

THE CORPORATION OF THE  
**CITY OF WHITE ROCK**  
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**MEDIA RELEASE**

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FOR IMMEDIATE RELEASE

**City of White Rock ordered to issue development permit**

**White Rock**—Development Permit No.292 will soon be issued for 14955 Victoria Avenue in White Rock following a Supreme Court of British Columbia decision earlier today.

On October 9, 2007, the previous City Council resolved not to authorize staff to issue the permit for the property, which is situated one block back from Marine Drive and in the Marine Commercial/Residential Zone, CR-2.

The property owners, Jacqueline and Robert Yearsley, sought a declaration from the Court that the City's refusal to issue a development permit for the property was unlawful and of no force and effect because White Rock exceeded its jurisdiction by acting on improper and extraneous considerations.

The proposed development is to replace the existing building with a six-storey commercial/residential building consisting of 804 square feet of commercial space and 19 residential units on a site of 0.21 acres. The proposed building met the 30-foot height limit and all other requirements of the Cr-2 zone according to municipal documents.

The case was heard on January 26 and 27, 2009 by The Honourable Madam Justice Dillon.

“Council acted to refuse the application because of unspecified, vague stated concerns that are not referenced in the OCP [Official Community Plan], including implied concern about height, regardless that the proposed building was within the height requirements of zoning and OCP guidelines, according to the staff report,” wrote Justice Dillon. “White Rock took into consideration matters that were not within the OCP guidelines and essentially came to a conclusion that supported public opposition to the height of the proposed development even though the development permit application met all of the zoning and other requirements, except for minor variances that are not in issue here. I conclude that Council acted in excess of its jurisdiction in so doing. The decision must be quashed.”

In conclusion, the Court declared that White Rock Resolution 2007-432 DP292 is unlawful and of no force and effect. The Judge also ordered the City to issue the development permit to the Yearsleys. At the request of counsel, the matter of costs is reserved pending further hearing.

“Reliance on public opinion is not a relevant consideration if it is not linked to legitimate factors within the zoning bylaw or the OCP,” wrote Justice Dillon.

(more)

“The judge made her decision on the information presented,” says Mayor Catherine Ferguson. “We welcome having resolution to this outstanding issue from the previous Council and will issue the permit as expeditiously as possible.”

“The decision highlights again how critical the OCP and zoning bylaw are to our community,” adds Ferguson. “While public hearings are important as an avenue for the public to have their say on a proposed development, Council is obligated to accept or deny applications based on the guidelines that are in place.”

Mayor Ferguson also noted that the current Council has already begun reviewing the OCP and proposing amendments which will help prevent this type of situation from happening again.

“The goal has been to make our development guidelines clearer so that both proponents and Council members understand what the community’s vision is,” says Ferguson.

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