

Regular MeetingOctober 28, 2003

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 28, 2003.

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, E.A. Horning and S.A. Shepherd.

Staff members in attendance were: City Manager, R.A. Born; Deputy City Clerk, S.C. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi; Manager of Development Services, A.V. Bruce; and I. Tilstra acting as Recording Secretary.

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 Day.

3. CONFIRMATION OF MINUTES

Public Hearing, October 14, 2003  
Regular Meeting, October 14, 2003  
Regular Meeting, October 20, 2003

Moved by Councillor Hobson /Seconded by Councillor Cannan

**R895/03/10/28** THAT the Minutes of the Regular Meetings of October 14 and October 20, 2003 and the Minutes of the Public Hearing of October 14, 2003 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. 9099 (Z03-0036) – Royce & Leeann Dockrill – 3517 Lakeshore Road

Moved by Councillor Clark /Seconded by Councillor Given

**R896/03/10/28** THAT Bylaw No. 9099 be read a second and third time.

Carried

5.2 Bylaw No. 9100 (Z03-0041) – Mamre Holdings Inc. (Renee Wasylyk) – 1856 Ambrosi Road

Moved by Councillor Given /Seconded by Councillor Horning

**R897/03/10/28** THAT Bylaw No. 9100 be read a second and third time.

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- 5.3 Bylaw No. 9101 (Z03-0035) – Zodiac Pub (Steve Berezan) – 200-210 Highway 33 West

Moved by Councillor Shepherd /Seconded by Councillor Hobson

**R898/03/10/28** THAT Bylaw No. 9101 be amended to remove the reference to the Liquor Primary (lp) designation and the word “pub”.

Carried

Moved by Councillor Blanleil /Seconded by Councillor Cannan

**R899/03/10/28** THAT Bylaw No. 9101, as amended, be read a second and third time.

Carried

Councillors Clark and Cannan opposed.

- 5.4 Bylaw No. 9103 (Z03-0048) – Janet Dommasch (Peter Chataway) – 124 Lake Avenue

Moved by Councillor Blanleil /Seconded by Councillor Cannan

**R900/03/10/28** THAT Bylaw No. 9103 be read a second and third time.

Carried

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

- 5.5 Bylaw No. 9102 (Z03-0049) – Pierre & Amber Piche – 1086 Raymer Avenue

Moved by Councillor Day /Seconded by Councillor Hobson

**R901/03/10/28** THAT Bylaw No. 9102 be read a second and third time, and be adopted.

Carried

6. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATIONS

- 6.1 Planning & Corporate Services Department, dated September 17, 2003 re: Liquor Licensing Application No. LL03-0017 – Canada West Tree Fruits Ltd. (McCulloch Orchard Greens Inc.) – 2755-2789 KLO Road

Staff:

- The application is for the Bunk House restaurant and pub.
- Prior to December 2002, 36 interior seats were allocated for the nine-hole golf course. Changes were made by the provincial government in 2002 that allowed for a one-time increase to 75 seats.
- The current application is for the enclosure of 17 patio seats to create a total license capacity for 92 persons, allowing for an increase to the designated smoking area and an enclosure to make up for the loss of area for those that wish to sit in a non-smoking area.

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- The facility has ended up with an 'lp' license through the conversion of regulations and policies. This has not been closely scrutinized.
- While the Mayor's Task Force policy indicates that LP establishments should not be adjacent or abutting, this was not intended to apply to rural situations.
- Staff are recommending support of the application, but are asking Council to keep in mind that the existing license has grown out of a non-public process to date.

The Deputy City Clerk advised that no written submissions were received.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward.

Manager of Bunk House Bar and Grill and Orchard Green Golf Club

- The current situation is a result of conflict between WCB smoking regulations and provincial liquor regulations.
- A joint discussion with the WCB and the province has lead to this application.
- A newly created patio will carry a food primary designation; liquor can be served with food.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

**R902/03/10/28** THAT Council support an interior capacity increase for the liquor primary licensed establishment from 75 to 92 on Lot A, Section 9 & 10, Township 26, Plan 43297, ODYD; proposed by McCulloch Orchard Greens for 2777 KLO Road;

AND THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Branch in Victoria.

Carried

## 7. PLANNING

7.1 Planning & Corporate Services Department, dated October 1, 2003 re: Development Variance Permit Application No. DVP03-0104 – Ian & Dorothy Smith – 391 Sandpiper Street

Staff:

- This application is regarding an existing pool retaining wall that does not conform to height restrictions.
- Staff are concerned about the dangerous practice of building first and asking afterwards, especially in cases where construction is done by professionals who should be aware of the regulations.
- If the wall is removed, the pool will have to be removed as well.
- Retaining walls and landscaping are often completed well after the last visit by the Inspection Services Department. Issuing fines will not likely address the situation. Staff are prepared to turn the issue over to legal counsel.
- The Inspection Services Department has said that it has no concerns about this retaining wall provided the applicant has submitted an engineer's report.

The Deputy City Clerk reported the receipt of three form letters from adjacent neighbours stating no objections to the pool or the retaining wall.

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Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward.

Ian Smith, Applicant

- The family has dreamed of building a pool since they bought the property in 1993, and actually purchased a piece of the adjacent property in order to be able to do so.
- The best professionals were hired to build the pool.
- The building materials were chosen for beauty and durability.
- The wall has been tested and certified by a geotechnical engineer. This report plus one other engineering report has been submitted.
- Six supporting letters from immediate neighbours were submitted.

Moved by Councillor Blanleil /Seconded by Councillor Hobson

**R903/03/10/28** THAT Council authorize the issuance of Development Variance Permit No. DVP03-0104 for Lot 14, Section 23, Township 28, SDYD Plan KAP73329, located on Sandpiper Street, Kelowna, B.C.;

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

**Section 7.5: Fencing and Retaining Walls: Subsection: 7.5.7**

- Vary maximum height for a retaining wall from 1.2 m permitted to 3.7 m proposed (existing), subject to the submission of an engineering report.

Carried

7.2 Planning & Corporate Services Department, dated September 22, 2003 re: Development Permit Application No. DP03-0092 and Development Variance Permit Application No. DVP03-0098 – Manteo Beach Club Ltd. (Adrian Block) – 3766 Lakeshore Road

Staff:

- The subject property runs along Lakeshore and Cook Road.
- The applicant is requesting a development permit and a development variance permit to allow for the construction of a new hotel facility building to support the existing hotel operation. The new building would hold a gym, meeting rooms, a kitchen, some additional exercise area, and board rooms. The new development is not intended to attract additional clientele.
- The proposed new development is consistent with existing development on the site.
- 39 additional surface parking stalls will be added. The variance is triggered by stalls that continue right up to the property line, lacking the required 2-metre setback.
- The new parking would bring parking capacity up to meet current bylaw provisions.
- Staff are recommending that Council support the application.
- The APC has recommended support of both development permits, subject to the maintenance of the landscaping on the boulevard being consistent with that on the site.

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The Deputy City Clerk advised that no written correspondence had been received.

Moved by Councillor Hobson /Seconded by Councillor Cannan

**R904/03/10/28** THAT Council authorize the issuance of Development Permit No. DP03-0092 for Lot A, District Lot 134 and Section 6, Township 26, ODYD, District Plan KAP56428 Except Strata Plan KAS1776 (PH1), located on 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 Council authorize the issuance of Development Variance Permit No. DVP03-0098; for Lot A, District Lot 134 and Section 6, Township 26, ODYD, District Plan KAP56428 Except Strata Plan KAS1776 (PH1), located on Lakeshore, Kelowna, B.C.;

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

**Section 14.9 Tourist Commercial: Subsection: 14.9.5(c)**

- Vary front yard setback from 6.0 m required to 0.0 m proposed to accommodate proposed off-street parking and off-street loading areas;

**Section 8.1 Off Street Parking: Subsection : 8.1.10(c)**

- Vary off-street parking setback requirement (2.0 m setback) to allow parking 0.0 m from a front property line;

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

- 7.3 Planning & Corporate Services Department, dated September 30, 2003 re: Heritage Alteration Permit Application No. HAP03-0007 – Roman Bertolutti – 2110 Abbott Street

Staff:

- The applicant is pursuing a Heritage Alteration Permit (HAP) to replace the existing house with a new building.
- At issue today is the encroachment of the proposed pool and deck area into the required 15-metre lake setback.
- The applicant will be removing a concrete wall topped by fencing that is outside of the surveyed property boundaries.

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- The applicant has provided a landscape plan to mitigate any effects from the reduced lake setback requirement.
- The Ministry of Water, Land and Air Protection has conceded to the encroachment.
- Staff is recommending support of the HAP, including the requested variances.

The Deputy City Clerk reported receipt of one letter in support of the application, provided that the existing privacy barrier is taken down.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward.

Gordon Jennings, area resident:

- Concerned about the erosion of the beach and the impact of the encroaching development.
- Suggests the construction of a retaining wall to stabilize the shoreline.
- Pleased that the walls will be removed, preserving the public's legal right to access the beach.

Staff:

- Clarified that only the wall to the north of the subject property is being removed by the applicant.
- The wall to the south of the subject property is integral to the neighbour's dock and seems to be what is causing scouring.
- The landscaping plan indicates a new privacy fence along the property line, which may stop erosion from that property.

Moved by Councillor Hobson /Seconded by Councillor Blanleil

**R905/03/10/28** THAT Council authorize the issuance of Heritage Alteration Permit No. HAP03-0007; Roman Bertolutti, Lot 1 , D.L. 14 , ODYD, Plan 737, located on Abbott Street, 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. The retaining wall/fence that encroaches on City property and the Okanagan Lake foreshore be removed;
4. The landscaping on site to be in accordance with the Landscaping Plan approved under Development Permit DP03-0103;
5. The corner visibility triangle on the subject property at the corner of Abbott Street and Cadder Avenue is to be in accordance with the Sight Line Regulations outlined in Traffic Bylaw No. 8120;

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

**Section 6.14: Stream Protection Leave Strips**

- Vary the required riparian management setback from Okanagan Lake from the 15.0 m required to 10.5 m.

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8. TERMINATION

The meeting was declared terminated at 10:57 p.m.

Certified Correct:

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Mayor

IT/SF/am/blh

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Deputy City Clerk