



Planning and Land Use Committee Report

For the Meeting of August 27, 2015

To: Planning and Land Use Committee **Date:** August 13, 2015
From: Jim Handy, Senior Planner – Development Agreements
Subject: Development Variance Permit No. 00153 for 239 Menzies Street

RECOMMENDATION

Staff recommend that Committee forward this report to Council and that after giving notice and allowing an opportunity for public comment, that Council consider the following motion:

“That Council authorize the issuance of Development Permit Application No. 00153 for 239 Menzies Street, in accordance with:

1. Plans date stamped June 19, 2015.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. Schedule C Section 16.C.12 - Parking requirement for an additional 20 seats in the existing restaurant relaxed from 6 parking stalls to 2 parking stalls.
3. The Development Permit lapsing two years from the date of this resolution.”

LEGISLATIVE AUTHORITY

In accordance with Section 922 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*.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Development Variance Permit Application for the property located at 239 Menzies. The business owner's request is to increase the number of seats within the existing restaurant from 10 seats to 30 seats resulting in a parking variance.

The following points were considered in assessing this Application:

- The site is located within James Bay Village and is within close proximity to walking, cycling and public transit facilities.

- The proposed four-stall parking variance will have a minimal impact on surrounding residents and businesses.

BACKGROUND

Description of Proposal

The proposal is to increase the number seats from 10 seats to 30 seats within an existing restaurant. Based on the parking requirements for restaurants outlined in Schedule C of the *Zoning Regulation Bylaw*, one parking stall is required for every five seats provided. Therefore, an additional four parking stalls are required.

The existing restaurant shares a parking area with other businesses located at this property. Nineteen stalls are located on the property and a further 12 stalls are located on an adjacent property and secured by way of any easement. These 31 stalls currently satisfy the *Zoning Regulation Bylaw* requirements. As a result of the proposed additional restaurant seating, a total of 35 parking stalls would be required to serve this commercial property. However, no additional parking can be provided at this location and, therefore, a four-stall parking variance is proposed.

It should be noted that, based on the information provided in the applicants letter dated June 19, 2015 (attached), the restaurant has been operating with seating for 26 to 30 customers for several years.

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.

Existing Site Development and Development Potential

The site is presently occupied by a number of commercial properties including restaurants, a yoga studio and financial institutions.

Data Table

The following data table compares the proposal with the existing C1-S Zone, Commercial Service Station District. An asterisk is used to identify where the proposal is less stringent than the existing Zone.

Zoning Criteria	Proposal	Zone Standard
Parking – minimum	19 stalls (provided on-site) 12 stalls (provided off-site and secured by an easement) Total no. of stalls = 31*	35

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on June 22, 2015, the Application was referred for a 30-day comment period to the James Bay CALUC. At the time of writing this report, a letter from the CALUC had not been received.

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

ANALYSIS

Proposed Parking Variance

The applicant has not provided a Parking Study to support the proposed four-stall parking variance. However, staff have reviewed the proposal and consider that the requested variance would have minimal additional impact, if any, on the surrounding residents or businesses as:

- The property is located within the James Bay Large Urban Village and, as outlined in the applicant's supporting letter, many of the lunchtime customers would likely walk to the restaurant.
- Evening parking demand for the restaurant can likely be accommodated on-site as many of the other businesses located at this property (i.e. the financial institutions) would be closed.
- The applicant has noted that the restaurant has been operating with 26 to 30 seats for several years, so this application would serve to legalize an existing situation.

In light of the above, staff recommend for consideration that Council support the proposed parking variance.

CONCLUSIONS

The proposed parking variance would have minimal impact on the neighbourhood and, therefore, staff recommend for consideration that Council support the proposed parking variance.

ALTERNATE MOTION

That Council decline Development Variance Application No. 00153 for the property located at 239 Menzies Street.

Respectfully submitted,



Jim Handy
Senior Planner – Development
Agreements
Development Services Division



Alison Meyer, Assistant
Director, Development
Services Division



Jonathan Timney, Director
Sustainable Planning and
Community Development

Report accepted and recommended by the City Manager:



Jason Johnson

Date:

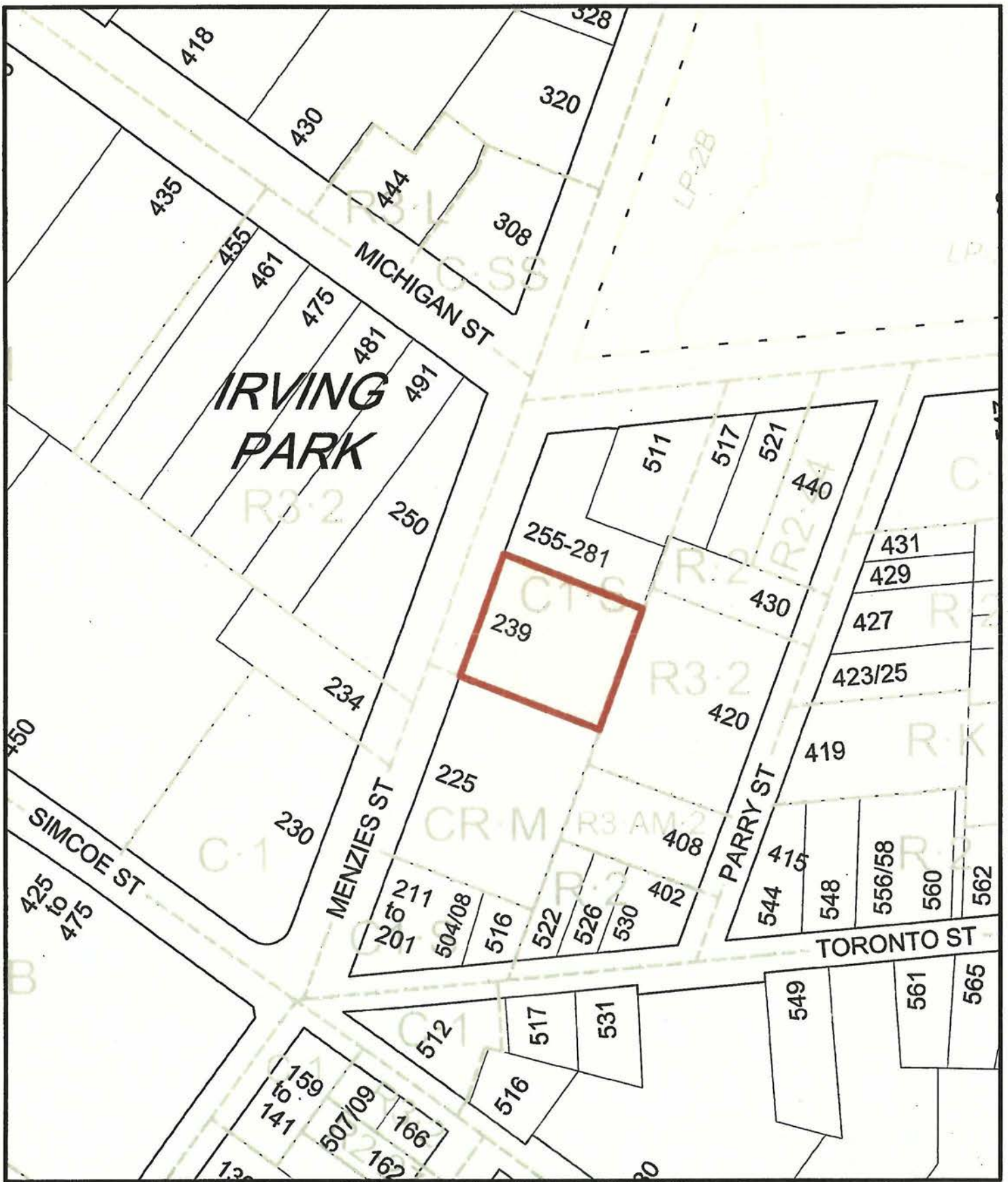
August 20, 2015

JH:aw

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List of Attachments

- Zoning map
- Aerial photo
- Letter from applicant dated June 19, 2015
- Plans dated June 19, 2015.



239 Menzies Street
Development Variance Permit #00153





alan lowe architect inc.



18 June 2015

City of Victoria
#1 Centennial Square
Victoria, British Columbia, V8W 1R6

Attention: Mayor and Councillors

Re: 239 Menzies Street, Victoria British Columbia

Dear Mayor Helps and Councillors;

My client is a local small business person who has successfully operated the 26 seat Sushi Matsuri Restaurant in James Bay for the past 5 years and he has been trying to secure a food primary liquor license for his customers. When he initially leased the space, he had thought the space was appropriate to be used for a restaurant until he went to the City to enquire about a liquor license. To his surprise, the premise was only for a maximum of 10 seats and the space was classified as retail. As my client looked further into how he could legalize the use and acquire a liquor license for the premises, he needed to approach his landlord with respect to the use of additional washrooms on the second floor as well as the availability of parking stalls for his use.

The building recently leased space to a Yoga Studio on the second floor and when they applied for their building permit, a project data sheet was produced showing the number of parking stalls available and the number of parking stalls required. In the calculations, 31 parking stalls were required and 31 parking stalls were provided. This included 12 parking stalls off-site which had been secured through an easement. The calculations however only provided for 2 parking stalls for the restaurant use as the records still show that it only has 10 seats.

To legalize the 26 to 30 seat restaurant, we would require 6 parking stalls. At this time, we only have 2 stalls allocated for our use and the rest of the parking stalls have been allocated for other uses within the building.

The building cannot produce any more parking stalls on the property that they own and cannot secure any further parking stalls through easements. The restaurant has been in operation over the past 5 years and they have never had any parking issues. In the evening, when the offices and credit union are closed, there is plenty of parking stalls available to his customers. During the day, the majority of his customers are local government workers who walk to his restaurant from the legislative precinct. We feel that this restaurant is established and has been in operation for the past 5 years without creating any parking problems for the neighbourhood and the variance which we are applying for would not create any hardship to the other businesses and residents in this area.

By creating a legal 26 to 30 seat restaurant, my client will also require more than one washroom for his customers. My client has secured an agreement with the landlord to allow him access to the second floor washrooms during his hours of operation. He will be given a key to the main door of the building where his customers can access the washrooms on the second floor. An elevator is located in the lobby to make these washrooms handicap accessible. The washrooms located on the second floor exceed the number of water closets required for the building. The additional capacity will be more than adequate to meet the requirements of the restaurant use.

The British Columbia Building Code has a section allowing us to classify low occupancy restaurants under 30 seats as a Group D occupancy. We feel that this restaurant qualifies under this section of the building code. The client is also willing to place a sign in a prominent location within his restaurant showing the maximum capacity.

We trust that this application for a minor parking variance is supportable. Should you have any further questions regarding this application, please contact our office at 250-360-2888.

Thank you.

Yours truly,

A handwritten signature in dark ink, appearing to read "Alan Lowe". The signature is fluid and cursive, with the first name "Alan" and last name "Lowe" clearly distinguishable.

Alan Lowe

cc. Client

PROJECT INFORMATION

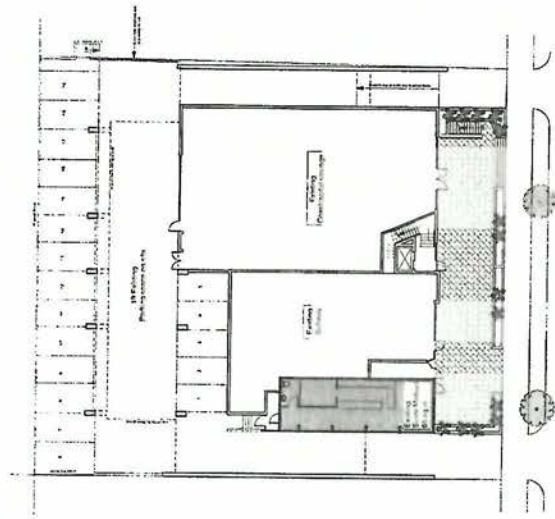
PROJECT DESCRIPTION: Developed Variance permit

LEGAL ADDRESS: LOT A, of lots 1784, 1782, 1780, 1786, 1788
VICTORIA DISTRICT, plan 317001

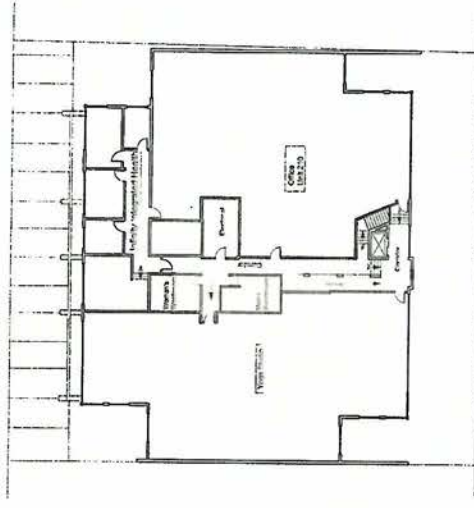
CIVIC ADDRESS: 223 Menzies Street
VICTORIA, B.C.

ZONING DATA
ZONING: C1-S
SITE AREA: 16,796 sq.ft. (1,560 m²)

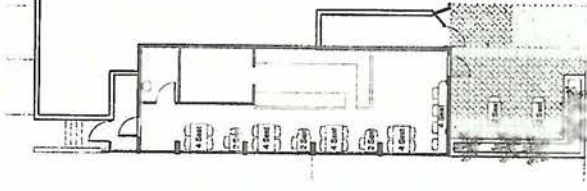
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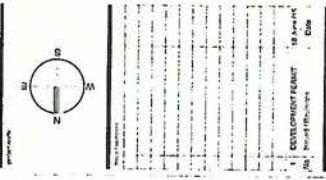
1. Site Plan & Main Floor Plan
SCALE: 1/8" = 1'-0"



2. Second floor Plan
SCALE: 1/8" = 1'-0"



3. Seating Configuration
SCALE: 1/4" = 1'-0"



alan lowe architect inc.

223-1111 Commercial St.
Victoria, British Columbia

223-1111 Commercial St.
Victoria, B.C. V8V 1R3

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