

Regular MeetingJanuary 13, 2004

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, January 13, 2004.

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; 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 5:26 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, December 15, 2003
Public Hearing, December 16, 2003
Regular Meeting, December 16, 2003
Regular Meeting, December 22, 2003

Moved by Councillor Hobson/Seconded by Councillor Day

R026/04/01/13 THAT the Minutes of the Regular Meetings of December 15, December 16 and December 22, 2003 and the Minutes of the Public Hearing of December 16, 2003 be confirmed as circulated.

Carried

4. Councillor Blanleil 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. 9128 (Z03-0059) – 641300 BC Ltd (Steve Berezan – Black Mountain Pub) – 2040 Joe Riche Road

Moved by Councillor Given/Seconded by Councillor Horning

R027/04/01/13 THAT Bylaw No. 9128 be read a second and third time.

Carried

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5.2 LUC03-0002 – Discharge of Land Use Contract 78-1029 **(no bylaw)**

Moved by Councillor Hobson/Seconded by Councillor Day

R028/04/01/13 THAT Land Use Contract No. 78-1029 be discharged from Lot 2, District Lot 138, ODYD Plan 3809 (1094 Lawson Avenue) to allow the property to be used for other than parking.

Carried

5.3 Bylaw No. 9135 (OCP03-0011) – LCC Holdings Inc. – 1094 Lawson Avenue **Requires majority vote of Council (5)**

Moved by Councillor Day/Seconded by Councillor Blanleil

R029/04/01/13 THAT Bylaw No. 9135 be read a second and third time.

Carried

5.4 Bylaw No. 9136 (Z03-0047) – LCC Holdings Inc. – 1094 Lawson Avenue

Moved by Councillor Blanleil/Seconded by Councillor Day

R030/04/01/13 THAT Bylaw No. 9136 be read a second and third time.

Carried

6. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATIONS

6.1 Planning & Corporate Services Department, dated December 2, 2003 re: Liquor Licensing Application No. LL03-0021 – C.2K Holdings Ltd. (Sal Gupta/Ric's Grill Kelowna Ltd.) – 1585 Abbott Street

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

Moved by Councillor Hobson/Seconded by Councillor Cannan

R031/04/01/13 THAT Council support a change to the permitted hours of operation from 11 a.m. to 12 a.m. 7 days per week to 11 a.m. to 1 a.m. 7 days per week, on Strata Lot 1, DL.139, Strata Plan K577, ODYD proposed by Ric's Grill for 1585 Abbott Street;

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

Carried

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- 6.2 Planning & Corporate Services Department, dated November 24, 2003 re: Liquor Licensing Application No. LL03-0019 – WGP 236 Holdings Ltd. (Terry Hales/Breakers Billiards & Bistro) - #1-1525 Dilworth Drive

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

Moved by Councillor Blanleil/Seconded by Councillor Horning

R032/04/01/13 THAT Council support a liquor primary license (11 a.m. to 2 a.m.; 7 days per week; person capacity -149) on Lot B, District Lot 125 and 531, ODYD Plan KAP46845 proposed by Breakers Billiards and Bistro for #1-1525 Dilworth Drive;

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

Carried

7. PLANNING

- 7.1 Planning & Corporate Services Department, dated December 9, 2003 re: Development Variance Permit Application No. DVP03-0167 – Double Day Development (Dave Davies) – 1585 Lewis Road

Staff:

- The applicant is seeking a waiver of road frontage improvement requirements estimated to cost \$50,000.
- Road frontage improvements are a requirement of the Subdivision Bylaw which staff cannot waive.
- Normal procedure would be to require a cash in lieu payment when timing is not appropriate to proceed with required improvements.

Moved by Councillor Cannan/Seconded by Councillor Hobson

R033/04/01/13 THAT Council hear from the applicant.

Carried

Dave Davies, applicant:

- The required road improvements would be appropriate for a multi-family subdivision, but this is a rural area and no other lots have curbs and gutters.
- The site was only 4 acres to start with and asking for only one more lot. The lot would likely sell for \$70,000-\$80,000.

Council:

- Considered asking staff to look at whether policy changes are warranted to servicing requirements in rural areas when a proposed development is only for a 2 lot subdivision. Agreed that it would be difficult to come up with a policy and that Council should continue to consider applications in these types of situations.

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

Regular MeetingJanuary 13, 2004Moved by Councillor Hobson/Seconded by Councillor Blanleil

R034/04/01/13 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP03-0167: Double Day Development Corp; 1585 Lewis Road, Lot A, Sec. 13, Twp. 26, ODYD Plan KAP72858;

AND THAT variances to the following section of Subdivision, Development and Servicing Bylaw No. 7900 be granted, thereby waiving the improvement requirements for the Lewis Road street frontage, as outlined in the Subdivision Approving Officer's Preliminary Layout Review letter dated November 20, 2003;

Part 5: OWNER TO PERFORM WORK:

Section 9.3 – Required Works and Services (1) (a)(i)

In the case of a Subdivision:

- all onsite Works and Services, and
- all offsite Works and Services on that portion of the highway(s) immediately adjacent to the site, up to the centre line of that adjacent highway(s), insofar as their requirement is directly attributable to the Subdivision.

Carried

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

Bylaw No. 9099 (Z03-0036) – Royce & Leeann Dockrill – 3517 Lakeshore Road

Withdrawn from the agenda.

- (b) Planning & Corporate Services Department, dated November 24, 2003 re: Development Variance Permit Application No. DVP03-0074 – Eric Weiss (Royce Dockrill) – 3517 Lakeshore Road

Withdrawn from the agenda.

- 7.3 Planning & Corporate Services Department, dated December 11, 2003 re: Development Variance Permit Application No. DVP03-0158 – Ronald & Violet McKinney – 1181 Montrose Place

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

Moved by Councillor Hobson/Seconded by Councillor Cannan

R035/04/01/13 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0158; Lot 14, Section 30, Township 26, ODYD Plan 17272, located on Montrose Place, Kelowna, B.C.;

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

Section 13: RU1-Large Lot Housing: Section 13.1.5(c):

- Vary the front yard setback from 6.0 m required to 4.5 m proposed;

Section 13: RU1-Large Lot Housing: Section 13.1.5(d):

- Vary the side yard setback from 2.0 m required to 1.8 m proposed.

Carried

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- 7.4 Planning & Corporate Services Department, dated December 11, 2003 re: Development Variance Permit Application No. DVP03-0162 – David A. Glendinning – 689 Welke Road

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

Moved by Councillor Shepherd/Seconded by Councillor Given

R036/04/01/13 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0162; Lot 6, District Lot 358, ODYD Plan 21967, located on Welke Road, Kelowna, B.C.;

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

Section 6.5: Accessory Development: Subsection: 6.5.7:

- Vary maximum permitted lot coverage for an accessory building from 90 m² permitted to 98.1 m² proposed.

Carried

- 7.5 Planning & Corporate Services Department, dated November 25, 2003 re: Development Variance Permit Application No. DVP03-0070 – Ian & Bev Sisett – 3112 Watt Road

The Deputy City Clerk advised that the following correspondence had been received.

- letter from Mr. Tom Smithwick on behalf of James and Florence Walasko, who own property directly across the creek from the subject property, asking for the same consideration for them should they ask for a similar variance for their property.

Council:

- Clarified that approval of this application would in no way be setting a precedent and Council would not be bound to approve the same for the neighbour.

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

Moved by Councillor Shepherd/Seconded by Councillor Cannan

R037/04/01/13 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0070 for Lot 9, D.L 14, ODYD, Plan 6069 located on Watt 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. The applicant register a Flooding Covenant on title of the subject property as a Section 219 Restrictive Covenant saving harmless the City and the Province from any flood damage;

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

Section 6.14: Stream Protection Leave Strips:

- To vary the setback from Fascieux Creek from the 15.0 m required to 7.32 m;

Section 13.1.5 (b): RU1 – Large Lot Housing:

- To vary the maximum permitted height for a single detached dwelling from the 2.5 stories permitted to allow for a height of 3 stories;

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

7.6 Planning & Corporate Services Department, dated December 8, 2003 re: Development Variance Permit Application No. DVP03-0117 – Varitex Enterprises Ltd. – 675 Westpoint Court

Staff:

- Projections are permitted to a maximum of 2 ft. in depth and limited to 20% of the wall area. The applicant has constructed 2 projections on one side of the house, with the second projection being added without being shown on the building permit.
- In total, the projections would comprise 57.3% of the wall.
- Staff have agreed to calculate allowable projections based on the wall length of the entire building envelope and that will come forward in the near future. Even if that change was in place now, this would still be slightly over what would be allowed.
- Staff feel the builder should have known the Code requirements and known to amend the building permit before making the change.

The Deputy City Clerk advised that the following correspondence had been received.

- letter from the applicant acknowledging that they have violated bylaw requirements.
- late letter from the applicant indicating that the neighbours have no objection to the requested variance.

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

Don Kerr, applicant/contractor:

- Received a building permit from the City stamped approved showing the main projection.
- The City must have used a calculation measured from the outside boundary in determining the required variance.
- The owner found that the room was too small and the second projection was added to accommodate a dresser. This cantilever does not affect the neighbour but it does affect the owner.
- The 20% calculation for projections was not very well thought out.

Council:

- The report indicates that the Planning department has no intention of changing the current calculation for projections.

Staff:

- Clarified that the decision to reconsider the calculation was made subsequent to the report being written.

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Moved by Councillor Hobson/Seconded by Councillor Blanleil

R038/04/01/13 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0117 for Lot 7, DL 358, ODYD, Plan KAP72359, located on Westpoint Court, Kelowna, B.C.;

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

Section 6.4.1 Projections Into Yards

- To allow a cantilevered section of a building to comprise of 57.3% of the building where only 20% is permitted;

AND THAT the issuance of the Development Variance Permit be 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";

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

- 7.7 Planning & Corporate Services Department, dated December 8, 2003 re: Heritage Alteration Permit Application No. HAP03-0008 – John Skelton (Sherri Simpson) – 247 Vimy Avenue

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

Gordon Jennens:

- Lived in the house as a child. With the density now allowed in the area, the reduced setbacks can be supported. What has been done so far has been a big improvement structurally.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R039/04/01/13 THAT Council authorize the issuance of Heritage Alteration Permit No. HAP03-0008; Sherri Simson, Lot B, D.L. 14 , ODYD, Plan 2183, located on Vimy Avenue, Kelowna, B.C., allowing the construction of an accessory building, 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 "D";
4. The east side of the proposed carport shall be enclosed with a 3/4 hr. fire rating and non-combustible cladding as per the BC Building Code;

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

Section 13.1.5 – Large Lot Housing – Development Regulations:

- A variance to allow a rear yard setback of 5.32 metres where 7.5 metres is required;
- A variance to allow a side yard setback of 0.0 metres where 2.0 metres is required;
- A variance to allow a front yard setback of 0.0 metres where 6.0 metres is required;
- A variance to allow a site coverage for buildings of 47.0% where the maximum permitted is 40%;

Section 8.1.9: Parking & Loading:

- A variance to allow the required parking to be in a carport located in the required front yard where parking in the required front is only permitted on a driveway which provides access to a required off-street parking space that is not in the front yard.

Carried

8.0 DRAFT RESOLUTIONS

8.0.1 Draft Resolution re: OCP Amendment Bylaw No. 9096

Moved by Councillor Day/Seconded by Councillor Blanleil

R040/04/01/13 THAT Council considers that Bylaw No. 9096 - a bylaw to amend Official Community Plan Bylaw No. 7600 in order to complete an updated Official Community Plan – *Kelowna 2020* is consistent with the existing City of Kelowna Financial Plan (the 20 Year Servicing Plan and Financing Strategy) and the Waste Management Plan.

Carried

8. BYLAWS

(BYLAWS PRESENTED FOR FIRST READING)

8.1 Bylaw No. 9144 (TA03-0011) – City of Kelowna Zoning Bylaw Amendment (Petro Canada Inc.) - 520 Cawston Avenue and 1265 Ellis Street

Moved by Councillor Clark/Seconded by Councillor Shepherd

R041/04/01/13 THAT Bylaws No. 9144 and 9145 be read a first time.

Carried

8.2 Bylaw No. 9145 (Z03-0056) – Petro Canada Inc. (Ken Webster/R492 Enterprises Ltd.) – 520 Cawston Avenue and 1265 Ellis Street

See resolution adopted under agenda item No. 8.1.

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9. REMINDERS – Nil.

10. TERMINATION

The meeting was declared terminated at 6:42 p.m.

Certified Correct:

Mayor

Deputy City Clerk

BLH/am