



Council Meeting Report

For the Meeting of January 25, 2018

To: Council **Date:** January 24, 2018

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Consideration of Withholding Building Permit No.054389 for 161-167 Robertson Street to Ensure Consistency with Proposed Amendments to the R1-G Zone, Gonzales Single Family Dwelling District

RECOMMENDATION

That Council direct staff to withhold Building Permit No. 054389, pending consideration of proposed amendments to the R1-G Zone, Gonzales Single Family Dwelling District, as the Building Permit application proposes buildings and outdoor features on a waterfront lot that would be located beyond 36.5 metres from the front lot line.

LEGISLATIVE AUTHORITY

In accordance with Section 463 of the *Local Government Act*, Council may withhold the issuance of a Building Permit where the application is inconsistent with a Bylaw under preparation.

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with information, analysis and recommendations related to a Building Permit application that has been received for the property located at 161-167 Robertson Street. The application is inconsistent with a bylaw under preparation to amend the R1-G Zone, Gonzales Single Family Dwelling District; the motion passed by Council on June 9, 2016, states:

"That Council instruct staff to prepare the proposed Zoning Regulation Bylaw Amendment to correct and clarify the following:

- 1. Amend the R1-G Zone, Gonzales Single Family Dwelling District, by amending the wording relating to building setbacks from the waterfront to address minor drafting errors.*
- 2. Amend..."* (further unrelated amendments listed)

The report associated with this direction, identified the need to ensure that the bylaw clearly expressed the intent of prohibiting buildings and structures from being located further than 36.5 metres from the front lot line; thereby, ensuring rear yards adjacent to the shoreline are kept free of development unless an alternate Council or Board of Variance approval is achieved.

This initiative is also consistent with:

- the previous version of the R1-G Zone
- the current Gonzales Neighbourhood Plan
- the draft Gonzales Neighbourhood Plan.

On January 23, 2018, the City received a Building Permit application to construct an accessory building, pool and related walls and stairs in close proximity to the shoreline at the subject site. Unfortunately, the applicant had been in discussions with newer staff members who were not aware of the direction to correct the Bylaw and the applicants were not advised accordingly. However, it appears the applicant was aware of the draft Gonzales Neighbourhood Plan which advances policies related to shoreline protection, and there are several documented discussions with the owner on file (some that predate the owner's purchase of the property) detailing potential challenges that would be faced if there was a desire to achieve new siting permissions similar to the property to the west, and that staff would not support a garden suite in close proximity to the shoreline. The site is complicated as there are four existing houses on the property that may have legal non-conforming status.

Under Section 463 of the Local Government Act, once Council passes a resolution to make an amendment to the Zoning Regulation Bylaw, if a Building Permit is received that is inconsistent with the directed amendment, Council may withhold the Building Permit for 30 days pending consideration of the proposed bylaw amendments. Council may also extend withholding the Building Permit for an additional 60 days.

The proposed Zoning Bylaw Amendments will most likely be considered at a Public Hearing on February 8, 2018, at which time Council could formally decide whether to amend the Bylaw or not. If the amendments are approved and Council passes the resolution proposed in this report, the application would be subject to the amended R1-G Zone. In this scenario, the applicant may still pursue some sort of development proposal that sites buildings and structures closer to the shoreline than the Zoning Bylaw specifies, either through a Development Variance Permit application, which Council would consider, or through an application to the Board of Variance.

If Council does not approve the proposed Zoning Bylaw Amendments then all waterfront property owners subject to the R1-G Zone would be able to site buildings and structures in close proximity to the shoreline.

If Council passes the proposed resolution but the bylaw amendments are not adopted, the applicant will be entitled to damages for delay; however, given the Building Permit Application was just received and the likelihood that Council will consider the proposed amendments in two weeks, the delay would be negligible.

If Council wishes to allow the property owner at 161 Robertson to proceed with their application and obtain a Building Permit under the existing Bylaw regardless of the proposed amendments, then they should not pass the resolution directing staff to withhold the Building Permit. Under this scenario, Council may still approve the proposed Bylaw Amendments which would then apply to all other properties in the R1-G Zone.

CONCLUSIONS

In summary, if Council would like the proposed development for 161-167 Robertson to be subject to the proposed amended provisions of the R1-B Zone, which would require new buildings and structures to be located away from the shoreline, then they should direct staff to withhold Building Permit No. 054389. Under this scenario, the applicant may still pursue a form

of development which locates buildings closer to the shoreline than the proposed R1-G Zone Amendments specify, but approval would be subject to Council or Board of Variance consideration.

ALTERNATE MOTION

That Council not pass the resolution directing staff to withhold Building Permit No. 054389.

Respectfully submitted,



Alison Meyer
Assistant Director
Development Services Division

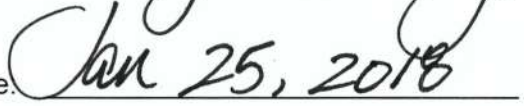


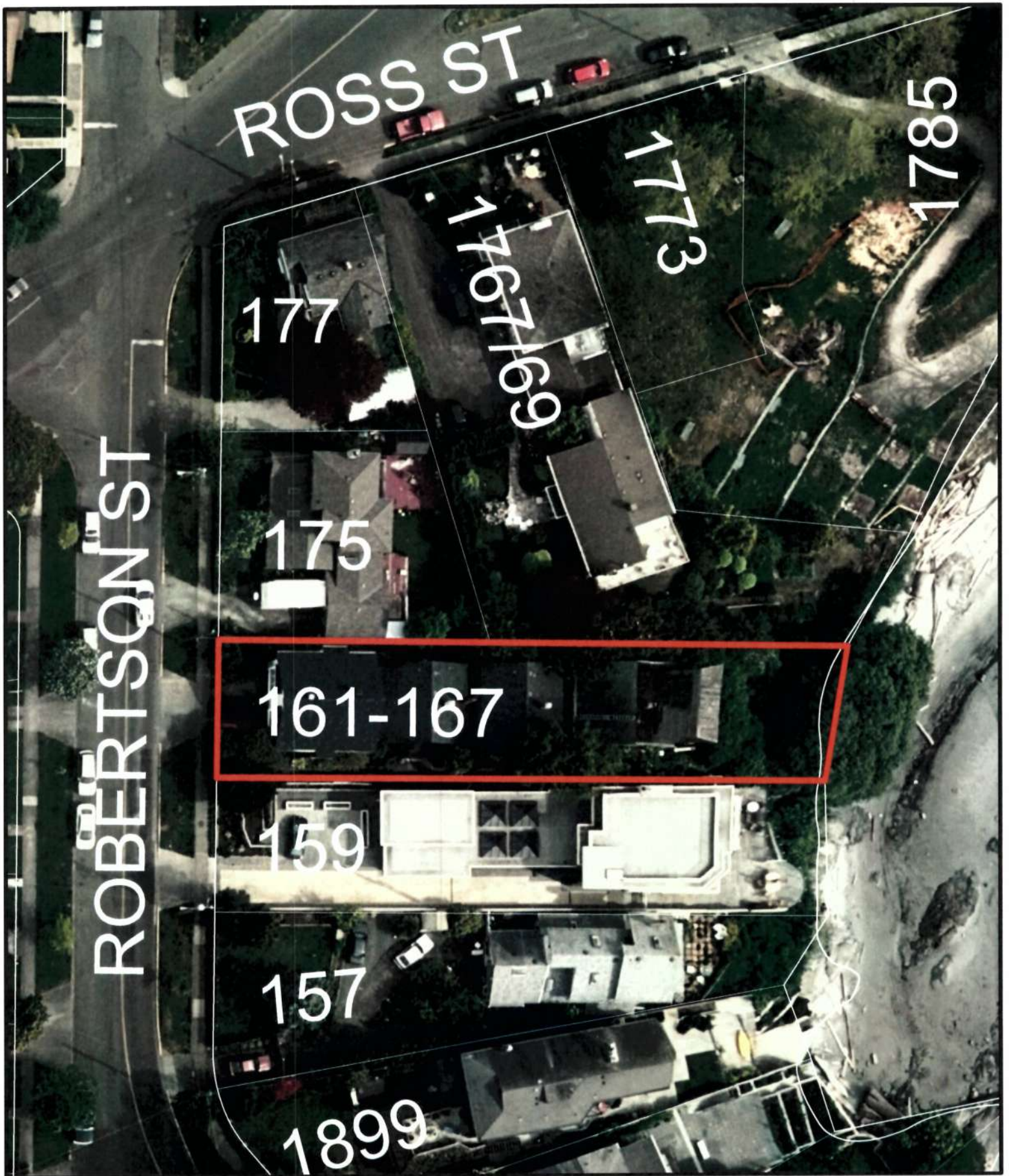
Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager



Date:





161 - 167 Robertson

