

Landscape Design Guidelines – Feedback Received

From: Personal info

Sent: June 25, 2019 10:02 AM

To: Engagement <engage@victoria.ca>

Cc: Jeremy Loveday (Councillor) <jloveday@victoria.ca>; Sarah Potts (Councillor) <spotts@victoria.ca>

Subject: Feedback re. Food Bearing, Pollinator and Native Plant Landscape Design Guidelines

Engagement

I am writing as a knowledgeable individual to provide feedback on Food Bearing, Pollinator and Native Plant Landscape Design Guidelines. I wish I had been availed the opportunity to provide input beforehand, instead of feedback at this late stage. Others were consulted in the formative stage of the policy. I raised a flag on this issue during Strategic Planning regarding the accessibility impacts of various food/native plant and pollinator initiatives and it was never discussed. The staff report on this topic acknowledges the barriers and offers no effective way to mitigate them.

This is a potentially far reaching change affecting developers and people's health, and I object to the manner in which it is being rushed through with limited consultation, at a time (in the summer) when Council is usually loath to seek public input.

The proposal is to add a design guideline:

- *A minimum of 30% of the plants provided in the landscape design for common areas should be native vegetation, adapted (non-invasive) species, food bearing plants or plants that provide pollinator habitats.*

So few words, yet so big a change. I can see no further details or proposed text in the materials presented to COTW.

I find myself responding time and time again to proposals and decisions of the City that impinge on my ability to enjoy the outdoor environment. This now impinges on housing choice. The City needs to undertake a study and develop a comprehensive policy for healthy planting in public and private spaces and consider a variety of options. The focus of staff work on this issue to date has been extremely narrow. I have shared ideas for regulating private planting activities for the improvement of human health, with no interest from staff, and now find myself having to address several detrimental initiatives that knowingly create barriers at once. Council declined to approve an AWG recommendation for a study and referred it to the Accessibility Framework process, stalled for months, and during that delay, many barriers are being pushed through. The AWG still has no idea what will be in the Framework, whether this issue is included and whether policy work on the breathed environment will ever be done.

Accessibility Impact Statement

The proposed landscape design guidelines provide additional direction on the type and general variety of plants that are provided within the portions of private property that are required to be landscaped as per the *Zoning Regulation Bylaw*. These guidelines do not alter site access or the provision of hardscaped surfaces. **Staff acknowledge that the presence of some common landscaping plants can have adverse impacts on individuals with asthma and**

plant-related allergies. Lower-allergenic species can be planted without detracting from desired objectives; however, the ability to require or mandate specific low-allergen plant species varies between each development permit area and the rationale for their establishment as outlined in the *Local Government Act*.

I read this to mean - "We know this can create an accessibility barrier, we know that it can be mitigated only in part, we offer no concrete plan for doing so and in fact, there are legal impediments to doing so." Am I correct in my interpretation?

Consultation:

The staff report says:

The OCP Amendment Bylaw and proposed landscape design guideline will be subject to focused consultation using the City website and direct correspondence with community associations and the development industry prior to a public hearing and Council's final decision. The proposed OCP Amendment Bylaw will also be referred to the City of Victoria Accessibility Working Group and the Urban Food Table for comments.

Missing from this plan is any authority that can comment on the known health issues. I have provided the names and contact information of two experts in the field of horticulture and low allergen planting. Further, the City is working with (or still procuring) landscape planners for the Songhees Park extension and may be asking them for low allergen plan. Are they knowledgeable in the field?

Staff recommend an expedited consultation process that does not involve Island Health or any public health officials that I see. An initiative with known accessibility implications such as this should include a purposeful plan to consult on the health aspects. I see no evidence of that having happened or planned. The extent of the effort to look at this side is to refer it to the AWG, who is starved of members, swamped with uncoordinated consultation requests from other projects, and at a late date in the project (after consultation with the UFT is already underway). This approach essentially pits a large, powerful conglomerate organization, the UFT against the AWG and its one knowledgeable member. This is inconsistent with the equity lens approach to decision making that Council recently endorsed.

Substantive critique

Further, the actual guideline (one bullet) lacks substance and specificity. Some questions, observations & objections:

1. Terms are not defined. All of the terms are open to different interpretation: *native vegetation, adapted (non-invasive) species, food bearing plants and plants that provide pollinator habitats*.
2. I don't understand how this will be administered and enforced and if the City has the resources. Developers will submit a landscaping plan. Will staff be able to check each plant to see if 30% of them fall in one of the categories? What if 30% of the plants qualify, but they are the smallest, least significant part of the landscape, amounting to 5% of biomass? What if the plants are patches of moss that will become a carpet? How do staff count this? How will developers be held accountable for what they actually plant? What happens the next year if residents say they want showier gardens? Could

developers plant very few plants, to get around the intent of the requirements? I imagine a field of gravel with 10 trees, including 3 Garry Oaks (one of the worst offenders, due to its size and characteristics of its pollen). The latter seems to meet the requirement.

3. What level of detail is required in developers' plans? For instance, would the City know if they were planning to plant a Garry Oak or male landscape yew (10 out of 10 in allergenety) next to the air intake? Could they plant a nut tree in the common courtyard of a family building likely to house children with nut allergies? Would they be required to submit information on OPALS ratings?
4. insufficient guidance is given, compared to other topics in the two Guidelines appended to the staff report. The guideline is worded as a target, not a principle or objective. Here is an example of an objective the explains what is trying to be achieved and offering options, which provides a better model:

"Objectives: *To site buildings in a manner that considers and maintains the pattern of landscaped front and back yards,*

a. that makes a positive contribution to the streetscape and that achieves a more compact residential building form, while maintaining livability.

Townhouses can contribute positively to streetscapes and the overall neighbourhood, supporting walking and creating greater housing diversity within existing neighbourhoods.

Building Placement

- i. Attached residential buildings should be designed parallel to the street with unit entrances oriented to, and directly accessed from, the fronting street. Both front and rear yards should be provided.
- ii. For properties that include buildings of heritage value (Heritage Designated or listed on the City's Heritage Register) alternative siting of new buildings or additions may be considered to facilitate heritage conservation."

Staff explain how only in some areas can the design guideline be more prescriptive, due to the Local Government Act.

1. "In addition, each DPA or HCA is generally established to achieve a specific purpose as outlined in the Local Government Act (LGA). The LGA also identifies the level of detail that can be provided through design guidelines for each DPA or HCA. For example, the LGA does not permit a detailed level of prescriptiveness through design guidelines for DPA 16; rather the design guidelines are limited to general guidance on form and character. This means that the design guidelines for DPA 16 cannot mandate specific plant species. However, the other development permit areas identified above do allow for greater levels of detail through design guidelines. The proposed landscape design guideline has been developed to provide general guidance for landscape design while still providing a certain level of flexibility with plant choices that are suitable for the location and that provide year-round visual interest."

I suggest that before adopting the OCP amendment, the more prescriptive and specific guidance be developed and thus, informally, it may become the new norm even where it does not have legal force. This process is known in regulatory spheres as "trading up". Developers operating in multiple jurisdictions will adopt the higher standard, for ease of their own operations. However, the effect can only be achieved if the higher standard is known. It is not provided now. It is unacceptable to me, and I can't see that the industry will accept this regulation lightly, without knowing how the City sees it being implemented.

The Accessibility Impact Statement acknowledges the risk and that there is limited ability to mitigate it. It seems to me that in such instances, Council should be required to pass a special motion similar to a "notwithstanding clause" that acknowledges that what it is doing is contrary to the Constitution, or in this case, the BC Human Rights Code or its own accessibility policies, and explicitly state that some other public policy objective is deemed more important in this instance. That would be honest and transparent.

People with disabilities are some of the most difficult to house. In a tight rental market, developers do not want the extra expense of building accessible units or making costly alterations, when they can easily find an able-bodied tenant who is probably more economically advantaged. Housing choice is something that does not exist for people with disabilities. And there are disabilities that many don't think of such as people with multiple chemical sensitivities, allergies, asthma, lung conditions and various auto-immune diseases. The City has acknowledged some of these barriers in recent staff reports on tenant's policies, and the Strategic Plan activity to develop residential accessible housing guidance. This initiative reverses the trend.

There are unacknowledged items in the Strategic Plan in the staff report. The section says:

2019-2022 Strategic Plan

This project supports ongoing Action 23 from the *2019-2022 Strategic Plan* that seeks to encourage and move towards mandating food bearing plants, pollinator habitats and native species in landscape plans for private development. This action is captured under Strategic Objective #6: Climate Leadership and Environmental Stewardship.

But the report does not remind Council that it is contrary to others regarding accessibility, particularly:

- **"Identify and remove barriers to make Victoria accessible and apply a barrier-free lens to all decisions we make to ensure we're not creating new barriers"**

Only Council can choose between potentially conflicting objectives and even then, only when brought to its attention.

CONCLUSION

This initiative is not ready for consultation and the consultation plan's timing and scope is inadequate. Consultation does not cover all the bases, and does not seek public health input, despite known challenges. It is being rushed through before the Accessibility Framework which would guide the City to apply an accessibility lens to all its initiatives. The City needs to provide more guidance to developers, tools, such as sample landscape plans and explain how plans will

be evaluated. These are not ready and therefore, it is too soon to consult and finalize the amendments within months.

Council should over-ride the decision of COTW and take staff up on it's offer of an Option 2, but modify it to direct consideration of other perspectives and ensure input on public health.

Option 2 - Council could direct additional consultation opportunities beyond what is recommended in Option 1. This could include focus group meetings with key stakeholder groups, such as the Urban Development Institute, Community Association Land Use Committees, Urban Food Table and other interested members of the public.

Regards,

Personal info

(resident of Victoria)

Dear Robert Batallas

I have been looking for more information on the city website and I see the proposed amendment in bylaw NO. 19-079 which does not seem to capture the intent of this initiative. I copied below an extract

The purpose of this Bylaw is to amend the Official Community Plan by revising the references to the Design Guidelines For: Multi-Unit Residential, Commercial and Industrial (July 2012) and the Design Guidelines for Attached Residential Development (May 2018) in order to reflect an amendment to those guidelines that provides for native, adapted, food bearing or pollinator plants in landscape design

It seems to me that substitution of “provides for” with “mandates” would be appropriate. There are no barriers currently for using this type of plant in private developments. What is new is the prescription that these types of plants must be included in landscape plans. Without capturing the idea of prescriptiveness, the amendment looks very innocuous, despite its potential negative impact on people like me.

I would suggest that, as soon as it is in final form, the City documents, currently reportedly being finalized be provided, on the page for this consultation. Readers of the staff report have had to take the staff assertion in Blind Faith that the documents in question will mitigate the risk, whereas it is my informed opinion that they do not.

Despite the information you provided below, which I think should be provided more generally, to help the uninitiated understand how it will work, I still believe that the city is knowingly erecting a barrier to accessibility that will last for decades if not forever. Therefore I believe the city is morally obliged to do more to mitigate than it has. Basically, Planning staff have picked up on initiative designed for another purpose underway in the Parks Department instead of designing mitigations intended to address this specific barrier. I understand the statement that there is some legal impediment to using a specific tool, but I wonder if anything thought has gone into other ways to achieve the ends.

Alternatively along the lines of the notwithstanding clause when a government knows that what it is and enacting in legislation is contrary to the constitution, a higher Council member agreement rate than 50% plus one should be required, or greater consultation and analysis than I understand has been done. I allow that it may have been done, but the process is totally opaque to outsiders. To that end, I suggest that future staff reports also cite contradictory strategic plan items that say that the city will not create new barriers. The staff report cites only one conflicting objectives, whereas I have seen recent staff reports that acknowledge the contradiction

2019-2022 Strategic Plan

This project supports ongoing Action 23 from the 2019-2022 Strategic Plan that seeks to encourage and move towards mandating food bearing plants, pollinator habitats and native species in landscape plans for private development. This action is captured under Strategic Objective #6: Climate Leadership and Environmental Stewardship.

The strategic plan also says:

Under health, we'll-being and welcoming city:

Identify and remove barriers to make Victoria accessible and apply a barrier-free lens to all decisions we make to ensure we're not creating new barriers.

Further, all staff will be aware and that the accessibility framework is under development and reportedly nearing completion. It will soon provide tools and ended analytical framework for balancing accessibility with other public policy objectives, and I object to this being rushed through when the answer may be just weeks away.

Further, from the strategic plan, under good governance and civic engagement:

There is broad engagement with a diversity of participants conducted in a respectful and inclusive way

I don't think that the consciously shortened and limited engagement meets this objective

I think that reasonable people can agree that when there are conflicting objectives, this should be brought to Council's attention and flagged for its consideration, along with the information required to consciously weigh that decision. I don't think that citing documents that are not provided meets that test.

The staff report's AIS acknowledges the conflict

Accessibility Impact Statement

The proposed landscape design guidelines provide additional direction on the type and general variety of plants that are provided within the portions of private property that are required to be landscaped as per the Zoning Regulation Bylaw. These guidelines do not alter site access or the provision of hardscaped surfaces. Staff acknowledge that the presence of some common landscaping plants can have adverse impacts on individuals with asthma and plant-related allergies. Lower-allergenic species can be planted without detracting from desired objectives; however, the ability to require or mandate specific low-allergen plant species varies between each development permit area and the rationale for their establishment as outlined in the Local Government Act.

Yet nothing will prevent plants known to cause harm from being planted in greater quantities close to the where people live and congregate. Public information or voluntary guidelines are simply not enough. For instance, we know that the public has been educated to understand that Gary Oak ecosystems are threatened and public opinion is very in favour of their use even when these are isolated specimens and do not result in creation of the Garry Oak Meadow ecosystem. Developers are quite likely to follow this uninformed sentiment and plant a popular tree down to cause harm. By mandating native plants when this is a foreseeable outcome, the city is limiting housing choice for some residents. I will likely stay in my single-family home, precluding its use by a larger family or its development element into a multi unit residence because new residential developments will have barriers. You tinker with one thing, and it pops up elsewhere.

The page where I think that the garden garden club reference list should be linked, And the explanation you provided me on how approval would work, is:

<https://engage.victoria.ca/landscape-design-guidelines-food-bearing-pollinator-and-native-plants/>

You say something below, “depending on the final design guidelines approved by council”, and I wonder if I have missed a draft amended guidelines with specifics that I can comment on. Or, has this yet to be released?

I would like to address Council directly on this, but Council Chambers is inaccessible to me. How many I communicate directly with Council in a way that puts me on and even footing with those who can make an in-person appeal?

I am sorry if the narrative does not flow well. It is difficult for me to cut and paste with the device I am using while I am away from home.

Regards, Personal info

Sent from my iPad

From: NJNA Community <njnacommunity@gmail.com>

Sent: June 25, 2019 9:59 AM

To: Katie Lauriston <klauriston@victoria.ca>

Subject: Re: Feedback Requested: Proposed Landscape Design Guideline

Good Morning Katie:

For clarification, would you kindly provide examples of native vegetation, adapted (non-invasive) plants, food bearing plants, or plants that provide pollinator habitats that would be acceptable under this proposed guideline.

Thanking you in advance for your reply,

Jean Johnson, NJNA Community Mail

To Robert Batallas, City of Victoria:

The Victoria Urban Food Table is an advisory council to the City of Victoria and provides support on strategic direction and guiding policies regarding food and agriculture. The Urban Food Table does this by helping to set and work toward targets, advising on food and pollinator policies, and convening a wide range of local stakeholders in food and urban agriculture.

We are writing to support the new *Design Guidelines For: Multi-Unit Residential, Commercial and Industrial and the Design Guidelines for Attached Residential Development* and to strongly encourage an amendment to the target of ‘*A minimum of 30% of the plants provided in the landscape design for common areas should be native vegetation, adapted (non-invasive) species, food bearing plants or plants that provide pollinator habitats*’. This target is an important first step towards ensuring that planting in new developments contributes to the food resources of Victoria residents, as well as enhancing a sense of place and supporting biodiversity.

Through consultation with City of Vancouver staff we have learned that a similar policy was passed to encourage new developments to increase food bearing plants. Since the policy was implemented there have been several loops holes developers have found that have resulted in plants being neglected or put in an area with no intent to harvest. In order to eradicate these loop holes, members of the Victoria Urban Food Table have provided suggestions on how to better define the target to ensure the policy achieves its intended purpose. Below are 4 recommended amendments:

1. The language of the proposed amendment contains potential loopholes to comply with the letter but not the intent of the regulation.

- a. Example 1: “be food bearing plants”

We assume that the intent of this phrase is that plantings will provide food for human consumption. Simply requiring planting of food-bearing or edible plants does not ensure that this intention will be met. The landscape design needs to ensure that plants are accessible for harvesting, that toxins are minimized, and that, if the intended harvester is the general public, there are cues indicating that harvesting is appropriate behaviour. Planting herbs on an inaccessible green roof, for example, or incorporating ‘edimentals’ (e.g., hostas, daylilies, and dahlias) into a formal ornamental border might meet the requirement of planting 30% food bearing plants, but not lead to an increase of available food.

Recommendation: change “food-bearing plants” to “plants intended to be harvested for food and medicine”



Victoria Urban Food Table

b. Example 2: “be native vegetation”

We assume that the intent is to increase planting of vegetation that would have been found in the (now) City of Victoria before settlers arrived. If so, ‘native’ needs to be qualified by a geographic region or ecosystem – especially since it is now common for mass-produced and marketed plants native to anywhere in North America to be sold in garden centres with the label ‘native plant’. Some consideration should also be given to the status of ‘native’ – plants bred from native plants for characteristics which are desirable for ornamental gardens but which may lessen their value to the ecosystem. The camas, in particular, is now of great interest to European plant breeders and much work is being done to develop camas with double flowers, variegated foliage, and other ‘frills’. We question what will be considered native vegetation and will it be specific to the ecosystem specific to Southeastern Vancouver Island?

Recommendation: change “native vegetation” to “plants native to the area now included in the City of Victoria” (or other range descriptor of your choice)

c. Example 3: “adapted species”

We assume that the intent of this phrase is to accommodate the effects of climate change by allowing planting of west coast species which were not present in Victoria before settler contact, but which can now grow in a more northerly range. However, the current language “adapted (non-invasive) species” would seem to include a wide range of plants from around the world, especially from the other cool-summer Mediterranean climate zones in Spain & Portugal, Australia, South Africa, and Chile, many of which are already used widely in public landscaping. As we have seen native plants still thrive in this region and we suggest only using native plants until climate changes impacts our region to the point that they no longer thrive.

Recommendation: Removing adapted species from the target.

2. Consider using area rather than number of plants as the measure:

Plants come in different sizes and lifespan so the percentage of individual plants is not therefore a very useful measure of what will be accomplished by the planting. It seems to us that 30% of the common planted areas being devoted to plants that will be harvested for food, or continue native ecosystems, or support pollinators, provides a more standardized and reliable measure. It also acknowledges that individual plants may come and go and that plant choice may evolve as, for example, shade under trees increases, but that the area devoted to a particular purpose can remain constant.

Other considerations to include when refining the language of the target:



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3. Fruit trees and shrubs must include sufficient number and variety to ensure pollination:
4. Soil must be free of heavy metals and other toxins and contain organic matter to support healthy plant growth.
5. Adequate irrigation must be provided.
6. The *Growing Food and Gardening in Mixed-Use, Multi-Unit Residential Developments* should be reviewed/updated in relation to the changes to the Design Guidelines. Also the reference link to the *Growing Food and Gardening in Mixed-Use, Multi-Unit Residential Developments* should be added to the Design Guidelines.
7. A diverse selection of plantings is required. For example, the 30% cannot all be lavender.
8. How will the City ensure that these guidelines will be followed through the life of the development? Or do these guidelines only apply to the initial planting?

Thank you for considering our input and for giving the Victoria Urban Food Table an opportunity to comment on this proposal and suggested targets. We would be happy to discuss this further and to help ensure that the final guidelines create a more food productive, sustainable, and green Victoria.

Sincerely,

Aaren Topley and Ben Clark,

Co-Chairs of Victoria Urban Food Table



Victoria Urban Food Table