

Regular MeetingSeptember 14, 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, September 14, 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 Acting Council Recording Secretary, I. Tilgra.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 5:41 p.m.

2. PRAYER

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

3. Councillor Hobson was requested to check the minutes of this meeting.

4 BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

4.1 Bylaw No. 9290 (Z04-0030) – 427743 BC Ltd. – 543 South Crest Drive

Moved by Councillor Given/Seconded by Councillor Day

R874/04/09/14 THAT Bylaw No. 9290 be read a second and third time.

Carried

4.2 Bylaw No. 9291 (Z04-0044) – Charlene Madden – 335 Hardie Road

Moved by Councillor Given/Seconded by Councillor Horning

R875/04/09/14 THAT Bylaw No. 9291 be read a second and third time.

Carried

4.3 Bylaw No. 9292 (TA03-0008) – Amendment to City of Kelowna Zoning Bylaw No. 8000

Moved by Councillor Clark/Seconded by Councillor Shepherd

R876/04/09/14 THAT Bylaw No. 9292 be read a second and third time.

Carried

4.4 Bylaw No. 9293 (Z03-0043) – City of Kelowna – 260 Franklyn Road

Withdrawn from the agenda.

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4.5 Bylaw No. 9297 (Z04-0032) – Gerry Toye – 595 Ziprick Road

Moved by Councillor Horning/Seconded by Councillor Given

R877/04/09/14 THAT Bylaw No. 9297 be read a second and third time.

Carried

4.6 Bylaw No. 9294 (Z04-0040) – Merbil Investments Ltd. (Harold Kullman) – 464 Trumpeter Road and North of Trumpeter Road

Moved by Councillor Given/Seconded by Councillor Horning

R878/04/09/14 THAT Bylaw No. 9294 be read a second and third time.

Carried

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)

4.7 Bylaw No. 9295 (Z04-0034) – Don Wilkinson & Brenda Gorrie – 5267 Chute Lake Road and 5267 Trumpeter Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R879/04/09/14 THAT Bylaw No. 9295 be read a second and third time, and be adopted.

Carried

4.8 Bylaw No. 9298 (Z04-0041) – Allen & Debra Hignell – 5001 Chute Lake Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R880/04/09/14 THAT Bylaw No. 9298 be read a second and third time, and be adopted.

Carried

5. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATIONS

5.1 Planning & Corporate Services Department, dated August 5, 2004 re: Liquor Licensing Application No. LL04-0011 – R93 Enterprises Ltd. (Jim Nixon) – 500 Cook Road

Staff:

- The applicant is seeking Council's support for an increase in seating capacity from 33 to 52 on the outdoor patio and from 88 to 100 in the interior liquor primary licensed area in the Hotel Eldorado.
- Over the past summer, data has been collected on the use of the boat launch at different times of the day and season, as well as on non-boating parking. The data has been turned over to a consultant for an analysis of the site and usage rates and the preparation of a future usage model from a boating perspective. A report will then be made to Council with a recommendation for a Phase Two study to examine alternatives for both the summer and year round. Public input will be invited, perhaps through a workshop attended by stakeholders and Council members.

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

- Geoff and Judith Sutherland, #125 – 609 Truswell Road
 - John & Denise Gauthier, #150 - 609 Truswell Road
- Generally in favour on the basis that the increase seating capacity would be a benefit as the establishment is becoming more and more popular.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Jim Nixon, 500 Cook Road:

- It is intended that the public have clear access to the beach.
- A new sidewalk has been installed.
- Any access issues would be addressed.
- Looks forward to having input at the parking workshop.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Given

R881/04/09/14 THAT Council supports a patio capacity increase for the liquor primary licensed establishment from 33 to 52 on Lot 1, DL 134 & 5225, Plan KAP67232, Secs 1 & 12, Twp. 25, ODYD proposed by the Hotel Eldorado for 500 Cook Road;

AND THAT Council supports an interior capacity increase for the liquor primary licensed establishment from 88 to 100 on Lot 1, DL 134 & 5225, Plan KAP67232, Secs 1 & 12, Twp. 25, ODYD; proposed by the Hotel Eldorado for 500 Cook Road;

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

Carried

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 Planning & Corporate Services Department, dated August 5, 2004 re: Development Variance Permit Application No. DVP04-0080 – Matt & Christa Inhoff – 2565 O'Reilly Road

Staff:

- The applicant wishes to replace an existing non-conforming accessory building with a larger structure that would continue to be used as a storage shed. The accessory building would not contain a suite.

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

Regular MeetingSeptember 14, 2004Moved by Councillor Shepherd/Seconded by Councillor Given

R882/04/09/14 THAT Council authorize the issuance of Development Variance Permit No. DVP04-0080; Lot 14, Section 16, Township 26, ODYD Plan 24733, located on O'Reilly Road, Kelowna, B.C.;

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

Section 12.3.6(d):

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

Carried

6.2 Planning & Corporate Services Department, dated July 19, 2004 re: Development Variance Permit Application No. DVP04-0008 – Sweetwater Management Ltd. (Pattison Sign Group) – 1200 Leathead Road

Staff:

- The signs on the Kelowna Toyota property are being updated to new corporate standards.
- The original variance application has been modified in response to direction from Council; however, four signs are still requested where only two are permitted per business.
- Based on the size of the site and the applicant's willingness to address the concerns raised previously by Council, staff feel that the variance requested is reasonable and are recommending that Council support the application.

The Acting City Clerk advised that no correspondence and/or petitions relating to this application had been received.

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

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R883/04/09/14 THAT Council authorize the issuance of Development Variance Permit No. DVP04-0008, Pattison Sign Group, Lot 2, D.L. 124, ODYD, Plan KAP50364, located on Leathead Road, Kelowna, B.C.;

AND THAT a variance to the following section of Sign Bylaw No. 8235 be granted:

Section 6: Specific Zone Regulations: Town Centre Commercial (C4)

- A variance to allow 4 fascia, canopy, and/or under-canopy signs where only 2 are permitted per business (Toyota).

Carried

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Bylaw No. 8726 (Z00-1052) – Bradshaw Enterprises Ltd. (Rob Archibald) – 1561 Sutherland Avenue

Councillor Horning advised that while he was not on Council when the bylaw application was originally brought forward, he has read the relevant meeting minutes and is prepared to deal with the item.

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R884/04/09/14 THAT Bylaw No. 8726 be adopted.

Carried

- (b) Planning & Corporate Services Department, dated August 17, 2004 re: Development Variance Permit Application No. DVP01-10,055 – B.W. and M.E. Drosdovech – 1561 Sutherland Avenue

Staff:

- The applicant is requesting a one-stall variance to the off-street parking requirements.

The Acting City Clerk advised that no correspondence and/or petitions relating to this application had been received.

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

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R885/04/09/14 THAT Council authorize the issuance of Development Variance Permit No. DVP01-10,055; Lot 7, DL 141, O.D.Y.D., Plan 3736 Exc. Plan Kap75685, located on Sutherland Avenue, Kelowna, B.C.;

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

Vary Section 8.1 – Parking Schedule, for Animal Clinics – Major & Minor from 5.0 stalls per 100 m² (16 stalls) required to 4.6 stalls per 100 m² (15 stalls) provided.

Carried

- 6.4 Planning & Corporate Services Department, dated August 11, 2004 re: Development Variance Permit Application No. DVP04-0047 – Dr. M. Rajabally – 940 Bartholomew Court

Staff:

- An application on the same property was considered and turned down by Council in 1999.
- The applicant is proposing to subdivide the subject property into two lots, both accessed from Bartholomew Court.
- The Advisory Planning Commission recommends non-support due to neighbourhood opposition and the change to the established neighbourhood lot pattern.

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- Staff also recommend non-support because the application is not sensitive to the existing lot pattern.
- A covenant restricting access to Dehart Road is registered on all lots in the neighbourhood. The covenant was added for safety reasons, as subdivision was not a possibility at the time.

The Acting City Clerk reported that the following correspondence had been received:

- Letter of opposition from David & Linda Smith, 1025 Bartholomew Court, on the grounds that the subdivision would adversely affect the beauty and value of all the properties on Bartholomew Court.
- The applicant submitted a package containing correspondence dating from 1998 to the present, including a letter of support dated December 15, 2003. Council members received a package from those opposed to the application.
- 12 form letters signed by residents of the neighbourhood objecting to the proposal based on the concerns outlined in a general letter that was circulated to each homeowner in the neighbourhood.
- Package of information outlining the calendar of events from May 10, 1994 to September 2, 2004 regarding subdivision applications in the neighbourhood.
- Letter from John Keery, 874 Dehart Road, supporting the application provided that the City impose and enforce a reasonable height restriction for any building on the lower lot that would be created.

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

Larry Salloum, representing the applicant:

- A portion of the requested variance is to bring a non-conforming side yard setback on the existing building into line with the present bylaw.
- The applicant's plan to subdivide would not adversely affect the neighbourhood and is in keeping with City's strategy providing for infill on vacant property.
- More than half of the subject property is vacant and can accommodate another dwelling.
- The large lots were created by septic field guidelines. As these homes are now on sewer, the large lots are no longer necessary.
- There is only one other lot in the neighbourhood that could be subdivided.
- The covenant restricting access to Dehart Road was intended to deal with potential safety issues and not to prevent subdivision in the future.
- The applicant is willing to register a covenant on his property to accommodate any height restrictions requested by Council.
- It is in the interests of the larger community to provide a lot for a single-family home.

Wendy Farrell, 950 Bartholomew Court:

- Opposed to this application.
- Her home borders the subject property on the east side.
- Submitted an updated neighbourhood survey map (September 2004) and a one-page letter addressing specific inaccuracies in the May 5, 2004 letter from Dr. Rajabally to the Advisory Planning Commission.
- Of the 19 homes surveyed, seven declined to vote (including the applicant) and twelve were strongly opposed.
- When the Farrell's purchased their home, they chose their current location because of the large lot sizes. It is unfair that established zone criteria can be changed.
- When a subdivision was proposed in the neighbourhood in 1994, Dr. Rajabally was firmly opposed, stating that two homes on one lot would totally disrupt the neighbourhood and his view.
- An additional driveway at the bottom of Bartholomew Court would pose a safety hazard, especially in the winter when the steep road can be very slippery.

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- Council has not granted the requested variance in the past.
- The proposed new building would block the view from the lower level of Mrs. Farrell's house.
- An additional home on the subject property would affect property values in the neighbourhood.
- Would prefer adding a rental suite to Dr. Rajabally's house as opposed to a subdivision.

Mike Millard, 935 Bartholomew Court:

- Opposed to this application.
- Bought his house a few months ago, and chose this location largely because of the large lots and open space around the houses.
- He would have been reluctant to pay the same amount if there were two houses on the lot directly in front of his house.

Dr. Rolland Stickle, 960 Bartholomew Court:

- Opposed to this application.
- When he purchased his property in 1999, the real estate agents assured him that there were no subdivision possibilities in the neighbourhood.
- The proposed subdivision would affect resale values and would change the character of the neighbourhood, which is open and accessible as it currently exists.
- Concerned about safety issues when adding a driveway so close to the intersection.

Anthony McCarthy, 945 Bartholomew Court:

- Opposed to this application.
- Existing residents purchased on the basis of zoning already in place and the large lot sizes.
- The subdivision would not be in the best interests of the neighbourhood.

Bob Gullet, 990 Bartholomew Court:

- Opposed to this application.
- Purchased his home in 1998, attracted by the large lot single-family housing.
- Approval of the application would result in crowding at the very entrance to the neighbourhood.
- Concerned about the traffic hazard potential in winter.

Jack Burns, 1010 Bartholomew Court:

- Opposed to this application.
- 18 homes are accessed off Bartholomew Court; there are no sidewalks and no bicycle path and there is a 90-degree turn at the bottom of a steep hill.
- Addition of more vehicles on the street would add to an already congested situation.
- Would be opposed to a secondary suite, due to potential problems with tenants.

Robert Kueng, 915 Dehart Road:

- Opposed to this application.
- Proposed lot coverage for the two lots is 37% and 27%; compared to a high average of 15% lot coverage on other properties in the neighbourhood.
- The applicant knew what the zoning was when he purchased his property and he should respect it.

Len Farrell, 950 Bartholomew Court:

- A subdivision and extra house would affect property values.

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John Keery, 874 Dehart Road:

- Supports the application.
- Picks up mail at box beside the subject property; the rear portion of the subject property looks vacant.
- Thinks that the real objection is the large volume of traffic that already exists on Dehart Road.
- It is not possible to keep big lots forever; lot sizes must change in response to a changing world.

Linda Smith, 1025 Bartholomew Court:

- Opposed to this application.
- Concerned about the safety of her own and other children walking home from school if there is an additional driveway at the beginning of the cul-de-sac.
- Purchased a home in the area in 1999 because of the large lots.

Staff:

- Council can place conditions on a development variance permit as long as land use is not restricted.
- The applicant could build a secondary suite or duplex on his property as an alternative to subdivision. Additional storeys to a maximum of two and a half could be added to his existing home.
- A carriage home on the site could be 1½ storeys high, with a suite, but this option would require rezoning.

Dr. Mo Rajabally, applicant:

- When he purchased the property, he was required to fill the site prior to building. This was expensive and left him unable to provide landscaping on the rear portion of the lot.
- Does not feel that subdivision would adversely affect the neighbourhood.

Staff:

- The proposed driveway would be setback as far as possible from Dehart Road.
- Traffic safety has never been a key factor in discussions regarding the application.

Moved by Councillor Cannan/Seconded by Councillor Shepherd

R886/04/09/14 THAT Council ***not*** authorize the issuance of Development Variance Permit No. DVP04-0046; Lot 1, Sec. 31, Twp. 29, ODYD, Plan 41690;

AND THAT variances to the following section of City of Kelowna Zoning Bylaw No. 8000 ***not*** be granted:

Section 13: Specific Zone Regulations: RU1 – LARGE LOT HOUSING

Section 13.1.4 (b): Vary the lot depth from 30.00 m required to 28.03 m proposed;

Section 13.1.6 (d): Vary the side yard setback from 2.00 m required to 1.93 m proposed.

Carried

Councillor Horning opposed.

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7. BYLAWS

(BYLAWS PRESENTED FOR ADOPTION)

- 7.1 Bylaw No. 9287 – Road Closure Bylaw – Lane off Abbott Street Between Groves and West Avenues

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

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R887/04/09/14 THAT Bylaw No. 9287 be adopted.

Carried

8. REMINDERS

- Drive-Thru Breakfast United Way Fundraiser – Ramada Hotel - Thursday, September 9.

9. TERMINATION

The meeting was declared terminated at 7:35 p.m.

Certified Correct:

Mayor

IMT/am

Acting City Clerk