

MINUTES of a regular meeting of the MUNICIPAL COUNCIL of The Corporation of the District of Oak Bay, held in the Council Chambers, Oak Bay Municipal Hall, 2167 Oak Bay Avenue, Oak Bay, B.C., on Monday January 12, 2015 at 7:30 p.m.

PRESENT:           Acting Mayor M. Kirby, Chair  
                  Councillor H. Braithwaite  
                  Councillor T. Croft  
                  Councillor K. Murdoch  
                  Councillor T. Ney  
                  Councillor E. W. Zhelka

STAFF:            Municipal Clerk, L. Hilton  
                  Deputy Municipal Clerk, M. Jones  
                  Municipal Treasurer, P. Walker  
                  Director of Building and Planning, R. Thomassen

MINUTES AND REPORTS:

1.        ***Council, December 15, 2014***

MOVED by Councillor Ney

Seconded by Councillor Braithwaite, That the minutes of the Council meeting held on Monday, December 15, 2014, be adopted.

A member of Council asked that consideration be given in the future to amending the resolution for the 2016 meeting schedule so that both Council and Committee of the Whole meetings would commence at 7:00 p.m.

The question was then called.

CARRIED

2.        ***Special Council, December 22, 2014***

MOVED by Councillor Ney

Seconded by Councillor Braithwaite, That the minutes of the Special Council meeting held on Monday, December 22, 2014, be adopted.

CARRIED

MAYOR'S REMARKS:

***Burns Dinner***

Acting Mayor Kirby drew attention to the Burns Dinner at Monterey Centre on Tuesday January 13, 2015 which is held to celebrate Robbie Burns Day, noting that Mayor Jensen will be present to serve the traditional haggis.

PUBLIC PARTICIPATION PERIOD:

Gerald Smeltzer, Oak Bay resident, expressed his concerns regarding the amount of detail provided in the Municipal Treasurer's report with respect to the request for early approval of 2015 Capital Projects. After noting that he appreciated the expanded information now provided on the municipal website, Mr. Smeltzer commented that in his opinion this report should provide increased detail in order ensure the necessary transparency and openness in regards to capital project expenditures. He also drew Council's attention to the Auditor General for Local Government's performance audit of the City of Rossland, noting that it contained some recommendations for all local governments with regards to these issues.

COMMUNICATIONS:

3. ***Request for Early Approval of 2015 Capital Projects***

- Report - Municipal Treasurer, Jan. 6, 2015

The Municipal Treasurer provided an overview of her report and outlined the advantages of the current process for early approval of capital projects, noting that the intention is to ensure that the work on the projects is spread out to crews for the entire year and also that these projects are undertaken in a timely manner during the best weather of the year. Ms. Walker noted that any non-routine capital projects would be addressed as a separate item for Council's consideration. She also provided clarification with respect to the expenditures on pavement management and equipment replacement.

Moved by Councillor Murdoch

Seconded by Councillor Ney, That early spending approval be given for the capital projects and equipment replacement purchases as detailed in the report of the Municipal Treasurer dated January 6, 2015.

CARRIED

4. ***Heritage Alteration Permit Application - 2753 Cavendish Avenue***

- Report - Director of Building and Planning, Dec. 12, 2014
- Plans - HAP - 2753 Cavendish Ave.

Moved by Councillor Murdoch

Seconded by Councillor Braithwaite, That the application for a Heritage Alteration Permit for 2753 Cavendish Avenue, as detailed in the December 12, 2014 report of the Director of Building and Planning, be referred to the Heritage Commission for review and recommendation to Council.

CARRIED

5. ***Request for Amendment to Section 219 Covenant - As Part of Subdivision Approval with Architectural Design and Siting Approval - 131 Beach Drive***

- Report - Director of Building & Planning, Jan. 7, 2015
- Rpt Attach 1 - DVP #PL116-2013
- Rpt Attach 2 - Advisory Design Panel Minutes, Dec. 1, 2014
- Rpt Attach 3 - Proposed revision to covenant (tree covenant plan) with Appendix A
- Rpt Attach 4 - Old Tree Covenant Plan as Appendix A
- Rpt Attach 5 - Municipal Arborist's Memo/Gye & Associates Ltd Corresp, various dates
- Plans - Architectural Design & Siting Approval - 131 Beach Dr.
- ADDENDA - Municipal Arborist's Memo/Gye and Associates Ltd. Corresp, Oct. 17, 2014

*(Chris Hyde-Lay, Manager of Parks Services, in attendance for this item.)*

The Director of Building and Planning provided an overview of the process to date with respect to the subdivision and the existing covenant on the subject property, noting that the proposed amendment to the covenant would allow the owners to construct a dwelling on the subject property based on the plans attached to his report, which were provided for Council's consideration with respect to siting and architectural design.

Turning to the question of the proposed patio, the Director of Building and Planning reviewed the information that the applicant would need to clarify, including the exact location of the patio and the construction method, taking into account tree mitigation and allowable lot coverage.

Responding to questions from Council, the Manager of Parks Services noted that most of the concerns previously raised by Parks staff regarding the impact of the proposed dwelling on the existing trees have been addressed; however, he noted, clarification is still required from the applicant on how the large Douglas fir on the west of the subject property will be protected from damage during construction of the proposed patio, given that this area of the property has significant bedrock. He noted that if damage occurred as a result of the construction on the lot to trees which were protected under the tree covenant plan, a fine of \$10,000 could be levied.

Beverly Blumer, owner, provided clarification with respect to tree mitigation measures and her intentions regarding the proposed patio.

Ms. Blumer stated that a tree mitigation plan has to be approved by staff during the building permit phase, as required by the covenant, and that this plan would address how to mitigate the impact of the patio's construction. She commented that they have no intention of seeking more square footage than currently permitted and stated that if the patio cannot be constructed without a retaining wall, they would reduce the patio's size appropriately.

In response to questions from Council, Ms. Blummer confirmed that they were aware of the covenant before purchasing 131 Beach Drive, but that this was the first time they have built a home and were finding the process challenging. She noted that the slope of the property made it difficult to construct a house and a garage that would meet their needs, while using a design that would be acceptable to neighbouring residents. She confirmed that the patio surfacing will be permeable and that the protection of trees on site is of paramount importance.

Steve Smith, builder, noted that the original covenant was placed on the lot without taking into account how a house design might actually work on the subject property.

In response to questions from Council, the Director of Building and Planning confirmed that the exact location and construction of the patio could be addressed at the building permit stage, as long as the proposal takes into account tree protection and allowable lot coverage. He concluded his remarks by reviewing the areas with significant tree coverage which would need mitigation measures to be protected during the proposed construction.

Members of Council commented on the proposed amendment to the covenant, noting that the amendment seems to address the original intent of the covenant to preserve the trees on the subject property, although additional oversight from staff would be needed to ensure this occurred. It was also noted that, in respect to the proposed patio, a reduced size and the use of permeable pavers were supportable.

Moved by Councillor Ney

Seconded by Councillor Murdoch, That:

1. The plans for the construction of a new residential dwelling at 131 Beach Drive, as attached to the report of the Director of Building and Planning dated January 5, 2015, be approved as to siting and architectural design; and
2. That the Mayor and Municipal Clerk be authorized to execute the amending covenant substantially in the form attached to the report of the Director of Building and Planning dated January 5, 2015 as attachment 3.

CARRIED

CORRESPONDENCE - ITEMS APPEARING LATER ON THE AGENDA:

6. ***Correspondence - Development Variance Permit Application for 860 St. Patrick Street***
  - Corres up to Jan. 9, 2015 - DVP application - 860 St. Patrick St.

7. **Correspondence - Development Variance Permit Application for 1220 Roslyn Road**
  - ADDENDA - Corresp up to Jan. 12, 2015 - DVP application - 1220 Roslyn Rd.
  
8. **Correspondence - Development Variance Permit Application for 2445 Hamiota Street**
  - ADDENDA - Corresp up to Jan. 12, 2015 - DVP application – 2445 Hamiota St.

Moved by Councillor Braithwaite

Seconded by Councillor Murdoch, That the correspondence listed under agenda items 6, 7 and 8 be received.

CARRIED

NEW BUSINESS/REPORTS FROM OTHER COMMITTEES:

***Heritage BC's Heritage Week 2015***

Councillor Murdoch noted that Heritage Week was coming up in February and that details would be forthcoming on events for the week planned by the Oak Bay Heritage Commission and Foundation.

***Happy City, February 18, 2015 – TransForm Talk #6***

Councillor Kirby noted that Charles Montgomery, author of *Happy City*, is the featured speaker for the upcoming TransForm talk.

TABLED RESOLUTIONS:

9. **Development Variance Permit Application - 1220 Roslyn Road**
  - Tabled Resolution Notice - DVP - 1220 Roslyn Rd.
  - Plans - DVP - 1220 Roslyn Rd.

Moved by Councillor Zhelka

Seconded by Councillor Murdoch, That the following motion be lifted from the table:

*That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 1220 Roslyn Road (Lot 2, Section 23, Block 1, Victoria District Plan EPP32418) varying the following provisions of Bylaw No. 3531 Zoning Bylaw, 1986 as amended:*

<u>Zoning Bylaw Section</u>	<u>Permitted/ Required</u>	<u>Requested</u>	<u>Variance</u>
4.15.1 Maximum paved surface (Rear Yard)	25% (17.8 m <sup>2</sup> )	45% (32 m <sup>2</sup> )	20% (14.2 m <sup>2</sup> )

6.5.4.(11)

<i>Minimum second storey side lot line setback</i>	<i>3.0 m</i>	<i>2.2 m</i>	<i>0.8 m</i>
--	--------------	--------------	--------------

*to accommodate the construction of a new residential dwelling and garage on a newly created lot as shown on the plans appended to Committee of the Whole agenda item 2014-280, being a memorandum from the Director of Building and Planning dated November 5, 2014.*

CARRIED

It was noted that, as raised in correspondence received regarding the application (see agenda item 7), the proposed plans identified a gross floor area exceeding the amount allowed under the bylaw, but that there was no proposed variance for gross floor area. A discussion ensued with respect to potential processes that could be followed to address this issue.

Brian Kendrick, designer, commented that it would be possible to submit plans with minor amendments at the building permit stage with a gross floor area that does not exceed the amount allowed under the bylaw.

The Director of Building and Planning confirmed that a minor amendment to reduce the size of the proposed dwelling, while still maintaining the form and character as shown on the circulated plans, would be an amendment that he could approve at the building permit stage.

Rohani Farhad, owner, noted that the proposed variances would allow the existing Oak tree to remain, which was a concern expressed by neighbours. He stated that it was an oversight not to include the gross floor area in the requested variances, but that the designer has confirmed that the house size can be reduced to comply with the bylaw in regards to gross floor area without a substantial impact on the proposed design. Mr. Farhad concluded his remarks, noting that Council had previously approved variances for this property when the Oak tree was being removed and that extensive time has been taken to see that the tree is preserved.

Moved by Councillor Murdoch

Seconded by Councillor Ney, That the motion in regards to the development variance permit for 1220 Roslyn Road be amended to add the following clause after “November 5, 2014”: “with the exception of the site plan which is amended so that any mention of the total floor area of 258.54 square meters is replaced with 240 square meters”.

The Director of Building and Planning responded to questions regarding the allowable encroachments into the setback for roof overhangs.

CARRIED

The question on the main motion as amended was then called.

CARRIED

10. ***Development Variance Permit Application - 1255 St. Denis Street***

- Tabled Resolution Notice - DVP - 1255 St Denis St.
- Plans - DVP - 1255 St. Denis St.

Moved by Councillor Croft

Seconded by Councillor Zhelka, That the following motion be lifted from the table:

*That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 1255 St. Denis Street (Lot 7, Section 23, Victoria District Plan 7043) varying the following provisions of Bylaw No. 3531 Zoning Bylaw, 1986 as amended:*

<u>Zoning Bylaw Section</u>	<u>Required</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(11) Minimum second storey side lot line setback	3.0 m	2.1 m	0.9 m

*to accommodate the relocation and construction of stairs to the second floor, and to accommodate previous development of the second floor, of the existing dwelling as shown on the plans appended to Committee of the Whole agenda item 2014-282, being a memorandum from the Director of Building and Planning dated October 24, 2014.*

CARRIED

The question on the main motion was then called.

CARRIED

11. ***Development Variance Permit Application - 731 Victoria Avenue***

- Tabled Resolution Notice - DVP - 731 Victoria Ave.
- Plans - DVP - 731 Victoria Ave.

Moved by Councillor Murdoch

Seconded by Councillor Croft, That the following motion be lifted from the table:

*That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 731 Victoria Avenue (Lot 4, Section 22, Victoria District, Plan 1189A) varying the following provisions of Bylaw No. 3540, Parking Facilities Bylaw, 1986 and Bylaw No. 3531, Zoning Bylaw, 1986 as amended:*

	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
<u>Parking Facilities Bylaw Section</u>			
4.1 + Schedule "A", A.1.(a) Minimum number of parking spaces	2 spaces (one must be in a building)	2 spaces (none in a building)	no covered parking provided

Zoning Bylaw Section

4.15.1 Maximum paved surface (Front Yard)	25% (25.5 m <sup>2</sup> )	28% (28.6 m <sup>2</sup> )	3% (3.1 m <sup>2</sup> )
--	----------------------------	----------------------------	--------------------------

to accommodate the development of the existing covered garage space into living space, and to permit two uncovered parking stalls, as shown on the plans appended to Committee of the Whole agenda item 2014-281, being a memorandum from the Director of Building and Planning dated October 23, 2014.

CARRIED

The question on the main motion was then called.

CARRIED

12. **Development Variance Permit Application - 860 St. Patrick Street**

- Tabled Resolution Notice - DVP - 860 St Patrick St.
- Plans - DVP - 860 St Patrick St.

Moved by Councillor Braithwaite

Seconded by Councillor Croft, That the following motion be lifted from the table:

*That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 860 St. Patrick Street (Lot 35, Block B, Section 22, Victoria District Plan 1092) varying the following provisions of Bylaw No. 3531 Zoning Bylaw, 1986 as amended:*

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(6)(a) Maximum gross floor area above .8 meters below grade	240 m <sup>2</sup>	327 m <sup>2</sup>	87 m <sup>2</sup>



*to accommodate more storage area in the lower floor of an existing residential dwelling as shown on the plans appended to Committee of the Whole agenda item 2014-285, being a memorandum from the Director of Building and Planning dated November 1, 2014.*

CARRIED

The question on the main motion was then called.

CARRIED

13. ***Development Variance Permit Application - 2445 Hamiota Street***

- Tabled Resolution Notice - DVP - 2445 Hamiota St.
- Plans - DVP - 2445 Hamiota St.

Moved by Councillor Murdoch

Seconded by Councillor Braithwaite, That the following motion be lifted from the table:

*That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2445 Hamiota Street (Amended Lot 4 (DD 1924721), Block 2, Section 61, Victoria District Plan 876) varying the following provisions of Bylaw No. 3531 Zoning Bylaw, 1986 as amended:*

<u>Zoning Bylaw Sections</u>	<u>Required/ Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(6)(b) <i>Maximum gross floor area above .8 meters below grade</i>	300 m <sup>2</sup>	400 m <sup>2</sup>	100 m <sup>2</sup>
6.5.4.(11) <i>Minimum second storey side lot line setback</i>	3.00 m	2.96 m	0.04 m

*to accommodate a renovation of and addition to the rear of the existing residential dwelling, as shown on the plans appended to Committee of the Whole agenda item 2014-286, being a memorandum from the Director of Building and Planning dated November 6, 2014.*

CARRIED

The question on the main motion was then called.

CARRIED

14. ***Development Variance Permit Application - 2358 Beach Drive***

- Tabled Resolution Notice - DVP - 2358 Beach Dr.
- Plans - DVP - 2358 Beach Dr.

Moved by Councillor Braithwaite

Seconded by Councillor Ney, That the following motion be lifted from the table:

*That the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 2358 Beach Drive (Lot 16, Block 12, Section 2, Victoria District Plan 379) varying the following provisions of Bylaw No. 3531 Zoning Bylaw, 1986 as amended:*

<u>Zoning Bylaw Section</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.5.4.(6)(a) Maximum gross floor area above .8 meters below grade	240 m <sup>2</sup>	287 m <sup>2</sup>	47 m <sup>2</sup>

*to accommodate renovation of the top floor of the existing residential dwelling, as shown on the plans appended to Committee of the Whole agenda item 2014-287, being a memorandum from the Director of Building and Planning dated November 6, 2014.*

CARRIED

The question on the main motion was then called.

CARRIED

15. ***Development Variance Permit Application - 3155 Beach Drive***

- Tabled Resolution Notice - DVP - 3155 Beach Dr.
- Plans - DVP - 3155 Beach Dr.

Moved by Councillor Zhelka

Seconded by Councillor Ney, That the following motion be lifted from the table:

*That the plans to construct a new residential dwelling at 3155 Beach Drive be approved as to siting and architectural design, subject to the issuance of a development variance permit, and further that the Director of Building and Planning be authorized to issue a Development Variance Permit with respect to 3155 Beach Drive (Lot 3, Block 10, Section 31, Victoria District Plan 1216A) varying the following provisions of Bylaw No. 3531 Zoning Bylaw, 1986 as amended:*

<u>Zoning Bylaw Section(s)</u>	<u>Permitted</u>	<u>Requested</u>	<u>Variance</u>
6.1.4.(3)(a) Maximum building height	7.32 m	7.87 m	0.55 m
6.1.4.(3)(b) Maximum occupiable height	4.57 m	4.75 m	0.18 m

6.1.4.(3)(c) Maximum roof height	9.14 m	11.63 m	2.49 m
-------------------------------------	--------	---------	--------

*to accommodate the construction of a new dwelling as shown on the plans appended to the explanatory note from the Municipal Clerk for the Council meeting of December 15, 2014.*

CARRIED

The Director of Building and Planning responded to questions from Council with respect to the height of the proposed basement and its location above sea level. Mr. Thomassen also clarified that the issue of protecting developments from flooding associated with sea level rise, as identified in the Official Community Plan, would be addressed following the receipt of necessary data from the Capital Regional District.

The question on the main motion was then called.

CARRIED

ADJOURNMENT:

*Motion to Adjourn*

Moved by Councillor Braithwaite

Seconded by Councillor Ney, That the meeting of Council be adjourned.

CARRIED

The meeting adjourned at 8:37 p.m.

Certified Correct

---

Municipal Clerk

---

Acting Mayor