

Regular MeetingJuly 27, 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, July 27th, 2010.

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

Staff members in attendance were: Acting City Manager, Paul Macklem; 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 6:51 p.m.

2. PRAYER

2. A Prayer was offered by Councillor Rule.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - July 12, 2010
 Regular P.M. Meeting - July 12, 2010
 Public Hearing - July 13, 2010
 Regular Meeting - July 13, 2010

Moved by Councillor Craig/Seconded by Councillor Stack

R722/10/07/27 THAT the Minutes of the Regular Meetings of July 12th, 2010 and July 13th, 2010 and the Public Hearing Meeting of July 13th, 2010 be confirmed as circulated.

Carried

4. Councillor Blanleil 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. 10369 (Z08-0040) - Adrienna Fehr (Adrienna & Cornie Fehr) - 125 Robson Road

Moved by Councillor Hodge/Seconded by Councillor Rule

R723/10/07/27 THAT Bylaw No. 10369 be read a second and third time.

Carried

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5.2 Bylaw No. 10370 (Z10-0043) - Simon Wiencki - 2839 Helmcken Road

Moved by Councillor James/Seconded by Councillor Hodge

R724/10/07/27 THAT Bylaw No. 10370 be read a second and third time.

Carried

5.3 Bylaw No. 10371 (Z10-0035) - Larry Deboice (New Town Architectural Services) - 340 Francis Avenue

Moved by Councillor Blanleil/Seconded by Councillor Reid

R725/10/07/27 THAT Bylaw No. 10371 be read a second and third time.

Carried

5.4 Bylaw No. 10372 (Z10-0039) - Hardeep & Jarnail Goraya (Axel Hilmer) - 721 Renshaw Road

Moved by Councillor Hobson/Seconded by Councillor Reid

R726/10/07/27 THAT Bylaw No. 10372 be read a second and third time.

Carried

6. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 Community Sustainability Division, dated June 25, 2010 re: Development Permit Application No. DP10-0038 and Development Variance Permit Application No. DVP10-0037 - 0775737 BC Ltd. (GTA Architecture) - 260 Highway 33 West 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 there is a City parking lot located behind the building.

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.

Gary Tomporowski and Rachel Clarida, Tomporowski Architects, Applicant's Representatives

- Advised that 4 parking spaces required for the restaurant and that the restaurant will have 68 seats.
- There will be a total of 6 parking stalls on site (2 for the residence and 4 for the restaurant).

Leora Rupert, Owner of the Mug-a-Java Restaurant

- The current restaurant is just across the street and the patrons already use the City's parking lot.

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There were no further comments.

Moved by Councillor Stack/Seconded by Councillor Hobson

R727/10/07/27 THAT Council authorize the issuance of Development Permit No. DP10-0038 for Lot 2 Section 26 Township 26 ODYD Plan 4338 except Plan 39372, located at 260 Hwy 33 W, 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";
- c) 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) THAT issuance of the Development Permit be subject to the requirements of the Rutland Waterworks District being completed to their satisfaction;

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.

THAT Council authorize the issuance of Development Variance Permit No. DVP10-0037 for Lot 2 Section 26 Township 26 ODYD Plan 4338 except Plan 39372, located at 260 Hwy 33 W, Kelowna, BC;

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

Section 6.10.1 (Setback from Provincial Highways)

Vary the setback requirement from Highway 33 in an Urban Centre from 4.5m permitted to 3.1m proposed.

Carried

- 6.2 Community Sustainability Division, dated June 28, 2010 re: Development Variance Permit Application No. DVP09-0085 - Figueira Holdings Ltd. (DE Pilling & Associates) - 4075 McClain 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:

- Could consider requiring the applicant to replant the trees that were removed from the abutting properties as a condition of the approval; staff believe that the trees removed from applicant's property were in order to enhance the fire safety of the area.
- The variances are being requested in order bring the current sites into conformity as right now they are non-conforming.

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

- Letters of Opposition:
 - o Scott & Kim Porritt, 4036 Mahonia Drive (2)
 - o Steve London, 4060 Mahonia Drive
 - o Brian McDivitt, 4020 Mahonia Drive
 - o Kim McDivitt, 4020 Mahonia Drive
 - o Peter & Colleen Pfannenschmidt, 4076 Mahonia Drive
 - o Leonard Burton, 4044 Mahonia Drive
 - o Lisa Burton, 4044 Mahonia Drive (2)
 - o Andrea & Dean Welder, 3960 Jean Road (2)
 - o Flynn & Ollie Seddon, 3910 Jean Road on behalf of 3812, 3902, 3960 and 3970 Jean Road (3)
 - o Flynn Seddon, 3910 Jean Road (2)
 - o Karmen McDivitt, 4020 Mahonia Drive
 - o Holly Dufour & Dan Poznikoff, 3902 Jean Road (3)
 - o Elsa Gundrum & Richard Arnold, 4068 Mahonia Drive (2)
 - o Vi & Kevin Krammer, 3812 Jean Road
 - o Teena & Wade Webb, 4028 Mahonia Drive
 - o Don & Lisa Dudgeon, 3995 McCulloch Road

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

Dale Pilling, D.E. Pilling & Associates, Applicant's Representative

- Advised that the Development Permit for the new site will be coming forward under a separate application.
- Confirmed that the buffering requirements have been met.
- The proposed new development will meet the City's Bylaw requirements, as well as any buffering requirements.
- A wall was erected on the site that encroached on the City's road right-of-way; however a License of Occupation was negotiated with the City's Real Estate Division in order to address the encroachment.
- As the owner of the property is not present, he advised that he cannot comment on the removal of the trees as he was not aware of the fact that the trees were removed from other people's property.
- Was unaware of the neighbourhoods concerns and is willing to meet with the neighbours.

Staff:

- The Development Permit for the new site will be dealt with by staff.
- The Official Community Plan dictates whether or not a Development Permit is a direct-Development Permit that is dealt with by staff or a Development Permit that is dealt with by Council.

Gallery:

Flinn Seddon, 3910 & 3906 Jean Road

- Read his letter that was previously submitted to the Office of the City Clerk.
- This family has owned a total of 15 acres along the property line since the early 1930's.
- Advised that there was once a significant tree buffer that separated his properties and the mobile home property. That tree buffer has been cut down in order to allow for the expansion of the mobile home park.
- Displayed a picture of the property boundaries for his property and the subject property which indicated the exposure to his property as a result of the removal of the trees.
- Advised that he has filed a Bylaw complaint regarding the removal of the trees along the property line.

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- He has canvassed the neighbourhood to determine if everyone received the information that was sent out by the City and was advised that most of the neighbours in the area are opposed to the development.
- A Petition was forwarded to the City in 2008 expressing opposition of the work that was being conducted on the subject property.
- Concerned that the trees were removed prior to the owner applying to the City for a permit to remove the trees.
- Confirmed that he can see the mobile homes from his residence.
- Believes that there is a legal easement established on 3970 Jean Road by the Fire Department which provides for emergency access to the subject area. There is also a South-East Kelowna Irrigation District easement registered on that property and it is believed that the easement was a legal easement that allows the Irrigation District to service their irrigation pipes.

Staff:

- Confirmed that there are 4 new mobile homes site proposed on the subject property that will abut 3910 and 3906 Jean Road. The 4 new units will meet the City's buffering requirements.
- Believes that some of the trees were removed a result of a Wildfire Covenant that was placed on the subject property in 2007.
- Confirmed that a permit is not required to remove trees on your own property. A permit is only required if the property is located within an Environmentally Sensitive Area.
- Confirmed that a permit is not required in order to redirect roads within the subject property.

Kim Porritt, 4036 Mahonie Drive

- Advised that her home borders on proposed road "A".
- She was under the impression that the variances would be on the side of the subject property that borders her property.
- Advised that the work on the subject property has occurred without any communication with the neighbours.
- Concerned about the loss of value to her property for someone else's gain.
- Confirmed that her backyard will abut the new mobile homes that are being proposed.
- Was under the impression that the area of the subject property being proposed for expansion is an old septic field and was to remain vacant.

Don Dudgeon, 3995 McCulloch Road

- Expressed a concern with the implications of approval of this application on the future development of the site.
- Believes that the reduction from 4.6m to 0.9m is drastic.
- Feels that the layout of the site may change if the variances are approved.
- Feels that approval of the variances may affect the layout of the road allowances.

Dan Poznikoff, 3902 Jean Road

- Does not have a problem with the expansion of the mobile home site.
- Would like to see more landscaping and buffering to make the entire boundaries of the subject property look attractive.

Lisa Dudgeon, 3995 McCulloch Road

- Would like the Development Permit process to take into account more buffering along the property line.
- When she purchased her home, she knew there was a chance that the mobile home park would be expanded. She is concerned about the spacing of the new mobile homes once the site is expanded.
- Expressed a concern that the owner erected the sign and is now asking City Council for forgiveness.

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- Expressed a concern that work is being done on the site without the proper approvals in place.
- Advised that the letter from the City is the first notice that she received of any development on the property.

Flinn Seddon, 3910 & 3906 Jean Road

- Believes that the long time residents want to preserve the unique and rural characteristics of the area.
- Believes that traffic in the area will increase as a result of the expansion.

Dale Pilling, D.E. Pilling & Associates, Applicant's Representative

- Advised that he has checked the title to the subject property and there is no access easement registered.
- Is confident that no new units will be added to the existing park if and when the current units are removed and replaced.
- Confident that the new expansion meets all of the City's Bylaws and requirements.

Council:

- Expressed a concern with the lack of communication between the mobile home park owner and the surrounding residents.

Moved by Councillor Hobson/Seconded by Councillor Stack

R728/10/07/27 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0085 for parcel Z (DF K39600) Section 2, Township 26, ODYD Plan 1247 except Plan 28626 located at McClain Road, Kelowna, B.C.;

AND THAT variances to the following sections of Mobile Home Bylaw No. 5453-83 be granted for 5 mobile homes as follows:

Section 4.05 (1) Buffer areas:

Existing Mobile Home 1A - Vary buffer area from 4.6m required to 0.9m proposed;
 Existing Mobile Home 85 - Vary buffer area from 4.6m required to 3.0m proposed;
 Existing Mobile Home 86 - Vary buffer area from 4.6m required to 3.0m proposed;
 Existing Mobile Home 88 - Vary buffer area from 4.6m required to 3.0m proposed;
 Existing Mobile Home 92 - Vary buffer area from 4.6m required to 3.0m proposed;

AND THAT variances to the following sections of Zoning Bylaw 8000 be granted:

Section 13.13.6(d) Development Regulations:

Existing Mobile Home 1A - Vary site setback from 4.5m required to 0.9m proposed;
 Existing Mobile Home 85 - Vary site setback from 4.5m required to 3.0m proposed;
 Existing Mobile Home 86 - Vary site setback from 4.5m required to 3.0m proposed;
 Existing Mobile Home 88 - Vary site setback from 4.5m required to 3.0m proposed;
 Existing Mobile Home 92 - Vary site setback from 4.5m required to 3.0m proposed;

Section 7.5.9 Fencing and Retaining Walls:

To vary the height the north entrance retaining wall with appropriate engineering sign off from 1.2m permitted to a maximum 2.4m proposed;

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AND THAT a Building Permit for the north retaining wall (with required engineered drawings) be applied for prior to issuance of the Development Variance Permit.

CarriedMoved by Councillor Blanleil/Seconded by Councillor Hobson

R729/10/07/27 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0085 for parcel Z (DF K39600) Section 2, Township 26, ODYD Plan 1247 except Plan 28626 located at McClain Road, Kelowna, B.C.;

AND THAT variances to the following sections of Sign Bylaw 8235 be granted:

Section 6.1 - Higher Density Residential Zones Free-standing signs part (a):

To vary the maximum height of a free-standing permitted from 1.8m permitted to 3.2m proposed;

AND THAT a Building Permit for the freestanding sign be applied for prior to issuance of the Development Variance Permit.

Carried

Mayor Shepherd and Councillors Hodge and Rule - Opposed.

Council:

- Would like the following matters addressed prior to the Development Permit being forward for consideration:
 - o Staff to work with the Applicant regarding appropriate buffering for the site;
 - o The Applicant is to meet with the neighbours in order to present the landscape plan and address any concerns; and
 - o The Applicant is to provide a site plan that complies with the City's current Bylaws.

Moved by Councillor Hobson/Seconded by Councillor Reid

R730/10/07/27 THAT Council directs staff to forward the Development Permit Application for Parcel Z (DF K39600), Section 2, Township 26, ODYD, Plan 1247 except Plan 28626 located at McClain Road, Kelowna, BC to Council for consideration.

Carried7. REMINDERS - Nil.

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8. TERMINATION

The meeting was declared terminated at 8:55 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk