

Regular MeetingMay 4, 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, May 4, 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 7:48 p.m.

2. PRAYER

The meeting was opened with a prayer offered by Councillor Given

3. CONFIRMATION OF MINUTES

Regular Meeting, April 5, 2004  
Public Hearing, April 6, 2004  
Regular Meeting, April 6, 2004  
Regular Meeting, April 19, 2004  
Regular Meeting, April 26, 2004

Moved by Councillor Given/Seconded by Councillor Cannan

**R427/04/05/04** THAT the Minutes of the Regular Meetings of April 5, April 6, April 19 and April 26, 2004 and the Minutes of the Public Hearing of April 6, 2004 be confirmed as circulated.

Carried

4. Councillor Horning 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. 9207 (Z04-0009) – Mamre Holdings Inc. (Renee Wasyluk) – 1832/1844 Ambrosi Road

Moved by Councillor Day/Seconded by Councillor Cannan

**R428/04/05/04** THAT Bylaw No. 9207 be read a second and third time.

Carried

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- 5.2 Bylaw No. 9208 (Z03-0066) – Bell Mountain Estates Ltd./Black Mountain Irrigation District (Marlin Weninger/Bell Mountain Estates) – Swainson and Joe Riche Roads

Councillor Day declared a conflict of interest for agenda items No. 5.2 and No. 5.5 (Bylaw No. 9214) as an adjoining property owner on both applications and left the Council Chamber at 7:50 p.m.

Moved by Councillor Given/Seconded by Councillor Horning

**R429/04/05/04** THAT Bylaw No. 9208 be read a second and third time.

Carried

- 5.3 Bylaw No. 9211 (OCP03-0014) – John & Ingrid Paavilainen (Keith Funk/New Town Planning) – 1170 Band Road **requires majority vote of Council (5)**

Resolution adopted at the Public Hearing adjourning further consideration of OCP03-0014 to the May 18, 2004 Public Hearing.

- 5.4 Bylaw No. 9212 (Z03-0071) - John & Ingrid Paavilainen (Keith Funk/New Town Planning) – 1170 Band Road

Resolution adopted at the Public Hearing adjourning further consideration of Z03-0071 to the May 18, 2004 Public Hearing.

- 5.5 Bylaw No. 9214 (Z03-0033) – John, Patricia, Walter and Henk Verwoerd; Romesha Ventures Inc., and John & Sarina Weisbeck (David Pauls/D.E. Pilling & Associates Ltd.) – 1374, 1494 Highway 33 East and 1177 Oswell Drive

Moved by Councillor Horning/Seconded by Councillor Given

**R430/04/05/04** THAT Bylaw No. 9214 be read a second and third time.

Carried

Councillor Day returned to the Council Chamber at 7:56 p.m. and took his place at the Council Table.

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

- 5.6 Bylaw No. 9206 (Z04-0005) – Ronald Egert – 1441 Springfield Road

Moved by Councillor Given/Seconded by Councillor Horning

**R431/04/05/04** THAT Bylaw No. 9206 be read a second and third time, and be adopted.

Carried

Councillors Clark and Hobson opposed.

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- 5.7 Bylaw No. 9213 (Z04-0017) – Edgar Fenwick and Corneil Therrien – 5570 Lakeshore Road

Moved by Councillor Clark/Seconded by Councillor Shepherd

**R432/04/05/04** THAT Bylaw No. 9213 be read a second and third time, and be adopted.

Carried

6. PLANNING

- 6.1 (a) BYLAW PRESENTED FOR ADOPTION

Bylaw No. 9199 (Z03-0039) – Eldon James Veitch – 1301 Lewis Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R433/04/05/04** THAT Bylaw No. 9199 be adopted.

Carried

- (b) Planning & Corporate Services Department, dated February 27, 2004 re: Development Variance Permit Application No. DVP03-0082 – Eldon James Veitch (Terry Peters) – 1301 Lewis Road

Staff:

- The variances are requested for a new residence that would become the principle residence; the existing house would become a suite in an accessory building.
- Recommend non-support primarily because the 's' zoning designation is intended to provide for secondary dwelling accommodation and the process has been streamlined to achieve that easily. This application is to build a second permanent residence that would not be secondary in nature to the existing dwelling on the property. The existing residence is 111 m<sup>2</sup> in size; the proposed new building would be 185.8 m<sup>2</sup> in size.

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

Wendy James Veitch, applicant:

- Have lived in the existing house since it was built many years ago. Would very much like to be able to continue to reside on the property until their demise.
- The property is getting to be too much for them to maintain and so are hoping that their daughter and son-in-law can build on the property to help out.
- Took a petition around to the neighbourhood and without exception all signed saying they had no objection to another house on the subject property.

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**R434/04/05/04** THAT Council authorize the issuance of Development Variance Permit No. DVP03-0082; Lot A, Sec.13, Twp. 26, Plan 54818 ODYD, located on Lewis Road, Kelowna, B.C.;

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

Section 9.5.4: Vary the maximum floor area for a secondary suite from 90 m<sup>2</sup> permitted to 111 m<sup>2</sup> existing;

Section 6.5.7: Vary the maximum permitted lot coverage for accessory buildings or structures from 90 m<sup>2</sup> permitted to 111 m<sup>2</sup> proposed.

Carried

6.2 (a) BYLAW PRESENTED FOR ADOPTION

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

Moved by Councillor Shepherd/Seconded by Councillor Clark

**R435/04/05/04** THAT Bylaw No. 9099 be adopted.

Carried

- (b) Planning & Corporate Services Department, dated March 30, 2004 re: Development Variance Permit Application No. DVP03-0074 – Royce & Leeann Dockrill – 3517 Lakeshore Road

Staff:

- Under the existing RU6 zoning, the applicant could build a principle residence and a secondary suite. The units could be any configuration, up and down or side-by-side, but one unit would have to be secondary to the other unit and they could not be stratified. With the requested variance, the applicant could create two principal units that could be stratified.
- The applicant was granted a similar variance for a similar style duplex on a property a few doors down. Not long after the duplex was constructed City Bylaw Enforcement staff found that the building was being used for short term rentals, contrary to the zoning bylaw which does not allow weekly or monthly rental of residential properties.
- Staff do not recommend support for the variance. Given the proximity of the subject property to tourism and the beach in the area, to reduce the likelihood of the property being used for other than uses permitted, suggest that a house with a secondary unit could be more easily controlled.
- The Advisory Planning Commission recommends support for the variance.

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

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Royce Dockrill, applicant:

- Is trying to build a rental inventory. Purchased the subject property in order to build a side-by-side duplex that in future could be stratified and sold. For now the intent would be to rent to one tenant on each side, possibly on a weekly basis in the summer but not in the winter.
- The units are designed for full time rental use; each side of the duplex is designed to have 5 bedrooms, 3 up and 2 down, and 3 bathrooms.
- Could build an up and down duplex without a variance but can get more rent for a side by side duplex.

Moved by Councillor Shepherd/Seconded by Councillor Clark

**R436/05/04** THAT Council ***not*** authorize the issuance of Development Variance Permit No. DVP03-0074; Lot 1, District Lot 134, ODYD, Plan 7981, located on Lakeshore Road, Kelowna, B.C.;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 ***not*** be granted:

13.6.5 (b) Minimum lot width requirement for semi-detached housing:

A variance to allow a minimum lot width of 17.6 m to for semi-detached housing from 18.0 m required to 17.6 m existing.

Carried

6.3 (a) BYLAWS PRESENTED FOR ADOPTION

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

Staff:

- The applicant has made some changes to the proposed design of the building; however, staff are still of the opinion that there would be too much building for the site. Since the applicant has been unsuccessful in coming up with a Development Permit that staff can recommend support for, and since final adoption of the OCP and Zone Amending Bylaws is to be concurrent with approval of the Development Permit, staff recommend that the bylaws not be considered for adoption at this time.

Moved by Councillor Shepherd/Seconded by Councillor Cannan

**R437/05/04** THAT adoption consideration of Bylaw No. 9135 (OCP03-0011), Bylaw No. 9136 (Z03-0047) and Council consideration of DP03-0099 and DVP03-0142 (LCC Holdings Inc. – 1094 Lawson Avenue) be deferred indefinitely.

Carried

- (ii) Bylaw No. 9136 (Z03-0047) – LCC Holdings Inc. – 1094 Lawson Avenue
- (b) Planning & Corporate Services Department, dated April 1, 2004 re: Development Permit Application No. DP03-0099 and Development Variance Permit Application No. DVP03-0142 – LCC Holdings Inc. (Colin Darrow/Denver Carrington Developments Inc.) – 1094 Lawson Avenue

See discussion and resolution under agenda item No. 6.3(a)

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6.4 Planning & Corporate Services Department, dated March 18, 2004 re: Development Variance Permit Application No. DVP99-10,077 – Suzan Einerssen (John & Suzan Einerssen) – 2420 Pandosy Street

Staff:

- A building permit was issued in 1999 to allow the carport to be closed in. However, the applicant also constructed an addition to the accessory building. The addition was constructed to the property line and rests on the fence resulting in a zero side yard setback and the area of the accessory building exceeds what is permitted.
- The application has been on hold since 1999 because staff were reviewing the Traffic Bylaw and a part of that review affected whether sightlines at the corner of internal lanes would be an issue which could have required another variance for this application. The review of the Traffic Bylaw took well over a year and inadvertently the application slipped through the cracks until it was recently discovered that the application still needed to be brought forward.

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

John Einerssen, applicant:

- Did not intend to do anything illegal. Enclosed the carport for use as a storage area and extended the roof to the fence, bringing the fence height down to meet with the roof. The building looks considerably better than the corrugated fibreglass facility that existed.
- Canvassed the neighbourhood in 1999 and they had no objections. Would have to tear off the roof, without approval of the variance.

The Deputy City Clerk confirmed that the applicant had the support of the neighbours in 1999.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R438/05/04** THAT Council authorize the issuance of Development Variance Permit No. DVP99-10,077 for Lot 2, District Lot 14, ODYD Plan 7336, located at 2420 Pandosy Street, 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 the maximum area from 90 m<sup>2</sup> to 101.8 m<sup>2</sup> for an accessory building in a Residential Urban zone;

Section 6.5 – Accessory Development, Subsection 6.5.8  
Vary the minimum side yard setback to an accessory building from 1.0 m required to 0.0 m proposed.

Carried

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6.5 Planning & Corporate Services Department, dated March 31, 2004 re: Development Variance Permit Application No. DVP03-0177 – Peter & Patricia Cook (Tim Young/Sunshine Pools & Spas) – 2109 Capistrano Drive

Staff:

- The subject application and the next application on the agenda are similar in that they are to vary the maximum permitted height for retaining walls that were constructed to facilitate the construction of a swimming pool.
- The subject property is in the Quail Ridge Golf Course community. A large portion of the eastern portion of the property is designated as a no-build area. The pool is between the house and the covenanted area.
- Retaining walls were not indicated on the Building Permit application for the swimming pool.
- Staff suggest that a pool company should know about the need for permits for a retaining wall and therefore recommend non-support for the variance.
- There is a large pipe extending from the retaining wall and leading down the slope, indicating that drainage could be an issue.

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.

Tim Young, Sunshine Pools & Spas:

(regarding the next application on the agenda – DVP04-0011 – Lisa Johnson)

- Applied for a building permit with a retaining wall shown but not indicating the height of the wall. Did not know that a variance was needed.
- Their engineer did a geotechnical report and issued the required schedules to City Hall and there was no mention that a variance was needed. The Engineer was not aware the variance was required nor was the wall builder or the company that supplies the block. The City should send a letter to the Engineering Society and other applicable industries to make them aware.
- Showed photos of retaining walls on other properties in the city that were constructed over height but no variance was required, suggesting that there may be inconsistencies in how the bylaw is being enforced.
- The neighbours on all sides approve the wall – the walls are very aesthetically pleasing. The Johnsons are going to put in landscaping to make the wall more pleasing to look at.
- The drainage concern has been addressed; the pipe has been re-routed.
- Asked for understanding on the basis that they were not aware of the need for a variance and nor was the industry as a whole.

Moved by Councillor Blanleil/Seconded by Councillor Given

**R439/04/05/04** THAT Council authorize the issuance of Development Variance Permit No. DVP03-0177 for Lot 2, Section 15, Township 23, ODYD, Plan KAP66966 located on Capistrano Drive, Kelowna, B.C. subject to the following;

1. The dimensions and siting of the building to be on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be on the land be in general accordance with Schedule "B";
3. The pool is not to be drained down the slope into the no build area. Pool water discharged must be drained into storm drain in accordance with the regulations of the City of Kelowna Wastewater Division;

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

Section 7.5.8

- Vary the maximum permitted height of a retaining wall from 1.20 m permitted to allow a retaining wall that is 2.9 metres in height.

Carried

6.6 Planning & Corporate Services Department, dated March 30, 2004 re: Development Variance Permit Application No. DVP04-0011 – Lisa Johnson (Bill Heidt/Sunshine Pools & Spas) – 748 Cantina Court

Staff:

- The retaining wall varies in height.
- Recommend non support because the applicant should have known that a variance permit would be required for a structure of that size.

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.

Lisa Johnson, owner:

- Did not go through all the expense of building the pool without thinking they had everything in order.
- The contractor who built the wall said that by following the contours of the land and stepping the retaining wall back, zeroscape plantings could be planted along the wall and in a couple of years the wall would meld into the landscape.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

**R440/04/05/04** THAT Council authorize the issuance of Development Variance Permit No. DVP03-0177 for Lot 25, DL 1688S, SDYD, Plan KAP71342 located on Cantina Drive, Kelowna, B.C. subject to the following;

1. The dimensions and siting of the building to be on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be on the land be in general accordance with Schedule "B";
3. The pool is not to be drained down the slope into the no build area. Pool water discharged must be drained into storm drain in accordance with the regulations of the City of Kelowna Wastewater Division;

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

Section 7.5.8:

- Vary the maximum permitted height of a retaining wall from 1.20 m permitted to allow a retaining wall that is 4.4 m in height.

Carried



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**R441/04/05/04** THAT staff enter into dialogue with the industry (development, engineering, construction, pools, landscape) with respect to the City of Kelowna's regulations for construction of retaining walls.

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

- 7.1 Bylaw No. 9217 (Z04-0018) – Kelowna Speedometer Ltd (664918 BC Ltd) – 441 Lawrence Avenue

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R442/04/05/04** THAT Bylaw No. 9217, 9219, 9229, 9230, 9231 and 9232 be read a first time.

Carried

- 7.2 Bylaw No. 9219 (Z04-0008) – Freda & David Shanko (Freda Shanko) – 840 Princess Court

See resolution adopted under agenda Item No. 7.1.

- 7.3 Bylaw No. 9229 (Z03-0022) - R 354 Enterprises Ltd. – 2355/2455 Acland Road

See resolution adopted under agenda Item No. 7.1.

- 7.4 Bylaw No. 9230 (OCP04-0001) – Canada Lands Company – 1187 Sunset Drive **Requires majority vote of Council (5)**

See resolution adopted under agenda Item No. 7.1.

- 7.5 Bylaw No. 9231 (Z04-0004) – Canada Lands Company – 1187 Sunset Drive

See resolution adopted under agenda Item No. 7.1.

- 7.6 Bylaw No. 9232 (HD04-0001) - G.D. Loane House – 1858 Abbott Street

See resolution adopted under agenda Item No. 7.1.

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7.7 Bylaw No. 9234 (OCP04-0008) - Cedar Avenue Land Use Review requires majority vote of Council (5)

Councillor Shepherd declared a conflict of interest because she is part owner of an adjacent property and left the Council Chamber at 9:32 p.m.

Councillor Hobson declared a conflict of interest because he has relatives living in the area and left the Council Chamber at 9:32 p.m.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R443/04/05/04** THAT Bylaw No. 9234 be read a first time.

Carried

Councillors Hobson and Shepherd returned to the Council Chamber at 9:33 p.m. and took their respective place at the Council Table.

7.8 Bylaw No. 9235 (OCP03-0002) – 622664 BC Ltd. (Grant Gaucher) – Finch/Slater/Glenmore North/McKinley Roads requires majority vote of Council (5)

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R444/04/05/04** THAT Bylaw No. 9235 be read a first time.

Carried

Councillors Clark and Hobson opposed.

8. REMINDERS – Nil.

9. TERMINATION

The meeting was declared terminated at 9:36 p.m.

Certified Correct:

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Mayor

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Deputy City Clerk

BLH/am