

Regular MeetingFebruary 19, 2002

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, February 19, 2002.

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

Council members absent: Mayor Walter Gray.

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

Deputy Mayor Day called the meeting to order at 8:15 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, February 4, 2002
 Public Hearing, February 5, 2002
 Regular Meeting, February 5, 2002
 Regular Meeting, February 11, 2002

Councillor Cannan noted that Bylaw No. 8806 (Z01-1056 – BHF Building Healthy Families Society – 1390 KLO Road) was one of five bylaws that were given first reading via a single resolution at the Regular Meeting of Tuesday, February 5, 2002. It was not until after the meeting that he realized his conflict of interest for this bylaw would not have been noted in the minutes. He asked that the conflict of interest regarding Bylaw No. 8806 (because he and his wife are volunteers on the fund raising campaign for this project) be noted in the minutes of this meeting.

Moved by Councillor Given/Seconded by Councillor Nelson

R165/02/02/19 THAT the Minutes of the Regular Meetings of February 4, February 5 and February 11, 2002 and the Minutes of the Public Hearing of February 5, 2002 be confirmed as circulated.

Carried

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

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Staff:

- Displayed a map on the overhead projector showing the properties where petitioners signed in opposition to the subject application.

Council:

- Staff to consider how the internal process works for receiving petitions regarding development applications and how the information gets relayed to Council and bring the matter forward for discussion with Council on a Monday morning agenda.

Moved by Councillor Cannan/Seconded by Councillor Blanleil**R166/02/02/19** THAT Bylaw No. 8784 be read a second and third time.DEFEATED

Deputy Mayor Day and Councillors Blanleil, Cannan, Clark, Given, Hobson, Nelson and Shepherd opposed.

5.2 Bylaw No. 8803 (Z01-1062) – SD-21 Ventures Ltd. (Bryan Murray) – 510 Doyle AvenueMoved by Councillor Hobson/Seconded by Councillor Cannan**R167/02/02/19** THAT Bylaw No. 8803 be read a second and third time.Carried**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)**5.3 Bylaw No. 8801 (OCP01-020) – Kirschner Mountain Area Structure Plan ASP00-001 – Garner, Loeth & Verdue Roads **requires majority vote of Council (5)**

Council:

- Encouraged the developer to consider more clustering and more zero lot lines so as to achieve a viable development that respects the topography.

Staff:

- Confirmed that the applicant intends to protect all areas of over 30% slope and the paragraph added to page 15 of the ASP document reflects that intent.

Moved by Councillor Blanleil/Seconded by Councillor Cannan**R168/02/02/19** THAT Bylaw No. 8801 be read a second and third time, and be adopted.Carried

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Moved by Councillor Clark/Seconded by Councillor Nelson

R169/02/02/19 THAT the Mayor write the Ministry of Transportation to determine its policy, historically and currently, for requiring improvements to provincial highways through development, to seek clarification of the legal authority for such charges, and to seek the historical application of this policy in other communities of the province.

Carried

5.4 Bylaw No. 8804 – Heritage Designation Bylaw – 1633 Richter Street

Moved by Councillor Clark/Seconded by Councillor Shepherd

R170/02/02/19 THAT Bylaw No. 8804 be read a second and third time, and be adopted.

Carried

5.5 Bylaw No. 8805 – Heritage Designation Bylaw – 1825 Richter Street
To designate the Central Elementary School building as a Municipal Heritage Site.

Moved by Councillor Clark/Seconded by Councillor Shepherd

R171/02/02/19 THAT Bylaw No. 8805 be read a second and third time, and be adopted.

Carried

6. PLANNING

6.1 Planning & Development Services Department, dated January 29, 2002 re: Development Permit Application No. DP01-10,082 and Development Variance Permit Application No. DVP01-10,083 – Lok Tien Enterprises Ltd. (Thomas Gaffney Architects Inc.) – 519/543 McKay Avenue (3060-20; 3090-20)

Staff:

- The applicant is proposing to develop the consolidated site with a 2-storey commercial building with some ground-oriented commercial and a restaurant on the main floor and office space on second floor. The applicant would be the main tenant with the Orient Restaurant. The remainder of the building would be available for lease.
- The building would be orientated towards Pandosy and McKay with parking at the rear. The parking lot would be accessed from both McKay and the lane.
- The applicant proposes to provide 11 parking stalls plus the 1 loading stall and to make a cash payment in lieu of the additional 5 stalls that are required. This is not a variance to the bylaw, it is prescribed by the bylaw as one of the ways to provide parking in order to encourage transportation demand management in town centres. Transit is readily available to the subject property. The cash in lieu money will go into a reserve fund to improve parking within the Pandosy town centre.
- The applicant has met with the area residents and parking was their main concern.
- The restaurant would be the prime generator of traffic for this development and mainly the demand would be during the evening. Additional parking would be available across the street at Southgate Shopping Centre during evening hours.

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- The ball diamond at Osprey Park is used by little league and adult recreational teams. Once other sportsfields come available, the adult teams will be moved out of Osprey Park, reducing the number of vehicles parking on the neighbourhood streets during ball season.
- A sidewalk would be provided within the public road right-of-way adjacent to the subject property.
- The requested variance is for a reduced side yard setback.

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

Brenda Campbell, 561 McKay Avenue:

- The proposed restaurant has seating for 80 and will have a lot of take-out traffic.
- Concerned that on-street parking would be a problem in the entire neighbourhood if this application was approved. The neighbourhood streets are all short and all the off-site parking spaces would be taken up with restaurant customers. Some of the homes are rental properties and the tenants have already indicated they would move if they do not have parking. Paying cash in lieu of parking only takes the problem away from the applicant and puts it on the area residents. It could be years before a parkade is built and nobody would use the parkade until the spaces on the streets are full. People without driveways may have to park blocks away from their homes.
- There has already been damage done to fences from vehicles using the alley and concerned that people parking in the alley could block access to her driveway at times.
- Osprey Park is used steadily and there is already bumper to bumper parking on the alley and McKay and Osprey Avenues. Safety of children is also a concern with cars parking on the street.
- There are no restrictions on parking on the neighbourhood streets or in the lane.
- The developer should be required to solve the parking problems in the area.
- Her home is 6 ft. away from the property line and the developer has said that 3 Linden trees would be planted along that property boundary. Linden trees grow 40-50 ft. wide and concerned about potential foundation damage from roots, roof damage from the branches, plugged eavestroughs and the resulting increased maintenance for her. Would prefer trees without leaves.
- Also concerned about the carbon monoxide from vehicle exhausts.
- Has submitted a petition and letters from residents who could not attend this meeting.

Staff:

- There is also a lane that exists but is undedicated along one border of Osprey Park.

Mark Boucher, 558 Osprey Avenue:

- The proposed building looks great but the increase in traffic and lack of parking are of concern. There are only 3 parking stalls for the hair salon (at Osprey and Pandosy) and 8-9 staff working there. Now only 11 stalls are proposed for an 80-seat restaurant.
- The applicant also owns the lots going south to Raymer Avenue and anticipate that that those properties are also proposed for development.
- Need a designated parking lot for Osprey Park. Concerned about children's safety when the park is in use and the streets are lined with vehicles.
- People driving to the neighbourhood for a ball game are more likely to watch out for children's safety in the area than are people coming to the area to go to a restaurant.
- There are no signs to warn motorists of the playground. There are just school zone signs on Richter Street. Portable signs are used during ball games to caution motorists to watch for children in the area but the signs are small and often get knocked over.

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Thomas Gaffney, applicant:

- Held a public information meeting to find out the issues in the neighbourhood before developing the concept plans. Parking was the most significant issue and that this development would add to the problem.
- A substantial portion of the second floor of the proposed building would be for the owner and would generate little traffic.
- The restaurant could have upwards of 80 seats but what the Orient needs is 55-60 seats in the front area of the building. The rear area was intended as a banquet room but the owner's preference would be to get a small office in there. 60% of the restaurant's business is take-out.
- The Orient Restaurant is a family business with 3 employees none of whom would be parking on site. The owner lives in the area and walks to work. The intent is for daytime use of the parking lot to be substantially office and retail and night-time use for patrons of the restaurant.
- Being owner-operator the owner would have the opportunity to control parking.
- The portion of land adjacent to the subject property would be paved and expect that people coming for pick-up would come and go from the west.
- Committed to reconsider the type of tree that should be planted instead of Linden trees in order to still provide privacy for the adjacent neighbour while being less intrusive on her residence.

Staff:

- Through transportation demand management, the City is trying to move away from autos in town centres and encourage walking and different forms of transportation.
- The broader policy issue on how to deal with parking in fringe areas of town centres still has to be addressed. Now that these transitional problems have been identified, staff will make it a priority to report back to Council with some options toward finding a solution.
- In the interim, the City can look at better signing and controls through bylaw enforcement.

A gentleman who advised he was a resident of 583 McKay Avenue:

- Concerned that the peripherals of the narrow lane will not accommodate the additional traffic.

There were no further comments.

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R172/02/02/19 THAT Municipal Council authorize the issuance of Development Permit No. DP01-10,082; for Lots A & B, D.L. 14, O.D.Y.D. Plan KAP69824, located on McKay 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;

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5. The applicant register a plan of subdivision at the land titles office in Kamloops for the required lot consolidation;
6. The applicant make "payment in lieu of off-street parking spaces" for 5 parking stalls as provided for in Bylaw 8125;

AND THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP01-10,083; Thomas Gaffney Architect Inc.; Lots A & B, D.L. 14, O.D.Y.D. Plan KAP69824, located on McKay Avenue, Kelowna, B.C.;

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

Vary **Section 14.4.5 Development Regulations**, minimum side yard from 2.0 m from a flanking street required to 0.0 m 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

Council:

- Staff to take into consideration in their review of parking issues in the Pandosy town centre, where the parking will be provided in return for the cash in lieu payments and potential restrictions that could be imposed to allow flow of traffic around Osprey Park and ensure safety of the children using the park.
- The Parks Committee should be involved because of the impact of the park on parking in the neighbourhood.
- Consider blocking the alley so that vehicles arriving for take-out service from the restaurant enter from and exit onto Pandosy.

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

Bylaw No. 8467 (Z99-1007) – Aberdeen Holdings Ltd. (Grant Maddock/Protech Consultants Ltd.) – 2350 Burtch Road, and City of Kelowna Official Community Plan Amendment No. OCP99-006 requires majority vote of full Council (5)

Withdrawn from the agenda.

- (b) Planning & Development Services Department, dated January 29, 2002 re: Development Permit Application No. DP01-10,086 and Development Variance Permit Application No. DVP01-10,087 – Aberdeen Holdings Ltd. (Grant Maddock/Protech Consultants Ltd.) – Guisachan/Burtch Roads (3060-20; 3090-20)

Withdrawn from the agenda.

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- 6.3 Planning & Development Services Department, dated January 30, 2002 re: Development Variance Permit Application No. DVP01-10,088 – Board of School Trustees – School District No. 23 (Judy Shoemaker/School District 23) – 1079 Raymer Avenue (3090-20)

Staff:

- The applicant is seeking a sign variance for the new Kelowna Secondary School (KSS) site to allow the height of a sign in the institutional zone to be increased and to allow for an increased maximum area for the sign.
- The sign would be in the main courtyard plaza off Raymer Avenue where the students gather to wait for their buses. The sign would have the school's Screaming Owl logo and be bilingual because the school has French immersion.
- The staff recommendation is to not authorize the variances. The staff position is that a lower sign could be provided and still be prominent if moved closer to the street.

The City Clerk advised that a letter of opposition was received from Betty & Peter Wu, 1082 Raymer Avenue, stating the proposed sign would be too tall and the visual impact too great and asking that the position of the sign be rotated so that one side is parallel to Raymer Avenue.

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

Bill Lang, Vice-Principal of KSS:

- The sign design was chosen so as to identify the school and also identify the bus stop, provide a bench for students to sit on while waiting at the bus stop area, and mark the area as a gathering point.
- The proposed sign accents the access point. 18 school buses access the site morning and afternoon and with 60-80 passengers per bus the gathering area by the sign is heavily used. The location of the sign must be a safe distance back because of the volume of kids gathering there.
- Lowering the sign would be of concern. The proposed height of the sign would make it harder for students to vandalize the sign and to keep them from re-arranging the letters. Do not want shrubbery under the sign and moving the sign closer to the road would move it even closer to the neighbourhood.
- The size of the proposed sign is not unreasonable given the size of the school.
- The proposed sign includes potential for 4 rows of script below the school lettering.
- The school has received no feedback from the neighbourhood as a result of the development variance notice signs posted on the site.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Nelson

R173/02/02/19 THAT Council authorize the issuance of Development Variance Permit No. DVP01-10,088, School District No. 23, Lot 1, D.L. 135, ODYD, Plan KAP66130, located on Raymer Avenue, Kelowna, B.C.;

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

Section 6: Specific Zone Regulations: Public and Institutional Zones:

- Vary the height of a free-standing sign from 2.5 m maximum height permitted to 6.90 m requested;
- Vary the maximum area of a free-standing sign from 4.0 m² permitted to 11.52 m² requested.

Carried

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7. BYLAWS

(BYLAWS PRESENTED FOR ADOPTION)

- 7.1 Bylaw No. 8802 – Housing Agreement – Provincial Rental Housing Corporation (Joel & Marie Prichard) – 547 Caramillo Court

Moved by Councillor Nelson/Seconded by Councillor Given

R174/02/02/19 THAT Bylaw No. 8802 be adopted.

Carried

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 10:12 p.m.

Certified Correct:

Deputy Mayor Day

BLH/am

City Clerk