

Regular MeetingJune 2, 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, June 2, 2009.

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

Staff members in attendance were: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; 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 6:59 p.m.

2. PRAYER

2. A Prayer was offered by Councillor Hobson.

3. CONFIRMATION OF MINUTES

Public Hearing – May 19, 2009
Regular Meeting – May 19, 2009
Regular A.M. Meeting – May 25, 2009
Regular P.M. Meeting – May 25, 2009

Moved by Councillor Hobson/Seconded by Councillor Stack

R625/09/06/02 THAT the Minutes of the Regular Meeting of May 19th, 2009 and May 25th, 2009 and the Minutes of the Public Hearing of May 19th, 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. 10179 (Z09-0002) – Jaskaran Kandola (Axel Hilmer) – 446 Dell Road

Moved by Councillor Rule/Seconded by Councillor Hodge

R626/09/06/02 THAT Bylaw No. 10179 be read a second and third time.

Carried

Mayor Shepherd and Councillors Blanleil and Given – Opposed.

(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS AND ADOPTION)

5.2 Bylaw No. 10196 (Z09-0001) – Randy Mosher & Ashley Hager (Randy Mosher) – 1025 Thompson Road

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Moved by Councillor Hodge/Seconded by Councillor Rule

R627/09/06/02 THAT Bylaw No. 10196 be read a second and third time and be adopted.

Carried

5.3 Bylaw No. 10197 (Z09-0022) – Gordon & Susan Hammond (Gordon Hammond) – 1861 High Road

Moved by Councillor James/Seconded by Councillor Given

R628/09/06/02 THAT Bylaw No. 10197 be read a second and third time and be adopted.

Carried

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 Community Sustainability Division, dated May 8, 2009 re: Development Variance Permit Application No. DVP09-0021 – Timothy Marshall (IHS Design) – 2795 Longhill 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.**

Staff:

- Confirmed that Council has not considered the alignment of the Central Okanagan Multi-Modal Corridor ("COMMC").

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.

Chris Vickery, IHS Design, Applicant's Representative

- Primarily concerned that the proposed alignment of the COMMC may restrict the land use in the future.
- The owner is reluctant to proceed with signing off on Agreement when Council has not even considered the alignment of the COMMC.
- Advised that the applicant could have approached this by way of a rezoning to A1, but chose to deal with it by way of a height variance.

Gallery:

Scott Tyerman

- Is not opposed to the application, but is concerned about the proposed alignment for the COMMC.
- Believes that the City should not restrict the property owners from further developing their properties as a result of the COMMC.

Staff:

- Advised that the alignment of the COMMC is an Official Community Plan issue and is currently being dealt with through the current OCP review.
- Confirmed that the COMMC is not currently in the 20 year plan; nor is it part of a DCC Road contribution.

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Council:

- Would like staff to obtain legal advice concerning whether or not Council can request the type of agreement that is being considering in the 3rd paragraph of the recommendation.

Tim Marshall, Applicant

- Advised that he has been waiting for 4 months for this application to be heard by Council.
- Confirmed that he is reluctant to sign the Agreement proposed by staff.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Stack

R629/09/06/02 THAT Council defer consideration of Development Variance Permit Application No. DVP09-0021, with respect to the pole barn being proposed for the northeast corner of the property, to the June 16, 2009 Regular Meeting.

CarriedMoved by Councillor Blanleil/Seconded by Hobson

R630/09/06/02 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0021 for Lot 1, Section 34, Township 26, ODYD, Plan 42588, located at 2975 Longhill Road, Kelowna, BC;

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

Section 12.2.6 (b) – Maximum Height – To vary the maximum height allowed for accessory buildings from 4.5m to 6.518m to facilitate the construction of the hay barn proposed near the centre of the property.

Carried

- 6.2 Community Sustainability Division, dated April 27, 2009 re: Development Variance Permit Application No. DVP07-0259 – Gurmail & Manjit Dhillon – 269 Kneller 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 Deputy City Clerk advised that the following correspondence and/or petitions had been received:

- Letter of Opposition:
 - Greg & Marlene Lang, 1168 Kneller Court
- Additional Information Submitted by the Applicant:
 - Land Surveyor Certificates showing current and proposed site plans.

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

Gurmail Dhillon, Applicant

- Advised that the application to enclose the deck was originally applied for 2 years ago.

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- Advised that when he went to obtain his Building Permit, he was advised that he would also require a variance for the deck.
- Advised that he originally wanted a 12' x 12' deck, but then decided to construct a 12' x 15' deck.
- Confirmed that he wishes to add onto the existing deck.
- Confirmed that the area underneath the deck will not be enclosed; only the upper portion of the deck is to be enclosed.

Staff:

- Confirmed that there has been some confusion surrounding the plans that were submitted by the applicant.
- Advised that the Survey Certificate is accurate and shows the proper dimensions of the proposed deck.

Gallery:

Greg Lang, 1168 Kneller Court

- Believes that the deck is actually 6m from the fence.
- Believes that the dimensions of the deck are greater than the variance being requested.
- Is opposed to the variance being sought.

Gurmail Dhillon, Applicant

- Confirmed that the railings will have to be removed and the staircase relocated when he adds onto the deck.
- Wants to expand, and enclose, the existing deck because it is accessible through the kitchen.
- Clarified that he actually wants the deck to be 12' x 14'.

Staff:

- Believe that the existing deck is only 12' x 10' and not 12' x 12'; and therefore the applicant will be adding approximately 4' to the existing deck.
- Clarified that the applicant is requesting to be 9.5' closer to his neighbour in the backyard.

Moved by Councillor Stack/Seconded by Councillor Blanleil

THAT Council not authorize the issuance of Development Variance Permit No. DVP07-0259 for Lot 2, Section 26 and 27, Township 26, Osoyoos Division Yale District Plan KAP61888 located at Kneller Road, Kelowna, B.C.

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

Section 13.2.6 (e) – Development Regulations

To vary the required rear yard set back from 7.5m required to 4.64m proposed.

Amendment Moved by Councillor Stack/Seconded by Councillor Blanleil

R631/09/06/02 THAT Council authorize the issuance of Development Variance Permit No. DVP07-0259;

AND THAT the variance to Section 13.2.6 (e) be from 7.5m required to 6.16m proposed.

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The original motion as amended was then voted on as follows:

Moved by Councillor Stack/Seconded by Councillor Blanleil

R632/09/06/02 THAT Council authorize the issuance of Development Variance Permit No. DVP07-0259 for Lot 2, Section 26 and 27, Township 26, Osoyoos Division Yale District Plan KAP61888 located at Kneller Road, Kelowna, B.C.

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

Section 13.2.6 (e) – Development Regulations

To vary the required rear yard set back from 7.5m required to 6.16m proposed.

Carried

6.3 (a) **BYLAWS PRESENTED FOR ADOPTION**

- (i) Bylaw No. 10139 (OCP08-0025) – Andrew & Carolyn Stevenson – 718 Paret Road – **Requires a majority of all Members of Council (5)**

Moved by Councillor Stack/Seconded by Councillor Reid

R633/09/06/02 THAT Bylaw No. 10139 be adopted.

Carried

- (ii) Bylaw No. 10140 (Z08-0090) – Andrew & Carolyn Stevenson – 718 Paret Road

Moved by Councillor Blanleil/Seconded by Councillor Reid

R634/09/06/02 THAT Bylaw No. 10140 be adopted.

Carried

- (b) Community Sustainability Division, dated April 21, 2009 re: Development Variance Permit Application No. DVP08-0230 – Andrew & Carolyn Stevenson – 718 Paret 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**

Staff:

- Advised that the site plan that was attached the Council Report has actually been changed. The driveway access has been relocated and a revised parking plan, with 5 parking stalls, has also been submitted.

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

- Letter of Inquiry:
 - Ann Murphy, 713 Paret Road
- Letter of Concern:
 - Art Smith, 705 Paret Road

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

Andrew Stevenson, Applicant

- Both he and his wife have been surprised and dismayed at the vigour of the opposition to this application by some residents of the community; however he does believe that there is a growing number of people within the community that are enthusiastic about this application.
- Advised that the drawings that indicated the driveway entrance in the wrong place were completed by him personally and he simply made a mistake when he drafted the original site drawings.
- Believes that the new site drawing is actually better than what was originally proposed.

Gallery:Ann Murphy, 4708 Gordon Drive, formerly known as 713 Paret Road

- Concerned about the location of the loading space on the site.
- Concerned about safety on the site.
- Inquired who would be responsible to enforce the restrictive covenant on the site which restricts the access and egress of the traffic on the property to a forward motion.
- Believes that vehicles do not, or can not, enter/exit the site in a forward manner.
- Concerned about the location of the on-site parking and the loading space.

Art Smith, 4696 Gordon Drive, formerly known as 705 Paret Road

- Is objecting to the site plan that was presented at the Public Hearing as it has now been changed.
- Concerned that Council is looking at a reduction of parking when there could be up to 20 vehicles accessing the property.
- Concerned that no Building Permit was displayed when the property was being worked on.
- Advised that he is not against the idea of a pre-school.

Andrew & Carolyn Stevenson, Applicants

- Advised that if the parking and loading facility turn out not to be suitable, it would be their responsibility to make the necessary amendments and address any issues.
- Safety is his #1 concern given that nature of the business that will be operated on the site.
- If the parking facility is found to be unsafe in any way, shape or form, the applicant will address this safety issue.
- Believes that the location of the loading area will not restrict access and egress from the site in a forward motion.
- Advised that currently 60% of the students that have registered for this pre-school are within walking distance.
- Does not anticipate that any commercial vehicles will be unloading or bringing supplies to the facility. The pre-school will not be offering any food service as they are not licensed for the purpose.
- Believes that the loading area will be used primarily to pick up and drop off students.

Staff:

- Confirmed that the loading area on the site can be used to drop off and pick up students.
- Advised that there is sufficient space on the site to ensure that all vehicle movement is restricted to a forward motion.
- Clarified the landscaping being proposed for the site.

There were no further comments.

Regular MeetingJune 2, 2009Moved by Councillor Blanleil/Seconded by Councillor Given

R635/09/06/02 THAT final Adoption of the Zone Amending Bylaw No. 10140 be considered by Council;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP08-0230 for Lot 2, District Lot 357, S.D.Y.D., Plan KAP86608 located at Paret Road, Kelowna, B.C.

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

Table 8.2 – Loading Schedule

To vary the required number of loading spaces from 3 required to 1 proposed.

Carried
Councillor Hodge – Opposed.

- 6.4 Community Sustainability Division, dated April 17, 2009, re: Development Variance Permit Application No. DVP08-0259 – Charles Fipke (Shoreline Pile Driving) – 3848 Capozzi 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**

Staff:

- Advised that an Environmental Report has been provided by the applicant.

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

- o Letter of Support:
 - Mary Ann Bishop, 3854 Truswell Road

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

Cory Boniface, Applicant's Representative

- Advised that the applicant has recently obtained a study from the Environmental Division of City Hall that indicates that sediment for Mission Creek is being deposited in the area due to the works upstream by the Province to upgrade the dyking in the area.

Greg Capozzi, Applicant's Representative

- Advised that The Mission Shores dock will be a lot farther out that the dock that is being proposed by the applicant.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Hodge

R636/09/06/02 THAT Council authorize the issuance of Development Variance Permit No. DVP08-0259, for Lot A, O.D.Y.D., Plan 13822, located on 3848 Capozzi Road, Kelowna, B.C.

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

9.9.5 (a) Dock and Boat Lift Regulations – Dock Length

Vary the maximum dock length requirement from 40 m to 93 m.

Carried

7. REMINDERS – Nil.

8. TERMINATION

The meeting was declared terminated at 8:46 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk