

DATE OF MEETING AUGUST 28, 2023

AUTHORED BY JESSICA VANDERHOEF, STENO COORDINATOR

**SUBJECT ALTERNATIVE APPROVAL PROCESS – 502 HOWARD AVENUE
PARK DEDICATION REMOVAL**

OVERVIEW

Purpose of Report

To obtain Council approval to proceed with an Alternative Approval Process for a disposition of parkland at 502 Howard Avenue.

Recommendation

That Council:

1. determine the total number of electors of the area to which the approval process applies (the whole of the City of Nanaimo) to be 78,334;
2. establish a deadline of 4:30 p.m. on Tuesday, 2023-OCT-10 for receiving elector responses for the Alternative Approval Process in relation to “502 Howard Avenue Park Dedication Removal”;
3. approve the Elector Response Form as attached to the Staff report dated 2023-AUG-28, titled “Alternative Approval Process – 502 Howard Avenue Park Dedication Removal”;
4. give first reading to “Park Dedication Bylaw Amendment Bylaw 2023 No. 7182.01” (To remove park dedication on 502 Howard Avenue [Harewood Sports Field]);
5. give second reading to “Park Dedication Bylaw Amendment Bylaw 2023 No. 7182.01”; and,
6. give third reading to “Park Dedication Bylaw Amendment Bylaw 2023 No. 7182.01”

BACKGROUND

Council approval is being sought to undertake an Alternative Approval Process that would remove the park dedication on 502 Howard Avenue, commonly known as “Harewood Sports Field”. This property was designated as parkland through “Park Dedication Bylaw 2014 No. 7182” (Attachment A) and a covenant was placed on the property’s title. An application has been received to redesignate 502 Howard Avenue from Park and Open Spaces to Mixed-Use Corridor and to rezone the property (as part of a larger development) to Comprehensive Development District Zone 12 (CD12).

For more information on the proposal (which includes 502 Howard Avenue) please refer to the report titled “City Plan Amendment Application No. OCP103 & Rezoning Application No. RA493 – 564 Fifth Street / 502 & 505 Howard Avenue”, dated 2023-AUG-28, and contained in this agenda package.

In accordance with Section 30(3) of the *Community Charter* a bylaw that removes a reservation or dedication [as park] may only be adopted with approval of the electors. Therefore, in order to proceed, Council is required to have approval of the electors prior to adoption of the Bylaw Amendment to remove the park dedication at 502 Howard Avenue (Attachment B). Approval of the electors may be received by way of an Alternative Approval Process (AAP), or assent voting (i.e. referendum). Council may proceed with bylaw adoption, if less than 10% of the electors oppose the proposal by submitting a valid elector response form (Attachment D.)

DISCUSSION

The AAP process involves:

- Fair determination of the number of electors (calculation provided below): Council approval is required.
- Approval of Elector Response Form (attached): Council approval is required.
- “Park Dedication Bylaw Amendment Bylaw 2023 No. 7182.01” (To remove park dedication on 502 Howard Avenue [Harewood Sports Field]): Bylaw readings must be passed by a Council majority prior to seeking elector approval.
- Public Notice: Notification is mandatory as outlined in the City’s Public Notice Bylaw and takes place after three readings of the bylaw. In order to avoid the busy summer season, and ensure more eligible electors can participate, Staff are planning to publish the notice in September. The notice would appear in the Wednesday, 2023-SEP-06 edition of the Nanaimo News Bulletin, and on the City of Nanaimo website. The notice will also be posted at City Hall.
- Elector Response form Submission Period: Council must establish the deadline for receiving elector responses, a minimum of 30 days after the publications of the notice. Tuesday, 2023-OCT-10 is 33 days after the notice publications and allows Staff enough time to meet the agenda deadline for the 2023-NOV-06 Council meeting.
- Determination of Certification of Elector Approval Responses (10 per cent threshold): The Corporate Officer must determine and certify the number of valid Elector Response Forms received by the deadline, and whether electoral approval has been obtained. A report to Council will follow confirming the results of the AAP, likely at the 2023-NOV-06 Council meeting.
- Council Decision on Next Steps: Elector approval is deemed to have been obtained if less than 7,833 valid Elector Response Forms in opposition to Bylaw No. 7182.01 are received prior to 4:30 p.m. on Tuesday, 2023-OCT-10. As this process is running concurrently with OCP103 & Rezoning Application No. RA493 of the subject property final adoption of Bylaw No. 7182.01 will be considered following the Public Hearing for

OCP103 & Rezoning Application No. RA493 which are tentatively scheduled for 2023-DEC-14.

Fair Determination of the Total Number of Electors:

Section 86(3) of the *Community Charter* requires that a fair determination be made of the total number of electors within the City of Nanaimo, which forms the basis of the 10 per cent threshold. It was determined that there are 78,334 electors based on the following:

- 76,522 electors on the City of Nanaimo voters list for the 2022 Municipal Election;
- 697 new electors registrations for the 2022 Municipal Election;
- 1,033 new electors since the Municipal Election (approx. 9 months), based on a 1.8% population increase per year according to census data;
- 82 registered non-resident property electors in the 2022 Municipal Election; and,
- Therefore, the fair determination of electors is 78,334. |

OPTIONS

That Council:

1. determine the total number of electors of the area to which the approval process applies (the whole of the City of Nanaimo) to be 78,334;
2. establish a deadline of 4:30 p.m. on Tuesday, 2023-OCT-10 for receiving elector responses for the Alternative Approval Process in relation to “502 Howard Avenue Park Dedication Removal”;
3. approve the Elector Response Form as attached to the Staff report dated 2023-AUG-28, titled “Alternative Approval Process – 502 Howard Avenue Park Dedication Removal”;
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6. give third reading to “Park Dedication Bylaw Amendment Bylaw 2023 No. 7182.01”
 - The advantages of this option: Electors would have 33 days to submit their response form and the AAP process does not require them to appear in person on designated days to express their opinion, making this method of elector consent more convenient for electors.
 - The disadvantages of this option: If the AAP is unsuccessful Council will have the option to proceed to a referendum which would then increase costs significantly.
 - Financial Implications: Holding an AAP is done with much lower costs than by conducting a referendum. |

2. That Council retain 502 Howard Avenue as a dedicated park.
 - The advantages of this option: 502 Howard Avenue would remain dedicated as park.
 - The disadvantages of this option: This key development project may not occur.

3. That Council move forward through an Assent Voting Process – “Assent Voting” to consider removing park dedication at 502 Howard Avenue.
Selecting this option would mean the Council would be directing staff to conduct a referendum process.
 - The advantages of this option: A referendum provides a clear process similar to an election and can list more than one question on the ballot.
 - The disadvantages of this option: Conducting a referendum involves the same resources and costs as holding a general election.
 - Financial Implications: The costs and Staff resources associated with Assent Voting are significant and similar to a general election.

SUMMARY POINTS

- Council is being asked to proceed with an Alternative Approval Process in relation to the removal of park dedication on 502 Howard Avenue.
- An Alternative Approval Process may be undertaken by Council in order to move forward with approval of bylaw No. 7367.
- Should Council move forward with the Alternative Approval Process, there will be opportunity for electors opposed to the proposal to submit an Elector Response Form.
- Elector approval is deemed to have been obtained if less than 7,833 valid Elector Response Forms in opposition to Bylaw No. 7367 are received prior to 4:30 p.m. on Tuesday, 2023-OCT-10.

ATTACHMENTS:

Attachment A – “Park Dedication Bylaw 2014 No. 7182”
Attachment B – “Park Dedication Bylaw Amendment Bylaw 2023 No. 7182.01”
Attachment C – Location Plan
Attachment D – Elector Response Form – 502 Howard Avenue

Submitted by:

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Concurrence by:

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