

Regular MeetingFebruary 24, 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, February 24, 2004.

Blanleil, R.D. Cannan, B.A. Clark, B.D. Given, R.D. Hobson and E.A. Horning.

Council members absent: Mayor Walter Gray and Councillor C.B. Day.

Staff members in attendance were: Acting City Manager/Acting City Manager/Director of Planning & Corporate Services, R.L. Mattiussi;; City Clerk, A.M. Flack; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

1. CALL TO ORDER

Deputy Mayor Shepherd called the meeting to order at 8:18 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, February 9, 2004
Public Hearing, February 10, 2004
Regular Meeting, February 10, 2004
Regular Meeting, February 16, 2004

Moved by Councillor Given/Seconded by Councillor Hobson

R185/04/02/24 THAT the Minutes of the Regular Meetings of February 9, February 10 and February 16, 2004 and the Minutes of the Public Hearing of February 10, 2004 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. 9120 (TA02-0005) – Amendments to City of Kelowna Zoning Bylaw No. 8000

Moved by Councillor Horning/Seconded by Councillor Given

R186/04/02/24 THAT Bylaw No. 9120 be read a second and third time.

Carried

5.2 Bylaw No. 9163 (Z03-0061) – Scandilog Homes Ltd. – 1937-1939 Harvey Avenue

Moved by Councillor Clark/Seconded by Councillor Given

R187/04/02/24 THAT Bylaw No. 9163 be read a second and third time.

Carried

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- 5.3 Bylaw No. 9166 (TA03-0013) – Amendment to City of Kelowna Zoning Bylaw No. 8000

Moved by Councillor Horning/Seconded by Councillor Given

R188/04/02/24 THAT Bylaw No. 9166 be read a second and third time.

Carried

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)

- 5.4 Bylaw No. 9164 (Z03-0074) – Aberdeen Holdings Ltd. (Pupus Enterprises) – 2355-2395 Gordon Drive

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R189/04/02/24 THAT Bylaw No. 9164 be read a second and third time, and be adopted.

Carried

- 5.5 Bylaw No. 9165 (OCP04-0002) – Amendment to Kelowna 2020 - Official Community Plan Bylaw No. 7600 **Requires majority vote of Council (5)**

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R190/04/02/24 THAT Bylaw No. 9165 be read a second and third time, and be adopted.

Carried

- 5.6 Bylaw No. 9170 (Z03-0060) – D. Gerald Sager and Sylvia Wearne – 255 Lake Avenue

Moved by Councillor Hobson/Seconded by Councillor Cannan

R191/04/02/24 THAT Bylaw No. 9170 be read a second and third time, and be adopted.

Carried

6. PLANNING

- 6.1 Planning & Corporate Services Department, dated December 16, 2003 re: Development Permit Application No. DP03-0130 and Development Variance Permit Application No. DVP03-0131 – Kenneth Dickson and Gebhard Wager (Ernie Rempel/City Square Holdings) – 1451 Bertram Street

Staff:

- The subject application was adjourned from the Regular Meeting of January 27, 2004 at the request of the applicant.
- Originally the Development Permit was for construction of a 4.5 storey, 25-unit congregate care building with access from the rear lane. The staff report recommended non-support of the drawings as submitted but provided two alternate recommendations for Council's consideration, No. 1 would allow Council to support the application as submitted, No. 2 supported the application without the requested height variance.

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- The applicant has now submitted revised plans associated with both alternate recommendations in the staff report.
- Explained the changes that were made under both scenarios and advised that staff could support the second scenario alternative provided by the applicant as it eliminates the need for a height variance.
- The Development Variance Permit is to allow for reduced setbacks, reduced private open space, increased lot coverage, and a building height that exceeds 4 storeys.

The City Clerk advised that the following correspondence and/or petitions had been received subsequent to the January 27th Regular Meeting:

- A letter and the same attachments as were submitted attached to a letter prior to the January 27th Regular Meeting from the manager of Evangel Apartments, 1439 Bertram Street, generally opposed because of the negative impact on views, sunlight, privacy, and the ambience of the neighbourhood.

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

York Wagner, representing the applicant:

- Displayed photos showing the subject property.
- The application deals with infill of an orphaned property left behind by development in the area.
- The property is zoned for apartments but is so narrow that it would be difficult to develop without side yard variances. Most if not all of the neighbourhood properties are also non-conforming, with reduced side yard setbacks and parking shortfalls.
- The subject application meets bylaw requirements for parking, but requires waivers for side yard setbacks and lot coverage. The scale of the development as proposed is just efficient enough to make it work.
- The owners have tried to create a benefit for the neighbourhood by creating a congregate care facility. Seniors not resident of the facility could come in for meals or have meals delivered from this facility.
- The facility would provide affordable living spaces and allow more seniors to stay downtown and enjoy the conveniences that are available there.
- The owners have expended 1.5 years of time and money to move this project along with the aid of City staff.
- The revised plans for the second alternative include increased side yard setbacks for the middle section of the building. The 7.5 ft. setback is on the side of the building that has all the hallways. The windows are on the side of the building with the greater setback, for privacy reasons. The number of units would be reduced from 25 to 22 and the parking requirement would still be met with the proposed 9 stalls. The variance for private open space would be eliminated; a variance would still be required for total site coverage but the number would be smaller now. Alternate No. 2 also allows more space for additional planting.
- Could provide more of a community facility under Alternate No. 1 but content to accept Alternate No. 2 which has staff support. Cannot demonstrate community support of either proposal. The revised plans were very last minute so no opportunity to discuss them with the neighbourhood to gauge the level of support.
- The applicant has owned the property for about 15 years and has received no offers to purchase in that time.

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Ruth Benedict:

- Owns the adjacent property to the south which would be most impacted from the proposed development. Purchased the property 2 years ago with the intent of one day redeveloping it. Has talked to the applicant about buying the subject property in order to consolidate the properties for redevelopment but the applicant had no interest in selling.
- Concerned about the number of variances being requested and the negative impact the proposed development would have on how her property could be redeveloped.
- Concerned about what could develop on the subject property if the proposed congregate care building is not approved.
- Concerned that redevelopment of the subject property would disturb the root systems of the trees on her property.
- Is opposed because the proposed building is too large for the size of the lot and does not flow with the neighbourhood.

Harvey Benson, representing the seniors at 1439 Bertram Street:

- Displayed a model to show how the building at 1439 Bertram Street could be impacted visually.
- Concerned about the lack of green space between the proposed building and the development to the north and opposed to the proposed 5 ft. setback and additional storey which would limit light and sunlight.
- Concerned that if this is approved, the seniors at 1439 Bertram would be looking at a solid wall 20 ft. closer to them than the Zoning Bylaw allows.
- Suggest that the subject property be consolidated with the property to the south and developed in accordance with the zoning, or alternatively that the subject property be developed with a group home which could also meet needs in the downtown area without negatively impacting the neighbours.
- The residents at 1439 Bertram are concerned about setting a precedent and the lack of landscaping and green space, and are opposed to the proposed 4 storey building height. These seniors are not happy with either of the alternate recommendations in the staff report.

York Wagner, representing the applicant:

- Suggest this application be adjourned again in order to consider further modifications to address more of the objections.
- Requested guidance from Council as to what they could support.

Council:

- Willing to look at variances for a building of less scale that is stepped back.

Staff:

- It may be necessary to re-advertise the application if the changes are extensive.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R192/04/02/24 THAT further consideration of Development Permit Application No. DP03-0130 and Development Variance Permit Application No. DVP03-0131 for Lot 3, Block E, District Lot 139, ODYD Plan 2345, located at 1451 Bertram Street, Kelowna, B.C.; be adjourned to the Regular Meeting of Tuesday, May 18, 2004.

Carried

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6.2 Planning & Corporate Services Department, dated January 22, 2004 re: Development Variance Permit Application No. DVP03-0148 – M. Erica Leach and Karen Etheridge (Erica Leach) – 5550 Lakeshore Road

Staff:

- The previous house on the property was damaged beyond repair by the Okanagan Mountain Provincial Park forest fire. The applicant is proposing to rebuild in a different location on the property. However, the old configuration of the property makes it difficult to meet all the setback requirements.
- The application is for relaxation of the setback requirement from Okanagan Lake.
- The applicant has met guidelines for mitigating the impacts.

The City Clerk advised that no correspondence and/or petitions had been received.

Erica Leach, applicant:

- Indicated she had nothing to add at this time but was available to respond to questions.

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

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R193/04/02/24 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0148 for Lot A, Sections 15 & 22, Township 28, SDYD, Plan 20994 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 in general accordance with Schedule "C";

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

Section 6.14.1: Stream Protection Leave Strips

- A variance to allow a single detached dwelling to have a riparian management area setback of 10.0 metres where a setback of 15.0 metres is required;

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

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6.3 Planning & Corporate Services Department, dated January 14, 2004 re: Heritage Alteration Permit Application No. HAP03-0017 – Sylvia Wearne and Gerald Sager – 255 Lake Avenue

Staff:

- The bylaw rezoning the subject property to RU1s was adopted earlier on this agenda to allow construction of an addition to the rear of the existing building that would include a garage, additional living area for the main house, and a secondary suite.
- The applicant should be commended in the design of the house; however, staff cannot recommend in support because it is felt that the size of the property cannot support the size of the addition that is proposed. In the opinion of staff, this is not a hardship situation and there is not sufficient mitigation through design to recommend support for reduced setbacks. Staff are also concerned that approval could set a precedent.

The City Clerk advised that the following correspondence and/or petitions had been received:

- letter from Mary Oldring withdrawing her opposition to the application and indicating support based on the revised plans and assurance from the applicant that mature trees would be planted at the rear of the carriage house.
- letter from the Kelowna South-Central Association of Neighbourhoods indicating support in principal with concerns about the setback variances and the design of the arch treatment.

Sylvia Wearne, applicant:

- Explained the reasons for the proposed building orientation and advised that both neighbours affected by the setbacks are in support and have provided proof of their support in writing.

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

Valerie Hallford, Friends and Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS):

- FRAHCAS supports this because the applicants have done a wonderful job of restoring the house and have reworked the plans as requested by the Community Heritage Commission (CHC) and the Advisory Planning Commission (APC). The plans as they are now allow for a great deal of green space.
- The applicants have been severely affected by the huge carriage house on the corner of Abbott Street and Lake Avenue.
- FRAHCAS does not normally support variances but having attended both the CHC and APC meetings and studied the plans, this seems to be a win/win for the neighbourhood.

Moved by Councillor Blanleil/Seconded by Councillor Given

R194/04/02/24 THAT Council authorize the issuance of Heritage Alteration Permit No. HAP03-0017; for that part of lot 28, Block 5, Outlined red on Plan B3957, District Lot 14, ODYD, located on Lake 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";

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

Section 13.1.5: Development Regulations: Subsection: (d):

- Vary side yard setback from 2.3 m required to 0.69 m proposed;

Section 13.1.5: Development Regulations: Subsection: (e):

- Vary rear yard setback from 7.5 m required to 3.05 m proposed.

Carried

6.4 Planning & Corporate Services Department, dated January 26, 2004 re: Development Variance Permit Application No. DVP03-0125 – Robert Gaspari – 447 Cascia Drive

Staff:

- The applicant is proposing to build a new single family residence on the property and is requesting relaxation of the front yard setback for the garage.
- Do not recommend support because there is adequate room to redevelop the property without setback variances.
- The application was advanced for consideration by the Advisory Planning Commission (APC) because the applicant could not demonstrate that he had the support of his neighbours. The APC also does not recommend support.

The City Clerk advised that the following correspondence and/or petitions had been received:

- letter from George & Lindy Ewonus, 451 Cascia Drive
 - letter from Michelle & Blake McFetridge, 453 Cascia Drive
 - letter from Tom & Christine Sutor, 455 Cascia Drive
- expressing concern about the loss of visual sightlines, and uniformity/symmetry of the street line, and lack of safety for pedestrians/cyclists.

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

George Ewonus, 451 Cascia Drive:

- Representing a total of 5 families in the neighbourhood who had to leave tonight's meeting because of the late hour.
- With the bridge providing a neighbourhood connection, there are a lot of pedestrians and cyclists in the area. Allowing the house to be built closer to the street could present a safety hazard to pedestrians/cyclists and the younger children in the neighbourhood.
- Sight lines to the lake would be impacted.
- None of the existing homes have a front yard variance and so the proposed house would be out of symmetry with the rest of the street.

Robert Gaspari, applicant:

- His two vehicles will be parked inside the double garage and from the property line to the curb is another 2-3 m so there is ample sight distance.
- The neighbour to the north has been granted the same variance as what is being requested by this application.

Staff:

- If the neighbour has such a variance it would have to have been approved by the Board of Variance.

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Moved by Councillor Clark/Seconded by Councillor Hobson

R195/04/02/24 THAT Council ***not*** authorize the issuance of Development Variance Permit No. DVP03-0125; Lot 6, District Lot 167, ODYD Plan KAP70756, located on Cascia Drive, Kelowna, BC.

Carried

Councillors Given and Horning opposed.

6.5 Planning & Corporate Services Department, dated January 28, 2004 re: Development Variance Permit Application No. DVP03-0152 – George Kasdorf – 988 Wilson Avenue

Staff:

- The property is double fronting onto Cawston and Wilson Avenues and a single house straddles the two lots.
- The two lots have separate titles and the applicant is requesting the variances in order to develop each lot with a main house and a suite in an accessory building.
- The lots are each 33 ft. (10 m) wide. The main house would front onto Wilson Avenue and the suite in accessory building would front onto Cawston Avenue for one lot; the other would go the other way.
- Showed elevations of the proposed buildings indicating 1.5 storeys with half a level below ground.
- Reviewed the variances requested.
- All the parking would be at small car dimensions.
- Willing to consider recommending some variances but should be kept to a minimum and confined primarily to the corner lot. The proposed design does not do that and therefore staff do not recommend support for the variances as a package. Would prefer the applicant go back and look at a new design.

The City Clerk advised that the following correspondence and/or petitions had been received:

- letter from Tracy Ivanitz and Mike Kischnick, 980 Wilson Avenue, concerned about lack of privacy if landscaping between their property and the adjacent lot were to be removed.

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

Barrie Stickland, representing the applicant:

- What he is hearing tonight is different than anything he has heard during the time that he has been working for the applicant.
- Suggest that further consideration of the application be deferred until the end of the month when the applicant is back in town.

Tracy Ivanitz, 980 Wilson Avenue:

- She and her husband purchased their property in July and at that time the applicant told them that he was rebuilding and developing his property with two houses each with a carriage house.
- Their property is immediately adjacent and their lot is narrow too; understands the need for variances in order to rebuild.
- Concerned about privacy and green space. Wants to retain privacy, particularly for their front yard.

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R196/04/02/24 THAT further consideration of Development Variance Permit Application No. DVP03-0152; Lots 59 and 60, District Lot 138, ODYD Plan 1102 located on Wilson Avenue, Kelowna, B.C.; be adjourned to the Regular Meeting of Tuesday, May 4, 2004.

Carried7. BYLAWS**(BYLAWS PRESENTED FOR FIRST READING)**

7.1 Bylaw No. 9182 (HRA03-0001) – Hughes-Games House Heritage Designation Bylaw – 2094 Abbott Street

Moved by Councillor Clark/Seconded by Councillor Given

R197/04/02/24 THAT Bylaws No. 9182, 9183, 9184, 9185, 9186 and 9187 be read a first time.

Carried

7.2 Bylaw No. 9183 (HRA03-0002) – Robert & Beninga Cummings – 2034 Pandosy Street

See resolution adopted under agenda item No. 7.1 above.

7.3 Bylaw No. 9184 (HRA03-0003) – Oak Lodge Centre Ltd. (Wayne Ross) – 2124 Pandosy Street

See resolution adopted under agenda item No. 7.1 above.

7.4 Bylaw No. 9185 – Brent's Mill Heritage Park Designation Bylaw

See resolution adopted under agenda item No. 7.1 above.

7.5 Bylaw No. 9186 (LUC78-1009) – Vince & Giovannina Magaldi (R469 Enterprises Ltd.) – 2131 Scenic Road

See resolution adopted under agenda item No. 7.1 above.

7.6 Bylaw No. 9187 (Z03-0063) – Vince & Giovannina Magaldi (R469 Enterprises Ltd.) – 2131 Scenic Road

See resolution adopted under agenda item No. 7.1 above.

8. REMINDERS – Nil.

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9. TERMINATION

The meeting was declared terminated at 11:01 p.m.

Certified Correct:

Deputy Mayor Shepherd

City Clerk

BLH/am