



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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Legislation Text

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REQUEST FOR DIRECTION

DATE: October 16, 2019

Report No. EPW-19-033

TO: Laurie Hurst, Chief Administrative Officer

FROM: Jeff Miller, Director of Engineering and Public Works

SUBJECT:

The Township Guide to Boulevard Modifications

ESSENTIAL QUESTION:

That Council Policy E&PW-02 - Township Guide to Boulevard Modifications, be amended to include the following changes detailed in Option 2: Type of modifications, public consultation, and dispute resolution?

RECOMMENDATION:

That the Committee of the Whole (COTW) receive Staff Report EPW-19-033 for information, provide any additional direction to staff as the COTW considers advisable, and direct staff to prepare a report for Council's consideration.

BACKGROUND:

Council Policy E&PW-02 - Township Guide to Boulevard Modifications [the Guide] was adopted in 2015 [Attachment 1]. The Guide provides a mechanism for non-essential infrastructure to be added to the boulevard by a homeowner. Boulevard Maintenance Bylaw, 2015, No. 2860 [Attachment No. 2] works in conjunction with the Guide and provides a mechanism for enforcement.

In May of 2019, staff report EPW-19-015 was brought before the COTW. The purpose of the report was to determine standards regarding which non-essential infrastructure could be placed within the boulevard. COTW reviewed the report and requested further information regarding:

- standards to determine the type and size of non-essential infrastructure that could be placed within a boulevard
- inclusion of public consultation options for proposed alternatives
- inclusion of a dispute mechanism for alterations that have been completed on a boulevard, either with or without a permit

Listed below is a breakdown of the number of permits requested since the Policy has been in place:

- 2013 - 1
- 2014 - 5
- 2015 - 4
- 2016 - 16
- 2017 - 17
- 2018 - 5
- 2019 - 5
- Total - 53

An additional three permits required Council's approval as they were deemed "structures" (i.e. fences).

ISSUES:

While the Guide has performed well for boulevard modifications, it is lacking in guidance regarding:

1. Which type of modification would be acceptable?
2. Neighbourhood engagement options.
3. A defined methodology for dispute resolution.

The Guide would need to be modified in order to address these concerns, so there are two options for consideration:

- Option 1 - maintain status quo (no limitations detailed within the Guide)
- Option 2 - modify the Guide in order to provide guidelines and limitations on the types of non-essential, non-permanent infrastructure that can be installed

Option 1

Under this option, the Guide would remain in its current form with no limitations. Staff would continue to review applications and grant permits based on:

1. Disruptions on sight lines.
2. Encroachment on to sidewalks.
3. Appearance of the infrastructure being proposed.
4. Resources required for relocation of infrastructure if essential infrastructure maintenance or removal is required.

Staff would address conflict with permits on a case by case basis. Ultimately, if the Township determined the permit was no longer viable, the permit would be revoked and the homeowner would have to re-establish the boulevard to Township standards.

Option 2

Under this option, the Guide would be enhanced by detailing the type of non-essential infrastructure that would be allowed, when neighbourhood consultation would be required and also contain a dispute mechanism for reviewing a permit that has been issued.

Type of Infrastructure Allowed

This section would detail the type of non-essential infrastructure that would be permitted. The proposed guidelines would only allow for the installation of grass, flowers, and vegetables beds to be installed within a boulevard. The type of boulevard (no sidewalk, separated sidewalk, sidewalk behind curb and gutter) would also determine the size, location and height that would be allowed. See [Attachment 3] for an example of the information that would be presented in the Guide.

Items that *would not* be allowed include:

- large items (i.e. boulders, driftwood)
- graveled or river rock surface treatments
- hard surface treatments (i.e. concrete, pavers, asphalt)
- boulevard's modified to become parking areas
- structures (i.e. fences, sheds, retaining walls, posts)
- fountains or water features
- street furniture (i.e. benches, swings, chairs)
- address signs or holders
- private mailboxes
- a continuous feature along the entire frontage of the property

Driveways and walkways for homeowners to access their property would be allowed, but must meet Township requirements for size, slope, and location. Driveways and walkways *may* require a permit.

Neighbourhood Consultation

If a resident wanted to modify the boulevard, the following procedure would be followed:

1. Resident would submit Boulevard Alteration Permit form
2. Engineering staff would review the application to determine if the permit request met the Guide requirements.
3. The request would then undergo a public consultation process.
 - a) Engineering staff would define a geographical area for public consultation.
 - b) This area would be at a minimum three homes to each side of the applicant's residence and a similar number on the opposite side of the street
 - c) Depending on the nature of the street (i.e. cul du sac), this area could be expanded to include a greater number of homes
4. The resident would carry out "polling" of the determined public consultation area and provide this feedback to staff.
5. In order for the request to proceed further it would have to meet two tests:
 - a) Test 1 - 90% of the area will be required to have been polled
 - b) Test 2 - 80% of the residents contacted must be in agreement with the proposed modification(s)
6. If the request meets the two tests requirements:
 - a) staff would present the proposed modification along with the survey results to Council
 - b) the resident would be invited to address Council to present their rationale for the modification

- c) Council would consider the application for approval
- 7. If Council denied the permit application, the resident would be informed *not to* proceed with the modification. If the resident *had already* carried out the modification, the Township would utilize the bylaw to correct this work.
- 8. If Council decided that the permit was to be issued, engineering staff and the resident would proceed with the permit requirements and work to be carried out.

Dispute Resolution

Permits may have been issued that were considered acceptable to the requirements of the Guide at that time. If an applicant's neighbour(s) expresses concerns that a permit no longer meets the expectations of the neighbourhood, the following dispute resolution would take place. This procedure would also be utilized by staff for modifications that were carried out *without* a permit and have now been brought to the attention of the Township:

1. The Township would receive a detailed written complaint regarding a boulevard modification and review the modification with respect to the Guide to determine what variances were present.
2. Engineering staff would define a geographical area for public consultation.
 - a. This area would be at a minimum three houses to each side of the applicant's house and similar number on the opposite side of the street.
 - b. Depending on the nature of the street (i.e. cul du sac), this area could be expanded to include a greater number of homes.
3. The resident would carry out "polling" of the determined public consultation area and provide this feedback to staff
4. In order for the complaint to progress further it would have to meet two tests:
 - a. Test 1 - 90% of the area will have been required to have been polled.
 - b. Test 2 - 80% of the residents contacted must be in agreement with the request that the modification be removed.
5. If the complaint did not meet the two tests, the complaint would not proceed any further and the permit would be maintained
6. If the complaint meets the two tests:
 - a. staff would present the proposal to remove the modification along with the poll results to Council
 - b. the resident who carried out the modification would be invited to address Council to present the rationale for maintaining the modification
 - c. the resident(s) in conflict of the modification would also be invited to address Council to present their rationale for removal of the modification
 - d. Council would consider the information presented and determine whether the permit be revoked
7. If Council decided the permit is to be revoked, the resident would be informed to restore the boulevard. Should non-compliance occur staff would utilize the bylaw as the mechanism to correct the modification.
8. If Council decided the permit be maintained, all residents involved would be informed of the decision and no further action would be taken by the Township (i.e. bylaw enforcement).

ALTERNATIVES:

1. That the COTW receive Staff Report No. EPW-19-033 for information, provide any additional direction to staff as the COTW considers advisable, and direct staff to prepare a report for Council's consideration.
2. That the COTW provide alternative direction to staff.
3. That the COTW request further information from staff.