

Regular MeetingNovember 15, 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 15, 2005.

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

Council members absent: Councillor A.F. Blanleil.

Staff members in attendance were: City Manager, R.A. Born; Deputy City Clerk, S.C. Fleming; 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 the meeting to order at 6:31 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, October 31, 2005
 Public Hearing, November 1, 2005
 Regular Meeting, November 1, 2005
 Regular Meeting, November 7, 2005 (**withdrawn**)

Moved by Councillor Given/Seconded by Councillor Day

R1108/05/11/15 THAT the Minutes of the Regular Meetings of October 31 and November 1, 2005 and the Minutes of the Public Hearing of November 1, 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. 9512 (Z05-0051) – Irandokht Khodarahmi (Grant Maddock/Protech Consultants Ltd.) – 5110 Frost Road

Moved by Councillor Given/Seconded by Councillor Clark

R1109/05/11/15 THAT Bylaw No. 9512 be read a second and third time.

Carried

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- 5.2 Bylaw No. 9513 (Z05-0044) - Giovanni & Michelina Molinaro – 4002 Santa Anita Place

Moved by Councillor Given/Seconded by Councillor Day

R1110/05/11/15 THAT Bylaw No. 9513 be read a second and third time.

Carried

Councillors Clark and Shepherd opposed.

- 5.3 Bylaw No. 9514 (Z05-0030) - Jarnail and Gurmej Khun-Khun (Madan Kanda) – 740 Tartan Road

Moved by Councillor Given/Seconded by Councillor Clark

R1111/05/11/15 THAT Bylaw No. 9514 be read a second and third time.

Carried

- 5.4 Bylaw No. 9516 (Z05-0056) - Henry & Zofia Dalba – 3464 Casorso Road

Moved by Councillor Given/Seconded by Councillor Clark

R1112/05/11/15 THAT Bylaw No. 9516 be read a second and third time.

Carried

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)

- 5.5 Bylaw No. 9479 (Z05-0062) – Jack Peters and Cynthia Waldeck-Peters (Jack Peters) – 1857 Barlee Road

Moved by Councillor Given/Seconded by Councillor Shepherd

R1113/05/11/15 THAT Bylaw No. 9479 be read a second and third time, and be adopted.

Carried

- 5.6 Bylaw No. 9517 (Z05-0012) - Susan Snow (Runnalls Denby) – 438 Trumpeter Road and North of Trumpeter Road

Moved by Councillor Clark/Seconded by Councillor Given

R1114/05/11/15 THAT Bylaw No. 9517 be read a second and third time, and be adopted.

Carried

- 5.7 Bylaw No. 9518 (Z05-0058) - Tessco Inc. (Ross Manning) – 1331, 1341 & 1347 Ellis Street (BL9518)

Moved by Councillor Day/Seconded by Councillor Hobson

R1115/05/11/15 THAT Bylaw No. 9518 be read a second and third time, and be adopted.

Carried

Regular MeetingNovember 15, 20055.8 Bylaw No. 9519 (HD05-0001) – City of Kelowna - 732 Dehart AvenueMoved by Councillor Hobson/Seconded by Councillor Day**R1116/05/11/15** THAT Bylaw No. 9519 be read a second and third time, and be adopted.Carried6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS6.1 Planning & Corporate Services Department, dated October 21, 2005 re: Development Variance Permit Application No. DVP05-0181 – Aberdeen Holdings Ltd. (Peter Brenneman/Sandpiper Development Ltd.) - #129 – 1405 Guisachan Place

Councillor Day declared a conflict of interest because direct family members own an adjoining property and left the Council Chamber at 6:45 p.m.

Staff:

- The subject property is the lot on the corner of Guisachan/Burtch and is within a bareland strata development.
- The applicant noticed an error had been made in the way the building permit plans were read by the contractor resulting in the setback for a portion of the building projecting into the side yard. The applicant brought the error to the City's attention in order to legalize the encroachment for the future owner of the unit.

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.

Peter Brenneman, applicant:

- It was a human error that occurred at the start of the process.

Moved by Councillor Given/Seconded by Councillor Shepherd**R1117/05/11/15** THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP05-0181, Aberdeen Holdings Ltd.; Strata Lot 15, DL 136, ODYD, Strata Plan KAS2771, located on Guisachan Place, Kelowna, BC;

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

Section 6.4.1:

- The total area of structural projections, excluding purely architectural or aesthetic features, shall not comprise of more than 30% of the total area of the exterior wall in which they are located - To vary this requirement for Strata Lot 15, Plan KAS2771 to allow for 35% of the total area of the exterior wall;
- No individual structural projection shall exceed 3.0 metres in length - To vary this requirement for Strata Lot 15, Plan KAS2771 to allow for a 5.78 m long projection.

Carried

Councillor Day returned to the Council Chamber at 6:49 p.m.

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- (i) Bylaw No. 9490 (OCP05-0012) – Ziprick Place BC Ltd. (Garry Tomporowski Architects) – 135 Ziprick Road **requires majority vote of Council (5)**

Moved by Councillor Day/Seconded by Councillor Cannan**R1118/05/11/15** THAT Bylaw No. 9490 be adopted.Carried

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

Moved by Councillor Cannan/Seconded by Councillor Day**R1119/05/11/15** THAT Bylaw No. 9491 be adopted.Carried

- (iii) Bylaw No. 9525 – Housing Agreement Authorization Bylaw – Ziprick Place BC Ltd. (Garry Tomporowski Architects) – 135 Ziprick Road

Staff:

- The legislature recently changed the Strata Property Act to end a transition provision that dealt with first owners in a strata and their rights to rent out units.
- The applicant prefers to sell the units rather than rent and the housing agreement requires that the owner who purchases the unit must live in the unit.

Moved by Councillor Day/Seconded by Councillor Cannan**R1120/05/11/15** THAT Bylaw No. 9525 be adopted.Carried

- 6.2 (b) Planning & Corporate Services Department, dated October 18, 2005 re: Development Permit Application No. DP05-0114 and Development Variance Permit Application No. DVP05-0187 – Ziprick Place BC Ltd. (Garry Tomporowski Architects) – 135 Ziprick Road

Staff:

- Described the proposed 4-storey, 45-unit apartment building.
- There would be approximately 50 ft. separating the proposed development from the 2-storey low density multi-family development to the 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.

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Gary Tomporowski, applicant:

- The centre portion of the fourth floor has a flat roof so the total height of the parapet is actually only 6.4 ft. above the fourth floor of the building.

Moved by Councillor Hobson/Seconded by Councillor Day

R1121/05/11/15 THAT Council authorize the issuance of Development Permit No. DP05-0114 for Lot 1, Sec. 22, Twp. 26, ODYD Plan KAP50112 except Plan KAP78236, located on Ziprick 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 Council authorize the issuance of Development Variance Permit No. DVP05-0187; Lot 1, Sec. 22, Twp. 26, ODYD Plan KAP50112 except Plan KAP78236, located on Ziprick Road, Kelowna, B.C.;

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

Section 13.10.6 (c) - RM4- Transitional Low Density Housing

A variance to allow the building to be 4 storeys in height where only 3 storeys is permitted;

Section 13.10.6 (f) - RM4- Transitional Low Density Housing

A variance to allow a rear yard setback of 6.8 where 9.0 m is required;

Section 6.10.1 – Setback from Provincial Highways

A variance to allow a setback from of 9.2 m from Highway 33 where 15.0 m is required;

Section 6.4.2 – Projections Into Yards

A variance to allow decks to project 2.8 m into the required rear yard setback where only 2.5 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

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- 6.3 (a) Planning & Corporate Services Department, dated November 10, 2005 re: Development Permit Application No. DP05-0145 – Tessco Inc. (Ross Manning) – 1331, 1341 & 1347 Ellis Street

Staff:

- The applicant proposes to develop the site with a 4½ storey mixed use building with 87 apartment housing units above ground floor commercial space and parking.
- The density measured in FAR is probably higher than the Lagoons or the Dolphins but because the site is wide and regular in shape, a relatively low height building was possible. The varied height will bode well in creating an interesting street on the edge of the cultural district.
- The project would be 4 floors of framed construction above a concrete base.

Moved by Councillor Hobson/Seconded by Councillor Day

R1122/05/11/15 THAT Council authorize the issuance of Development Permit No. DP05-0145 for the following lots:

Lot 5, District Lot 139, O.D.Y.D. Plan 645;
 Lot 4, District Lot 139, O.D.Y.D. Plan 645;
 Lot 3, District Lot 139, O.D.Y.D. Plan 645; and
 Lot A, District Lot 139, O.D.Y.D. Plan KAP79056

all located on Ellis Street, Kelowna, B.C., subject to the following 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. The landscaping 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. The Applicant be required to provide a copy of a "Certificate of Compliance" or a letter stating "no further action is required" from the BC Ministry of Environment, to the satisfaction of the City of Kelowna Environment/Solid Waste Manager;

AND 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 October 24, 2005 re: Development Variance Permit Application No. DVP05-0183 – Tessco Inc (Ross Manning) – 1331, 1341 and 1347 Ellis Street

See discussion under (a).

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.

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Councillor Clark left the meeting at 7:09 p.m.

Moved by Councillor Shepherd/Seconded by Councillor Given

R1123/05/11/15 THAT Council authorize the issuance of Development Variance Permit No. DVP05-0183 for the following lots:

Lot 5, District Lot 139, O.D.Y.D. Plan 645;
 Lot 4, District Lot 139, O.D.Y.D. Plan 645;
 Lot 3, District Lot 139, O.D.Y.D. Plan 645; and
 Lot A, District Lot 139, O.D.Y.D. Plan KAP79056

all located on Ellis Street, Kelowna, B.C.

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

Section 14.7.5 (e) – C7 – Central Business Commercial Development Regulations

Vary the requirement that any portion of a building above 15.0 m in height be a minimum of 3.0 m from any property line abutting a street, as shown on C7 - Diagram B attached to this permit, such that this portion of the building be 0.0 m from the property line;

Section 8.4.6 – Bicycle Parking – Development Standards (size, location)

Vary the requirement that Bicycle parking stalls shall be a minimum of 0.6 m in width and a minimum of 1.8 m in length, shall have a vertical clearance of at least 1.9 m, and shall be situated on a hard surface in order to allow for vertical bicycle storage located on the main floor of the building;

Section 8.4.9 – Bicycle Parking – Development Standards (accessibility, security)

Vary the requirement that bicycle parking be located in a convenient, well-lit location that is easily located and accessible by visitors and subject to casual surveillance by occupants of the building served by the rack, in order to allow for vertical bicycle storage located at the rear of the building next to the lane.

Carried

- 6.4 (a) Planning & Corporate Services Department, dated November 4, 2005 re: Development Permit Application No. DP05-0154 – Sunstone Resort Communities Corp. (FWS Construction Ltd.) – 1570 KLO Road

Staff:

- The subject property is adjacent to the future Burtch Road extension to the east and to the west is the Mountain View Care facility.
- The applicant is expanding on the Mountain View concept of providing a full range of accommodation for seniors as they age. As such, the applicant is proposing to develop the site with two 3-storey buildings; one with 47 units for independent living and the other a 90-bed assisted living facility.

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R1124/05/11/15 THAT Municipal Council authorize the issuance of Development Permit No. DP05-0154; for Lot 2, DL 131, ODYD Plan KAP77109, located on KLO 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;
5. The registration of required reciprocal access and parking easements as noted by the Works and Utilities Department;

AND 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 October 18, 2005 re: Development Variance Permit Application No. DVP05-0184 – Sunstone Resort Communities Corp. (FWS Construction Ltd.) – 1570 KLO Road

See discussion under (a)

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 Hobson/Seconded by Councillor Cannan

R1125/05/11/15 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP05-0184; FWS Construction Ltd.; Lot 2, DL 131, ODYD Plan KAP77109, located on KLO Road, Kelowna, B.C.;

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

1. Section 13.10.6(b) **Development Regulations**, to vary the maximum site coverage of buildings, driveways, and parking areas from 60% permitted to 75% proposed;
2. Section 13.10.6(d) **Development Regulations**, to vary the minimum front yard from 6.0 m required to 4.5 m proposed;

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3. Section 13.10.7(b) **Other Regulations**, to vary the maximum continuous building frontage from 40.0 m permitted to 63.7 m proposed for the residential care building, and from 40.0 m permitted to 46.3 m proposed for the apartment building;

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

- 6.5 Planning & Corporate Services Department, dated October 4, 2005 re: Development Variance Permit Application No. DVP05-0180 – Jack Peters and Cynthia Waldek-Peters (Jack Peters) – 1857 Barlee Road

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 Hobson/Seconded by Councillor Cannan

R1126/05/11/15 THAT Council authorize the issuance of Development Variance Permit No. DVP05-0180; Lot B, District Lot 129, ODYD Plan 12956, located on Barlee Road, Kelowna, B.C.;

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

Section 9.5.4: Specific Use Regulations: Secondary Suites:

Vary the maximum permitted size for a secondary suite from 90 m² permitted to 106.2 m² proposed.

Carried

- 6.6 Planning & Corporate Services Department, dated October 12, 2005 re: Development Permit Application No. DP04-0078 and Development Variance Permit Application No. DVP05-0164 -622632 BC Ltd. (HMA Architects) – 110, 150-154 Highway 33 West

Withdrawn from the agenda.

7. REMINDERS – Nil.
8. TERMINATION

The meeting was declared terminated at 7:23 p.m.

Certified Correct:

Mayor

Deputy City Clerk

BLH/am