



Committee of the Whole Report For the Meeting of October 12, 2023

To: Committee of the Whole **Date:** September 28, 2023

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

Subject: **Development Permit with Variances No. 00244 for 827 Fort 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. That Council authorize the issuance of Development Permit No. 00244 for 827 Fort Street in accordance with plans submitted to the Planning department and date stamped by Planning on September 25, 2023, subject to:
 - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
 - i. increase the maximum building height from 30m to 33.9m;
 - ii. increase the maximum projection into height for rooftop structures from 5.0m to 6.2m for the elevator overrun and mechanical rooftop units;
 - iii. reduce the total vehicle parking from 90 stalls to 56 stalls;
 - iv. reduce the minimum short-term bicycle parking from 14 stalls to 0 stalls.
 - b. Registration of an amended legal agreement on the property's title, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor to increase the number of car share memberships from 45 to membership for all units without access to a parking stall, up to a maximum of 75.
3. That the Development Permit, if issued, lapses two years from the date of this resolution.

LEGISLATIVE AUTHORITY

Relevant Development Permit considerations relate to the application's consistency with design guidelines and the impact of the proposed variances.

Enabling Legislation

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 revitalization of an area in which a commercial use is permitted, 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 Variance Application for the property located at 819-827 Fort Street. The proposal is to make minor changes to a previously approved proposal by increasing the number of residential rental units from 105 to 119 through an additional storey. The additional 14 rental units increases the parking requirement by 10 stalls which triggers a parking variance. A variance to reduce the short-term bicycle parking from 14 to 0 is also proposed. The extra storey requires a height variance as well as a variance for the rooftop structure, which is related to the mechanical units and elevator overrun.

The following points were considered in assessing this application:

- The proposed changes to the exterior of the building are relatively minor in nature and are consistent with the objectives for Development Permit Area 7B (HC) – Corridors Heritage but are inconsistent with the relevant Design Guidelines and the *Downtown Core Area Plan*, specifically related to setbacks.
- The height variance is considered to be supportable as the incremental impacts from the additional storey are minimal and the rooftop structure that exceeds the maximum allowable height is located towards the rear of the building and is clad in high quality materials.
- The proposed parking variance (an increase of ten stalls over the previously approved variance) is considered supportable because the applicant has expressed a willingness to amend the legal agreement to increase the car share memberships with MODO from 45 (as originally proposed) to memberships for all units that don't have access to a parking stall (up to a maximum of 75 memberships). The same legal agreement also secures the provision of one car share vehicle and dedicated on-site parking space. In addition, a total of 169 long term bicycle parking stalls are proposed (an excess of 31 above the minimum requirement under Schedule C of the *Zoning Regulations Bylaw*) to help mitigate the impacts of the anticipated parking shortfall.
- The short-term bicycle parking variance is considered supportable as there are limited opportunities to locate the required parking on the street frontage, and the proposal includes a bike lounge with publicly accessible parking in the building lobby.

BACKGROUND

Description of Proposal

The proposal is for exterior changes to the previously approved building design through an additional storey, and interior layout changes related to unit configuration. The exterior alterations and additional storey would result in an additional 14 rental units from the previously approved plans for a total of 119 units.

A parking variance was previously approved under a separate application to reduce the vehicle parking from 80 stalls to 57 stalls and to reduce the short-term bicycle parking from 12 to 0. The current application would increase the vehicle parking variance by ten stalls and the short-term bicycle parking variance by two stalls.

The following differences from the RMD-2 Zone, Residential Mixed-Use Fort Street District are proposed and require variances:

- increase the maximum building height from 30m to 33.9m
- increase the maximum projection into height for rooftop structures from 5.0m to 6.2m for the elevator overrun and mechanical rooftop units
- reduce the total vehicle parking from 90 stalls to 56 stalls
- reduce the minimum short term bicycle parking from 14 stalls to 0 stalls.

Affordable Housing

The applicant proposes the creation of 119 new residential rental units which would increase the overall supply of housing in the area. This application proposes to add 14 rental units through the inclusion of an additional storey from the previously approved plans. All of the residential units are secured as rental in perpetuity through an existing housing agreement. With these additional units, the total unit break down would be:

- 18 studio units
- 60 one-bedroom units
- 34 two-bedroom units
- seven three-bedroom units.

The proportion of studio units has increased from 4% to 15% in the current proposal. A more detailed comparison from the previously approved plans is included below:

Previous proposal	Current proposal
Studio: 4 (min. 460 ft ²)	Studio: 18 (min. 362 ft ²)
1-bed: 59 (min. 369 ft ²)	1-bed: 60 (min. 369 ft ²)
2-bed: 36 (min. 596 ft ²)	2-bed: 34 (min. 596 ft ²)
3-bed: 6 (min. 855 ft ²)	3-bed: 7 (min. 819 ft ²)
Total 105 units	Total 119 units

Existing Site Development and Development Potential

The site is presently under construction. The facades of two of the buildings (819-823 and 825 Fort Street) are heritage-designated and have been retained as part of the construction of an eleven-storey mixed-use building under the existing RMD-2 Zone, Residential Mixed Use Fort Street District.

Data Table

The following data table compares the proposal with the existing RMD-2 Zone as well as the Design Guidelines contained within the Downtown Core Area Plan (DCAP) and the Fairfield Neighbourhood Plan (NP). An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone.

Zoning Criteria	Proposal	Approved	RMD-2 Zone	DCAP / Fairfield NP
Density (Floor Space Ratio) – maximum	6.17:1	5.98:1	6.17:1	5:1
Number of dwelling units	119	105	-	-
Building Height (m) – maximum	33.90*	31.1*	30	30-37.5
Rooftop Structure (m) – maximum	6.20*	5.1*	5.0	-
Setbacks (m) – minimum				
Front	0.0 to 5.4	0.0 to 6.0	0.0 to 4.0	-
Rear (south)	0.15 to 3.16	0.15 to 3.15	0.0 to 3.0	10
Interior (east)	0.10 to 3.87	0.13 to 3.0	0.0 to 3.0	10
Interior (west)	0.16 to 3.0	0.15 to 3.0	0.0 to 3.0	10
Parking – minimum				
Residential	44*	45*	72	
Visitor	10*	10*	12	
Car Share	1	1	0	-
Commercial	0*	0*	6	
Total	56*	57*	90	
Accessible Parking – minimum				
Accessible	2	-	2	
Van Accessible	1	-	1	-
Visitor Accessible	0	-	0	
Visitor Van Accessible	1	-	1	
Bicycle parking stalls – minimum				
Long term	169	152	138	-
Short term	0*	0*	14	-

Sustainable Mobility

The application proposes the following features which support multi-modal transportation:

- enhanced bike parking (an excess of 31 long-term stalls above the minimum requirements), four electric charging outlets, a bicycle repair station and a bike wash room, which is proposed to also serve as a dog wash station.
- one car share vehicle (with dedicated stall) and car share memberships for all units without access to a parking stall (up to a maximum of 75).

Public Realm

No public realm improvements beyond City standard requirements are proposed in association with this Development Permit with Variances Application.

Relevant History

A Rezoning and Heritage Alteration Permit with Variances was approved by Council in 2019 for the construction of a ten-storey (plus roof structure) mixed-use development containing approximately 100 rental units and ground floor commercial. The proposal included the retention and rehabilitation of the façade of the heritage-designated building located at 825 Fort Street and designation and rehabilitation of the façade of the building located at 819-823 Fort Street. The proposal included a variance to reduce the required parking from 76 stalls to 57 stalls. A further parking variance was approved in 2021 to reduce the vehicle parking from 80 stalls to 57 stalls. This application would increase the parking variance by ten additional stalls.

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, it was referred to the Fairfield Gonzalez Association CALUC for a 30-day comment period on August 3, 2023. On September 7, 2023 Council approved amendments to the *Official Community Plan (OCP)*, which included boundary adjustments. The site now falls under the Downtown neighbourhood and as a matter of courtesy staff have reached out to the Downtown Residents Association to advise them of the application. At the time of writing this report, a letter from both CALUCs 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. However, staff are recommending that Council consider approving this application without an opportunity for public comment given the minimal impact associated with this proposal.

While the staff recommendation includes the necessary language to waive the Opportunity for Public Comment, all other aspects of the process that ensure transparency and notification of the public would be maintained. The *Local Government Act* requires that a notice be placed in a newspaper and that a mailed notice be provided within the distance specified in the City's bylaws. In this instance, notification requirements involve adjacent properties, therefore, consistent with the City's *Land Use Procedures Bylaw*, mailed notice would be sent to owners and occupiers of the subject site and adjacent properties. This notice would invite recipients to provide written comments on the proposal if they felt inclined. Also, in accordance with the City's *Land Use Procedures Bylaw*, a sign would be posted on the property notifying the public of Council's upcoming consideration of the matter along with an invitation to provide written feedback.

If Council would prefer to hold an opportunity for public comment on this application, the alternate motion is structured accordingly for Council's consideration.

ANALYSIS

Development Permit Area and Design Guidelines

The *Official Community Plan (OCP)* identifies this property within Development Permit Area 7B(HC) – Corridors Heritage. The applicable Design Guidelines are the *Downtown Core Area Plan (Updated 2022)*, *Advisory Design Guidelines for Buildings, Signs and Awnings (1981)* and the *Guidelines for Fences, Gates and Shutters (2010)*.

The *Downtown Core Area Plan (DCAP)* was originally approved in September 2011 as the key neighbourhood plan for Downtown and Harris Green and underwent a review in 2022 to maintain alignment with other related City policies, plans and regulations. It was determined that improvements to its building design guidelines were needed to better achieve plan objectives and ensure future growth and development results in high quality environments. The proposal was originally designed and submitted under the 2011 DCAP.

The 2011 DCAP guidelines required a minimum clearance of 3m from all side and rear property lines for portions of the building up to 30m in height and a minimum clearance of 6m for portions of the building above 30m. At the time of the original submission, the proposal was in conformance with DCAP as they related to setbacks, and these setback requirements were embedded into the newly created RMD-2 Zone, Residential Mixed Use Fort Street District.

The updated DCAP (2022) requires a minimum rear yard setback of 8m for portions of the building located above the first storey that contain residential uses and a minimum side and rear setback of 10m for buildings up to 36m in height, which the proposal does not conform with. The applicant has reduced the floorplate of the tower by approximately 30m² from 696m² to 665m² which has resulted in an increase to the east side yard setback from 3m to 3.87m. Although this is a modest improvement, full compliance with the Design Guidelines would only be possible with a complete redesign or consolidation with adjacent lots. Given that the proposal was prepared under the previous DCAP and that the only change being proposed is for an additional storey, minor exterior alterations and modifications to the rooftop structure, on balance the inconsistencies with the Design Guidelines are considered to be supportable.

In terms of maximum building heights, the DCAP refers to the *Fairfield Neighbourhood Plan*. This recommends a maximum building height of 30 to 37.5m for the subject site, which the proposal conforms with.

The 2022 DCAP guidelines require a more rigorous approach to shading analysis and an updated shadow study has been submitted with the proposal. The shadow diagram compares the previously approved proposal with the current proposal, and the incremental impact from the additional storey and reconfigured rooftop structure are considered to be minimal.

Regulatory Considerations

The RMD-2 Zone, Residential Mixed Use Fort Street District allows for rooftop structures (including elevator penthouses and mechanical equipment) to project above a roof up to maximum of 5m. A previous variance was approved for 5.1m for the elevator overrun. The current proposal is for a 6.2m high rooftop structure, a portion of which is to accommodate mechanical units for cooling equipment to service the residential units, a feature that was not

previously included. The proposal includes a fully accessible roof deck and a portion of the rooftop structure includes the elevator landing for the rooftop amenity space. Above this a 3.1m elevator overrun, which the applicant states is industry standard and necessary for efficient servicing of the building.

The increase in the number of residential dwelling units increases the parking requirement from 80 stalls to 90 stalls. The proposed 34 stall parking variance (an increase of 11 stalls over the previously approved variance) is considered supportable because the applicant has expressed a willingness to amend the existing legal agreement to increase the car share memberships with MODO from 45 (as originally proposed) to provision of membership for all units that don't have access to a parking stall (up to a maximum of 75 memberships). The requirement for one car share vehicle and dedicated car share stall on site will be maintained in the existing legal agreement. In addition, the proposal includes enhanced bike parking (an excess of 31 long-term stalls above the minimum requirements in the *Zoning Regulations Bylaw*). The excess bicycle parking is marginally fewer than the previous proposal, but staff are supportive of the overall Transportation Demand Management (TDM) features to help mitigate the impacts of the anticipated parking shortfall. A variance to reduce the short-term bicycle from 14 stalls to 0 is required. This is considered supportable as there are limited opportunities to locate the required parking on the street frontage, and the proposal includes a bike lounge with publicly accessible parking in the building lobby.

As on-street parking in the area is metered, the impacts on parking availability for surrounding properties resulting from this variance is expected to be minimal.

CONCLUSIONS

This application is considered supportable because the addition of 14 residential rental units adds to the diversity of housing in the Urban Core; although the proposal is not compliant with the more stringent setback requirements of the updated Design Guidelines the incremental impact of the additional storey is considered minimal; the exterior changes to the building are relatively minor in nature and would not detract from the pedestrian experience along Fort Street; and the applicant has provided sufficient TDM measures to mitigate the proposed parking shortfall. Therefore, staff recommend that Council consider advancing this application.

ALTERNATE MOTION

Option 1 (Approve with Opportunity for Public Comment)

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

- "1. That Council authorize the issuance of Development Permit No. 00244 for 827 Fort Street in accordance with plans submitted to the Planning department and date stamped by Planning on September 25, 2023, subject to:
 - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
 - i. increase the maximum building height from 30m to 33.9m;
 - ii. increase the maximum projection into height for rooftop structures from 5.0m to 6.2m for the elevator overrun and mechanical rooftop units;
 - iii. reduce the total vehicle parking from 90 stalls to 56 stalls;
 - iv. reduce the minimum short term bicycle parking from 14 stalls to 0 stalls.

- b. Registration of an amended legal agreement on the property's title, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor to increase the number of car share memberships from 45 to membership for all units without access to a parking stall, up to a maximum of 75.

2. That the Development Permit, if issued, lapses two years from the date of this resolution.”

Option 2 (Decline)

That Council decline Development Permit with Variances Application No. 00244 for the property located at 827 Fort Street.

Respectfully submitted,

Charlotte Wain
Senior Planner – Urban Design
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 September 25, 2023
- Attachment D: Letter from applicant to Mayor and Council dated September 26, 2023.