

Regular MeetingJanuary 11, 2000

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, January 11, 2000.

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

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.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:51 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

3.1 Statutory Inaugural Meeting, December 6, 1999

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R18/00/01/11 THAT the minutes of the Statutory Inaugural Meeting of December 6, 1999 be confirmed as circulated.

Carried

3.2 Regular Meeting, December 13, 1999

Moved by Councillor Day/Seconded by Councillor Cannan

R19/00/01/11 THAT the minutes of the Regular Meeting of December 13, 1999 be confirmed as circulated.

Carried

3.3 Public Hearing, December 14, 1999

Mayor Gray noted he was absent from this meeting and page 652 of the minutes needs to be amended to read Acting-Mayor Shepherd.

Moved by Councillor Given/Seconded by Councillor Shepherd

R20/00/01/11 THAT the minutes of the Public Hearing of December 14, 1999 be confirmed, as amended.

Carried

3.4 Regular Meeting, December 14, 1999

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R21/00/01/11 THAT the minutes of the Regular Meeting of December 14, 1999 be confirmed as circulated.

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Carried

3.5 Regular Meeting, December 20, 1999

Moved by Councillor Blanleil/Seconded by Councillor Given

R22/00/01/11 THAT the minutes of the Regular Meeting of December 20, 1999 be confirmed as circulated.

Carried

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

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)

5.1 Bylaw No. 8490 (Z99-1055) – Jeanine Reiss – 372 Christleton Avenue

Moved by Councillor Given/Seconded by Councillor Clark

R23/00/01/11 THAT Bylaw No. 8490 be read a second and third time, and be adopted.

Carried

5.2 Bylaw No. 8491 (Z99-1052) – 447402 BC Ltd. (Al Lawrence) – 3989 Bluebird Road

Councillor Day declared a conflict of interest as a property owner within the notification radius for this application and left the Council Chamber at 7:54 p.m.

Moved by Councillor Nelson/Seconded by Councillor Given

R24/00/01/11 THAT Bylaw No. 8491 be read a second and third time, and be adopted.

Carried

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R25/00/01/11 THAT staff be instructed to consider options for upgrading the portion of road fronting 3989 Bluebird Road.

Carried

Councillor Day returned to the Council Chamber at 7:59 p.m. and took his place at the Council Table.

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- 6.1 Planning & Development Services Department, dated December 2, 1999
re: Development Variance Permit Application No. DVP99-10,085 –
Jeanne Reiss – 372 Christleton Avenue (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report noting the building was constructed in accordance with bylaw requirements of the day and that staff recommend favourable consideration of the variance.

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

Moved by Councillor Nelson/Seconded by Councillor Given

R26/00/01/11 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,085; Jeanine Reiss, for Lot 10, D.L. 14, Plan 3451, Sec. 13, Twp. 25, O.D.Y.D., located on 372 Christleton Avenue, Kelowna, B.C.;

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

- (a) Section 13.1.5(d) **Development Regulations** be varied from the minimum side yard setback requirement for the principle building of 2.3 m to the 1.95 m existing.

Carried

- 6.2 Planning & Development Services Department, dated December 2, 1999
re: Development Variance Permit Application No. DVP99-10,073 –
447402 BC Ltd. (Al Lawrence) – 3989 Bluebird Road (3090-20)

Councillor Day declared a conflict of interest as owner of property within the notification radius for this application and left the Council Chamber at 8:01 p.m.

The Current Planning Manager indicated the property on maps displayed on the overhead projector noting the rezoning for this property was a subject of tonight's Public Hearing. The requested variance is to allow vehicular access to the site from the fronting Bluebird Road instead of from the lane at the rear of the property. The applicant is requesting the variance to address concerns of the neighbourhood.

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

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R27/00/01/11 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,073; Al Lawrence, for Lot A, Plan KAP54767, Sec.1, Twp. 25, O.D.Y.D., located on 3989 Bluebird Road, Kelowna, B.C.;

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

- (a) Section 13.6.6(f) **Other Regulations** be varied to permit vehicular access to the development from the fronting street, where rear lane access is available.

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Councillor Day returned to the Council Chamber at 8:05 p.m. and took his place at the Council Table.

- 6.3 Planning & Development Services Department, dated December 15, 1999 re: Development Variance Permit Application No. DVP99-10,068 – Austin Douglas – 936 Fairway Crescent (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report noting the variance would allow continuing use of the existing carport structure located within the front yard setback requirement.

Mayor Gray 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

R28/00/01/11 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,068, Austin Douglas; Lot 24, Sec. 29, Twp. 26, O.D.Y.D., Plan 11458, located on Fairway Crescent, Kelowna, B.C.;

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

Section 13.1.5(c) Development Regulations, front yard: a 5.36 m variance from the minimum front yard of 6 m to 0.64 m as proposed.

Carried

- 6.4 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 8470 (Z99-1039) – Berndt & Bettina Breitkreuz (Peter Klimuk/Milagro Advisory Services) – 3753 Lakeshore Road

The City Clerk noted, for the new members of Council that were not at the Public Hearing for this bylaw, that when second and third readings of the bylaw were given, Councillor Leask was absent and of the 8 members present, all voted in support.

Moved by Councillor Hobson/Seconded by Councillor Day

R29/00/01/11 THAT Bylaw No. 8470 be adopted.

Carried

- (b) Planning & Development Services Department, dated December 15, 1999 re: Development Permit Application No. DP99-10,046 and Development Variance Permit Application No. DVP99-10,047 – Berndt & Bettina Breitkreuz (Peter Klimuk/Milagro Advisory Services) – 3753 Lakeshore Road (3060-20; 3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The Development Permit is for the construction of a multi-family housing project consisting of twelve semi-detached residential units along with two accessory buildings. The requested variances would allow for reduced lot frontage requirements and a reduced north side yard setback. The

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Current Planning Manager advised that it would be premature for the City to dispose of any of the excess road right-of-way between Lakeshore Road and the subject property until the final design for Lakeshore Road is determined. Staff recommend favourable consideration of the requested permits.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the requested variances to come forward.

Peter Klimuk, representing the property owners, made a lengthy presentation giving reasons why he disagreed with the recommendations of the Advisory Planning Commission regarding this application.

The City Clerk confirmed that one letter from Hilda Mackey, Heather Agnew and Betty Waldenberger was received by Planning Department staff expressing concerns about the subject application and that letter has been circulated as part of the Council package.

A member of Council noted the letter raises concern about the potential for suites. The Current Planning Manager explained that the setback requirements would change if the building was used as other than an accessory building and that would require a different variance.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R30/00/01/11 THAT Municipal Council authorize the issuance of Development Permit No. DP99-10,046; for Lot A, D.L. 134, Sec. 7, Twp.26, O.D.Y.D., Plan 12063, located on 3753 Lakeshore Road, Kelowna, B.C., 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";
3. Landscaping to be provided on the land be in general 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 professional landscaper;

AND THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,047; Milagro Advisory Services, Lot A, D.L. 134, Sec. 7, Twp.26, O.D.Y.D., Plan 12063, located on 3753 Lakeshore Road, Kelowna, B.C.;

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

Section 13.9.4 Subdivision Regulations (a) the minimum lot width be varied from the required 30.0 m to the 26.8 m existing;

Section 13.9.5 Development Regulations (e) the minimum site side yard setback be varied from the 4.0 m required for a 1½ storey of an accessory building to the 1.5 m proposed;

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AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development, and development variance permit application, in order for the permit to be issued.

Carried

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6.5 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 8390 (Z99-1008) – BC Preserve Co. Ltd. (previous owner - Braunfel Engineering & Construction Ltd.) (New Town Planning) – 8038 Highway 97 North

The City Clerk noted, for the new members of Council that were not at the Public Hearing for this bylaw, that when second and third readings of the bylaw were given, all members of Council were present and all voted in support.

Moved by Councillor Day/Seconded by Councillor Hobson

R31/00/01/11 THAT Bylaw No. 8390 be adopted.

Carried

- (b) Planning & Development Services Department, dated December 20, 1999 re: Development Variance Permit Application No. DVP99-10,013 – BC Preserve Co. Ltd. (previous owner - Braunfel Engineering & Construction Ltd.) (New Town Planning) – 8038 Highway 97 North (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The Agricultural Land Commission has given approval for a non-farm use to allow a jammy with associated tea house and restaurant to be developed on the site. The variance deals with the amount of area that can be used for the sale of product that is produced off-site. Staff recommend favourable consideration.

Mayor Gray 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 Nelson

R32/00/01/11 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,013; New Town Planning; Lot 17, Sec. 34, Twp. 23, O.D.Y.D., Plan 500 Except Plans 19420 and 44031, located on Highway 97 North, Kelowna, B.C.;

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

Section 11.1.6(d) – Other Regulations: be varied from 50.0.m² maximum gross floor area of stands selling product that is produced off-site to 378.8 m² area proposed;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

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Bylaw No. 8391 (Z99-1006) – Eric & Lidia Baumgart – 1024 Laurier Avenue, and City of Kelowna Official Community Plan Amendment No. OCP99-005 **Requires majority vote of Council (5)**

The City Clerk noted, for the new members of Council that were not at the Public Hearing for this bylaw, that when second and third readings of the bylaw were given, Councillor Leask was absent and of the 8 remaining members, Councillors Bremner, Cannan and Shepherd were opposed, leaving 5 in favour which is the minimum required for an OCP amendment.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R33/00/01/11 THAT Bylaw No. 8391 be adopted.

Carried

Councillors Cannan, Clark and Shepherd opposed.

- (b) Planning & Development Services Department, dated December 21, 1999 re: Development Permit Application No. DP99-10,010 and Development Variance Permit Application No. DVP99-10,011 – Eric & Lidia Baumgart (Walter Baumgart) – 1024 Laurier Avenue (3060-20; 3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the report for Council. The Development Permit is to address the form and character of an additional 4 units to be constructed in the lower level of the existing 10-bedroom Group Living Home. The Development Variance Permit deals with lot width. Staff recommend favourable consideration.

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

Steve Brow, 1040 Laurier Avenue, advised that he lives next door and that he raised concern at the Public Hearing on this application about the noise from the air conditioning unit for this facility and that the problem still has not been rectified.

The Current Planning Manager confirmed that the applicant committed at the Public Hearing to relocate the air conditioning unit and that staff can work with the applicant at the Building Permit stage to ensure that where the air conditioning unit is moved to will minimize the impact on surrounding neighbours.

Mr. Brow advised that parking also continues to be a problem and asked whether there would be some way to direct visitors to the facility to use the 7 parking stalls at the rear instead of parking in front of his driveway.

The City Clerk advised that the parking problem will be referred to City Transportation staff.

A member of Council noted that in the photographs of the subject property the back fence was closed.

There were no further comments.

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R34/00/01/11 THAT Municipal Council authorize the issuance of Development Permit No. DP99-10,010; for Lot 5, D.L. 138, O.D.Y.D., Plan 3999, located on Laurier Avenue, Kelowna, B.C., 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";
3. Landscaping to be provided on the land be in general 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 professional landscaper;

AND THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,011; Eric Walter & Lidia Baumgart; Lot 5, D.L. 138, O.D.Y.D., Plan 3999, located on Laurier Avenue, Kelowna, B.C.;

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

Section 13.10.4(a) **Subdivision Regulations** be varied from minimum lot width of 30.0 m required to the 23.61 m lot width existing;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

Councillors Cannan, Clark and Shepherd opposed.

- 6.7 Planning & Development Services Department, dated December 2, 1999 re: Development Variance Permit Application No. DVP99-10,074 – Edwin & Rebecca Hurd – 215A Bach Road (3090-20)

The Current Planning Manager indicated the property on maps displayed on the overhead projector and briefly outlined the report noting for Council. The variance is required in order to allow continuing use of an existing carport. Staff recommend support.

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

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R35/00/01/11 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,074; Edwin Hurd; Strata Lot 1, Sec. 26, Twp. 26, O.D.Y.D., Strata Plan KAS1857, together with an interest in the Common Property in proportion to the unit entitlement of the Strata Lot as shown on Form 1, located on Bach Road, Kelowna, B.C.;

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

Section 13.6.5(d) Development Regulations, side yard: a 2 m variance from the required 2 m setback to the 0 m as proposed.

Carried

7. UNFINISHED BUSINESS

7.1 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 8485 (Z99-1046) – Johnannes & Irma Schepp, Jakob & Eleonore Jahner, and Peter & Ludmilla Becker (John Schepp) – 1125 Bernard Avenue

Moved by Councillor Cannan/Seconded by Councillor Day

R36/00/01/11 THAT Bylaw No. 8485 be adopted.

Carried

(b) Planning & Development Services Department, dated December 30, 1999 re: Development Permit Application No. DP99-10,057 – Johnannes & Irma Schepp, Jakob & Eleonore Jahner and Peter & Ludmilla Becker – 1125 Bernard Avenue (3060-20)

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

The Current Planning Manager indicated the property on maps displayed on the overhead projector and outlined the reports for Council. The Development Permit is to address the form and character of a 27-unit, 4-storey congregate care building to be constructed on the site. The Development Variance Permit allows a reduced front yard width.

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R37/00/01/11 THAT Municipal Council authorize the issuance of Development Permit No. DP99-10,057, to John Schepp; for Lot B, Sec. 20, Twp. 28, O.D.Y.D., Plan 5803 except Plan KAP46957, located on Bernard Avenue, Kelowna, B.C., 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";
3. Landscaping to be provided on the land be in general 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 professional landscaper;

AND THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Carried

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

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R38/00/01/11 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP99-10,092, to John Schepp, for Lot B, Sec. 20, Twp. 28, O.D.Y.D., Plan 5803, except Plan KAP46957, located on Bernard Avenue, Kelowna, B.C.,

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

Section 14.4.4(a) Subdivision Regulations, lot width: a 2.01 m variance from the minimum lot width of 40 m to 37.99 m as proposed.

Carried

8. BYLAWS

BYLAWS PRESENTED FOR FIRST READING)

- 8.1 Bylaw No. 8497 (Z99-1057) – Madan & Nirmal Kanda and Narinder & Devinder Johan (Len Suchocki/Chriscan Enterprises Ltd.) – 4049 Lakeshore Road, and City of Kelowna Official Community Plan Amendment No. OCP99-020 **requires majority vote of full Council (5)**

Moved by Councillor Clark/Seconded by Councillor Given

R39/00/01/11 THAT Bylaw No. 8497 be read a first time.

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- 8.2 Bylaw No. 8499 (Z99-1026) – Park Avenue Properties, Brian and Dale Draper (Pauline Draper) – 2034, 2046 and 2056 Pandosy Street

Councillor Nelson declared a conflict of interest as part owner of a building within the notification radius for this application and left the Council Chamber at 9:02 p.m.

The City Clerk clarified that the rezoning and heritage alteration permit have been advertised for the same Public Hearing date and both will be addressed at the same time by staff and the public.

The Current Planning Manager confirmed that the plans for the proposed development have not been changed since Council's initial consideration of the application.

Moved by Councillor Blanleil/Seconded by Councillor Given

R40/00/01/11 THAT Bylaw No. 8499 be read a first time.

Carried

Councillors Clark, Hobson and Shepherd opposed.

Councillor Nelson returned to the Council Chamber at 9:06 p.m. and took his place at the Council Table.

9. REMINDERS - Nil

10. TERMINATION

The meeting was declared terminated at 9:07 p.m.

Certified Correct:

 Mayor

 City Clerk

BLH/bn