
TOWN OF SIDNEY
MINUTES OF COMMITTEE OF THE WHOLE MEETING
Tuesday, October 22, 2019
Council Chambers

PRESENT: Chair: Councillor B. Fallot
Mayor C. McNeil-Smith & Councillors: S. Duncan, S. Garnett, T. O'Keeffe, C. Rintoul and P. Wainwright

Staff: R. Humble, Chief Administrative Officer
A. Hicik, Director of Corporate Services
J. Clary, Director of Engineering
A. Verhagen, Senior Manager of Current Planning
S. Nelson, Corporate Officer

The Chair respectfully acknowledged that this evening's meeting is being held on the traditional territory of the WSÁNEĆ people.

1. CALL TO ORDER

The Chair called the meeting to order at 6:00 p.m.

2. APPROVAL OF THE AGENDA

Moved by Councillor T. O'Keeffe, seconded by Councillor S. Garnett, that the agenda be approved as presented.

MOTION CARRIED UNANIMOUSLY

3. PRESENTATIONS

4. ADMINISTRATION & FINANCE

5. PARKS & INFRASTRUCTURE

a. Smoking in Downtown Sidney

Committee members discussed the issue of discarded cigarette butts in the downtown, the cost of installing and maintaining cigarette disposal containers, and enforcement issues related to declaring a smoke and vape free downtown.

Moved by Councillor C. Rintoul, seconded by Councillor S. Garnett, that the Committee recommend to Council that staff be directed to require that event organizers who are requesting to close Beacon Avenue to traffic make their event smoke and vape free.

MOTION CARRIED UNANIMOUSLY

Moved by Councillor C. Rintoul, seconded by Councillor S. Garnett, that the Committee recommend to Council that staff be directed to further investigate the steps to declare Sidney's downtown core smoke and vape free.

OPPOSED: Councillors: S. Duncan & T. O'Keeffe
MOTION CARRIED 5:2

Moved by Councillor C. Rintoul, seconded by Councillor S. Garnett, that the Committee recommend to Council that staff be directed to bring forward a 2020 budget item to research appropriate locations and install cigarette butt disposal containers.

OPPOSED: Mayor C. McNeil-Smith & Councillors: T. O'Keeffe & C. Rintoul
MOTION CARRIED 4:3

6. PROTECTIVE SERVICES

7. DEVELOPMENT & PLANNING

Mayor C. McNeil-Smith left the meeting room at 6:27 pm, citing a potential conflict of interest as he has a family relationship with a member of the proponent's team.

a. Development Permit Application No. DP100786 (10129 Fifth Street)
(To construct a 3 storey, 71-unit multi-family residential development).

Michael Nygren, District Group, advised they are a group of long-term rental property owners and advised that they have spent a lengthy amount of time working with Town staff to present a proposal that meet with the Town's bylaws and policies and the neighborhood (i.e. conforms to height, storeys, setbacks, character, etc. and requires no variances).

Renante Solivar, MCM Partnership Architects, presented the proposal for a 3-storey, 71-unit multi-family development at 10129 Fifth Street, highlighting on the following:

- subdivided from Robert's Manager property and is a panhandle lot
- a purpose-built market rental apartment building (71 units - varying in sizes)
- designed with units stepping back to reduce massing
- underground parking (71 spaces) and bicycle (71 spaces) with access off existing Robert's Manor driveway off Malaview Avenue
- modern Cape Cod / Oceanside Village aesthetic with traditional gable roof
- ground oriented units have access off the street
- interior courtyard area
- retention of 3 trees and numerous replacement trees to be provided

Mr. Nygren also advised they do not intend to stratify the building and are working with BC Housing to ensure that the building is used solely for rental purposes for a period of 10 years.

Committee members expressed their appreciation for the applicants working with Town staff on presenting a proposal for a much needed rental housing development with no variances being requested. Some members had specific questions respecting potential rental costs, EV outlets, accessible and guest parking, green initiatives, building materials, etc.

Moved by Councillor S. Garnett, seconded by Councillor C. Rintoul, that the Committee recommend to Council that Development Permit Application No. DP100786 (10129 Fifth Street) be forwarded to the Advisory Planning Commission for further review and comment.

MOTION CARRIED

Mayor C. McNeil-Smith returned to the meeting at 7:06 p.m.

b. New Cannabis Retail Store Licence Referral - 2410 Beacon Avenue

Cindy Pendergast and Brad Styles, business owners/applicants, advised that Happy Buddha Cannabis is a local family business, self-financed and new to the cannabis industry. Ms. Pendergast advised that since Council's decision to allow cannabis retail on Beacon Avenue they have received many positive comments from the public and stated they are excited to bring this venture and economic driver on Beacon Avenue, and to keep shoppers in Sidney. Ms. Pendergast stated that while the Liquor & Cannabis Regulation Board requires opaque windows with no exception, which is not anyone's preferred choice, she requested Council's support for the application referral.

Committee members discussed the Province's opaque window treatment requirement, how to maintain a pedestrian-oriented retail experience on Beacon Avenue, and providing clarity for future applications/businesses.

Moved by Councillor C. Rintoul, seconded by Mayor C. McNeil-Smith, that the Committee recommend to Council:

1. That staff be directed to respond to the Liquor and Cannabis Licensing Branch regarding the Happy Buddha Cannabis application at 2410 Beacon Avenue with a copy of the staff report dated October 15, 2019 related to the Happy Buddha Cannabis application, and the following decision:
 - i. Whereas it is the Council of the Town of Sidney's opinion that a proposed cannabis retail store shall meet, to a high degree, the standards and requirements established by Town of Sidney Liquor & Cannabis Licensing Policy DV-015;
 - ii. And whereas Policy DV-015 highlights the Town of Sidney's broader expectation that cannabis retail store locations will support the Town of Sidney's goals and policy objectives of creating and maintaining a pedestrian-friendly retail experience on Beacon Avenue that includes a variety of interesting and accessible window displays visible to the public;
 - iii. And whereas the proposed Happy Buddha cannabis retail store's proposed storefront design does not provide a retail display or a level of visual interest that would address this expectation;
 - iv. Therefore, based on the application not meeting the requirements of Policy DV-015, the Council of the Town of Sidney resolves that the application be denied.

**OPPOSED: Councillors: S. Duncan, S. Garnett & P. Wainwright
MOTION CARRIED 4:3**

Moved by Councillor T. O'Keeffe, seconded by Councillor S. Duncan, that the Committee recommend to Council that staff be directed to bring forward an amendment to Zoning Bylaw No. 2015 that would require Cannabis Retail locations to maintain a minimum 15 metre setback from any property line directly adjacent to Beacon Avenue, excepting businesses on the second storey or higher.

**OPPOSED: Councillors: S. Garnett, T. O'Keeffe, C. Rintoul
& P. Wainwright
MOTION DEFEATED 4:3**

Moved by Mayor C. McNeil-Smith, seconded by Councillor C. Rintoul, that the Committee recommend to Council that an amendment to Zoning Bylaw No. 2015 be made to prohibit cannabis retail locations on Beacon Avenue.

**OPPOSED: Councillors: S. Duncan, S. Garnett & P. Wainwright
MOTION CARRIED 4:3**

Moved by Mayor C. McNeil-Smith, seconded by Councillor P. Wainwright, that the Committee recommend to Council that staff be directed to bring forward an amendment to Section 2 (ii) (b) of Policy DV-015 that removes the requirement for active and transparent storefronts for cannabis retail store locations

MOTION CARRIED UNANIMOUSLY

c. Development Variance Permit Application No. DV100285 (10379, 10383 and 10387 Allbay Road)

(To retroactively approve the construction of two sets of beach stairs and the alteration of an existing set of beach stairs).

(Referral from Council Meeting of October 15, 2019).

Committee members discussed the issues related to the illegally constructed stairwells on the three properties on Allbay Road, including the applicant's feedback, impacts on the environmentally-sensitive area and what amount of the landscape deposit should the applicant forfeit (and go towards environmental enhancement in the area).

Moved by Mayor C. McNeil-Smith, seconded by Councillor T. O'Keeffe that the Committee recommend to Council that Option 3 be approved as follows:

Option 3

1. That all owners and tenants in occupation of property within 75m (246 ft) of 10379, 10383 and 10387 Allbay Road be notified regarding Development Variance Permit Application No. DV100285 (to reduce the required setback to the natural boundary from 7.6 metres to 0 metres in order to legalize the construction of two beach access stairwells and the alteration to an existing stairwell within the required setback to the natural boundary) and that any written correspondence received be forwarded to Council at the time of consideration of approval of the variance; and
2. That the applicant forfeit a \$10,000 portion of the landscape deposit to go towards environmental enhancement in the Roberts Bay Environmentally Sensitive Area.

Moved by Councillor P. Wainwright, seconded by Councillor S. Duncan that the above motion be amended to increase the forfeit amount from \$10,000 to \$20,000.

OPPOSED: Mayor C. McNeil-Smith & Councillors: S. Garnett, T. O'Keeffe & C. Rintoul

MOTION DEFEATED 4:3

The question was called on the original motion as follows:

Moved by Mayor C. McNeil-Smith, seconded by Councillor T. O'Keeffe that the Committee recommend to Council that Option 3 be approved as follows:

Option 3

1. That all owners and tenants in occupation of property within 75m (246 ft) of 10379, 10383 and 10387 Allbay Road be notified regarding Development Variance Permit Application No. DV100285 (to reduce the required setback to the natural boundary from 7.6 metres to 0 metres in order to legalize the construction of two beach access stairwells and the alteration to an existing stairwell within the required setback to the natural boundary) and that any written correspondence received be forwarded to Council at the time of consideration of approval of the variance, subject to the following condition; and
2. That the applicant forfeit a \$10,000 portion of the landscape deposit to go towards environmental enhancement in the Roberts Bay Environmentally Sensitive Area.

OPPOSED: Mayor C. McNeil-Smith & S. Garnett

MOTION CARRIED 5:2

d. Development Permit Application No. DP100796 and Development Variance Permit Application No. DV100286 (9570 & 9574 Fifth Street)

(To relax requirements for retaining walls in order to construct a 4 storey, 16-unit multi-family residential development).

(Referral from Council Meeting of October 15, 2019).

G. Gillespie, Mike Geric Construction/Applicant, advised that revised plans submitted to the Advisory Planning Commission addressed the three items Council referred to the Commission for review:

1. address design and appearance of the west elevation of the building - additional siding materials and colors and wall articulation were added;
2. consider tiering of the retaining wall - a tiered wall was designed reducing the height of the tallest portion to wall to be within the required setback (3.3m to 1.96m); and

3. review massing of rooftop structure to reduce visual appearance - the private stair access has been removed and setbacks reduced, and a green-wall installed.

He noted that the APC unanimously supported the redesign, and advised that the two recommendations from the Commission have also been incorporated into this evening's design drawings for Council's review: 1. a landscape buffer has been included to screen the tiered retaining wall and pavers used for the walkway/access; and 2. the wall has been substantially reduced in height and new landscaping added. Mr. Gillespie advised there have been multiple design solutions to minimize the impact on the neighborhood and that they are excited about the new design.

Committee members were pleased to see the items addressed and had follow up questions respecting the tiered wall, the landscaping buffer and the rooftop structure. Members noted that the flood construction level requirement not only impacts the height of this development, but future development in the area.

Moved by Councillor P. Wainwright, seconded by Councillor T. O'Keeffe, that the Committee recommend to Council:

1. *That, following the receipt of revised drawings as per Council resolution 2019.36.475, owners and tenants in occupation of property within 75m (246ft) of the properties at 9570 & 9574 Fifth Street be notified of Development Variance Permit Application No. DV100286 (to relax the setback requirements for retaining walls taller than 1.2m) and that any written correspondence received be forwarded to Council at the time of consideration of approval of the variance; and*
2. *That if Council authorizes the issuance of Development Variance Application No. DV100286, then Development Permit Application No. DP100796 (to permit the construction of a 16-unit condominium building) be brought before Council for consideration of approval with the following conditions:*
 - a. *That the property owner shall, prior to the issuance of Building Permit, pay to the Town a deposit in the amount of 115% of the estimated cost to complete the hard and soft landscaping for the development;*
 - b. *That the property owner shall, prior to the issuance of Building Permit, register a flood hazard covenant on the title of the property referencing the submitted Engineer's report, and;*
 - c. *That the property owner shall, prior to the issuance of Building Permit, register a restrictive covenant on the title of the property with the Town as a signatory, prohibiting the future strata council from passing any bylaws that may restrict occupancy of the building based on age.*

MOTION CARRIED UNANIMOUSLY

8. **OTHER BUSINESS**
9. **NEW BUSINESS**
10. **MOTION TO GO "IN-CAMERA" (closed meeting) - Not required.**
11. **ADJOURNMENT**

Moved by Councillor P. Wainwright, seconded by Councillor C. Rintoul, that the meeting be adjourned at 8:58 p.m.

MOTION CARRIED UNANIMOUSLY