

REPORT TO COUNCIL



Date: 4/19/2016

RIM No. 0940-00

To: City Manager

From: Community Planning (AC)

Application: DP14-0137 & DVP10-0076

Owner: Nathan Morden

Address: 120 Homer Road

Applicant: Nathan Morden

Subject: Development Permit and Development Variance Permit Application

Existing OCP Designation: MRL - Multiple Residential, Low Density

Existing Zone: RM1 - Four Dwelling Housing

1.0 Recommendation

THAT Final Adoption of Zoning Amending Bylaw No. 10403 be considered by Council.

AND THAT Council authorize the issuance of Development Permit DP14-0137 for Lot 13 Section 27 Township 26 ODYD Plan 14897, except Plans 39705 and EPP43967, located at 120 Homer Road, Kelowna BC, subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";

AND THAT Council authorize the issuance of Development Variance Permit No. DVP10-0076 for Lot 13 Section 27 Township 26 ODYD Plan 14897, except Plans 39705 and EPP43967, located at 120 Homer Road, Kelowna BC, subject to the following:

Section 13.7.6(f) - Development Regulations

Vary the rear yard setback from 7.5m to 3.2m;

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permit / Development Variance Permit Applications in order for the permit to be issued.

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

2.0 Purpose

To consider a Development Permit application for form and character and to vary the rear yard setback on the subject parcel to legalize the existing building on the subject property.

3.0 Urban Planning

Staff support the proposed Development Variance Permit application. The proposed variance is required as a result of rezoning application Z10-0044. The status of the original dwelling is only protected under the non-conforming sections of the Local Government Act when the use and density do not change. A rear setback variance is needed to legalize the existing location of the original dwelling because the use and density have changed.

The Multiple Residential (Low Density) OCP designation on the subject property supports the conversion of the property to four dwelling units. The building is existing and no changes are planned in regards to the form and character Development Permit. Staff have been working for years with the applicant to address the basic health and life safety issues. Since those have now been resolved, Staff are supporting the Development Permit and Development Variance Permit.

The final zoning conditions which the applicant has now completed were:

- 1) Payment of Development Engineering fees;
- 2) Initialize a building permit to bring the structure into compliance with the BC Building Code; and
- 3) Dedicate the necessary road right-of-way along Highway 33 and corner rounding.

4.0 Proposal

4.1 Background

An addition to the original dwelling was approved through a Building Permit issued in 2005, which added approximately 2600ft² of floor area. The property currently has an open Bylaw Enforcement file regarding illegal dwelling units.

The property is zoned RU1 - Large Lot Housing, however, there are 3 illegal units in the single-family dwelling. The original dwelling has a three-bedroom unit located in the basement. The addition approved in 2005 allowed for a three-car garage with living space behind and above. These additional spaces have been converted into a one-bedroom unit and a three-bedroom unit respectively. In total, the property contains four separate dwelling units. The property was sold to a new owner who bought the property in 2011-2012 and the new owner has been attempting to resolve the outstanding legalization issues ever since.

4.2 Site Context

The subject property is located on the north side of Hwy 33 W near Gerstmar Road and west of the Rutland Urban Centre boundary. Specifically, the adjacent zones and uses are:

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	Single Family Housing
East	RM3 - Low Density Multiple Housing	Townhomes
South	RM4 - Transitional Low Density Housing C1 - Local Commercial	Apartment Complex Gas Bar
West	P2 - Educational & Major Institutional	Religious Assembly

4.3 Site Location Map

Subject property: 120 Homer Road



5.0 Zoning Analysis Table

The application meeting the requirements of Zoning Bylaw No. 8000 (with the noted variance) as follows:

Criteria	Proposal	RM1 Zone Requirements
Subdivision Requirements		
Site Area (m ²)	1389m ²	800m ²
Site Width (m)	30.83m	22.0m
Site Depth (m)	46.42m	30.0m
Development Regulations		
Site Coverage (%)	24% (39%)	40% (50% including buildings, driveways and parking areas)
F.A.R.	.41	0.6
Height (m)	6.6m	9.5m
Storeys (#)	2 storeys	2.5 storeys
Required Setbacks		
Front (Hwy 33)	11.75m	15.0m
Rear (north) ❶	3.2m	7.5m
Flanking Side (Homer)	8.5m	4.5m (6.0m to garage/carport)
Side (west)	4.4m	2.5m
Other Regulations		
Private Open Space	Exceeds requirements	4 units x 25 m ² Total: 100 m ²
Parking Spaces (#)	7 spaces	3-three bedroom units x 2 spaces 1 bachelor unit x 1 space Total: 7 spaces
❶ Indicates a variance to the required rear yard from 7.5m required to 3.2m proposed.		

6.0 Technical Comments

Building & Permitting

- See Z10-0044

Development Engineering

- See Z10-0044

7.0 Application Chronology

Date of Application Received:

May 18, 2010

Date of Neighbourhood Consultation Received (re: variance):

n/a

Report prepared by:

Adam Cseke, Planner

Reviewed by: ☐ Terry Barton, Urban Planning Manager

Approved Inclusion: ☐ Ryan Smith, Community Planning Manager

Attachments:

Subject Property Map

Development Variance Permit and Development Permit