

Regular MeetingNovember 1, 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, November 1, 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; Subdivision Approving Officer, R.G. Shaughnessy\*; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called meeting to order at 7:30 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, October 17, 2005  
Public Hearing, October 18, 2005  
Regular Meeting, October 18, 2005  
Regular Meeting, October 24, 2005

Moved by Councillor Hobson/Seconded by Councillor Given

**R1046/05/10/31** THAT the Minutes of the Regular Meetings of October 17, October 18 and October 24, 2005 and the Minutes of the Public Hearing of October 18, 2005 be confirmed as circulated.

Carried

4. Councillor Blanleil 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. 9497 (Z05-0042) - 0713522 BC Ltd. – 1957 & 1961 Kane Road

Moved by Councillor Clark/Seconded by Councillor Given

**R1047/05/11/01** THAT Bylaw No. 9497 be read a second and third time.

Carried

5.2 Bylaw No. 9498 (Z05-0055) – Armogan & Elizabeth Odiyar – 375 Taylor Road

Moved by Councillor Given/Seconded by Councillor Clark

**R1048/05/11/01** THAT Bylaw No. 9498 be read a second and third time.

Carried

Regular MeetingNovember 1, 2005

- 5.3 Bylaw No. 9500 (Z05-0029) - Tony Balisky (D.E. Pilling & Associates Ltd./ David Pauls) – 1240 Band Road

Moved by Councillor Given/Seconded by Councillor Clark**R1049/05/11/01** THAT Bylaw No. 9500 be read a second and third time.Carried

- 5.4 Bylaw No. 9501 (Z05-0057) – Nagina & Kuldip Johal (United Homes) – 570 Bach Road

Moved by Councillor Blanleil/Seconded by Councillor Cannan**R1050/05/11/01** THAT Bylaw No. 9501 be read a second and third time.**DEFEATED unanimously**

- 5.5 Bylaw No. 9502 (Z05-0050) - 694230 BC Ltd. (Harold Schneider) – 3302-3316 Appaloosa Road

Moved by Councillor Clark/Seconded by Councillor Shepherd**R1051/05/11/01** THAT Bylaw No. 9502 be read a second and third time.Carried

- 5.6 Bylaw No. 9503 (Z05-0035) - Donald, Steven, Gordon, Heidi, Allan & Angelica Kirschner and Neil & Deborah Lachelt (New Town Planning Services) - 470 & 500 Fleming Road and 1065 & 1075 Leathead Road

Moved by Councillor Given/Seconded by Councillor Day

THAT Bylaw No. 9503 be read a second and third time.

Council:

- The neighbourhood made it clear they do not want more duplexes in the area, but that they could support some single family or strata development more conducive to ownership. If the applicant decides to respond by changing the form of development proposed, the fee for processing the revised application should be reduced.

Moved by Councillor Hobson/Seconded by Councillor Given**R1052/05/11/01** THAT second and third reading consideration of Bylaw No. 9503 be deferred to allow the applicant to reconsider the form of development to be pursued.Carried

- 5.7 Bylaw No. 9506 (Z05-0063) – University of British Columbia – Okanagan (HMA Architects) – 4990 Highway 97 North (BL9506)

Moved by Councillor Cannan/Seconded by Councillor Blanleil**R1053/05/11/01** THAT Bylaw No. 9506 be read a second and third time.Carried

Regular MeetingNovember 1, 2005

- 5.8 Bylaw No. 9507 (Z05-0053) - William Grover and Sing & Kayea Wong (J Herman Group Inc.) – 710 & 730 Martin Avenue and 1419 Richter Street

Moved by Councillor Blanleil/Seconded by Councillor Cannan**R1054/05/11/01** THAT Bylaw No. 9507 be read a second and third time.Carried**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)**

- 5.9 Bylaw No. 9499 (Z05-0047) - Ross Grieve (Burrowes Huggins Architect) – 2750 Arthur Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil**R1055/05/11/01** THAT Bylaw No. 9499 be read a second and third time, and be adopted.Carried

- 5.10 Bylaw No. 9504 (OCP04-0019) – 616507 BC Ltd. (D.E. Pilling & Associates Ltd./David Pauls) – North of McKinley Road **requires majority vote of Council (5)**

Moved by Councillor Day/Seconded by Councillor Cannan**R1056/05/11/01** THAT Bylaw No. 9504 be read a second and third time, and be adopted.Carried

- 5.11 Bylaw No. 9505 (Z05-0009) – 616507 BC Ltd. (D.E. Pilling & Associates Ltd./David Pauls) – North of McKinley Road

Moved by Councillor Cannan/Seconded by Councillor Day**R1057/05/11/01** THAT Bylaw No. 9505 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 September 19, 2005 re: Development Variance Permit Application No. DVP05-0118 – Ross Grieve (Burrowes Huggins Architect) – 2750 Arthur Road

Staff:

- The half metre height variance for the principal building should not have any direct impacts on abutting properties.
- The height variance for the suite in the accessory building was noted in the staff report and therefore advertised at 6.4 m when it is a 6.7 m variance that the applicant is requesting.
- Staff will work with the applicant at the building permit stage to reduce the building height to meet the 6.4 m approval or alternatively a further application will be required to deal with the difference.
- An environmental mitigation report has been submitted by the applicant with respect to the setback from the lake.

Regular MeetingNovember 1, 2005

The 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 he had nothing to add at this time.

Moved by Councillor Blanleil/Seconded by Councillor Day

**R1058/05/11/01** THAT Council authorize the issuance of Development Variance Permit No. DVP05-0118 for Lot A, Section 20, Township 23, ODYD, Plan 5370, located on Arthur 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. The applicant is to be required to register a restrictive covenant prohibiting the development of living space at the lower level of the accessory building;
4. The applicant is to be required to obtain an issuance of Environmental Development Permit DP05-0117;
5. The retaining walls are to be in accordance with the Section 7.5 of Zoning Bylaw No. 8000;

AND THAT a variance to the following sections 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;

Section 11.1.6 (b) - Agricultural 1

To obtain a variance to allow a principal building to be 10.0 m in height where only 9.5 m is permitted;

Section 6.14.1 – Riparian Management Area (RMA) Setbacks

To obtain a variance to allow portions of the buildings to encroach within the required 15.0 m riparian management area setback in accordance with Schedule "A";

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

November 1, 2005

6.2 Planning & Corporate Services Department, dated September 28, 2005  
re: Development Variance Permit Application No. DVP05-0086 –  
Maryanna Prodan – 2292 Scenic Road

Staff:

- The property is on the corner of Brenda and Scenic Roads. The applicant is requesting a relaxation of front and rear yard setbacks.
- The lot is currently under construction. The house encroaches where the indoor pool structure is being constructed and into the suspended deck at the rear of the property. Not sure how this occurred but the expectation from the building permits that were approved was that the setbacks would be met.
- Since the building is not in accordance with the building permits that were issued, recommend non-support.

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

Maryanna Prodan, applicant:

- Moved to the subject property in May 2000. At that time there was a small bungalow on the property. The addition that they are building will create an energy efficient, modern home they can be proud of and retire in. The home is no bigger than those in the surrounding developments.
- Feels that the APC decision was made based on points not relevant to the variance application (i.e. lot coverage, height of the building, privacy/view, dormers and parking) - there is now parking for 10 plus onsite.
- The concrete columns and foundation cannot be moved without having to tear off the whole roof.
- Five of the six neighbours provided letters of support with the initial application.
- It would appear that the wrong drawings were submitted to the City and that is why the building was not in accordance with the approved drawings. Became aware of the problem when the surveyor's certificate was required.

Staff:

- The application had to be considered by the Advisory Planning Commission because all impacted properties did not support the variance.

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 variances to come forward.

Resident of 610 Grandview Road:

- The place sticks out like a sore thumb. Something has gone wrong with the process – the house is monstrous. Site coverage looks like it is maxed out and the dormers are like another storey. The house has been forced onto the neighbourhood.
- Disagreed with the applicant's claim that 5 of the 6 neighbours were in support of the variance request.
- The neighbourhood does not support the application. Urged Council to at least mitigate a portion of the eyesore by not allowing the variances.
- The pillars are almost on the roadway and the majority of the parking stalls would be part way on the road. It is a narrow road and there is no room for on-street parking. Also the road is uphill and not a high priority road for snow ploughing. In the winter it is already a problem getting up the road at times.

Staff:

- If neither variance was granted, the three pillars and a portion of the roof line would have to be moved back about 10 ft., and the rear deck would have to be pulled back about 12 ft.

Regular MeetingNovember 1, 2005

## Martin Ward, 2321 Newman Road:

- The house is about three times the size of most houses in the neighbourhood.
- The applicant says there is room for 10 cars on site; site coverage has to be clarified.
- It was he who saw the work in progress on the subject property and got the City's building department to issue the stop work order that was subsequently amended to allow for completion of the roof.
- The issue of setbacks had to be known by the homeowner because the frontage street was changed from Scenic to Brenda Road.
- A 5,300 sq. ft. house is not likely to only have 2 bedrooms. Concerned there will be tenants in the future as there have been in the past.
- Urged Council to require that they comply with existing bylaws, and that they be required to complete the exterior within 1 year from the start of construction.

## Malcolm Stevens, 2311 Newman Road:

- His property is adjacent.
- The house on the subject property has been an eyesore for a long time.
- A lot of the parking the applicant claims to now have is on the boulevard which means people have to walk on the street to get around the parked vehicles. It is only about a cars length from the concrete wall to the road.

## Staff:

- Clarified that bylaw requirements for onsite parking can be met. There is a double car garage and adequate stacking room in front of that for additional parking stalls.
- The only issues tonight are the setback variances. The building height and lot coverage meets bylaw requirements.

## Corey Pilling, 511 Brenda Road:

- Bought his property 1½ years ago knowing there was a bigger home next door, but the house keeps getting bigger and bigger.
- Was approached by the applicant to sign a letter of support but declined.
- The back deck encroaches on a sliver of the lake view from his property.
- The building is an eyesore and lowers property values in the neighbourhood.
- Parking is the biggest issue.

## Maryanna Prodan, continued:

- The place will look nice with the windows and siding installed – it is still under construction.
- There were no complaints until the dormers were built. That is when the stop work order was put on. The house is unique and they expect to be proud of it when it is done.
- Mr. Pilling and Mr. Ward moved into the neighbourhood after renovations had started on the subject property.
- Has not parked on the street in about a year because there is now off-street parking.
- Does not know of any time when garbage trucks or snow ploughs were unable to get up the hill because of her.
- The mail boxes pose more of a problem than anyone parking on the street.
- There was an existing deck on the ground level in the rear. She and her husband built the upper deck to match the lower deck assuming that it was conforming. There was also confusion about the setback for the deck; they were told different things by different City staff. They cut off an angle of the deck to make it what one City staff member said would be conforming.
- The building height is within bylaw requirements.
- She and her husband do commercial interiors as a job.

Regular MeetingNovember 1, 2005

Staff:

- Clarified that the pillars and most of the roof structure were already up before the setback issues came to light. The work that was done after that was to make the building weather proof and was minimal.
- If the pillars have to be moved back 10 ft. to conform, the centre beam would be the most critical issue. The pool, which is not under construction yet, may also have to be modified.

Moved by Councillor Cannan/Seconded by Councillor Shepherd

**R1059/05/11/01** THAT Development Variance Permit No. DVP05-0086, as outlined in the report dated September 28, 2005 from the Planning & Corporate Services Department on lands described as Lot 1, Sec. 4, Twp. 23, O.D.Y.D., Plan 18959, located on Scenic Road, Kelowna, B.C., **not** be approved by the Municipal Council.

Carried

6.3 Planning & Corporate Services Department, dated September 21, 2005 re: Development Permit Application No. DP05-0011 and Development Variance Permit Application No. DVP05-0012 – Pasadena Estates Ltd./Gary Dober (Canwest Design Group/John Schlosser) – 4427, 4431 and 4433 Gordon Drive

Staff:

- The driveway to access the underground parkade has been moved to along the south boundary of the site.
- The form of development is lower scale than what it could be under the zoning. The setbacks are designed for buildings that are predominantly 2-3 storeys in height.
- Extensive landscaping for the common area mitigates the spacing issues between the buildings.
- Staff recognize that the target market for the development is seniors who have already or are about to give up their vehicles; however, 43 stalls for 55 units is not enough. Staff do not recommend support for the parking variance. Once Gordon Drive is upgraded the closest opportunity for on-street parking would be on Schafer Road.

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

- letter from Brent & Rhonda Baldwin, 747 Westpoint Drive, opposed generally because of concerns about child/pedestrian safety, traffic congestion, noise and light pollution would be exacerbated, and the lack of proposed parking.

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

Tom Smithwick, representing the applicant:

- Circulated an information package to Council and reviewed its contents.
- Outlined the revisions that have been made to the project, including changing what was going to be 2 storey units on the westerly portion of the building to 1 storey; the entire southerly boundary would now be 1 storey units to respect the neighbours; the 2 storey units would be built into the east hillside where it is steep and the properties above would look over the units; access off Gordon Drive has now been moved to create a more safe entrance to the site and to the parking; the variance for the southern side yard setback has now been changed to a 3.0 m setback and the entire setback area would be densely landscaped to be a created natural area - the people areas would be in the front; and 7 ft. cedars would be planted to extend existing cedar hedging on the southern boundary.

Regular MeetingNovember 1, 2005

- The primary issue is parking. When the application was considered by the Advisory Planning Commission, 29 parking stalls were proposed. That number was subsequently increased to 41. This is a development specifically for the elderly senior and it is unique in that it allows a person to have a yard and all the amenities of a home (two bedrooms, kitchen, laundry room) while providing the services normally provided for in seniors developments including providing meals.
- The proposed project (Mission Villa) is not a congregate care facility although the intent is to market to that group. If Mission Villa fit the definition of congregate care, the parking variance would not be needed. Based on the same ratio calculations, only 25 stalls would be required and that is why the application went to the Advisory Planning Commission with 29 stalls. However, the applicant is now prepared to further increase the number of parking stalls from 41 to 45. The additional stalls would be added to the visitor parking.
- Perspective buyers that need and cannot get an allocated parking space, will not buy. They applicants have done an extensive marketing analysis and are confident they will not have a parking shortage.
- The proposed site coverage is only 32.8%.
- Handicapped access would be provided throughout.

Richard Kirouac, 734 Schafer Road:

- His property backs onto the southern border of the subject property.
- Met with the developer and came to an agreement that the variances that were proposed for the southern setback were too close. The developer has since agreed to increase the setback to 3.0 m which he finds acceptable. The developer also agreed to provide minimum 7 ft. high cedars as a buffer along the full southern property boundary. And, the increase in parking stalls from 41 to 45 is acceptable to him for the 55 units. With those issues satisfied, he is now in support of the application.

Randy Jones, 740 Schafer Road:

- The developers have been in contact with the abutting owners throughout the process and they all support the development as their concerns have all been satisfactorily resolved.

Staff:

- Confirmed that the difference between Mission Villa and the other congregate care facilities comes down to the stove which makes the units self-contained, independent living units. As such, down the road, occupancy of the building could change.

Moved by Councillor Hobson/Seconded by Councillor Day

**R1060/05/11/01** THAT Council authorize the issuance of Development Permit No. DP05-0011 for Lot 4, DL 358, ODYD Plan 8074, Lot A, DL 358, ODYD Plan 21226 and Lot 1, DL 358, ODYD Plan 9844, located on Gordon Drive, 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;



Regular MeetingNovember 1, 2005

AND THAT Council authorize the issuance of Development Variance Permit No. DVP05-0012; for Lot 4, DL 358, ODYD Plan 8074, Lot A, DL 358, ODYD Plan 21226 and Lot 1, DL 358, ODYD Plan 9844, located on Gordon Drive, Kelowna, B.C.;

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

**Section 8: Parking and Loading: Table 8.1:**

Vary the parking from the 73 stalls required to the 45 stalls proposed;

**Section 13.9: RM3 – Low Density Housing: 13.9.6(e):**

Vary the northern side yard setback from the 4.0 m required to the 2.5 m proposed for two buildings (cottages 1-4);

Vary the southern side yard setback from 4.0 m required to 3.0 m for units 28, 29, 30 and 33;

Vary the southern side yard setback from 4.0 m required to 3.0 m proposed for units 31 and 32;

**Section 13.9: RM3 – Low Density Housing: 13.9.6(f):**

Vary the rear yard setback from the 7.5 m required to the 4.5 m proposed for all buildings on the eastern side of the subject property;

**Section 13.9: RM3 – Low Density Housing: 13.9.6(g):**

The applicant is seeking to vary the setback between buildings from 3.0 m required to 2.0 m proposed for the separation between cottages 10 and 11, cottages 12 and 13 and cottages 7 and 8;

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

7. BYLAWS

**(BYLAWS PRESENTED FOR ADOPTION)**

7.1 Bylaw No. 9484 – Road Closure Bylaw – Pandosy Street

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 Day/Seconded by Councillor Cannan

**R1061/05/11/01** THAT Bylaw No. 9484 be adopted.

Carried

Regular Meeting

November 1, 2005

- 7.2 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 Blanleil/Seconded by Councillor Cannan

**R1062/05/11/01** THAT Bylaw No. 9493 be adopted.

Carried

Councillors Day and Hobson opposed.

8. REMINDERS – Nil.

9. TERMINATION

The meeting was declared terminated at 9:51 p.m.

Certified Correct:

---

Mayor

City Clerk

BLH/am