

Regular MeetingOctober 18, 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 18, 2005.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blancheil\*, 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; Deputy 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 8:46 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, October 3, 2005

Public Hearing, October 4, 2005

Regular Meeting, October 4, 2005

Councillor Shepherd asked that the minutes of the Regular Meeting of October 4, 2005 be amended in the discussion about the development application at Bernard/Graham Street (agenda item 6.1(b)) to indicate that staff were going to ensure that a letter received from Rita Diebolt, 1035 Bernard Avenue, regarding sidewalks in this area was forwarded to the appropriate staff for action.

Moved by Councillor Given/Seconded by Councillor Shepherd

**R983/05/10/18** THAT the Minutes of the Regular Meeting of October 3, 2005 and the Minutes of the Public Hearing of October 4, 2005 be confirmed as circulated.

Carried

Moved by Councillor Given/Seconded by Councillor Shepherd

**R984/05/10/18** THAT the minutes of the Regular Meeting of October 4, 2005 be confirmed, as corrected.

Carried

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

Regular MeetingOctober 18, 20055. BYLAWS CONSIDERED AT PUBLIC HEARING**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)**

- 5.1 Bylaw No. 9493 (OCP05-0007) – Pier Mac Petroleum Installation Ltd. (678502 BC Ltd./Gary Yates) – 3205 Quail Ridge Boulevard **requires majority vote of Council (5)**

Moved by Councillor Given/Seconded by Councillor Cannan**R985/05/10/18** THAT Bylaw No. 9493 be read a second and third time.Carried

Councillors Day, Hobson and Shepherd opposed.

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS6.1 (a) **BYLAW PRESENTED FOR ADOPTION**

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

Moved by Councillor Clark/Seconded by Councillor Shepherd**R986/05/10/18** THAT Bylaw No. 9489 be adopted.Carried

- (b) Planning & Corporate Services Department, dated September 23, 2005 re: Development Permit Application No. DP05-0128 and Development Variance Permit Application No. DVP05-0130 – Bruckal Developments Corp. (New Town Architectural Services Inc./Patrick McCusker) – 446 West Avenue

Staff:

- The applicant is proposing to develop the site with a 9-unit, 3-storey apartment building. On-site parking would be accessed from the lane.

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

- letter from Barry McDivitt, 408 West Avenue, opposing the variance permit but not stating specifically what portion of the variance he is opposed to.

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

Patrick McCusker, applicant,

- Indicated he was available to answer questions if required.

Regular MeetingOctober 18, 2005Moved by Councillor Hobson/Seconded by Councillor Blanleil

**R987/05/10/18** THAT Council authorize the issuance of Development Permit No. DP05-0128 for Lot 1, District Lot 14, ODYD Plan KAP78879 located on West 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. DVP05-0130; on Lot 1, District Lot 14, ODYD Plan KAP78879, located on West Avenue, Kelowna, B.C.;

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

**Section 13.10.5: Subdivision Regulations:**

Vary the minimum lot width requirement from the 30 m required to the 25.3 m proposed;

**Section: 13.10.6: Development Regulations: (f):**

Vary the rear yard setback for portions of the building under 2 storeys from the 7.5 m required to the 4.5 m 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 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 9404 (Z05-0007) – Kevin & Pamela Purnell – 4110 Tatlow Road

Moved by Councillor Hobson/Seconded by Councillor Cannan

**R988/05/10/18** THAT Bylaw No. 9404 be adopted.

Carried

Regular MeetingOctober 18, 2005

- (b) Planning & Corporate Services Department, dated September 15, 2005 re: Development Variance Permit Application No. DVP05-0014 – Kevin & Pamela Purnell – 4110 Tatlow Road

Staff:

- There is an existing house at the northeast corner of the property. The applicant is proposing to construct an accessory building with suite in the southeast corner of the property.
- The lower portion of the accessory building would be used as a workshop and storage area. With the suite above, the building would be over-height.
- There would be no direct connection from the lower level into the suite.

The Deputy 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.

Pamela Purnell, applicant:

- Indicated she had nothing to add at this time.

Moved by Councillor Shepherd/Seconded by Councillor Hobson

**R989/05/10/18** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0014 for Lot 3, Section 3, Township 26, ODYD, Plan 5504 located on Tatlow Road, Kelowna, B.C.:

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. The applicant be required to register a restrictive covenant prohibiting the development of the lower level of the accessory building as living space and restricting its use as a workshop;
4. The applicant be required to pay the fees and deposits of the South East Kelowna Irrigation District prior to issuance of a Building Permit;

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

Section 9.5.1(e) – Secondary Suites

To obtain a variance to allow a secondary suite within an accessory building to be 6.4 m in height where only 4.5 m 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 MeetingOctober 18, 2005

- 6.3 Planning & Corporate Services Department, dated September 15, 2005 re: Development Variance Permit Application No. DVP05-0155 – University of British Columbia – Okanagan – 3333 University Way

Staff:

- Building permits have been issued for a 3 storey building for the two student residence buildings which are under construction. UBC-Okanagan now wants to build 4 storey buildings.
- Anticipate that a new zone will be created for the entire UBC campus. That new zone will set height limitations that are more realistic for UBC's building program.

The Deputy City Clerk advised that no correspondence had been received.

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

Applicant:

- Indicated availability to respond to questions if required.

Brian Kane, consultant:

- Represents the owners of Lots 1, 4, 6 and 7 on Robert Lake.
- In 1982 an easement was registered for access to Lot 6. That Lot 6 no longer exists – it was turned into Lot A which UBC is building on now and in his opinion, the University is trespassing using the easement that provided access to Lot 6. exists.
- Apparently the City of Kelowna told UBC they could use this easement. Staff need to explain to the property owners how that easement still exists for the University when Lot 6 no longer exists.
- The City cannot turn Lot 6 into a Lot A and then give it a Development Variance Permit.
- The property owners he represents object strongly to the DVP and if this is approved will begin fencing the property off tomorrow.

Joe Gates, student at UBC:

- Wondered if the objective of the increased number of units is to get more students into the housing at a lower cost or if it is just for UBC to make more money.

Applicant:

- The project would provide 95 units between the two buildings.

Moved by Councillor Shepherd/Seconded by Councillor Clark

**R990/05/10/18** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0155; Lot A, Sections 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 Zoning Bylaw No. 8000 be granted:

**Section 16.2.5(c), Development Regulations** - be varied from maximum height of 13.5 m or 3 storeys permitted to 14.2 m or 4 storeys proposed for the new student residence buildings,

subject to approval by Transport Canada to vary "Kelowna Airport Zoning Regulations" which limit building heights adjacent to the airport.

Carried

Regular MeetingOctober 18, 2005

- 6.4 (a) Planning & Corporate Services Department, dated October 13, 2005 re: Development Permit Application No. DP05-0143 – Canada Lands Co. (VIA Architecture) - 1187 Sunset Drive

Staff:

- Drew Council's attention to a model provided by the applicant of the proposed 218-unit, 20 storey hotel development.
- The property was under application in 1992/1993 for a hotel and the Development Permit approved for that application was never proceeded with.
- The requested variance from 357 stalls to 332 stalls is in keeping with typical parking requirements for a hotel in a commercial zone.
- The requested variance from 9 loading stalls to 3 is supportable given that the building will be under single management.
- As an apartment hotel, each unit would be furnished as an apartment and the building could be used for permanent residency if they so chose.

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

Opposition:

- letter from Ross Morgan, president, Lagoons Strata Council, 1152 Sunset Drive
- letter from Lynn Vigar, 1152 Sunset Drive
- letter from Gerry & Barb Price, 1160 Sunset Drive
- letter from Larry Lefebvre, 1160 Sunset Drive
- letter from John Gough, president, Dolphins Strata Council, 1160 Sunset Drive.

Support:

- letter of support from Janet & George VanderHoek, 1160 Sunset Drive (the Dolphins).

Ron Lee, applicant:

- The proposed hotel would be part of the Brandts Creek Crossing/Railway Station Village.
- Described the project as a full service hotel including banquet/meeting rooms, two restaurants, court yards, a spa and a fitness club and street level specialty boutiques along Clement Avenue.
- The same number of units could be achieved without the height variance but the taller building allows for improved openness on the site.
- Confident that with the parking variance they would still be providing more parking than what would be needed for the hotel and retail.

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

John Gough, president, Dolphins Strata Council, 1160 Sunset Drive:

- Asked if the approval could be conditional on the flag being committed.
- Asked if the hotel would be stratified and what would happen if they were unable to sell them all.
- A big hotel like this is of interest to more than just the people within 30 m of the site.
- The applicant has not met with the residents in the area to discuss what is proposed.
- Surprised there was no mention in the staff presentation of the concerns identified in the report that went to the Advisory Planning Commission (APC) or the concerns raised by the APC members.
- Parking and traffic congestion have been a major ongoing problem in the area.
- Usually the City Clerk reads a summary of the concerns when reading the correspondence that was received into the record.
- This application should be deferred to get more input from the residents and the traffic engineers.

Regular MeetingOctober 18, 2005

## Staff:

- There was confusion at the APC meeting between the regulations of the C3 zoning and hotel zoning.
- The APC as a whole supported all but the variance for the parking stall reduction.

## Ross Morgan, president, Lagoons Strata Council:

- High density brings congestion that needs to be controlled and managed so the livability of the people is maintained.
- Concerned about the impact on traffic. Apartment hotel units tend to be family oriented so potentially there could be more than one vehicle per unit and some families could bring boats that would also require parking.
- Parking is also a big concern, particularly on event nights.
- Residents of the Lagoons did not receive written notification from the City for this application yet they are more impacted by this application than by others that they did receive written notification of.

## Bill Butterworth, president, Discovery Bay Strata Council, 1088 Sunset Drive:

- Objects to the reduced on-site parking. This will exacerbate parking problems that already exist.
- Discovery Bay operates about 50% as a hotel and that has not resulted in a reduced parking demand.

## Ron Hockey:

- A reduction in parking stalls does not make sense.
- People attending events at Prospera Place need to have parking.

## (Ms.) Pat Webber, Dolphins resident:

- Parking is a problem whenever events are going on in the downtown, not just at Prospera. Cannot keep putting up buildings and not look at parking needs.
- Concurs with the comments made by previous speakers.
- Traffic congestion is making Sunset Drive a disaster waiting to happen.

## Rita Milne:

- Speaking as a downtown business owner and member of the Downtown Kelowna Association board.
- Would like the retail space along Ellis Street to be part of this Development Permit instead of a future DP. Concerned the commercial may never go ahead leaving a parkade on Ellis instead of retail space.

## Staff:

- The applicant is not satisfied that there is a market to lease out commercial units on Ellis Street in this location; and they have pretty much used all the floor area available to them in the C4 zone.
- Staff wanted to preserve that option for commercial space for the future and have made sure the building can be designed for it.

## Lynn Vigar, 1152 Sunset Drive:

- Agrees with many of the comments of the previous speakers.
- Concerned about lack of parking and safety. The hotel includes a convention centre, sports bar, etc. Sunset Drive is the street that the ambulance and fire truck use to get to Tolko and they go there frequently.
- Cannot support the hotel without more parking.

Regular MeetingOctober 18, 2005

Ron Hockey, continued:

- The employees working in the area are paid minimum wage and cannot afford to pay for parking so they add to the on-street parking problem.

Ron Lee, applicant, continued:

- The intent is for the parking being provided with the hotel to be free and available for use by the community.
- One parking stall per guest room is more than most communities require.
- The hotel may be strata owned but it would still look and feel and function as a hotel. The clientele would be high end.
- Parking was calculated based on C8 and C9 zoning requirements and then the parking for the commercial space (convention space/banquet space, etc.) was added onto that. Hotel clientele would be encouraged to use the parkade structure.
- Is confident that the proposed parking would even meet peak demands.

Staff:

- 332 stalls is what would be required under C8 zoning.

EXTENSION OF MEETINGMoved by Councillor Shepherd/Seconded by Councillor Given

**R991/05/10/18** THAT the meeting be continued past 11 p.m. in accordance with Section 5.5 of Council Procedure Bylaw No. 9200.

CarriedMoved by Councillor Blanleil/Seconded by Councillor Given

**R992/05/10/18** THAT Municipal Council authorize the issuance of Development Permit No. DP05-0143; for Lot 1, DL 139, O.D.Y.D., Plan KAP76304, located on Sunset Drive, Kelowna, B.C., subject to the following terms and conditions:

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. DVP05-0144; Lot 1, DL 139, O.D.Y.D., Plan KAP76304, located on Sunset Drive, Kelowna, B.C.;



Regular MeetingOctober 18, 2005

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

Section 8.1.2, **Off-Street Vehicle Parking** – number of spaces be varied from 357 stalls required to 332 stalls proposed;

Section 8.2.2, **Off-Street Loading** – number of spaces be varied from 9 stalls required to 3 stalls proposed;

Section 14.4.5 (c) **Development Regulations** – vary maximum permitted height for hotels or apartment hotels, from 25.0 m or 7 storeys permitted, to 63.39 m or 20 storeys 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

- (b) Planning & Corporate Services Department, dated September 20, 2005 re: Development Variance Permit Application No. DVP05-0144 – Canada Lands Co. (VIA Architecture) – 1187 Sunset Drive

See discussion under 6.4(a). The DVP and DP were approved in one vote.

- 6.5 Planning & Corporate Services Department, dated September 14, 2005 re: Development Variance Permit Application No. DVP05-0069 – John & Sarina Weisbeck (D.E. Pilling & Associates/David Pauls) – 1494 Highway 33 East

The Deputy City Clerk advised that no correspondence had been received.

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

John Weisbeck, applicant:

- Clarified that the variance is for Lots 8-14 rather than Lots 9-15.

Moved by Councillor Cannan/Seconded by Councillor Hobson

**R993/05/10/18** THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP05-0069, John & Sarina Weisbeck; Lot B, Sec. 13, Twp. 26, ODYD, Plan KAP75730, except Plans KAP75732 and KAP76178, located on Hwy 33 E, Kelowna, BC;

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

Section 6.10 Setback from Provincial Highways, of Zoning Bylaw No. 8000, which states as follows:

- 6.10 All buildings and structures on lots abutting Highway 97 or Highway 33, shall not be closer than 15.0 m to the Highway, except where located in an urban centre, it may be no closer than 4.5 m. To vary this requirement to from 15 m to 7.5 m for proposed Lots 9 – 15.

Carried

Regular MeetingOctober 18, 2005

- 6.6 Planning & Corporate Services Department, dated September 19, 2005 re: Development Permit Application No. DP05-0148/Development Variance Permit Application No. DVP05-0149 – Blanleil Holdings Ltd. (Kim McKechnie) – 1810 Spall Road

Councillor Blanleil declared a conflict of interest as owner of Blanleil Holdings and left the Council Chamber at 11:20 p.m.

Staff:

- The applicant intends to construct a 2-storey commercial building on the site.

The Deputy City Clerk advised that no correspondence had been received.

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

Moved by Councillor Given/Seconded by Councillor Hobson

**R994/05/10/18** THAT Council authorize the issuance of Development Permit No. DP05-0148 for Lot 1, DL 129, ODYD, Plan 4738 except Plans 41097 and KAP75942 by, located on Spall 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 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. Signage is to be in accordance with Sign Bylaw No. 8235;
6. The applicant be required to register a cross access agreement with Lot 2 Plan 4738, Lot A Plan 44897, Lot CP Plan K574, Lot 6 Plan 4738, and Lot 7 Plan 47177 providing access to the front of the property;
7. The applicant be required to remove the restrictive covenant requiring a 2.0 m buffer from the title of the subject property;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP05-0149; Lot 1, DL 129, ODYD, Plan 4738 except Plans 41097 and KAP75942, located on Spall Road, Kelowna, B.C.;

Regular MeetingOctober 18, 2005

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

**Section 14.3.5(c): C3 – Community Commercial: Development Regulations: Site Coverage:**

Vary the maximum site coverage from a maximum of 50% permitted to 51.6% proposed;

**Section 8.1.10(c): Parking and Loading: Location for Non-Residential Use Classes:**

Vary the required setback 2.0m setback from parking adjacent to front property line and parking adjacent to a street;

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

Councillor Blanleil returned to the Council Chamber at 11:25 p.m.

6.7 Planning & Corporate Services Department, dated September 13, 2005 re: Development Variance Permit Application No. DVP05-0146 – Mike Bille (Chris Vickery) – 2401 Selkirk Drive

Staff:

- The requested variance to the front yard setback is not needed as it turns out hillside standards were used for the development. Therefore, the only variance under consideration tonight is to the side yard setback.

The Deputy City Clerk advised that no correspondence had been received.

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

Moved by Councillor Shepherd/Seconded by Councillor Given

**R995/05/10/18** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0146 for Lot 14, Section 33, Township 26, ODYD Plan 74435 located on Selkirk Drive, Kelowna, B.C.;

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

**Section 13.1.6(d): Development Regulations: Side Yard Setbacks:**

Vary the eastern side yard setback from 2.0 m required to 1.85 m proposed.

Carried

Regular MeetingOctober 18, 2005

- 6.8 Planning & Corporate Services Department, dated September 15, 2005 re: Development Variance Permit Application No. DVP05-0147 – Stream Harbor Enterprises Ltd. – 2767 Saucier Road

Staff:

- The applicant is proposing to site a 3-bay garage at the front of the property and is asking that the setback requirement be reduced from 12.0 m to 3.0 m. Staff would support reducing the setback down to 6.0 m.

The Deputy City Clerk advised that no correspondence had been received.

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

Tim Anderson, representing Stream Harbor:

- Agreed to reducing the front yard setback to 6 m rather than 3 m as requested.

Moved by Councillor Blanleil/Seconded by Councillor Hobson

**R996/05/10/18** THAT Council authorizes the issuance of Development Variance Permit No. DVP04-0152; Lot 1, Sec.4, Twp.26, ODYD Plan 17319, located on Saucier Road, Kelowna, B.C.;

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

**Section 6.5.4:**

Applicant seeking to vary the clause of the bylaw to allow an accessory building within the front yard setback.

**Section 6.5.8 (b):**

Vary the required front yard setback from 12.0 m to 6.0 m to allow for the encroachment of an accessory building.

Carried

7.0 RESOLUTIONS

- 7.0.1 Draft Resolution re: Start Time – November 1, 2005 and November 15, 2005 Public Hearings (0550-01)

Moved by Councillor Day/Seconded by Councillor Given

**R997/05/10/18** THAT the start time for the November 1, 2005 and the November 15, 2005 Public Hearings be changed from 7:00 p.m. to 5:00 p.m.

Carried

Councillor Clark opposed.

Regular Meeting

October 18, 2005

7. BYLAWS

**(BYLAWS PRESENTED FOR ADOPTION)**

7.1 Bylaw No. 9482 – Road Closure Bylaw – Palmer Road

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 Blanleil/Seconded by Councillor Cannan

**R998/05/10/18** THAT Bylaw No. 9482 be adopted.

Carried

8. REMINDERS – Nil.

9. TERMINATION

The meeting was declared terminated at 11:36 p.m.

Certified Correct:

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Mayor

BLH/am

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Deputy City Clerk