



Committee of the Whole Report

For the Meeting of April 11, 2019

To: Committee of the Whole **Date:** March 28, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: **Development Permit with Variances Application No. 00086 for 933 Collinson Street**

RECOMMENDATION

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. 00086 for 933 Collinson Street, in accordance with:

1. Plans date stamped March 9, 2019.
2. Development meeting all *Zoning Regulation Bylaw* requirements, R1-S2 Zone, except for the following variances:
 - i. to reduce the rear yard setback from 6.0m to 2.0m (for deck and stairs)
 - ii. increase the site coverage from 40% to 60.1% (for deck and stairs).
3. 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 establishment of objectives for the form and character of intensive residential development, 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.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variances Application for the property located at 933 Collinson Street. The proposal is to allow the placement of a deck and stairs (existing). The variances are related to reducing the rear yard setback to accommodate the stair location and to increase the site coverage created by the deck and stairs accordingly.

The following points were considered in assessing this Application:

- The Small Lot Design Guidelines offer direction on the placement of above grade balconies, noting that balconies should be carefully placed to respect the privacy of adjacent property owners and to consider views and sunlight. Although the structure has already been constructed, the applicant has canvassed the adjacent neighbours and it appears that they have not indicated concerns.
- The deck and stairs create a more practical landing area for the occupants of the upper floor of this home.
- The lot size and siting of the house limits the potential location of stair placement; as such, the setback variance for the stair placement and subsequent increase to the parcel coverage due to the deck and stairs are appropriate for this lot.

BACKGROUND

Description of Proposal

The proposal is to recognize the placement of a deck and stairs in the rear yard of a small lot house. Resulting from a bylaw complaint, it was determined that a new deck and stairs have been constructed without appropriate permits. The placement of the stairs triggers a variance and the combination of the deck and the stairs creates additional lot coverage that exceeds bylaw requirements. The deck and stairs appear to have existed in some configuration for a number of years; however, their replacement was the basis of the complaint. It also appears that the deck configuration and stair placement have been altered.

During the investigation of the bylaw complaint, it was also noted that a suite has been constructed in the basement without the appropriate permits. However, that is not the subject of this Application. The purpose of this report is to deal with the deck and stair construction only, and provide options for the issue of the suite.

Sustainability Features

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation Impacts

The applicant has not identified any active transportation impacts associated with this Application.

Public Realm Improvements

No public realm improvements are proposed in association with this Development Permit Application.

Accessibility Impact Statement

The British Columbia Building Code regulates accessibility as it pertains to buildings.

Existing Site Development and Development Potential

The house was constructed in 1903 as a single family residence. Some time afterwards a secondary suite was constructed in the basement without the oversight of appropriate permits. The current zoning of the property does not permit a secondary suite, so an approved rezoning application at a future date would be required to allow the suite.

Due to the placement and size of the house and the small lot size, there is no further development potential on this property.

Data Table

The following data table compares the existing building with the current R1-S2 Zone, Restricted Small Lot (Two Storey) District. An asterisk is used to identify where the proposal is less stringent than the existing zone and where new variances are requested. The double asterisk represents a legal non-conforming situation. A triple asterisk represents a situation that is not part of this Application.

Zoning Criteria	Existing Situation	R1-S2 Zone Standard
Site area (m ²) – minimum	198 **	260
Secondary suite	Suite ***	No suite permitted
Lot width (m) – minimum	9.12 **	10
Site coverage (%) – maximum	60.1 *	40
Setbacks (m) – minimum		
Front (street)	1.37 **	6.0
Rear (south)	2 *	6.0
Side (west)	1.86 (non-habitable)	1.5 (non-habitable)
Side (east)	2.86 (habitable)	2.4 (habitable)

Relevant History

In 2005, the Humboldt Valley Precinct Plan was adopted by City Council. To implement the Plan, a number of smaller properties between Collinson Street and Fairfield Road were rezoned to the Small Lot House Zone (R1-S2) due to their parcel sizes and the limited redevelopment opportunities. In essence, the parcels were placed in a zone that best fit the current development of the parcels, which were generally small, older homes and relatively smaller lots than are typical in Victoria. A consequence of placing these properties within the small lot zone is that it triggered a development permit requirement for exterior changes.

However, in the case of the subject property, because there are new variances created by the deck construction and stair placement, these variances would require a variance application (in this case a Development Permit with Variance).

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, the application was referred for a 30-day comment period to the Fairfield-Gonzales Community Association Land Use Committee in July 2018. Comments dated January 17, 2019 are attached to this report and indicate no objection.

This Application proposes variances; therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

As per the Small Lot Policy, which promotes a consultative approach when proposing changes, the applicant has also contacted the adjacent neighbours and provided a petition (attached).

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan* (OCP) identifies this property within DPA 15A, Intensive Residential – Small Lot. The applicable guidelines are the Small Lot House Design Guidelines. These guidelines provide specific guidance on above grade balconies, noting that balconies should be carefully placed to respect the privacy of adjacent property owners and to consider views and sunlight.

The neighbours that are potentially most affected by the balcony and stair placement have signed a petition indicating they do not anticipate any negative impacts. The details of the neighbouring properties are as follows:

North – 927 Collinson Street

This single family residence would be most directly impacted by the deck and stairs. The owner has indicated they do not have a concern. The bylaw-protected tree provides a visual buffer between 927 and 933 Collinson Street.

South – 936 Fairfield Road

This is a multi-unit building. There is no direct access to the building abutting the subject lot. In addition, there is a fence between the two properties and a substantial landscape strip on the north elevation of 936 Fairfield Street. Some of the units' windows in this building overlook the deck.

West – 930 Fairfield Road

This property shares a common rear yard lot line with the subject property. There is potential for privacy concerns as there is approximately seven metres' distance from the rear building face of 930 Fairfield Road to the deck at 933 Collinson Street. The occupant of 930 Fairfield Road has indicated they do not have a concern.

Local Area Plans

The property is within the Humboldt Valley Precinct Plan area. There are no specific policies that would apply to this Application.

Tree Preservation Bylaw

There is a bylaw-protected 24cm diameter breast height Pacific dogwood tree approximately 1.0m from the proposed concrete foundation for the staircase at ground level. An ISA professional arborist performed an exploratory dig to ascertain the location and size of this tree's roots. No roots were damaged by the concrete foundation for the stairs. The arborist reported that the construction would not have significant impacts to the health or stability of the Dogwood tree.

There is no further action required on the Tree Preservation Bylaw.

Regulatory Considerations

There would appear to be a number of other non-conformities and/or construction on the property where the appropriate permits have not been obtained. For clarity, this Application is only considering the rear yard deck and stair placement and additional site area coverage. If this Application is approved, it will provide the applicant with the opportunity to obtain building permits for any new construction at the rear of the house.

From a regulatory perspective, the most significant issue is the secondary suite in the basement of the home. The R1-S2 Zone does not permit secondary suites; as such, a successful rezoning application would be required to allow the existing suite (or the owner may voluntarily rectify the situation by removing the suite to return the property to single family use). Of more immediate concern is that fact that the suite was constructed without the appropriate permits, and as such, the safety of the suite cannot be determined.

In order to separate the issue of the deck construction and stair placement from the secondary suite and move this Application forward, the City has a process to post a notice on title under Section 57 of the *Community Charter*. This is a note on the certificate of title advising that there is a bylaw contravention relating to the construction of the building. A report on the bylaw contravention would be brought forward to Council as a normal matter of business if the suite is not removed, at which time a decision on this item can be made by Council.

CONCLUSIONS

It is not an ideal situation to be dealing with existing construction, as it in some ways pre-empts a more thorough analysis and opportunity for public input. However, given the limitations of the lot, there are few alternatives for deck and stair placement. Because it is exterior construction that is fairly observable, this matter should be resolvable with the appropriate permits and inspections. As such, the variance request for setback and site coverage are considered appropriate for this lot.

ALTERNATE MOTION

That Council decline the Development Permit with Variances Application No. 00086 for the property located at 933 Collinson Street.

Respectfully submitted,



Lucina Baryluk,
Senior Planner
Development Services Division

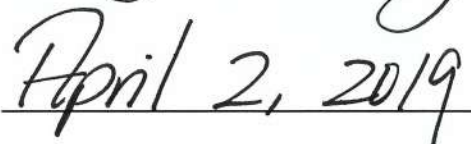


Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:



List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated/date stamped March 9, 2019
- Attachment D: Letter from applicant to Mayor and Council date stamped March 7, 2019 and December 11, 2018
- Attachment E: Community Association Land Use Committee Comments dated January 17, 2019.