



## City of Kelowna Regular Council Meeting Minutes

Date: Tuesday, December 3, 2013  
Location: Council Chamber  
City Hall, 1435 Water Street

Council Members Present: Mayor Walter Gray and Councillors Colin Basran\*, Andre Blanleil, Maxine DeHart, Gail Given, Robert Hobson, Mohini Singh\*, Luke Stack and Gerry Zimmermann

Staff Present: Acting City Manager, Rob Mayne; Deputy City Clerk, Karen Needham; Divisional Director, Community Planning & Real Estate, Doug Gilchrist\*; Director, Subdivision, Agriculture & Environment, Shelley Gambacort; and Planner II, James Moore\*; Building, Plumbing & Gas Inspector Supervisor, Terry Kowal\*; Manager, Bylaw Services, Greg Wise\*; and Council Recording Secretary, Sandi Horning

(\* denotes partial attendance)

### 1. Call to Order

Mayor Gray called the meeting to order at 6:53 p.m.

### 2. Prayer

A Prayer was offered by Councillor Stack.

### 3. Confirmation of Minutes

Moved By Councillor Basran/Seconded By Councillor DeHart

R761/13/12/03 THAT the Minutes of the Public Hearing and Regular Meeting of November 19, 2013 be confirmed as circulated.

Carried

#### 4. Bylaws Considered at Public Hearing

- 4.1. Bylaw No. 10895 (Z13-0020) - 3131 Lakeshore Road, Trustees of the Congregation of St. Paul's United Church

Moved By Councillor Zimmermann/Seconded By Councillor DeHart

R762/13/12/03 THAT Bylaw No. 10895 be read a second and third time.

Carried

- 4.2. Bylaw No. 10896 (TA13-0008) - Thrift Store Text Amendments to City of Kelowna Zoning Bylaw No. 8000

The meeting recessed at 7:03 p.m. The meeting reconvened at 7:08 p.m.

Moved By Councillor Given/Seconded By Councillor Stack

R763/13/12/03 THAT Bylaw No. 10896 be read a second and third time.

Carried

#### 5. Notification of Meeting

The Deputy City Clerk advised that Notice of Council's consideration of these Development Variance Permit Applications was given by sending out or otherwise delivering 3,210 letters to the owners and occupiers of the surrounding properties between November 19, 2013 and November 22, 2013.

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.

#### 6. Development Permit and Development Variance Permit Reports

- 6.1. Development Variance Permit Application No. DVP13-0100 - 802 Lawson Avenue, Riaz & Nargis Virani

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council and responded to questions from Council.

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.

Riaz Virani, Applicant

- Advised that he submitted a letter of rationale to accompany the variance application.
- Advised that he purchased the home in 2006. When he purchased the home, the footing already existed on the site.
- Advised that in 2008, he proceeded with the construction of the garage, however due to personal issues he did not complete the garage.
- Advised that since 2011, he has been working to mitigate any issues as a result of him neglecting to follow through with the construction of the garage back in 2008.
- Confirmed that he has provided staff with the necessary drawings that have been requested.

- Advised that the neighbours immediately abutting the property have signed the Petition in support.
- Understands that he needs to bring the property into compliance.
- Acknowledged that the structure has been over-built for a carriage house designation and is willing to dedicate a room for storage if need be.
- Responded to questions from Council.

Gallery:

Mike Ward, 1795 Lawson Avenue

- Supportive of the variances.
- Mr. Virani takes very good care of his property and is a very good neighbour.
- He has never had any problems with him.

Don Forbes, 1786 Lawson Avenue

- Supportive of the variances.
- Not concerned that the structure was over-built as it is not aesthetically changing the area.
- Commented that Mr. Virani is an excellent neighbour.

There were no further comments.

Moved By Councillor Blangleil/Seconded By Councillor Zimmermann

**R764/13/12/03** THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0100, for Lot 1, District Lot 138, ODYD, Plan 1332 located on 802 Lawson Avenue, Kelowna, BC;

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

**Specific Regulations:**

Section 9.5b.1(c) Carriage House Regulations - location:

To allow the carriage house to be located in front of the principal dwelling (as per Schedule 'A');

**Development Regulations:**

Section 13.6.6 (d) & (e) Development Regulations - setbacks:

To vary the required rear yard from 6.0m to 1.52m proposed and to vary the east side yard setback from 2.3m required to 1.17m proposed (as per Schedule 'A')

AND THAT a building permit for the converted garage be applied for prior to issuance of the Development Variance Permit;

AND FURTHER THAT a building permit for the modification to the new carriage house be applied for prior to issuance of the Development Variance Permit.

Carried

**6.2. Development Variance Permit Application No. DVP13-0156 - 348 Bernard Avenue, Hotel-1 Enterprises Ltd. (Royal Anne Hotel)**

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council.

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 have anything to add to staff's comments. No one came forward.

Moved By Councillor Blanleil/Seconded By Councillor Stack

R765/13/12/02 THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0156 for amended Lot 4 (154911F), Block 17, District Lot 139, ODYD, Plan 462, located at 348 Bernard Avenue, Kelowna, BC;

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

Section 5.8.1 (d) - Projecting Sign Regulations

To vary the maximum permitted space between the sign and supporting wall from 0.6 m permitted to 2.0 m proposed, as per Schedule 'A';

Section 6.1 - Size of a Projecting Sign in the C7 Zone

To vary the maximum permitted size of a projecting sign in the C7 Zone from 2.5 m2 permitted to 4.8 m2 proposed, as per Schedule 'A'.

Carried

6.3. Bylaw No. 10890 (Z13-0031) - 260 Lake Avenue, Marianne Hill

Moved By Councillor Basran/Seconded By Councillor Singh

R766/13/12/02 THAT Bylaw No. 10890 be adopted.

Carried

6.3.1. Heritage Alteration Permit Application No. HAP13-0010 - 260 Lake Avenue, Marianne Hill

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council.

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

- Letter of Opposition:
  - Shirley Clarke, 1935 McDougall St.

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

Marianne Hill, Applicant

- Does not have anything to add to staff's report.
- Responded to questions from Council.

Gallery:

James Avery, 1850 Abbott Street, President of FRACHAS

- Supports the application.
- Expressed a concern with the RU3 zoning for the adjoining property located at 250 Lake Avenue.

Staff:

- Confirmed that the property located at 250 Lake Avenue is currently zoned RU3.
- Responded to questions from Council with respect to the roof design for the carriage house.

There were no further comments.

**Moved By Councillor Hobson/Seconded By Councillor Given**

**R767/13/12/02** THAT final adoption of Zone Amending Bylaw No. 10890 be considered by Council;

AND THAT Council authorizes the issuance of Heritage Alteration Permit No. HAP13-0010, for Lot 2, District Lot 14, ODYD, Plan EPP30347, located on 260 Lake Avenue, Kelowna, BC, subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Scheduled "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";

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

**Section 13.1.6(d): Development Regulations**

To vary the minimum side yard setback from 2.0m permitted to 0.68m proposed (as per Schedule 'A').

**Carried**

**6.4. Development Variance Permit Application No. DVP13-0171 - 745 Coronation Avenue, Jean & Yuliana Lavigne**

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council and responded to questions from Council.

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 have anything to add to staff's comments. No one came forward.

**Moved By Councillor Stack/Seconded By Councillor Singh**

**R768/13/12/02** THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0171 for Lot 42, District Lot 138, ODYD, Plan 1039, located at 745 Coronation Avenue, Kelowna, BC;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

**Section 13.6.6 - RU6 Zone Development Regulations**

To vary the maximum height for accessory buildings from 4.5 m permitted to 4.62 m proposed, as per Schedule 'A';

**Section 9.5b.1(d) - Carriage House Regulations**

To vary the maximum permitted height for a carriage house from the lesser of 4.5 m or the height of the existing principal dwelling unit to 4.62 m proposed, as per Schedule 'A';

AND FURTHER THAT the Development Permit for the proposed carriage house include a 1.8 m high solid fence along the side property lines to address neighbour privacy.

**Carried**

6.5. Bylaw No. 10815 (Z13-0001) - 674 Old Meadows Road, Mission Group Old Meadows G.P. Ltd.

**Moved By Councillor Hobson/Seconded By Councillor Singh**

**R769/13/12/02** THAT Bylaw No. 10815 be adopted.

**Carried**

6.5.1. Development Permit Application No. DP13-0039 & Development Variance Permit Application No. DVP13-0040 - 674 Old Meadows, Brighton-Mission Group Homes Ltd.

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council and responded to questions from Council.

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

- Letter of Opposition:
  - James Scramstad, 4305 Hobson Road
- Letter of Comment:
  - J. Greig, 604b Old Meadows Road
- Letters of Concern:
  - Michael and Murray Ferro, 655 Old Meadows Road
  - Linda Keil, 634 Armour Cres.
- Additional Information provided by the Applicant:
  - Letter to Linda Kiel
  - Construction Update

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

**Luke Turri, Brighton-Mission Group Homes Ltd., Applicant's Representative**

- Displayed a PowerPoint Presentation summarizing the form & character of the development and the variances being proposed.
- Responded to questions from Council.

There were no further comments.

Moved By Councillor Blanleil/Seconded By Councillor Basran

R770/13/12/02 THAT final adoption of Zone Amending Bylaw No. 10815 be considered by Council;

AND THAT Council authorizes the issuance of Development Permit No. DP13-0039 for the fractional south west ¼ of Section 6, Township 26, ODYD exclusive of District Lot 358, ODYD except: (1) Plans B1246, 1384, 4873, 4912, 5547, 10613, 19017 and H17715; (2) part described in D.D. 190710F, located at 662-698 Old Meadows Road, Kelowna, BC subject to the following:

1. The dimensions and siting of the buildings to be constructed on the land be in general accordance with Schedule 'A';
2. The exterior design and finish of the buildings 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;

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0040 for the fractional south west ¼ of Section 6, Township 26, ODYD exclusive of District Lot 358, ODYD except: (1) Plans B1246, 1384, 4873, 4912, 5547, 10613, 19017 and H17715; (2) part described in D.D. 190710F, located at 662-698 Old Meadows Road, Kelowna, BC;

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

**Section 13.10.6 (d) - RM4 Development Regulations**

To vary the minimum required front yard from 6.0 m required to 1.8 m proposed, as per Schedule 'A';

**Section 13.10.6 (e) - RM4 Development Regulations**

To vary the minimum required side (east) yard from 4.5 m required to 1.6 m proposed, as per Schedule 'A';

**Section 8.1.9 (c) - Off-Street Vehicle Parking - Location**

To vary the minimum required setback for off-street parking from 1.5 m from any side property line and 3.0 m from any flanking street to 0.5 m proposed, as per Schedule 'A';

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council's approval of the Development Permit and Development Variance Permit Applications, in order for the permits to be issued.

Carried

**6.6. Development Variance Permit Application No. DVP13-0154 - 23-180 Sheerwater Ct, 0973789 BC Ltd.**

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council and responded to questions from Council.

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

- Letter of Opposition:
  - Dr. Glenn Benoit, 165 Wizard Crt.

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

Scott Ross, Timberhaven Homes Ltd., Applicant's Representative

- Doesn't believe that the proposed addition will block the neighbour's view.
- Advised that the property owner would like to have more living space. Given the site conditions, the footprint of the structure could not be expanded, so it was decided to expand the living space by adding another storey.

There were no further comments.

Moved By Councillor Blanleil/Seconded By Councillor Hobson

**R771/13/12/02** THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0154, for Strata Lot 23, Section 6, Township 23, ODYD, Strata Plan KAS3129, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form V, located on 23 - 180 Sheerwater Court, Kelowna, BC;

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

**Section 12.1.6(b): Development Regulations**

To vary the maximum height from the lesser of 9.5m or 2 ½ storeys permitted to the lesser of 10.8m or 3 storeys proposed.

Carried

**6.7. Development Variance Permit Application No. DVP13-0113 - 700 Hwy 33 S, Hillcrest Farm Market Inc.**

Councillor Singh declared a conflict of interest as she is a close family friend of the Applicant and left the meeting at 8:19 p.m.

Councillor Basran declared a conflict of interest as he is an immediate relative of the Applicant and left the meeting at 8:19 p.m.

Staff:

- Displayed a PowerPoint Presentation summarizing the application before Council and responded to questions from Council.

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



- Letter of Concern:
  - J. Nakatsu (Tamaki Orchard), 818 Tamaki Drive
- Letters of Opposition:
  - Richard Gutkowski, 880 Ackerman Crt.
  - Elizabeth Heier, 1155 McKenzie Rd.

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

#### Chanchal Bal, Applicant

- Displayed a drawing showing the affects to his property as a result of the Highway 33 widening by the Province.
- Believes that the highway widening severely impacted his ability to develop the site.
- Advised that he ships a lot of cherries from the site and requires semi-trucks to deliver those cherries.
- Advised that the loading dock has been in that location for a long time. The retaining walls were required in order to deal with the impacts of the highway widening.
- Advised that the Ministry of Transportation approved the location of the signage, however, he didn't realize that the Ministry did not have the authority to do so.
- Responded to questions from Council.
- Advised that the Ministry of Transportation assisted with the design of the loading dock.
- Confirmed that the neighbouring property, being the Tamaki Orchard, was being farmed when he began his development and that to his knowledge, the orchard will continue to be farmed.
- Believes that the highest part of the loading dock is on his property.

#### Staff:

- Responded to questions from Council.
- Clarified that the sign and loading dock are currently located on a road right-of-way.
- Confirmed that the City is responsible for the side roads in the area.
- Displayed an Ortho photo from 2009 which does not show a loading dock on the property.
- Displayed an Ortho photo from 2012 which does show the loading dock.

#### Gallery:

##### Dave Sollosy, 1185 McKenzie Road

- Expressed a concern that Mr. Bal uses the Right to Farm Act as the rationale to do what he wants on his property.
- Responded to questions from Council.
- Believes that the earlier work that Council requested be done on the site has yet to be completed.
- Believes that Mr. Bal and the City are currently before the Courts.

#### Staff:

- Clarified the Court action with respect to the previous bylaw infractions relating to the subject property.

#### Chanchal Bal, Applicant

- Stated that he is not deliberately doing things contrary to regulations.
- Mr. Sollosy is opposed to his farm worker housing and is leading the charge against his property.
- Clarified the reason for the Court proceedings.

#### Divisional Director, Community Planning & Real Estate:

- Responded to questions from Council regarding the potential for a Licence of Occupation should the variances be requested.

Staff:

- Responded to questions from Council regarding where the sign would have been located if Mr. Bal had applied to the City for the proper permits.
- Advised that Development Engineering staff have expressed road safety concerns with the location of the loading dock.

There were no further comments.

**Moved By Councillor Given/Seconded By Councillor Stack**

**R772/13/12/02** THAT Council NOT authorize the issuance of Development Variance Permit No. DVP13-0113, for Lot A, Section 24, Township 26, ODYD, Plan EPP7145, located on 700 Hwy 33 E, Kelowna, BC.

**Carried**

7. Reminders - Nil.

8. Termination

The meeting was declared terminated at 9:09 p.m.

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Mayor

/slh

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Deputy City Clerk