

City of Kelowna

Regular Council Meeting

AGENDA



Tuesday, August 11, 2020
7:30 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. **Call to Order**
2. **Reaffirmation of Oath of Office**
The Oath of Office will be read by Councillor Singh.
3. **Confirmation of Minutes** 1 - 3
Regular Meeting - July 28, 2020
4. **Development Permit and Development Variance Permit Reports**
 - 4.1 **Birch Ave 795-797 - DVP19-0233 - Velma Rena Feeny** 4 - 26
Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward for each item.

To vary the number of on-site parking spaces from 10 required to 3 proposed and to vary the number of loading spaces from 1 required to 0 proposed in order to accommodate a capacity expansion from 58 to 68 children for the existing child care centre operating on the subject property.
5. **Reminders**
6. **Termination**



City of Kelowna Tuesday Regular Council Meeting Minutes

Date: Tuesday, July 28, 2020
Location: Council Chamber
City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart, Gail Given, Brad Sieben, Mohini Singh, Luke Stack and Loyal Wooldridge

Members Participating Remotely Councillors Ryan Donn and Charlie Hodge

Staff Present City Manager, Doug Gilchrist; City Clerk, Stephen Fleming, Divisional Director, Planning and Development Services, Ryan Smith; Community Planning & Development Manager, Dean Strachan; Legislative Coordinator (Confidential), Clint McKenzie

(*Denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 6:03 p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor Given.

3. Confirmation of Minutes

Moved By Councillor Wooldridge/Seconded By Councillor Given

(R0511/20/07/28) THAT the Minutes of the Public Hearing and Regular Meeting of July 14, 2020 be confirmed as circulated.

Carried

4. Development Permit and Development Variance Permit Reports

4.1 Hwy 97N 2800 - BL11933 (OCP18-0012) - Kelowna Motors Investments Ltd., Inc. No. BC0271671

Moved By Councillor Given/Seconded By Councillor Singh

(R0512/20/07/28) THAT Bylaw No. 11933 be adopted.

Carried

4.2 Hwy 97N 2800 - BL11934 (Z18-0057) - Kelowna Motors Investments Ltd., Inc. No. BCo271671

Moved By Councillor Given/Seconded By Councillor Singh

(R0513/20/07/28) THAT Bylaw No. 11934 be adopted.

Carried

4.3 Hwy 97 N 2800 - DP18-0218 DVP18-0219 - Kelowna Motors Investments Ltd., Inc. No. BCo271671

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Matt August, Applicant:

-Present and available for questions.

Paul Pasutto, Innocept Real Estate Outsourcing Ltd., Applicant's Agent:

-Displayed a PowerPoint presentation.

-Spoke to the history of the site.

-Spoke to the development permit and minor variance.

Mayor Basran invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments from Council.

No one came forward.

Moved By Councillor Wooldridge/Seconded By Councillor Given

(R0514/20/07/28) THAT final adoption of Official Community Plan Bylaw No.11933 and Rezoning Bylaw No.11934 be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP18-0218 for Lot 1 District Lots 124 and 143 ODYD Plan KAP83915 Except Plan KAP84828 and EPP57498 located at 2800 Hwy 97N, Kelowna, BC subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";
3. Landscaping to be provided on the land be in accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a Registered Landscape Architect;

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP18-0219 for Lot 1 District Lots 124 and 143 ODYD Plan KAP83915 Except Plan KAP84828 and EPP57498 located at 2800 Hwy 97N, Kelowna, BC;

AND THAT variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 6.10.1: Setback from Provincial Highways – General Development Regulations

To vary the minimum setback of all buildings and structures on lots abutting Highway 97 from 4.5 m to 4.0 m.

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permit Application in order for the permits to be issued;

AND FURTHER THAT this Development Permit and Development Variance Permit are valid for two (2) years from the date of Council approval, with no opportunity to extend.

Carried

5. **Reminders**

There were no reminders.

6. **Termination**

The meeting was declared terminated at 6:15 p.m.

Mayor Basran



City Clerk

/cm

DRAFT

REPORT TO COUNCIL



Date: August 11, 2020
To: Council
From: City Manager
Department: Development Planning
Application: DVP19-0233
Owner: Velma Rena Feeny
Address: 795-797 Birch Ave
Applicant: Velma Rena Feeny
Subject: Development Variance Permit Application
Existing OCP Designation: EDINST – Educational / Major Institutional
Existing Zone: P2 – Education and Minor Institutional

1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP19-0233 for Strata Lot 1 & 2 District Lot 136 ODYD Strata Plan KAS1996 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, located at 795–797 Birch Avenue, Kelowna, BC;

AND THAT variances to the following section of Zoning Bylaw No. 8000 be granted:

Table 8.3.6 – Required Off-Street Parking Requirements – Community, Recreational, and Culture

To vary the required minimum parking spaces from 10 required to 3 proposed.

Table 8.4 – Minimum Loading Required

To vary the required minimum on-site loading spaces from 1 required to 0 spaces proposed.

2.0 Purpose

To vary the number of on-site parking spaces from 10 required to 3 proposed and to vary the number of loading spaces from 1 required to 0 proposed in order to accommodate a capacity expansion from 58 to 68 children for the existing child care centre operating on the subject property.

3.0 Development Planning

Development Planning Staff are recommending support for the proposed variances to reduce the number of required on-site parking and loading spaces. The variances are being requested in order to accommodate a

capacity expansion of an existing day care (Child Care Centre, Major) on the subject property. Staff understand that additional childcare spaces are needed in the community and the primary need for parking is with staff that can be accommodated on-site. Most of vehicular traffic to the site will be for the purposes of pickup and drop-off.

Overall, the proposal meets Kelowna's Official Community Plan (OCP) and is expected to have a very minimal impact on the surrounding neighbourhood. Should Council support the requested variances, the applicant's business license for the existing daycare will be updated to reflect the increased capacity.

4.0 Proposal

4.1 Background

The property has an existing duplex dwelling and two accessory buildings. Portions of the residential dwelling were converted over the years to accommodate the day care use, while retaining a portion of one side of the duplex as a residential use. Of the two accessory buildings, one remains as a garage, while the second was converted from a garage to an accessory building with a sitting room and washroom.

In 2008, the owner of the subject property who was also the operator of the existing day care on the subject site proposed to expand the day care from "a maximum of 10 children" to allow for "26 or more patrons". The subject property was zoned RU6 – Two Dwelling Housing and had a future land use designation of S2RES – Single/Two Unit Residential. As the scale of proposed day care expansion did not fit within the existing zoning, staff recommended support for an OCP Amendment, Rezoning and Development Variance Permit applications to accommodate the applicant's proposal.

The development applications were approved by Council and the subject property is now zoned P2 – Education and Minor Institutional and has a future land use designation of EDINST – Educational / Major Institutional. In addition, variances were approved to reduce the required side yard setbacks of the P2 zone which the existing buildings could not conform to.

In summary, the 2008 development applications approved the following changes:

Application	Amended	From	To
OCPo8-0013	Future Land Use	S2RES – Single / Two Unit Residential	EDINST – Educational / Major Institutional
Zo8-0049	Zoning	RU6 – Two Dwelling Housing	P2 – Education and Minor Institutional
DVPo8-0156	Side Yard (East)	4.5 m	2.47 m
	Side Yard (West)	4.5 m	2.38 m
	Loading Spaces	3.0 spaces	1.0 spaces

Since the development applications were approved in 2008, the owner/operator has upgraded the existing duplex structure by placing fire rated walls to accommodate the expanded day care use as well as constructing an addition to the remaining residential unit.

4.2 Project Description

The applicant has proposed to expand the day care's capacity to 68 children. In the fall of 2019, the applicant received approval from Interior Health for the capacity increase to 68 children. It was determined through the City's business licensing department and the City's building department that with an occupancy of over

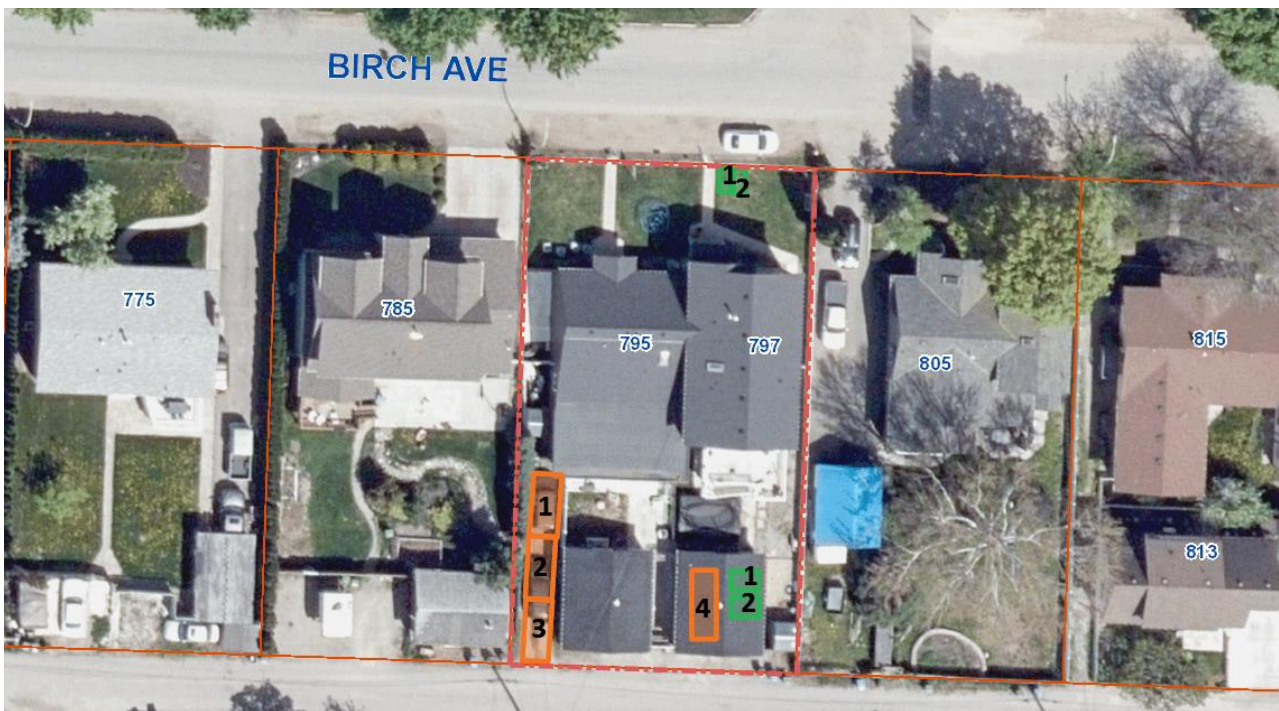
40 people in the building, a fire alarm system would need to be installed to meet Building and Fire Code requirements. The required fire alarm system has since been installed.

At this time, it was identified that the required off-street parking could no longer be provided for the existing approved day care use nor for the proposed capacity expansion. A Development Variance Permit application was submitted to reduce the required off-street parking spaces for the day care use.

Through Staff's review of the current Zoning Bylaw and the current proposed day care and residential uses on the subject property, the identified variances include:

1. reducing the required number of off-street parking spaces for the day care use from ten (10) spaces to three (3) spaces; and,
2. reducing to vary the number of on-site loading stalls from 1 required to 0 proposed. One (1) space is required for the residential use on the subject property which can be accommodated.

Proposed Parking Layout:



Three tandem parking spaces for the day care staff can be provided on-site off of the lane in the rear of the property, one space can be accommodated within the garage along with two required long-term bicycle parking spaces. The lane at the rear of the property can function as a drop-off/loading zone with space for three cars to parallel park in front of the accessory buildings in the rear yard without blocking through lane traffic.

There is also on-street parking space in front of the subject property on Birch Avenue which could accommodate up to four cars parallel parking for drop-off and pick-up times. In addition, Cameron Park, located across the street from the subject property, could be used as an overflow parking or drop-off/pick-up area.

The applicant did not receive any negative comments from neighbours through the neighbourhood notification process in regards to the proposed day care expansion.

4.3 Site Context

The subject property is in the South Pandosy - KLO City Sector and is located mid-block on Birch Avenue between Richter Street and Ethel Street. The property is within the permanent growth boundary and currently has a duplex and two accessory buildings and is across from Cameron Park. The property has a walk score of 60 – Somewhat Walkable, meaning some errands can be accomplished on foot.

The neighbourhood consists predominantly of infill housing comprising of between one and four units within the cities RU7 – Infill Housing zone. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P3 – Parks and Open Space	Cameron Park
East	RU7 – Infill Housing	Single Detached Residential
South	RU7 – Infill Housing	Single Detached Residential
West	RU7 – Infill Housing	Single Detached Residential

Subject Property Map: 795-797 Birch Ave



Zoning Analysis Table		
CRITERIA	ZONING REQUIREMENTS	PROPOSAL
Parking Regulations		
Off-Street Parking – Child Care Centre, Major	10 spaces	3 spaces ❶
Off-Street Parking - Residential Security/Operator Unit	1 space	1 space
Loading	1 space	0 spaces ❷
Long Term Bike Parking	2 spaces	2 spaces
Short Term Bike Parking	2 spaces	2 spaces

- Indicates a requested variance to Table 8.3.6 of Zoning Bylaw No.8000.
- Indicates a requested variance to Table 8.4 of Zoning Bylaw No. 8000.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 10: Social Sustainability

Objective 10.1 Promote social well-being and quality of life by providing facilities and services for all community members

Policy .1 Distribution of Community Resources. Appropriately distribute and locate community resources (such as libraries, parks, meeting places, community policing, recreation services etc.) so that all neighbourhoods have convenient access.

6.0 Application Chronology

Date of Application Received: December 2, 2019

Date Public Consultation Completed: July 2, 2020

Report prepared by: Andrew Ferguson, Planner II

Reviewed by: James Moore, Urban Planning & Development Policy Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Attachment A: Draft Development Variance Permit DVP19-0233

Schedule A: Parking Layout/Site Plan

Attachment B: Applicants Letter of Rationale

Draft Development Variance Permit

DVP19-0233



This permit relates to land in the City of Kelowna municipally known as

795-797 Birch Avenue

and legally known as

Strata Lot 1 & Lot 2, District Lot 136, ODYD, Strata Plan KAS1996 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1

and permits the land to be used for the following development:

P2 – Education and Minor Institutional

The present owner and any subsequent owner of the above described land must comply with any attached terms and conditions.

Date of Council Decision August 11, 2020

Decision By: COUNCIL

Development Permit Area: N/A

Existing Zone: P2 – Education and Minor Institutional

Future Land Use Designation: EDINST – Educational / Major Institutional

This is NOT a Building Permit.

In addition to your Development Permit, a Building Permit may be required prior to any work commencing. For further information, contact the City of Kelowna, Development Services Branch.

NOTICE

This permit does not relieve the owner or the owner's authorized agent from full compliance with the requirements of any federal, provincial or other municipal legislation, or the terms and conditions of any easement, covenant, building scheme or agreement affecting the building or land.

Owner: Velma Rena Feeny

Applicant: Velma Rena Feeny

Terry Barton
Development Planning Department Manager
Planning & Development Services

Date

1. SCOPE OF APPROVAL

This Development Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Development Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this permit, noted in the Terms and Conditions below.

The issuance of a permit limits the permit holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific variances have been authorized by the Development Permit. No implied variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

2. CONDITIONS OF APPROVAL

- a) The location of on-site parking to be in accordance with Schedule "A";

This Development Permit is valid for two (2) years from the date of approval, with no opportunity to extend.

3. PERFORMANCE SECURITY

Not required.

5. INDEMNIFICATION

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.

All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or their designates.**



0 13 25Meters

March 10, 2020

This map is for general information only. The City of Kelowna does not guarantee its accuracy, currency or completeness. All information should be verified.



Legend

SCHEDULE

A

This forms part of application
DVP19-0233

Planner Initials

AF

City of Kelowna

DEVELOPMENT PLANNING



Notes

Rationale Letter

City of Kelowna


Re: 795-797 Birch Ave Parking

ATTACHMENT		B
This forms part of application # DVP19-0233		
Planner Initials	AF	 City of Kelowna DEVELOPMENT PLANNING

Re: Variance

Currently and up to this point our parking system has been working very well. We have a loading zone directly out front which accommodates about 3 vehicles at a time. Since all parents do not arrive at the same time and may only need approximately 5 minutes for pick up, this provides a good flow. There is also 2hr street parking to accommodate any extras. There is public parking in Cameron Park with a four hour limit across the street. Should my staff need to use it, they require only 2 1/2 – 3 hours in the late part of the day. On site there are 8 spaces for staff or other wise use parking. This borders the back alley.

This all has been working very efficiently and we do not anticipate any changes.



Velma Feeny ,



DVP19-0233

795-797 Birch Avenue :

Development Variance Permit Application



Proposal

- ▶ To vary the number of on-site parking and loading spaces in order to accommodate a capacity expansion for the existing child care centre operating on the subject property.

Development Process

Dec 2, 2019

Development Application Submitted



Staff Review & Circulation



July 2, 2020

Public Notification Received

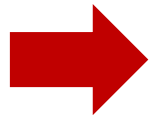


Aug 10, 2020

Regular Meeting
Variances



Council
Approvals



Business License Update

Context Map



City of Kelowna

Subject Property Map



Site Plan



Project/technical details

- ▶ Table 8.3.6 – Required Off-Street Parking Requirements – Community, Recreational, and Culture
 - ▶ To vary the required minimum parking spaces from 10 required to 3 proposed
- ▶ Table 8.4 – Minimum Loading Required
 - ▶ To vary the required minimum on-site loading spaces from 1 required to 0 proposed

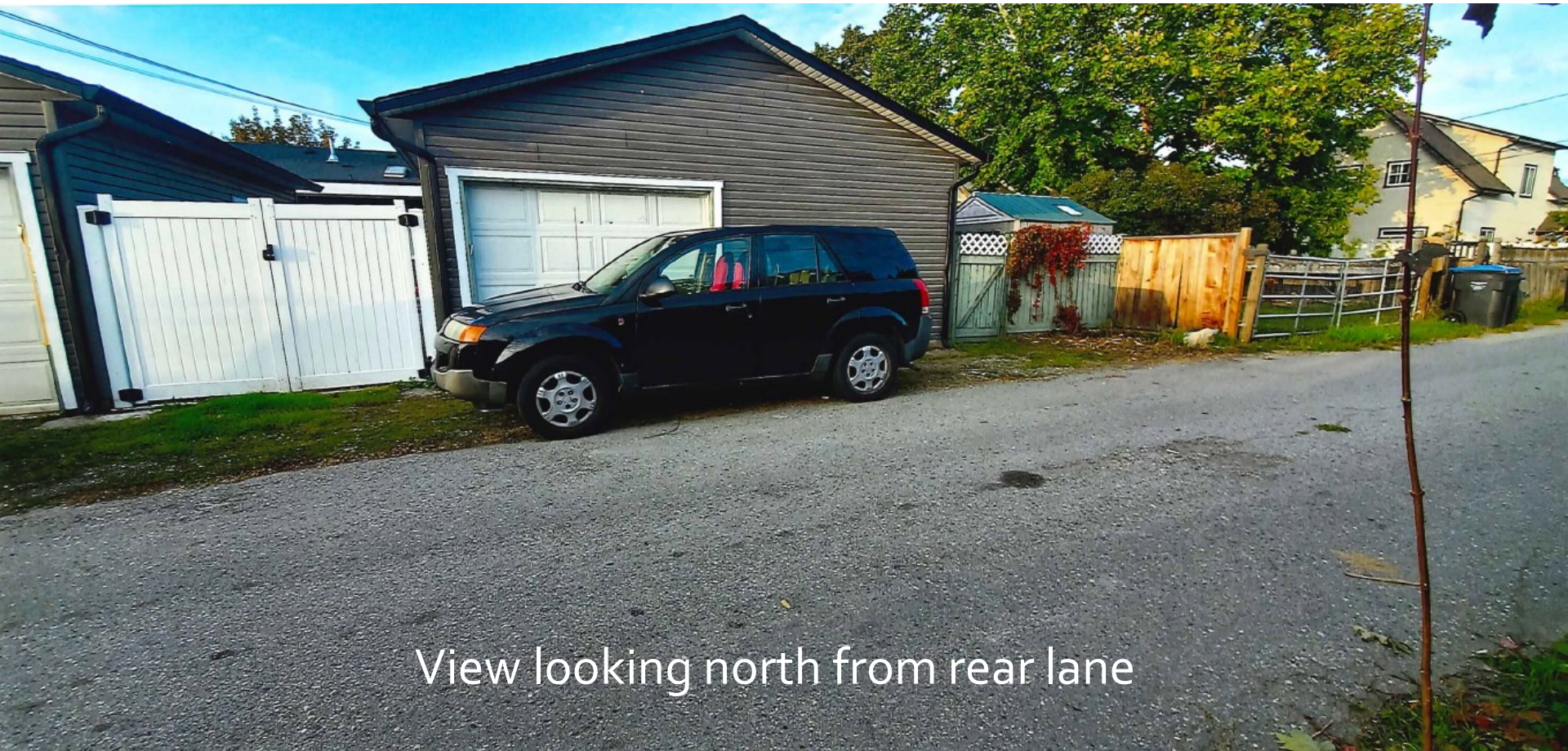
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❷ Indicates a requested variance to Table 8.4 of Zoning Bylaw No. 8000.		

Site Photo



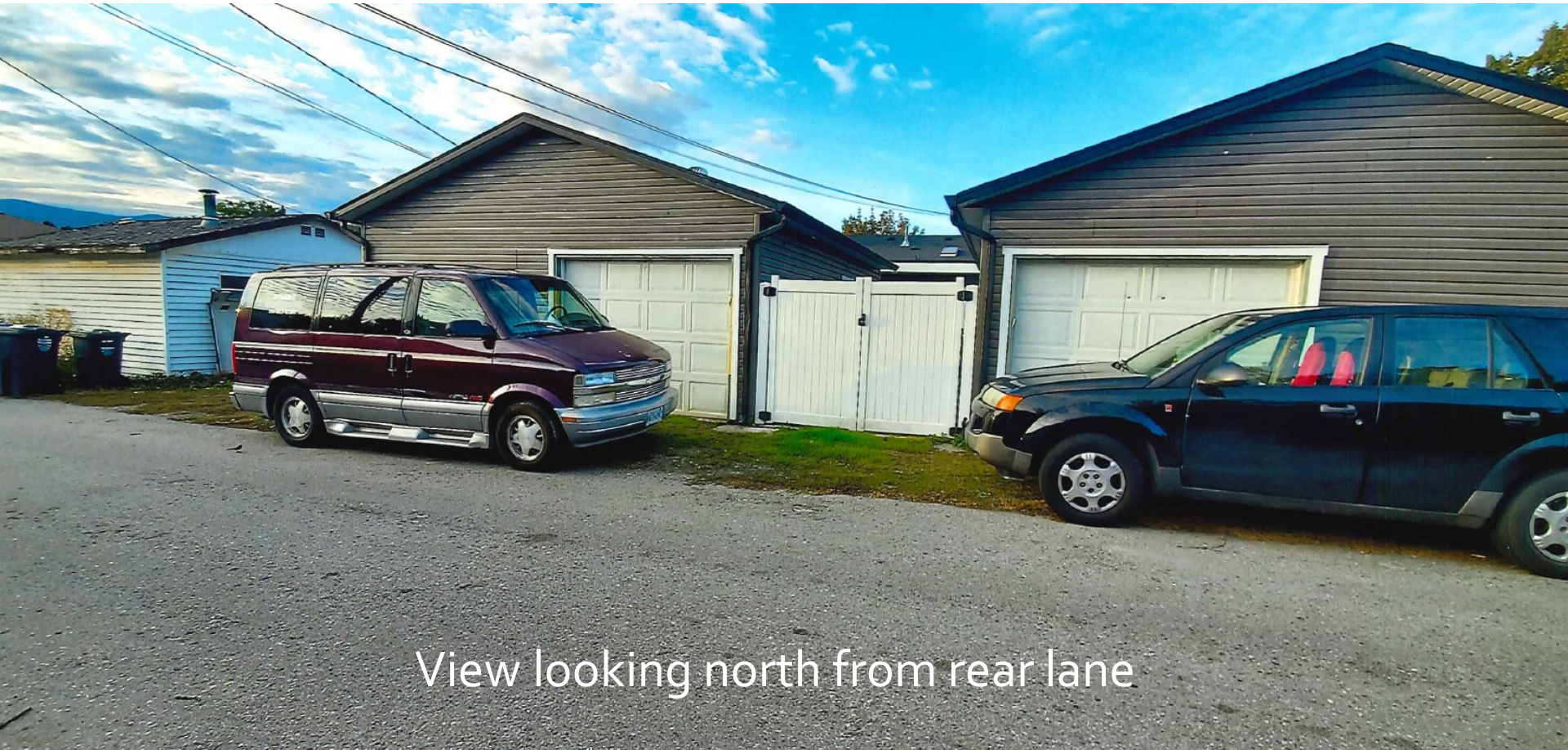
View looking South from Birch Ave

Site Photo



View looking north from rear lane

Site Photo



View looking north from rear lane

Site Photo



View looking north from rear lane

Staff Recommendation

- ▶ Staff are recommending support for the proposed variances:
 - ▶ On-site Parking
 - ▶ 10 stalls required to 3 stalls proposed
 - ▶ On-site Loading
 - ▶ 1 stall required to 0 stalls proposed
- ▶ Minimal neighbourhood impact
- ▶ Child care spaces in great need



Conclusion of Staff Remarks

Site Plan

