



Corporate Report

NO: L002

COUNCIL DATE: February 7,

2005

REGULAR COUNCIL—LAND USE

TO: Mayor & Council DATE: February 3,
2005

FROM: General Manager,
Planning and Development FILE: 7904-0235-00

SUBJECT: Concerns with Development Variance Permit No.
7904-0235-00
Related to the Townhouse Complex at 3502 – 150 A
Street

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Direct staff to work with the developer of the townhouse complex at 3502 150A Street to provide additional landscaping along the common property line with the lot at 3498 - 150A Street, owned by the Bebbingtons; and
3. Instruct the City Clerk to forward a copy of this report to Mr. and Mrs. Bebbington, together with a copy of Council's resolution.

INTENT

The purpose of this report is to provide Council with information regarding Development Variance Permit ("DVP") No. 7904-0235-00, in response to concerns raised by a delegation to Council (Mr. and Mrs. Bebbington).

BACKGROUND

At the Regular Council Land Use meeting on December 13, 2004, Council heard a presentation from Mr. and Mrs. Bebbington, who reside at 3498 - 150A Street. They advised Council of their serious concerns with the side yard setback variance (from 6 metres [20 feet] to 2.4 metres [8 feet]) that was approved in relation to Unit #1 of the 22 unit detached strata townhouse complex at 3502 - 150A Street. Unit #1 is directly east of and adjacent to Mr. and Mrs. Bebbington's property. The Bebbingtons expressed the following specific concerns:

1. With respect to the DVP approval process, they questioned why their written opposition to the proposed variance was not taken into account;
2. They were concerned that the shadow of Unit #1, due to the reduced side yard setback, would diminish the amount of sunlight in the rear yard of their property, which also contains a garden; and
3. They were concerned that the reduced side yard setback of Unit #1 would negatively impact their privacy on their property, would lower the value of their property and would reduce their enjoyment of their property.

As a result of the delegation's presentation and at the same meeting, Council requested a report from staff on the matter.

DISCUSSION

Development Variance Permit No. 7904-0235-00

The Planning Report related to DVP Application No. 7904-0235-00 was considered by Council at the Regular Council Land Use meeting on September 7, 2004 (Appendix I). The proposed variance related to the west side yard setback of two units within a 22-unit strata detached townhouse development, located at 3502 - 150A Street in Rosemary Heights West. The applicant requested that the west side yard of Unit #1 be varied from 6 metres [20 feet] to 2.4 metres [8 feet] and the west side yard of Unit #14 be varied from 3.7 metres [12 feet] to 2.4 metres [8 feet]. The Bebbingtons' property is located immediately to the west of Unit #1, as illustrated in Appendix II. The Bebbingtons' house fronts on 150A Street and backs onto the above-referenced townhouse development for which the variances were requested.

The Planning Report to Council indicated that staff supported the variances for the following reasons:

- Reducing the west setback for Unit #1 and Unit # 14 would enable the townhouse units adjacent to a public pathway within the townhouse site to be sited farther away from the public pathway, which would enhance the public pathway;
- The variances would improve the liveability of Units #2 and #12 within the development;
- Only two units required a variance; and
- The proposed variances were supported by the owners of the single family lots adjacent to the townhouse units to which the variances apply. (This support was from the owner of these lots who subsequently sold one of the lots to the Bebbingtons.)

The Bebbingtons moved into their home at 3498 - 150A Street during August, 2004, prior to the initial Planning Report to Council regarding the DVP application, but after the previous owner of the Bebbingtons' property had indicated to City staff and the applicant that he supported the variances proposed through the subject DVP application.

At the September 7, 2004 Land Use meeting, Council approved the DVP application to proceed to Public Notification, which included forwarding a notification letter to the Bebbingtons in their new home. After the normal two-week DVP public notification period, the DVP application was included on the September 27, 2004, Regular Council Land Use agenda for Council consideration of final approval. As is normal practice when no concerns related to the DVP application are received by the City prior to the printing of the Council agenda, the Council agenda contained a note under the DVP application that "No concerns had been expressed by abutting property owners prior to printing of the Agenda". However, after the Council agenda was sent for printing, the City Clerk's office received a letter of opposition to the DVP application from Mr. and Mrs. Bebbington, on September 24, 2004 (copy attached as Appendix III) and one e-mail message from another party on September 27, 2004, expressing concern about the survival of a tree sitting on the 2.4 metre [8 foot] setback. As is normal practice, the City Clerk provided a copy of each of these pieces of correspondences to Council, on table, at the September 27, 2004 Regular Council Land Use meeting, at which Council considered and granted final approval to the DVP application.

A review of the process pertaining to DVP No. 7904-0235-00 indicates that proper procedures were followed in dealing the subject DVP application. The concerns expressed by the adjacent neighbours, including the Bebbingtons, were presented to Council on table at the same meeting as final approval was granted to the DVP.

The initial support for the proposed variance by adjacent property owners (including the previous owner of the Bebbington property) was provided to the Planning and Development Department in June 2004 when the DVP application was submitted. The Bebbingtons indicated that they moved into their property in August 2004.

Since one of the main concerns raised by the Bebbingtons was the issue of overshadowing by Unit #1 of their rear

yard and garden, staff has received information on this matter from the design consultant for the 22-unit detached strata townhouse complex. The Bebbingtons' dwelling is a two storey dwelling with an in ground basement and has a 6 metre [20 feet] rear yard to the deck, which runs across 50% of the rear wall of the dwelling and an 8.0 metre [26 foot] rear yard to the rear wall of the dwelling. Unit #1 is a two storey structure with an in ground basement. The main floor elevation of Unit #1 is lower than the main floor elevation of the Bebbingtons' dwelling. Appendix IV illustrates an elevation view of the relationship between Unit #1 and the Bebbington dwelling. A shadow analysis of Unit #1, relative to the Bebbingtons' property, was conducted for sunshine during the summer months. The analysis provided the following results for the morning hours when the shadow of Unit #1 will have an effect on the Bebbingtons' property:

- There will be no shadow on the Bebbington property from Unit #1, after 11:30 am;
- At 10:00 a.m. there will be a shadow on 15% of the rear yard of the Bebbington property; and
- At 8:30 a.m. the shadow will be on 30% of the rear yard.

Staff has held discussions with the developer of the townhouse complex, regarding the concerns of the Bebbingtons. The developer has advised that he is willing to augment the landscaping treatment along the common property line, adjacent to the Bebbington property to better screen Unit #1 from the Bebbingtons' property.

Staff note that it is not uncommon for the side yard of a single family dwelling in a fee simple subdivision to abut the rear lot line of an adjacent single family residential lot in a configuration similar to the manner in which the side yard of Unit # 1 relates to the rear yard and rear lot line of the Bebbingtons' property. The normal side yard setback for a single family residence on a fee simple single family lot is typically a maximum of 1.8 metres [6 feet], which is 0.6 metres [2 feet]) less than the 2.4 metre [8 foot] side yard provided between Unit #1 and the Bebbingtons' rear lot line.

CONCLUSION

It is recommended that Council direct staff to work with the developer of the townhouse complex at 3502-150A Street to provide additional landscaping treatment along the common property line with the lot at 3498 - 150A Street, owned by the Bebbingtons and instruct the City Clerk to forward a copy of this report to Mr. and Mrs. Bebbington, together with a copy of Council's resolution.

Murray Dinwoodie
General Manager
Planning and Development Department

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Attachments:

- Appendix I Planning Report dated September 7, 2004
- Appendix II Site Plan
- Appendix III Letter from the Bebbingtons dated September 24, 2004
- Appendix IV Elevation view

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Appendix I









Appendix II



Appendix III



Appendix IV



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