

DECISION/DIRECTION NOTE

Title: Residential Driveways in Floodplain – Adoption – REZ2000011

Date Prepared: April 28, 2021

Report To: Regular Meeting of Council

Councillor and Role: Councillor Maggie Burton, Planning & Development

Ward: N/A

Decision/Direction Required:

That Council adopt the attached resolution for St. John’s Development Regulations Amendment 720, 2021, to allow the development of driveways in a floodplain under certain conditions where the grade of the land would not be changed.

Discussion – Background and Current Status:

The City has received an application to develop a single detached dwelling at 42-44 Fourth Pond Road. The property contains a house and would be subdivided to create a second lot for the new house. Much of the proposed new lot is in the floodplain and the floodplain buffer of Fourth Pond. While the new house would be built outside the floodplain and buffer, the driveway would have to cross the floodplain and buffer to reach the new house.

This application has prompted review of Section 11.2.4 of the St. John’s Development Regulations, which sets out conditions for development within lands adjoining bodies of water and flood hazard areas. Under the current regulations, a driveway is not be permitted within a floodplain. The City will also review the draft Envision St. John’s Development Regulations.

The application raised concerns about allowing a driveway in a floodplain; this could change the flow of flood waters and cause flooding on properties that might not flood otherwise. Allowing a driveway might change the floodplain. The greater the change in the landscape, the greater potential change in flooding. As well, allowing a driveway in a floodplain may pose a risk to life and safety for people using the driveway, depending on the flood conditions.

While these concerns still exist, we recognize that there are some situations where a driveway could be considered. Development Engineering staff support the attached amendment to add driveways in a floodplain at the discretion of Council. Staff would only recommend approval of a driveway in a floodplain if the grade of the property is not changed for the driveway. The final decision would rest with Council. Given the staff review that is required for such applications, staff recommend that individual driveways would not need to be reviewed by the City’s Environment and Sustainability Experts Panel (ESEP). The proposed amendment also incorporates some of the wording from the draft Envision Development Regulations, adding wharves and stages and substituting “trails” instead of “recreational travel”.



At its regular meeting of April 5, 2021 Council decided to consider the amendment, advertise it for public review and refer the amendment to the ESEP. The proposed amendment was advertised three times in *The Telegram* newspaper and was posted on the City's website. The amendment would apply city-wide, but where it was prompted by the application at 42-44 Fourth Pond Road, property owners within 150 metres of that site were notified. No written submissions were received by the City Clerk.

The ESEP offer the following: "The ESEP agrees with the proposed approach as long as:

1. clarification provided to the ESEP is provided in a Decision Note to Council;
2. these applications are referred to Council for consideration before approval;
3. applications would be treated as per other floodplain applications and be reviewed by Council; if Council determines it necessary, they can be referred to the ESEP;
4. that the City ensures there are relevant regulations controlling the specifications of the driveways to minimize its footprint and runoff;
5. additionally, consideration could be given to permeable materials such as pavers."

Here is the clarification referred to in point 1 above:

- The Envision Development Regulations refer to a "floodplain", while the current Development Regulations use "100-year high water mark". These mean the same thing.
- The April 2019 version of Envision will be updated to reflect Council's decision on driveways in a floodplain.
- Driveways in a floodplain or a floodplain buffer would be at the discretion of Council, but the grading policy (no change in grade) would apply only to driveways in a floodplain.
- Staff procedures will accommodate reviews of driveway applications, therefore further detail is not needed in the Development Regulations.
- Wharves, stages and trails would not have the requirement for the grade to remain unchanged, but they would all require Council's approval.

With respect to 42-44 Fourth Pond Road, should Council proceed with the proposed amendment, the applicant would be required to provide information showing that the installation of a driveway and culvert would not alter the existing grade. If those conditions can be met, the application would be brought to Council at the development stage for a decision.

Should Council adopt the amendment, it will be forwarded to the NL Department of Municipal and Provincial Affairs for registration. No commissioner's public hearing is required.

Key Considerations/Implications:

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Neighbouring residents and property owners.
3. Alignment with Strategic Directions/Adopted Plans:
St. John's Strategic Plan 2019-2029 - A Sustainable City – Plan for land use and preserve and enhance the natural and built environment where we live.

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4. Legal or Policy Implications: A text amendment to the St. John's Development Regulations is required.
5. Privacy Implications: Not applicable.
6. Engagement and Communications Considerations: The application and proposed amendment has already been advertised.
7. Human Resource Implications: Not applicable.
8. Procurement Implications: Not applicable.
9. Information Technology Implications: Not applicable.
10. Other Implications: Not applicable.

Recommendation:

That Council adopt St. John's Development Regulations Amendment Number 720, 2021, which will allow the development of driveways in a floodplain under certain conditions where the grade of the land would not be changed.

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Approved by: Ken O'Brien, MCIP, Chief Municipal Planner

Report Approval Details

Document Title:	Residential Driveways in Floodplain - Adoption - REZ2000011.docx
Attachments:	- Residential Driveways in Floodplains - Adoption Attachment.pdf
Final Approval Date:	Apr 29, 2021

This report and all of its attachments were approved and signed as outlined below:

Ken O'Brien - Apr 28, 2021 - 4:33 PM

Jason Sinyard - Apr 29, 2021 - 11:04 AM