

Regular MeetingAugust 23, 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, August 23, 2005.

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; Deputy City Clerk, S.C. Fleming; Manager of Development Services, A.V. Bruce; Community Planning Manager, T. Eichler\*; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:42 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, August 8, 2005  
Public Hearing, August 9, 2005  
Regular Meeting, August 9, 2005

Moved by Councillor Hobson/Seconded by Councillor Day

**R815/05/08/23** THAT the Minutes of the Regular Meetings of August 8 and 9, 2005 and the Minutes of the Public Hearing of August 9, 2005 be confirmed as circulated.

Carried

4. Councillor Hobson 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. 9471 – (OCP05-0014) – Official Community Plan Amendment No. OCP05-0014 – Use of Housing Opportunities Reserve Fund Requires majority vote of Council (5)

Moved by Councillor Horning/Seconded by Councillor Given

**R816/05/08/23** THAT Bylaw No. 9471 be read a second and third time.

Carried

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- 5.2 Bylaw No. 9472 – (TA05-0008) – City of Kelowna – Definition of Special Needs Housing

Moved by Councillor Shepherd/Seconded by Councillor Clark**R817/05/08/23** THAT Bylaw No. 9472 be read a second and third time.Carried

Staff:

- There was about \$300,000 in the Housing Reserve Fund at the beginning of 2005 and another \$200,000 to \$300,000 will be added this year from land sale revenue.

Moved by Councillor Shepherd/Seconded by Councillor Given

**R818/05/08/23** THAT the Social Planning & Housing Committee report back to Council with recommendations on the feasibility of implementing an Inclusionary Housing Bylaw, use of the Housing Opportunities Reserve Fund for home ownership, and for lobbying the Provincial Government to increase the monthly shelter rate;

AND THAT the Finance Department consider additional sources of funding for the Housing Opportunities Reserve Fund.

Carried

## 6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 6.1 Planning & Corporate Services Department, dated July 20, 2005 re: Development Variance Permit Application No. DVP05-0115 – Ken Sapriken – 631 Royal Pine Drive

Mayor Gray advised that although he lives on Royal Pine Drive, his residence is outside the notification radius for this application and therefore he would not be in a conflict of interest.

Staff:

- The existing dwelling on the property is one-storey in height. The applicant is now proposing to add two additional stories above the dwelling.
- Showed the building elevations. The lower floor will be partially inground and act like a basement.
- Fits in with other buildings in the area with the same 3 storey appearance.
- The applicant submitted letters of support from 623 and 620 Royal Pine Drive indicating no concerns.
- The extra height would not be an issue for anyone behind because the property backs onto Knox Mountain Park.

The Deputy City Clerk advised that one letter of support had been received from Bryan St. George, 647 Royal Pine Drive, stating that no views would be restricted as a result of the increased building height.

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

Mike McMichael, 639 Royal Pine Drive:

- Is opposed to the height amendment. His is the only property affected by this application. He has lived next to this property for 3½ years. When he purchased his home, development on the subject property looked finished other than a gravel driveway and his realtor never indicated that there could be more construction on that site.
- Much of the view of the lake from his back yard is blocked by the 10-12 ft. x 25 ft. concrete fence that supports a swimming pool at the rear of the subject property. There is however a beautiful view of the lake between that wall and his home but that view will be lost as the house on the subject property goes up. The additional building height will also affect the view from the side windows on the west side of his house. The view is the whole reason for living there. Would like the applicant to have to conform to City bylaws.
- The concrete wall will detract from the value of his house.
- His house was listed for sale in May but he took it off the market in June because work had already started on the subject property and potential purchasers were asking the realtor what was going on next door. Is waiting to re-list the property until he can explain to people how high the house on the subject property will be.
- The applicant is also proposing all kinds of turrets that will make the building higher than 11.5 m.
- A 4 or 5 step walk-up to the pool area on the subject property would make everybody happy.
- The house on the subject property has been rented for the last couple of years.
- The bylaws for height have changed in the last 2 or 3 years and the applicant should have to comply with the new regulations.
- Even without the requested variance being granted, the back yard view will be gone with the additional floors being added.
- Trying to keep the view from his daughter's bedroom.
- Would accept a compromise and support a 2 ft. variance instead of 7 ft.
- His house was built to Code with no variances required.

Staff:

- Clarified that the application shows 9 ft. ceilings on all three floors.
- The 11.5 m height that is being considering tonight is measured to the midpoint of the sloping roof.

Ken Sapriken, applicant:

- He is the builder and original owner of the subject property. He started this project in 1990 and the first house (now owned by Mr. McMichael) was built in 1997. He applied to build a 3-storey house on the subject property at the same time and it was approved by the City 8 years ago. He built only the first floor of his home for financial reasons.
- There are nine other 3 storey buildings on Royal Pine Drive, one is under construction and one was built last year.
- The first floor of his house would be 68% buried.
- Has letters of support from Gordon Geddes, and Bob Henry who is on the lower side.
- Has a letter from the City approving the wall that blocks Mr. McMichael's view. The grade for the pool was dictated when his neighbour's yard was cut. Would like to have a level covered walk-out through the attic deck to the pool.
- The side of the house that Mr McMichael will look at is 2-storeys.
- Has already reduced the height of the roof on the top level from 10 ft. to 9 ft. Would not want to reduce it further because then the walkway to the pool would not be level.
- His house would not block the view from the windows on the west side of his neighbour's house.

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Staff:

- The face of the building toward the street is considered 3 storeys and 11.5 m in height. In 1996 staff interpreted the bylaw such that it did not.
- There are a number of homes on Royal Pine Drive that appear to be 3 storeys. Since this is similar in nature to those, staff recommend support.

Mike McMichael, continued:

- The deck railing to the pool is from the attic which, in his opinion, is the 4<sup>th</sup> level not the 3<sup>rd</sup> level. It is that access from the attic to the pool that is the problem. The attic roof is higher in order to accommodate the height of a person and that is the problem. If the walkway was from the floor below that would be fine.
- Concerned that at some point the walkway to the pool could be closed in.
- There is another access to the pool that is along the side of the house.
- He assumed when he purchased his house that the house on the subject property was finished.
- His view would be affected from one bedroom window and the back balcony.

Ken Sapriken, applicant, continued:

- His property is not having a negative impact on the value of Mr. McMichael's home.
- From his yard, he sees three complete levels of housing and a roof when he looks at his neighbour's house.
- He would be really disappointed if he could not have the level walkway from the attic to the pool.
- There is no access to the other levels of the house from the attic walkway to the pool. He would never cover the walkway to the pool.

Staff:

- The deck being discussed has nothing to do with the variance under consideration.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Horning

**R819/05/08/23** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0115; Lot 30, Section 31, Township 26, ODYD, Plan 43005, located on Royal Pine Drive, Kelowna, B.C.;

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

Section 13.1.6: Development Regulations: (c)

Vary the maximum height from 9.5 m permitted to 11.5 m proposed for an addition to an existing single family dwelling;

AND THAT the exterior design and finish of the front elevation be in general accordance with Schedule "A".

Carried

Councillor Cannan opposed.

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- (i) Bylaw No. 9105 (Z02-1052) – Okanagan Manufacturer's BC Ltd. (new owner) - (Grant Maddock/Protech Consultants) – 3732 Highway 97 North

The Deputy City Clerk advised that Ministry of Transportation approval is required for both bylaws under agenda item 6.2(a); however, that approval has not yet been received and it was necessary to withdraw the bylaws from tonight's agenda. Consideration of the DP and DVP applications under agenda item 6.2(b) have also been withdrawn from tonight's agenda, as it is necessary for the bylaws to be adopted first. The bylaws and DP/DVP applications will be rescheduled to the September 6, 2005 Regular Meeting agenda.

- (ii) Bylaw No. 9301 (Z04-0045) - Okanagan Manufacturer's BC Ltd. (Grant Maddock/Protech Consultants Ltd.) – 3724 Highway 97 North

Withdrawn.

- (b) Planning & Corporate Services Department, dated July 20, 2005 re: Development Permit Application No. DP05-0108 and Development Variance Permit Application No. DVP05-0109 – Okanagan Manufacturer's BC Ltd. (Protech Consultants Ltd.) – 3724 & 3732 Highway 97 North

Withdrawn.

- 6.3 Planning & Corporate Services Department, dated July 21, 2005 re: Development Variance Permit Application No. DVP05-0113 – Carolco Developments Ltd. and Springdale Properties Ltd. (Atlas Sign & Awning Co.) – 532-538 Yates Road

Staff:

- There are two commercial buildings and two separate Development Variance Permit applications on the subject property. The two would have come forward together, but one was delayed because it had to go back to the Advisory Planning Commission for a second time. This application is for variances for fascia signage and roof top signage. The other application is for a pylon sign variance.
- The subject application is for the TD Bank building which is entirely occupied by the bank. The other building has multiple tenants.
- The property is surrounded by differing forms of residential.
- Displayed sketches showing the variances for the east, north and south elevations of the building.
- The Advisory Planning Commission did not recommend support of the requested variances and nor do staff because it is felt that one fascia sign per elevation would be sufficient and the signage in the architectural feature on the top of the building should have been considered at the Development Permit stage instead of now when it is after-the-fact.

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

Charlie Seaman, Atlas Sign & Awning Co., applicant:

- TD Bank has a standardized package they like to present. In this case, with the residential surrounding, TD realized a standard package would not work. Normally they want signage wrapping the building and on all four sides of the cupola. The cupola sign is something that the TD Bank uses across Canada.
- The signage would be tacky and totally unbalanced with only one fascia sign.
- The dark green background of the sign is opaque so only the illuminated copy would be seen.
- The pylon sign is the landlord's and is for the use of the secondary building, not the TD Bank.
- The graphics would be different on each of the three fascia signs that are proposed and the signs would face the parking lot, not residential development.
- TD has to build the signs and get them installed on time for a September opening.
- The bylaw allows 4 sq. m per fascia sign and one sign per building face. A 4 sq. m sign on a large building would get lost in the architecture.

David Bible, representing TD Bank:

- The proposed signage was indicated on the Development Permit and there is a note on the DP saying the signage did not conform and that it would be dealt with as a separate matter.
- The signs in the cupola would be illuminated. The signs would be turned off in the daytime to save power but at night they would be illuminated.
- The residential units would not see the cupola signage.
- Their building would look weak compared to the rest of the shopping centre with only one fascia sign and no cupola signage.

Staff:

- As individual fascia signs the proposed signs are in proportion to the building but three on the same side of the building is when the signs become over-size.

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

Elsie Orrin, 112-550 Yates Road:

- Is a resident of Sandalwood which is behind and adjacent to the subject property. Objects to the signs and fails to see why the applicant needs three signs rather than one or why the size of the signs should be increased. The proposed signage would negatively alter the appearance of the shopping plaza and signs on the top of the building would further mar the appearance of the building.
- Is not sure if she would see any of the signs from her house; her concern is for all the residents in Sandalwood.

Ed Hall, Canadian Adult Communities and General Manager of Springdale Properties, a co-owner and holding property for CAC:

- The shopping plaza is part of a master plan prepared by his company for the area and everyone who purchased homes in the gated community were made fully aware there would be a shopping centre on the subject property.
- It was his company that built up the area, most recently the second phase of Sandalwood and now with the addition of the Verve there is enough critical mass to go ahead with the shopping centre.

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- Tried to develop a residential flavour in the architecture and a low profile building consistent with the roof lines in the neighbourhood. Wanted to have access/egress to the shopping centre to be off Glenmore Road but the City required that to be changed to off Yates Road. With no access off Glenmore, signage takes on greater importance. Because of the inner focus of the buildings, they will be asking for a pylon sign with the DVP application for the second commercial building, in order to draw attention to the shopping centre. The pylon sign would be in the northwest corner of the property on the Glenmore frontage.
- When they were approached by the TD bank, TD requested a stand alone building and it was designed to meet their specifications. The architecture has changed somewhat from the DP that was approved which only showed two sign bands and the cupola.
- This building is about 5,000 sq. ft. in size and could have accommodated five different businesses each wanting their own signs.
- There would be no signs facing north toward the gated community, other than the roof cupola signage.

Staff:

- Architectural features being designed as signs are what staff is concerned about. The cupola feature would have been approved as an architectural feature but not as a sign.
- The cupola was not identified as a sign feature until the final stage of the DP at which time staff informed them that a variance would be required. If there were five businesses in the building, the five signs would be there out of necessity to identify the five tenants. In this case, the building will be recognized by its architecture since it is stand alone for TD Bank, and so in the opinion of staff, the extra signage is not needed.

Moved by Councillor Blanleil/Seconded by Councillor Horning

**R820/05/08/23** THAT Council authorize issuance of Development Variance Permit No. DVP05-0113; Lot 1, Section 32, Township 26, ODYD, Plan 77456, located on Yates Road, Kelowna, B.C., granting the following variances to Sign Bylaw No. 8235:

Section 6.1: Specific Zone Regulations:

- Vary the maximum number of fascia signs per building frontage in the C2-Neighbourhood Commercial zone from the 1 allowed, to the 3 proposed on both the east and west elevations;
- Vary the maximum permitted sign area from 3.0 m<sup>2</sup> to 8.34 m<sup>2</sup> on the east and west elevations and from 3.0 m<sup>2</sup> to 5.5 m<sup>2</sup> on the south elevation;

AND THAT further consideration of the request to also vary Section 3.1.5 of Sign Bylaw No. 8235, to allow signage on an architectural feature above the roof of the building, be deferred to the Regular Meeting of September 20, 2005.

Carried7. REMINDERS

- Tonight is Councillor Horning's last Council meeting but he will continue serving until the end of August.

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8. TERMINATION

The meeting was declared terminated at 9:45 p.m.

Certified Correct:

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Mayor

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Deputy City Clerk

BLH/am