

Regular MeetingFebruary 19, 2008

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, February 19<sup>th</sup>, 2008.

Council members in attendance: Mayor Sharon Shepherd, Councillors Barrie Clark, Colin Day, Brian Given, Carol Gran and Norm Letnick.

Council members absent: Councillors Andre Blanleil, Robert Hobson and Michele Rule.

Staff members in attendance were: City Manager, Ron Mattiussi; Deputy City Clerk, Stephen Fleming; Current Planning Supervisor, Shelley Gambacort; Planner, Nelson Wight\* and Council Recording Secretary, Sandi Horning.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:49 p.m.

2. A Prayer was be offered by Councillor Letnick.

3. CONFIRMATION OF MINUTES

Regular Meeting A.M. - February 4, 2008  
 Regular Meeting P.M. - February 4, 2008  
 Public Hearing - February 5, 2008  
 Regular Meeting – February 5, 2008  
 Regular Meeting A.M. - February 11, 2008  
 Regular Meeting P.M. - February 11, 2008

Moved by Councillor Letnick/Seconded by Councillor Given

**R155/08/02/19** THAT the Minutes of the Regular Meeting of February 4<sup>th</sup>, 2008 and February 5<sup>th</sup>, 2008 and February 11<sup>th</sup>, 2008 and the Minutes of the Public Hearing of February 5<sup>th</sup>, 2008 be confirmed as circulated.

Carried

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

5. BYLAWS CONSIDERED AT PUBLIC HEARING

**(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS)**

5.1 Bylaw No. 9923 (Z07-0098) – Dale Riddell, David Bach, Nicole and Jason Marzinzik, Thieu Vu (Jason Marzinzik) – 1859, 1879 and 1891 Marshall Street and 508 Sutherland Avenue and off of Rowcliffe Avenue

Moved by Councillor Given/Seconded by Councillor Letnick

**R156/08/02/19** THAT Bylaw No. 9923 be read a second and third time.

Carried

Regular MeetingFebruary 19, 20085.2 Bylaw No. 9926 (Z07-0037) – Michael Zwicker – 1519 Feedham AvenueMoved by Councillor Letnick/Seconded by Councillor Given**R157/08/02/19** THAT Bylaw No. 9926 be read a second and third time.Carried5.3 Bylaw No. 9927 (Z07-0094) – Mark Mudry (Jerry Troitter and R446 Enterprises Ltd. – 530 Hardie Road

Council:

- Concerned about the secondary suite in the dwelling and its impact on the neighbourhood.
- Feels the City should respect covenants that are registered against the properties.

Moved by Councillor Day/Seconded by Councillor Gran**R158/08/02/19** THAT Bylaw No. 9927 be read a second and third time.DEFEATED

Mayor Shepherd and Councillors Clark, Day, Given, Gran and Letnick – Opposed

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 Planning & Development Services Department, dated January 10, 2008 re: Development Variance Permit Application No. DVP07-0299 and Development Permit Application No. DP07-0228 – Johnny and Joy Klempner, Michael Daley and Josephine Tyabji – 800 and 804 Fuller Avenue **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward**

Staff:

- It is staff's preference to have the main entrance at the front of the house; however it would appear that the applicant is not forthcoming to that proposal.
- The Applicant did consult with the Planning Department prior to placing the structures on the property. It was more of an informal consultation and the structures were relocated onto the site temporarily until such time as the application was processed.
- The variances requested were brought to the attention of staff during the application process.
- Staff heard a lot of opposition from the neighbourhood and that is why this application is before Council.

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

- Letters of Opposition
  - A package of letters of opposition submitted by Patricia Graham, 816 Fuller Avenue, on behalf of herself and 14 other neighbours of the surrounding area
  - Ross Kulak, 1388 Gordon Drive
  - Carling Hopkins, 774 Fuller Avenue
  - Curtis Sery, 793 Fuller Avenue

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Regular MeetingFebruary 19, 2008Josephine Tyabji, Owner

- Confirmed that she canvassed the neighbours and clarified any misinformation that had been spread.
- The intention is to create two (2) units that will be well integrated into the community.
- Consulted and hired Robert MacKenzie Architect out of Penticton regarding the design of the structure.
- Conducted a market research study regarding the marketability of the property.
- Confirmed that the adjacent property owners are in favour of this development.
- It would be possible to move the structure further back from the sidewalk, but that would be very costly to achieve.

Michael Daley, Owner

- Trying to create affordable housing in the area as the development will include two (2), four (4) bedroom units.
- Wants to create something to enhance the area and not take away from it.
- If the variances are not granted, it might compromise the integrity of the development as well as the neighbourhood.
- Did not consult with the approving neighbours since November of 2007.

Joy Klempner, Owner

- The idea is to have two (2) separate outside private areas for both residences and moving the building back would compromise that intent.
- The existing floor plan shows the living room area as the front of the property, so if the main entrance was to be moved to the front, a front yard setback variance would be required in order to accommodate a main entrance in the front.
- Personally knocked on doors in the neighbourhood with a site plan in hand to obtain the neighbours support for this development.
- Received copies of all the opposition letters last year (November), and subsequently approached the adjoining neighbours to obtain their support.

Stephen Graham, Son of Patricia Graham, 816 Fuller Avenue

- The lots are currently non-conforming to the RU6 zoning.
- Feels that the buildings were moved onto the site to misrepresent the development.
- Have spoken with a number of neighbours who are not in favour of this development, including the adjacent property owners.
- The signed Petitions provided by Patricia Graham were canvassed in late January early February of 2008.
- Does not feel that the structures fit with the form and character of the neighbourhood.

Ray Turner, 817 Fuller Avenue

- Canvassed the neighbours and helped obtain the letters in opposition that were submitted by Mrs. Graham.
- Have lived in the area for a couple of decades and feels that the development will not fit into the neighbourhood.
- Feels that there has been a lot of misinformation and misrepresentation by the owners.
- Never received any information regarding the development from the owners and was only contacted when CHBC aired a story on the property.

Staff:

- The form and character development permit was triggered by the fact that the developer is proposing a secondary suite.
- This would not have to be put before Council, if there was no secondary suite proposed.
- Staff felt that Council should deal with both the DP and DVP at the same time, rather than dealing with the DVP and then having the DP dealt with at the staff level.

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Michael Daley, Owner

- Worked with the City with respect to the exterior and landscaping of the property.

Joy Klempner, Owner

- Confirmed that the architect not only visited Fuller Avenue concerning the form and character of the structure, but also the general neighbourhood.
- Realtors have already contacted her to advise that there are potential purchasers for the property when complete.
- There are flat roofs, peaked roofs and carriage homes in the area.

There were no further comments.

Moved by Councillor Gran/Seconded by Councillor Given

THAT Council authorize the issuance of Development Permit No. DP07-0228, for Lot 23, District Lot 138, O.D.Y.D., Plan 694, and Lot 1, District Lot 138, O.D.Y.D., Plan 947, located on Fuller Avenue, 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 annotated Schedule "B";
3. The landscaping be in general accordance with annotated Schedule "C";

AND THAT Council authorize the issuance of Development Variance Permit No. DVP07-0299, for Lot 23, District Lot 138, O.D.Y.D., Plan 694, and Lot 1, District Lot 138, O.D.Y.D., Plan 947, located on Fuller Avenue, Kelowna, B.C.

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

**13.6.5(a) RU6 Subdivision Regulations – Lot Width**

Vary the minimum lot width requirement from 13.0 m to 11.4 m.

**13.6.6(d) RU6 Development Regulations – Lot Width**

Vary the minimum side yard setback requirement from 2.0 m to 1.5 m.

Moved by Councillor Letnick/Seconded by Councillor Given

**R159/08/02/19** THAT Council defer consideration of Development Variance Permit No. DVP07-0299 and Development Permit Application No. DP07-0228 to the March 4, 2008 Council meeting to enable staff to report back on issues raised by Council.

Carried  
Councillors Clark and Gran – Opposed

Councillor Clark left the meeting at 8:05 p.m.

Regular MeetingFebruary 19, 20086.2 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 9897 (Z05-0036) – Maple Health Ranch (Terasen Gas).  
– 4460 Gordon Drive

Moved by Councillor Given/Seconded by Councillor Letnick**R160/08/02/19** THAT Bylaw No. 9897 be adopted.Carried

- (b) Planning & Development Services Department, dated January 8, 2008 re: Development Variance Permit Application No. DVP05-0093 – Terasen Gas Inc. – 4460 Gordon Drive **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.**

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

- Letter of Support
  - Peter & Lepa Ribich, 664 Dehart Road

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

Moved by Councillor Letnick/Seconded by Councillor Given

**R161/08/02/19** THAT Final Adoption of Zone Amending Bylaw No. 9897 be considered by Council;

THAT Council authorize the issuance of Development Variance Permit No. DVP05-0093; That Part Lot 1 District Lot 358 Osoyoos Division Yale District Plan KAP76990 as Shown on Plan KAP85681, located at 4460 Gordon Drive, Kelowna, B.C.;

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

**Section 16.4 – Utilities: 16.4.5:**

- (c) The minimum side yard be varied from 7.5 m when adjacent to a residential zone to 5.08 m for the northern property line and from 7.5 m to 4.65 m for the southern property line; and
- (d) The minimum rear yard be varied from 7.5 m when adjacent to a residential zone to 5.85 m

for a proposed Terasen Gas Regulator/Gate Station.

Carried

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- 6.3 Planning & Development Services Department, dated January 22, 2008 re: Development Variance Permit Application No. DVP07-0251 – Ed and Wendy Rush – 1395 Wilmot Avenue **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward**

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

Moved by Councillor Letnick/Seconded by Councillor Gran

**R162/08/02/19** THAT Council authorize the issuance of Development Variance Permit No. DVP07-0251 for Lot 11, Sec 13, Twp 26, ODYD, Plan KAP82241, located at 1395 Wilmot Ave, Kelowna, B.C.:

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

Section 13.1.6(c) Development Regulations – Front Yard Setback  
Vary the front yard setback from 4.5m required to 3.0m proposed.

Carried

- 6.4 Planning & Development Services Department, dated January 22, 2008 re: Development Variance Permit Application No. DVP07-0288 and Development Permit Application No. DP07-0287- Dereck Hennig – 852 Wardlaw Avenue **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward**

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

- Letter of Opposition
  - David Clark, 876 Wardlaw Avenue

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Chris Vickery, IHS Design

- Will be addressing the fire separation with the buildings by constructing a firewall between the buildings to address any fire issue concerns.

There were no further comments.

Regular MeetingFebruary 19, 2008Moved by Councillor Letnick/Seconded by Councillor Given

**R163/08/02/19** THAT Council authorize the issuance of Development Permit No. DP07-0287, for Lot 14, District Lot 136, O.D.Y.D., Plan 4855 located 852 Wardlaw Avenue, 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 landscaping be in general accordance with Schedule "C";

AND THAT Council authorize the issuance of Development Variance Permit No. DVP07-0288, for Lot 14, District Lot 136, O.D.Y.D., Plan 4855 located 852 Wardlaw Avenue, Kelowna, BC

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

**13.6.6(g) RU6 Subdivision Regulations – Single detached housing**

Vary the minimum distance separating two single detached housing units from 4.5 M required to 1.78 m

Carried

7. BYLAWS

**(BYLAW PRESENTED FOR ADOPTION)**

- 7.1 Bylaw No.9862 – Road Closure Bylaw – Portion of Benvoulin Court  
**Mayor to invite anyone in the public gallery who deems themselves affected by the proposed road closure to come forward.**

The Deputy City Clerk advised that the no correspondence and/or petitions had been received.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

Moved by Councillor Gran/Seconded by Councillor Day

**R164/08/02/19** THAT Bylaw No. 9862 be adopted.

Carried

9. REMINDERS

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10. TERMINATION

The meeting was declared terminated at 8:15 p.m.

Certified Correct:

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Mayor

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Deputy City Clerk

SLH/dld