

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 Tuesday, September 8, 2009 following a Special Council meeting at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman
Councillor H. Braithwaite
Councillor A. R. Cassidy
Councillor P. Copley
Councillor J. D. Herbert
Councillor N. Jensen
Councillor T. Ney
STAFF: Municipal Administrator, W. E. Cochrane
Municipal Clerk, L. Hilton
Confidential Secretary, K. Green
Director of Building and Planning, R. Thomassen
Municipal Treasurer, P. Walker

Mayor Causton called the meeting to order at 7:33 p.m.

FINANCE SECTION: (Chairman – Councillor Jensen)

1. 2009-285 MUNICIPAL TREASURER, September 1, 2009
Re August Monthly Financial Reports

The Municipal Treasurer drew attention to the reduction from eight to five in the number of properties that could potentially go to a Tax Sale scheduled for September 28, 2009 due to delinquent property taxes. Staff is working with property owners to receive the required payments and avoid a tax sale, she said.

Ms. Walker advised that a grant from the Rick Hansen Foundation, although less than anticipated, has been received, which will now allow the Parks and Recreation department to continue with its plans to upgrade the playground equipment as budgeted for earlier this year, although the work will be scaled down to match the funds received.

With respect to investment revenue, Ms. Walker noted that the return on investments is significantly less than anticipated by approximately \$56,000-\$65,000. However, she noted, this has been offset by the Licences and Permits revenues which is over budget by approximately \$56,000.

MOVED by Councillor Herbert

Seconded by Councillor Braithwaite, That the August monthly financial reports be received.

CARRIED

LAND USE SECTION: (Chairman – Councillor Cassidy)

2. 2009-286 DIRECTOR OF BUILDING AND PLANNING, September 2, 2009
2009-277 DIRECTOR OF BUILDING AND PLANNING, August 12, 2009
Re Application for Zoning Bylaw Amendment – 2187 Oak Bay Avenue

Councillor Ney stated that inasmuch as she has office space in Athlone Court, she would be unable to participate in the discussion or vote on any decisions on the matter. Councillor Ney left the meeting at 7:38 p.m.

Councillor Cassidy drew attention to the memorandum from the Director of Building and Planning which suggested an appropriate approach for rezoning 2187 Oak Bay Avenue, which would be similar to that used for the wine store that was relocated from Oak Bay Avenue to Cadboro Bay Road. That approach would see the zoning bylaw amendment identify the specific parcel of land (i.e. 2187 Oak Bay Avenue) where liquor retail sales would be permitted within the existing C-3, Village Commercial Use – Street Level zoning.

The topic of square footage limitations for liquor retail sales use and display area was raised and the Municipal Administrator noted that the proposed square footage amounts for both would likely coincide with the specific request from the applicant, as had been the case in the rezoning for the Cadboro Bay Road liquor store.

As to the rationale for including limitations on the area, said Mr. Cochrane, when the approach has been taken in the past, it was with the idea that a further public process would be required in the case of an expansion of the liquor retail sales use.

Matt MacNeil, applicant, provided an overview of the requested rezoning to permit liquor retail sales at 2187 Oak Bay Avenue to allow the relocation of the current liquor store adjacent to the Penny Farthing Pub. He responded to questions with respect to the provincial liquor licence regulations, which in the past required the liquor store to be attached to the pub, but which now do not, he said.

With respect to concerns about two properties in close proximity being zoned to allow liquor retail sales use, and an inquiry as to whether the owner of the current liquor store property would be amenable to removing the liquor retail sales use from the zoning, Mr. MacNeil said yes he was, and, as he will continue to hold the lease of the current liquor store location for another 22 years it would be in his best interest not to have another liquor outlet on that site in any event. He confirmed that he has no desire to expand the Penny Farthing Pub into the vacated liquor store area and hopes to find a business for that location that will provide a good fit for the Village.

Responding to questions regarding the possible rezoning of the current liquor store property to remove liquor retail sales use as a permitted use, Mr. Cochrane advised that the District of Oak Bay would most likely initiate the rezoning and would, therefore, incur the costs associated with the process. In this regard, he said, it would be desirable, if Council wished to rezone the existing liquor store property to remove the liquor retail sales use, to proceed with both bylaws at the same time to save on the costs of notice and advertising for a single public hearing. Therefore, he said, because the municipality would need to give the property owner notice of the proposed rezoning in advance and erect signage advising of the proposed rezoning, it would preclude both bylaws being placed on the September 14, 2009 Council agenda and with the upcoming meeting schedule, that would possibly see bylaws placed on the October 13, 2009 Council agenda with a possible public hearing on October 26th.

Mr. MacNeil said he hoped to close the old store November 30, 2009 and open the new store December 1, 2009, and given the tight timelines, would be willing to share the public hearing and advertising costs so that the rezoning of the current liquor store could occur at a later date to allow his rezoning application to move forward to the bylaw stage at the next Council meeting.

The question was raised as to whether or not the zoning could specify the location where liquor retail sales would be permitted within the entire street level of 2187 Oak Bay Avenue, and Mr. Cochrane noted that language that would specify the exact location allowed for the store could be written into the Bylaw if desired by Council, although it may not be possible to prepare it for the next Council meeting.

It was the general consensus of Council members that inasmuch as Mr. MacNeil has offered to pay for a second public hearing at a later date to rezone the current liquor store to remove liquor retail sales use as a permitted use, and given his undertaking that he would not sub-let the store to another liquor retail sales business before that time, a bylaw to rezone 2187 Oak Bay Avenue should come forward for consideration at the next meeting of Council.

MOVED by Councillor Braithwaite

Seconded by Councillor Herbert, That staff be directed to draft an amendment to the Zoning Bylaw to permit a liquor retail sale use at 2187 Oak Bay Avenue for formal consideration by Council.

CARRIED

Councillor Ney returned to the meeting at 8:07 p.m.

3. 2009-287 DIRECTOR OF BUILDING AND PLANNING, August 31, 2009
Re Development Variance Permit Application – 661 Newport Avenue

Catherine Langpap, applicant, provided an overview of her request to build a pergola, which would encroach onto the front lot line setback, to provide vertical interest to the long strip of front garden. Shrubs, she said, would be planted to soften the impact from the street.

MOVED by Councillor Jensen

Seconded by Councillor Ney, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 661 Newport Avenue, as outlined in correspondence item no. 2009-287, be prepared and brought forward to Council for consideration.

CARRIED

4. 2009-288 DIRECTOR OF BUILDING AND PLANNING, August 31, 2009
Re Development Variance Permit Application – 1641 Wilmot Place

Evan Brown, applicant, advised that he is seeking a variance to the maximum paved surface of the front yard in order to match the width of the already approved double garage. Mr. Brown commented that a wider driveway would also reduce the need for street parking.

Mr. Brown said that there were no objections when he showed the proposed plans to his neighbours.

In response to a question from a Committee member asking if consideration had been given to using a more permeable driveway surface rather than the stamped concrete, and even constructing a rain garden, Mr. Brown said he would be open to the idea if there was a drainage issue, however, he felt that the runoff from the sloped driveway would water the nearby garden naturally.

The Municipal Administrator drew attention to the application saying it is a good model as it shows the public and private property with the driveway tapering to the maximum allowable width for the boulevard crossing, avoiding the issues of vehicles driving over the public boulevard to access a wider driveway.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 1641 Wilmot Place, as outlined in correspondence item no. 2009-288, be prepared and brought forward to Council for consideration.

CARRIED

5. 2009-289 DIRECTOR OF BUILDING AND PLANNING, August 31, 2009
Re Development Variance Permit Application – 2535 Cranmore Road

Thomas Axmann, applicant, said he appreciates that bylaws are in place to protect Oak Bay, but feels that in this case, the Zoning Bylaw is unreasonable as it applies to older homes, particularly those with low ceiling basements which are not recognized as liveable space by the British Columbia Building Code, but count towards the maximum floor area allowed. The variance for occupiable height, he said, is due to the existing non-conformity in that regard.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2535 Cranmore Road, as outlined in correspondence item no. 2009-289, be prepared and brought forward to Council for consideration.

CARRIED

6. 2009-290 DIRECTOR OF BUILDING AND PLANNING, September 1, 2009
Re Development Variance Permit Application – 651 Falkland Road

Nicholas Fairbank, applicant, explained that he wishes to replace the existing sundeck that was built by a previous owner, and is in disrepair.

MOVED by Councillor Jensen

Seconded by Councillor Copley, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 651 Falkland Road, as outlined in correspondence item no. 2009-290, be prepared and brought forward to Council for consideration.

CARRIED

7. 2009-291 DIRECTOR OF BUILDING AND PLANNING, September 1, 2009
Re Development Variance Permit Application – 2579 Bowker Avenue

Brock Henson, applicant, drew attention to the support expressed by six of his neighbours to allow the minimum number of parking spaces to be varied as requested.

Mr. Henson advised that as a result of the basement development by a previous homeowner, the covered parking was removed. He pointed out, however, that the existing driveway could comfortably fit four parked vehicles.

MOVED by Councillor Jensen

Seconded by Councillor Braithwaite, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2579 Bowker Avenue, as outlined in correspondence item no. 2009-291, be prepared and brought forward to Council for consideration.

CARRIED

8. 2009-292 DIRECTOR OF BUILDING AND PLANNING, September 1, 2009
Re Uplands Building Permit Application – 3515 Beach Drive

MOVED by Councillor Jensen

Seconded by Councillor Copley, That it be recommended to Council that the plans to remove the flat portion of the carport roof and the low supporting beams at 3515 Beach Drive be approved as to siting and architectural design.

Bruce Wilkin, Bruce Wilkin Design, explained that the existing garage is substandard and that although other options were explored it was determined that the best solution to create a more useable carport was to remove two of the low supporting beams and the flat portion of the carport roof.

Committee members expressed their appreciation for the uniqueness of the property noting that when the house was originally built in the 1950's it was considered a ground-breaking design for the Uplands.

Although members of the Committee expressed differing views with respect to referring this application to the Heritage Advisory Panel, it was the consensus of the Committee that as the project is nearing completion it is too late in the process to pursue that avenue. Also, it was noted that the owner clearly appreciates the property's significance and will only enhance and protect it.

It was suggested that, should the homeowners be agreeable, a tour could be organized for the Panel to view the home and property once completed given the uniqueness of the property.

The question was then called.

CARRIED

ADJOURNMENT:

MOVED by Councillor Braithwaite

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

CARRIED

The meeting adjourned at 8:54 p.m.

Certified Correct:

Municipal Clerk

Chairman, Finance Section

Chairman, Land Use Section