

Regular MeetingDecember 14, 1999

A Regular Meeting of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, December 14, 1999.

Council members in attendance were: Acting-Mayor S.A. Shepherd, Councillors A.F. Blanleil, R.D. Cannan, B.A. Clark, C.B. Day, B.D. Given and R.D. Hobson*.

Council members absent: Mayor Walter Gray and Councillor J.D. Nelson.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi; Current Planning Manager, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

1. CALL TO ORDER

Acting-Mayor Shepherd called the meeting to order at 7:15 p.m.

2. PRAYER

The meeting was opened with a prayer offered by Councillor Cannan.

3. CONFIRMATION OF MINUTES

3.1 Regular Meeting, November 29, 1999

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R993/99/12/14 THAT the minutes of the Regular Meeting of November 29, 1999 be confirmed as circulated.

Carried

3.2 Public Hearing, November 30, 1999

Moved by Councillor Hobson/Seconded by Councillor Day

R994/99/12/14 THAT the minutes of the Public Hearing of November 30, 1999 be confirmed as circulated.

Carried

3.3 Regular Meeting, November 30, 1999

Moved by Councillor Hobson/Seconded by Councillor Given

R995/99/12/14 THAT the minutes of the Regular Meeting of November 30, 1999 be confirmed as circulated.

Carried

4. Councillor Cannan was requested to check the minutes of this meeting.

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- 5.1 Bylaw No. 8484 (Z99-1054) – Fred & Dianna Behrner – 119 McTavish Avenue

Moved by Councillor Cannan/Seconded by Councillor Blanleil**R996/99/12/14** THAT Bylaw No. 8484 be read a second and third time.Carried

- 5.2 Bylaw No. 8485 (Z99-1046) – Johnannes & Irma Schepp, Jakob & Eleonore Jahner, and Peter & Ludmilla Becker (John Schepp) – 1125 Bernard Avenue **(This bylaw must be adopted for Council to deal with agenda item No. 6.2)**

A member of Council expressed concern about the present condition of the property.

The Current Planning Manager advised that the applicant has fulfilled notification requirements to clear out the tenants and is anxious to get going with this project.

Moved by Councillor Hobson/Seconded by Councillor Day**R997/99/12/14** THAT Bylaw No. 8485 be read a second and third time.Carried6. PLANNING

- 6.1 Planning & Development Services Department, dated November 18, 1999 re: Development Variance Permit Application No. DVP99-10,080 – Fred & Dianna Behrner – 119 McTavish Avenue (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The rezoning for this property was a subject of tonight's Public Hearing. The front yard setback requirements are the same in the current zoning as the requested zoning on the property and therefore issuance of the Development Variance Permit can be considered by Council in advance of adoption of the Zone Amending Bylaw.

Acting-Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the requested variance to come forward. There was no response.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R998/99/12/14 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,080; Fred & Dianna Behrner, for Lot 1, Plan 22525, Sec. 24, Twp. 25, O.D.Y.D., located on 119 McTavish Avenue, Kelowna, B.C.;

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

- (a) **Section 13.1.5(c) Development Regulations** be varied from the minimum front yard setback requirement of 4.5 m to the 1.42 m existing.

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Carried

- 6.2 Planning & Development Services Department, dated November 23, 1999 re: Development Variance Permit Application No. DVP99-10,092 – Johannes & Irma Schepp, Jakob & Eleonore Jahner, and Peter & Ludmilla Becker (John Schepp) – 1125 Bernard Avenue (3090-20)

The City Clerk advised that the bylaw under agenda item No. 5.2 on this agenda could not be considered for adoption by Council because there are outstanding issues that have not yet been addressed by the applicant. Therefore, it would be appropriate for Council to hear from anyone in the public gallery who came to speak for or against this application, and then for Council to defer consideration of this application to the Regular Meeting of January 11, 2000.

Acting-Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the requested variance to come forward.

Irwin Schepp, a son of the applicant, advised that the existing building is scheduled for demolition this week.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R999/99/12/14 THAT Council consideration of Development Variance Permit No. DVP99-10,092 (John Schepp – 1125 Bernard Avenue) be deferred to the Regular Meeting of January 11, 2000.

Carried

- 6.3 Planning & Development Services Department, dated November 18, 1999 re: Development Variance Permit Application No. DVP99-10,082 – Darlene Fischer – 1980 Ethel Street (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The house straddles two lots with vehicular access from a rear lane and a bridge has been built over the creek to provide pedestrian access to the residence from Ethel Street. The house was built in 1960 and is legally non-conforming having been construction within the 10 m setback requirements from the creek. The applicant is proposing to increase the non-conformity by extending a deck and brick patio into the required creek setback. The existing foyer of the residence is proposed for demolition to allow for the construction of a raised deck that would step down to a lower deck and a brick patio. Areas surrounding the brick patio would be landscaped up to the existing retaining wall. The patio is designed to be made up of brick pavers.

The Current Planning Manager advised that the Ministry of Environment has no objection to what is proposed by the applicant. City Environment staff are concerned that the brick pavers would create an imperious area where there is now lawn. Planning Department staff recommend non-support of the requested variances. However, staff have also provided an alternate recommendation as a compromise which would require the design of the patio and deck to be revised in order to retain the lawn area and minimize the disturbance within the required creek setback.

Mayor to invite anyone in the public gallery who deems themselves affected by the requested variance to come forward

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Brenda Richardson, advised that she designed the landscape plan as proposed by the applicant. Because there were concerns about the creek setback, she met with Ministry of Environment staff in Penticton and they had no objections to the work proposed. The retaining wall already exists, the applicant is just proposing to restructure the area within the retaining wall and the house. The proposed landscaping also includes more planting of vegetation closer to the retaining wall to provide more shade for fish habitat. Ms. Richardson advised that the applicant does not want to have to mow the extra lawn and would prefer the brick pavers which are not impervious and will allow water to drain.

Darlene Fischer, applicant, advised that they do not want to harm the creek, they just want to enhance what already exists and if necessary the paving stones can be placed a little further apart for drainage purposes.

Responding to questions of Council, Ms. Fischer advised that her parents bought the house when it was being built in 1960. Her father constructed the retaining wall, the pedestrian bridge over the creek, etc. She and her husband have been renovating the house since October 1998 and now they want to improve the deck and the area in front of the house. She added that the development notice sign has been posted on the property since October 18th and the neighbours on both sides are in support of this application.

Acting-Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the requested variances to come forward. There was no response.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R1000/99/12/14 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,082; Darlene Fischer, Lot 10, Plan 1365, Sec. 19, Twp. 26; located on 1980 Ethel Street, Kelowna, B.C.; subject to the following terms and conditions:

1. The dimensions and siting of the construction to be located on the land in general accordance with Schedule "A";

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

- (a) **Section 6.14 Stream Protection Leave Strip** requirements be varied from the minimum leave strip requirement of 10.0 metres to a zero setback from the creek.

Carried

- 6.4 Planning & Development Services Department, dated November 24, 1999 re: Development Variance Permit Application No. DVP99-10,100 (Land Use Contract No. LUC77-1045) – O.K. Builders Supplies Ltd. – 925 McCurdy Road (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The site is within a Land Use Contract (LUC) that extends from McCurdy Road to Leathead Road. The applicant is requesting a reduced west side yard setback in order to construct a new warehouse facility for concrete and masonry products with a small office component. The owner of the adjacent property to the west has no objection to the variance provided it meets with the LUC. There is a termination clause in the LUC that allows the City to terminate the LUC 10 years after the date it was entered into. In this case, there would be little or no

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benefit to the City to cancel the LUC because the existing I-3 zoning would apply once the LUC was released. Staff recommend favourable consideration of the application.

Acting-Mayor Shepherd invited anyone in the public gallery who deemed themselves affected by the requested variance to come forward.

Lambert Schmaltz advised he is the builder for this project and that the proposed new building would be constructed on an existing foundation from a building that was once on the site.

Moved by Councillor Blanche/Seconded by Councillor Day

R1001/99/12/14 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,100; O.K. Builders Supplies Ltd.; the east half of Lot 58, D.L. 143, O.D.Y.D., Plan 426 Except Plan A12969, located on McCurdy Road, Kelowna, B.C.;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 (as it applies to Land Use Contract No. LUC77-1045) be granted:

- (a) **Section 15.3.5(d) Development Regulations – Side Yard Requirement**
- The required side yard be reduced from 7.5 m required to 0 m proposed.

Carried

7.0 BYLAWS

- 7.0.1 Bylaw No. 8495 – Sun Pointe Retirement Communities Ltd. Housing Agreement Authorization Bylaw – Rutland Road and Leathead Road

Councillor Hobson declared a conflict of interest as a director of the Regional Health Board which is a contractor for this applicant and left the Council Chamber at 7:51 p.m.

Moved by Councillor Clark/Seconded by Councillor Given

R1002/99/12/14 THAT Bylaw No. 8495 be read a first, second and third time.

Carried

- 7.0.2 Bylaw No. 8496 – Culos Development (1996) Inc. Housing Agreement Authorization Bylaw – Rutland Road and Leathead Road

Moved by Councillor Given/Seconded by Councillor Clark

R1003/99/12/14 THAT Bylaw No. 8496 be read a first, second and third time.

Carried

7. REMINDERS

Wednesday, December 15th - 9:30 a.m. - Ministry of Transportation & Highways Access Workshop

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8. TERMINATION

The meeting was declared terminated at 7:55 p.m.

Certified Correct:

Acting-Mayor Shepherd

City Clerk

BLH/bn