

Regular MeetingMarch 6, 2012

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 6th, 2012.

Council members in attendance: Mayor Walter Gray, Councillors Colin Basran, Maxine DeHart, Gail Given, Robert Hobson, Luke Stack and Gerry Zimmermann.

Council members absent: Councillors Andre Blanleil and Mohini Singh.

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 Gray called the meeting to order at 6:30 p.m.

2. A Prayer was offered by Councillor Hobson.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - February 20, 2012
 Regular P.M. Meeting - February 20, 2012
 Special Committee-of-the-Whole Meeting - February 21, 2012
 Public Hearing - February 21, 2012
 Regular Meeting - February 21, 2012
 Regular A.M. Meeting - February 27, 2012
 Regular P.M. Meeting - February 27, 2012

Moved by Councillor Hobson/Seconded by Councillor Basran

R214/12/03/06 THAT the Minutes of the Regular Meetings of February 20, 2012 and February 21, 2012 and February 27, 2012 and the minutes of the Public Hearing of February 21, 2012 and the minutes of the Special Committee-of-the-Whole Meeting of February 21, 2012 be confirmed as circulated.

Carried

4. Councillor DeHart 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. 10659 (Z11-0048) - Jang & Raj Bhatti and Bakshish Kalyan (B. Kalyan) - 525 O'Keefe Court

Staff:

- Will work with the Applicant to define the boundary of the subject property's driveway to the mutual satisfaction of the subject property owner and the abutting property owner.

Regular MeetingMarch 6, 2012Moved by Councillor DeHart/Seconded by Councillor ZimmermannR215/12/03/06 THAT Bylaw No. 10659 be read a second and third time.Carried**(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS AND ADOPTION)**5.2 Bylaw No. 10656 (Z12-0002) - Lesley Anne Grant (Shane Baxter) - 4325 Gordon DriveMoved by Councillor Stack/Seconded by Councillor GivenR216/12/03/06 THAT Bylaw No. 10656 be read a second and third time and be adopted.Carried**6. THE DEPUTY CITY CLERK PROVIDED INFORMATION AS TO HOW THE FOLLOWING ITEMS ON THE AGENDA WERE PUBLICIZED.**

The Deputy City Clerk advised that Notice of Council's consideration of the Development Variance Permit Applications was given by sending out or otherwise delivering 1,501 letters to the owners and occupiers of the surrounding properties between February 17, 2012 and February 24, 2012.

The correspondence and/or petitions received in response to advertising for the applications on tonight's Agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS7.1 Land Use Management Department, dated February 10, 2012 re: Development Variance Permit Application No. DVP12-0011 - Louis Pouliot & Johanne Corbin (Keith Construction) - 3270 Shayler Court 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 Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. The Applicant was present, but did not wish to add anything to staff's comments. No one came forward.

Moved by Councillor Hobson/Seconded by Councillor ZimmermannR217/12/03/06 THAT Council authorize the issuance of Development Variance Permit No. DVP12-0011 for Lot 2, Section 29, Township 23, ODYD, Plan KAP90169, located at 3270 Shayler Road, Kelowna, BC;

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

Section 7.5.9 (Fencing & Retaining Walls):

Regular MeetingMarch 6, 2012

To vary the maximum height of a retaining wall in a residential zone from 1.2m allowed to 2.12m proposed, as per Schedule "A".

AND FURTHER THAT Development Variance Permit issuance be subject to a Building Permit application being made for the retaining wall.

Carried

- 7.2 Land Use Management Department, dated February 3, 2012 re: Development Permit Application No. DP11-0121 and Development Variance Permit Application No. DVP11-0122 - 804815 BC Ltd. (CEI Architecture Planning Interiors) - 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 Deputy City Clerk advised that the following correspondence and/or petitions had been received:

- Letters of Opposition:
 - Rene Bernard, W & S Bernard Investments Ltd., 2655 Ridgeview Road
 - Robert Cichocki, 1221 Kelglen Crescent
- Letter of Support:
 - Ron Bagan, 410 Bernard Avenue Holdings, 410 Bernard Avenue

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

Nick Bevanda, CEI Architecture Planning, Applicant's Representative

- Provided an overview of the architectural design of the development.
- Advised that the parking will be located above the commercial level of the development.
- Advised that the development has been designed to a LEED Silver equivalent.
- Advised that two (2) Smart Cars will be provided to the occupiers for use.
- Advised that the development is based on a pedestrian lifestyle.
- Advised that the balconies have been designed to accommodate outdoor living and will allow the owners/occupiers to have an outdoor planting garden.
- Believes that this development is a good addition to the downtown core.

Kevin Hoffman, Aquilini Development & Construction, Applicant's Representative

- Advised that the Applicant is currently conducting a market and cost analysis to determine when the market will warrant a development of this type. The Applicant is hopeful that the development can be marketed this summer.
- Confirmed that the requested angle variances are required in order to make the floor plating sufficient.
- Confirmed that the majority of the areas affected by the variances are the outdoor spaces.
- Reiterated the commitment made in 2009 to keep 200 units under \$300,000.00.
- Advised that it will be up to the Strata Council to determine whether or not rentals will be allowed in the development.
- Confirmed that the Applicant will be monitoring the construction of the building to mitigate any damage to any of the surrounding properties.
- As soon as the development is economically viable, the Applicant plans to proceed with construction.
- Advised that the Applicant does not have any concerns with respect to the lane access to the parkade.

Gallery:

Regular Meeting

March 6, 2012

Rene Bernard, 2655 Ridgeview Road, West Kelowna

- Representing the owners of 478 Bernard Avenue (Bank of Nova Scotia).
- Advised that the owners of 478 Bernard Avenue have never been approached by the Aquilini Group regarding the proposed development.
- Expressed a concern with the back parking area behind the Bank of Nova Scotia and inquired if the back parking area would be affected during the construction of the development.
- Believes that by grandfathering this development into the Official Community Plan and the Downtown Plan, the City is not giving the same kind of rights, or potential, to the other property owners in the area.
- Confirmed that he did not attend the previous Public Meeting when this application was originally approved by a previous Council.

Marty Enns, 737 Leon Avenue

- Feels that the project is totally inappropriate for this location.
- Opposed to the variances being requested.
- Believes that this development does not meet the spirit of the Official Community Plan or Downtown Plan.

Kevin Hoffman, Aquilini Development & Construction, Applicant's Representative

- Advised that the back parking lot behind the Bank of Nova Scotia will not be block off during construction of the development.
- Will be working with City staff to ensure that any required road closures will be advertised and that the public is aware of any potential access issues, or alternative access routes, during construction of the development.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Basran

R218/12/03/06 THAT Council authorizes the issuance of Development Permit No. DP11-0121 for: Lot 5, BIK. 16, DL 139, O.D.Y.D., Plan 462, Exc. the W 17.05 ft thereof; Lot 4, BIK. 16, DL 139, O.D.Y.D., Plan 462; Lot 3, BIK. 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 registered Landscape Architect;
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 prior to issuance of Development Permit;

Regular MeetingMarch 6, 2012

7. The Amenity Contribution (\$805,000 Total) for Affordable Housing Reserve Fund (\$161,000) and Downtown Urban Design improvements (\$644,000) be provided prior to issuance of occupancy permit;
8. That Cash-in-Lieu of the required parking (24 x \$22,500.00 = \$540,000.00) be provided prior to issuance of the Development Permit.
9. The Development Engineering requirements are to be satisfied prior to issuance of the Development 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 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0122; 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 FURTHER THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Section 14.7.5(a) - Development Regulations - Height

Vary maximum building height from 44m permitted in Area 1 to 76.5m proposed

Section 14.7.5(g) - Development Regulations - Inclined Angle

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

Section 14.7.5(f) - Development Regulations - Setbacks

Vary the building setback from an interior lot line from 4.0m required to 1.94m from the western property line for portions of a building above 15m;

Section 14.7.5(l)(i) - Development Regulations - Setbacks above 15m

Vary the building setback from an interior lot line from 15m required to 1.94m from the western property line and 4.0m from the eastern property line for portions of a building above 22m;

Section 14.7.5(l)(ii) - Development Regulations - Setbacks above 15m

Vary the building setback from a lot line abutting a lane from 10m required to 3.1m proposed for portions of a building above 22m.

Carried

Regular MeetingMarch 6, 20127.3 (a) BYLAW PRESENTED FOR ADOPTION

Bylaw No. 10051 (Z07-0056) - 754028 BC Ltd. & Doyle Avenue Holding Co. Ltd. (New Town Planning Services Inc.) - 1372-1374, 1378, 1382 & 1386 St. Paul Street and 526 Doyle Avenue

Moved by Councillor Hobson/Seconded by Councillor Basran

R219/12/03/06 THAT Bylaw No. 10051 be adopted.

Carried

- (b) City Clerk, Draft Resolution, re: Development Permit Application No. DP10-0125 and Development Variance Permit Application No. DVP10-0126 - 754928 BC Ltd. (New Town Planning Services Inc.) - 526 Doyle Avenue

Moved by Councillor Zimmermann/Seconded by Councillor Hobson

R220/12/03/06 THAT Council defers consideration of Development Permit Application No. DP10-0125 and Development Variance Permit Application No. DVP10-0126 to the April 3, 2012 Regular Meeting at 6:00 pm in the Council Chamber.

Carried

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 7:36 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk