



# **Corporate** NO: R077

# **Report** COUNCIL DATE: April 3, 2000\_

## **REGULAR COUNCIL**

**TO: Mayor & Council**    **DATE: March 30, 2000**

**FROM: General Manager, Planning & Development**    **FILE: 7998-0059-01**

**SUBJECT: Development Variance Permit Application10095 - 121 StreetYashpal Parmar, Owner and Applicant**

## **RECOMMENDATION**

The Planning & Development Department recommends that Council approve the attached Development Variance Permit No. 7998-0059-01, authorize the Mayor and Clerk to sign the permit and authorize the transfer of the permit to the heirs, administrators, executors, successors and assigns of the title of the land within the terms of the permit.

## **BACKGROUND**

The following is a chronology of events pertaining to this project:

1. On March 4, 1998, the applicant, Dr. Yashpal Parmar, submitted an application to subdivide the property at 10095 - 121 Street into two single family lots. A Development Variance Permit (DVP) application was also made in conjunction with the subdivision application, to relax the lot depth and front yard setback regulations in the RF Zone and to relax certain works and services requirements.
2. On September 14, 1998, Council approved the DVP application to proceed to public notification.
3. The public notification process resulted in some area residents expressing opposition to the proposed Building Scheme associated with the proposed subdivision.
4. As a result of this opposition, on October 5, 1998, Council denied the DVP application.
5. On July 12, 1999, Council approved the applicant's request to appear before Council as a delegation to seek Council's reconsideration of the DVP.

6. On September 7, 1999, the applicant appeared as a delegation at the Regular Council Land Use meeting. The applicant informed Council that he had reached an agreement with the area residents on the contentious issues in the Building Scheme and, therefore, requested reconsideration of his DVP application. Council suggested that the applicant reapply.

7. On September 8, 1999 the applicant submitted a second DVP application which was presented to Council on October 18, 1999, along with a copy of the proposed Building Scheme which was found acceptable by the neighbourhood. Council approved the DVP application to proceed to public notification.

8. On November 1, 1999, a delegation to Council was made by Mr. Jeff Kloeble, a representative of the Royal Heights Neighbourhood Committee, expressing several concerns including the uncertainty of the proposed Building Scheme being registered and thus whether it would be enforceable. Rather than approving the DVP, Council instructed staff to report back as to how assurance can be given that the approved Building Scheme can be enforced.

## DISCUSSION

The subject property in Royal Heights is zoned Single Family Residential (RF). An application for a two-lot subdivision has been submitted. However, before the Approving Officer can approve the subdivision, variances are required to the lot depth regulation for both proposed lots and the front yard setback regulation for one lot to accommodate the existing house. The owner is also seeking variances to the some works and services requirements.

The applicant's design consultant, Mike Tynan, has worked with the neighbourhood and developed Design Guidelines that are acceptable to the neighbourhood and the applicant. The over-riding concern of the neighbourhood, however, has been the uncertainty that these Design Guidelines will be registered on title. This uncertainty stems from the sequencing of approvals in which the registration of the subdivision plan and the building scheme is the very last step in the development approval process.

The usual process requires the Design Guidelines to be registered on title as a Section 220 Building Scheme which is tied to the land by way of a Section 219 Restrictive Covenant; the registration of these legal documents occurs concurrently with the subdivision plans. In this case, however, the Approving Officer cannot approve the subdivision until after Council approves the lot depth and setback variances. The neighbourhood is concerned that after the DVP is approved by Council the accepted Design Guidelines may not be registered by the applicant.

To address the neighbours' concerns over the enforceability of the proposed Design Guidelines, staff held a meeting on November 23, 1999 with the neighbourhood representative, the applicant and the applicant's design consultant. At the meeting, staff presented two options which could take place before Council considers approval of the DVP and thus address the neighbourhood concern:

1. Registration of a Section 219 Restrictive Covenant on the subject site to prohibit subdivision unless the approved Design Guidelines are registered concurrently on title as a Section 220 Building Scheme and Section 219 Restrictive Covenant; or
2. Registration of a Section 220 Building Scheme and Section 219 Restrictive Covenant on the subject site and one or two adjoining sites not owned by the applicant (because a Building Scheme cannot be registered on only one lot).

The applicant and the neighbourhood representative were agreeable to the first option, namely, that a Section 219 Restrictive Covenant be registered on the title of the subject site prior to Council's consideration of approval of the DVP. This Restrictive Covenant would prohibit subdivision of the subject property unless the approved Section 220 Building Scheme is registered on title concurrently with a Section 219 Restrictive Covenant and the subdivision plan. Therefore, the registration of this restrictive covenant will ensure that the neighbourhood-approved Building Scheme will regulate the newly created lots, whenever subdivision is sought.

On March 14, 2000, a State of Title Certificate was received by the Planning & Development Department from the applicant's notary public, indicating the Restrictive Covenant has now been registered on the subject site. With this knowledge, the neighbourhood representative has expressed to staff that the neighbourhood has no concerns with the proposed Development Variance Permit.

## **CONCLUSION**

The registration of the Section 219 Restrictive Covenant has satisfactorily addressed the concern of the neighbourhood with regards to the enforceability of the proposed Building Scheme. The approval, by Council, of the Development Variance Permit will enable the applicant to seek subdivision approval from the Approving Officer. Therefore, the Planning & Development Department recommends that Council approve the attached Development Variance Permit No. 7998-0059-01.

Murray D. Dinwoodie

General Manager

Planning & Development Department

YZ/kms

## **APPENDICES**

1. Planning Report considered at October 18, 1999 Regular Council Land Use meeting
2. Development Variance Permit No. 7998-0059-01

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