



## Committee of the Whole Report For the Meeting of November 14, 2019

---

**To:** Committee of the Whole **Date:** October 31, 2019  
**From:** Andrea Hudson, Acting Director, Sustainable Planning and Community Development  
**Subject:** Development Variance Permit No. 00232 for 323 Skinner Street

---

### RECOMMENDATION

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of the Development Variance Permit Application No. 00232 for 323 Skinner Street, in accordance with:

1. Plans date stamped October 10, 2019.
2. Development meeting all *Fence Bylaw* requirements, except for the following variance:
  - increase the height of a fence from 1.22m to 1.83m in a front yard.
3. The Development Variance Permit lapsing two years from the date of this resolution."

### LEGISLATIVE AUTHORITY

In accordance with section 4(2) of the City's *Fence Bylaw*, the owner of a property that is in the same residential zone as property containing a fence that is higher than is allowed under section 4(1) of the *Fence Bylaw* may apply to Council for a permit to construct a fence higher than is allowed.

### 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 323 Skinner Street. The proposal is to increase the height of a fence in a front yard from 1.22m, as permitted under the City's *Fence Bylaw*, to 1.83m. The fence has already been installed and encloses an outdoor play space associated with an existing daycare facility.

The following points were considered in assessing this application:

- the proposal is consistent with policies in the *Official Community Plan (OCP, 2012)*, that support the development of quality daycare facilities throughout the City
- the proposal is consistent with the policies in the *Victoria West Neighbourhood Plan, 2018*, that support the creation of more childcare options to support families with children

- living in Vic West
- the application is not consistent with *Guidelines for Fences, Gates and Shutters*
- the applicant indicates the increased fence height is required for the safety of the children attending the daycare.

## **BACKGROUND**

### **Description of Proposal**

The proposal is for a 1.83m tall closeboard fence around the front yard of the property. The proposed variance is related to increasing the height of a fence from 1.22m to 1.83m in a front yard.

### **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 Variance Permit Application.

### **Accessibility Impact Statement**

There are no accessibility issues associated with this application which relates to the height of a fence.

### **Existing Site Development and Development Potential**

The site is presently occupied by a daycare that can accommodate up to 32 children. Under the current R1-46 Zone, a single-family dwelling with a secondary suite or garden suite could be accommodated at the subject site.

### **Relevant History**

On March 22, 2018, Council approved a Rezoning Application and Development Permit with Variances Application to allow a daycare for up to 32 children at the subject site. During construction the applicant subsequently erected a 1.83m tall closeboard fence around the front yard of the property. This was not indicated on the approved Development Permit plans and is inconsistent with the City's *Fence Bylaw*, which limits the height of such a fence to 1.22m. Staff raised the issue with the property owner who has responded with this Development Variance Permit Application seeking a relaxation for the height of the fence.

### **Community Consultation**

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, on October 25, 2019, the application was

referred for a 30-day comment period to the Victoria West 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**

### **Official Community Plan**

The proposal is consistent with policies in the OCP that support the development of quality daycare facilities throughout the City.

### **Local Area Plans**

The proposal is consistent with the policies in the *Victoria West Neighbourhood Plan, 2018*, that support the creation of more childcare options to support families with children living in the Victoria West neighbourhood.

### **Design Guidelines**

The subject site is located within Development Permit Area (DPA) 15F: Intensive Residential – Attached Residential Development. The *Guidelines for Fences, Gates and Shutters* are applicable to this DPA. These Guidelines seek to ensure that new fences have a positive impact on the character of the street and avoid a “fortress” like appearance. The design of fences is also encouraged to respond to Crime Prevention Through Environmental Design (CPTED) principles and, as such, should maintain transparency and avoid opaque surfaces in order that the passing public, police and security services can see into the space. The proposed fence has already been constructed, is visually prominent from Skinner Street, and the closeboard design prevents views into the front yard.

In light of the above, the proposed 1.83m tall fence that has been constructed is not considered to be consistent with the aforementioned City Design Guidelines for fences. However, the applicant has provided a written justification for the fence height in their letter to Mayor and Council (attached). As part of their rationale, the applicant cites the *Community Care and Assisted Living Act, Child Care Licensing Regulation* which states that a healthy and safe environment must be provided at all times and that the entire outdoor play area must be enclosed in a manner that is suitable for the age and development of children, ensuring that children are free from harm. The applicant contends that a 1.22m tall fence would be too low for the safety of children when playing outside and the 1.83m is an appropriate height for a fence in this instance.

In light of the above, while the proposal is not consistent with the aforementioned Design Guidelines, it does support a daycare use consistent with policies outlined in the OCP and Neighbourhood Plan and is intended to keep children safe. On balance, staff recommend that Council support the application to permit a 0.61m fence height increase in this instance. An alternative recommendation is provided should Council wish to decline the application.

### **Tree Preservation Bylaw and Urban Forest Master Plan**

There are no Tree Preservation Bylaw impacts with this application.

## Regulatory Considerations

The City's *Fence Bylaw* states that a fence constructed on a parcel of land that is zoned for residential use must not exceed a height of 1.22m if the fence is located in the parcel's front yard. The remainder of the boundary fence (i.e. to the side and rear of the property) may be up to 1.83m tall. The site is considered to be "zoned for residential use," as the current site zoning is a residential zone that permits a single-family dwelling.

The *Fence Bylaw* also states that the owner of property may apply to Council for a permit to construct a fence higher than is specified in the Bylaw. In this instance, the applicant has constructed a 1.83m tall fence around the front yard of the property (i.e. 0.61m taller than the permitted fence height) and is seeking Council's approval of this variance.

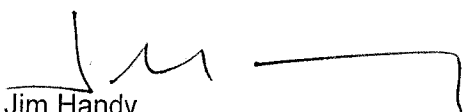
## CONCLUSIONS

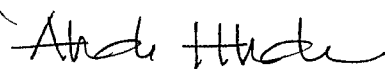
While the proposal is not consistent with the aforementioned Design Guidelines, it does support a daycare use consistent with policies outlined in the OCP and Neighbourhood Plan, and, on balance, staff recommend that Council support the application to permit the proposed increased fence height.

## ALTERNATE MOTION

That Council decline Development Variance Permit Application No. 00232 for the property located at 323 Skinner Street.


Respectfully submitted,

  
Jim Handy  
Senior Planner – Development Agreements  
Development Services Division

  
Andrea Hudson, Acting Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:

Date:

  
Nov 5, 2019

## List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans dated October 10, 2019
- Attachment D: Letter from applicant to Mayor and Council received October 10, 2019.