

Regular MeetingOctober 30, 2001

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, October 30, 2001.

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; Subdivision Approving Officer, R.G. Shaughnessy\*; Special Projects Planning Manager, H.M. Christy; Development Engineering Manager, S. Muenz\* and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 8:58 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, October 1, 2001  
Public Hearing, October 2, 2001  
Regular Meeting, October 2, 2001  
Regular Meeting, October 15, 2001  
Regular Meeting, October 22, 2001

Moved by Councillor Nelson/Seconded by Councillor Given

**R830/01/10/30** THAT the Minutes of the Regular Meetings of October 1, October 2, October 15 and October 22, 2001 and the Minutes of the Public Hearing of October 2, 2001 be confirmed as circulated.

Carried

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

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

**(BYLAW PRESENTED FOR AMENDMENT AT 1<sup>ST</sup> READING, AND THEN 2<sup>ND</sup> & 3<sup>RD</sup> READINGS, AS AMENDED)**

5.1 Bylaw No. 8711 (TA01-010) – Zoning Bylaw Text Amendment

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R831/01/10/30** THAT Bylaw No. 8711 be amended by adding a clause that requires a building setback to be a minimum of 4.5 m when it is adjacent to a provincial highway.

Carried

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Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R832/01/10/30** THAT Bylaw No. 8711 be read a second and third time, as amended.

Carried

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

5.2 Bylaw No. 8710 (OCP01-013) – Official Community Plan Amendment requires **majority vote of Council (5)**

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R833/01/10/30** THAT Bylaw No. 8710 be read a second and third time.

Carried

5.3 Bylaw No. 8731 (OCP01-008) – Abraham Salloum and Brederick Bloomfield (Mike Jacobs/Emil Anderson Construction Co. Ltd.) – 2025 Rojem Road requires **majority vote of Council (5)**

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R834/01/10/30** THAT Bylaw No. 8731 be read a second and third time.

Carried

5.4 Bylaw No. 8732 (LUC74-57) – Mike Jacobs/Emil Anderson Construction Co. Ltd. – 902 Summit Drive

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R835/01/10/30** THAT Bylaw No. 8732 be read a second and third time.

Carried

5.5 Bylaw No. 8733 [Z01-1019(a)] – Emil Anderson Construction Co. Ltd., et al (Mike Jacobs) – 902 Summit Drive and 1969, 1983, 2011 & 2025 Rojem Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R836/01/10/30** THAT Bylaw No. 8733 be read a second and third time.

Carried

5.6 Bylaw No. 8734 [Z01-1019(b)] - Emil Anderson Construction Co. Ltd., et al (Mike Jacobs) – 902 Summit Drive and 1969, 1983, 2011 & 2025 Rojem Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R837/01/10/30** THAT Bylaw No. 8734 be read a second and third time.

Carried

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- 5.7 Bylaw No. 8735 (Z01-1036) – Timothy & Elaine Weigel – 136 Kathler Road

Moved by Councillor Hobson/Seconded by Councillor Day**R838/01/10/30** THAT Bylaw No. 8735 be read a second and third time.Carried

- 5.8 Bylaw No. 8736 (Z01-1037) – Four-D Ventures Ltd. (Axel Hilmer) – 1876 Ambrosi Road

Moved by Councillor Day/Seconded by Councillor Hobson**R839/01/10/30** THAT Bylaw No. 8736 be read a second and third time.Carried

## 6. PLANNING

- 6.1 Planning & Development Services Department, dated October 10, 2001 re: Development Variance Permit Application No. DVP01-10,062 and Development Permit Application No. DP01-10,074 – Klaus & Lydia Freichwald (Lisa Knight/ EBA Engineering Consultants) – 4424 Hobson Road

Staff:

- The Development Variance Permit Application (DVP) is to reduce the leavestrip from the lake from 10 m to 2.5 m in order to accommodate a gazebo that has already been constructed at the 2.5 m setback from the highwater mark of the lake.
- The applicant has submitted an environmental report by EBA Engineering and a landscape mitigation plan in support of the DVP.
- The staff recommendation is negative because the work was done in advance of required approvals.

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

Lisa Knight, EBA Engineering:

- The retaining wall was already there when the applicant bought the property.
- The mitigation plan includes native plant material to restore some of the natural value of the lakeshore property. A representative of the Ministry of Water, Land and Air Protection reviewed the design plans and recommended approval.
- The applicant did not know about protection of the lakeshore or how the OCP setback requirements affected him.
- The gazebo was built by a contractor but it seems not all contractors, especially small ones, are aware of what is required for riparian or lakeshore setbacks either and the contractor did not seem to know about the need for a DP either.
- There has been no negative response from the neighbours as a result of the development notice sign posted on the property.
- Both neighbours on either side support the DVP.
- If the gazebo has to be removed, all landscaping would be lost.
- The DP and DVP are both after the fact.
- The high water mark is staked and goes right through the vegetation. There is nothing to impede pedestrian traffic between the high and low water mark.
- The gazebo footprint is 18 m<sup>2</sup> in size and with the brick around it, about 35 m<sup>2</sup>.

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Bill Thiessen, representing the owner who is out of the country:

- The owners are not the type of people to blatantly construct something if they knew it required a permit. They own probably the largest electrical company in Alberta and are used to dealing with permits.
- The owners engaged the services of one of Kelowna's reputable award-winning contractors who obviously did not know about the setback or permit requirements or thought that no permit was required because the gazebo was not designed for habitation.
- The encroachment was only realized when the City plotted the high water mark on an aerial photo and then went after all structures encroaching on the 10 m setback.
- Three of the signatures on the petition of support were the immediate neighbours.

Moved by Councillor Nelson/Seconded by Councillor Shepherd

**R840/01/10/30** THAT Council authorize the issuance of Development Permit No. DP01-10,074, Klaus Reichwald, Lot A, D.L. 167, ODYD, Plan 18153, located on Hobson Road, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the gazebo be in general accordance with Schedule "A";
2. Protection measures to be provided on the land be in general accordance with Schedule "B";
3. The applicants be required to post with the City a Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the protection measures, as determined by a professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP01-10,062, Klaus Reichwald, Lot A, D.L. 167, ODYD, Plan 18153, located on Hobson Road, Kelowna, B.C.;

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

**6.14.1 Stream Protection Leave Strips:** A variance to reduce the leave strip for areas of previous land disturbance from 10.0 m to 2.5 m.

Carried

Councillor Clark opposed.

- 6.2 Planning & Development Services Department, dated October 12, 2001 re: Development Variance Permit Application No. DVP01-10,071 – Oracle Investments Inc. (Mark Gidden) – 4801 Parkridge Drive

Councillor Clark advised that the applicant also represents him on a property that is for sale but that the City Clerk has ruled that there is no conflict of interest.

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

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Mark Giddon, applicant:

- This is an odd shaped lot.
- The neighbours agree with what is proposed.

There were no further comments.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R841/01/10/30** THAT Council authorize the issuance of a Development Variance Permit No. DVP01-10,071; Mark Gidden, Lot 17, Section 29, Township 29, S.D.Y.D., Plan KAP69522, located on Parkridge Drive, Kelowna, BC;

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

**12.3.5 (c) Minimum front yard:** A variance for the minimum front yard from 6.0 m to 4.5 m;

**12.3.5 (e) Minimum rear yard:** A variance for the minimum rear yard from 7.5 m to 2.6 m.

Carried

## 7. BYLAWS

### **(BYLAWS PRESENTED FOR FIRST READING)**

7.1 Bylaw No. 8743 (TA01-012) – Zoning Bylaw Text Amendment No. TA01-012

Moved by Councillor Nelson/Seconded by Councillor Given

**R842/01/10/30** THAT bylaw No. 8743 be read a first time.

Carried

7.2 Bylaw No. 8744 (Z01-1039) – Johnathon & Michelle Demmers – 3265 O'Reilly Court

Moved by Councillor Nelson/Seconded by Councillor Given

**R843/01/10/30** THAT bylaw No. 8744 be read a first time.

Carried

7.3 Bylaw No. 8745 (Z01-1041) – James Dickson – 2238 Wilkinson Street

Moved by Councillor Nelson/Seconded by Councillor Given

**R844/01/10/30** THAT bylaw No. 8745 be read a first time.

Carried

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- 7.4 Bylaw No. 8746 (TA01-011) – Zoning Bylaw Text Amendment No. TA01-011

Moved by Councillor Nelson/Seconded by Councillor Given

**R845/01/10/30** THAT bylaw No. 8746 be read a first time.

Carried

- 7.5 Bylaw No. 8747 (Z01-1048) – 369736 B.C. Ltd., et al (Grant Gaucher) – South of South Ridge Drive

Moved by Councillor Nelson/Seconded by Councillor Given

**R846/01/10/30** THAT bylaw No. 8747 be read a first time.

Carried

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 10:00 p.m.

Certified Correct:

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Mayor

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City Clerk

BLH/am