



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

MAYOR'S AND COUNCILLORS' REPORTS

Report from: Mayor Barbara Desjardins

Subject: Reconsideration of Motion re Development Permit and Development Variance Permit - 468 Foster Street, from September 11, 2017 Council

Agenda: Council Meeting October 2, 2017

Recommendation:

I request that Council reconsider and vote again on the following motion, which was Carried at the September 11, 2017 meeting of Council:

"That Council resolves that Development Permit No. DP000094 [Appendix A] authorizing the development as illustrated on the architectural drawings and the landscape plan prepared by Zebra Design, stamped "Received September 5, 2017", and sited as detailed on the survey plan prepared by Island Land Surveying, stamped "Received July 28, 2017" be approved, and staff be directed to issue the permit (subject to receipt of the required landscape security), and register the notice on the title of the property located at PID 008-400-571, Lot 17, Suburban Lot 30, Esquimalt District, Plan 772A [468 Foster Street].

Furthermore, that Council resolves that Development Variance Permit No. DVP00069 [Appendix B] authorizing the development as illustrated on the architectural drawings prepared by Zebra Design, stamped "Received September 5, 2017", and sited as detailed on the survey plan prepared by Island Land Surveying, stamped "Received July 28, 2017", and including the following variances to Zoning Bylaw, 1992, No. 2050, be approved, and staff be directed to issue the permit and register the notice on the title of the property located at PID 008-400-571, Lot 17, Suburban Lot 30, Esquimalt District, Plan 772A [468 Foster Street]:

Zoning Bylaw, 1992, No. 2050, Section 40 (6)(a) - Building Height - Principal Building: A 0.78 metre increase to the requirement that no principal building shall exceed a height of 7.3 metres [ie. from 7.3 metres to 8.08 metres].

Zoning Bylaw, 1992, No. 2050, Section 40 (8.1) - Building Massing - Principal Building: A 6.4% increase to the requirement that the second storey of any Two Family Dwelling shall be a maximum of 75% of the total floor area of the ground floor, including an attached garage [ie. from 75% to 81.4%]."

Background:

At the September 11th Council meeting, Late Agenda Items included 5 pieces of correspondence from residents in the community that were opposed to the development. There were several neighbouring residents in attendance at the meeting; however, despite

calling 3 times for public input at the beginning of the meeting, in accordance with the Council Procedure Bylaw and the usual procedure, none of the residents addressed Council at that meeting. I subsequently received emails from one of the residents, containing the following statements:

“Several of the [nearby residents] submitted letters and attended the council meeting as we are in opposition of the variance. We wished to have the opportunity to have our voices heard at the council meeting but only the developer was allowed to speak. We are very concerned that process was not followed.

It was not clear to the 7 or 8 of us residents who came to the meeting for the purpose and intent to have our voices heard on the variance matter. All of us walked out of the meeting wondering why we had not been given the opportunity to speak. I believe it should have been made more clear to those in attendance.

We are not experienced at how the council conducts the meetings or how the agenda items are heard. For example, given that the young lady was able to speak about her support for Sustainable Energy immediately after the first presentation was finished, one would assume the flow of remaining agenda items would follow the same pattern. That is, with the public being able to comment after each agenda item was presented. The fact that every single one of us who attended for the purpose of commenting on the variance application did not understand when it was our turn to speak is indicative of a significant breakdown of the communication of process.”

Process and Notice Requirements

Pursuant to Section 131 of the *Community Charter*, the Mayor may require Council to reconsider and vote again on a matter that was the subject of a vote, within 30 days following the meeting at which the vote took place. Due to the notice requirements for Development Variance Permits set out in the *Local Government Act*, the following process must be followed in this case:

1. Council determine whether they are prepared to reconsider this decision, based on the information set out above.
2. If the majority of Council votes that they are not prepared to reconsider this matter, then the initial motion as Carried stands.
3. If the majority of Council votes that they are prepared to reconsider this matter, staff will provide the required notice to the applicants and to tenants and owners of properties within 50 m of the subject property advising that Council will be reconsidering its decision on this matter.
4. Following the required notice period, the motion set out above will be added to the agenda for a Council meeting for a reconsideration vote, and any public in attendance would be invited to speak to the matter in advance of the reconsideration.

Respectfully submitted,

Mayor Barbara Desjardins