



# Corporate

NO: R214

# Report

COUNCIL DATE: November 4, 2002

<b>REGULAR COUNCIL</b>			
TO:	<b>Mayor &amp; Council</b>	DATE:	<b>October 31, 2002</b>
FROM:	<b>General Manager, Planning &amp; Development</b>	FILE:	<b>07354-18400</b>
SUBJECT:	<b>Skateboard Structure at 7354 - 184 Street</b>		

## RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Advise Mr. Henderson that, in order for Council to determine whether to allow the skateboard structure to remain on the property at 7354-184 Street, he will need to apply to rezone the property from its current RA zone to a CD zone that will permit the skateboard structure as a permitted use in association with the single family residential use on the property;
2. Instruct staff not to pursue removal of the skateboard structure unless a rezoning application is not received from Mr. Henderson by November 30, 2002; and
3. Instruct the Acting City Clerk to forward a copy of this report and Council's resolution to Mr. Henderson.

## BACKGROUND

In early summer of 2002, City staff received a complaint that a large skateboard ramp was being constructed on the property at 7354 – 184 Street (See Appendix I). The complainant questioned whether a building permit had been issued for the construction work. As a result of this complaint, staff reviewed the City's records and determined that no building permit had been issued for construction of a skateboard ramp at the subject property. Subsequently, a Building Inspector attended the property, posted a Stop Work Order on the partially constructed structure and advised the owner to remove the structure or inquire about the possibility of rezoning the site. On August 23, 2002, Mr. Darren Henderson, acting on behalf of the owner for the property, attended City Hall and made application for a building permit. After receiving the application, Building Division staff reviewed the Zoning By-law and conferred with Legal Services staff. It was confirmed that the subject skateboard ramp was not a permitted principal use on the subject property based on the site's One Acre

Residential (RA) zoning and would not qualify as a permitted accessory use on the site due to the size of the ramp. The ramp measures approximately 14.5 metres (48 feet) long by 12 metres (40 feet) wide by 5 metres (16 feet) high, including handrails along the top of the ramp (see Appendix II).

On September 17, 2002, Building Division staff forwarded a letter to Mr. Henderson advising him that the City was not in a position to issue a building permit for the subject skateboard ramp, refunding him the building permit application fee that he posted and directing him to remove the ramp from the property by October 17, 2002.

At the October 7, 2002 Regular Council meeting, Council considered a letter from Mr. Henderson within which he requested to appear before Council to appeal the decision regarding his skateboard ramp. Council resolved to hear Mr. Henderson at a Council-in-Committee meeting. Mr. Henderson appeared as a delegation before Council-in-Committee on October 21, 2002. After hearing Mr. Henderson's presentation, Council requested that staff prepare a Corporate Report on the matter that provides options for Council's consideration and further directed that no action be taken with respect to removing the ramp from the subject property until Council has considered the requested Corporate Report.

## DISCUSSION

The subject lot is located on the east side of 184 Street in an area of larger residential lots (see Appendix I). The lot has an area of approximately 0.93 hectares (2.3 acres) and, as mentioned previously, is zoned One Acre Residential (RA). It is bordered on the north by a row of relatively smaller single family lots zoned RA that front on 74 Avenue, each of which contains a single family residence except for the two lots to the east of the BC Gas right-of-way and to the south by a large lot that is zoned RA containing and vacant dwelling and accessory buildings. The skateboard structure is located to the east of the existing dwelling and other accessory buildings on the lot and is not visible from 184 Street or from 74 Avenue.

Mr. Henderson has advised that the skateboard structure is for personal use only to allow him to train for professional competitions, since there are inadequate skateboard training facilities in the area. He has also advised that he will allow neighbourhood children to use the skateboard ramp one day per week.

When fully constructed, the subject structure, a plywood u-shaped ramp, will be 14.6 metres (48 feet) in length, 12.2 metres (40 feet) in width and 5 metres (16 feet) in height, including handrails.

Based on a review of the City's Zoning By-law provisions related to the One Acre Residential (RA) Zone, the subject skateboard structure is neither a permitted principal use nor a permitted accessory use on the subject lot. The RA Zone is intended to accommodate single-family housing and related accessory uses on suburban lots of one acre or larger. The Zoning By-law defines an "accessory use" as follows:

*"Accessory Use means a use that is customarily supplementary to a principal use and where the principal use is the permitted use that is carried on on the lot and:*

*1. the said accessory use:*

*(a) is carried on on a smaller area of the lot than the principal use; and*

*(b) if carried on in a building, is carried on in a building or portion thereof smaller in area than the building(s) or portion thereof in which the principal use is carried on; . . ."*

Mr. Henderson contends that the subject skateboard ramp is accessory to the single family dwelling on the subject site and, therefore, should be allowed. Staff's position is that the skateboard ramp is not an accessory

use based on the following reasons:

- The delegation has advised that there are no other such structures in Western Canada. On this basis, it is clear that such structures are not "customarily supplementary" to single family dwellings in Western Canada; and
- The area covered by the structure exceeds the area covered by the single family dwelling on the site and, therefore, does not qualify as an "accessory use" based on the definition of accessory use in the Zoning By-law. The lot area covered by the structure is 178 square metres (1,915 square feet) which, based on the survey plan submitted for the building permit, exceeds the 140 square metres (1,500 square feet) area that is covered by the house on the same lot (according to City records).

It is also noted that the maximum height of an accessory structure is limited to 4 metres (13 feet) in the RA Zone. The proposed ramp, complete with handrails, will be 16 feet in height.

### Alternatives Available for Council Consideration

There are three options available for Council's consideration in relation to dealing with the skateboard ramp. These are listed and described below. Following each option is an evaluation of its merits and weaknesses.

#### Option 1 – Direct that the Skateboard Structure be Removed from the Property

##### Pros

1. The provisions of the Zoning By-law are upheld and a clear message is sent that the City will not condone unauthorized construction.
2. Any concerns about the potential nuisance or liability related to the structure are alleviated.

##### Cons

1. The removal of the structure does not address Mr. Henderson's concerns that he is an athlete and considers skateboarding as a sport; that the structure is intended for his personal use and allows him to train for professional skateboard competitions and that there are no other similar facilities in the area for him to use.

#### Option 2 – Relocate the Skateboard Structure

The skateboard structure is considered a "recreational facility". The Zoning By-law allows indoor recreational facilities in several Commercial zones including the C-8 Zone and CHI Zone. Mr. Henderson could locate a building in such a zone and erect the structure in such a building subject to obtaining a building permit. For the structure to remain outdoors, the structure would need to be located on an industrial site zoned IL or IH with a complementary principal industrial use located on the site.

##### Pros

1. City approvals would be limited to the issuance of a building permit since the use would be located on a site that is appropriately zoned to accommodate the recreational use.

2. Any concerns related to nuisance and liability related to the use of the ramp are alleviated.

#### Cons

1. Finding a suitable location, paying to lease or buy the space and relocating the structure would be costly for Mr. Henderson.

#### Option 3 – Rezone the Current Site to Allow the Structure to Remain

Under this option the subject property at 7354-184 Street would be rezoned to a Comprehensive Development Zone (CD) to permit the skateboard structure as a permitted use in association with the single family residential use on the property and, subsequently, to receive a building permit application and issue a building permit to regularize the structure.

#### Pros

1. The neighbours and others would have an opportunity, through the pre-notification and Public Hearing process, to advise Council of any comments and concerns about the proposed use and the subject structure.
2. The City has the ability to restrict the location and size of the structure and the use of the structure for non-commercial purposes only.
3. The City has the ability to require buffering/screening to reduce the impact of the structure on the neighbouring properties.
4. The site-specific zoning reduces the potential for the rezoning to become a precedent for similar structures on other residential properties.

#### Cons

1. Even though the precedent would be somewhat contained by the current circumstances, such a rezoning will set a precedent that such a use and structure are acceptable on residential properties.
2. Some neighbours may perceive the rezoning as having a negative impact on their property values.
3. From Mr. Henderson's perspective, this option will cause additional expense. A rezoning application to a CD Zone involves an application fee of \$3,300 plus a \$710 Public Hearing fee for a total fee of \$4,010. This fee, however, would not be necessary if the rezoning proceeded as a Council-initiative.

#### CONCLUSION

If Council is interested in allowing Mr. Henderson to retain the skateboard structure on the subject property, the only viable option is Option 3, rezone the site to a CD Zone. This option recognizes that the construction of and activity associated with, the skateboard structure are not normally associated with a single family residential use and that the size of the skateboard structure may create impacts on the adjacent properties not normally expected in a residentially-zoned area. It also recognizes that, in this case, given the large size of the property and Mr. Henderson's claim of having support from a majority of the adjacent neighbours and lack of adequate skateboard training facilities in the area, there may be some rationale in support of retaining the

structure at its present location. More importantly, this option will provide Council with the opportunity to hear from the neighbours directly affected by the subject structure, as well as from others who may be concerned with the proposal. However, Mr. Henderson should be made aware that Council approval of the rezoning application is neither automatic nor guaranteed. Further, if Council decides to proceed with Option 3, staff should be instructed to advise Mr. Henderson to make application for rezoning prior to November 30, 2002 and to instruct staff, that if such rezoning application is not received by that date, to take actions, as necessary, to have the subject structure removed from the subject property. In relation to the rezoning application, in the absence of direction by Council to process the subject rezoning application as a Council initiative, Mr. Henderson will be required to pay the prescribed rezoning application and public hearing fees in the amount of \$4,010.

It is important to note that the City could incur liability if a building permit is issued without ensuring that the design and construction of the skateboard ramp and structure are undertaken in accordance with good engineering standards and other applicable codes. Currently, staff have no expertise in the field of skateboard ramp and structure design. On this basis, even if the current zoning issues are resolved, staff will require that Mr. Henderson retain a Professional Engineer to certify that the design and construction of the ramp and structure satisfy good engineering standards and practice and all applicable codes before a building permit will be issued and, subsequently, to certify that the structure was constructed in accordance with the plans attached to the building permit.

It is recommended that Council authorize the City Clerk to forward a copy of this report and Council's resolution to Mr. Henderson.

Murray Dinwoodie  
General Manager  
Planning and Development

MDD/BP/saw

Attachments:

Appendix I - Map of Subject Site

Appendix II – Drawing of Skateboard Structure

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