

Regular MeetingMarch 9, 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, March 9, 2004.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil, R.D. Cannan*, B.A. Clark, B.D. Given, R.D. Hobson, E.A. Horning and S.A. Shepherd*.

Council members absent: Councillor C.B. Day.

Staff members in attendance were: Acting-City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; Deputy City Clerk, S.C. Fleming; Manager of Development Services, A.V. Bruce; Planner-Long Range, G. Routley*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 8:12 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, February 23, 2004
Public Hearing, February 24, 2004
Regular Meeting, February 24, 2004
Regular Meeting, March 1, 2004

Moved by Councillor Given/Seconded by Councillor Blanleil

R237/04/03/09 THAT the Minutes of the Regular Meetings of February 23, February 24 and March 1, 2004 and the Minutes of the Public Hearing of February 24, 2004 be confirmed as circulated.

Carried

4. Councillor Hobson 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. 9176 (Z03-0055) – Maxwell House Developments Ltd. – 245 Glenmore Road

Moved by Councillor Given/Seconded by Councillor Horning

R238/04/03/09 THAT Bylaw No. 9176 be amended at first reading by replacing Map "A" with a revised Map "A" that clarifies the boundary of the portion of the property being rezoned to P3 – Parks and Open Space.

Carried

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Moved by Councillor Given/Seconded by Councillor Horning

R239/04/03/09 THAT Bylaw No. 9176, as amended, be read a second and third time.

Carried

5.2 Bylaw No. 9177 (Z03-0070) – 653332 BC Ltd. (George Barnes) – 415 Glenmore Road

Councillor Cannan declared a conflict of interest as a resident of the neighbourhood and left the Council Chamber at 8:15 p.m.

Moved by Councillor Given/Seconded by Councillor Horning

R240/04/03/09 THAT Bylaw No. 9177 be read a second and third time.

Carried

Councillor Cannan returned to the Council Chamber at 8:15 p.m. and took his place at the Council Table.

5.3 Bylaw No. 9183 (HRA03-0002) – Heritage Revitalization Agreement Authorization Bylaw - Robert & Benigna Cummings – 2034 Pandosy Street

Moved by Councillor Blanleil/Seconded by Councillor Given

R241/04/03/09 THAT Bylaw No. 9183 be read a second and third time.

Carried

5.4 Bylaw No. 9184 (HRA03-0003) – Heritage Revitalization Agreement Authorization Bylaw - Oak Lodge Centre Ltd. – 2124 Pandosy Street

Moved by Councillor Given/Seconded by Councillor Horning

R242/04/03/09 THAT Bylaw No. 9184 be read a second and third time.

Carried

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

Moved by Councillor Clark/Seconded by Councillor Shepherd

R243/04/03/09 THAT Bylaw No. 9186 be read a second and third time.

Carried

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

Moved by Councillor Clark/Seconded by Councillor Shepherd

R244/04/03/09 THAT Bylaw No. 9187 be read a second and third time.

Carried

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

Moved by Councillor Clark/Seconded by Councillor Given

R245/04/03/09 THAT Bylaw No. 9182 be read a second and third time, and be adopted.

Carried

Councillors Cannan and Shepherd opposed.

- 5.8 Bylaw No. 9185 – Brent’s Mill Heritage Park Heritage Designation Bylaw

Moved by Councillor Clark/Seconded by Councillor Shepherd

R246/04/03/09 THAT Bylaw No. 9185 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 February 4, 2004 re: Liquor Licensing Application No. LL03-0024 – City of Kelowna (Bert Hick/Rising Tide Consultants Ltd.) – 4105 Gordon Drive

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

- letter of opposition from Joseph, Elenora, Michael and Murray Ferro, 655 Old Meadows Road
- letter of opposition from Don & Maureen Marson, 130-650 Lexington Drive

All opposed generally on the basis that there will be an increase in drunken behaviour, broken beer bottles on the lawn & erratic driving, increased traffic, and a lack of family orientated atmosphere.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the liquor licence application to come forward.

Bert Hick, applicant:

- Seeking to give flexibility in operation. Audience participation gives the opportunity to hold dine and dance and banquet type functions.
- The license is similar to what exists at other similar facilities in the province.
- All product will be consumed on-site.
- There would be no entertainment or amplified music on the outdoor patio; it is a food primary patio.

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R247/04/03/09 THAT Council support a liquor primary license with a capacity of 78 persons and hours of operation from 9 a.m. to 1 a.m. Sunday to Wednesday and 9 a.m. to 2.a.m. Thursday to Saturday on Lot 2, D.L. 168, Sec. 6, Twp. 26, ODYD Plan KAP46027 proposed by Bert Hick of Rising Tide Consultants for 4105 Gordon Drive;

AND THAT Council support a change to the permitted hours of operation for the food primary license from 12 a.m. to 1 a.m. Sunday through Wednesday and to 2a.m. Thursday through Saturday on Lot 2, D.L. 168, Sec. 6, Twp. 26, ODYD Plan KAP46027proposed by Bert Hick of Rising Tide Consultants for 4105 Gordon Drive;

AND THAT Council support a restaurant lounge endorsement (to a food primary license) for a capacity of 34 on Lot 2, D.L. 168, Sec. 6, Twp. 26, ODYD Plan KAP46027proposed by Bert Hick of Rising Tide Consultants for 4105 Gordon Drive;

AND THAT Council support an audience participation entertainment endorsement to a food primary license on Lot 2, D.L. 168, Sec. 6, Twp. 26, ODYD Plan KAP46027proposed by Bert Hick of Rising Tide Consultants for 4105 Gordon Drive;

AND FURTHER 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 February 9, 2004 re: Heritage Alteration Permit Application No. HAP04-0001 – Richard & Jodie Bell (Jeff Robinson/RCI Interior Developments – 191 Beach Avenue

Staff:

- There is an existing house on the property. The applicant is proposing to build an addition onto the house to create a new garage wing and convert some of the area to living area for the house. The Heritage Alteration Permit (HAP) also authorizes a variance.
- The form and character of the addition would be designed to match the existing house.
- The Community Heritage Commission supported the HAP subject to conditions subsequently addressed by the applicant.
- Staff recommend support.

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

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

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

- FRAHCAS has no problem supporting this application.

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R248/04/03/09 THAT Municipal Council authorize the issuance of Heritage Alteration Permit No. HAP04-0001; Jeff Robinson on Lot 1, District Lot 14, ODYD Plan 33968 located on Beach Avenue, Kelowna, B.C., subject to the following:

- (a) The dimensions and siting of the building addition shall be in general accordance with Schedule "A";
- (b) The exterior design and finish of the accessory building shall be in general accordance with Schedule "B";

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

Section 13.1.5 (e):

- Vary the rear yard setback from 4.5 m required to 2.9 m proposed.

Carried

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

Bylaw No. 9116 (Z03-0042) – G. Toye Construction – 140 & 160 Woods Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R249/04/03/09 THAT Bylaw No. 9116 be adopted.

Carried

- 7.2 (b) Planning & Corporate Services Department, dated February 3, 2004 re: Development Permit Application No. DP03-0088 and Development Variance Permit Application No. DVP03-0120 – G. Toye Construction – 140-160 Woods Road

Staff:

- The Development Permit is for 14 units of row housing and is consistent with the conceptual plans presented by the applicant at the Public Hearing.
- Access would be off Terai Road.
- Two variances are being requested in order to meet the private open space requirements and allow increased site coverage for buildings, parking and driveways.
- The landscape plan indicates a substantial landscape buffer along Terai Road and to the commercial property to the north.
- The Advisory Planning Commission recommends support.

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

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

The applicant indicated he had nothing to add at this time.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Shepherd

R250/04/03/09 THAT Council authorize the issuance of Development Permit No. DP03-0088 for Lot B, Section 22, Township 26, ODYD, Plan 35387 and Lot 1, Section 22, Township 26, ODYD, Plan 23656 located on Woods 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. A Restrictive Covenant be registered on title of the subject property limiting the units to two bedrooms and stating that the proposed unfinished basements may not be developed for living space;
4. Landscaping to be provided on the land be in general accordance with Schedule "C";
5. 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. DVP03-0120; Lot B, Section 22, Township 26, ODYD, Plan 35387 and Lot 1, Section 22, Township 26, ODYD, Plan 23656 located on Woods Road, Kelowna, B.C.;

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

Section 2.3.3 –General Definitions

A variance to allow the private open space to be located in the required side yard setback;

Section 13.9.5 (b) – RM3 – Low Density Multiple Housing

A variance to allow a site coverage of 51.68% where only 50% including building, driveways, and parking is permitted;

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.

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7.3 Planning & Corporate Services Department, dated February 3, 2004 re: Development Variance Permit Application No. DVP03-179 – Dieter Scherfenberg (Wayne Danforth) – 5044 Lakeshore Road

Councillor Shepherd declared a conflict of interest because her residence is within the notification radius for the subject property and left the Council Chamber at 9:11 p.m.

Staff:

- The property is long and narrow and extends down to the lakeshore.
- The applicant is requesting permission to construct a mechanical tram system from the upper bench down to the beachfront. The improvements on the beach foreshore have been there for a long time and will remain as legally non-conforming; if they are destroyed they could not be rebuilt.
- Design of the tram is such that there would be very little impact on the property.
- Based on the findings of the environmental report, staff recommend support for both the DP for environmental mitigation and the DVP to encroach on the riparian management setback area from the lake.

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

- letter from a solicitor on behalf of Mr. & Mrs. Doug Pollock, adjoining property owners, indicating no objections but expressing concern that construction of the tramway and its subsequent use may cause subsidence of the hillside and asking that a full geotechnical analysis be done before Council gives this approval.

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

Wayne Danforth, applicant:

- Any geotechnical analysis beyond visual would probably do more damage to the slope than the tram construction.

Moved by Councillor Blanleil/Seconded by Councillor Horning

R251/04/03/09 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0179; for Lot 4, Section 23, Township 28, SDYD, Plan 10605, located on Lakeshore Road, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the tramway to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the tramway to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping/Mitigation to be provided on the land in general accordance with the Naito Environmental Report (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

- To obtain a Development Variance Permit to allow a tramway to be located within the required 15.0 metre riparian management area setback;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development variance permit application in order for the permit to be issued.

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Councillor Shepherd returned to the Council Chamber at 9:22 p.m. and took her place at the Council Table.

- 7.4 Planning & Corporate Services Department, dated January 29, 2004 re: Development Permit Application No. DP03-0113 and Development Variance Permit Application No. DVP03-0156 – Pointe of View Condominiums (Quail) Inc. - (Bellasera Land Corp.) – 3101 Country Club Drive

Staff:

- There is a subdivision application in-stream that will create the subject property (Lot C).
- It is a challenging property to develop. The requested variances are reasonable for the product being developed on the site.
- Displayed the proposed site plan and landscape plan noting slopes over 30% would be protected.
- Displayed artist's renderings and building elevations of the proposed development.

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

- letter from the Okanagan Golf Club (Quail Golf Course) opposed to changing the front yard setback because of concern about the impact on the homeowners from golf ball intrusion, and asking that the setback remain at the required 4.5 m.

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

Pat Simmons, applicant:

- Indicated he had nothing to add other than that the site was tricky and they tried to do the best development possible.
- The concern expressed by the golf course comes as a surprise because every effort has been made to pull the buildings away from the golf course.

Staff:

- The setback next to the golf course is not the setback being varied. The variance is for a lot off Country Club Drive.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R252/04/03/09 THAT Council authorize the issuance of Development Permit No. DP03-0113, located on Country Club Drive, Lot 4 and an undivided 1/3 share in Lot 2, Section 14 & 15, Township 23, ODYD, Plan KAP54660, 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";
4. Landscaping to be provided on the land be in general accordance with Schedule "C";

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5. 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;
6. The applicant be required to release the existing R3 zoning covenant and register the RM3 – Low Density Multi-Family zoning designation regulations as outlined in Zoning Bylaw 8000 as a covenant on title;
7. Any retaining wall, other than natural cut banks, must not exceed a height of 1.2 metres measured from grade on the lower side, and must be constructed so that any retaining walls are spaced to provide at least a 1.2 metre horizontal separation between them as per Section 7.5.7 of Zoning Bylaw 8000;
8. Registration of the subdivision plan at Land Titles as per subdivision application S03– 0027;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0156, located on Country Club Drive, Lot 4 and an undivided 1/3 share in Lot 2, Section 14 & 15, Township 23, ODYD, Plan KAP54660, Kelowna, B.C.;

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

Section 13.9.5 (c) – RM3- Low Density Multiple Housing

A variance is required to allow the building to be 3.5 storey/12.8 metres in height where only 2.5 storeys or 9.5 m in height is permitted;

Section 13.9.5 (c) – RM3- Low Density Multiple Housing

A variance is required to allow an accessory building to be 8.8 m in height where only 4.5 m is permitted;

Section 13.9.5 (d) – RM3- Low Density Multiple Housing

A variance is required to allow a front yard setback of 3.3 m where a minimum of 4.5 m is required;

Section 6.5.4 Accessory Development

A variance is required to allow accessory buildings to be located in a required front yard;

Section 8.1.9 (b) – Parking & Loading

A variance is required to allow off-street parking to be located within the required front yard;

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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- 7.5 Planning & Corporate Services Department, dated February 11, 2004 re: Development Variance Permit Application No. DVP03-0166 – Ivanhoe Cambridge 1 (Paul Gioacchini/Stantech Consulting Ltd.) – 2430 Highway 97 North

Staff:

- The site is being developed for a Wal-Mart building. There is potential for a further 40,000 sq. ft. expansion to the store.
- The variance would allow a total of 8 signs on the building façade facing Banks Road. The bylaw limits the number of signs to a total of 2 per business frontage.
- The Advisory Planning Commission recommends support for the additional signage.
- Staff recommend against the variance, seeing no added value to allowing the signage. There are 3 pylon signs on the site that will also be advertising Wal-Mart as a destination shopping centre.

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

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

Dave Pritchard, representing the applicant:

- The building would be the typical Wal-Mart appearance with brand and logo signs that are important to them. The actual area of fascia signage is well below the permitted area - it is the number of signs being requested.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R253/04/03/09 THAT Development Variance Permit No. DVP03-0166 as outlined in the report dated February 11, 2004 from the Planning & Corporate Services Department on lands described as Lot 8, DL 125, O.D.Y.D., Plan KAP69740, except KAP73161, located on Highway 97 North, Kelowna, B.C., **not** be approved by the Municipal Council.

Carried

8. BYLAWS

(BYLAWS PRESENTED FOR FIRST READING)

- 8.1 Bylaw 9191 (Z04-0003) – 684761 BC Ltd. (new owner) - (D.E. Pilling & Associates) – 5127 Chute Lake Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R254/04/03/09 THAT Bylaws No. 9191, 9192, 9193, 9194 and 9195 be read a first time.

Carried

- 8.2 Bylaw No. 9192 (OCP04-0003) – Tae Bong Yoo – 633 Lequime Road
requires majority vote of Council (5)

See resolution adopted under 8.1 above.

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8.3 Bylaw No. 9193 (Z04-0001) – Tae Bong Yoo – 633 Lequime Road

See resolution adopted under 8.1 above.

8.4 Bylaw No. 9194 (OCP00-010) – Romesha Ventures Inc. – 1374 Highway 33 East **requires majority vote of Council (5)**

See resolution adopted under 8.1 above.

8.5 Bylaw No. 9195 (Z00-1059) – Romesha Ventures Inc. – 1374 Highway 33 East

See resolution adopted under 8.1 above.

9. REMINDERS

- Mayor Gray to phone the Minister of Transportation tomorrow to clarify Council's comments from yesterday that were misquoted by Ms. Jenny Kwan today at the Provincial Legislature, regarding the financing of a new Okanagan Lake Bridge.

10. TERMINATION

The meeting was declared terminated at 10:02 p.m.

Certified Correct:

Mayor

Deputy City Clerk

BLH/am