

Regular MeetingApril 7, 2009

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, April 7th, 2009.

Council members in attendance: Mayor Sharon Shepherd, Councillors Andre Blanleil, Robert Hobson, Charlie Hodge, Graeme James, Angela Reid, Michele Rule and Luke Stack.

Council members absent: Councillor Brian Given.

Staff members in attendance were: Acting City Manager, Jim Paterson; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 11:30 p.m.

2. A Prayer was offered by Councillor Stack.

Moved by Councillor Hodge/Seconded by Councillor Rule

R450/09/04/07 THAT the meeting be continued past 11:00 pm in accordance with Section 5.5 of Council Procedure Bylaw No. 9200.

Carried

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting – March 23, 2009
 Regular P.M. Meeting – March 23, 2009
 Public Hearing – March 24, 2009
 Regular Meeting – March 24, 2009
 Regular A.M. Meeting – March 30, 2009
 Regular P.M. Meeting – March 30, 2009

Moved by Councillor James/Seconded by Councillor Stack

R451/09/04/07 THAT the Minutes of the Regular Meetings of March 23rd, 2009, March 24th, 2009 and March 30th, 2009 and the Minutes of the Public Hearing of March 24th, 2009 be confirmed as circulated.

Carried

4. Councillor Rule 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. 10077 (OCP07-0037) – FortisBC Inc. (New Town Planning Services Inc.) – 3550 Lochrem Road – Requires a majority of all Members of Council (5)

The Bylaw was not considered by Council as the Public Hearing has been kept open.

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- 5.2 Bylaw No. 10078 (Z07-0107) – FortisBC Inc. (New Town Planning Services Inc.) – 3550 Lochrem Road

The Bylaw was not considered by Council as the Public Hearing has been kept open.

- 5.3 Bylaw No. 10161 (OCP08-0027) – 0823250 BC Ltd. (Architecturally Distinct Solutions) – 695 Webster Road – **Requires a majority of all Members of Council (5)**

Moved by Councillor Stack/Seconded by Councillor Reid

R452/09/04/07 THAT Bylaw No. 10161 be read a second and third time.

Carried

- 5.4 Bylaw No. 10162 (Z08-0104) – 0823250 BC Ltd. (Architecturally Distinct Solutions) – 695 Webster Road

Moved by Councillor James/Seconded by Councillor Hodge

R453/09/04/07 THAT Bylaw No. 10162 be read a second and third time.

Carried

- 5.5 Bylaw No. 10168 (Z08-0118) – Robert & Lula Mills – 684 Barnaby Road

Moved by Councillor Hodge/Seconded by Councillor James

R454/09/04/07 THAT Bylaw No. 10168 be read a second and third time.

Carried

6. LIQUOR LICENSE APPLICATION REPORTS

Council agreed to move Item 6.2 forward on the Agenda.

- 6.2 Community Sustainability Division, dated February 27, 2009, re: Liquor Licensing Application No. LL09-0002 – Okanagan Princess Dining Tours (DNA's Juice Joint Ltd.) – M.V. Okanagan Princess berthed at 200-210 Bernard Avenue **Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

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

- Letter of Opposition:
 - Norman Gardner, 1585 Abbott Street

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

Regular MeetingApril 7, 2009Blair Franco, Applicant's Representative

- Confirmed that the applicant already has a non-patron participation liquor licence
- Believes that this is really a compliance issue and does not foresee any problems with the application.
- Advised that recorded music will be played during embarkment and disembarkment at a low volume.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Hodge

R455/09/04/07 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy 315 be it resolved THAT:

1. Council recommends the issuance of the license for the application from Okanagan Princess Dining Tours to obtain a patron participation endorsement for the establishment located on the M.V. Okanagan Princess, berthed at 200-210 Bernard Ave.
2. The Council's comments on the prescribed considerations are as follows:
 - (a) The potential for noise if the application is approved: No concerns have been identified; it is not anticipated that there will be any change to the existing level of noise generated by non-participation entertainment.
 - (b) The impact on the community if the application is approved: No concerns have been identified; it is not anticipated that there will be any change to the existing level of impact on the community as a result of the patron participation entertainment endorsement.
 - (c) Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose: It is not anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose.
3. The Council's comments on the views of residents are as contained within the minutes of the meeting at which the application was considered by Council. The applicant is required to place a Liquor License application sign at the front of the property a minimum of 10 days prior to the public meeting, the proposal is advertised in the local newspaper for two consecutive days, and land owners within a 100m buffer of the subject property receive hand-delivered mail. This advertising is completed by the City Clerk's department. The public is invited to submit written correspondence, or attend the public meeting.

Carried

- 6.1 Community Sustainability Division, dated March 13, 2009 re: Liquor Licensing Application No. LL09-0001 – City of Kelowna – 1375 Water Street **Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

Staff:

- Confirmed that anyone who rents the facility will have the option to either serve or not serve alcohol on the premises.

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

- Letters of Opposition:
 - Barbara J. Cameron, 420-550 Yates Rd
 - J. Cameron, 420-550 Yates Road
 - Yvonne Topf, Kelowna Community Concert Association, 212 Magic Drive

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 Hodge/Seconded by Councillor Reid

R456/09/04/07 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy 315 be it resolved THAT:

1. Council recommends the amendment of the license for the application from the City of Kelowna to obtain a liquor primary license for the establishment located at 1375 Water Street, Kelowna, BC (Kelowna Community Theatre), and legally described as Lot C, District Lot 139, ODYD, Plan KAP56114 for the following reasons: the proposed license amendment would not be a major departure from existing uses, and little negative impacts are anticipated.
2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved remains unchanged.
 - b) The impact on the community if the application is approved is considered minimal given that the facility is well established with programmed events.
3. The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council.

Carried
Councillor Hobson – Opposed.

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

7.1 (a) **BYLAW PRESENTED FOR ADOPTION**

Bylaw No. 10083 (Z08-0035) – Dwayne & Sandra Jeurond – 890 Juniper Road

Moved by Councillor Hodge/Seconded by Councillor Rule

R457/09/04/07 THAT Bylaw No. 10083 be adopted.

Carried

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- (b) Community Sustainability Division, dated February 10, 2009, re: Development Variance Permit Application No. DVP08-0085 – Dwayne & Sandra Jeaurond – 890 Juniper Road **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 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.

Dwayne Jeaurond, Applicant

- Advised that he also owns the property that is directly adjacent to the subject property.

There were no further comments.

Moved by Councillor Stack/Seconded by Councillor Blanleil

R458/09/04/07 THAT final adoption of the Zone Amending Bylaw No. 10083 be considered in conjunction with council's consideration of a Development Variance Permit on the subject property;

THAT Council authorize the issuance of Development Variance Permit No. DVP08-0085 for Lot D Section 23 Township 26 ODYD Plan 19579, located at 890 Juniper Road, Kelowna BC;

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

Section 13.6.6(e) Minimum Rear Yard Setback – To vary the minimum rear yard setback from 7.5 m required to 2.06 m proposed.

Carried

- 7.2 Community Sustainability Division, dated March 9, 2009 re: Development Variance Permit Application No. DVP09-0022 – Keith & Britta Morrice (Ruth Hall) – 3975 June Springs Road **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 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.

Ruth Hall, Applicant

- The reason for the expansion of the trailer is to accommodate her husband's accessibility issues as he will eventually be limited to a wheelchair.

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R459/09/04/07 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0022 Lot A, Section 3, Township 26, ODYD, Plan KAP61317, located at 3975 June Springs Road, Kelowna BC;

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

Section 9.5.4 Maximum Secondary Suite Size – To vary the maximum size of a secondary suite to 113 m² from 90 m².

Carried

- 7.3. Community Sustainability Division, dated March 11, 2009 re: Development Variance Permit Application No. DVP07-0259 – Gurmail & Manjit Dhillon – 269 Kneller Road **Mayor to advise that consideration of the Development Variance Permit Application by Council is to be deferred as the Development Sign was not properly displayed.**

Moved by Councillor Rule/Seconded by Councillor Hodge

R460/09/04/07 THAT Council defer consideration of Development Variance Permit Application No. DVP07-0259 to the April 21, 2009 Council meeting.

Carried

- 7.4 Community Sustainability Division, dated March 11, 2009 re: Development Permit Application No. DP09-0010 and Development Variance Permit Application No. DVP09-0011 – Elisa Valoroso (Renaissance Architecture Planning Inc.) – 1467 Sutherland 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 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.

Alex Christianson, Renaissance Architecture Planning Inc., Applicant's Representative

- Advised that the site does not currently have very much landscaping. The only area available for landscaping would be within City's Right-of-Way; however the applicant is willing to provide landscaping on the site as per the City's request.
- The rear yard setback variance is required to facilitate a loading area to improve the processing of the goods being delivered to the store.
- Advised that it was very difficult to make the parking on the site meet the requirements of the City due to a previous road widening on Sutherland Avenue.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R461/09/04/07 THAT Council authorize the issuance of Development Permit No. DP09-0010 for Lot 2 District Lot 137 ODYD Plan 11332, located at 1467 Sutherland Avenue, Kelowna BC;

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- a) The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
- b) The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
- c) Landscaping to be provided on the land be in general accordance with staff's proposed recommendations;

THAT Council authorize the issuance of Development Variance Permit No. DVP09-0011 Lot 2 District Lot 137 ODYD Plan 11332, located at 1467 Sutherland Avenue, Kelowna BC;

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

Section 14.3.5(f) Minimum Rear Yard Setback – To vary the minimum rear yard setback from 6.0 m required to 1.54 m proposed.

AND THAT issuance of the Development Permit and Development Variance Permit be contingent upon the requirements of FortisBC and the Real Estate & Building Services Department being satisfied.

Carried

- 7.5 Community Sustainability Division, dated March 12, 2009 re: Development Permit Application No. DP08-0187 and Development Variance Permit Application No. DVP08-0188 – 0804815 BC Ltd. (Bevanda Architecture Inc. – 426-436, 440-446 & 450-454 Bernard 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 City Clerk advised that the following correspondence and/or petitions had been received:

- Letter of Opposition:
 - Janet Smith
- Letters of Support submitted by the Applicant (13):
 - Mark Danielson
 - Erik Sandberg
 - John Hickey
 - Jane Hoffman
 - Marshall McAnerney
 - Dave Coombs
 - Sheila Chutskoff
 - Cindy Shockey
 - Johanna, Z Décor Home Furnishings
 - Kevin Bounds
 - Wayne Blackley
 - Neil Denby
 - Robert T. Evans

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

Kevin Hoffman, Applicant's Representative

- Based on the market in Kelowna, the developer felt that there was a need for attainable housing.
- Will be giving the local market the first opportunity to purchase in this development.
- Will be offering an amenity contribution as a result of this development.
- This project offers sustainable resources and the project is now a LEED Silver designation.
- Will be providing two (2) smart cars for the owners to share.
- Committed to development in walkable neighbourhoods.
- A restrictive covenant will be placed on the LuluLemon building that so that the owner will not be able to build any higher than an additional storey and will be required to coordinate that building with this development. The owner of the covenanted site is present tonight to confirm this agreement.
- It is not the developer's intention to do a pre-load on the site.

Nick Bevanda, Bevanda Architecture Inc.

- Provided Council with details of the architecture of this building.
- Advised that the target market of this development is the local population.
- Spoke to the height variance being requested and advised that due to the high water table, the parking level needed to be raised which resulted in a height increase.
- The developer is not intending to pursue certification as LEED Silver, but is committed to providing a building up to the LEED Silver standard.
- The development will be constructed right up to the property line and a fire wall will separate this development from the Scotiabank building.
- Provided details with respect to the landscape plan.

Larry Beasley, Applicant's Representative

- Advised that he is an international renown City Planner and Urban Designer.
- Believes that this project will contribute to the redevelopment of Kelowna's downtown as this development is consistent with the City's plan for the downtown area.
- Believes that this development is a "SmartGrowth" scheme.

Staff:

- Will work with the developer with respect to any landscaping designs along Bernard Avenue.
- Confirmed that staff are satisfied with the amenity contribution being proposed by the developer.
- The development permit with respect to the LuluLemon building is a direct DP and will not be before Council for consideration unless there are variances required,

Gallery:Ron, Owner of the LuluLemon Building

- Bought the building approximately 3 years ago.
- Fully agrees with the approach of the developer with respect to this project.
- Speaking in favour of this project and feels that this will be a great enhancement to the downtown core.
- Confirmed the agreement in place with the developer with respect to the restrictive covenant.
- Advised that he will be applying for the appropriate permits from the City when the construction to the LuluLemon property is commenced.

Mr. Huber

- Appreciates the fact that this will be a LEED Silver building, but is concerned that it will not be certified.

There were no further comments.

Moved by Councillor Stack/Seconded by Councillor Blanleil

R462/09/04/07 THAT Council authorize the issuance of Development Permit No. DP08-0187 for; Lot 5, Blk. 16, DL 139, O.D.Y.D., Plan 462, Exc. the W 17.05 ft thereof; Lot 4, Blk. 16, DL 139, O.D.Y.D., Plan 462; Lot 3, Blk. 16, DL 139, O.D.Y.D., Plan 462, located on Bernard 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;
5. The registration of a restrictive covenant acceptable to the City of Kelowna on the title of Lot A, DL 139, O.D.Y.D., Plan KAP44871 to limit the maximum future development to one additional storey in order to transfer remaining development potential to the subject properties
6. Registration of a plan of subdivision at Land Titles Office to consolidate the three subject properties into a single title
7. Amenity Contribution, inclusive of Payment if Lieu of Parking and Affordable Housing to be finalized prior to issuance of occupancy permit

AND THAT the applicant be required to complete the above-noted condition within 180 days of Council approval of the development permit application in order for the permit to be issued.

AND FURTHER THAT Council authorize the issuance of Development Variance Permit No. DVP08-0188; Lot 5, Blk. 16, DL 139, O.D.Y.D., Plan 462, Exc. the W 17.05 ft thereof; Lot 4, Blk. 16, DL 139, O.D.Y.D., Plan 462; Lot 3, Blk. 16, DL 139, O.D.Y.D., Plan 462, located on Bernard Avenue, Kelowna, B.C.;

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

Section 14.7.5(a) Development Regulations

Vary maximum building height from 44m permitted in Area 1 to 77m proposed,

Section 14.7.5(g) Development Regulations

Vary inclined angle above 15m elevation above grade from 80° required to 83° proposed

Carried
Councillor Reid – Opposed.

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7.6 (a) **BYLAW CONSIDERED AT THE PUBLIC HEARING AND PRESENTED FOR SECOND AND THIRD READINGS AND ADOPTION**

Bylaw No. 10164 (Z09-0009) – Detailed Developments Ltd. (Carl Scholl) – 2488 Abbott Street

Moved by Councillor Rule/Seconded by Councillor Hodge

R463/09/04/07 THAT Bylaw No. 10164 be read a second and third time and be adopted.

Carried

- (b) Community Sustainability Division, dated March 13, 2009 re: Development Variance Permit Application No. DVP09-0014 – Detailed Developments Ltd. (Carl Scholl) – 2488 Abbott Street **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 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 Blanleil/Seconded by Councillor James

R464/09/04/07 THAT Final Adoption of Zone Amending Bylaw No. 10164 be considered by Council;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP09-0014 for Lot 2, DL 14, O.D.Y.D., Plan 2813, located on Abbott Street, Kelowna, B.C.

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

Section 9.5.1 (d) Secondary Suites

To vary the siting of an accessory building with suite in an urban residential zone to be permitted to be located between the principal dwelling and the front yard.

Carried

8. REMINDERS – Nil.

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9. TERMINATION

The meeting was declared terminated at 1:07 a.m.

Certified Correct:

Mayor

City Clerk

SLH/dld