

J. REPORTS OF COMMITTEES

J.1 Committee of the Whole

J.1.c Report from the November 14, 2019 COTW Meeting

**J.1.c.c 323 Skinner Street - Development Variance Permit No. 00232
(Vic West)**

Moved By Councillor Potts

Seconded By Councillor Loveday

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:
 - i. 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."

CARRIED UNANIMOUSLY

E.4 323 Skinner Street - Development Variance Permit No. 00232 (Vic West)

Council received a report dated October 31, 2019 from the Acting Director of Sustainable Planning and Community Development presenting Council with a Development Variance Permit Application which would seek to increase the height of the fence in the front yard of the property located on 323 Skinner Street from 1.22m as per the Fence Bylaw, to 1.83m. The report recommends the application be approved.

Moved By Councillor Alto

Seconded By Councillor Thornton-Joe

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."

CARRIED UNANIMOUSLY



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.

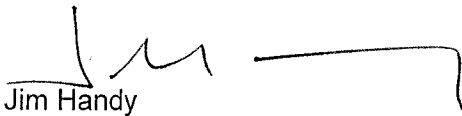
CONCLUSIONS

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.

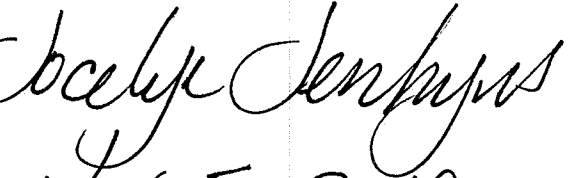
Respectfully submitted,


Jim Handy
Senior Planner – Development Agreements
Development Services Division


Andrea Hudson, Acting Director
Sustainable Planning and Community
Development Department

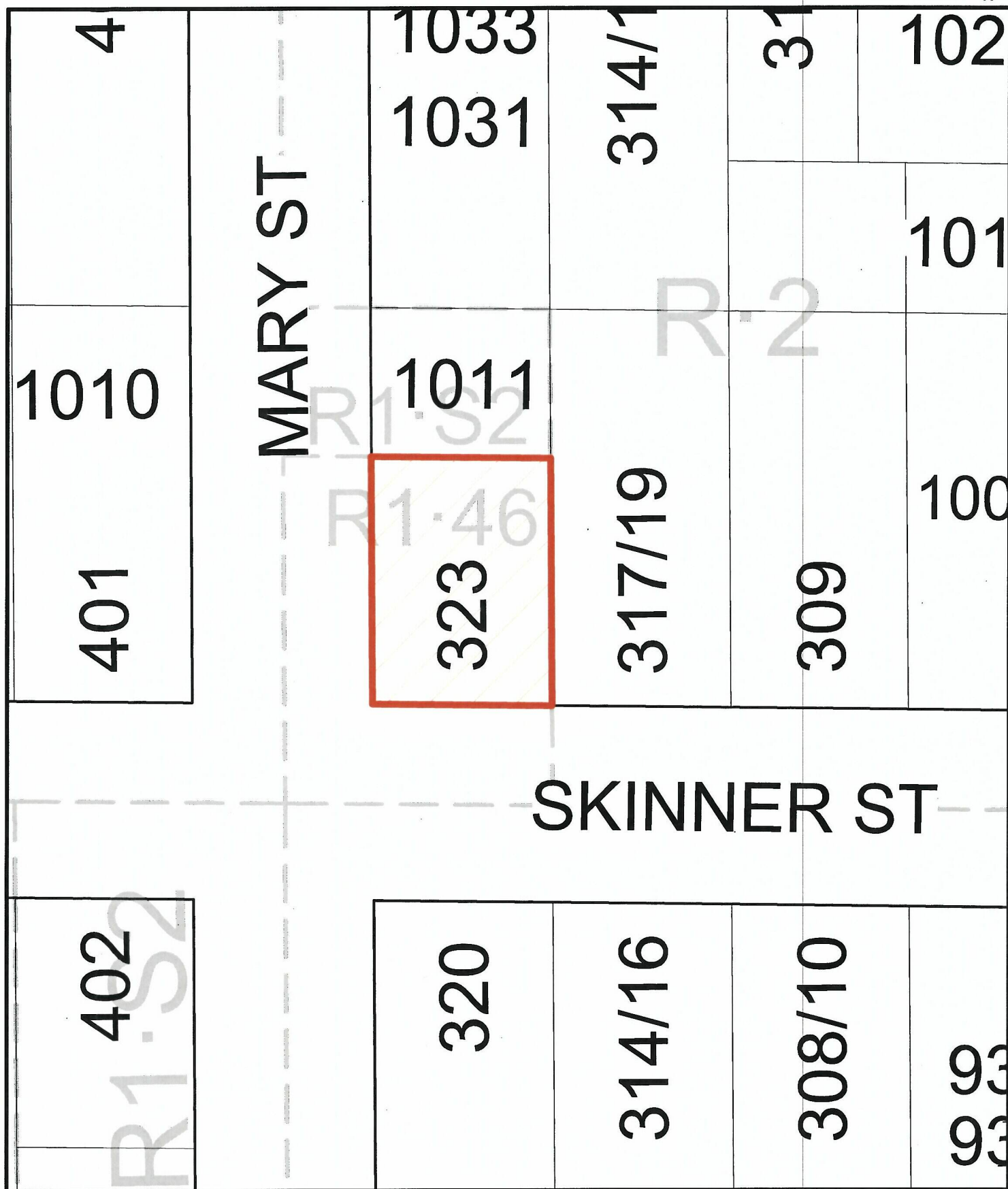
Report accepted and recommended by the City Manager:

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.



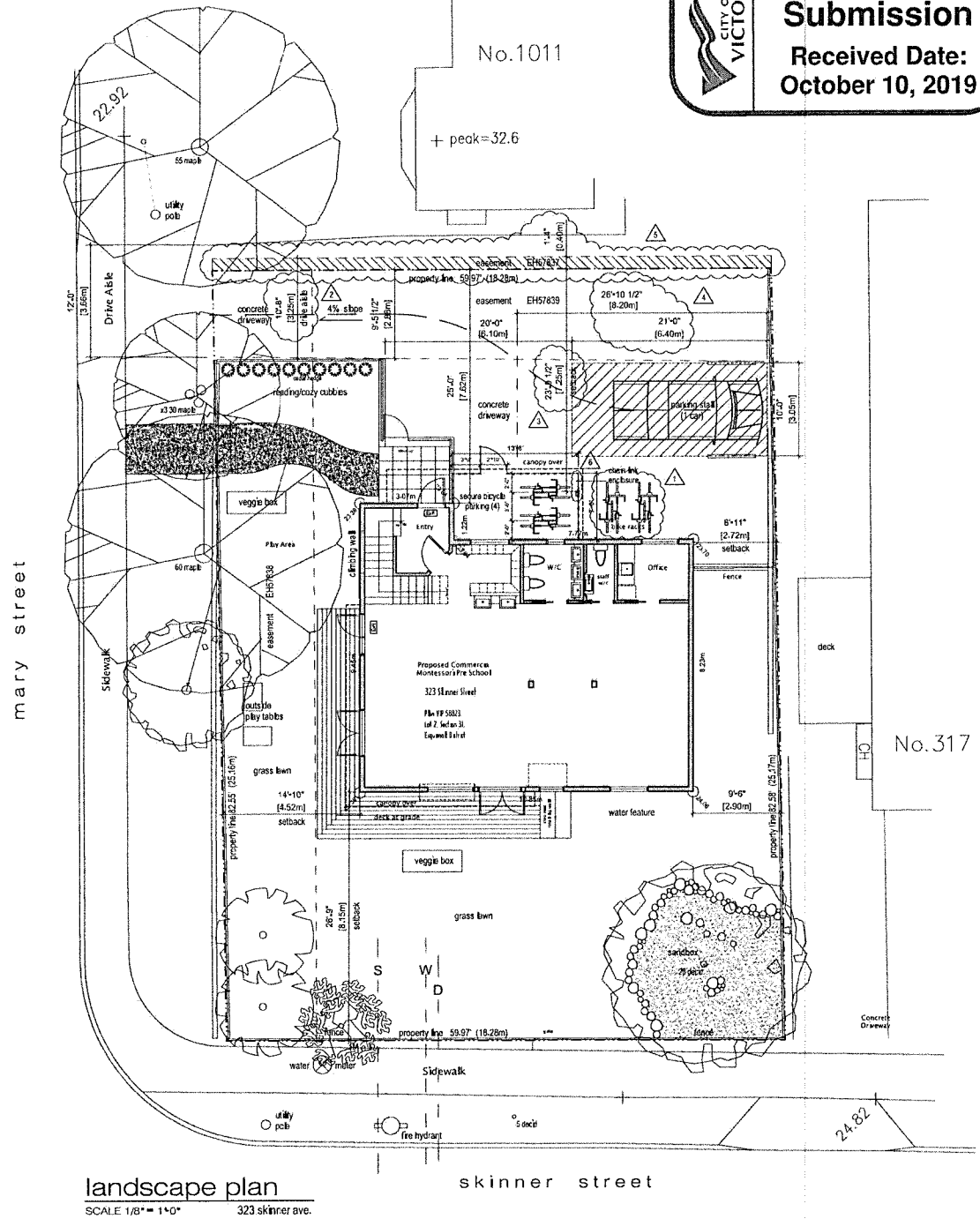
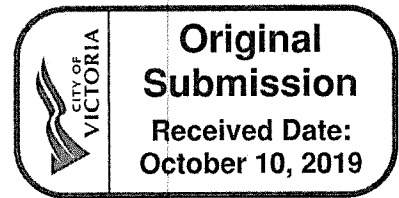
323 Skinner Street
Development Variance Permit #00232





323 Skinner Street
Development Variance Permit #00232

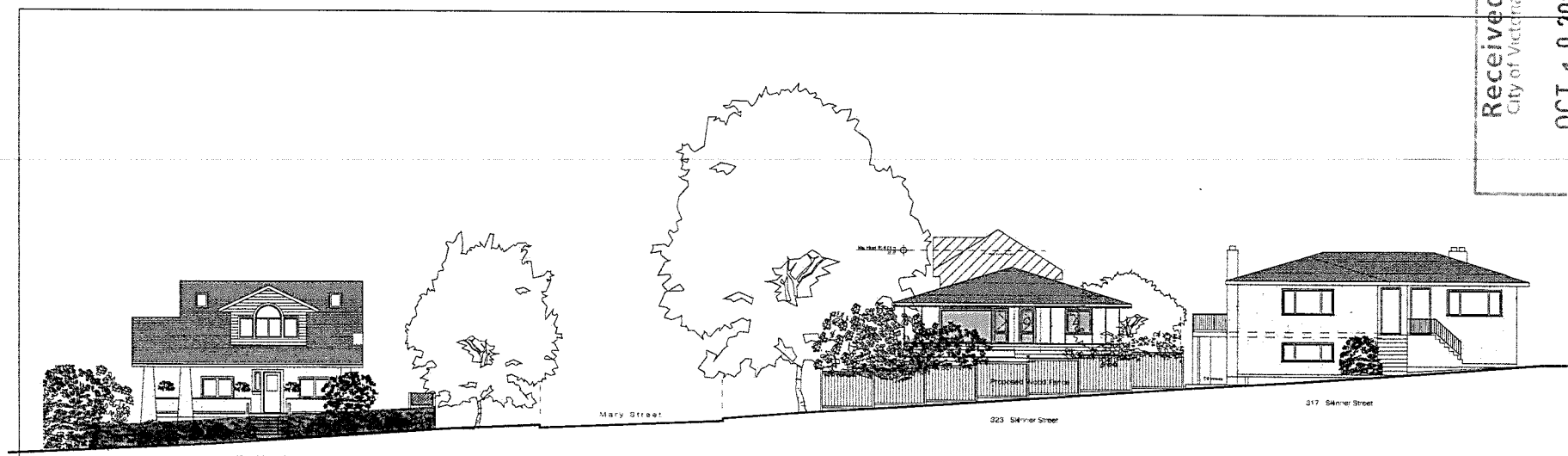




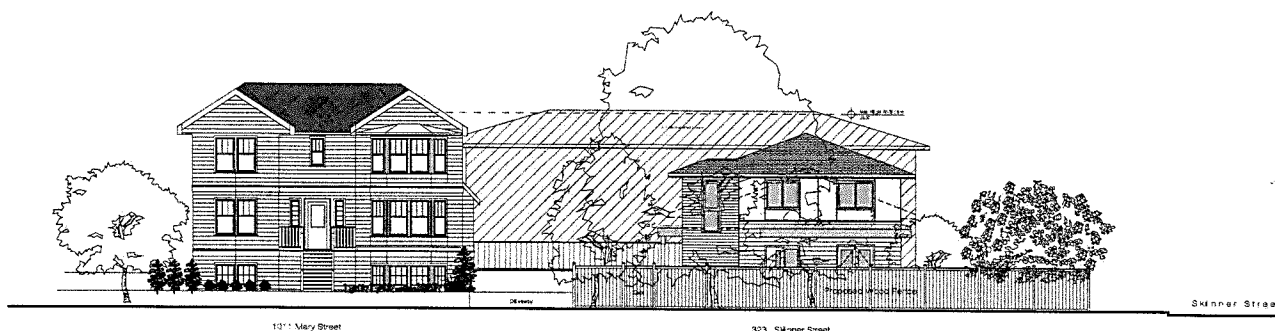
Received
City of Victoria

OCT 10 2019

Planning & Development Department
Development Services Division



skinner streetscape



mary streetscape

PROPOSED REZONING

R1-Site Specific

323 SKINNER STREET

24.07.19

Streetscape

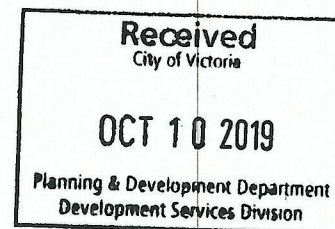
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A5

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ink
cph: 778 678 6241
a.studi@ink@shaw.ca



Victoria Montessori Preschool
 323 Skinner St.
 Victoria, BC, V9A 3B5
 250.380.0534
victoriamontessori@shaw.ca



June 1st, 2019

Dear Ms. Helps and Council

My name is Ivana Tunklova, and I am the Montessori teacher and the owner of Victoria Montessori Preschool and Childcare at 323 Skinner St. in Vic West.

We went through a lengthily rezoning process to rezone a residential property to a childcare centre. We were successful and completed construction in January as of this year. We took great care in creating a beautiful and safe space for 32 children. This involved the construction of a fence around the property with the height of 1.83.

We are applying for a Development Variance Permit to support the fence height of 1.83m around the property for the safety of the children on a busy street.

Unfortunately, VIHA Licensing, is not permitted to issue letters in support, but I was advised to provide you with a copy of the sections of the regulation that demonstrates the rationale for the fence height.

The rationale for the increased fence height:

Community Care and Assisted Living Act - Child Care Licensing Regulation:

- Page 12 under Division 2 - Facility Requirements, section 13 (1): A Licensee must ensure that a healthy and safe environment is provided at all times ...
- Page 14 under Play area, materials and equipment, section 16 (3): A licensee must ensure that the entire outdoor play area is a) enclosed in a manner that is suitable for the age and development of children, and will ensure that children are free of harm ...

The following are the average heights of children attending preschool (these are average, today many children are above average in height):

3 years: 94cm

4 years: 101cm

5 years: 112cm

6 years: 117cm

A fence of 1.22m, which would be only slightly higher than the average height of a child in our care, is too low for the safety of the children when playing outside. Skinner Street is a very busy street, and we have to make sure that all children in our care are safe from any harm, and the parents can leave their children in our care knowing that they are not in any danger.

Further, a fence of only 1.22m would allow for too many onlookers, or have dangerous items thrown over the fence.

We built an attractive, natural cedar fence that is not an eyesore but only enhances the beautiful new Victoria Montessori Childcare Facility and its surroundings. We have received many compliments on the fence and the building.

The rationale for the removal of the gate from the Skinner Street side:

It was decided to build the main gate to the entrance of the Childcare Facility off Mary Street as this side has less traffic and is thus safer for pick ups and drop offs. It is also important to have less entrances/gates again for safety reasons - coming and going is monitored safely.

Thank you.

Sincerely,

Ivana Tunklova
Montessori Directress/Owner
Victoria Montessori Preschool and Childcare
323 Skinner St.
Victoria, BC
Tel.: 250-380-0534
email: victoriamontessori@shaw.ca
<http://www.victoriamontessori.com>

Development Variance Permit for 323 Skinner Street



Aerial Map

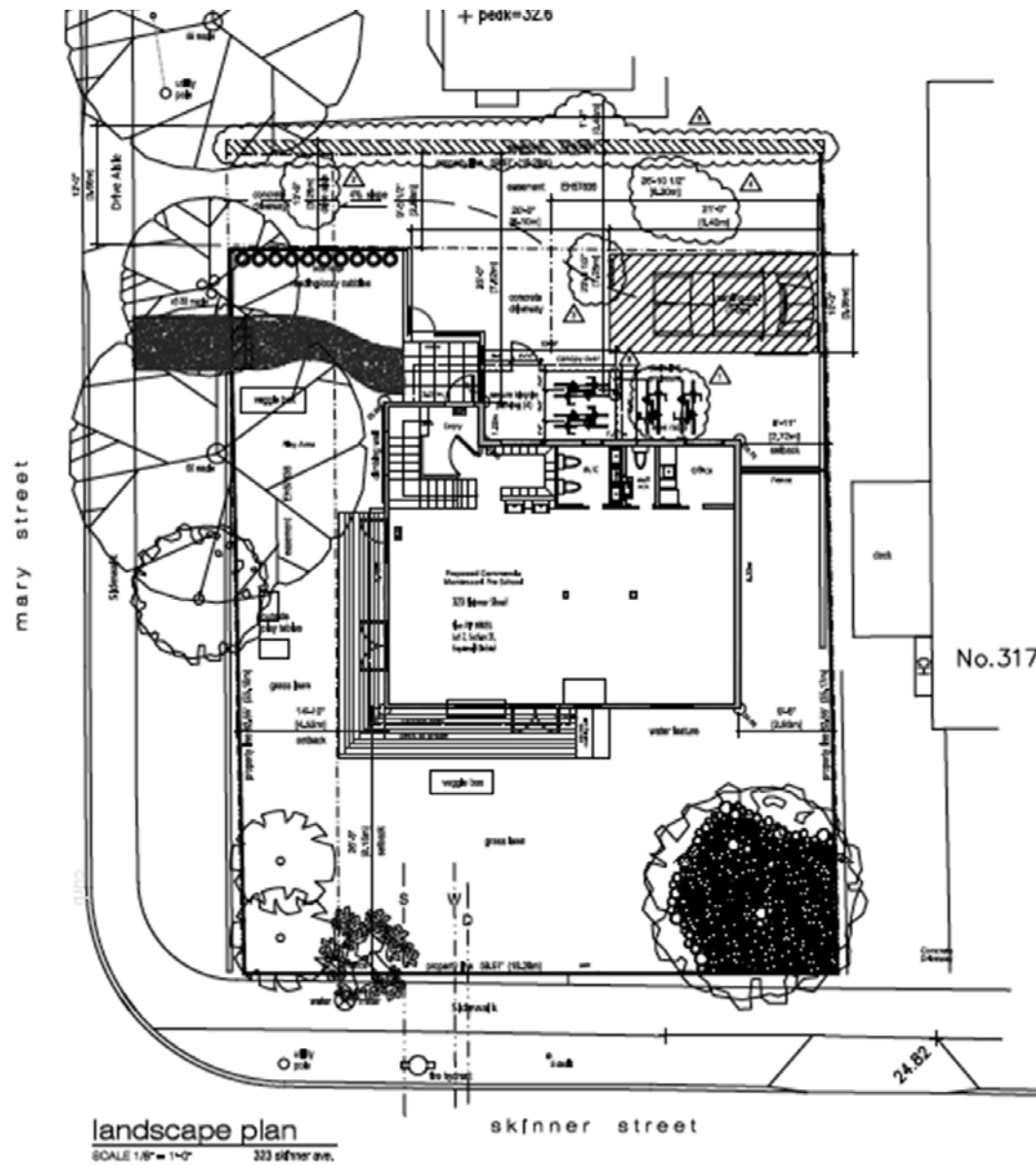


Photographs – Application Site



Photographs – Context

Site Plan





Streetscapes