

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, Victoria, B.C., on Monday June 17, 2019 at 7:00 PM.

We acknowledge that the land on which we gather is the traditional territory of the Coast and Straits Salish Peoples. Specifically we recognize the Lekwungen speaking people, known today as the Songhees and Esquimalt Nations, and that their historic connections to these lands continue to this day.

PRESENT: Mayor K. Murdoch, Chair
Councillor, A. Appleton
Councillor, H. Braithwaite
Councillor, C. Green
Councillor, T. Ney
Councillor E. Paterson
Councillor E.W. Zhelka
Chief Administrative Officer, L. Varela
Deputy Director of Corporate Services, D. Hopkins
Director of Building and Planning, B. Anderson
Manager of Planning, D. Jensen
Director of Parks, Recreation and Culture, R. Herman
Manager of Parks Services, Chris Hyde-Lay

Mayor Murdoch called the meeting to order at 7:00 p.m.

PARKS, RECREATION AND CULTURE ITEM(S):

1. ***Parks Recreation and Culture Commission Minutes***
 - Note - Director of Corporate Services (June PR&C Minutes)
 - PR&C Minutes June 5, 2019
 - Attach 1 - Program Reports (May 2019)
 - Attach 2 - Correspondence
 - Attach 3 - Modernizing Oak Bay's Playgrounds
 - Attach 4 - Recommendation of Major Changes to the Tree Protection Bylaw

The Director of Parks, Recreation and Culture provided an overview of the minutes of the Parks, Recreation and Culture Commission held June 5, 2019. Mr. Herman and the Manager of Parks responded to questions regarding the draft amendments to the Tree Protection Bylaw.

MOVED and seconded: That the minutes of the meeting of the Oak Bay Parks Recreation and Culture Commission held June 5, 2019, and the recommendations contained therein, be approved.

R. Louie, Oak Bay resident, suggested that the District offer free trees to encourage planting of replacement trees where applications require tree removal to facilitate construction.

The Question was then put and it was CARRIED

2. **South Willows Beach Dog Restrictions**

- Report - South Willows Beach Dog Restrictions

The Director of Parks, Recreation and Culture introduced the South Willows Dog Beach Restrictions report dated June 17, 2019. Mr. Herman noted that the subject area is not included in the current Animal Control Bylaw and that no significant public engagement process had been taken on this matter to date.

Discussion ensued around compliance with Federal regulations, and establishing a trial period with public education and feedback component.

The Mayor invited members of the public to address the Committee.

R. Marshall, Oak Bay resident, said that the subject area would be more accurately described as Bowker Reef and Bowker Estuary area. Mr. Marshall noted that the Animal Control Bylaw does include year-round exclusion of dogs in specific areas such as the Scented Garden, the walkway at Turkey Head and Kitty Islet. He commented that the reasons for exclusion are likely the same as the ones supporting this proposal. Mr. Marshall stated that Oak Bay Bylaws must comply with Federal Law such as outlined in the Federal Migratory Bird Sanctuary Regulations.

J. Sirois, Oak Bay resident, thanked the Committee for taking the issue seriously. He supports year round restriction of dogs from the subject area as it would provide additional protection for roosting birds. Mr. Sirois said that the Bowker Reef is one of the best birding locations in all of Victoria with over 156 species having been identified in the area. He asked that Council go beyond meeting the requirements of the federal regulations and prohibit dogs in the area at all times. Mr. Sirois also asked about enforcement of the proposed restrictions expressing concern that without enforcement there would be no change in behaviour.

B. Harwood, Oak Bay resident, said that the Federal regulations state that no person shall permit a dog to run at large in a bird sanctuary. He said it behooves the District to support the regulations and not to act in discord with federal laws.

P. Woodland, Oak Bay resident, said she is supportive of the comments of the previous speakers. Ms. Woodland commented that significant energy is put into preserving trees and suggested that the same should be provided to the shoreline and birds. She also suggested that public education was required to support Councils' green agenda. Ms. Woodland encouraged Council to approve the proposed changes stating that it would be a small step in the process of education the public and changing behaviour.

MOVED and seconded: That it be recommended to Council that Bylaw No. 4013, Animal Control Bylaw, 1999 be amended to restrict dogs from being on Willows Beach from the end of Bowker Avenue to the south boundary of Glenlyon-Norfolk School all year long.

Committee members noted that clear signage and communication with the public would be required to inform dog users of the changes to take effect in the subject area.

The Question was then put and it was CARRIED

3. **Carnarvon Park Tennis & Pickleball Facilities**

- Report - Carnarvon Park Tennis & Pickleball Facilities

The Director of Parks, Recreation and Culture provided an overview of the Carnarvon Park Tennis and Pickleball Facilities report dated June 17, 2019. He noted that at the Special Committee of the Whole meeting held April 29, 2019, the Committee requested that staff bring back a report exploring other options for pickleball courts from existing municipal outdoor courts. Mr. Herman commented that no stakeholder engagement had occurred in these alternate locations, unlike the extensive engagement process conducted for the Carnarvon Park Master Plan.

The Director of Parks, Recreation and Culture responded to questions from Committee members regarding associated costs for painting and development of new courts, public engagement, strategies for remedying noise, converting courts to multi-use, and weighing the proposed alternate locations.

The Mayor called for public input on the matter.

S. Gregory, Oak Bay, expressed concerns about the addition of pickleball to Windsor Park as it is already a busy and well-used park. Ms. Gregory said that in addition to the regular activities at the park, area residents are also subject to several irregular activities such as running, races, cycling races, and use as a mustering station of the Oak Bay Tea Party parade resulting in several road closures and resident disturbances. She commented that adding this activity would add pressures on parking and may limit family access to the playground area. Ms. Gregory suggested that it would be more appropriate to plan in a more rational way for pickleball's increasing popularity.

H. Tanner, Oak Bay resident, said that Windsor Park is not an appropriate location for pickleball courts. He suggested locating the courts on the University of Victoria lands north of the Henderson Recreation Centre. Mr. Tanner said that pickleball courts are similar in size to badminton courts, and that four courts fit into one tennis court. He added that the sport is growing in popularity in younger demographics and that there are noise mitigating approaches being studied in the United States including limiting the types of paddles used.

J. Batey, Oak Bay resident, said that the tennis courts at Windsor Park are heavily used and asked whether the pickleball courts would result in interference of the tennis matches if located amongst the tennis courts.

B. Barr, Oak Bay resident, remarked that houses located near schools or parks should expect to experience more noise. Mr. Barr suggested that Henderson Park was the best proposed option for the least amount of money as they are not routinely well used. Mr. Barr suggested that tournament play could be relocated to other jurisdictions in the same way that swimming meets are held at Saanich Commonwealth Place. He asked whether the location of the courts could be changed within the Carnarvon Park Master Plan to reduce noise impacts.

MOVED and seconded: That it be recommended to Council that the Carnarvon Park Master Plan be approved as originally presented, including one tennis court and four pickleball courts.

CARRIED

With Councillor Zhelka opposed

LAND USE APPLICATIONS:

4. ***Uplands Siting and Design (ADP00106)***

- Report - 3033 Devon Road (ADP00106)
- Attach 1 - Devon Plans (June 6, 2019)
- Attach 2 - Arborist Memo (March 20, 2019)
- Correspondence - 3033 Devon Road (ADP00106)
- Addenda Correspondence - 3033 Devon Road (ADP00106)

The Manager of Planning provided an overview of the application for Uplands Siting and Design (ADP00106) at 3033 Devon Road and responded to questions from the Committee regarding the proposed removal of an existing home and construction of a new two storey single family dwelling.

L. Baker, Applicant, said that he and the applicant will attempt to reuse existing materials from the house where feasible.

Mayor Murdoch called for public input.

C. Garret, Oak Bay resident, expressed disappointment that the application included demolition instead of renovation. Mr. Garret said that the proposed new house violates the Uplands Design Guidelines in many ways. He commented that the new house is not sited within the existing building footprint and negatively impacts the privacy of the neighbouring property. Mr. Garret asked that Council reject the proposed application stating that the new house would be an unsatisfactory addition to the neighbourhood and would set a precedent of ignoring the Official Community Plan.

G. Lambert, Oak Bay resident, said that he objects to a house that is twice the size of other houses in the area. Mr. Lambert said that his residence will look directly at this massive house that is designed to maximize the last square foot of the lot and presented more like a three storey house. He said that the removal of the Sitka spruce and existing Laurels will leave his house completely exposed to the new development.

Mr. Baker, Applicant, commented that the proposal has not fully maximized any of the zoning requirements. He noted that privacy concerns had been addressed by relocating trees within the rear yard and adjusting window locations. Mr. Baker added that the basement is not recognized as a true basement under the bylaw so the house is considered to be two storeys. He said that there are other two storey homes in the area.

MOVED and seconded: That it be recommended to Council that the proposal to construct a new single family dwelling at 3033 Devon Road, as outlined in the June 10, 2019 report for ADP00106, be approved as to Uplands Siting and Design.

CARRIED

With Councillors Green and Zhelka opposed

5. **Uplands Siting and Design (ADP00110)**

- Report - 3055 Valdez Place (ADP00110)
- Attach 1 - Valdez Plans (June 5, 2019)
- Attach 2 - Arborist Memo (May 17 and June 5, 2019)

The Manager of Planning provided an overview of the application for Uplands Siting and Design ADP00110 at 3055 Valdez Place and responded to questions from Committee regarding the proposed addition to the west and rear sides of an existing single family dwelling.

D. Moore, Architect for the applicants, said that the proposed metal roof was a design selection and is one of two materials included in sea ranch style designs. Mr. Moore noted that it was more common to use metal than cedar with that design and the choice was made to go with a material that was more organic in colour than the current asphalt roof.

The Mayor called for public input but no members of the public came forward.

MOVED and seconded: That it be recommended to Council that the proposal to construct an addition to an existing single family dwelling at 3055 Valdez Place, as outlined in the Jun 10, 2019 report for ADP00110 be approved as to Uplands Siting and Design.

CARRIED

6. **Development Variance Permit Application (DVP00093) - 1175 Beach Drive**

- Report - 1175 Beach Drive (DVP00093)
- Attach 1 - Beach Plans (June 10, 2019)
- Attach 2 - Draft DVP Beach (DVP00093)

The Manager of Planning provided an overview for the application of a Development Variance Permit DVP00093 at 1175 Beach Drive.

Councillor Ney declared a conflict of interest with the subject matter as she owns property in the subject building. She recused herself from the meeting at 9:39 p.m.

The Mayor invited comments from members of the public to provide comment, however no members rose to address Committee members.

MOVED and seconded: That

- a) it be recommended to Council that the application to install a retractable awning on an existing hotel at 1175 Beach Drive be approved subject to issuance of Development Variance Permit DVP00093; and that
- b) notification be given of Council's consideration of DVP00093.

M. Le Sage, General Manager, Oak Bay Beach Hotel, said that the awning is to provide shelter for an existing patio licensed to serve food and beverages.

In response to questions from Committee, Mr. Gammon, Christine Lintott Architects, stated that the awning will be retractable with a five foot housing structure permanently affixed to the building. He noted that structural engineers are ensuring that the awning will be able to withstand wind and snow loads.

The Question was then put and it was CARRIED

Councillor Ney returned to the meeting at 9:42 p.m.

7. **Heritage Revitalization Agreement (HRA00007) / Heritage Addition (HAD00011) - 602 Newport Avenue**

- Report - 602 Newport Avenue (HRA00007/HAD00011)
- Attach 1 - Newport Plans (May 9, 2019)
- Attach 2 - Heritage Revitalization Agreement Bylaw No. 4732
- Attach 3 - Heritage Designation Bylaw No. 4733
- Addenda Attach 4 - Statement of Significance (Revised)
- Attach 5 - Conservation Plan (March 6, 2019)
- Attach 6 - Tree Report (July 5, 2018)
- Attach 7 - Arborist Memo (Oct 16, 2018/March 14, 2019)
- Attach 8 - Heritage Commission Minutes (December 11, 2018)
- Addenda Powerpoint - 602 Newport (HRA00007&HAD0011)
- Correspondence - 602 Newport Avenue (HRA00007/HAD0011)
- Addenda Correspondence - 602 Newport (HRA00007&HAD0011)

The Manager of Planning provided an overview of the application for a Heritage Revitalization Agreement (HRA00007) and Heritage Addition (HAD00011) at 602 Newport Avenue.

J. Keay, Architect, said that several meetings had been held with Parks staff and the project landscape designer and that the current proposal reflects staff input and there is a commitment by the applicant to retain the natural landscape of Linkleas Avenue.

In response to questions from the Committee, the Manager of Planning said that this application would have to go through a subdivision process that would incorporate additional requirements such as boulevard encroachments for landscaping, that some paving extensions would be required to make a safer driveway aisle, and that the HRA would allow the characteristics of the zoning to be varied but does not rezone the subject property.

Mayor Murdoch invited members of the public to provide comments on the application.

P. Wilson, Oak Bay resident, commented on the streetscape and natural landscape heritage values, specifically on Linkleas Avenue. Ms. Wilson said that the hedgerow is a quirky heritage asset and that homeowners should be required to restore these green assets. Ms. Wilson commented that the Oak Bay Heritage Commission is starting to build an inventory of these types of green assets to limit paving, curbs, and other infrastructure to aid in their preservation. She said that members of the public could submit information for the inventory to oakbayheritage@oakbay.ca.

R. Louie, Oak Bay resident, said that Linkleas Avenue is a special and charming area. He expressed concern that this proposal is an example of spot zoning despite the heritage aspect of the application. Mr. Louie stated that approval of the application will deteriorate the ambience of the area. He commented that he supports heritage preservation and recognizes the community benefit of retaining heritage buildings but that this application would result in gaining a heritage designation, but also a loss of something special to the community. Mr. Louie asked that this application not be approved and that the District look for other ways to preserve buildings like this one.

R. Roy, Oak Bay resident, said that covenants do not always provide the protection

they are intended to achieve such as the vegetation that was not preserved during the subdivision at 648 Linkleas Avenue. Mr. Roy said that currently this is a very narrow and unique laneway that will not survive if the application is approved. He commented that the proposal encroaches on the natural environment. Mr. Roy suggested that the municipality already encourages heritage restoration and preservation through generous annual grant programs and noted that the heritage designation seemed to be contingent upon the subdivision approval. Mr. Roy said that 95% of area neighbours are opposed to this proposal.

P. Hill, Oak Bay resident, that she first heard about the subdivision proposal at this property five years ago. She said at that time 33 residents signed a petition against the application and that 23 of those residents opposed still live in the area presently. Ms. Hill added that of all the correspondence submitted regarding this proposal, only one piece was in support and was sent by an individual residing outside of the neighbourhood. She asked that this application not be approved.

K. Wright, Oak Bay resident, asked that the same respect be given to the rest of the neighbourhood as given to the heritage characteristics of the subject property. He commented that approving the proposed subdivision would violate the original intention of establishing Golf Links Park. Mr. Wright stated that creating a two-way laneway and permitting alteration of the hedgerows would spoil the unique character of the area. He said that the heritage designation is an end around the zoning regulations to achieve the desired subdivision.

V. Byggdin, Oak Bay resident, said that he is opposed to the proposal because it seems like two RS-5 lots dropped in the middle of RS-2 zoning. He said that the Golf Links Park was created for a specific purpose more than 100 years ago and hopes that the Committee will respect that.

P. Wilson, Oak Bay resident, speaking a second time said that widening the street ruins the laneway character. She suggested that the laneway be made a one-way street and would solve the safety concerns of cars attempting to pass. Ms. Wilson said this should occur no matter the outcome of this application.

L. Charlton, Oak Bay resident, said she appreciated the concern for retaining the character of Linkleas Avenue. She also commented that if the present owner sells the property there could be a demolition and neighbours would then likely face new construction which is not always done well. Ms. Charlton asked if this proposal does not proceed, the community needs to consider what other proposals will come in the future that could require blasting, removal of more trees, or other requests.

D. Wright, Oak Bay resident, said that she is supportive of saving older homes. She suggested that this application be divided into two separate applications. Ms. Wright proposed that the heritage designation be processed first and then move on to the subdivision application. She asked that the home be rescued.

C. Hobson, Oak Bay resident, asked if the application was about the heritage aspect and whether the interests of all of the stakeholders are balanced within this proposal. Mr. Hobson also asked who is responsible for funding the necessary infrastructure upgrades. Mr. Hobson requested that steps be taken to ensure accountability and secure the requested requirements are completed accordingly. He said that the houses in the area were designed to function in a relationship and in harmony to the lot size and if more housing is added to those lots then the original heritage aspect of

the area is disrespected. He added that heritage is not just about the house, but also about the lot, and about the relationship to all of the other houses and lots in the area.

P. Battles, Oak Bay resident, said that over the past 19 years she has seen seven of the older homes on her street torn down. Ms. Battles said she would like this house to be retained and the heritage aspects of the community be preserved. She commented that residents should have the opportunity to construct smaller houses on their lots to support aging in place. Ms. Battles added that the subject house that the applicant wishes to save is greatly important to the heritage of Oak Bay.

P. Hill, Oak Bay resident, speaking a second time, said that the proposed additional home is not a small home. She noted that the proposed house is two storeys, 1,700 square feet that with single person occupancy. Ms. Hill suggested that this would not be a good use of land or property.

J. Keay, Architect, said that the house is approximately 1,700 square feet, that the living room is double height, and the proposal accommodates an elevator to get to the second storey. He commented that the client is not approaching this as a developer, but as a resident who wishes to remain in the neighbourhood to age in place. Mr. Keay said that this project will add only minor densification in the area and highlighted that this application would not be precedent setting because of its unique characteristics with frontage along two streets. He stated that this proposal provides a housing option to the current owner and meeting the community's needs for smaller retirement homes. Mr. Keay added that the applicant has tried to produce a reasonable project and noted that if the project did not proceed the house would likely be demolished destroying the embodied energy in the existing house.

MOVED and seconded: That the meeting be extended to 11:00 p.m.

CARRIED

MOVED and seconded: That it be recommended to Council to consider the heritage revitalization agreement for 602 Newport Avenue and preserve the heritage home, and

- a) give 1st and 2nd reading to 602 Newport Avenue Heritage Revitalization Agreement Bylaw No. 4732 to enter into a heritage revitalization agreement as part of the proposal to develop two single family lots at 602 Newport Avenue; and
- b) give 1st and 2nd reading to 602 Newport Avenue Heritage Designation Bylaw No. 4733 to designate the existing home as a protected municipal heritage building and place the home on the Oak Bay Community Register; and
- c) set a public hearing on Bylaws No. 4732 and 4733 to be held at the Oak Bay Municipal Hall on July 8, 2019 at 6:00 pm in Council Chambers and that notice be given in accordance with the *Local Government Act*.

CARRIED

With Councillor Zhelka opposed

ADJOURNMENT:

8. **Motion to Adjourn to In Camera**

Moved and seconded: That in accordance with section 90(1)(g) of the *Community Charter*, that the open portion of the meeting of Council be adjourned and that a closed session be convened to discuss litigation or potential litigation affecting the municipality.

CARRIED

The open portion of the meeting adjourned at 10:47 p.m.

Certified Correct:

Chair

Deputy Director of Corporate Services