



Committee of the Whole Report For the Meeting of June 29, 2023

To: Committee of the Whole **Date:** June 15, 2023
From: Karen Hoese, Director, Sustainable Planning and Community Development
Subject: **Development Permit with Variances Application No. 00218 for 206 St. Charles Street**

RECOMMENDATION

1. "That Council waive the standard practice of holding an opportunity for public comment for this application but direct staff to continue other standard practices related to sign posting and public notification, including a request for written commentary to come back to Council for consideration prior to issuing the Development Permit with Variances.
2. And subject to the required notification and advertising, Council consider authorizing the issuance of Development Permit with Variances No. 00218 for 206 St. Charles Street, in accordance with:
 - a. Plans date stamped by Planning on May 11, 2023.
 - b. Proposed development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. reduce the north side yard setback to a habitable window from 2.4m to 1.58m.
3. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution."

LEGISLATIVE AUTHORITY

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.

In accordance with Section 498 of the *Local Government Act*, Council may issue a Development Variance Permit that varies a *Zoning Regulation Bylaw*, provided that the permit does not vary the use or density of land from that specified in the *Zoning Regulation Bylaw*.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Permit with Variance for the property located at 206 St. Charles Street. One variance is requested to reduce the north side yard setback from 2.40m to 1.58m to allow for a habitable window.

The following points were considered in assessing this application:

- The proposal is generally consistent with the design guidelines specified in the *Small Lot House Rezoning Policy, 2002*.
- The existing house will be removed and will be replaced with a house designed to be compatible with the existing character of the area.
- The siting of the house and driveway is designed to protect an existing boulevard tree.
- The requested north side setback variance to habitable windows will have minimal privacy impacts on the adjacent property due to the size and placement of the windows.

BACKGROUND

Description of Proposal

This proposal is to construct a new single-family dwelling on a small lot to replace an existing dwelling. Specific details include:

- two-storey building on a crawlspace
- a front entrance with a positive street presence
- pitched rooflines consistent with the character of the area
- exterior materials include an asphalt shingle roof and cementitious siding materials (shingles and board and batten)
- traditional design elements are compatible with the character of the area.

A variance is required to reduce the distance of the building from the north side yard lot line, from 2.40m to 1.58m to allow for a window to a habitable room.

Affordable Housing

The applicant proposes the replacement of a single-family dwelling which does not result in a net increase in housing in the area.

Tenant Assistance Policy

As this is a Development Permit with Variances Application without a rezoning, the *Tenant Assistance Policy* is not applicable. It is noted that the house is currently vacant.

Land Use Context

The area is characterized by single-family homes and some duplexes. The lots on the west side of St. Charles Street are double frontage, which has provided opportunities for infill in the form of small lot homes and duplexes.

Sustainability

No specific sustainability features have been identified.

Sustainable Mobility

No sustainable mobility improvements beyond minimum City standards are proposed in association with this application.

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this application.

Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code*.

Existing Site Development and Development Potential

The site currently has an existing house, which was constructed in 1945.

Under the current R1-S2 Zone, Restricted Small Lot (Two Storey) District, the property could be developed with a single-family dwelling.

Data Table

The following data table compares the proposal with the R1-S2 Zone. An asterisk is used to identify where the proposal does not meet the requirements of this Zone.

Zoning Criteria	Proposal	R1-S2 Zone
Site area (m ²) – minimum	354	260
Density (Floor Space Ratio) – maximum	0.54:1	0.6:1
Total floor area (m ²) – maximum	189.95	190
Height (m) – maximum	7.13	7.50
Storeys – maximum	2	2
Site coverage (%) – maximum	30	40
Setbacks (m) – minimum		
Front (St. Charles Street)	6.00	6.00
Rear	6.00	6.00
Side (north)	1.58	2.40 (habitable room)
Side (south)	3.46	1.50 (not-habitable room)

Zoning Criteria	Proposal	R1-S2 Zone
Parking – minimum	1	1

Relevant History

The lot was created in 1996, as part of a small lot subdivision creating two small lots: the subject parcel (206 St. Charles Street) and a new lot (208 St. Charles Street), which fronts on the lane. Shortly after the creation of this subdivision, a new house was constructed on 208 St. Charles Street. The existing house fronting St. Charles Street (206 St. Charles Street) was retained as the small lot program encourages the retention of existing houses. The existing house was constructed in 1945, and according to the applicant’s submission, will now be removed, due to the poor condition of the house.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, since this is a Development Permit with Variance Application, the original application and revised plans were referred to Fairfield-Gonzales Community Association CALUC for a 30-day comment period. At the time of writing this report, a letter from the CALUC had not been received.

The associated 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. Given the nominal potential impact associated with the requested variance staff are recommending that the Opportunity for Public Comment be waived. Additionally, the applicant’s submission includes a neighbourhood petition indicating general support for the proposal. The staff recommendation includes wording to waive the Opportunity for Public Comment.

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan (OCP)* identifies this property within Development Permit Area 15A, Intensive Residential - Small Lot. The proposal is consistent with the design guidelines specified in the *Small Lot Design Guidelines*. The redevelopment provides the opportunity to design a new single-family dwelling. While the proposed new house is larger than the existing house, the proposal is a traditional design and materials that are compatible with the existing context of the neighbourhood.

The height, roof line, and massing of the proposed dwelling has been designed to fit within the adjacent house to the north. Additionally, the level entry and number of windows on the front elevation provide a positive relationship with the street.

Gonzales Neighbourhood Community Plan (2002)

The *Gonzales Neighbourhood Community Plan* addresses the trend of replacing existing houses with larger ones and notes that the design and fit of new dwellings within the existing context should be a consideration. To minimize the impact of new houses on existing houses, a specific small lot zone was created for the Gonzales area in 2004. While this zone does not apply to this particular small lot, as it was created prior to 2004, it is noted that the lot size exceeds the required

small lot size in Gonzales. Nonetheless, the proposal transitions well to the neighbouring properties.

Tree Preservation Bylaw and Urban Forest Master Plan

The goals of the *Urban Forest Master Plan* include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighbourhoods.

Two non-bylaw protected trees and two non-bylaw protected hedges will be removed. No replacement trees are required as the intention is to retain two on-site protected trees. The project has been designed to protect municipal boulevard trees.

Setback Variance

One variance is requested to reduce the north side yard setback from 2.40m to 1.58m to allow for a habitable window. The requirement is for a 1.50m setback for a small lot house if there are no windows into non-habitable rooms; however the requirement is for a 2.40m setback if windows into habitable rooms are present.

The impact on the neighbouring property to the north (212 St. Charles Street) is the main focus of the analysis. The windows into habitable rooms (master bedroom and living room) have limited potential for overlook due to the window height above the finished floor level (1.50m for windows in the living room and 1.60m for windows in the master suite). These windows would generally be considered transom windows, intended to improve the liveability of the rooms by allowing more natural light but not creating a situation where privacy is impacted. The other windows on the north elevation are not into habitable rooms and meet the setback standard of 1.50m.

The house to the north at 212 St. Charles Street is also a small lot house, with windows above the ground level. These upper level windows are heavily obscured by existing vegetation along this side of the house.

Options for siting the house closer to the south property line are limited due to the placement and alignment of the driveway, which has been designed to protect a large boulevard tree.

CONCLUSIONS

The proposal to construct a new small lot house is consistent with Development Permit Area 15A: Intensive Residential - Small Lot. The small lot house is a form of sensitive infill development and generally fits in with the existing neighbourhood. The requested variance is relatively minor and is a result of the need to place the house and driveway to protect the existing mature boulevard tree. Additionally, this variance will not create significant privacy issues for adjacent dwelling. Therefore, staff recommend Council consider supporting this application.

ALTERNATE MOTION

That Council decline Development Permit with Variance Application No. 00218 for the property located at 206 St. Charles Street.

Respectfully submitted,

Lucina Baryluk
Senior Planner
Development Services Division

Karen Hoese, Director
Sustainable Planning and Community
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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 11, 2023
- Attachment D: Letter from applicant to Mayor and Council dated October 29, 2022 and May 15, 2023
- Attachment E: Talmark Consultants Limited, Arborist Report, dated July 25, 2022