

Regular MeetingJune 29, 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, June 29, 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: Acting City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; Acting City Clerk, S.C. Fleming; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 8:01 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, June 14, 2004

Regular Meeting, June 15, 2004

Regular Meeting, June 21, 2004

Moved by Councillor Given/Seconded by Councillor Horning

**R663/04/06/29** THAT the Minutes of the Regular Meetings of June 14, June 15 and June 21, 2004 be confirmed as circulated.

Carried

4. Councillor Given 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. 9246 (Z04-0026) – Mailey Developments Ltd. – 518, 548 McKay Avenue

Moved by Councillor Given/Seconded by Councillor Horning

**R664/04/06/29** THAT Bylaw No. 9246 be read a second and third time.

Carried

5.2 Bylaw No. 9250 (TA04-0002) – City of Kelowna

Moved by Councillor Day/Seconded by Councillor Hobson

**R665/04/06/29** THAT Bylaw No. 9250 be read a second and third time.

Carried

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5.3 Bylaw No. 9251 (TA04-0003) – City of Kelowna

Moved by Councillor Hobson/Seconded by Councillor Day

**R666/04/06/29** THAT Bylaw No. 9251 be read a second and third time.

Carried

5.4 Bylaw No. 9252 (Z04-0016) – Gary Grant & Joyce Decock (Emeral Developments Inc.) – 993 & 1003 Harvey Avenue

Moved by Councillor Horning/Seconded by Councillor Given

**R667/04/06/29** THAT Bylaw No. 9252 be read a second and third time.

Carried

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

5.5 Bylaw No. 9245 (Z04-0031) – Candace & Andrew Wheeler – 3195 Hall Road

Moved by Councillor Given/Seconded by Councillor Shepherd

**R668/04/06/29** THAT Bylaw No. 9245 be read a second and third time, and be adopted.

Carried

5.6 Bylaw No. 9247 (OCP04-0007) – Aberdeen Holdings Ltd. (Protech Consultants Ltd.) – 2350 Byrns Road **requires majority vote of Council (5)**

Councillor Day declared a conflict of interest for the bylaw under No. 5.6 and the bylaw under No. 5.7 because a direct family member owns adjoining property and left the Council Chamber at 8:08 p.m.

Moved by Councillor Clark/Seconded by Councillor Shepherd

**R669/04/06/29** THAT Bylaw No. 9247 be read a second and third time, and be adopted.

Carried

5.7 Bylaw No. 9248 (Z04-0021) – Aberdeen Holdings Ltd. (Protech Consultants Ltd.) – 2350 Byrns Road

Councillor Day declared a conflict of interest because a direct family member owns adjoining property and left the Council Chamber at 8:08 p.m.

Moved by Councillor Shepherd/Seconded by Councillor Clark

**R670/04/06/29** THAT Bylaw No. 9248 be read a second and third time, and be adopted.

Carried

Councillor Day returned to the Council Chamber at 8:11 p.m.

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- 6.1 Planning & Corporate Services Department, dated May 21, 2004 re: Development Variance Permit Application No. DVP04-0038 – Aberdeen Holdings Ltd. (Grant Maddock/Protech Consultants Ltd.) – 2350 Byrns Road

Withdrawn at the applicant's request.

- 6.2 Planning & Corporate Services Department, dated May 25, 2004 re: Development Variance Permit Application No. DVP04-0052 – Progressive Construction Ltd. (Protech Consultants Ltd.) – 407 Woodpark Court

Staff:

- The subject property is currently a vacant lot. The property drops away quickly from the street with another steeper area of embankment lower down.
- The proposed retaining wall would vary in height and allow a house and probably a swimming pool to be constructed. Climbing vines would be planted along the base of the wall to provide some visual screening.
- Recognizing the limitation of the site without a retaining wall, staff are prepared to recommend support for varying the height of the retaining wall.
- The lands to the east are owned by the City and would be most impacted.

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

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

Applicant:

- Indicated he had nothing to add but was available to respond to questions.

There were no further comments.

Moved by Councillor Day/Seconded by Councillor Cannan

**R671/04/06/29** THAT Council authorize the issuance of Development Variance Permit No. DVP04-0052; Lot 30, Section 31, Township 26, ODYD Plan KAP58729, located on Woodpark Court, Kelowna, B.C.;

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

Section 7: Subsection 7.5 – Fencing and Retaining Walls: 7.5.8:

- Vary the height for retaining walls (as measured from grade) from 1.2 m permitted to a maximum of 7.5 m proposed (See Schedule "A");

AND FURTHER THAT the applicant be required to plant climbing vines or other suitable landscaping at the base of the retaining structure in order to buffer the height of the retaining wall.

Carried

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6.3 Planning & Corporate Services Department, dated April 14, 2004 re: Development Variance Permit Application No. DVP04-0024 – WB-133 Holdings Ltd. (Pattison Sign Group) – 2106-2112 Harvey Avenue

Staff:

- The application is for a variance to address the number of fascia signs on the southern façade of the Prospera Credit Union building. The applicant had put up signage above the parapet that was contrary to the bylaw and worked with City staff to move that sign down to conform with the Sign Bylaw; however, because the property is a corner site, the applicant wants the two additional fascia signs on the sign band above the first storey to remain.
- Staff are of the opinion that the bylaw provides for adequate signage and that the additional signage does not lend any positive aspects to the building and so do not recommend in support of the requested variance.
- Without the variance one of the two sign band fascia signs would have to be removed.

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

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

Peter Wright, applicant:

- Prospera cooperated quickly with removal of the sign from above the parapet.
- Prospera hires professional consultants to supervise signage on all branches across the province. The look they have created is aesthetically pleasing.
- The two band signs are needed for increased visibility for motorists travelling along Highway 97.
- A precedent has already been set for additional fascia signage for the Royal Bank on the Pushor Mitchell building.

Moved by Councillor Given/Seconded by Councillor Blanleil

**R672/04/06/29** THAT Council authorize the issuance of Development Variance Permit No. DVP04-0024 for Lot A, District Lot 127, ODYD Plan 24849 Except Plan KAP73626, located on Harvey Avenue, Kelowna, B.C.;

AND THAT variances to the following sections of Sign Bylaw No. 8235 be granted:

**Section 6.1: Major Commercial: Fascia Signage: 2 Per Business Frontage:**  
Vary the number of fascia signs on the southern façade of the building from 2 permitted to 3 proposed.

Carried

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

Bylaw No. 9118 (Z03-0024) – Jack Scherle and 481124 BC Ltd (Don Green) – 1430, 1440, 1460, 1480 Highway 33 West

Moved by Councillor Given/Seconded by Councillor Horning

**R673/04/06/29** THAT Bylaw No. 9118 be adopted.

Carried

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- (b) Planning & Corporate Services Department, dated June 9, 2004 re: Development Permit Application No. DP03-0046 and Development Variance Permit Application No. DVP03-0047 – Scherle Enterprises Ltd. (Don Green/Jerry Scherle) – 1430, 1440, 1460 & 1480 Highway 33 West

**Staff:**

- The applicant is proposing to construct 27 units of 3-storey row housing to be located in a total of eight buildings. The units are configured on the site along three internal roads with access to the development provided via both Mayden and Mills Roads. Each unit is ground accessible and has its own yard space. Some units along Highway 33 would be 3-storeys, stepping down as the units transition back to Mills and Mayden Roads.
- The applicant is trying to provide affordable housing within the area and to clean up the lots that today are not in the best shape.
- A development variance permit is required as the proposed development does not meet the regulations for site setbacks and lot coverage as outlined in the Zoning Bylaw. Overall site coverage is high because the calculation includes both buildings, parking and driveways.

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

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

Don Green, applicant:

- Indicated that he had nothing to add but was available to answer questions.

Moved by Councillor Horning/Seconded by Councillor Shepherd

**R674/04/06/29** THAT Council authorize the issuance of Development Permit No. DP03-0046 for Lots 4, 5 & 6, DL 125, ODYD, Plan 9286 except Plan 39705; and Lot A, DL125, ODYD, Plan 17322 except Plan 39705, located on Highway 33 West, 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;
5. The registration of a plan of subdivision consolidating the lots and the road dedication;

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AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0047; Lots 4, 5 & 6, DL 125, ODYD, Plan 9286 except Plan 39705; and Lot A, DL125, ODYD, Plan 17322 except Plan 39705, located on Highway 33 West, Kelowna, B.C.;

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

Section 13.9.6(b) – RM3 – Low Density Multiple Housing

A variance to allow site coverage of 57% including buildings, driveways, and parking where 50% is permitted;

Section 13.9.6 (c) – RM3 – Low Density Multiple Housing

A variance to allow a height of 3 storeys where only 2.5 storeys are permitted;

Section 13.9.6 (f) – RM3 – Low Density Multiple Housing

A variance to allow a rear yard setback of 4.5 m where 7.5 m 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

7. BYLAWS

**(BYLAWS PRESENTED FOR FIRST READING)**

Mayor Gray asked whether Council wished to deal with all of the first reading bylaws in one resolution. Councillor Hobson asked that the bylaws under agenda items 7.1 and 7.2 be dealt with separately.

7.1.1 Bylaw No. 9257 (TA04-0004) – A bylaw to add permitted uses to the C3 – Community Commercial Zone

Staff:

- Clarified that the subject bylaw is a general text amendment that was City-initiated to address a couple of uses in the C3 zone that got dropped inexplicably between Zoning Bylaw 4500 and Zoning Bylaw 8000. The uses should still be in the zone and therefore this text amendment should go ahead whether or not the OCP and the Zoning under agenda items 7.1 and 7.2 go ahead.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R675/04/06/29** THAT Bylaws No. 9257, 9259, 9260, 9261 and 9262 be read a first time.

Carried

7.3 Bylaw No. 9259 (OCP04-0005) – J97 Construction Ltd. (Gary Tebbutt) – 914 Craig Road **requires majority vote of Council (5)**

See resolution adopted under agenda item No. 7.1.1.

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- 7.4 Bylaw No. 9260 (Z04-0012) – J97 Construction Ltd. (Gary Tebbutt) – 914 Craig Road

See resolution adopted under agenda item No. 7.1.1.

- 7.5 Bylaw No. 9261 (Z04-0028) – Isha Blue (Peter Chataway) – 822 Lawrence Avenue

See resolution adopted under agenda item No. 7.1.1.

- 7.6 Bylaw No. 9262 (Z04-0039) - Beverly & Gary Billings (Liz Bennett) – 142 Celano Crescent

See resolution adopted under agenda item No. 7.1.1.

- 7.1 Bylaw No. 9256 (OCP02-0003) – Gazelle Enterprise/Green Projects Ltd. (Grant Gaucher) – 530 Sarsons Road and 4392 Lakeshore Road  
**requires majority vote of Council (5)**

Councillor Hobson declared a conflict of interest because his family owns a large parcel in the general area and left the Council Chamber at 8:37 p.m.

Councillor Shepherd declared a conflict of interest because she has parents that live directly across the road from the subject property and left the Council Chamber at 8:37 p.m.

Councillor Horning advised that he had an allegation of a conflict of interest but that the City Manager and the City Solicitor ruled that there was no conflict.

Staff:

- In response to comments by Council at initial consideration for this project, the applicant is now proposing to extend the semi-detached units along the east side of the property thereby reducing the overall square footage of commercial on the site.
- In addition, in a letter dated June 24, 2004 the applicant indicates that the overall commercial sq. ft. would be reduced to 40,000 sq. ft. on the ground floor, 8,000 sq. ft. in the basement level, and on the second floor 1,000 sq. ft. for a community meeting room and 3,000 sq. ft. for an administration office. The applicant further indicates that he intends to place a restrictive covenant on the C3 zoned portion of the site to restrict the kinds of uses allowed and the maximum allowed square footage for any commercial tenant. That covenant would be prepared in registrable form for consideration at the Public Hearing.

Moved by Councillor Blanleil/Seconded by Councillor Horning

**R676/04/06/29** THAT Bylaws No. 9256 and 9258 be read a first time.

Carried

Councillors Cannan and Clark opposed.

- 7.2 Bylaw No. 9258 (Z02-1012) - Gazelle Enterprise/Green Projects Ltd. (Grant Gaucher) – 530 Sarsons Road and 4392 Lakeshore Road

See resolution adopted under agenda item No. 7.1.

Councillors Hobson and Shepherd returned to the Council Chamber at 8:51 p.m.

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**(BYLAWS PRESENTED FOR ADOPTION)**

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

Moved by Councillor Hobson/Seconded by Councillor Day

**R677/04/06/29** THAT Bylaw No. 9229 be adopted.

Carried

8. REMINDERS – Nil.

9. TERMINATION

The meeting was declared terminated at 8:52 p.m.

Certified Correct:

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Mayor

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Acting City Clerk

BLH/am