

Regular MeetingNovember 17, 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, November 17, 2009.

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

Council members absent: Councillor Robert Hobson.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; Director, Corporate Services, Rob Mayne\*; and Council Recording Secretary, Sandi Horning.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 10:55 p.m.

2. A Prayer was offered by Councillor Rule.

3. CONFIRMATION OF MINUTES

Special Meeting - October 28, 2009  
 Regular A.M. Meeting - November 2, 2009  
 Regular P.M. Meeting - November 2, 2009  
 Public Hearing - November 3, 2009  
 Regular Meeting - November 3, 2009  
 Regular A.M. Meeting - November 9, 2009  
 Regular P.M. Meeting - November 9, 2009

Moved by Councillor James/Seconded by Councillor Reid

R1089/09/11/17 THAT the minutes of the Special Meeting of October 28, 2009 and the Regular Meetings of November 2, 2009, November 3, 2009 and November 9, 2009 and the Public Hearing Meeting of November 3, 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. 10250 (Z09-0027) - JQ Developments Inc. (QB Habitat Resources Inc.) - 248 Leon Avenue

The Public Hearing with respect to this item was kept open by Council, therefore, Council did not give second and third reading consideration to the Bylaw.

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5.2 Bylaw No. 10253 (Z09-0018) - R 547 Enterprises Ltd. - 1292 Findlay Road

Moved by Councillor Hodge/Seconded by Councillor Rule

R1090/09/11/17 THAT Bylaw No. 10253 be read a second and third time.

Carried

5.3 Bylaw No. 10254 (Z09-0050) - Bryan St. George - 647 Royal Pine Drive

Moved by Councillor Hodge/Seconded by Councillor Rule

THAT Bylaw No. 10254 be read a second and third time.

Amendment Moved by Councillor Blanleil/Seconded by Councillor Stack

R1091/09/11/17 THAT the registration of a no-disturb covenant be removed as a condition of adoption of Bylaw No. 10254;

Carried

Councillors James, Reid and Rule - Opposed

The motion, as amended, was voted on as follows:

Moved by Councillor Hodge/Seconded by Councillor Rule

R1092/09/11/17 THAT the registration of a no-disturb covenant be removed as a condition of adoption of Bylaw No. 10254;

AND THAT Bylaw No. 10254 be a second and third time and be adopted.

Carried

Moved by Councillor Hodge/Seconded by Councillor Reid

R1093/09/11/17 THAT the meeting be continued past 11:00 p.m. in accordance with Section 5.5 of Council Procedure Bylaw No. 9200.

Carried

Councillor Rule - Opposed

5.4 Bylaw No. 10255 (Z09-0046) - Giovanni & Sandra Gasparetto - 1050 Graham Road

Moved by Councillor Stack/Seconded by Councillor Reid

R1094/09/11/17 THAT Bylaw No. 10255 be read a second and third time.

Carried

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Bylaw No. 10156 (Z08-0084) - Ambrosi Properties Ltd. (The Mission Group) - 1821, 1833, 1845, 1857, 1869, 1877, 1885 and 1887 Ambrosi Road

Moved by Councillor Stack/Seconded by Councillor ReidR1095/09/11/17 THAT Bylaw No. 10156 be adopted.Carried

- (b) Community Sustainability Division, dated October 23, 2009 re: Development Permit Application No. DP08-0208 and Development Variance Permit Application No. DVP08-0210 - Ambrosi Properties Ltd. (The Mission Group) - 1821, 1833, 1845, 1857, 1869, 1877, 1885 and 1887 Ambrosi 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 front yard set back being proposed is actually 2.09m rather than 3.0m as stated on Page 2 of the Council Report.

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

- Letter of Opposition:
  - o Diane Wiebe, 3-1890 Ambrosi Road

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

Joanne Adamson, The Mission Group, Applicant

- Believes that the proposed development integrates into the surrounding area very nicely.

There were no further comments.

Moved by Councillor Rule/Seconded by Councillor BlanleilR1096/09/11/17 THAT Final Adoption of Zone Amending Bylaw No. 10156 be considered by Council;

THAT Council authorize the issuance of Development Permit No. DP08-0208 for Lots 13-20, Block 2, District Lot 129, ODYD Plan 5109 located at 1821, 1833, 1845, 1857, 1869, 1877, 1885, and 1887 Ambrosi Road, Kelowna, BC subject to the following:

- a) THAT the dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
- b) THAT the exterior design and finish of the building to be constructed on the land, be in general accordance with Schedule "B";

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- c) THAT landscaping to be provided on the land be in general accordance with Schedule "C";
- d) 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;
- e) The registration of the consolidation plan at the Land Titles Office prior to issuance of the Development Permit.
- f) The applicant be required to satisfy the Development Engineering Branch requirements prior to issuance of the Development Permit.

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. DVP08-0210 for Lots 13-20, Block 2, District Lot 129, ODYD Plan 5109 located at 1821-1887 Ambrosi Road, Kelowna, BC;

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

Section 13.11.6(b) Development Regulations - RM5

Vary the maximum site coverage from 40% allowed to 44% proposed.

Section 13.11.6(d) Development Regulations - RM5

Vary the minimum site front yard from 6.0m required to 2.09m proposed.

Section 13.11.6(e) Development Regulations - RM5

Vary the minimum site north and south side yards from 7.5m required to 1.2m proposed.

Section 13.11.6(f) Development Regulations - RM5

Vary the minimum site rear yard from 7.5m required to 3.2m proposed.

Carried

- 6.2 Community Sustainability Division, dated October 21, 2009 re: Development Variance Permit Application No. DVP09-0112 - Joseph Karl Huber (Janice Zazula) - 4316 Hobson 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.

Janice Zazula, Applicant's Representative

- Displayed photos of the subject property and explained why the variances are required.
- To the homeowners' knowledge, all of the buildings that were constructed on the property were done so by obtaining a building permit.
- A Development Permit for the pergola was not obtained because the owner was unaware that one was required.
- Believes that this development is an exception to the site line rules and regulations currently in place by the City.

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- The homeowner did not believe that the structure was considered a building and therefore they did not feel that they had to follow the site line rules and regulations.

## Staff:

- Advised that the site line guidelines only affect the structure itself and do not apply to any fencing or landscaping.

## Gallery:

Mark Ledwon, 4310 Hobson Road

- Is directly impacted by the structure and is strongly opposed to its location.
- Contacted the City to advise that he felt that the owner was building something without a permit and that the structure was contrary to any sight line views.
- Believes that the retaining wall on the property does not comply with City standards.
- Believes that the structure is within the no build zone and should not be built where proposed.
- Believes that the site line bylaw needs to be adhered to.
- Opposed to the requested variances.

Janice Zazula, Applicant's Representative

- Displayed photos from the neighbour's property detailing the site lines.
- Believes that the structure does not obstruct the view of the neighbour's property of the lake.

There were no further comments.

Moved by Councillor Reid/Seconded by Councillor Blanleil

R1097/09/11/17 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0112 for Lot 14, District Lot 167, ODYD, Plan 2194 located at Hobson Road, Kelowna, BC, subject to:

1. The registration of a no build/no disturb Section 219 restrictive covenant to preserve the Riparian Management Area, encompassing all the area from the natural boundary of Okanagan Lake to 15m upland.

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

Section 6.11.1 - Okanagan Lake Sight Lines

To vary the sight line of the abutting neighbour to the east from 60 degrees required to 30 degrees proposed.

Section 13.1.6 (d) - RU1 Development Regulations

To vary the required east side yard setback from 2.0m required to 1.7m proposed.

DEFEATED

Mayor Shepherd and Councillors Hodge, James and Rule - Opposed

Regular MeetingNovember 17, 2009Moved by Councillor Rule/Seconded by Councillor James

**R1098/09/11/17** THAT Council not authorize the issuance of Development Variance Permit No. DVP09-0112 for Lot 14, District Lot 167, ODYD, Plan 2194 located at Hobson Road, Kelowna, BC.

Carried  
Councillors Blanleil, Reid and Stack - Opposed

- 6.3. Community Sustainability Division, dated October 23, 2009 re: Development Variance Permit Application No. DVP09-0133 - Dilworth Shopping Centre Ltd. (Abbarch Architecture Inc.) - 2339-2397 Highway 97 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

**R1099/09/11/17** THAT Council authorize the issuance of Development Variance Permit No. DVP09-0133 for Lot A, District Lots 126 and 532, Osoyoos Division Yale District Plan 40108 located at Highway 97, Kelowna, B.C.;

AND THAT variances to the following sections of Sign Bylaw No. 8235 be granted:

**Section 6.1 - Number of Signs**

A variance to allow 4 awning, fascia, canopy, under canopy/awning signs when 2 signs are permitted per business.

Carried

7. PROVINCIAL REFERRALS

- 7.1 Director, Corporate Services, re: Provincial Referral Application No. PR09-0001 (Integrated Land Management Bureau) - Strata Corporation KAS2393 - 440 Cascadia 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 Provincial referral to come forward.

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

- Letters of Support:
  - Robert and Donna Wright, 215-440 Cascia Drive
  - Lawrence Salloum, 200-1455 Ellis Street
  - David and Margaret Craig, 101-440 Cascia Drive
  - Ed and Terri Hall, 209-440 Cascia Drive
  - Sheila Taylor, 106-440 Cascia Drive
  - T.M. and L.M. Hanlon, 111-440 Cascia Drive
  - Derek Allen, 618 Mt Thor Drive
  - Jane Hoffman, 211-440 Cascia Drive

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- Dave Rolleston, 7990 Lakeshore Road
  - Cindy and Tyler Bollhorn, 200-440 Cascia Drive
  - Kristy Huber and Steve Thomas, 109-440 Cascia Drive
  - Gloria and Trevor Cuthill, 207-440 Cascia Drive (2)
  - Ann Huber, 3-4524 Eldorado Court
  - Alan and Eva Swift, 2301 Pine Vista Place
  - Clifford Burkart, 615 Glenmeadows Road
  - David and Jamie Roy, 104-440 Cascia Drive
  - Carolyn and Garry Tanner, 113-440 Cascia Drive
  - Mareena and Sean Swift, 108-440 Cascia Drive
  - Trevor and Clare Kilburn, 204-440 Cascia Drive
  - Jenny Poppitt and Alex Lambert, 4309 Lakeshore Road
  - E. Hamilton Sparling, 44-615 Glenmeadows Road
  - Margaret Porubanec, 205-440 Cascia Drive
  - Shelley Shaman, 102-440 Cascia Drive
  - Jean Guy and Carol Charette, 72-615 Glenmeadows Road
  - Patti Dorin, 5529 Farron Place
  - Marilyn Shaman, 102-440 Cascia Drive
  - Judy Matheson and Tyler Ellis, 434 Grove Avenue
  - Dr. Kris and Jacquie Kalhs, 203-440 Cascia Drive
  - Denyse Belanger-Dow, 9-570 Sarsons Road
  - Nicole Lucier, 2-880 Christina Place
  - Brian Scanlan, 2-880 Christina Place
  - Stephen Dow, 9-570 Sarsons Road
  - Barb Craig and Don King, 1826 Maple Street
  - Karen Bosdachin, 105-440 Cascia Drive
  - Gary August, 14-1470 Harvey Avenue
  - Margaret and Ian Bourhill, NAI Holdings, 112-440 Cascia Drive
  - Mary Lynn Burkart and Melvyn Pointer, 201-440 Cascia Drive
  - Shawn and Sandy Reid, 213-440 Cascia Drive
  - Peter and Kathy Lacey, 100-440 Cascia Drive
  - Laura Gosset and Don Searle, 214-440 Cascia Drive
  - Lane Merrifield, 210-440 Cascia Drive
  - Glen and Mary Ratzlaff, 2188 Abbott Street
  - Joanne Pollock, 212-440 Cascia Drive
  - Debbie Bailey, Bailey Morrison Barristers and Solicitors, 902-1708 Dolphin Avenue
  - Julie Kellet, 382 Braeloch Road
  - Tera and David Gainey, 390 Braeloch Road
  - Bob Jones, Shoreline Pile Driving, 2053 Campbell Rd
- Letters of Opposition:
    - Frank Grigel, 8-4524 Eldorado Court
    - Edward and Colleen Brauer, 7-4524 Eldorado Court
    - Thomas Budd, 4594 Fuller Road
    - Tim Hunt, 4588 Fuller Road
- Additional Information submitted by Owners/Occupiers of the Surrounding Area:
    - Additional background information prepared by Tyler Bollhorn, President and Committee Members, Southbay Strata KAS2393 including a letter retracting the complaint made against the docks by the neighbouring strata, a copy of the presentation being made at tonight's meeting and technical comments from a consultant regarding the potential effect of boat lifts on the aquatic environment.
- Package of information and letter submitted by Wayne Fipke including a rebuttal of the information submitted by Strata KAS2393.

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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.

Tyler Bollhorn, President and Committee Members, Southbay Strata KAS2393

- Gave a presentation to Council explaining the necessity of the dock and boat lifts.
- Resides at #200 - 448 Southbay Drive.
- Believes that the conditions of Okanagan Lake warrant boat lifts.
- The dock was configured to have the least impact on the Fipke residence, which was a concern when the development was originally before Council.
- The Licence of Occupation with the Province does not actually specify where the boat lifts are to be located.
- Believes that the City's dock guidelines are inappropriate and does not serve the public's best interest.
- The homes in the development were constructed in 2003 and construction of the dock was also completed in 2003.
- The dock license was inherited from the developer of the strata development.
- The vast majority of lifts on the dock are single-boat lifts. There are only 4 double-post lifts, which would require additional pylons being added to the dock to support the lifts.

Staff:

- Confirmed that there has only been 8 Development Permit Waivers issued for the dock at Southbay Landing.
- Confirmed that the Development Permit Waiver allows for work to be conducted on Okanagan Lake as Okanagan Lake is considered an environmental development permit area.

Gallery:Bob Jones, Owner of Shoreline Power

- Built the dock in question.
- Read the letter that he submitted prior to the Public Hearing.
- Believes that the Province did not limit the number of boat lifts to 9 for this dock.
- Explained the process for installing a dock with a boat lift.
- Advised that the dock license was originally applied for by Rycon Construction.

Shawn Reid, #213 - 440 Cascia Drive

- In favour of the proposal.
- Is not concerned about his view from his property and he looks directly at the dock with the boat lifts.
- Believes that the additional boat lifts will not impact the property owners' site lines.

Annette, #202 - 440 Cascia Drive

- Without the boat lift she cannot take her children out on the lake as it would require another adult to be present.
- In favour of the additional boat lifts.

Derek Allan, 618 Mont Royal Drive, Coldstream, BC

- Owns #103 - 440 Cascia Drive.
- Believes that the additional lifts do not impede the site lines anymore than the original lifts.
- Believes that the boat lifts will protect Okanagan Lake from environmental damage from the boats that are on the water.

Trevor Kilburn, 204 - 440 Cascia Drive

- Did approach the City with respect to obtaining approval for his boat lift and subsequently obtained a Development Permit Waiver, which waiver he understood granted permission for his boat lift.



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- Believes that the only issue is whether or not the additional lifts will adversely affect the site line views of the abutting property owners.
- Was one of the owners who previously applied to the City for a Development Permit Waiver for his boat lift.
- Consulted the City prior to purchasing his property to ensure that a Development Permit Waiver would be granted by the City for his boat lift.

Laura Gosset, #214 - 440 Cascia Drive

- Supportive of the Southbay Landing dock application.
- As a waterfront owner, she was under the impression that she was entitled to a dock with a boat lift.
- Did not obtain a Development Permit Waiver for her boat lift as she was not aware that a Development Permit Waiver was required in order to install a boat lift.
- Concerned with the City's policy regarding the Shared Dock Guidelines.

Wayne Fipke

- Believes that his view will be obstructed by the additional boat lifts.
- Is opposed to the request for additional boat lifts on the dock.
- Believes that boat lifts should only be allowed for lakeshore properties and not for the entire development.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Stack

THAT Council receive, for information, the Report of the Community Sustainability Division dated November 12, 2009;

AND THAT staff be directed to notify the Integrated Land Management Bureau (Provincial authority) that Council supports the Southbay Landing Strata Corporation's application for two additional berths and that all of the berths be allowed boatlifts;

AND FURTHER THAT no roof or covered structures shall be used, constructed, or maintained on the dock or over boatlifts and that no structures other than those expressly permitted in the City of Kelowna Guidelines for Assessment of Shared Dock Applications shall be permanently affixed to dock structures.

Moved by Councillor Rule/Seconded by Councillor Reid

R1100/09/11/17 THAT Council defer consideration of Provincial Referral Application No. PR09-0001 to the November 30, 2009 Regular Council Meeting pending receipt of the Minutes where the City of Kelowna Guidelines for Assessment of Shared Dock Application was considered.

Carried  
Councillors Hodge and James - Opposed

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 2:14 a.m.

Certified Correct:

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Mayor

City Clerk

SLH/dld