

Regular MeetingOctober 4, 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, October 4, 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 and S.A. Shepherd.

Staff members in attendance were: Acting City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; City Clerk, A.M. Flack; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:34 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, September 19, 2005

Regular Meeting, September 20, 2005

Moved by Councillor Given/Seconded by Councillor Day

**R942/05/10/04** THAT the Minutes of the Regular Meetings of September 19, 2005 and September 20, 2005 be confirmed as circulated.

Carried

4. Councillor Shepherd 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. 9488 (Z05-0031) – Okanagan Seasons Resort Ltd. (Allan Manson) – 1490 Mayden Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil

**R943/05/10/04** THAT Bylaw No. 9488 be read a second and third time.

Carried

5.2 Bylaw No. 9489 (Z05-0054) – Bruckal Holdings Inc. (New Town Architectural Services Inc./Patrick McCusker) – 446 West Avenue

Moved by Councillor Blanleil/Seconded by Councillor Cannan

**R944/05/10/04** THAT Bylaw No. 9489 be read a second and third time.

Carried

Regular MeetingOctober 4, 2005

- 5.3 Bylaw No. 9490 (OCP05-0012) – Ziprick Place BC Ltd. (Garry Tomporowski Architects) – 135 Ziprick Road

Moved by Councillor Shepherd/Seconded by Councillor Clark**R945/05/10/04** THAT Bylaw No. 9490 be read a second and third time.Carried

- 5.4 Bylaw No. 9491 (Z05-0045) – Ziprick Place BC Ltd. (Garry Tomporowski Architects) – 135 Ziprick Road

Moved by Councillor Shepherd/Seconded by Councillor Clark**R946/05/10/04** THAT Bylaw No. 9491 be read a second and third time.Carried

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

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

Bylaw No. 9428 (Z05-0011) - Astrid Kneipp; John Marshall; Michael Marshall; D.M.J. Construction Ltd.; and 0706682 BC Ltd. (Garry Tomporowski Architects) – 1004, 1012, 1026 Bernard Avenue and 1495 Graham Street

Moved by Councillor Day/Seconded by Councillor Cannan**R947/05/10/04** THAT Bylaw No. 9428 be adopted.Carried

- (b) Planning & Corporate Services Department, dated September 6, 2005 re: Development Permit Application No. DP05-0023 and Development Variance Permit Application No. DVP05-0036 – 0706682 BC Ltd. – 1004, 1012, 1026 Bernard Avenue and 1483 Graham Street

Staff:

- The properties are at the corner of Bernard and Graham.
- The applicant proposes to develop the site with a 43-unit, 4-storey apartment building. Access to the underground parking would be off Graham. The ground floor units would be two-storey townhouses with individual access at ground level and their own ground level patio space. The fourth floor of the building would include a sizeable amenity space in the form of a roof top garden as well as additional green that includes a grassed area to serve as a dog-walk for the apartment owners.
- The overall landscaping plan shows significant landscaping along the rear of the property and around the perimeter of the site.

Regular MeetingOctober 4, 2005

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

Glenda Miller, representing the J. Herman Group, applicant:

- Gave a powerpoint presentation to assist with a more detailed description of the development noting site coverage is below the 60% allowable when the driveway is included in the calculation and pointing out that the upper floors would be stepped back.

Moved by Councillor Hobson/Seconded by Councillor Day

**R948/05/10/04** THAT Council authorize the issuance of Development Permit No. DP05-0023 for Lot 10, District Lot 138, ODYD Plan 1438 located on Graham Street, and Lots 11 and 12, District Lot 138, ODYD Plan 1438, located on Bernard Avenue, and Lot 3, District Lot 138, ODYD Plan 5065 located on Bernard Avenue, 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 Council authorize the issuance of Development Variance Permit No. DVP05-0036 for Lot 10, District Lot 138, ODYD Plan 1438 located on Graham Street, and Lots 11 and 12, District Lot 138, ODYD Plan 1438, located on Bernard Avenue, and Lot 3, District Lot 138, ODYD Plan 5065 located on Bernard Avenue, Kelowna, B.C.;

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

Section 13.11.6(b) – RM5 – Medium Density Multiple Housing

- A variance to allow site coverage of 47.8% including buildings where a site coverage of 40% is permitted;

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

Regular Meeting

October 4, 2005

6.2 Planning & Corporate Services Department, dated September 8, 2005 re: Development Variance Permit Application No. DVP05-0140 – Francine Flyshtan (Marion Flyshtan) – 735 Tartan Road

Staff:

- The property is on a corner lot with the house oriented toward Tartan Road which is the longer of the two frontages. The applicant is proposing to construct about a 15 ft. addition off the north side of the house which is technically the rear yard.
- Staff do not recommend support for reducing the setback requirement to 1.83 m as requested by the applicant. However, staff could support a 2 m setback on the north side of the property to be consistent with what would be required for a new house if that was to be the side yard.
- A letter of support from the owner of the adjacent property at 755 Tartan Road was submitted with the initial application.

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

- letter of opposition from David & Sheri Kustren, 755 Tartan Road, saying the property is too small to accommodate the building addition.

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

Marion Flyshtan, applicant:

- Having obtained the letter of support from the owner of 755 Tartan Road, is surprised that there is now a letter indicating opposition.

Staff:

- The letter submitted with the application was dated May 2005 and was from Pete & Kelly Kettner, 755 Tartan Road.

The City Clerk read the letter circulated with this application noting it is dated September 2005 and is from David & Sheri Kustren, 755 Tartan Road. Clarified that the Property Inquiry System, however, shows the owners of 755 Tartan Road being Pete & Kelly Kettner.

Marion Flyshtan, continued:

- The yard is in disrepair because sewer was just put in and he has also been waiting for this application to be considered. Intends to completely renovate the building.
- There is a building that looks like a commercial Quonset hut right up against the fence on the property at 755 Tartan Road. When the neighbours signed the letter of support they were more concerned about the noise impact on the subject property from them working in their shop.
- He is adding on a master bedroom and changing everything around to accommodate a wheelchair for his wife.

Regular MeetingOctober 4, 2005Moved by Councillor Day/Seconded by Councillor Blanleil

**R949/05/10/03** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0140 for Lot 12, Section 26, Township 26, ODYD Plan 22239 located on Tartan Road, Kelowna, B.C.;

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

Section 13.1: RU1 – Large Lot Housing: 13.1.6(e):

- Vary the rear yard setback from 7.5 m required to 2.00 m proposed to accommodate an addition to an existing single family dwelling.

Carried

6.3 Planning & Corporate Services Department, dated September 9, 2005 re: Development Variance Permit Application No. DVP05-0134 – Al Stober Construction Ltd. – 1607 Sutherland Avenue and 1610 & 1620-1632 Dickson Avenue

Staff:

- The property is known as the Land Mark High Tech Campus.
- The portion of property south of Dickson Avenue is used for parking.
- The original Development Permit for this development indicates the third phase building as 6 storeys (because enough of the lower level is above grade to have to call it a storey) with 5 levels of office space and a sun room on the top and strict instructions from the City that the sun room not be converted into office space.
- The applicant now wants 6 storeys of office space above the lower level parking so essentially all three buildings on the site would appear to be the exact same size.
- Staff are concerned the site has lost some of its campus feeling and the element of stepping down the buildings as a transition to surrounding land uses.
- The applicant has since acquired some properties to the west of the site so may be in control of the transitional properties, however, staff still do not support the height variance because of how much the project has already been varied from what was originally approved.
- Council approved occupancy of the sun room on the penthouse of the Tech 2 building, and therefore if Council is going to support a variance for the proposed building, recommend it also provide for occupancy of the sun room.

The 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 variance to come forward.

Mark Stober, applicant:

- Proposes to add one complete floor the Tech 3 building so it is the same height as the Tech 2 building. From an architectural design perspective, the additional floor would enhance the overall look of the project and the additional floor makes sense from an economic perspective.
- The transition concern for the neighbourhood to the west was negated when they purchased all the properties that border the western side of the property.

Regular MeetingOctober 4, 2005Moved by Councillor Shepherd/Seconded by Councillor Hobson

**R950/05/10/04** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0134; Lots A & D, DL 141, O.D.Y.D., Plan 20443 and part of Lot A, DL 129, O.D.Y.D., Plan KAP68674, located on Dickson Avenue and Harvey Avenue, Kelowna, B.C.;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 CD14 – Comprehensive High Tech Business Campus be granted:

Section 17 – Comprehensive Zones,  
Schedule B – CD14 – Comprehensive High Tech Business Campus

Section 1.5 (c) **Development Regulations** be varied from 22 m or 6 storeys permitted to 29.5 m or 8 storeys proposed for the Phase III building.

Carried7. BYLAWS**(BYLAWS PRESENTED FOR ADOPTION)**

7.1 Bylaw No. 9483 – Road Closure Bylaw – 475 Glenwood Avenue

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

Moved by Councillor Given/Seconded by Councillor Clark

**R951/04/10/04** THAT Bylaw No. 9483 be adopted.

Carried8. REMINDERS

Councillor Shepherd noted that at yesterday's Council meeting a resolution was adopted to lobby the federal government for changes to the Criminal Code to change the legal age of consent from 14 years to 16 years old. She advised that having since gone back in her records Council's original resolution was to support changing the age from 14 to 18 years old.

Moved by Councillor Shepherd/Seconded by Councillor Clark

**R952/04/10/04** THAT Council supports changing the age of consent to **at least** 16 years of age.

Carried9. TERMINATION

The meeting was declared terminated at 8:27 p.m.

Certified Correct:\_\_\_\_\_  
Mayor\_\_\_\_\_  
City Clerk

BLH/am