

CITY OF PORT ALBERNI
PUBLIC HEARING AGENDA

Monday, July 22, 2019 at 6:30 pm in the City Hall Council Chambers

This Public Hearing is held pursuant to Sections 464, 465 and 466 of the *Local Government Act*.

Introductory Remarks by the Chair: The Chair of the Public Hearing will describe the Public Hearing procedures.

1. Description of the Application *(To be read by the Clerk)*

Applicant: City of Port Alberni

The applicant is applying to amend the Zoning Bylaw to make changes to the definition of 'Fence and Hedge Height'.

The proposed bylaw is:

"Zoning Text Amendment No. T21 (Fence and Hedge Height), Bylaw No. 4992"

2. Background Information from the City Planner report dated July 16, 2019.

3. Correspondence

Letter dated July 11, 2019 from Dave Cappus opposing the changes to bylaw concerning fences and hedges.

4. Late Correspondence Regarding the Matter *(To be read by the City Clerk)*

5. Input from the Public regarding the Bylaw

6. Questions from Council: *(Members of Council may ask questions, through the Chair, of the City Planner or of the members of the public who may have spoken.)*

7. Calling for any Further Input: (To be asked three times by the Chair.)

Calling for any further input a first time:

Calling for any further input a second time:

Calling for any further input a third time:

8. Closing Remarks by the Chair:

After this Public Hearing has concluded, Council may, without further notice, give whatever effect Council believes proper to the representations made at this Hearing. In most cases, the Report of this Hearing will be presented to the next Regular Meeting of Council, where Council will decide whether or not to proceed with approving the application by way of passing further readings of the Bylaw.

Once this Public Hearing has terminated, members of Council may not, as a group or as individuals, receive any further oral or written presentations on this matter, including what might be perceived of as informal discussions immediately after the termination of this meeting. I ask all parties to comply with this.

9. Termination of the Public Hearing:

It was moved and seconded:

That this Public Hearing terminate at _____ pm.



CITY OF PORT ALBERNI NOTICE OF PUBLIC HEARING

Pursuant to Sections 464, 465, and 466 of the Local Government Act, Notice is hereby given that a Public Hearing will be held in the Council Chambers at City Hall, 4850 Argyle Street, Port Alberni, BC on **Monday, July 22, 2019 at 6:30 pm** to hear representation about the following proposed bylaw.

"Zoning Text Amendment No. T21 (Fence and Hedge Height), Bylaw No. 4992"

APPLICANT: City of Port Alberni - The applicant is applying for text amendments to the Zoning Bylaw making changes to Section 6.7 Fences and Hedges. The amendments being considered are as follows:

A. Zoning Bylaw Text Amendment:

Applying to amend the text of Port Alberni Zoning Bylaw 2014, No. 4832 as follows:

1. By **deleting** the following text under Section **6.7 Fences and Hedges**:
 - a) **"6.7.2 Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall."**; and
 - b) **"6.7.4 Fences or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property."**
2. By **adding** the following text under Section **6.7 Fences and Hedges**:
 - a) **"6.7.1 The height of a fence, hedge or wall shall be determined by measurement from ground level at the average grade level within 1 m (3.28 ft) of both sides of such fence, hedge, or wall.**
 - b) **"6.7.2 Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall. **Where a fence is erected or placed above a retaining wall or within 1 m of a retaining wall, the maximum permissible height of a fence shall be reduced by half the height of the retaining wall.**"**; and
 - c) **"6.7.4 Fences, hedges, or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property **as determined by measurement from ground level at the average grade level within 1 m (3.28 ft) of both sides of such fence, hedge, or wall.**"**

TAKE NOTICE THAT persons who deem their interest in property affected by the above noted bylaw amendment shall be afforded an opportunity to be heard before Council on matters related thereto. Written submissions should be addressed to City Council, 4850 Argyle Street, Port Alberni, BC, V9Y 1V8. The above noted bylaw amendment, together with Port Alberni Zoning Bylaw 2014, No. 4832, may be inspected at the offices of the Planning Department, City Hall, 4850 Argyle St., between Monday and Friday (exclusive of statutory holidays) from July 10, 2019 to July 22, 2019, 2019 during regular business hours (8:30 a.m. to 4:30 p.m.).

To see the relevant report to the Advisory Planning Commission see:

https://www.portalberni.ca/sites/default/files/council_mtg/APC-Agenda-May23-2019.pdf

To see recommendations to Council from the Advisory Planning Commission see:

https://www.portalberni.ca/sites/default/files/council_mtg/APC-SummaryMinutes-May23-2019.pdf

DATED AT PORT ALBERNI, B.C. this 10th day of July, 2019.

Katelyn McDougall, M. Urb., Manager of Planning



CITY OF PORT ALBERNI

PLANNING DEPARTMENT PUBLIC HEARING REPORT

TO: Tim Pley, CAO
FROM: Katelyn McDougall, Manager of Planning
DATE: July 16, 2019

SUBJECT: Text Amendment to Zoning Bylaw 4832 for changes to Fence and Hedge Height

ISSUE:

At issue is the consideration of text amendments to the Zoning Bylaw section 6.7 – Fence and Hedges to restrict the height of a fence permitted on top of a retaining wall, and to restrict the height of hedges in rear yards.

BACKGROUND:

The following definitions of fences and hedges are outlined in the City of Port Alberni's Zoning Bylaw:

***FENCE** means a structure used as an enclosure, boundary or screening around all or part of a lot.*

***HEDGE** means an arrangement of shrubs or low-growing trees that are closely planted in a strip and intended to be maintained at a certain height, used to mark a boundary or enclose or screen an areas of land. Does not include vegetation, foliage, or trees naturally occurring on a property.*

With regards to Zoning Bylaw's General Regulations (which apply everywhere in the City, and are not specific to a particular zone), the following provisions are outlined in section **6.7 Fences and Hedges**:

***6.7.1** The height of a fence, hedge or wall shall be determined by measurement from ground level at the average grade level within 1 m (3.28 ft) of both sides of such fence or wall.*

***6.7.2** Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall.*

***6.7.3** Fences, hedges or walls not greater than 1.25 m (4.1 ft) in height are permitted within a required front yard.*

***6.7.4** Fences or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property.*

6.7.5 *In the C3 and M zones, fences or walls not greater than 2.5 m (8.2 ft) in height are permitted between the front lot line and the front of the primary building on the lot.*

6.7.6 *Open mesh or chain link fences not greater than 3.7 m (12.1 ft) in height are permitted anywhere on cemeteries, public playgrounds, parks, playfields, school areas or in any M zones.*

6.7.7 *Notwithstanding 6.7.1 through 6.7.6, all fences, hedges and walls are subject to the provisions of 6.5.*

6.7.8 *There shall be fencing having a minimum height of 1.85 m (6.0 ft) and a maximum height of 2.4 m (8.0 ft) around open swimming pools.*

Staff recently conducted a review of the fence and hedge regulations in five other nearby municipalities to compare them to Port Alberni. Based on the review conducted some minor amendments have been proposed to restrict the height of a fence permitted on top of a retaining wall and to restrict the height of hedges in rear yards. These changes are intended to address concerns often brought forward to the Bylaw Department, and to reflect best practices in other communities.

OFFICIAL COMMUNITY PLAN AND ZONING BYLAW

The proposed Zoning Bylaw text amendments are consistent with the objectives of the OCP.

DISCUSSION:

It is common for local governments to regulate fences and hedges. Often these regulations are created to serve both the property owner and the general public. Zoning Bylaws usually specify height and sometimes detailed design criteria for fences. Fence height is an important consideration in municipal planning as it affects the visual character of a street, or can interfere with views, and limit visibility of a property.

Fence Height

With regards to fence height, the City is reviewing section 6.7.2 of the Zoning Bylaw which states that:

Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall.

The implications of the existing bylaw are that a retaining wall (also currently not regulated in height by the Zoning Bylaw) can be built with a fence on top. Other communities limit the combined height of a fence and retaining wall, either by including the definition of retaining wall within the definition of a fence or by reducing the height of a fence permitted on top of a retaining wall.

Hedge Height in Side and Rear Yards

In addition to fences, the height of walls and hedges are regulated by the Zoning Bylaw because they each similarly obstruct the view of a property. Within a front yard setback, fence, hedge, and wall heights are all regulated consistently to achieve the same objectives. Hedge heights are not currently regulated in the side or rear yard, whereas the height of fences and walls are. Section

6.7.4 currently states:

Fences or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property.

The City is considering amending section 6.7.4 to include hedges. The proposed changes would be similar to regulations in other communities, whereas some other communities choose to regulate hedge height within other bylaws (i.e. Property Maintenance Bylaws).

STATUS OF THE APPLICATION

At the May 23, 2019 meeting of the Advisory Planning Commission the following motions were carried:

1. *That the City of Port Alberni Advisory Planning Commission recommends to City Council that the City proceed with amending section 6.7.2 and 6.7.4 of the Zoning Bylaw by removing the current text and adding the following:*

6.7.2 *Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall. **Where a fence is erected or placed above a retaining wall or within 1 m of a retaining wall, the maximum permissible height of a fence shall be reduced by half the height of the retaining wall.***

6.7.4 *Fences, **hedges**, or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property, **as determined by measurement from ground level at the average grade level within 1 m (3.28 ft) of both sides of such fence, hedge, or wall***

At the June 24, 2019 regular meeting, City Council received and accepted the APC recommendations and gave 1st and 2nd reading to "**Zoning Bylaw Text Amendment No. T21 (Fence and Hedge Height), Bylaw No. 4992**".

CONCLUSIONS:

Minor amendments to the Zoning Bylaw are being considered to restrict the height of fence permitted on top of a retaining wall and to restrict the height of hedges in rear yards. These changes are intended to address concerns often brought forward to the Bylaw Department, and to reflect best practices in other communities.

In considering the Zoning Bylaw text amendments, City Council should consider whether the proposed amendments are appropriate for the community. If adopted, the amendments would apply to the entire community moving forward.

Respectfully submitted,



Katelyn McDougall, M.Urb
Manager of Planning

CORRESPONDENCE RECEIVED

C: Manager of Planning

RECEIVED

JUL 11 2019

CITY OF PORT ALBERNI

July 11/19

To Mayor and Council

Fences and hedges

I oppose the changes to the bylaw concerning fences and hedges. The changes to hedges will create a lot of non-conforming hedges and a constant make work program as hedges are always changing in height and people usually trim them once or twice a year. Not like cutting a lawn many times a year.

Also the proposed changes would reduce the fence by 50% of the height of the wall. So a fence on a wall would be reduced to a height that isn't safe to keep kids from falling over or keep in your pet. Example: A front yard fence on a 4' wall will need to be reduced by 2' to a 2' fence. An 8' wall in a rear yard would reduce the fence height by 4' to a 2' fence on a 8' foot wall. That doesn't seem safe .

I think the rules on fences and hedges were fine the way they were.



Dave Cappus

2551 14th Ave Port Alberni BC

V9y2x8

CITY OF PORT ALBERNI

BYLAW NO. 4992

A BYLAW TO AMEND PORT ALBERNI ZONING BYLAW 2014, NO. 4832

The Municipal Council of the City of Port Alberni in Open Meeting Assembled Enacts as follows:

1. Title

This Bylaw may be known and cited for all purposes as "**Zoning Text Amendment No. T21 (Fence and Hedge Height), Bylaw No. 4992**"

2. Zoning Bylaw Text Amendment

Port Alberni Zoning Bylaw 2014, No. 4832 is hereby amended as follows:

1) By **deleting** the following text under Section **6.7 Fences and Hedges**:

- a) *"6.7.2 Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall."; and*
- b) *"6.7.4 Fences or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property."*

2) By **adding** the following text under Section **6.7 Fences and Hedges**:

- a) *"6.7.1 The height of a fence, hedge or wall shall be determined by measurement from ground level at the average grade level within 1 m (3.28 ft) of both sides of such fence, **hedge**, or wall.*
- b) *"6.7.2 Notwithstanding 6.7.1, the height of a fence, hedge or wall erected along a retaining wall shall be determined by measurement from the ground level at the average grade within 1 m (3.28 ft) of the side which is supported by the retaining wall. **Where a fence is erected or placed above a retaining wall or within 1 m of a retaining wall, the maximum permissible height of a fence shall be reduced by half the height of the retaining wall.**"*; and
- c) *"6.7.4 Fences, **hedges**, or walls not greater than 1.8 m (6 ft) in height are permitted from the rear of the required front yard setback to the rear of the property **as determined by measurement from ground level at the average grade level within 1 m (3.28 ft) of both sides of such fence, hedge, or wall.**"*

READ A FIRST TIME THIS 24TH DAY OF JUNE, 2019.

READ A SECOND TIME THIS 24TH DAY OF JUNE, 2019.

A PUBLIC HEARING WAS HELD THIS DAY OF , 2019.

READ A THIRD TIME THIS DAY OF , 2019.

FINALLY ADOPTED THIS DAY OF , 2019.

Mayor

Clerk

COPY AVAILABLE FOR PUBLIC INSPECTION

RECEIVED

JUL 11 2019

CITY OF PORT ALBERNI

July 11/19

To Mayor and Council

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