



Committee of the Whole Report For the Meeting of December 14, 2017

To: Committee of the Whole **Date:** November 30, 2017
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Development Variance Permit No. 00200 for 2695 Capital Heights

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 Development Variance Permit Application No. 00200 for 2695 Capital Heights, in accordance with:

1. Plans date stamped October 30, 2017.
2. Development meeting all *Victoria Subdivision and Development Servicing Bylaw* requirements, except for the following variances:
 - i. remove the requirement to construct frontage improvements as described within the *Victoria Subdivision and Development Servicing Bylaw*.
3. Provision of a \$36,000 security equivalent to the costs of installing frontage improvements. The \$36,000 would be applied to frontage improvements, following public consultation completed within one year of the date of this resolution, on an alternate design.
4. References to a split rail fence removed from the submitted plans.
5. The Development Permit lapsing two years from the date of this resolution."

LEGISLATIVE AUTHORITY

In accordance with Section 498 of the *Local Government Act*, Council may issue a Development Variance Permit that varies a Subdivision and Development Bylaw provided the permit does not vary the use or density of land from that specified in the bylaw.

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 2695 Capital Heights. The proposal is to vary the *Victoria Subdivision and Development Servicing Bylaw* to remove the requirement to construct frontage improvements, namely a sidewalk.

The following points were considered in assessing this application:

- the *Oaklands Neighbourhood Plan* gives an example of a local street cross section that includes sidewalks, but notes the example is illustrative only and not meant to imply specific changes to streets in Oaklands
- frontage improvements could be designed to protect the Garry Oak trees' critical root zones; however, varying the frontage requirements and a road designed in collaboration with the community could achieve similar outcomes
- the application is inconsistent with the *Official Community Plan*, the *Greenways Plan*, and the *Pedestrian Master Plan* in the development of infrastructure on the City's road network; however, the outcome of the community design for Kings Road could be consistent with the relevant policies.

BACKGROUND

Description of Proposal

The proposal is to vary the *Victoria Subdivision and Development Servicing Bylaw* by removing the requirement to construct frontage improvements. Specific details include:

- a sidewalk would not be constructed. Instead, the applicant proposes a split rail fence to be constructed as per City of Victoria Parks Department standards in order to protect the critical root zones of the two Garry Oak trees on City property. Additionally, the applicant proposes to provide \$15,000 in monetary funds and \$10,000 of in kind services
- the overall content of the Rezoning, Development Permit with Variances and Development Variance Permit for the small lot development will remain unchanged; however, if this Development Variance Permit is approved, the applicant will have to provide revised plans with no sidewalk identified.

Sustainability Features

The applicant has not identified any sustainability features associated with this proposal.

Active Transportation Impacts

The application proposes to vary the *Victoria Subdivision and Development Servicing Bylaw* requirement to construct a sidewalk.

Public Realm Improvements

The *Official Community Plan*, *Pedestrian Master Plan*, *Greenways Plan*, and *Subdivision and Development Servicing Bylaw* provide guidance and direction on the development of pedestrian infrastructure on the City's road network. Each of these documents include the development of separated areas for pedestrians to encourage a safe, accessible, and walkable community.

An alternate road design that still achieves the required standards of safety and accessibility for people walking on Kings Road can be explored with the community. It will be important that any design solutions being considered respect Motor Vehicle Act regulations regarding pedestrian behaviour on roadways, and that the needs of vulnerable pedestrian populations (elderly, school-age children, and those with mobility issues) in all conditions (inclement weather, night lighting) be considered through the design process.

Staff can meet with residents and other community stakeholders to explore design options. Should an alternate design for the corridor be confirmed, the residents on Kings Road may consider a Local Improvement Program, where the residents fund the improvements through a tax levy. If an alternate design solution is reached, the deposit secured for frontage improvements for this development will be used to construct the frontage consistent with the alternate design.

To ensure resolution of this issue, and provide certainty for the applicant and the community, a time limit on the consultation process with stakeholders is recommended. Should an alternate design solution not be reached within a one-year window from the date of approval, the secured deposit will be used to construct the frontage to City standard (concrete curb and gutter, concrete sidewalk).

Accessibility Impact Statement

Separated space for pedestrians is an important component of a complete street design to meet the needs of the visual, hearing and mobility impaired population.

Relevant History

A Rezoning Application for a small lot development at 2695 Capital Heights was submitted on February 2, 2017. At the July 27, 2017 Committee of the Whole meeting, Council voted to move the Rezoning Application forward for consideration at a Public Hearing. As part of this motion, Staff were directed to facilitate a conversation with the Oaklands Community Association to consider alternatives to the required frontage improvements. On September 26, 2017, Staff attended the Community Association Land Use Committee (CALUC), where a discussion was held regarding alternatives to the sidewalk installation (report attached). The community requested a moratorium on sidewalks in the area in order to develop a comprehensive proposal for the Kings Road greenway as part of the *Oaklands Neighbourhood Plan* renewal in 2019.

At the October 12, 2017 Public Hearing, Council approved the following alternate motion:

Postpone consideration of the rezoning application and permits and refer the matter to staff and direct staff to work with the applicant regarding the potential for a variance to the requirement to provide sidewalks related to the proposed development.

Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variances Applications*, on November 8, 2017 the application was referred for a 30-day comment period to the Oaklands CALUC. At the time of writing this report, a letter from the CALUC had not been received.

This Application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

ANALYSIS

Local Area Plans

In Appendix 3 of the *Oaklands Neighbourhood Plan* there is an example of a local street cross section that includes a sidewalk and boulevard. However, the plan also notes this example is illustrative only and not meant to imply specific changes to streets in Oaklands

Tree Preservation Bylaw and Urban Forest Master Plan

There are two publicly owned protected Garry Oak trees on the Kings Road boulevard. Currently, vehicles are able to park on top of the critical root zones of these trees. A curb and sidewalk would prevent vehicles from parking on top of the critical root zones. Any future road design should also ensure vehicles are unable to park on top of the critical root zones of the Garry Oak trees.

Regulatory Considerations

There are no zoning considerations, as this portion of land is located within the road right of way.

Resource Impacts

The applicant has offered to provide \$15,000 of monetary funds and \$10,000 of in kind services towards a shared street model that does not involve a sidewalk. City Staff completed a Class D order of magnitude estimate for the frontage improvements which are estimated to cost \$36,000. Therefore there would be a net loss of \$11,000 worth of street improvements for the City. If this Development Variance Application is approved the applicant has offered to construct a split rail fence to protect the root zones of the Garry Oak trees. This fence has been costed by City Staff at \$46 per linear foot. However, if the direction is to collaborate with the community for an alternative road design, it is recommended that the applicant remove the reference to a split rail fence. This will ensure that both Staff and the community are working with a blank slate for the road design and that Staff have the full \$36,000 deposit for future construction.

Process

If this Development Variance Permit application is approved by Council following an opportunity for public comment, the applicant will be required to submit a deposit equivalent to the costs of the frontage improvements. Staff will then issue the Development Variance Permit. After which the Rezoning, Development Permit, and Development Variance Permit for the small lot development can return to a Council meeting for Council's consideration.

CONCLUSIONS

The *Oaklands Neighbourhood Plan* is relatively silent on the provision of sidewalks, other than the example illustration found in the appendices. Numerous City policies, including the OCP, the *Pedestrian Master Plan*, and the *Greenways Plan*, support the construction of sidewalks or separated walking areas in an effort to improve pedestrian infrastructure. In this instance, the approximate net loss of street improvements to the City, not including the aforementioned split rail fence, would be \$11,000. However, Staff recognize it is possible to design a shared street model and are willing to work with the community. Therefore, Staff recommend Council consider approving this application.

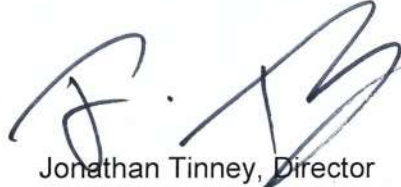
ALTERNATE MOTION

That Council decline Development Variance Permit Application No. 00200 for the property located at 2695 Capital Heights.

Respectfully submitted,



Michael Angrove
Planner
Development Services



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date: December 8, 2017

List of Attachments

- Appendix A – Subject Map
- Appendix B – Aerial Map
- Appendix C – Plans date stamped October 30, 2017
- Appendix D – Letter from applicant to Mayor and Council date stamped October 30, 2017
- Appendix E – Council Report dated September 28, 2017