

MINUTES of a regular meeting of COMMITTEE OF THE WHOLE of the Municipal Council of The Corporation of the District of Oak Bay, held in the Council Chambers, Oak Bay Municipal Hall, 2167 Oak Bay Avenue, Oak Bay, B.C., on Monday, December 3, 2012, at 7:00 p.m.

PRESENT: Mayor N. Jensen, Chair  
Councillor P. Copley  
Councillor C. Green  
Councillor J. Herbert  
Councillor M. Kirby  
Councillor K. Murdoch  
Councillor T. Ney

STAFF: Municipal Clerk, L. Hilton  
Deputy Municipal Clerk, M. Jones  
Director of Building and Planning, R. Thomassen  
Director of Engineering Services, D. Marshall

Mayor Jensen called the meeting to order at 7:01 p.m.

PUBLIC WORKS SECTION: (Chair – Councillor Herbert)

1. 2012-339 DIRECTOR OF ENGINEERING SERVICES, November 28, 2012  
Re Pavement Management System Report and Findings

David Firbank, EBA Engineering Consultants Ltd., Project Technician, made a presentation to the Committee on the Pavement Management System Report. After reviewing the project background and present condition of the road network, Mr. Firbank discussed the methods used to measure pavement condition and emphasized that there is a “critical zone” during which a road can be repaired before it becomes necessary to undertake the more costly rehabilitation process. In comparison to other municipalities, he said, Oak Bay’s network is in relatively fair condition and funds have typically been used towards the maintenance of major roads.

Following a description of the modeling and analysis input used to predict the performance of the pavement, Mr. Firbank noted that five different budget scenarios had been considered. He then reviewed the predicted pavement condition of the network in 20 years, comparing the results of the District’s usual budget to the recommended budget of \$1.3 million annually.

Mr. Firbank responded to questions from the Committee with respect to the figures and data used when calculating the average network cracking, the real discount rate and the predicted network condition. He also commented on the life cycle cost analysis, the update to the proposed Oak Bay Five Year Construction Program and the specific costs associated with Oak Bay’s road network.

Christian Babuin, EBA Engineering Consultants Ltd., Project Director, provided clarification on the impact to budget predictions from a change in the real discount rate and the comparison to the budgets of other municipalities.

A discussion ensued, with members of the Committee commenting on the value of quantifiable data and lifecycle cost information for budgetary planning and the need to keep in the mind the Complete Streets Policy when considering road maintenance.

In response to questions from the Committee, the Director of Engineering Services noted that the projects proposed by the Active Transportation Advisory Committee are not directly related to pavement management; however, Haultain Street is identified in the report for resurfacing, which could assist in the establishment of the proposed bikeway on that road. Mr. Marshall also noted that Oak Bay has previously entered into cost sharing agreements with the District of Saanich for maintaining Gordon Head Road.

The discussion turned to a revision of the report which could include categorizing the roads by traffic volume, in addition to providing information on the potential impact of infrastructure grants and removing the University of Victoria's roads from the modeling.

MOVED by Councillor Kirby

Seconded by Councillor Ney, That it be recommended to Council that an updated report on the findings of the October 2012 Pavement Management Study be provided prior to budget deliberations, and that this report include a revised analysis of the roads based on traffic volume and additional budget scenarios that contemplate potential external funding.

CARRIED

Michael Donnelly, resident, asked for information regarding the impact on the road condition of utility companies making cuts into the pavement in order to install infrastructure.

In response to questions from the public and comments from Mr. Firbank, Mr. Marshall noted that the Municipality had previously tried to implement a policy which required that there be no cuts to roads within five years of new paving; however, this became problematic, as the Municipality often needed to make cuts to new pavement within that time period in order to install residential services.

2. 2012-340 DIRECTOR OF ENGINEERING SERVICES, November 28, 2012
  - 2012-340-1 KEITH AND BARBARA FLOYD, October 29, 2012
  - 2012-340-2 ROBERT STERLING, November 21, 2012
- Re Requests to Relocate Overhead Electrical Cables Underground

The Director of Engineering Services reviewed his November 28, 2012 report, noting that the Engineering Department periodically receives requests to relocate electrical cables underground, but that these requests are typically not completed due to the need for the impacted residents to contribute funds. Mr. Marshall stated that he has confirmed the process in respect to moving such a project forward with BC Hydro, as indicated in the October 19, 2012 correspondence attached to his report.

David Illes, resident, spoke to the Committee with respect to the current request by residents to relocate the overhead electrical cables on Satellite Street. Mr. Illes noted that the Satellite Street residents are looking to move forward with this proposal to meet the deadline for partial funding through the BC Hydro Beautification Project program. At this point, he stated, the residents are looking for a municipal staff contact. He noted that consideration is also being given to additional sources of funding for the project. In concluding his remarks, Mr. Illes noted that the residents are looking to identify the approximate cost of the project, as that will determine if they are willing to proceed.

Mr. Marshall confirmed that he would be an appropriate staff contact for the project, but that he should work directly with the residents' electrical engineering consultant for the project. He noted that Mr. Illes could be provided with a copy of BC Hydro's correspondence for reference.

MOVED by Councillor Kirby

Seconded by Councillor Copley, That the Director of Engineering's November 28, 2012 report be received.

CARRIED

3. 2012-341 DIRECTOR OF ENGINEERING SERVICES, November 29, 2012  
2012-341-1 OWEN BRANDON, November 21, 2012  
Re Request to Allow a Taxi Stand at the Police Post on Oak Bay Avenue

A member of the Committee commented that the Oak Bay Business Improvement Association was supportive of the request to allow a taxi stand at the Police Post on Oak Bay Avenue and that no concerns regarding this request were raised by the Chief Constable. It was also noted that taxis are of particular assistance to those with mobility challenges and that it can be difficult for taxis to find pick-up and drop-off locations along Oak Bay Avenue.

MOVED by Councillor Kirby

Seconded by Councillor Ney, That staff be directed to bring forward a Traffic Control Order to implement a taxi stand at the same location as the Police Post on Oak Bay Avenue.

CARRIED

4. 2012-342 DIRECTOR OF ENGINEERING SERVICES, November 29, 2012  
Re New Traffic Signage in the Vicinity of the Oak Bay Beach Hotel

The Director of Engineering Services noted that a parking bay has been recently installed adjacent to the Oak Bay Beach Hotel and that the owners have indicated that limited time parking would be desirable in this location in order to enhance use of the coffee shop. Mr. Marshall indicated that he is not aware of any reasons that providing limited time parking in this location would be detrimental to local residents.

MOVED by Councillor Green

Seconded by Councillor Murdoch, That staff be directed to bring forward a Traffic Control Order to implement a 15 minute limited time parking zone in the parking bay adjacent to the Oak Bay Beach Hotel.

CARRIED

LAND USE SECTION: (Chair – Councillor Copley)

5. 2012-343 DIRECTOR OF BUILDING AND PLANNING, November 15, 2012  
2012-343-1 STEPHEN BOWKER, June 15, 2012  
2012-343-2 GEOFFREY WONG, June 19, 2012  
2012-343-3 NICK REDDING, June 19, 2012  
2012-343-4 ANTHONY MEARS, June 19, 2012  
2012-343-5 ERIC ZHELKA, June 19, 2012  
2012-343-6 MARY DOUGLAS HUNT, June 19, 2012  
2012-343-7 JANE CHADWICK, June 19, 2012  
2012-343-8 LAWRENCE MACDONALD AND VALERIE WYATT, June 19, 2012  
2012-343-9 LINDA AND ART WALKER, June 19, 2012  
2012-343-10 J. HUNTER, June 19, 2012  
2012-343-11 RACHEL MCDONNELL, June 19, 2012  
2012-343-12 JOHN TUCKER AND CHRISTINE ST. PETER, June 19, 2012  
2012-343-13 A. CORMAN, June 19, 2012

- 2012-343-14 CAROLINE MITCHELL, June 19, 2012
  - 2012-343-15 LIBBY WEISE, June 19, 2012
  - 2012-343-16 IAN MARSHALL, June 23, 2012
  - 2012-343-17 ROSEMARY ARMOUR, June 24, 2012
  - 2012-343-18 DAVID AND IRMA RODENHUIS, June 25, 2012
  - EXCERPT FROM COUNCIL MEETING MINUTES, June 11, 2012
  - 2012-189 ANTHONY MEARS AND ERIC ZHELKA, June 2, 2012
  - 2012-189-1 SANDY MAYZELL AND JOHN GOULD, June 10, 2012
  - 2012-189-2 JOHN AND MAGGIE OWEN, June 11, 2012
- Re Gross Floor Area Regulation Review - RS-4 & RS-5 Zones

The Director of Building and Planning provided an overview of his November 15, 2012 report, comparing the potential use of floor area ratio (FAR) to the current use of maximum fixed floor area in the Zoning Bylaw. Mr. Thomassen emphasized that FAR is used by nearly all municipalities in the region to control massing. He also stated that, as it is a function of density, legislation does not allow for variances to FAR. With respect to fixed floor area, Mr. Thomassen noted that this method works well for developing a new municipality which has properties of the same size within each zone. This is not the case for Oak Bay, he said, as there are a variety of lot sizes, especially within the RS-4 and RS-5 zones.

Mr. Thomassen then drew the Committee's attention to the proposed "Above Ground" formula exemption which works in conjunction with FAR. This formula, he said, focuses on visible mass instead of basement depth and works well for lots of all sizes. He concluded his remarks, noting that it makes sense to relate house size to lot size.

Responding to various questions from the Committee, Mr. Thomassen noted that including atriums in the calculation of floor area could reduce building massing. He clarified that, prior to 2007, the Zoning Bylaw included all buildings on a lot in the floor area calculations, including accessory buildings. He stated that the Zoning Bylaw does not currently include stairs or sunken patios when regulating side yard set backs, but that consideration could be given to doing so as these structures are becoming more common.

Mr. Thomassen commented on the use of FAR by other municipalities in the region, noting that a maximum size restriction can be included when using FAR. He noted that he would need to determine if the maximum size restriction would be variable. He also clarified the use and advantages of the "Above Ground" formula.

A discussion ensued with respect to the benefits of using fixed floor area, with a member of the Committee providing an overview of the historical reasoning behind the changes in the Zoning Bylaw. It was noted that a fixed floor area provides for greater flexibility, allowing for older houses to be made more liveable and retained instead of being demolished. Comments were also made on the benefits of providing clear regulation through the use of a FAR.

After reviewing the historical issues with respect to FAR and fixed floor area, Committee discussion turned to the 2006/2007 FAR Review Committee. It was noted that the FAR Review Committee concluded that restrictions on building footprint, height, and setbacks were appropriate to regulate massing, but that it was anticipated that the Zoning Bylaw might require further revisions with respect to regulating development in the future.

Pat Wilson, resident, Heritage Commission Chair and Advisory Design Panel member, commented on the recent discussions at the Heritage Plan focus groups and town hall meetings. Ms. Wilson noted that the core message arising from the Heritage Plan process was with respect to the importance of contiguous green space and the preservation of streetscapes.

She stated that the option of heritage revitalization agreements was also available to discourage demolition of older houses.

Tony Mears, resident, expressed that he is unsure regarding the process and stated that there is an issue with overly large houses being built and with excessive paving of lots. He commented that waiting for the Official Community Plan (OCP) process to proceed is problematic as there is a need for protection of existing residents at this time. He questioned if the Zoning Bylaw is in keeping with the current OCP.

Russ Collins, resident and designer, commented that the existing site coverage and setback requirements provide sufficient control over the potential building footprint. Mr. Collins noted that consideration could be given to increasing the allowable site coverage for the first floor while restricting the upper floor size, in order to decrease the appearance of massing on a property. He stated that approaching Council for a variance allows for a neighbourly approach to development and that the houses which have caused the greatest consternation for adjacent residents often have not been through the variance process.

Frank D'Ambrosio, resident and architect, stated that he agreed with the comments of the previous speaker. Mr. D'Ambrosio noted that though he supports the regulation of development, it is important to note that regulation is a crude instrument, while the impact of development on neighbouring residents is very personal and emotional. Open space, building massing and landscaping have a strong impact on neighbours, he stated, but are difficult to regulate with respect to aesthetics. He commented that height, setback, site coverage, landscaping, and site permeability requirements should be sufficient to regulate the external impact of a building and that design guidelines are important. He indicated that he would not encourage the inclusion of a FAR in the Zoning Bylaw, as it would create a complexity that is contradictory.

Nigel Banks, resident, noted that the previous speaker addressed many of his points. Mr. Banks stated that Oak Bay's Zoning Bylaw is different from other such bylaws in the region, as it has had fewer amendments in response to complaints and that it includes consideration of three different heights, contextual setbacks from the front lot line, and requirements to maintain larger setbacks on the upper level of a dwelling. The massing and impact of a building above ground, he said, is the main concern for neighbouring residents. He commented that incorporating flexibility is challenging and that the previous version of the Zoning Bylaw was very consistent and predictable. He noted that the existing lot coverage restriction has not prevented the purchase and construction of houses in the 20 years it has been in place. At this point, he said, the use of FAR with the augmentation of the "Above Ground" Formula is a step in the right direction, as this would address issues with multiple lot sizes within the RS-4 and RS-5 zones while making some allowance for diversity in development over time.

John Armitage, resident, expressed concern with respect to Zoning Bylaw Sections 4.2.12 and 4.6.11. Mr. Armitage stated that consideration must be given to the impact of development on green spaces and wildlife and that accessory buildings and driveways should also be taken into account. He spoke in favour of the Zoning Bylaw having separate regulations for older houses and for new construction past a certain date, in order to allow for more flexibility and to discourage demolition of older houses. Though he initially preferred the FAR method, he said, if the fixed floor area calculation is maintained, the restrictions for lot sizes from 500 to 600 square metres need to be refined to prevent excessive redevelopment on small lots. He stated that consideration should be given to amending the Zoning Bylaw to encourage certain qualities of older houses, such as porches and verandas, and to measuring floor area from within the walls of a building, so as not to discourage the use of thicker walls.

Consideration could also be given, he said, to allowing for maximum floor area in return for other benefits to the community, such as a green roof. In concluding his remarks, he stated that it is important to take the time needed to amend the Zoning Bylaw correctly.

Corey Burger, resident, stated that the main concern for residents is the size of a house in relation to the houses on neighbouring lots, which the current regulations do not take into account. The trees on a subject property, he said, are also a concern. He stated that few development applications include a streetscape drawing of the proposed construction and that this would be a useful addition. Given that Oak Bay Council has endorsed the Bowker Creek Blueprint, he said, consideration should be given to setting a maximum allowable impermeable surface on a property, instead of using the current siting of paved surfaces calculation. He noted that reducing impermeable surface would help address issues with respect to landscaping and that new construction will result in the loss of existing landscaping unless it is preserved.

Eric Zhelka, resident, stated that he was in support of the change to allow for a lower height in basement areas. Mr. Zhelka noted that the significant increase in the number of variance applications and the high rate of approval for these variances are questionable. The value of fairness to the rest of the community and the associated impact on the workloads of Council and staff as a result of these variances, he said, need to be considered. He commented that there have been many complaints arising from the changes to the Zoning Bylaw in 2007 and that, as a member of Oak Bay Watch, he was particularly concerned with the impact of these changes on the large number of smaller-sized lots in both the RS-4 and RS-5 zones. He encouraged the Committee to seriously consider the recommendations in the Director of Building and Planning's report and proposed that the report be forwarded to a new committee with members from the community, designers and appropriate staff to further consider how best to amend the Zoning Bylaw to take these recommendations into account. He expressed concern for public safety given that it is now common to build to the maximum permitted under the Zoning Bylaw, and that the associated excavations were also a potential hazard.

In response to questions and comments by the public, Mr. Thomassen clarified that the sideyard setbacks and paving restrictions were not changed through the amendments to the Zoning Bylaw in 2007 with respect to fixed floor area. He confirmed that the current Zoning Bylaw already provides regulation of lot coverage, setbacks, height, and site permeability. Design guidelines, he said, are generally used in development permit areas. He stated that the vast majority of new houses in RS-4 and RS-5 Zones are being constructed to the maximum allowable site coverage. Regulating by FAR, he commented, would also control the size of the upper floor of a building.

Continuing his responses, Mr. Thomassen provided clarification on Sections 4.2.12 and 4.6.11. He commented that some properties are being developed to take advantage of the maximum permitted lot coverage for the dwelling, in addition to constructing an accessory building. He noted that his recommendation includes accessory dwellings in the calculation of the FAR and though not included in his current recommendation, consideration could also be given to addressing concerns with respect to the additional exemption under Section 4.6.11 in relation to the orientation of the garage.

Further to questions and comments by the public, Mr. Thomassen noted that redevelopment in neighbourhoods with older housing stock, such as bungalows, will result in new construction that is not in context with surrounding properties unless there are tighter controls in place. He stated that, given changes in the regulations of neighbouring municipalities to allow for secondary suites, there was a change in the interpretation of the Zoning Bylaw that allowed for less height in basement areas.

Members of the Committee discussed the potential process for further review of the gross floor area regulations. It was noted that the issue is complex and that it needs to be dealt with holistically. Concerns were raised regarding the potential for unintended consequences resulting from changes to the regulations and members commented on the value of considering design principles, models from other municipalities, and the work already undertaken by the FAR Review Committee.

MOVED by Councillor Green

Seconded by Councillor Kirby, That the issue of gross floor area regulations for RS-4 and RS-5 Zones be referred to a future Committee of the Whole for discussion and that staff be requested to explore the viability of forming a review committee and also to report back on obtaining further planning input on the issue.

A discussion ensued with respect to striking a review committee, with some members questioning if the issue of gross floor area regulations should be considered after a set of values is determined through the OCP review, while other members felt it was timely for a review committee to address the community concerns on the issue.

The question was then called.

CARRIED

ADJOURNMENT:

MOVED by Councillor Kirby

Seconded by Councillor Ney, That the Committee of the Whole meeting be adjourned.

CARRIED

The meeting adjourned at 10:00 p.m.

Certified Correct:

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Municipal Clerk

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Chair, Public Works Section

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Chair, Land Use Section