

Regular MeetingNovember 14, 2006

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 14, 2006.

Council members in attendance: Mayor Sharon Shepherd, Councillors A.F. Blanleil, B.A. Clark, C.B. Day, R.D. Hobson, N.J. Letnick and M.J. Rule.

Council members absent: Councillor B.D. Given and C.M. Gran.

Staff members in attendance were: City Manager, R.L. Mattiussi; City Clerk, A.M. Flack; Director of Planning & Development Services, M. Pynenburg; Acting Manager of Development Services, S. Gambacort; Inspection Services Manager, R. Dickinson*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:10 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, October 16, 2006
 Public Hearing, October 17, 2006
 Regular Meeting, October 17, 2006
 Regular Meeting, October 30, 2006
 Regular Meeting, November 6, 2006

Moved by Councillor Hobson/Seconded by Councillor Day

R1015/06/11/14 THAT the Minutes of the Regular Meetings of October 16, October 17, October 30 and November 6, 2006 and the Minutes of the Public Hearing of October 17, 2006 be confirmed as circulated.

Carried

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

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAW PRESENTED FOR SECOND AND THIRD READINGS)

5.1 Bylaw No. 9683 (Z05-0070) - H.R. Tostenson Ltd. (Tom Smithwick) – 128 Penno Road

Moved by Councillor Clark/Seconded by Councillor Letnick

R1016/06/11/14 THAT Bylaw No. 9683 be read a second and third time.

Carried

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- (b) Planning & Development Services Department, dated July 14, 2006 re: Development Variance Permit Application No. DVP06-0051 – Alfred Kuschat – 610 Bell Road

Staff:

- The applicant's intention is to use the entire basement of the single detached dwelling as a secondary suite. This results in the suite being slightly larger than what is permitted by the zoning bylaw.

The City Clerk advised that no correspondence had been received.

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

Alfred Kuschat, applicant:

- To draw the plan any other way would not have made sense.

Moved by Councillor Letnick/Seconded by Councillor Rule**R1018/06/11/14** THAT Council authorize the issuance of Development Variance Permit No. DVP06-0051 for Lot B, Sec 23, Twp 26, ODYD Plan 15597, located on Bell Road, Kelowna, B.C., subject to the following:

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

Section 9.5.4 Secondary Suites – Maximum Floor Area – To vary the maximum floor area of a Secondary Suite from the required 90 m² or 40% of the total floor area of the principal building, to a proposed maximum floor area of 91 m² or 42% of total floor area of the principal building.Carried

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- 6.2 Planning & Development Services Department, dated October 18, 2006 re: Development Variance Permit Application No. DVP06-0185 – Jaime Lynn Husch (Rory Husch) – 1060 Hume Avenue

The City Clerk advised that no correspondence had been received.

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

Moved by Councillor Hobson/Seconded by Councillor Clark

R1019/06/11/14 THAT Council authorize the issuance of Development Variance Permit No. DVP06-0185; Lot 6, Section 13, Township 26, ODYD Plan KAP79228, located at 1060 Hume Avenue, Kelowna, B.C.;

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

Section 7.5.3 – Landscaping and Screening – Fencing & Retaining Walls

Vary the maximum height for fencing from 2.0 m permitted to 3.04 m proposed.

Carried

- 6.3 Planning & Development Services Department, dated October 18, 2006 re: Development Permit Application No. DP06-0098 and Development Variance Permit Application No. DVP06-0099 – Kettle Valley Holdings Ltd. (Taynton Developments Inc.) – 328 Providence Avenue

Staff:

- The applicant is proposing to construct 20 units of rowhousing.
- The setback variance only applies to the end units because they have attached garages.

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

- letter of opposition from Chris & Anne Teal, 5139 Ptarmigan Street
- letter of concern from Jason Webb, 333 Providence Avenue

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

Gary Callaghan, applicant:

- The pull-out bays are existing today. Does not propose to change any of the existing curb lines.

Jason Webb, Harmony Homes:

- Harmony Homes owns 329 and 333 Providence Avenue, across the street from the subject property.
- The diagram being displayed does not reflect current conditions. Displayed photos showing a continuous boulevard where the site map shows jogs in the boulevard. Would support the boulevard staying the way it is.
- Concerned about losing trees, grass and parking.

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Dallas Gray, Harmony Homes:

- Is co-owner of the two Harmony Homes lots directly across the street.
- The site plans indicate that the grass and trees would be eliminated making that section of Providence Avenue inconsistent with the rest of the street. Showed photos of the first phase of Providence to show that the grass and mature landscape is what makes the street so significant.
- The bump-outs shown on the map are where two existing light standards are so it looks like they are just there to accommodate the lights.

Chris Brayman, 337 Providence Avenue:

- Concerned that with only three visitor parking stalls for 20 units, visitors will be parking their cars on the street. That is happening already in a similar situation in the development.
- Getting rid of the grass and trees would change the character of the area. Need to retain the consistency of the look and feel of Kettle Valley as it is.

Gary Callaghan, applicant:

- The photos that Jason Webb displayed showing the current boulevard conditions is correct and will not be changed.

Moved by Councillor Hobson/Seconded by Councillor Day

R1020/06/11/14 THAT Council authorize the issuance of Development Permit No. DP06-0098, Lot 19, Sec. 23, Twp. 28, SDYD Plan KAP75525, located on Providence 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. The central paved space, currently shown as asphalt, be treated with a unique and distinct treatment (i.e. stamped asphalt or stamped concrete) to offer a degree of distinct visual interest;

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;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP06-0099, Lot 19, Sec. 23, Twp. 28, SDYD Plan KAP75525, located on Providence Avenue, Kelowna, B.C.;

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

Section 8.1.12 – Parking and Loading; Off-Street Vehicle Parking

A variance to allow the drive aisle width of 6.0 m where 7.0 m is required;

CD2 – Kettle Valley Comprehensive Residential Development, Schedule 'B', Map 1 (page 7 of 17) – Type VI

A variance to allow a rear yard setback of 1.5 m where 6.0 m is required.

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- 6.4 (a) Planning & Development Services Department, dated October 6, 2006 re: Development Permit Application No. DP06-0123 – Canada Lands Co. CLC Ltd. (Fred Pritchard, Ledingham McAllister) – 1130 & 1092 Ellis Street and 1089 Sunset Drive

See discussion under agenda item No. 6.4(b).

- (b) Planning & Development Services Department, dated September 22, 2006 re: Development Variance Permit Application No. DVP06-0124 – Canada Lands Co. CLC Ltd. (Fred Pritchard, Ledingham McAllister) – 1130 & 1092 Ellis Street and 1089 Sunset Drive

Councillor Blanleil advised that he owns property within the notification radius for this application but that he does not feel that approving the requested variances would result in any benefit to him and so he would not be declaring a conflict of interest for this item.

Staff:

- The applicant is proposing to consolidate the three properties for development with 780 residential units within one 26-storey apartment tower and eight 4-storey structures.
- Explained how the applicant is proposing to address the Area Structure Plan recommendations for this area.
- The setback variance to the Icon site will be eliminated when the elevation of that property is raised to match the elevation of the subject property.
- The proposed parkade is approximately 2 m below grade and 1 m above the sidewalk elevation. There are three main access points to the parking structure and off each access there is an area designated for visitor parking with 14, 52 and 46 stalls.
- The 101 stall reduction seems significant but given the proximity to downtown, the transit that is available, the demographics of who lives in the housing in the downtown, and the move to encourage use of alternate modes of transportation, staff support the reduced parking.
- Displayed slides of the area with the proposed development superimposed to show how the height and location for the tower provides spacing and a more visually interesting skyline.
- Clarified that there would be no need for the parking variance if the developer paid cash in lieu for the 101 stall shortfall.

Council:

- Staff to investigate whether the City has the ability to require bonding instead of cash in lieu for parking shortfalls.

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

Letters of Opposition:

- Don & Bette Green, 325 - 1088 Sunset Boulevard
- Irene Buchheim, 123 - 1156 Sunset Drive
- Brunhilde Kral, 525 – 1088 Sunset Drive
- Don and Maureen Anderson, 311 - 1088 Sunset Drive
- Lawrence Wright, 430 – 1088 Sunset Drive
- Frederick Speckeen, 116 – 1156 Sunset Drive
- Nick Gretener, 1603 – 1128 Sunset Drive
- Josette Banz, 604 – 1152 Sunset Drive
- Tanya and Peter Stanton, 121 – 1088 Sunset Drive
- Lynn and John Tribe, 112 – 1088 Sunset Drive
- Barb McKinney and Kim Bourgeois, 530 – 1088 Sunset Drive
- Karen Bieber, 232 – 1088 Sunset Drive
- Stan and Annette Gillard, 601 -1152 Sunset Drive.

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Letters of Support:

- Janet and George Vanderhoek, 1502 – 1160 Sunset Drive
- Stanley Yasin, Managing Partner- Sage Enterprises, 1187 Sunset Drive
- Bob Hornes, Navigator Development Corp. - no address given.

Ward McAllister, president of Ledingham McAllister, applicant:

- Introduced his design team.
- The project will set the bench mark for evaluating future projects.
- The variances are necessary for the overall viability of this new neighbourhood.
- Intends to voluntarily donate \$100,000 toward creating and implementing a strategy for affordable housing in Kelowna.

Bryce Rositch, project architect, Rositch Hemphill & Associates Architects:

- The project design is urban resort style. The high rise tower location is at the north end of the site and the height variance allows for a slimmer tower so the shadow cast on the Brandt's creek pathway is narrower.
- Adding a level onto the parkade structure would add to the bulk of the site.
- The central promenade street through the site would be open, not gated, and full of activity with all the entrances to the proposed buildings coming off this street and the apartment terraces facing the street.
- A variety of housing units is proposed.
- Displayed slides showing the results of their shadow studies.
- Adding more height does not provide more units, it reduces the size of the footprint.
- The variance to parking is for the people purchasing units not the visitors.

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

Bryan Peterson, president of Sunset Tower strata council:

- The strata council met several times with the applicant's senior development officer, Fred Pritchard, and supports the project in general. The strata council supports all the variances being requested other than the parking variance and they are willing to compromise on that. Any move toward the required number of parking stalls would be appreciated.
- The strata council wants to see the project go ahead and feels it will be a great attribute to the neighbourhood.
- There are 130 owners in the Discovery Point tower. Parking is currently a bit of a challenge because of construction at Discovery Bay. Once that work is completed, anticipate that the parking that is available will be close to what is required.

Kevin Ade, Friends of Brandt's Creek:

- The Friends of Brandt's Creek worked with Canada Lands on the restoration of the Brandt's Creek corridor.
- The proposed project is of great concern. The high rise is a prime issue. Other concerns include ground water, the amount of fill which these buildings are being built on, wind issues, forces from tremors, and casting of shadows which will have an effect both socially and environmentally. Would prefer the high rise was located adjacent to Ellis Street. There is no rational reason for increasing the height of the building to 26 storeys. Concerned about parking. Lack of parking does not force people to use buses and the people who can afford to buy on this property can afford to buy cars. Just because they live close to downtown does not mean a family will not have two or three cars. Water shortage will worsen in the coming years due to urbanization, climate change, etc., and also needs to be taken into account.
- The variances should not be approved for the reasons raised.
- Is not in a position to comment on the applicant's intention to put ground water discharge into the creek and wetland having not seen the plans.

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Arthur Hughes-Games, Kelowna Rotary Club:

- The Kelowna Rotary Club developed the Rotary Marshes to clean up Brandt's Creek which when they started was not much more than an open sewer and to demonstrate to the public how important natural marsh lands are.
- The Club's Environmental Committee held an emergency meeting today having just learned on Friday of the proposed highrise. The Committee is concerned that plant, insect and bird life will all be impacted by the shadowing impact on the Rotary Marshes. The committee is also concerned about the affect of the underground parking on ground water and that parking will be inadequate.

John Gough, president of the Dolphins strata council:

- Supported the comments made by Bryan Peterson of the Sunset Tower strata council. The overall design is good and will improve the area and also the old railroad theme is good.
- The Dolphins strata council is concerned about two of the variances; the height variance and the parking variance. The 16 storey limitation on building height has already been changed to 21 storeys for the future hotel and Icon development. If this is approved, the norm will move from what has now become 21 storeys to 26 storeys. With the variances that have already been granted to parking for other developments in the area, if the requested parking variance is granted there will be close to a 200 parking stall shortage in the area.

Sarah Lewis, North End Residents Association:

- The Association discussed the subject application at its last executive meeting and supports the lower buildings but not the 26 storey tower. The executive could support an 8-12 storey tower.

A resident of the Lagoons, 1156 Sunset Drive:

- Opposed to the 26 storey building height, decreasing the parking by 101 stalls, and reducing the (south side yard) setback from 13.5 ft. to zero.
- Concerned that City Council is ignoring the City of Kelowna Official Community Plan and giving in to developer greed.
- Concerned that 26 storeys would set a precedent and would prefer three 10-storey or two 16-storey buildings. Aesthetically a tall building amongst all the 4-storey buildings would not be pleasing.

Ed Alske, President of Discovery Bay strata council and Vice-President of the Sunset Tower (used to be called the Discovery Tower):

- Discovery Bay will be most impacted by the proposed highrise building.
- The residents of the tower and at Discovery Bay are prepared to support the 26 storey height but with a compromise on the parking.
- It is not realistic to expect that everyone living in the downtown will walk or ride their bikes. People are going to drive and there already is a parking issue.

Gail Temple:

- Development has to start somewhere and the proposed building mix achieves the densities the City desires and is better than four 16-storey buildings.
- The streetscape is also important to consider.
- Encouraged Council to support the project.

Lambert Schmaltz:

- Kelowna has come a long ways in the 50 years he has been here.
- Shadow affects can be beneficial to fish.
- Supports the application.

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John O'Donnell, Vice President of Development, Ledingham McAllister;

- City and Ministry of Environment staff support the application including the location of the tower. the proposed development would help address water temperature and water flow are issues. Most creeks have shade trees along the banks. Considerable environmental work was done at the time of rezoning.
- The main benefit of the tower would be the amount of green space around the tower and adjacent to the creek.
- The requirement for 112 visitor parking stalls would not be varied.
- There would be a policy in the disclosure statement and the strata bylaws that any stall not used for a month would have to go into the rental pool and the owner of the stall would receive a small monthly income during that time.
- Could reduce the number of bike storage lockers and increase the parking by 30 stalls or so.
- A sediment control plan would be put in place during preload and during construction.
- Could have pursued four 16-storey concrete towers but wanted to do a mix of housing types and bring Kelowna residents into this area to invigorate the downtown. Four-storey wood rise buildings are constructed at lower cost and so can be more affordable.

Bryce Rositch, project architect, Rositch Hemphill & Associates Architects:

- Most of the developments across the street are taller than 16 storeys and there is shadowing already from the existing buildings.
- Whether the tower was 26-storeys or 10 storeys there would still be shadow effect on the creek but it would be bulkier with a larger building footprint.
- Could likely get an additional 35 or so stalls in the parking garage by moving around some of the storage areas.

Moved by Councillor Clark/Seconded by Councillor Day

THAT Council authorize the issuance of Development Permit No. DP06-0123 for Lots 2, 3 and 4, DL 139, O.D.Y.D. Plan KAP76304, located on Sunset Drive and Ellis Street, 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" which incorporates the Parks Division comments;
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 the revised flooding covenant on title;
6. Consolidation of Lots 2, 3 & 4 into one legal lot;

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;

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AND THAT Council authorize the issuance of Development Variance Permit No. DVP06-0124; Lots 2, 3 and 4, DL 139, O.D.Y.D. Plan KAP76304, located on Sunset Drive and Ellis Street, Kelowna, B.C.;

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

- a) Section 6.1 **Daylighting Standards** to vary the Vertical Angle from 65° permitted to 85° proposed;
- b) Section 8.1.2 **Number of Spaces** to vary the number of parking stalls from 1129 stalls required to 1028 stalls provided;
- c) Section 13.12.6 (c) **Development Regulations** to vary the maximum building height from 55.0 m or 16 storeys permitted, to 81.5 m or 26 storeys proposed; and
- d) Section 13.12.6(e) – **Development Regulations**, to vary the minimum south side yard setback from 4.5 m required to the 0.0 m proposed to the parking structure;

subject to the applicant providing a redesign to top of high-rise building to mitigate the effect of shadows and to be more in keeping with the area buildings that currently exist, or are proposed to be constructed; the use of improved finish materials in keeping with standards of the area, and the provision of a "Crime Prevention Through Environmental Design" review report of the proposed project.

Amendment Moved by Councillor Day/Seconded by Councillor Clark

R1021/06/11/14 THAT the number of parking stalls to be provided be increased by 35 stalls.

Carried

The original motion as amended was then voted on and carried, as follows:

Moved by Councillor Clark/Seconded by Councillor Day

R1022/06/11/14 THAT Council authorize the issuance of Development Permit No. DP06-0123 for Lots 2, 3 and 4, DL 139, O.D.Y.D. Plan KAP76304, located on Sunset Drive and Ellis Street, 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" which incorporates the Parks Division comments;
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;

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5. The registration of the revised flooding covenant on title;
6. Consolidation of Lots 2, 3 & 4 into one legal lot;

AND THAT the issuance of Development Variance Permit No. DVP06-0124 be authorized concurrently;

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;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP06-0124; Lots 2, 3 and 4, DL 139, O.D.Y.D. Plan KAP76304, located on Sunset Drive and Ellis Street, Kelowna, B.C.;

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

- e) Section 6.1 **Daylighting Standards** to vary the Vertical Angle from 65° permitted to 85° proposed;
- f) Section 8.1.2 **Number of Spaces** to vary the number of parking stalls from 1129 stalls required to 1063 stalls provided;
- g) Section 13.12.6 (c) **Development Regulations** to vary the maximum building height from 55.0 m or 16 storeys permitted, to 81.5 m or 26 storeys proposed; and
- h) Section 13.12.6(e) – **Development Regulations**, to vary the minimum south side yard setback from 4.5 m required to the 0.0 m proposed to the parking structure;

subject to the applicant providing a redesign to top of high-rise building to mitigate the effect of shadows and to be more in keeping with the area buildings that currently exist, or are proposed to be constructed; the use of improved finish materials in keeping with standards of the area, and the provision of a “Crime Prevention Through Environmental Design” review report of the proposed project.

Carried

7. BYLAWS – Nil.
8. REMINDERS – Nil.
9. TERMINATION

The meeting was declared terminated at 9:20 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am