

Report

Date February 7, 2024

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Subject Development Variance Permit Application DVP00099 and Zoning Amendment Bylaws No. 3957 and 3958 for first three readings.

PURPOSE

To introduce two amendments to Zoning Bylaw 1997, No. 2950, which propose to update:
(1) the off-street loading space requirements (Attachment 10 – Bylaw No. 3957)
(2) on-site location for garbage container regulations (Attachment 11 – Bylaw No. 3958), and to consider a development variance permit (DVP) application for an exemption to the off-street loading and an on-site location for garbage container requirements for five townhouse lots on Seablush Crescent and Woodrush Drive ('the Lands').

BACKGROUND

The Lands are located within the "Kingsview" comprehensive development area, on the northwest slope of Mount Tzouhalem within the South-end Urban Containment Boundary (UCB) as identified in Attachments 1, 2, & 3. The Lands vary in lot size and potential unit counts, as summarized in Table 1 below:

Table 1:

Lot	Size	Unit and Building Counts
49 Woodrush Drive	1.09 hectare (2.69 acre)	TBA* (max 22 units)
50 Woodrush Drive	2.41 hectare (5.95 acre)	TBA* (max 53 units)
51 Seablush Crescent	0.22 hectare (0.54 acre)	5 strata units within 1 building
74 Woodrush Drive	1.17 hectare (2.89 acre)	25 strata units within 6 buildings
75 Woodrush Drive	1.46 hectare (3.60 acre)	24 strata units within 6 buildings

waiting on a development permit application to confirm assumed unit counts

The Lands were created in phase 3 of the Kingsview Phased Development Agreement subdivision in October of 2022 and are presently vacant.

Proposal

The applicant is requesting an exemption from the 'off-street loading' and 'on-site location for garbage container' provisions under Sections 25-29 of Zoning Bylaw 1997, No. 2950, to facilitate the development of the Lands. The applicant has provided a letter of rationale (Attachment 4) and development plans (architectural drawings) in support of the proposal and to help visualize the form, character, and design of the proposed townhouse developments (Attachments 5, 6, & 7). The drawings provided are derived from active development permit applications for lots 51, 74, and 75. Development permit application submissions for lots 49 and 50 are forthcoming.

Final review and development permit issuance of the Lands cannot proceed until Council considers the proposal. Detailed proposal analysis is limited to lots 51, 74, and 75.

DISCUSSION

Official Community Plan (OCP) Bylaw No. 3900, 2022

The Lands and surrounding area are designated as residential neighbourhood. Even though the use of townhouses and associated densities are not being considered at this time, staff would like to highlight that this type of development, when considered in conjunction with the surrounding area is aligned with the residential neighbourhood designation's objectives to provide "*... a range of lower-density residential types create housing options for people with different needs, ...*".

Section 10.1 of the OCP identifies the purpose and objectives of the Development Permit Area (DPA-1) *Multi-Unit and Intensive Residential Development* designation. DPA-1 is applied to all multi-unit (or multi-family) residential development, i.e., the proposed construction of a building containing three or more attached dwelling units, such as townhouses.

Even though townhouses are considered multi-unit residential, they are still considered low-density housing with many of the same features usually associated with single-detached homes. These features include individual driveways, garages, backyards, and - most importantly - each unit has direct access to the outside at grade.

Zoning Bylaw 1997, No. 2950

In addition to demonstrating bylaw compliance, multi-unit residential development must substantially fulfill the intentions of the "Form, Character, & Performance DP Guidelines A" through a development permit application before construction.

Sections 25-29 of the Zoning Bylaw (Attachment 8) and the proposed draft DVP (Attachment 9) are provided for reference.

In staff's experience, sections 25-29 of the Zoning Bylaw are problematic for several reasons. Most significant of these are identified as follows:

- Sections 25-28 lack clarity on the types of uses that require 'off-street loading' spaces.
- The minimum dimensions for off-street loading spaces (section 28) require a dedicated area large enough for a semi-truck and trailer, which is excessive for the occasional moving needs of an average three-bedroom dwelling unit or small commercial operation.
- Section 29 does not specify the garbage enclosure or screen requirement, nor does it identify the purpose for said garbage container area.

Furthermore, due to the variable nature of development and associated needs, it is reasonable to suggest that these types of bylaw regulations are redundant since they are already captured within existing DP Guidelines. A more appropriate and flexible approach to ensuring the provision of off-street loading areas and refuse containers/enclosures is through the development permit review process instead of through strict bylaw regulation. This alternative process would allow off-street loading, and refuse enclosure needs to be determined case-by-case for a particular development.

Kingsview Comprehensive Development Plan (CDP) Bylaw No. 3629, 2016

The CDP does not reference parking, loading spaces, garbage containers and the like in relation to townhouses or multi-unit residential development.

Local Government Act (LGA)

Section 525 of the LGA provides the basis for municipalities to enact bylaws regulating off-street parking and loading, etc. as *Other Land Use Regulation Powers*. These provisions are not enacted under section 479 (zoning powers) of the LGA, thus allowing Council to amend the bylaw without a public hearing and associated ministerial approval.

The following is a summary of considerations and potential implications of the requested variances:

Land Use:

- Townhouse uses and associated density provisions are unaffected by the proposal.

Form, Character, and Urban Design:

- The proposed variances are anticipated to have a negligible impact on the townhouse sites' form, character, and design.
- Each townhouse site will function in much the same way as the surrounding single-detached homes (which are not subject to this zoning provision) as follows:
 - Each unit has a driveway, garage, and direct access at ground level.
 - Private refuse (garbage, recycling, and composting) pickup will be provided to each unit.
 - Occupants will likely use their private garage to store refuse temporarily.
 - No dedicated loading space will be provided for moving trucks; therefore, temporary loading may occasionally occur on the private road if unable to fit within their driveway.
- Lot 51 is the only townhouse site with individual driveway access directly onto a public road.
 - The proposed driveways are approximately 10.5m (+-35ft) long, providing sufficient space to temporarily park a 7.9m (26ft) moving truck.
- Relaxing the garbage container provisions frees up a small area for alternative purposes (buildings, amenities, landscaping, driveways, and parking areas).
- Development permit guidelines "A.1" identify several design objectives and guidelines for townhouse development, including stormwater management, standards for safety and accessibility, management of vehicular impacts, and building and landscape design considerations.
 - Notwithstanding sections 25-29 of the Zoning Bylaw, existing development permit guidelines provide sufficient guidance and ability for staff to require development features such as off-street loading areas, garbage containers, and enclosures that are deemed necessary for the use and functionality of the development.
- The strata corporation is responsible for addressing potential complaints relating to site use.

Development Considerations:

- Regardless of the results of the proposal, the active development permit applications for lots 51, 74, and 75 are expected to substantially fulfill the intentions of the development permit objectives and guidelines.

- If Council does not authorize the variances, the applicant will have to amend the development permit application drawings to demonstrate compliance with the bylaw provisions.
 - It is expected to be extremely difficult for Lot 51 to comply with the off-street loading provisions.
- A strata corporation manages the servicing of each townhouse site, if individual refuse pickup is no longer desired in the future, a communal refuse container and enclosure must be installed at the strata corporation's expense.

Summary:

- The proposed variance will have a negligible impact on the proposed townhouse sites' form, character, and design.
- Townhouse units and single-detached homes function similarly and have substantially similar off-street loading and garbage servicing demands.
- The strata corporation must ensure the appropriate use and operation of the townhouse site is maintained with any potential issues fully contained on private lands.
- To avoid the recurrence of this situation with similar applications, staff recommend an amendment to the Zoning Bylaw to address the issues (identified above) with the off-street loading and on-site garbage container provisions (sections 25-29 of the Zoning Bylaw).

Conclusion

The proposal constitutes an inconsequential change to the functionality of the Lands and the neighbourhood's character. Furthermore, the off-street loading and on-site location for garbage container regulations are unnecessary for ground-oriented residential development. The semi-truck and trailer-sized loading space currently required for multi-family residential developments is excessive for ground-oriented residential (such as townhouses) and small commercial buildings. Like single detached homes, each townhouse unit has its own driveway to be used for the occasional moving needs of the occupants and a garage to contain domestic refuse (garbage, recycling, and compost) before pick-up.

Two general bylaw amendments to sections 25-29 of the Zoning Bylaw (Attachments 10 & 11) are therefore presented alongside the applicant's DVP to relax the loading and garbage container requirements for residential and small-scale commercial development. Although the existing DP guidelines substantially address the provision of off-street loading and the on-site location for garbage containers, staff do not recommend repealing sections 25-29 until the guidelines are thoroughly vetted through the Zoning Bylaw update process.

Options

1. **(Recommended Option)**

THAT Council:

- (1) Approve Development Variance Permit Application DVP00099 and grant an exemption to the off-street loading and on-site location for garbage container requirements prescribed in Sections 25-29 of Zoning Bylaw No. 2950, 1997 for the five townhouse lots on Seablush Crescent and Woodrush Drive, as illustrated in Attachment 1, appended to the February 7, 2024, report from the Development Planner;
- (2) Give first, second, and third reading to Off-Street Loading Regulation [Zoning] Amendment Bylaw No. 3957, 2024; and,

(3) Support that a public hearing for Zoning Bylaw Amendment No. 3958, 2024, not be held as per Section 464(2) of the *Local Government Act*.

2. THAT Council:

(1) Approve Development Variance Permit Application DVP00099 and grant an exemption to the off-street loading and on-site location for garbage container requirements prescribed in Sections 25-29 of Zoning Bylaw No. 2950, 1997 for the five townhouse lots on Seablush Crescent and Woodrush Drive, as illustrated in Attachment 1, appended to the February 7, 2024, report from the Development Planner; and,

(2) Refer the draft Off-Street Loading Regulation [Zoning] Amendment Bylaw No. 3957 and Zoning Amendment No. 3958 to the Committee of Whole for further discussion and recommendation.

3. THAT Council deny Development Variance Permit Application DVP00099.

IMPLICATIONS

If the proposal is approved as recommended, the development of the Lands may proceed in accordance with municipal bylaws and policies and the proposed bylaw amendments, if adopted, will substantially decrease the number of variance applications in relation to off-street loading and on-site location for garbage container provisions for similar development proposals in the future.

If Council opts to pursue Option 2, the development of the Lands may proceed as specified above. Council will have an additional opportunity to discuss the proposed bylaw amendment and make changes by Council Resolution if so desired.

Should the variance be approved by Council, the development variance permit would be valid for two years from the date of issuance. It would expire if the owner does not substantially commence construction within that period.

If Council denies the proposal (Option 3), development permit issuance for lots 51, 74, and 75 will be delayed until plans are updated to demonstrate bylaw compliance, with the feasibility of lot 51 put into question. Furthermore, it is important to note that the applicant will pursue several additional DVP applications to address subsequent townhouse developments planned for phases 4, 5, and 6 as per the Kingsview Phased Development Agreement.

RECOMMENDATION

THAT Council:

- (1) Approve Development Variance Permit Application DVP00099 and grant an exemption to the off-street loading and on-site location for garbage container requirements prescribed in Sections 25-29 of Zoning Bylaw 1997, No. 2950 for the five townhouse lots on Seablush Crescent and Woodrush Drive, as illustrated in Attachment 1, appended to the February 7, 2024, report from the Development Planner;
- (2) Give first second and third reading to Off-Street Parking Regulation [Zoning] Amendment Bylaw No. 3957, 2024; and,
- (3) Support that a public hearing for Zoning Bylaw Amendment No. 3958, 2024, not be held, as per Section 464(2) of the *Local Government Act*.

Report prepared by:




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Approved to be forwarded to Council:



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Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto
- (3) Zoning Map
- (4) Letter of Rationale
- (5) Lot 51 Architectural Drawings
- (6) Lot 74 Architectural Drawings
- (7) Lot 75 Architectural Drawings
- (8) Excerpt of Zoning Bylaw No. 2950 – Off-street Loading and On-Site Garbage Container Provisions
- (9) Draft Development Variance Permit
- (10) Off-Street Loading Regulation [Zoning] Amendment Bylaw No. 3957
- (11) Zoning Amendment Bylaw No. 3958