



Committee of the Whole Report For the Meeting of June 16, 2022

To: Committee of the Whole **Date:** June 2, 2022

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

Subject: **Development Permit with Variances Application No. 00197 for 640 Montreal 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 Variances Application No. 00197 for 640 Montreal Street, in accordance with:

1. Plans date stamped March 23, 2022.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except the following variances to the R3-2 Zone, Multiple Dwelling District:
 - i. reduce the rear yard setback from 11.275m to 8.37m.
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 commercial, industrial, or multi-family 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 640 Montreal Street. The proposal is to enclose two patios and to legalize three already enclosed patios within a 29-unit strata building. In addition, one of the proposed enclosed patios will encroach

into the required rear yard setback; therefore, a variance is required to reduce the rear yard (west) setback from 11.27m to 8.37m.

The following points were considered in assessing this application:

- The proposal is consistent with the *Official Community Plan's* strategic direction for James Bay to enable adaptation and renewal of the existing building stock.
- The proposal is consistent with the *James Bay Neighbourhood Plan* objective to maintain high standards of design as the proposed enclosures will utilize similar materials, colour and glazing to that of the existing enclosed balconies above the ground floor.
- The ground floor patios that are proposed for enclosure, are recessed and will not extend past the existing building envelope; therefore, the proposal will not alter the overall massing of the building or encroach any further into the required rear yard setback than the existing building.

BACKGROUND

Description of Proposal

The proposal is to enclose two patios and to legalize three already enclosed patios within a 29-unit strata building, each being located on the ground floor and facing the rear yard (west) toward the Outer Harbour. The proposal requires a variance to reduce the rear yard (west) setback from 11.27m to 8.37m to allow one of the proposed enclosed patios.

Accessibility

The *British Columbia Building Code* regulates accessibility as it pertains to buildings. The proposed enclosure of patios will not impact the accessibility of the residential units.

Data Table

The following data table compares the proposal with the existing R3-2 Zone, Multiple Dwelling District. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone.

Zoning Criteria	Proposal	R3-2 Zone
Site area (m ²) – minimum	2,266.20	920.00
Density (Floor Space Ratio) – maximum	1.51	1.60
Total floor area (m ²) – maximum	3,423.50	n/a
Lot width (m) – minimum	36.58	n/a
Setbacks (m) – minimum		

Zoning Criteria	Proposal	R3-2 Zone
Front	Existing	13.50
Rear*	8.37*	11.275
Side (north)	Existing	11.275
Side (south)	Existing	11.275

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on March 8, 2022 the application was referred for a 30-day comment period to the James Bay CALUC, with revised plans circulated again on March 28, 2022. At the time of writing this report, a letter from the CALUC had not been received.

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.

The applicant is requesting that Mayor and Council waive the requirement to hold an opportunity for public comment (refer to Attachment E). If Council wishes to waive the requirement to hold an opportunity for public comment, the alternate motion contains the necessary language and 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

Local Area Plan – James Bay Neighbourhood Plan

The *James Bay Neighbourhood Plan* contains objectives to maintain the area's scenic quality, promote continuous public access on the waterfront, and ensure development upholds a high standard of design and streetscape character. The proposal will not impact public access along the waterfront and utilize similar materials, colour and glazing to the existing building to ensure the enclosed patios will not detract from the building's appearance.

Official Community Plan and Design Guidelines

The *Official Community Plan (OCP)* Urban Place Designation for the property is Urban Residential. James Bay's strategic direction under the OCP includes enabling adaptation and renewal of the existing building stock. The proposed alteration will provide weather protection and additional floor area within an existing multi-family building. In accordance with the OCP, development within the Inner Harbour is subject to *Development Permit Area 9 (HC): Inner Harbour*, which has the objective of enhancing the Inner Harbour through a high quality of architecture, landscape and urban design.

Site-specific Considerations

The existing R3-2 Zone permits the enclosure of balconies located above the ground floor and exempts enclosed balconies from setback requirements provided the materials and colour are consistent with that of the existing building. As a result, 14 balconies were enclosed previously through a delegated development permit process. However, the R3-2 Zone distinguishes balconies from ground floor patios as enclosed patios are not permitted and setback requirements apply to enclosed patios. Additionally, enclosure of patios is considered an increase in total floor area and Council has not delegated authority for the creation of any new floor area within *Development Permit Area 9 (HC): Inner Harbour*. Therefore, even if there was no variance, this application would not be eligible for consideration of a staff delegated approval.

Staff review determined that the application can be supported as the materials and colour are similar to the existing building, and the patios proposed for enclosure are recessed into the existing building envelope so the overall massing of the building will not be altered.

Rear Yard Setback Variance

The existing property operates with a legal non-conforming rear yard setback of 8.37m. However, the proposed enclosures are not considered legal non-conforming as the approved building design was for open patios. The requested variance is considered supportable as the enclosed patios if approved, will not encroach further into the setback than that of the existing building.

CONCLUSIONS

The ground floor patios proposed for enclosure will not alter the overall massing or detract from the appearance of the existing building. Further, given that the existing property already operates with a legal non-conforming rear yard setback of 8.37m, the proposal will not encroach any further into the required rear yard setback than the existing building. Therefore, staff recommend that Council support the proposed variance.

ALTERNATE MOTION

Option One - Waive Opportunity for Public Comment

“That Council waive the requirement for an opportunity for public comment and authorize the issuance of Development Permit with Variances Application No. 00197 for 640 Montreal Street, in accordance with:

1. Plans date stamped March 23, 2022.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except the following variances to the R3-1 and R3-2 Zone, Multiple Dwelling District:
 - i. reduce the rear yard setback from 11.275m to 8.37m.
3. The Development Permit lapsing two years from the date of this resolution.”

Option Two – Decline

That Council decline Development Permit with Variances Application No. 00197 for 640 Montreal Street.

Respectfully submitted,

Patrick Carroll
Senior 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 March 23, 2022
- Attachment D: Letter from applicant to Mayor and Council dated May 19, 2022
- Attachment E: Letter from strata to Mayor and Council dated February 23, 2022 regarding request to waive an opportunity for public comment