

Regular MeetingMarch 23, 2010

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, March 23rd, 2010.

Council members in attendance: Mayor Sharon Shepherd, Councillors Kevin Craig, Charlie Hodge, Graeme James, Angela Reid and Michele Rule.

Council members absent: Councillors Andre Blanleil, Robert Hobson and Luke Stack.

Staff members in attendance were: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; Director, Land Use Manager, Shelley Gambacort; Subdivision Approving Officer, Ryan Smith; Traffic & Transportation Engineer, Jerry Buehl*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 7:16 p.m.

2. A Prayer was offered by Councillor Rule.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - March 8, 2010
 Regular P.M. Meeting - March 8, 2010
 Public Hearing - March 9, 2010
 Regular Meeting - March 9, 2010
 Regular A.M. Meeting - March 15, 2010
 Regular P.M. Meeting - March 15, 2010

Moved by Councillor Craig/Seconded by Councillor James

R217/10/03/23 THAT the Minutes of the Regular Meeting of March 8, 2010, March 9, 2010 and March 15, 2010 and the Public Hearing Meeting of March 9, 2010 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. 10295 (TA10-0003) - City of Kelowna - Text Amendment to Zoning Bylaw No. 8000 - Breweries and Distilleries Major and Minor

Moved by Councillor James/Seconded by Councillor Craig

R218/10/03/23 THAT Bylaw No. 10295 be read a second and third time.

Carried

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- 5.2 Bylaw No. 10296 (Z10-0006) - Kevin & Janet Hertz (Peter Chataway) - 334 Christleton Avenue

Moved by Councillor Craig/Seconded by Councillor James

R219/10/03/23 THAT Bylaw No. 10296 be read a second and third time.

Carried

- 5.3 Bylaw No. 10297 (OCP09-0017) - Natisa Development Corporation & City of Kelowna (Meiklejohn Architects Inc.) - 3441 & 3451 Lakeshore Road - Requires a majority of all Members of Council (5)

Moved by Councillor James/Seconded by Councillor Craig

R220/10/03/23 THAT Bylaw No. 10297 be read a second and third time.

Carried

- 5.4 Bylaw No. 10298 (Z09-0079) - Natisa Development Corporation and City of Kelowna (Meiklejohn Architects Inc.) - 3441, 3451 & 3471 Lakeshore Road

Moved by Councillor Hodge/Seconded by Councillor Rule

R221/10/03/23 THAT Bylaw No. 10298 be read a second and third time.

Carried

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 (a) BYLAW PRESENTED FOR ADOPTION

Bylaw No. 10215 (Z08-0114) - Windmill Ventures Ltd. - 332 Lake Avenue, 1853 & 1869 Water Street

Moved by Councillor Hodge/Seconded by Councillor Rule

R222/10/03/23 THAT Bylaw No. 10215 be adopted.

Carried

Councillor Hodge - Opposed.

- (b) Community Sustainability Division, dated February 25, 2010 re: Development Permit Application No. DP08-0250 and Development Variance Permit Application No. DVP08-0251 - Windmill Ventures Ltd. - 332 Lake Avenue, 1853 & 1869 Water 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 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.

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Don Cerro, Applicant's Representative

- Clarified the reasons behind the requested variances.
- Advised that based on the BC Building Code requirements, a mezzanine is not considered a "storey".
- Advised that the applicant has contacted Debra Helf concerning proximity of the site to the Heritage Conservation Area.
- Advised that some of the building materials have been changed in order to address some of Council's, and the general public's, concerns with respect to the façade of the building.
- Due to public safety concerns, the applicant wishes to have the main entrance located in the public area of the development rather than having ground-level access to the units.
- Clarified why the Sustainability Checklist for the rezoning differs from the Sustainability Checklist for the development.

Tim Olenczuk, Windmill Ventures Ltd., Applicant

- Confirmed that he has consulted with the surrounding neighbours and the majority of the people he canvassed were renters who did not express a concern about the building.

Gallery:

Brad Milnes, 260 Lake Avenue

- Expressed a concern about the details of the development, or the lack thereof. Believes that the building is still just a big, flat square block and that does not fit well into the heritage conservation area.
- Expressed a concern about the increase in traffic to the area as a result of the development and the closure of Lake Avenue.
- Advised that he lives right around the corner from the development and advised that he was never approached by the applicant with respect to the proposed development.
- Confirmed that he received the City's notification of tonight's Council Meeting.

Tim Olenczuk, Windmill Ventures Ltd., Applicant

- Advised that Windmill Ventures Ltd. also developed what is known as the "Martin Avenue Lofts".
- Advised that the Windmill Ventures Ltd. wants to create a "low cost" building so that people can live and walk to and from work.

Don Cerro, Applicant's Representative

- Advised that the development is stepped back in certain areas so that it is not viewed as a big flat wall.
- Advised that he has not received any comments with respect to any traffic concerns as they relate to Lake Avenue.

There were no further comments.

Moved by Councillor Rule/Seconded by Councillor James

R223/10/03/23 THAT final adoption of Zone Amending Bylaw No. 10215 be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP08-0250 for Lots 1, 2, and 4 District Lot 14 ODYD Plan 2709, located at 1853 Water Street, 1869 Water Street, and 332 Lake 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";

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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 applicant be required to satisfy the Development Engineering Branch requirements prior to issuance of the Development Permit.

AND THAT Council authorize the issuance of Development Variance Permit No. DVP08-0251 for Lots 1, 2, and 4 District Lot 14 ODYD Plan 2709, located at 1853 Water Street, 1869 Water Street, and 332 Lake Avenue, Kelowna, B.C.;

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

Section 13.11.6(c) Maximum Height

To vary the maximum number of storeys from 4 storeys permitted to 5 storeys proposed.

Section 13.11.6(f) Rear Yard

To vary the required rear yard from 7.5 m minimum to 4.5 m proposed.

Carried
Councillor Hodge - Opposed.

Moved by Councillor Rule/Seconded by Councillor Hodge

R224/10/03/23 THAT Council directs staff to report back to Council with respect to the current and future plans for the intersection at Lake Avenue and Pandosy Street.

Carried

- 6.2 Community Sustainability Division, dated February 23, 2010 re: Development Variance Permit Application No. DVP10-0012 - Henry & Marilyn Thalheimer (Henry Thalheimer) - 1023 Borden 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.

Henry Thalheimer, Applicant

- Advised that he did not have anything further to add to staff's comments.

There were no further comments.

Regular MeetingMarch 23, 2010Moved by Councillor James/Seconded by Councillor Craig

R225/10/03/23 THAT Council authorize the issuance of Development Variance Permit No. DVP10-0012 for Strata Lot 1, District Lot 138, Osoyoos Division Yale District Strata Plan KAS1881 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1 located at Borden Avenue, Kelowna, B.C.

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

Section 13.6.6(d) minimum side yard

To vary the required east side yard set back from 2.0m required to 1.08m proposed per Schedule 'A'.

Carried

- 6.3 Community Sustainability Division, dated February 24, 2010 re: Development Variance Permit Application No. DVP10-0015 - Joseph R. Heathcote (Axel Hilmer) - 4454 Lakeland 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 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.

Axel Hilmer, Applicant's Representative

- Displayed an elevation drawing with respect to the addition that is being requested and confirmed that the addition will be 12' x 15'.
- Advised that the backyard is landscaped so the surrounding neighbours will not be able to see it.
- Advised that the surrounding neighbours have provided letters of support.

There were no further comments.

Moved by Councillor James/Seconded by Councillor Rule

R226/10/03/23 THAT Council authorize the issuance of Development Variance Permit No. DVP10-0015 for Lot 5, District Lot 167, Osoyoos Division Yale District Plan 35646 located at Lakeland Road, Kelowna, B.C.

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

Section 13.6.6(e) - rear yard set back

To vary the rear yard set back from 7.5m required to 6.0m proposed to allow an addition to an existing dwelling as per schedule 'A'.

Carried

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- 6.4 Development Services Division, dated February 11, 2010, re: Development Variance Permit Application No. DVP09-0073 - Michael Matvieshen (Paramount Holdings Inc.) - 1425 McCurdy Road East 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:

- Provided a recap of the specifics for the requested application.
- Advised that the applicant has installed an on-site sewerage system including a septic field.
- Advised that the applicant was provided with Council's comments from the previous meeting for the applicant's consideration.
- Advised that the requirements of the Subdivision, Development and Servicing Bylaw No. 7900 were driven by the Provincial Government's Ministry of Environment.
- Advised that the levy for not hooking up to the sewer has now been done away with.
- Advised that the sewer services have been installed to the property line; however the applicant has not hooked up to those services.
- Advised that the applicant has applied for a Development Permit for a new building, which triggered the applicant to hook up to the City's sewer system and required the applicant to pay the \$7,500 - \$10,000 sewer main hook up fee. If no new development occurred on the site, then the applicant would not be required to pay the fee or hook up to the City's sewer system.

City Manager:

- Clarified the City's procedures with respect to sewer hookup and why septic systems are no longer allowed within the City's boundary.

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.

Michael Matvieshen, Applicant's Representative

- Advised that the house has been insulated on the outside in order to be more efficient.
- Worked with City staff to ensure that the structure met with the City's requirements.
- Advised that the property is equipped with a geo-thermal field and has its own well.
- When he made application to the City for the septic field, he paid his Permit fee, including the \$8,000.00 sewer hook up fee, and went through the process.
- Confirmed that he has worked with City staff and the Ministry of Health to ensure that all the requirements were met, but when the house was finally complete, he was told that an Occupancy Permit would not be issued until such time as the sewer was hooked up to the house, even though the Ministry of Health had already signed off on the septic/wastewater treatment system.
- Advised that the house is located at the top, left of the property, and the sewer connection was installed by the City at the bottom, right of the property, which makes it very expensive to hook up.
- Provided details regarding the septic/wastewater treatment facility that has been installed on the site.
- Confirmed that all communications with City staff and the Ministry of Health were handled through his Project Manager.

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- Confirmed that before the final sewer connection was installed by the City, he asked City staff how to proceed with a wastewater treatment system.

There were no further comments.

Staff:

- Advised that the City does not have the capability to monitor private sewerage treatment facilities.
- Confirmed that the applicant has been issued an Occupancy Permit, which required bonding.

City Manager:

- Suggested that Council deal with this application on its merits.

Moved by Councillor James/Seconded by Councillor Reid

R227/10/03/23 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0073 for Lot 2, Section 36, Township 26, ODYD, Plan 23935 except Plan KAP53090 and KAP84358, located at 1425 McCurdy Road, Kelowna, B.C to the following section of the Subdivision, Development and Servicing Bylaw No. 7900:

Section 6.1(h)

A variance to allow an independent septic system where sanitary sewer service is available.

Carried
Mayor Shepherd - Opposed.

Moved by Councillor Rule/Seconded by Councillor Hodge

R228/10/03/23 THAT Council directs staff to report back to Council with respect to the current policy regarding private wastewater treatment systems, septic field systems, or any other new technology, on lands where sanitary sewer service is available;

AND THAT staff provide Council with any recommended changes to the policy.

Carried

7.1 Community Sustainability Division, dated March 23, 2010, re: Development Permit Application No. DP07-0261 and Development Variance Permit Application No. DVP08-0212 - P218 Enterprises Ltd. & Wayne Holdings Ltd. (Busby Perkins & Will) - 2970-3030 Pandosy Street

(a) Community Sustainability Division supplemental report dated March 23, 2010.

Staff:

- Advised that the project has now been reviewed with the applicant and staff have now confirmed that there will be 4 affordable, 1-bedroom housing units.

Moved by Councillor James/Seconded by Councillor Craig

R229/10/03/23 THAT Council receive as information the report of the Community Sustainability Division dated March 23, 2010;

AND THAT Council forward Bylaw No. 10308 authorizing a Housing Agreement between the City of Kelowna and P218 Enterprises & Wayne Holdings Ltd.,

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which requires the owners to designate four (4) dwelling units for purpose-built rental housing on Lot 1, D.L. 14 & Sec. 13, Twp. 25, ODYD, Plan KAP89388, located at 2970-3030 Pandosy Street, Kelowna, BC., for reading consideration.

Carried

(b) BYLAW PRESENTED FOR FIRST THREE READINGS

Bylaw No. 10308 - Housing Agreement Authorization Bylaw - P218 Enterprises Ltd. & Wayne Holdings Ltd. - 2970-3030 Pandosy Street

Moved by Councillor Rule/Seconded by Councillor Hodge

R230/10/03/23 THAT Bylaw No. 10308 be read a first, second and third time.

Carried

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 8:45 p.m.

Certified Correct:

Mayor

Deputy City Clerk

SLH/dld