

Regular MeetingAugust 29, 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, August 29, 2000.

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

Council members absent: Councillors A.F. Blanleil and B.D. Given.

Staff members in attendance were: Acting-City Manager/Director of Planning & Development Services, R.L. Mattiussi; City Clerk, D.L. Shipclark; Current Planning Manager, A.V. Bruce; Special Projects Planning Manager, H.M. Christy\*; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 11:16 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

3.1 Regular Meeting, August 14, 2000

Moved by Councillor Nelson/Seconded by Councillor Cannan

**R720/00/08/29** THAT the minutes of the Regular Meetings of August 14 & 15, 2000 and the Public Hearing of August 15, 2000 be confirmed as circulated.

Carried

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

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)**

5.1 Bylaw No. 8581 (Z00-1003)- Mill Creek Developments Ltd. & Yale County Capital Ventures (D.E. Pilling & Associates/Dale Pilling) – 4275 & 4355 Highway 97 North

Moved by Councillor Hobson/Seconded by Councillor Day

**R721/00/08/29** THAT Bylaw No. 8581 be read a second and third time.

Carried

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- 5.2 Bylaw No. 8582 (Z00-1010) – Okana Masonry Ltd. (Emil Anderson Construction Co. Ltd./Mike Jacobs) – 5111 Killdeer Road

Councillor Clark declared a conflict of interest because the proposed subdivision is contiguous to a development in which he is a minor partner and left the Council Chamber at 11:18 p.m.

Moved by Councillor Day/Seconded by Councillor Cannan

**R722/00/08/29** THAT Bylaw No. 8582 be read a second and third time.

Carried

Councillor Clark returned to the Council Chamber at 11:21 p.m. and took his place at the Council Table.

- 5.3 Bylaw No. 8583 (Z00-1039) – 482627 BC Ltd, Envirotech Real Estate Inc. Gordon & Emelie Wallace & Dorothy & Elizabeth Howe (Envirotech Real Estate) – 1659, 1667, 1681 & 1683 Ethel Street, 931 & 941 Leon Avenue and 932 Harvey Avenue

Moved by Councillor Nelson/Seconded by Councillor Day

**R723/00/08/29** THAT further consideration of Bylaw No. 8583 (Z00-1039 – Envirotech Real Estate Inc., et al - Ethel Street/Leon Avenue/Harvey Avenue) be deferred for staff to work with the applicant to resolve issues raised at the Public Hearing.

DEFEATED

Councillors Cannan, Clark, Hobson and Shepherd opposed.

Moved by Councillor Nelson/Seconded by Councillor Cannan

**R724/00/08/29** THAT Bylaw No. 8583 be read a second and third time.

DEFEATED

Councillors Cannan, Clark, Hobson, Nelson and Shepherd opposed.

## 6. PLANNING

- 6.1 Planning & Development Services Department, dated July 17, 2000 re: Development Variance Permit Application No. DVP00-10.052 – Cindy Jo Lombard – 4605 Darin Place (3090-20)

Staff:

- This application is a result of in a glitch in the City's Zoning Bylaw that was recently discovered by a City Plan Checker and that City Planning staff are preparing to address through a zoning bylaw amendment. The applicant did not want to wait for adoption of that amendment and has opted to proceed with the requested variance.
- The Zoning Bylaw defines height as 1 storey or 4.5 m. The applicant is proposing to construct essentially a one-storey accessory building (garage) with a second storey within the roofline. As such, the building is considered a 1½ storey building and thus a variance is required. The extra bonus space is not proposed to be used for a suite.

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

Bob Laird, 4607 Darin Place:

- Lives adjacent to the garage on the subject property.
- The dormer is within 3 m of his front property line and infringes on privacy because it also fronts his property.
- The dormer on all the other garages on the street face into the respective yards instead of away.
- The garage is placed too close to the street and does not line up with the rest of the houses on the street.
- Did not want to prevent the applicant from having the bonus room above her garage and so signed a letter of support without seeing any plans and so did not know that the building would be placed where it was or that the door to the garage and the dormer would be facing his property.
- Asked that the applicant be required to move the dormer and door or alternatively that the height of the garage be reduced to 1-storey.

Staff:

- Clarified that the building permit that was issued was not for the extra ½ storey. Building permits for the other similar garages on the street were issued under the assumption that all bylaw requirements were met. It was never intended that this type of garage would not be permitted and that is why staff propose to bring forward a text amendment that would allow 1½ storey accessory buildings.
- The garage conforms to all setbacks and it is just the height that is under request for a variance.
- The proposed amendment to the zoning bylaw would not include controlling the location of dormers.

David Jack, 4623 Darin Place:

- The garage protrudes out toward the street and so looking down the street one sees largely roof.
- There are a number of garages with dormers on the street and the garages are all located at the far rear of the property and all of the dormers face in toward the property of the person who owns the garage.
- The dormer impinges on the privacy of the neighbour and that sets a bad precedent for the owner of a lot that is still vacant to do likewise.
- Would like to see the dormer and entrance moved to the other side.

Cindy Lombard, applicant:

- The cul-de-sac has a building scheme and the garage is part of a standard plan that came with the property.
- There are 10 houses on the cul-de-sac that have a 1½-storey garage with a dormer.
- The 5 closest neighbours signed letters of consent to the 1½ storey garage.
- The other garages on the street are setback because the lots are deep.
- The subject property is a corner lot with no rear yard behind the garage and no yard to speak of behind the house.
- The subject garage is exactly like the Laird's garage except for the dormer facing out.
- The footings of the garage were pushed back 2 feet at the request of Mrs. Laird. That was as far back as the garage could be moved.
- Chose not to have a basement in the house on the understanding that she could have the room over the garage.
- The problem is not the height of the building but rather whether the extra ½ storey over the garage can be used for storage.

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- The shingles are already on the garage roof and relocating the dormer would be expensive. Leaving the dormer where it is but boarding it in would leave the room too dark.
- The door to the garage is only framed in and so could be moved to the other side.
- The garage will not stand out so much once the siding is applied.

Staff:

- Clarified that the garage meets the height of the zone but needs the variance for use of the area in the upper floor. If the requested variance is denied, the size and shape of the garage would not change it would just mean that the space in the upper floor could not be used.

EXTENSION OF MEETINGMoved by Councillor Shepherd/Seconded by Councillor Nelson

**R725/00/08/29** THAT the Rules of Procedure be suspended and the meeting be continued beyond 11:00 p.m.

CarriedMoved by Councillor Clark/Seconded by Councillor Nelson

**R726/00/08/29** THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP00-10,052; Cindy Jo Lombard; Lot 2, D.L. 357, O.D.Y.D., Plan KAP57058, located on Darin Place, Kelowna, B.C.;

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

**Section 6.5.6 Accessory Development building height:**

To vary the maximum height of an accessory dwelling from one storey to one and one half storey as proposed.

Carried

6.2 Planning & Development Services Department, dated July 25, 2000 re: Development Permit Application No. DP00-10,051 and Development Variance Permit Application No. DVP00-10,056 – Ronald Wahoski and Mandl Enterprises Ltd. (B. Ian Bazley, Architect) – 335 & 345 Highway 33 East (3090-20)

Staff:

- The Development Permit is required for construction of an 8-unit, non-profit townhouse project on the site.
- Vehicular access would be off the lane with pedestrian access off Highway 33.
- The applicant is working with the Ministry of Transportation and Highways to see if some landscaping requirements can be off-site.
- This is a Habitat for Humanity project and typically the residents would have 1 car at most. The requested variance would reduce the parking requirements from 15 to 13 stalls.
- A Housing Agreement would be registered to indicate some housing units would be available to special needs groups.

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

Ian Bazley, on behalf of the applicant:

- The project would be staged. The intent is to complete the first unit this year and then build 2 units per year after that.

There were no further comments.

Moved by Councillor Cannan/Seconded by Councillor Shepherd

**R727/00/08/29** THAT Municipal Council authorize the issuance of Development Permit No. DP00-10,051, and Development Variance Permit No. DVP00-10,056 for Mandl Enterprises Limited (Inc. No. 229189) and Ronald John Wahoski, located on 335 and 345 Highway 33, Kelowna, B.C., subject to the following:

**Table 8.** The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";

**Table 8.** The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";

**Table 8.** Landscaping to be provided on the land be in general accordance with Schedule "C";

**Table 8.** 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 variances to the following section of Zoning Bylaw No. 8000 be granted:

**Table 8.1 – Parking Schedule: Row Housing.** The number of required parking stalls be reduced from the required 2 per three bedroom unit to 1.7 per three bedroom unit;

AND THAT the owners attain approval from Council for a Housing Agreement on the subject property; to be registered upon construction of the proposed housing project;

AND THAT the owners consolidate the subject properties and complete City of Kelowna and Ministry of Transportation & Highways road dedication requirements;

AND THAT the owners attain a permit from the Ministry of Highways for the proposed landscaping within the proposed Highway right-of-way;

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

Agenda Item No. 6.4 was dealt with next.

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- 6.4 Planning & Development Services Department, dated August 23, 2000 re: Development Permit Application No. DP00-10,057 – Lakepoint JV Investments Ltd. (Grant Maddock/Protech Consultants Ltd.) – 1050, 1106-1124 Sunset Drive (3060-20)

Staff:

- A resolution is required to approve the quit claim of the existing covenant registered on the property title and concurrently register a new agreement to incorporate the provisions of the Development Permit and the Development Variance Permit before dealing with the DP and DVP.

Moved by Councillor Hobson/Seconded by Councillor Day

**R728/00/08/29** THAT the existing Indenture Agreement registered in the Land Title Office, Kamloops, B.C. as a Section 219 covenant identified as document No. KG25682 be discharged from the following properties:

Lot A, D.L. 139 and 3457, O.D.Y.D., Plan KAP45698, and Lot B, D.L. 139, 1349, 3454 and 3457, O.D.Y.D., Plan KAP45698 located on Sunset Drive, Kelowna, BC;

AND THAT a new Development Agreement as attached to the report of the Planning & Development Services Department dated August 8, 2000 as Schedule "A" be concurrently registered against the following properties:

Lot A, D.L. 139 and 3457, O.D.Y.D., Plan KAP45698, and Lot B, D.L. 139, 1349, 3454 and 3457, O.D.Y.D., Plan KAP45698 located on Sunset Drive, Kelowna, B.C.

Carried

Staff:

- The development permit is for a 6-storey, 258-unit multiple family residential building designed as three 4-storey apartment buildings constructed on top of a 2-storey parking structure along with 2-storeys of residential units constructed around the perimeter of the parking structure.
- The 2 lots would be consolidated and that would allow the existing promenade to be extended around the building.
- The 2 levels of parking would have a finished slab on top for private open space and some hard surfaced areas for additional parking and storage space. The building above the 2 levels of parking would be wood frame construction.
- This proposal is different than what was contemplated by the original development agreement but still carries on with the original theme.
- The variances are to vary the daylighting standards, maximum permitted site coverage, and minimum required front yard setback.

Moved by Councillor Hobson/Seconded by Councillor Cannan

**R729/00/08/29** THAT Municipal Council authorize the issuance of Development Permit No. DP00-10,057; for Lot A, D.L. 139 and 3457, O.D.Y.D., Plan KAP45698 and Lot B, D.L. 139, 1349, 3454, and 3457, O.D.Y.D., Plan KAP45698, located on Sunset Drive, 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";

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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;
5. The applicant register a plan of subdivision to create the waterfront lagoons as a separate lot;
6. The applicant register a statutory right of way for public and emergency access over the waterfront promenade;

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

- 6.3 Planning & Development Services Department, dated August 9, 2000 re: Development Variance Permit Application No. DVP00-10,058 – Lakepoint JV Investments Ltd. (Grant Maddock/Protech Consultants Ltd.) – 1050, 1106-1124 Sunset Drive (3090-20)

Mayor Gray 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 Shepherd

**R730/00/08/29** THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP00-10,058; Protech Consultants (1989) Ltd.; Lot A, D.L. 139 and 3457, O.D.Y.D., Plan KAP45698 and Lot B, D.L. 139, 1349, 3454, and 3457, O.D.Y.D., Plan KAP45698, located on Sunset Drive, Kelowna, B.C.;

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

- (a) Section 6, Subsection 6.1.1 Daylighting Standards – To permit the roof overhang to project 1.3 m into vertical angle to south side and 0.66 m into vertical angle to north side,
- (b) Section 13.12 – High Rise Apartment Housing zone, subsection 13.12.5(b) Development Regulations, from the maximum site coverage of 50% permitted to the 61.9% proposed, and
- (c) Section 13.12 – High Rise Apartment Housing zone, subsection 13.12.5(d) Development Regulations, from the minimum front yard setback of 6.0 m required to the 2.3 m proposed.

Carried

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- 7.1 Bylaw No. 8584 (Z00-1035) – 554007 B.C. Ltd. (Walter Baumgart) – 952 Lawson Avenue

Moved by Councillor Nelson/Seconded by Councillor Cannan**R731/00/08/29** THAT Bylaw No. 8584 be read a first time.Carried

- 7.2 Bylaw No. 8585 (Z00-1041) – George & Melissa Summach (Tom Smithwick) – 370 Braeloch Road

Moved by Councillor Shepherd/Seconded by Councillor Nelson**R732/00/08/29** THAT Bylaw No. 8585 be read a first time.Carried

- 7.3 Bylaw No. 8586 (Z00-1037) – Henry & Sylvia Bouchard and Barbara Cymbala – 519 & 543 McKay Avenue

Moved by Councillor Nelson/Seconded by Councillor Clark**R733/00/08/29** THAT Bylaw No. 8586 be read a first time.Carried

- 7.4 Bylaw No. 8587 (Z00-1012) – Edward and Kazimere Surowiec – 1345, 1325 & 1315 Highway 33 West and 145, 155 & 165 Taylor Road

Moved by Councillor Clark/Seconded by Councillor Shepherd**R734/00/08/29** THAT Bylaw No. 8587 be read a first time.Carried

- 7.5 Bylaw No. 8589 (TA00-001) – City of Kelowna Zoning Bylaw Text Amendment to Add “Commercial Storage” as Principal Use in the I1 – Business Industrial Zone

Moved by Councillor Shepherd/Seconded by Councillor Clark**R735/00/08/29** THAT Bylaw No. 8589 be read a first time.Carried

- 7.6 Bylaw No. 8590 (Z00-1038) – Kelowna Self Storage Ltd. (Robert Evans/True Consulting Group) – 1698 Findlay Road

Moved by Councillor Cannan/Seconded by Councillor Day**R736/00/08/29** THAT Bylaw No. 8590 be read a first time.



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- 7.7 Bylaw No. 8351 – Amendment No. 6 to Development Application Fees  
Bylaw No. 8034

Moved by Councillor Day/Seconded by Councillor Cannan**R737/00/08/29** THAT Bylaw No. 8351 be read a first, second and third time.Carried

- 7.8 Bylaw No. 8591 – Amendment No. 1 to Freedom of Information Bylaw  
No. 7603

Moved by Councillor Shepherd/Seconded by Councillor Clark**R738/00/08/29** THAT Bylaw No. 8591 be read a first, second and third time.Carried**(BYLAWS PRESENTED FOR ADOPTION)**

- 7.9 Bylaw No. 8578 – Amendment No. 3 to Development Application  
Procedures Bylaw No. 8140 **Requires 2/3 majority vote of full Council  
(6)**

Moved by Councillor Clark/Seconded by Councillor Nelson**R739/00/08/29** THAT Bylaw No. 8578 be adopted.Carried8. REMINDERS

Nil.

9. TERMINATION

The meeting was declared terminated at 12:48 a.m.

Certified Correct:\_\_\_\_\_  
Mayor\_\_\_\_\_  
City Clerk

BLH/bn