

Regular MeetingMay 22, 2001

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, May 22, 2001.

Council members in attendance were: Mayor Walter Gray*, Councillors A.F. Blaneil, 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; Subdivision Approving Officer, R.G. Shaughnessy* and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 9:45 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, May 7, 2001
Public Hearing, May 8, 2001
Regular Meeting, May 8, 2001

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R411/01/05/22 THAT the Minutes of the Regular Meetings of May 7, 2001 and May 8, 2001 and the Minutes of the Public Hearing of May 8, 2001 be confirmed as circulated.

Carried

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

5. PLANNING BYLAWS CONSIDERED AT **MAY 8, 2001** PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

5.1 Bylaw No. 8662 (Z01-1010) – Cambridge Shopping Centres Ltd. (Marshal Hundert/IBI Group) – 2430 Highway 97 North

Mayor Gray declared a conflict of interest because a family member lives within the notification area for this application and left the Council Chamber at 9:46 p.m.

Deputy Mayor Nelson assumed the Chair.

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Staff:

- An information report has been circulated to Council addressing issues raised at the Public Hearing.
- Will endeavour through the Direct Development Permits (approved by the Director of Planning & Development Services) to ensure there is no direct lighting aimed off the site.
- A lot of the noise and light problems for the Dilworth Mountain residents are caused by businesses on Leckie Road.
- Home Depot has been asked to address noise, signage and lighting issues on their site as good neighbours.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R412/01/05/22 THAT Bylaw No. 8662 be read a second and third time.

Carried

Councillors Cannan and Shepherd opposed.

Mayor Gray returned to the Council Chamber at 9:55 p.m. and resumed the Chair.

5.2 Bylaw No. 8663 (Z01-1001) – Debo Holdings Ltd. (Tony Markoff/Planning Solutions Consulting Inc.) – 871 Paret Road

Staff:

- A Ministry of Environment letter to the Mission South Slopes Residents' Association confirms there is no contamination on the site.
- The applicant has provided a tree inventory and he recommends that approximately 50 of the best trees on the site be retained. Protection of the trees would be through the site grading plan and at the building permit stage.

Councillors Blanleil and Clark commented that they missed the Public Hearing on this application but that they have viewed the video of the Public Hearing and will be voting on the bylaw. Councillor Clark added that he is also a neighbour to this property but not close enough to be considered in a conflict of interest.

Staff:

- Displayed photographs showing examples of other subdivisions within the City that are adjacent to major roads with a pronounced elevation difference to the property that was developed.
- Of the lots backing onto Gordon Drive, about 9-10 lots would back onto the portion of slope where the road height would be greatest. The majority of the tree retention would be on the lots backing onto Gordon.
- The proposed subdivision is infill development and the lots would be serviced with sanitary sewer.
- Confirmed that the existing overhead power lines would have to be moved to a location off the subject property.

Council:

- Staff to expand the wording of the covenant that will indicate no direct access onto Gordon Drive to also alert potential buyers of the 9-10 lots where the elevation difference would be highest that in future they will back onto a steep slope.
- Staff to address the following with a report back at fourth reading:
 - reconsider the option of a tunnel under the future extension of Gordon Drive instead of an at-grade road crossing for providing access to Bellevue Creek Park.
 - look into doing an ICBC traffic audit from Stonybrook to Bellevue Creek bridge before construction of the Gordon Drive extension.
 - confirm that it is possible to build on the sites without damage to the protected trees during the course of construction.

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Moved by Councillor Blanleil/Seconded by Councillor Day

R413/01/05/22 THAT Bylaw No. 8663 be read a second and third time.

Carried

Councillors Clark and Shepherd opposed.

5.3 Bylaw No. 8667 – City of Kelowna Zoning Bylaw Text Amendment TA01-004

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R414/01/05/22 THAT Bylaw No. 8667 be read a second and third time.

Carried

5.4 Bylaw No. 8668 (Z01-1012) - D.M.J. Construction Ltd. (John McAfee/Springfield Plaza Inc.) – 1565/1585 Springfield Road, and City of Kelowna Official Community Plan Amendment No. OCP01-002 **Requires majority vote of all Council (5)**

Councillor Given declared a conflict of interest because he is employed by Canadian National Institute for the Blind and CNIB is a recipient of revenue from gaming and left the Council Chamber at 10:43 p.m.

Councillor Day declared a conflict of interest because direct family members own property directly adjacent to the subject property and left the Council Chamber at 10:43 p.m.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R415/01/05/22 THAT Bylaw No. 8668 be read a second and third time.

Carried

Councillors Day and Given returned to the Council Chamber at 10:48 p.m. and took their respective place at the Council Table.

6. PLANNING BYLAWS CONSIDERED AT MAY 22, 2001 PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

6.1 Bylaw No. 8676 (Z01-1014) – Joe Pagliaro – 1281 Monterey Crescent

Council:

- Staff to encourage dialogue between the applicant and his neighbour to have an appropriate separation (i.e. fence, shrubs) installed by the applicant along the property line of their shared driveway, and report back on the results of that dialogue when the bylaw advances for fourth reading.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R416/01/05/22 THAT Bylaw No. 8676 be read a second and third time.

Carried

Councillor Clark and Day opposed.

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- 6.2 Bylaw No. 8677 (Z01-1008) – Board of School Trustees, School District No. 23 (Judy Shoemaker) – 805-815, 895 Craig Road; 621 Hartman Road and 650 Webster Road

Council:

- Concern that a policy appears to be emerging for the Ministry of Education to encourage sale of school properties to gain approval for new school sites.
- Concern about loss of public open space when school properties are sold.
- The Ministry of Education's policy with respect to off-site services for new schools and protection of the former Rutland Elementary school building for heritage should be pursued with the provincial government.

Moved by Councillor Nelson/Seconded by Councillor Clark**R417/01/05/22** THAT Bylaw No. 8677 be read a second and third time.CarriedEXTENSION OF THE MEETINGMoved by Councillor Shepherd/Seconded by Councillor Clark**R418/01/05/22** THAT the Rules of Procedure be suspended and the meeting be extended beyond 11:00 p.m.Carried

- 6.3 Bylaw No. 8678 (Z01-1021) – 482627 BC Ltd., Envirotech Real Estate Inc., Gordon & Emelie Wallace, Dorothy & Elizabeth Howe and W & S Bernard Investments Ltd. (Envirotech Real Estate Inc.) – 1681, 1683, 1659 & 1667 Ethel Street, 931 & 941 Leon Avenue, 932 & 942 Harvey Avenue

Moved by Councillor Nelson/Seconded by Councillor Given**R419/01/05/22** THAT Bylaw No. 8678 be read a second and third time.Carried

Councillors Clark and Shepherd opposed.

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7. PLANNING

7.1 Planning & Development Services Department, dated April 18, 2001 re: Development Variance Permit Application No. DVP01-10,018 – Troy Karius (Elroy Karius) – 654 Dehart Road (3090-20)

Staff:

- The owner built an accessory building in the rear yard about 4 years ago. The accessory building was recently connected to the rear of the house. Both structures were constructed without building permits.
- Staff do not support granting a variance where it is felt that the owner/developer knew that a building permit was required for the work.
- The applicant has provided information indicating the majority of the neighbours support granting the variance.

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

Larry Serko, Tozer Avenue:

- Owns the abutting property to the north. The garage attachment on the subject property is an unpainted plywood building and is close to his property.
- Built a 6 ft. fence along his northerly property boundary and also planted a deciduous tree in line with a window from the adjacent property for privacy. However, the tree only provides privacy during the summer months; when the foliage is gone there is no privacy.
- Would plant a hedge inside the fence on his own property but cannot because of a water feature (fountain and pond) that is right up against the fence.
- Not opposed to this variance but would like the applicant to be required to plant a 6 ft. cedar or other evergreen hedge on the applicant's side of the fence to give year-round privacy for both sides.
- Would like the condition to plant the hedge to be met before the permit is issued to finish building the structure.

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

Elroy Carius, applicant's father:

- His son has every intention of finishing the building and has applied for a building permit but needs Council's support of the variance first.
- If the variance is not granted approximately 8 ft. of the building would have to be removed; the house is small and the extra space is needed for the family.
- Would like to get the building legal.
- Does not think his son would object to planting the hedge although question whether it is needed when there is already a 6 ft. fence there.

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Moved by Councillor Blanleil/Seconded by Councillor Cannan

R420/01/05/22 THAT Council authorize the issuance of a Development Variance Permit No. DVP01-10,018; Troy Karius, Lot 2, D.L. 358, Sec. 29, Twp. 31, ODYD, Plan KAP47283, located on Dehart Road, Kelowna, B.C.;

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

13.1.5. (e) Minimum site rear yard: A variance for the minimum site rear yard from 7.5 m to 4.9 m.;

AND FURTHER THAT the applicant be required to plant a suitable evergreen screen along the northerly boundary of the subject property, to the satisfaction of the Planning Department, **prior to issuance of the required building permit.**

Carried

7.2 Planning & Development Services Department, dated May 15, 2001 re: Development Permit Application No. DP01-10,014 – Bri-Ash Developments Inc. [Darren Schlamp/Earth Tech {Canada} Inc.] – 150 Edwards Road (3060-20)

Presented concurrently with agenda item No. 7.3.

Moved by Councillor Nelson/Seconded by Councillor Given

R421/01/05/22 THAT Municipal Council authorize the issuance of Development Permit No. DP01-10,014; for Lot 1, DL 123, O.D.Y.D., Plan KAP53302, located on Edwards 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 Signage to be constructed on the land be in general conformance with Schedule "D";
5. 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

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- 7.3 Planning & Development Services Department, dated April 30, 2001 re: Development Variance Permit Application No. DVP01-10,013 – Bri-Ash Developments Inc. (Darren Schlamp/Earth Tech Canada Inc.) – 150 Edwards Road (3090-20)

Staff:

- The Development Permit is for the second phase of development on the site. There is already a car wash building and truck fuel card-lock facility on the site. This application would add an automated car wash, a convenience store and a Husky gas bar adjacent to Highway 97.
- The Development Variance Permit is to vary the highway building setback provisions of the Zoning bylaw and to permit the 3 signs proposed for the gas bar where the Sign Bylaw permits 2 signs per business.

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

R422/01/05/22 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP01-10,013; Earth Tech (Canada) Inc.; Lot 1, DL 123, O.D.Y.D., Plan KAP56302, except Plan KAP59008 located on Highway 97 North, Kelowna, B.C.;

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

Section 6.10.1 **Setback from Provincial Highways** be varied from 15 m setback required to 4.5 m setback proposed, and

AND THAT variances to the following sections of Sign Bylaw No. 8235 be granted:

Section 6 Specific **Zone Regulations for the I2 zone** from 2 signs per business permitted to 3 signs for the Gas Bar 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

8. REPORTS

- 8.1 Inspection Services Manager, dated May 15, 2001 re: ST01-09 – Stratification of the 3-Plex at 2417, 2419 & 2421 Richter Street

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

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R423/01/05/22 THAT the application to stratify the three-plex at 2417, 2419 & 2421 Richter Street – Lot 2, Plan 4103, DL 136 be approved in the name of Dr. F. DeFreitas Inc. with no conditions.

Carried

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- 9.1 Bylaw No. 8684 (Z01-1020) – Serbian Orthodox Parish – Holy Prophet St. Ilija – 585 Gerstmar Road

Moved by Councillor Clark/Seconded by Councillor Nelson

R424/01/05/22 THAT Bylaw No. 8684 be read a first time.

Carried

- 9.2 Bylaw No. 8685 (Z01-1011) – Eileen Powell (Henk Van Gulp/Gehue & Van Gulp) – 2830 East Kelowna Road

Moved by Councillor Nelson/Seconded by Councillor Given

R425/01/05/22 THAT Bylaw No. 8685 be read a first time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

- 9.3 Bylaw No. 8688 – Marshall Street Local Improvement Construction Bylaw (File No. 648)

Moved by Councillor Shepherd/Seconded by Councillor Clark

R426/01/05/22 THAT Bylaw No. 8688 be adopted.

Carried

10. REMINDERS – Nil.

11. TERMINATION

The meeting was declared terminated at 11:43 p.m.

Certified Correct:

Mayor

Deputy Mayor Nelson

City Clerk

BLH/am