

Regular MeetingJanuary 25, 2005

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, January 25, 2005.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blaneil, R.D. Cannan, B.A. Clark, C.B. Day, B.D. Given and S.A. Shepherd*.

Council members absent: Councillors R.D. Hobson and E.A. Horning.

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 7:45 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, January 10, 2005
Public Hearing, January 11, 2005
Regular Meeting, January 11, 2005
Regular Meeting, January 17, 2005

Moved by Councillor Given/Seconded by Councillor Clark

R059/05/01/25 THAT the Minutes of the Regular Meetings of January 10, 2005, January 11, 2005 and January 17, 2005 and the Minutes of the Public Hearing of January 11, 2005 be confirmed as circulated.

Carried

4. Councillor Given was requested to check the minutes of this meeting.

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

5.1 Bylaw No. 9341 (Z04-0076) – Susan Walker – 3240 McCulloch Road

Moved by Councillor Given/Seconded by Councillor Clark

R060/05/01/25 THAT Bylaw No. 9341 be read a second and third time.

Carried

5.2 Bylaw No. 9343 (Z04-0068) – RAH Investments (Protech Consultants) – 644 Mugford Road

Moved by Councillor Clark/Seconded by Councillor Given

R061/05/01/25 THAT Bylaw No. 9343 be read a second and third time.

Carried

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- 5.3 Bylaw No. 9344 (OCP04-0013) – School District 23 (Protech Consultants Ltd.) – 780 Rutland Road North **Requires majority vote of Council (5)**

Moved by Councillor Shepherd/Seconded by Councillor Clark**R062/05/01/25** THAT Bylaw No. 9344 be read a second and third time.Carried

- 5.4 Bylaw No. 9346 (HRA04-0003) - School District 23 (Protech Consultants Ltd.) – 780 Rutland Road North

Staff:

- Clarified for Council that there would be no common space in the heritage school building, just the four apartment units on each floor along with internal corridors.

Moved by Councillor Clark/Seconded by Councillor Shepherd**R063/05/01/25** THAT Bylaw No. 9346 be read a second and third time.Carried

- 5.5 Bylaw No. 9345 (Z04-0053) - School District 23 (Protech Consultants Ltd.) – 780 Rutland Road North

Moved by Councillor Shepherd/Seconded by Councillor Clark**R064/05/01/25** THAT Bylaw No. 9345 be read a second and third time.Carried**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)**

- 5.6 Bylaw No. 9342 (Z04-0070) – Peter & Cornelia Gevers (Tony Markoff/PSC Planning Solutions) – 1240 Neptune Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil**R065/05/01/25** THAT Bylaw No. 9342 be read a second and third time and be adopted.Carried**6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS**

- 6.1 Planning & Corporate Services Department, dated December 30, 2004 re: Development Variance Permit Application No. DVP04-0157 – Okanagan University College (Doug Gosso/Prosign) – 3333 University Way

Staff:

- The sign is to advertise the opening of UBC Okanagan for September 2005.
- Showed a photo of what the sign would look like.
- The sign is intended to be temporary although that is not a condition of the DVP.

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

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

Doug Gossoo, applicant:

- UBC insisted on going through the proper processes for approval of the proposed sign and have been wonderful to work with.

There were no further comments.

Moved by Councillor Shepherd/Seconded by Councillor Given

R066/05/01/25 THAT Council authorize the issuance of Development Variance Permit No. DVP04-0157; Lot A, Secs. 10 & 11, Twp. 23, O.D.Y.D. Plan KAP57788, located on University Way, Kelowna, B.C.;

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

Section 6 – Specific Zone Regulations, Section 6.1: Agricultural Zone (A1):

- (a) Vary maximum sign height from 2.5 m permitted to 7.3 m proposed
- (b) Vary maximum sign area from 3 m² permitted to 56.12 m² (total sign area) proposed;

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

6.2 Gazelle Enterprises Inc. and Green Projects Ltd. – 570 Sarsons Road and 4388 Lakeshore Road

(a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 9318 (Z04-0063) – Gazelle Enterprises Inc. and Green Projects Ltd. – 570 Sarsons Road and 4388 Lakeshore Road

Councillor Shepherd declared a conflict of interest because her parents live directly across the street from the subject property and left the meeting at 7:59 p.m.

Moved by Councillor Day/Seconded by Councillor Cannan

R067/05/01/25 THAT Bylaw No. 9318 be adopted.

Carried

Councillors Cannan and Clark opposed.

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- (b) Planning & Corporate Services report dated December 31, 2004
re: Development Variance Permit Application No. DVP02-0023

Staff:

- The subject property consists of two lots which would be consolidated to facilitate development of 24 townhouses, and 123 apartments in 3 buildings for total of 147 units.
- The site plan indicates 12 semi-detached buildings (24 units) along the periphery of the site where it abuts existing residential development. Displayed a rendering to show the proposed unit styles and architectural details that would be included. The zoning bylaw allows maximum 2½ storeys; the townhouses that the applicant is proposing would be 1½ storeys.
- The application also includes 3 apartment buildings and an amenity building on the site. The site plan indicates a 2-storey apartment building along Sarsons Road that steps up to 2½ storeys as it goes around the plaza at the corner of Sarsons/Lakeshore and moving to 3 storeys for the second apartment building and up to 4 storeys for the building in the middle of the site.
- Lakeshore and Sarsons would provide separation from the buildings south of Lakeshore Road.
- Parking would be underground and visitor parking would be provided throughout the site.
- A hammerhead turnaround would be constructed on the site from Edinburgh Court which currently is a stub-end road. Pedestrian access would also be provided from Edinburgh.
- Referred to a letter from an arborist giving his opinion regarding removal of the Ponderosa Pines and Oak trees in the middle of the site. Staff agree with his findings that for this development plan it would not be wise to retain the Ponderosa Pines.

Gail Temple, representing the applicant:

- Submitted notes that indicated when she had contacted residents in the area and advised that she would expand on that information in her presentation. The Acting City Clerk advised that the submission was within the criteria for speaking notes and could be accepted.
- Displayed an aerial photo of the subject property with the proposed development superimposed.
- The 4 storey height for the building in the centre of the site is the most sensitive scenario for the most residents and makes it possible to have smaller building footprints and to pull the one storey amenity building closer to Lakeshore Road.
- Displayed and explained sightline illustrations prepared by the applicant's architect for each of the surrounding households showing the impact of the 4 storey building on the privacy of each property. This impact was explained to each of the residents that were contacted. She also showed the residents the proposed site plan and explained the difference between how the site could be developed with and without the variance.
- The proposal is to develop the site for a total of 147 residential units.

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

- Quentin Dyck, 4370 Kensington Drive
- Fran & Victor Pratico, 4393 Lakeshore Road
- Debbie Mah & Dave Pavitt, 585 Sarsons Road
- Robert & Linda Tagami, 4383 Lakeshore Road
- Susan Quirk, 499 Sarsons Road
- Steven & Yolanda Krywulak, 555 Sarsons Road
- Mark Sadlowski, 508 Sarsons Road
- Mr. & Mrs. Allan Jantz, 595 Sarsons Road
- Donna & Allan Elliott, 4366 Kensington Drive

Opposed generally because their view, privacy, and the character of the area would be negatively impacted and traffic congestion would increase.

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

Kathy Stevenson, 504 Sarsons Road:

- Her property backs onto the subject property.
- Asked for confirmation that if the 4-storey height variance is approved within the density permitted, the development could not be reconfigured such that a 3-storey building would end up being built adjacent to her property as was first proposed.

Staff:

- Confirmed that to do that would require a new DVP and a new DP and the public would again have an opportunity for input.

Quentin Dyck, 4370 Kensington Drive:

- As a result of having a tennis court adjacent to his property, the sight lines from the top floor of the 4 storey building would allow for a clear view of the part of his back yard where his patio and barbeque are located.
- Moved to his present address in 1998 and was told the subject property would be developed R1 (single family residential). There has been an ongoing battle over the last five years as to how the subject property should be developed.
- Could support a 3 storey building but not 4 storeys.

Jim Quirk, 499 Sarsons Road:

- There appears to only be two choices and both put neighbour against neighbour. Developing the site with 3 storey buildings around the periphery would negatively impact adjacent houses. The 4-storey building would negatively impact back yard privacy.
- The project is too big for the property and traffic is already congested without this development adding to it. A 4-storey building in the middle of single family homes is not right.
- Does not support the variance or the density that is proposed.

Susan Quirk, 499 Sarsons Road:

- Does not understand how this application has gotten to this point when so many people have expressed opposition.
- The issue of sensitivity has not been addressed.
- The area residents feel like they are choosing between being boiled in oil versus being boiled in lard.
- What the neighbourhood needs on the subject property is a heritage park.
- The variances would not be needed if the density was not being changed.
- Would prefer 1.5 storey buildings around the periphery and lower buildings in the middle of the site.
- There is a difference between hearing and listening.

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Staff:

- Explained how density is calculated under the Zoning Bylaw.

Richard Tremblay, 502 Sarsons Road:

- Appreciated having the opportunity to discuss the proposal with the applicant's representative.
- Main concern is loss of privacy.
- If what he has been shown is anything close to reality, then he would be in favour of the development.

Marian Grimwood, Doeksen Road:

- Questioned whether allowing 3 and 4 storeys in this zone would be setting a precedent for elsewhere in the city?
- Concerned about the length of the buildings and lack of view corridors.

Council:

- No precedent would be set from Council's perspective.

Staff:

- The subject property could be developed without need for a variance, the variance is requested in order to mitigate the impacts on the properties around the periphery.
- Requests for variances are considered on a site specific basis and have to be for the betterment of the overall development on the site.
- The RM3 zone does not regulate building length as do some other zones. But the proposed buildings have been sufficiently articulated to avoid the long mass of a building.

Ron Hallick, 498 Sarsons Road:

- There were 140 letters opposing the RM3 application.
- Does not support the variance to allow a 4-storey building.
- Would prefer a 2½ storey building in the middle with 2 storey buildings around the perimeter of the site.

Susan Quirk, continued:

- The people would prefer no variance at all, rather than having to choose between the lard vs the oil.

Gail Temple, continued:

- Showed the sightline illustration to Mr. Dyck's house noting that with Mr. Dyck's cedar hedge which is 12 ft. from his house, and with the neighbour's hedge at 8 ft. tall, it appears the impact on his patio would be minimal. The 4-storey building is quite a distance away and the impact is likely to be less dramatic in reality.
- The 4-storey building height in the middle of the development has the least impact on the most people. Reducing the height would mean going back to 2.5 storeys on Sarsons and 3 storeys on Lakeshore and that becomes problematic for those residents.
- Confirmed that the developer has chosen to develop the site to maximum density.

Architect:

- Confident that the underground parking can be achieved and still allow the first floor slab to be at-grade.

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Moved by Councillor Cannan/Seconded by Councillor Blanleil

R068/05/01/25 THAT Council authorize the issuance of Development Variance Permit No. DVP02-0023; Lots 1 & 2, D.L. 167, O.D.Y.D. Plan KAP75687, located on Sarsons Road and Lakeshore Road, Kelowna, B.C.;

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

Section 13.9.6 (c) – **Development Regulations**, be varied from maximum building height 2½ storeys or 9.5 m permitted to 4 storeys or 14.4 m proposed.

Carried

Councillors Cannan and Clark opposed.

(c) Planning & Corporate Services report dated January 13, 2005 re: Development Permit Application No. DP02-0022

See discussion under 6.2(b) above.

Moved by Councillor Given/Seconded by Councillor Blanleil

R069/05/01/25 THAT Council authorize the issuance of Development Permit No. DP02-0022 for Lots 1 & 2, D.L. 167, O.D.Y.D. Plan KAP75687, located on Sarsons Road and 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 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;

AND THAT the applicant register a plan of subdivision to consolidate the properties into one titled lot;

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

Councillors Cannan and Clark opposed.

7. REMINDERS – Nil.

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8. TERMINATION

The meeting was declared terminated at 9:27 p.m.

Certified Correct:

Mayor

Acting City Clerk

/blh