



## Committee of the Whole Report For the Meeting of July 22, 2021

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**To:** Committee of the Whole **Date:** July 9, 2021

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

**Subject:** **Update: Development Variance Permit Application No. 00194 and Heritage Designation Application No. 000162 for 121 Menzies Street**

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### RECOMMENDATION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following updated motion:

#### Development Permit with Variance Application No. 00194

“That Council authorize the issuance of Development Permit with Variance Application No. 00194 for 121 Menzies Street in accordance with:

1. Plans date stamped **May 26, 2021**.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - i. decrease the dwelling unit floor area (minimum) from 33.00m<sup>2</sup> to **14.79m<sup>2</sup>**;
  - ii. locate the parking in the front yard;
  - iii. locate accessory buildings in the side yard;
  - iv. increase total site coverage from 40% to 42.30%;
  - v. increase the height of one accessory building from 3.50m to 4.41m;
  - vi. decrease the rear setback of an accessory building from 0.60m to 0.50m;
  - vii. decrease the side setback of accessory buildings from 0.60m to 0.40m;
  - viii. decrease the separation space between an accessory building and a principle building from 2.40m to 1.0m;
  - ix. increase the rear yard site coverage for an accessory building from 25.00% to 29.80%;
  - x. **increase the combined floor area for an accessory building from 37.00m<sup>2</sup> to 41.61m<sup>2</sup>.**
3. The Development Permit lapsing two years from the date of this resolution.”

## Heritage Designation Application No. 000162

That Council consider this updated motion with respect to Heritage Designation Application No. 000162:

"That Council give first and second reading of Heritage Designation Bylaw (Bylaw No. 21-038) be for Heritage Designation Application No. 000162 for 121 Menzies Street."

### LEGISLATIVE AUTHORITY

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*.

In accordance with Section 611 of the *Local Government Act*, Council may designate real property, in whole or in part, as protected property.

### EXECUTIVE SUMMARY

The purpose of this report is to update Council on Rezoning Application No. 00508, Development Variance Permit Application No. 00194, and Heritage Designation Application 000162. The proposal is for a 10-dwelling unit House Conversion with relaxations to the *Zoning Regulation Bylaw* for minimum dwelling unit size, site coverage, parking in the front yard, and accessory building size and siting.

In 2016, the proposal was submitted as a rezoning application to rezone from the R1-B Zone, Single Family Dwelling District, to a site-specific zone in order to permit a ten-dwelling unit House Conversion. Since Council's motion of July 27, 2017 (minutes attached), the following has occurred which requires updates to the applications:

- Council approved amendments to Schedule G – House Conversion Regulations which resulted in a rezoning application not being necessary for this proposal.
- Council approved amendments to Schedule C – Off-Street Parking which resulted in a variance for the proposed number of parking stalls not being necessary.
- With regard to the preconditions that Council set in relation to these applications:
  - A Statutory Right-of-Way of 1.78 metres along Menzies Street has been executed by the applicant and registered on title.
  - A Housing Agreement has been completed to secure the ten dwelling units as rental housing in perpetuity with one of those units for a caretaker living on site.
- The necessary Heritage Designation Bylaw that would authorize Heritage Designation Application No. 000162 has been prepared.

The application could not proceed for Council's consideration until the conditions were met. These were not completed until the statutory right-of-way was executed on June 12, 2019 and registered on title on January 6, 2021.

Although the rezoning application is no longer required, the Development Variance Permit and Heritage Designation applications have been updated and are ready to proceed to an opportunity for public comment. The updated variances are considered supportable in the context of the overall application which includes heritage designation, a housing agreement to secure the dwelling units as rental, and a statutory right-of-way to improve pedestrian and cycling infrastructure at a future date. The variances also do not appear to substantially impact the adjacent properties.

If Council chooses to not approve this Development Permit with Variance application, the applicant would be required to meet the zoning regulations. Under Schedule G – House Conversion Regulations, they could withdraw the heritage designation and housing agreement and have seven dwelling units in the building.

## **BACKGROUND**

### **Description of Proposal**

The proposal is for a ten dwelling unit House Conversion. The proposed variances are related to:

- decreasing the dwelling unit floor area
- locating parking in the front yard
- locating accessory buildings in the side yard
- increasing total site coverage
- increasing the floor area of an accessory building
- increasing the height of an accessory building
- decreasing the setbacks of accessory buildings
- decreasing the separation space required between a principle building and an accessory building
- increasing the rear yard site coverage associated with an accessory building
- increasing the combined floor area for an accessory building.

### **Affordable Housing**

The applicant proposes the creation of three new residential units which would increase the overall supply of housing in the area. A Housing Agreement has been prepared and executed by the applicant to secure all of the dwelling units as rental in perpetuity.

### **Tenant Assistance Policy**

The proposal is to renovate an existing building. The existing building is approved for seven housekeeping units (without a separate bathroom). At some point in the past, the building was converted to 11 self-contained dwelling units (each with a separate bathroom) and two housekeeping units, and the accessory building was converted into a dwelling unit totaling 14 dwelling units on the site. The current proposal is for 10 dwelling units in the principal building and no dwelling unit in the accessory building.

There is no rezoning associated with this application, so the Tenant Assistance Policy does not technically apply. Regardless, the applicant has provided a Tenant Assistance Plan to outline the plan for existing tenants. Consistent with the Tenant Assistance Policy, the Tenant Assistance Plan, which is attached to this report, confirms that no tenants will be displaced from the building and that the tenants' existing rental rates and lease agreements will not be impacted as a result of this development application.

### **Sustainability**

As indicated in the applicant's letter dated May 20, 2021, the following sustainability features are associated with this application:

- rainwater collection

- recycling and composting
- vegetable gardens
- high efficiency appliances with low water flow.

### Active Transportation

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

### Public Realm

No public realm improvements are proposed in association with this Development Permit application; however, the applicant is willing to provide a 1.78m statutory right-of-way along Menzies Street.

### Accessibility

The *British Columbia Building Code* regulates accessibility as it pertains to buildings. The dwelling unit entryways and pathways surrounding the building include stairs which would impact accessibility.

### Existing Site Development and Development Potential

The site is presently illegally developed with 11 dwelling units (with individual bathrooms), two housekeeping units (with a shared bathroom), and one garden suite. The site was previously approved for seven housekeeping units but was subsequently modified into 14 dwelling units (13 in the principal building and one in an accessory building), without securing the necessary City permits. Accessory buildings were also added without the necessary permits.

Under the current R-2 Zone, the regulations in the R1-B Zone, Single Family Dwelling District, would apply due to the size of the lot. The property could be developed as a single-family dwelling with a secondary suite or garden suite. Under the current Schedule G – House Conversion Regulations, the building could be converted into seven dwelling units. If, however, the building is heritage-designated and the dwelling units are secured as rental, then 10 dwelling units would be permitted.

### Data Table

The following data table compares the proposal with the R1-B Zone, Single Family Dwelling District, and the House Conversion Regulations under Schedule G of the *Zoning Regulation Bylaw*. An asterisk (\*) is used to identify where the proposal requires variances. A double asterisk (\*\*) is used to identify existing legal non-conformities.

Zoning Criteria	Proposal	Current R1-B Zone
Site area (m <sup>2</sup> ) – minimum	460.17	460.00
Density (Floor Space Ratio) – maximum	1.12	n/a

Zoning Criteria	Proposal	Current R1-B Zone
1 <sup>st</sup> & 2 <sup>nd</sup> story floor area (m <sup>2</sup> ) – maximum	274.49	280.00
Combined floor area (m <sup>2</sup> ) – maximum	<b>513.39 **</b>	300.00
Lot width (m) – minimum	18.29	15.00
Height (m) – maximum	<b>10.40 **</b>	7.60
Storeys – maximum	<b>3.5 **</b>	2.5
Site coverage (%) – maximum	<b>42.30 *</b>	40.00
Principal Building Setbacks (m) – minimum		
Front	<b>6.90 **</b>	7.50
Rear (east)	<b>3.90 – bldg. **</b> <b>1.10 – stairs **</b>	7.50
Side (north)	3.95	3.00
Side (south)	2.30 – bldg. <b>1.10 – stairs **</b>	1.83
Combined side yards	5.05	4.50
<b>Schedule G – House Conversion Regulations</b>		
Floor area per building for 10 dwelling units (m <sup>2</sup> ) – minimum	544.15	510.00
Dwelling Unit floor area (m <sup>2</sup> ) – minimum	<b>14.79 *</b>	33.00
Landscaping of lot (%) – minimum	44.00	30.00
Landscaping of rear yard (%) – minimum	44.00	33.00
<b>Schedule F – Accessory Building Regulations – Side Yard Shed</b>		
Combined floor area (m <sup>2</sup> ) – maximum	8.76	37.00
Height (m) – maximum	3.00	3.50
Rear setback (m) – minimum	7.80	0.60
Side setback (m) – minimum	<b>0.40 *</b>	0.60

<b>Zoning Criteria</b>	<b>Proposal</b>	<b>Current R1-B Zone</b>
Location	<b>side *</b>	rear
Separation space between buildings (within the site) (m) – minimum	2.48	2.40
Rear yard site coverage (%) – maximum	n/a	25.00
<b>Schedule F – Accessory Building Regulations – Rear Yard Shed</b>		
Combined floor area (m <sup>2</sup> ) – maximum	<b>41.61 *</b>	37.00
Height (m) – maximum	<b>4.41 *</b>	3.50
Rear setback (m) – minimum	<b>0.50 *</b>	0.60
Side setback (m) – minimum	<b>0.40 *</b>	0.60
Location	<b>side and rear *</b>	rear
Separation space between buildings (within the site) (m) – minimum	<b>1.00 *</b>	2.40
Rear yard site coverage (%) – maximum	<b>29.80 *</b>	25.00
<b>Schedule C – Off-Street Parking</b>		
Parking – minimum	1	0
Parking location	<b>front yard *</b>	behind front yard
Bicycle parking stalls – minimum		
Long Term	12	10
Short Term	0	0

## Relevant History

The applicant submitted applications for Rezoning, Development Variance Permit, and Heritage Designation on December 12, 2016 (see attached reports). Council passed the following motions from Committee of the Whole at the July 27, 2017 Council Meeting:

### Rezoning Application No. 00508

1. That Council instruct staff to prepare the necessary Zoning Regulation Bylaw amendments that would authorize the proposed development outlined in Rezoning Application No. 00508 for 121 Menzies Street, that first and second reading of the

Zoning Regulation Bylaw Amendments be considered by Council and a Public Hearing date be set once the following conditions are met:

1. Preparation of the following documents, executed by the applicant:
  - a. Housing Agreement Bylaw to secure the 10 dwelling units as rental housing in perpetuity with a caretaker living on site to the satisfaction of the Director of Sustainable Planning and Community Development.
  - b. Statutory Right-of-Way of 1.78 metres along Menzies Street to the satisfaction of the Director of Engineering and Public Works.

Development Variance Permit Application No. 00194

2. That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council and after the Public Hearing for Rezoning Application No. 00508, if it is approved, consider the following motion:

"That Council authorize the issuance of Development Variance Permit Application No. 00194 for 121 Menzies Street in accordance with:

1. Plans date stamped May 25, 2017.
2. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
  - a. decrease the dwelling unit floor area (minimum) from 33.00m<sup>2</sup> to 28.98m<sup>2</sup>
  - b. decrease the number of parking stalls from eight to one
  - c. locate the parking in the front yard
  - d. locate accessory buildings in the side yard
  - e. increase total site coverage from 40% to 42.30%
  - f. increase the height of one accessory building from 3.50m to 4.41m
  - g. decrease the rear setback of an accessory building from 0.60m to 0.50m
  - h. decrease the side setback of accessory buildings from 0.60m to 0.40m
  - i. decrease the separation space between an accessory building and a principle building from 2.40m to 1.0m
  - j. increase the rear yard site coverage for an accessory building from 25.00% to 29.80%
3. The Development Permit lapsing two years from the date of this resolution."

Heritage Designation Application No. 000162

3. That Council consider the following motion:

"That Council approve the designation of the property located at 121 Menzies Street, pursuant to Section 611 of the Local Government Act, as a Municipal Heritage Site, and that first and second reading of the Heritage Designation Bylaw be considered by Council and a Public Hearing date be set."

Since that time, the applicant has been preparing and registering the legal agreements to satisfy the conditions in the motions. The application could not proceed for Council's consideration until the conditions were met. These were not completed until the statutory right-of-way was executed on June 12, 2019 and registered on title on January 6, 2021.

In addition, the necessary Heritage Designation Bylaw that would authorize Heritage Designation Application No. 000162 has been prepared.

Due to amendments to Schedule G – House Conversion Regulations (adopted October 22, 2020) of the *Zoning Regulation Bylaw*, the rezoning application is no longer required. This is

because the minimum floor area per dwelling unit decreased from 1020m<sup>2</sup> to 510m<sup>2</sup> for a building that is heritage-designated and rental in perpetuity. Therefore, this building which is 544.15m<sup>2</sup> in floor area would permit 10 dwelling units.

Due to amendments to Schedule C – Off-Street Parking (adopted July 26, 2018) of the *Zoning Regulation Bylaw*, the required variances have changed (see Analysis below).

## Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, the applicant has consulted the James Bay CALUC at a Community Meeting held on October 12, 2016. A letter dated October 21, 2016 is attached to this report.

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.

## ANALYSIS

### Regulatory Considerations

The following variances are proposed in association with this proposal. The bold text indicates differences from the proposal presented to Committee of the Whole in 2017:

- i. decrease the dwelling unit floor area (minimum) from 33.00m<sup>2</sup> to ~~28.98m<sup>2</sup>~~ **14.79m<sup>2</sup>**;
- ~~ii. decrease the number of parking stalls from eight to one;~~
- iii. locate the parking in the front yard;
- iv. locate accessory buildings in the side yard;
- v. increase total site coverage from 40% to 42.30%;
- vi. increase the height of one accessory building from 3.50m to 4.41m;
- vii. decrease the rear setback of an accessory building from 0.60m to 0.50m;
- viii. decrease the side setback of accessory buildings from 0.60m to 0.40m;
- ix. decrease the separation space between an accessory building and a principle building from 2.40m to 1.0m;
- x. increase the rear yard site coverage for an accessory building from 25.00% to 29.80%;
- xi. increase the combined floor area for an accessory building from 37.00m<sup>2</sup> to 41.61m<sup>2</sup>.**

The variances have been updated in the motion as follows:

- The first is a correction to an error. The proposal requires the minimum dwelling unit floor area to be reduced from 33.00m<sup>2</sup> to 14.79m<sup>2</sup>, not to 28.98m<sup>2</sup>. This error has been corrected.
- The reduction in the number of parking stalls is no longer required due to amendments to Schedule C – Off-Street Parking adopted July 26, 2018.
- A variance has been added to accommodate the increased floor area for an accessory building, instead of embedding it in the site-specific zone that was intended with the rezoning application, and that is now no longer required.



The updated variances are considered supportable in the context of the overall application which includes heritage designation, a housing agreement to secure the dwelling units as rental, and a statutory right-of-way to improve pedestrian and cycling infrastructure at a future date. The variances also do not appear to substantially impact the adjacent properties.

If Council chooses to not approve this Development Permit with Variance application, the applicant would be required to meet the zoning regulations. Under Schedule G – House Conversion Regulations, they could withdraw the heritage designation and housing agreement and have seven dwelling units in the building. In this scenario, it is unlikely that the City would be able to successfully negotiate a statutory right-of-way.

### **Heritage Designation**

The proposed heritage designation of the house is compatible with the *Official Community Plan, 2012 (OCP)*, and is consistent with the *Zoning Regulation Bylaw*.

### **Tree Preservation Bylaw and Urban Forest Master Plan**

There are no *Tree Preservation Bylaw* impacts with this application. There are no impacts to public trees with this application.

### **CONCLUSIONS**

This Development Variance Permit Application for relaxations to the *Zoning Regulation Bylaw* for minimum dwelling unit size, site coverage, parking in the front yard, and accessory building size and siting would not substantially impact adjacent properties. The proposal would secure the heritage designation and ten rental dwelling units in perpetuity. Staff recommend that Council consider supporting this application.

### **ALTERNATE MOTION**

That Council decline Development Variance Permit Application No. 00194 and Heritage Designation Application No. 000162 for 121 Menzies Street.

Respectfully submitted,

Rob Bateman  
Senior Process Planner  
Development Services Division

Karen Hoese, 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 date stamped May 26, 2021
- Attachment D: Letter from applicant to Mayor and Council dated May 20, 2021
- Attachment E: Tenant Assistance Plan dated July 7, 2021

- Attachment F: Community Association Land Use Committee Comments dated October 21, 2016
- Attachment G: July 27, 2017 Committee of the Whole meeting staff report and attachments
- Attachment H: July 27, 2017 Committee of the Whole meeting minutes.