

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, May 16, 2011 following a Special Council meeting at 7:30 p.m.

PRESENT: Mayor C. M. Causton, Chairman  
Councillor, H. Braithwaite (arrived at 8:00 p.m.)  
Councillor A. R. Cassidy  
Councillor P. Copley  
Councillor J. D. Herbert  
Councillor N. B. Jensen  
Councillor T. Ney

STAFF: Municipal Administrator, M. Brennan  
Municipal Clerk, L. Hilton  
Confidential Secretary, K. Green  
Municipal Treasurer, P. Walker  
Director of Engineering Services, D. Marshall

Mayor Causton called the meeting to order at 7:31 p.m.

Mayor Causton noted that Councillor Braithwaite would be attending the School Board meeting to show Oak Bay's support with respect to the proposed new construction of the Oak Bay High School and would be joining the Committee of the Whole meeting late.

There was consensus to vary the order of the agenda to consider the development variance permit application for 2573 Epworth Street later in the meeting when there would be a full Council in attendance.

FINANCE SECTION: (Chairman – Councillor Jensen)

1. 2011-175 MUNICIPAL TREASURER, May 4, 2011  
Re Monthly Financial Reports

The Municipal Treasurer advised that the property tax notices were to be sent out the next day.

MOVED by Councillor Copley  
Seconded by Councillor Ney, That the April monthly financial reports be received.

CARRIED

RECREATION SECTION: (Acting Chairman – Mayor Causton)

2. 2011-176 OAK BAY PARKS AND RECREATION COMMISSION, May 4, 2011  
Re Minutes of the Meeting

*(Janet Barclay, Manager of Recreation Program Services, and Monty Holding, Chairman, Oak Bay Parks and Recreation Commission, in attendance for this item.)*

MOVED by Councillor Jensen  
Seconded by Councillor Ney, That the minutes of the meeting of the Oak Bay Parks and Recreation Commission held on Wednesday, May 4, 2011, and the recommendations contained therein, be adopted.

CARRIED

LAND USE SECTION: (Chairman – Councillor Cassidy)

3. 2011-178 DIRECTOR OF BUILDING AND PLANNING, May 3, 2011  
Re Uplands Building Permit Application – 3225 Ripon Road

MOVED by Councillor Herbert

Seconded by Councillor Ney, That it be recommended to Council that the plans to enclose the space under the existing deck at 3225 Ripon Road be approved as to siting and architectural design.

CARRIED

4. 2011-179 DIRECTOR OF BUILDING AND PLANNING, May 3, 2011  
Re Uplands Building Permit Application – 3020 Uplands Road

MOVED by Councillor Herbert

Seconded by Councillor Copley, That it be recommended to Council that the plans for the construction of a new second storey deck with an enclosed sunroom below at 3020 Uplands Road be approved as to siting and architectural design.

CARRIED

5. 2011-180 DIRECTOR OF BUILDING AND PLANNING, May 11, 2011  
Re Uplands Building Permit Application – 3055 Cadboro Bay Road

It was noted that the construction of a new dwelling at 3055 Cadboro Bay Road was found not to be in conformance with the architectural design approved by Council as detailed in the memorandum from the Director of Building and Planning, and that the applicants are now looking for approval for the changes.

Anup Grewal, applicant, explained that the during construction it was discovered that a special beam would be required to accommodate the curved window over the door on the east elevation, therefore they were unable to build it as designed, and Mr. Grewal said it was his understanding that the Building Department approved the revisions that would include changing the window from curved to square over the patio door on the east elevation, along with other window changes on the south elevation.

Following discussion, it was agreed that with the Director of Building and Planning being absent this item should be postponed to the next Council meeting, which would not cause the applicant any delay.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That the revised plans for construction of a new single family dwelling at 3055 Cadboro Bay Road be forwarded to Council.

CARRIED

6. 2011-177 DIRECTOR OF BUILDING AND PLANNING, May 12, 2011  
2011-155 DIRECTOR OF BUILDING AND PLANNING, April 7, 2011  
Re Development Variance Permit Application – 2573 Epworth Street

It was noted that at the May 9, 2011 Council meeting correspondence item no. 2011-155 was referred to a Committee of the Whole meeting when all members of the Committee would be in attendance.

Harris Gilmore, applicant, and his neighbour, Archie Willie, provided an overview of the proposed plans for 2573 Epworth Street as detailed in correspondence item no. 2011-155 clarifying that he wishes to replace the garage in the same location and rebuild it to match the heritage appeal of the existing 1914 arts and crafts style building. He added that he plans to use the original garage doors, and pointed out that the garage is not adequate for today's vehicles given its age.

Councillor Braithwaite entered the meeting at 8:00 p.m.

With respect to garage access, Mr. Gilmore advised that should his application be approved, he would apply to have a driveway installed with access being off of Haultain Street.

Mr. Gilmore noted that currently he and his wife park their two vehicles on the street, and that although the new proposed garage would provide one covered parking space, a variance would still be required with respect to the Parking Facilities Bylaw requirements.

It was the view of some members of the Committee that as the proposed new garage would accommodate one vehicle, which would be a step closer to meeting the parking requirements than the current situation, it was supportable.

In response, the view was expressed by some members of the Committee that the community has expressed concern about parking issues through the survey on secondary suites, and that there was room on the property to create a second parking space, eliminating the need for a variance.

Mr. Gilmore advised that accommodating a second parking space would affect the extensive gardens that have been created over the past eight years, and that it would not be feasible for a second car to access the garage due to the slope of the land and limited space in front of the garage.

The view was expressed by some members of the Committee that creating more green space was desirable, and that allowing the parking requirement variance would be more of a community benefit by getting one vehicle off the street than what currently exists.

MOVED by Councillor Ney

Seconded by Councillor Copley, That a resolution authorizing the Director of Building and Planning to issue a development variance permit with respect to 2573 Epworth Street, as outlined in correspondence item no. 2011-155, be prepared and brought forward to Council for consideration.

It was once again suggested by a member of the Committee that the Parking Facilities Bylaw should be reviewed as opposed to continuously granting variances.

The question was then called.

**CARRIED**  
*(Councillors Braithwaite, Cassidy and Herbert against the motion)*

7. 2011-99 MUNICIPAL ADMINISTRATOR, April 14, 2011  
2011-181 STUART STARK, May 15, 2011  
2011-181-1 RICHARD COLLIER, May 16, 2011  
2011-181-2 JEAN SPARKS, May 16, 2011  
Re Proposed Heritage Revitalization Agreement – 2031 Runnymede Avenue

Bruce Wilkin and Ann Hillyer, applicants, were in attendance to provide further information on the proposed plans for 2031 Runnymede Avenue through a Heritage Revitalization Agreement. Mr. Wilkin said he wished to first clarify some of the misconceptions mentioned by the public at the last meeting, explaining that the variances for the existing house being requested were due to the existing, non-conforming floor area and although some changes to the design would be made there would be no increase to the existing floor area. The proposed new house, he said, would conform to the zoning regulations for floor area.

It was Mr. Wilkin's view that it would be in the best interest of the community to see the gardens and the house restored inside and out, and he confirmed that the required exterior work would be detailed in the Heritage Revitalization Agreement.

With respect to the proposed development, Mr. Wilkin said they have listened to the concerns expressed by the public and therefore would like to put forward a revised plan that would involve a smaller lot and dwelling, which would leave the significant parts of land to remain with the Blair Gowie property, and would not disturb the neighbours view corridor, versus the effect of the setback variance request in the original proposal. Although the carport would be removed, the cabana would remain and be added onto to create a "Coach House" on the new lot.

Members of the Committee commented on various aspects of the proposal, and Mr. Wilkin responded to questions regarding building heights and the square footage of the original proposal versus the new proposed building.

Ann Hillyer said that their proposal encompasses the key characteristics of the heritage house and land being retained, and that the landscape features would not be disturbed, adding that the restoration plans would include working with the wonderful existing garden structure and removing the masses of invasive plant species.

With respect to the terms of the Heritage Revitalization Agreement, Ms. Hillyer said they would agree to include a clause in the agreement that the land would not be subdivided further.

Acknowledging that at this time it is difficult to know where a garden shed would best be built, Ms. Hillyer suggested that the language regarding the garden structure could be removed from the Agreement at this point and that they could apply for a Heritage Alteration Permit if they decide to build a garden structure in the future. Therefore, any plans would have to be approved by Council.

Ms. Hillyer referred to other successful restoration projects they have completed, adding that they would feel privileged to have the opportunity to do the same for Blair Gowie.

Responding to a question from the Committee, Mr. Wilkin acknowledged that although the heritage house has good structure, it also has a magnitude of issues to be addressed, such as damaged plaster, leakage and water damage, roof, flashing, deck and railing replacement, as

well as mechanical issues (i.e. boiler, electrical upgrading), in order to restore Blair Gowie to its original state.

After listening to the list of issues, it was the view of some members of the Committee that the \$100,000 bond to ensure the required works are completed may not be enough and consideration should be given to increasing this amount. Mr. Wilkin responded by saying he obtained quotes from various contractors for all the exterior work and it was determined that this amount would sufficiently cover the anticipated exterior restoration costs. However, he said, the interior costs, which are not included in the security fund, would be significantly more.

The question of a reference to conservation standards being included in the Agreement arose, and Ms. Hillyer confirmed they would have no objection to including such references in the Agreement.

Responding to a question from a member of the Committee, Mr. Wilkin commented on some of the things that make the property unique, noting its original ownership by the Butchart Family, and it being a Samuel McClure designed home. In response to questions about why the restoration of the gardens is not included in the Agreement, Mr. Wilkin noted that there are no known original landscape plans for the gardens.

Further discussion ensued with members of the Committee commenting on various aspects of the plans and various questions from the Committee being answered by the applicants and staff.

Public Input:

Pat Wilson, Oak Bay resident, commented that in light of the new information received it makes it difficult for people to comment on the proposal.

Frank D'Ambrosio, Oak Bay resident and Architect, also commented about being confused with the new information being received from the applicants. Mr. D'Ambrosio added that Council should take the position of not allowing subdivision of heritage lands and should uphold the heritage designation of the whole property.

With respect to a concern Mr. D'Ambrosio had previously stated about losing void space, a member of the Committee noted that with this recent proposal, it would appear there would be net gain in open space. Mr. D'Ambrosio replied by saying the new ideas on design and lot size are better than what was previously proposed, but the emphases should be on whether or not the property should be subdivided, and furthering the discussions on specifics make it appear as if it is okay to subdivide designated properties in Oak Bay.

It was confirmed that the land of the new lot and the existing house and land would continue to be heritage designated.

Gwen Howey, Oak Bay Heritage Committee member and Oak Bay resident, implored Council not to allow subdivision of this property and to listen to the public outcry that is a strong indication of shared community values regarding land use and the heritage value of Blair Gowie. Ms. Howey said that restoring the house is part of the picture and the other part is the setting of the house in its landscape and this could be an exemplary property. She went on to say that Oak Bay is known for its green space and gardens, and Oak Bay should commit to protecting both the building and the garden thus providing a template for future possibilities

for this historical site. Ms. Howey concluded by saying that this is a matter of what the community wishes to leave behind.

Lloyd Howard, Oak Bay resident, said he lives in the area on a large lot, and he is also of a mind to designate his garden, but is concerned about the possibility of the proposal resulting in a subdivision and setting a precedent to be referred to in the event that future owners of this property wish to subdivide.

Gwen Ewan, Oak Bay resident, said that Mr. D'Ambrosio already made some of the points she was going to make, adding that she is concerned about a comment made by the proponent saying that the reason they are seeking the proposed Heritage Revitalization Agreement is in order to have permission to subdivide the property, which should clearly be the crucial issue because then all of the details of the Agreement are irrelevant. It is agreed by all that Blair Gowie is a significant property, she said. With respect to designations and Heritage Revitalization Agreements, Ms. Ewan said they are only as good as Council's willingness to uphold them, asking how can the community be assured this will be enforced in the future.

Ms. Ewan said she has a lot of sympathy for the situation, and noted that there does not seem to be a real consensus on the vision for the community in the Official Community Plan, and noted any planning for further densification should be carefully considered. Ms. Ewan added that if the community knew what the vision for the community was then the decision on Blair Gowie would be easier.

A member of the Committee commented that he was not aware of very many lots of this size that have been subdivided in Oak Bay. It was reiterated that having a Heritage Revitalization Agreement puts the onus on the owner to maintain a significant property such as this, whereas designation by itself does not.

Ms. Ewan concluded by saying that there may be other offers to purchase the property and she feels that considering a Heritage Revitalization Agreement at this time is premature.

In response to the Chairman asking the applicants if they wished to respond to any of the comments made, Ms. Hillyer came forward to say that the reason they are here discussing this application is because in October 2010, as indicated in the Municipal Administrator's memorandum, Council supported the subdivision in principle, subject to acceptable terms and conditions being agreed to through a Heritage Revitalization Agreement. They took that direction and worked with staff to come back with a draft agreement for Council to consider, she said, therefore she is somewhat confused that after the amount of work that has gone into this proposal there may not be support for it as they had thought there was.

A member of Council confirmed that at this stage Council is in fact investigating the implications of the proposed agreement and following the proper procedures in this regard, giving the application due consideration. It was further noted that Council had asked the Heritage Advisory Panel to give advice on the issue, and Council received a split decision. Council realized at that time, that this could be an indication that the community may be split and that Council would have a difficult decision before it.

The Chairman asked if anyone else wished to speak on this issue, and with no one coming forward, the discussion turned to the members of the Committee.

Members of the Committee expressed varying views and opinions with respect to the proposed Heritage Revitalization Agreement and the newly proposed changes presented by

the applicants. Several items were identified for further consideration and discussion including:

- Inclusion of best practices and conservation standards;
- no future subdivision;
- potential removal of the old non-designated buildings;
- maximum sizes of the proposed new buildings;
- siting and design approval of the proposed new buildings;
- proposed garden restoration;
- interior upgrades;
- security;
- potential variances; and
- retention of heritage designation on proposed new lot.

The majority of the Committee felt there was sufficient information to continue considering the proposed Heritage Revitalization Agreement, noting that such an agreement can provide a community benefit if the terms are right for that particular property, although the view was also expressed that allowing the property to be subdivided would undermine heritage designation itself and could deter other residents from coming forward to designate their property.

MOVED by Councillor Jensen

Seconded by Councillor Herbert, That staff be directed to continue negotiating potential terms for a Heritage Revitalization Agreement with the applicants, taking into account the new items discussed, for future consideration by the Committee.

CARRIED

*(Councillors Braithwaite and Ney against the motion)*

ADJOURNMENT:

MOVED by Councillor Braithwaite

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

CARRIED

The meeting adjourned at 10:46 p.m.

Certified Correct:

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Municipal Clerk

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Chairman, Finance Section

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Acting Chairman, Recreation Section

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Chairman, Land Use Section