



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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9/28/2015	1	Council	approved	Pass

REQUEST FOR DECISION

DATE: September 28, 2015 Report No. EPW-15-022
TO: Laurie Hurst, Chief Administrative Officer
FROM: Jeff Miller, Director of Engineering and Public Works
SUBJECT:

464 Grafton Street - Boulevard Alteration Permit Request

RECOMMENDATION:

That the Township enter into a Boulevard Alteration Permit agreement, if the Development Variance Permit is granted to allow the existing fence to remain on the public property at the height of 1.85 meters.

RELEVANT POLICY:

Streets and Traffic Regulation Bylaw No. 2607
Zoning Bylaw No. 2050
The Township Guide to Boulevard Modifications

STRATEGIC RELEVANCE:

N/A

BACKGROUND:

On July 24, 2015, the owners of 464 Grafton Street applied for a Boulevard Alteration Permit (BAP) for a previously constructed fence located across the frontage of the lot. The lot owners are also in the process of requesting a Development Variance Permit for the height of the fence. The fence constructed along the frontage of the property has been constructed on the Grafton Street right of way (ROW) without the consent of the Township.

The Township manages ROWs through two primary tools: the BAP and the Streets and Traffic Regulation Bylaw No. 2607 (STB). These tools allow the Township the ability to regulate modification and encroachment within the ROW. With respect to encroachments within the ROW, the STB (Section 47) refers the issue to Council for decision on the validity of the encroachment request.

ISSUES:

1. Rationale for Selected Option

Engineering has reviewed the BAP for the previously constructed fence along the frontage of the property. This review looks at the nature of the alteration and how it complies with Township standards and bylaws.

While it is the preference of the Township to avoid encroachments within the ROW, it was determined that the location of the fence (approximately 600mm within the ROW) should not pose an issue to the management of the ROW. Due to the fence's location, Council has to provide permission for the encroachment within the ROW as per the Streets and Traffic Regulation Bylaw No. 2607.

The review of the BAP and encroachment request also looked at the height of the fence as well. Within the Zoning Bylaw No. 2050, Section 34(10), there is a height restriction of 1.2 metres on fences that are constructed along the frontage of the property. The fence under discussion exceeds this restriction by 0.65 metres. Although the height of the fence in the ROW is in violation of the height restriction set out in the Zoning Bylaw, this restriction technically does not apply to the fence in the ROW since the Zoning Bylaw only applies to private property.

The staff recommendation is that the BAP can be issued for the fence but only after the height of the fence meets the requirements of the Zoning Bylaw, or meets the variance requirements. If the requirements of the Zoning Bylaw are not met, the physical height of the fence will need to be reduced prior to issuance of the BAP.

2. Organizational Implications

If Council grants the fence encroachment, the Township will enter into an agreement with the properties owners via the BAP. Site inspections will be carried out as required. It is not anticipated that this agreement will cause an impact on engineering operations.

3. Financial Implications

No financial implications are anticipated.

4. Sustainability & Environmental Implications

There is no significant sustainability or environmental implications with these requests.

5. Communication & Engagement

Once direction is received from Council, staff will communicate this decision to the applicants and carry out the recommended alternative.

ALTERNATIVES:

1. That the Township enter into a Boulevard Alteration Permit agreement, if the Development Variance Permit is granted to allow the existing fence to remain on the public property at the height of 1.85 meters.
2. That the Township enters into a Boulevard Alteration Permit agreement with the owners of 464 Grafton Street that sees the height of the fence reduced to the requirements of the Zoning Bylaw and remains in the current location.
3. That the Township does not enter into a Boulevard Alteration Permit agreement with the owners of 464 Grafton and the fence is relocated from the right of way to the owners' property.