place a notice on the title of a property that is not compliant with the Building By-law. If Council accepts the Recommendation in this report, a notice will be placed on the title to the properties at 515 and 521 Hawks Avenue.

APPENDIX A

Section 336D of the *Vancouver Charter*

Note on title about building that is unsafe or contravenes by-law

336D. (1) Where, during the course of carrying out his duties, the City Building Inspector observes a condition, with respect to land or a building or structure, that he considers

(a) to be a contravention of a by-law or regulation relating to the construction or safety of buildings or structures, or

(b) as a result of that condition, a building or structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or

(c) the contravention is of a nature that a purchaser, unaware of the contravention, would suffer a significant loss or expense if the by-law were enforced against him

he may, in addition to any other action that he is authorized or permitted to take, recommend to Council that a resolution under subsection (2) be considered.

(2) A recommendation under subsection (1) shall be given to the City Clerk in writing and the City Clerk shall, after notifying the registered owner of the land with respect to which the recommendation relates, place the matter before the Council. After hearing the City Building Inspector and the owner, if he elects to be heard, the Council may confirm the recommendation of the City Building Inspector and may pass a resolution directing the City Clerk to file a notice in the land title office stating that

(a) a resolution relating to that land has been made under this section, and

(b) further information respecting it may be inspected at the offices of the City Clerk

and the City Clerk shall ensure that all records are available for that purpose.

(3) Where the Registrar of Land Titles receives a notice under subsection (2) he shall, on payment of the fees payable under the *Land Title Act*, make a note of the filing against the title to the land that is affected by the notice.

(4) The City Clerk shall, on receiving a report from a building inspector that the condition that gave rise to the filing of the notice under subsection (2) has been rectified, file a cancellation notice in the land title office, and the Registrar shall, on receiving the notice, cancel the note against the title to which it is related.

(5) In the event of any omission, mistake or misfeasance by the Registrar or his employees in relation to the making of a note of the filing under subsection (3) after the notice is received by the land title office

(a) the Registrar is not liable and neither the Crown nor the Land Title and Survey Authority of British Columbia is liable vicariously,

(a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the *Land Title Act*, and

(b) the assurance fund or the minister charged with the administration of the *Land Title Act* as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

(6) An owner of land with respect to which a notice has been filed under this section may apply to the Council for a resolution that the note be cancelled, and the Council may, after considering the application, pass a resolution directing the City Clerk to file a cancellation notice.

(7) Where a resolution has been passed under subsection (6), the City Clerk shall file a cancellation notice in the land title office and the Registrar shall, on receiving the notice, cancel the note against the title to which it is related.

(8) Where the Council does not pass a resolution under subsection (6), the owner may apply to the Supreme Court and notify the city to attend before the Court to show cause why the note should not be cancelled, and the Court may, after reviewing any evidence that the owner and city may adduce, make an order directing the Registrar to cancel the note made under subsection (3) and the Registrar shall, on receiving the order, cancel the note accordingly.

(9) The note of a filing of a notice under this section is extinguished when a new title to the land issues in consequence of the deposit of a plan of subdivision or a strata plan.

APPENDIX B

CODE COMPLIANCE CONCEPT REPORT

515 & 521 HAWKS AVENUE VANCOUVER, B.C.



FOR:

Paige Gardiner

Date: October 31, 2023

APPLICABLE CODE & INTRODUCTION ¶**1.0 → Applicable Code ¶**

The applicable code is the 2019 Vancouver Building Bylaw ¶

1.1 → Introduction ¶

The Owner is proposing to subdivide a property which has two residential buildings on it. The buildings are designated by Council as protected heritage properties and arrangements are being made for a Heritage Revitalization Agreement with the City. The proposed subdivision line will be close to the south wall of 515 Hawks Avenue. As requested by the Owner, Murray Johnson Analysis and Steve Hart Architect have been retained to address this proximity issue. The property is undergoing subdivision pursuant to a Development Permit Application DP-2021-00929. ¶

2.0 → PROJECT DETAILS ¶**2.1 → The Site ¶**

The site fronts on the 500 block of Hawks Avenue. The site is approximately 61m wide and 50m deep. There are 2 houses on the site -- 515 and 521 Hawks Avenue. It is proposed to subdivide the site as per the Site Plan shown below. ¶

This plan will locate the new property line 1'-2" away from the wall of the building at 515 Hawks. The relationship of the property line to the building will have implications for code conformance of that building as described in Section 3 of this report. ¶

This report reviews the relationship of the property line to the building at 515 Hawks, since the property line is proposed to be close to that building. There is adequate distance from the property line to 521 Hawks so spatial separation issues are not a concern for that building. ¶



1. PROPOSED SITE PLAN

2. Code Classification

If constructed today, both buildings would have the following design criteria

• Applicable Code	2019 Vancouver Building By-Law
• Major Occupancy Classification	C
• Building Area (each)	< 600 m ²
• Number of Storeys	23
• Construction Classification	Part 9
• Sprinkler System Required	Part of <u>discussion</u>
• Combustible Construction	Permitted
• Fire Alarm Required	No

2.2 Spatial Separation Requirements in Part 9

The Vancouver Building Bylaw (VBBL) requires that the exterior walls of buildings be constructed in a manner that is consistent with their distance from property lines. For this project, Subsection 9.10.15. “Spatial Separation Between Residential Buildings” applies. It is the purpose of this report to assess the impact of the new property line on the construction of the exterior walls that face it and if necessary, propose alternative means of compliance. Components of exterior walls that are governed by this Subsection include:

- Unprotected openings (windows and doors)
- Fire ~~resistance~~ rating and construction of exposing building face
- Combustible projections
- Soffits

Other building code issues are not addressed in this report

SPATIAL SEPARATION ANALYSIS

3.1 Unprotected openings

With a limiting distance of 1'-2" (0.35m), no unprotected openings (windows and doors) are allowed. (Table 9.10.15.4) A limiting distance of at least 4' is required. The existing south elevation of 515 Hawks has 3.9% unprotected openings, therefore it is non- conforming under Part 9.

3.2 Fire resistance and construction of exposing building face

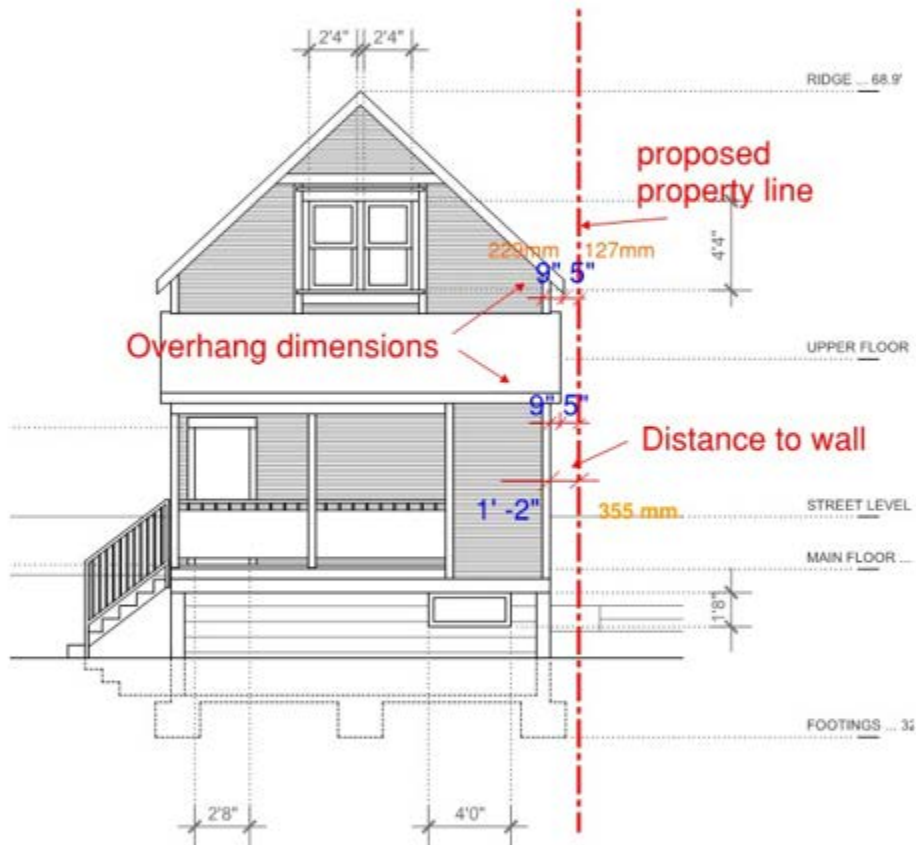
With a limiting distance of 1'-2" (0.35m), the cladding of the building face must meet the requirements of 9.10.15.5.(2). This sentence requires that cladding be metal or non- combustible and have a flame spread rating not greater than 25. The existing wood cladding is therefore non-conforming with Part 9. The fire resistance rating of the wall Has not been determined.

3.3 Combustible projections

Combustible projections are allowed within 4' (1.2m) of the property line as per 9.10.15.5.(6), so the eaves of 515 Hawks are conforming, however additional requirements apply to the soffit.

3.4 Soffits

The face of a soffit is not allowed to be within 450mm of a property line - 9.10.15.5.(9). In this case, the soffit is within 366mm, so it is non-conforming with Part 9.



3. SOUTH ELEVATION SHOWING OVERHANGS

4.0 ALTERNATIVES FOR COMPLIANCE

Although there are non-complying spatial separation issues under Part 9, alternative compliance measures are available in Section 11.5. The alternative measures are described in Table 11.5.1.1. A summary of these measures was provided in an email from Boris Turishev on July 28, 2023:

Application of Section 11.5 “Alternative Compliance Measures for Heritage Buildings”

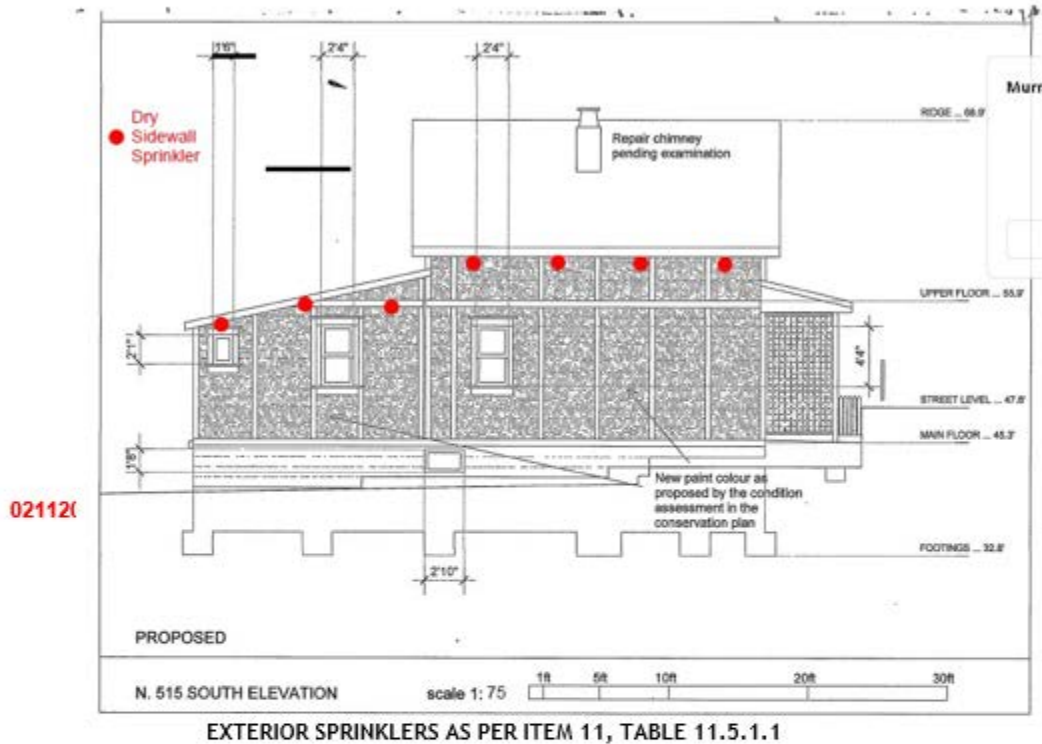
Unprotected openings in exposed building faces	Opening are to be protected with close-space sprinklers per Item 10 in Table 11.5.1.1. Notification to the fire department may be omitted on an alternative solution basis.
The FRR and construction of the Exposed Building Face	Building needs to be sprinklered and Exposed Building Facades are to be protected with exterior sprinklers per Item 11 in Table 11.5.1.1. No alternative solution is required.
Openings within soffits within 1.2 m of the property line (Sentence 9.10.15.5.(6)):	No compliance measures are available in Table 11.5.1.1. Alternative solution is required. Protecting soffits with Type X Dense Glass drywall and mineral wool may be suitable mitigating measures. Venting of attic spaces in the absence of openings within soffits needs to be coordinated with the architect. Use of spray foam is not desirable as it increases the hazard.
Projections within 0.45 m of the property line (Sentence 9.10.15.5.(9)):	No compliance measures are available in Table 11.5.1.1. Alternative solution is required. Cementitious fascia board with noncombustible soffits without openings may be suitable mitigating measures.

The non-conforming items identified in Section 3 of this report can therefore be mitigated as follows:

- **Unprotected openings (windows and doors)**
Openings will be protected with close-space sprinklers as per Item 10.
- **Fire Resistance Rating and Construction of exposing building face**
Building will be sprinklered and exterior sprinklers will be provided as per Item 11.The exterior sprinklers shall be installed as follows:
 1. Use dry sidewall sprinklers on maximum 1.85 m centres under the roof / soffit with all exposure sprinklers flowing 1.13 ~~lps~~ ^{lps} each. See sketch below.
 2. The flow switch will be connected to the smoke alarms as well as off site monitored by a company listed per CAN/ULC S561 but it will just be connected to the flow switch rather than a fire alarm system. This may necessitate a second flow switch.
 3. Soffits are not required for venting so will be surfaced with an acceptable finish.
- **Combustible Projections**
Projections are allowed under 9.10.15.5.(6). The projections described in 9.10.15.5.(9) are for soffits – see item below.

- Soffits

Since the roof overhang is not connected to the interior of the house it is not a soffit in the sense intended by the VBBL and is instead merely a combustible projection. Openings in the soffit are not required and if the soffits are considered combustible projections, they are allowed under 9.10.15.5.(6). An Alternative Solution will be required and prepared to further describe this issue.



4. **11.0 CONCLUSION**

With the property line moved close to the exposing building face, several requirements for spatial separation under Part 9 are not met. There are, however, alternate compliance measures in Part 11 which can be applied to provide an equivalent degree of protection for the spread of fire. The non-conforming issues will then comply outright with the VBBL, except for the case of the “soffits”, for which an Alternative Solution will be prepared.

Report by:

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