

Regular MeetingAugust 28, 2001

A Regular Meeting of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, August 28, 2001.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil, R.D. Cannan, B.A. Clark, C.B. Day*, J.D. Nelson and S.A. Shepherd.

Council members absent: Councillors B.D. Given and R.D. Hobson.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi; Current Planning Manager, A.V. Bruce; Subdivision Approving Officer, R.G. Shaughnessy*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:42 p.m.

2. PRAYER

The meeting was opened with a prayer offered by Councillor Shepherd.

3. CONFIRMATION OF MINUTES

Regular Meeting, August 13, 2001
Public Hearing, August 14, 2001
Regular Meeting, August 14, 2001

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R671/01/08/28 THAT the Minutes of the Regular Meetings of August 13 and August 14, 2001 and the Minutes of the Public Hearing of August 14, 2001 be confirmed as circulated.

Carried

4. Councillor Shepherd was requested to check the minutes of this meeting.

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

5.1 Bylaw No. 8714 (Z00-1013) – Vincent & Giovannina Magaldi – 2131 Scenic Road, and Discharge Land Use Contract No. LUC78-1009

Council:

- Clarified for the applicant that he is not required to build a fence for the neighbour across the street.

Moved by Councillor Clark/Seconded by Councillor Shepherd

R672/01/08/28 THAT Bylaw No. 8714 be read a second and third time.

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- 5.2 Bylaw No. 8715 (Z01-1029) – Pacific Sun Enterprises Ltd (David Kornell) – 1859, 1879 & 1889 Chandler Street and 1450 Sutherland Avenue, and City of Kelowna Official Community Plan Amendment No. OCP01-004 **requires majority vote of Council (5)**

Moved by Councillor Shepherd/Seconded by Councillor Clark**R673/01/08/28** THAT Bylaw No. 8715 be read a second and third time.Carried

- 5.3 Bylaw No. 8716 (Z00-1042) – T172 Enterprises Ltd. (Jim Langley) – 2678 Highway 97 North, and City of Kelowna Official Community Plan Amendment No. OCP00-006 **requires majority vote of Council (5)**

Moved by Councillor Nelson/Seconded by Councillor Clark**R674/01/08/28** THAT Bylaw No. 8716 be read a second and third time.Carried**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)**

- 5.4 Bylaw No. 8713 (Z01-1032) – Nancy & Lyle Howlett – 4355 June Springs Road

Moved by Councillor Nelson/Seconded by Councillor Clark**R675/01/08/28** THAT Bylaw No. 8713 be read a second and third time, and be adopted.Carried**6 PLANNING**

- 6.1 Planning & Development Services Department, dated August 7, 2001 re: Development Permit No. DP01-10,044 and Development Variance Permit No. DVP01-10,045 – Farnholtz Enterprises Ltd. (Scuka Enterprises) – 1720 Ethel Street (3060-20; 3090-20)

Staff:

- The applicant is proposing to construct a 4-storey apartment building for non-working, entry-level working or low-income residents.
- A Housing Agreement would be registered on title to indicate this project would be an affordable housing project in perpetuity.
- The project includes an in-house daycare facility that would be in the lower level of the northeast corner of the building.
- Variances are required for reduced parking requirements and rear yard setback.
- The project would receive funding from B.C. Housing.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the required variances to come forward.

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Dan Scuka, applicant:

- Explained the Society's reasons for locating the daycare toward the corner of Ethel and Harvey.
- Statistics for this type of housing show that 11 parking stalls are all that would be needed; 6 stalls for the residents, the resident manager and the day care staff and 5 stalls for visitors.

Moved by Councillor Shepherd/Seconded by Councillor Nelson

R676/01/08/28 THAT Municipal Council authorize the issuance of Development Permit No. DP01-10,044, Dan Scuka; Lot A, Plan KAP52605, DL 138, ODYD, located on Ethel Street, Kelowna, B.C., subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;
5. The applicant register a Housing Agreement in favor of the City of Kelowna to the effect that the project is reserved for affordable housing;

AND THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP01-10,045, Dan Scuka; Lot A, Plan KAP52605, DL 138, ODYD, located on Ethel Street, Kelowna, B.C.;

AND FURTHER THAT variances to the following sections of Zoning Bylaw No. 8000 be granted:

Table 8.1 – Parking Schedule, Apartment Housing: a 15 stall variance in the required parking from the minimum 26 stalls to the 11 stalls as proposed;

Section 13.11.5(f) Development Regulations, Rear Yard Setback: a 1.55 m variance to the required rear yard setback of 9.0 m to 7.45 m as proposed for the existing principal dwelling.

Carried

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7. BYLAWS

(BYLAWS PRESENTED FOR FIRST READING)

- 7.1 Bylaw No. 8719 (Z01-1034) – Ruby Holdings Ltd. (New Town Planning Services) – Gordon Drive at Lequime Road, and City of Kelowna Official Community Plan Amendment No. OCP01-006 **Requires majority vote of Council (5)**

Council:

- There is a rumor in the community that the name of Lequime Road would change with this application.

Staff:

- Any road name change would have to be done by bylaw and the bylaw would have to be approved by Council.

Moved by Councillor Day/Seconded by Councillor Cannan

R677/01/08/28 THAT Bylaw No. 8719 be read a first time.

Carried

- 7.2 Bylaw No. 8720 (OCP01-007) – Marona Estates Ltd. (Warren Neufeld/Red & Gold Properties) – Glenmore Road, Summit Drive and Valley Road **Requires majority vote of Council (5)**

Councillor Day declared a conflict of interest for agenda items 7.2 and 7.4 because the property under application is owned by direct family members and left the Council Chamber at 8:08 p.m.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R678/01/08/28 THAT Bylaw No. 8720 be read a first time.

Carried

- 7.3 Bylaw No. 8721 (TA01-007) – City of Kelowna Zoning Bylaw Text Amendment

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R679/01/08/28 THAT Bylaw No. 8721 be read a first time.

Carried

- 7.4 Bylaw No. 8722 (Z01-1035) – Marona Estates Ltd. (Warren Neufeld/Red & Gold Properties) – Glenmore Road, Summit Drive and Valley Road

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R680/01/08/28 THAT Bylaw No. 8722 be read a first time.

Carried

Councillor Day returned to the Council Chamber at 8:09 p.m. and took his place at the Council Table.

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- 7.5 Bylaw No. 8723 – Okanagan Mission Community Hall Association Loan Authorization Bylaw

Moved by Councillor Cannan/Seconded by Councillor Day**R681/01/08/28** THAT Bylaw No. 8723 be read a first, second and third time.Carried**(BYLAWS PRESENTED FOR ADOPTION)**

- 7.6 Bylaw No. 8709 – Amendment No. 14 to Business License and Regulation Bylaw No. 7878

Staff:

- The amendment would remove the limit on the number of Cabaret Business Licenses issued in the downtown area and remove the limitation on the seating capacity in the cabarets.
- At first reading of the amending bylaw, Council directed staff to seek feedback from the stakeholders and report back before adoption consideration of the bylaw.
- Faxes were sent to the Chamber of Commerce, Downtown Kelowna Association, Urban Development Institute, the Hotel and Restaurant Associations, the local Liquor Control Branch, the RCMP and Fire Department, and the 7 listed owners/operators of the existing Class 'C' licensed establishments of which 6 are located in the downtown and 5 within the moratorium area.
- The following 5 submissions were received as a result of the fax campaign:
 - Letter from Webster Management Ltd., opposing lifting the moratorium because adding more cabaret licenses goes against the goals of the Downtown Centre Plan.
 - Letter from the RCMP saying any increase in the number of cabarets in the downtown core and any increase in the seating capacity of these establishments would have a direct effect on policing services and would only add to existing problems.
 - Letter from the B.C. Restaurant and Foodservices Association in support of eliminating the moratorium.
 - Letter from the Downtown Kelowna Association opposing allowing any more cabarets in the downtown and suggesting that if additional cabarets are to be allowed then a contract or policy is needed to ensure a higher level of downtown cleanliness and safety is achieved.
 - Letter from the operator of the Vibe Nite Club requesting an opportunity to address Council on this issue. Staff followed up the letter with a phone call and he appeared to have no problem with lifting the moratorium but felt the process for doing this was wrong.
- Flashbacks and OK Corral have also indicated support for removing the moratorium.
- Staff were unable to contact the owner of Flashes.

Moved by Councillor Cannan/Seconded by Councillor Nelson**R682/01/08/28** THAT Council hear from the public.Carried

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Bill Scutt:

- Owns 6 buildings in the moratorium area of which one was a nite club across from the Sails and every day there was vomit, urine, broken glass and vandalism to the building. With more cabarets the decay will increase.
- Concerned that a cabaret could go in across the street from another of his buildings that he just finished renovating into a restaurant on Water Street next and that he could be faced with the same problems there.
- Nite clubs are vomit producers and do not help an area to be pedestrian friendly.
- Before lifting the moratorium measures need to be put in place to make the cabaret owners responsible for the mess their patrons create.

John Hertay:

- Not speaking as president of the Downtown Kelowna Association (DKA) but rather as owner of a downtown property that is across the lane from Splashes Nite Club. This morning the windows were broken in the satellite building across from the main building. Yesterday morning all the locks on the exterior doors to both buildings were crazy glued. It costs money to have these things corrected and to have the janitor come in early to pick-up the litter.
- There are 5 cabarets in a very small area and they offer zero parking. Their patrons use the parking lots of other businesses in the area. Often cars are abandoned on these lots and have to be towed away.
- The cabaret owners are part of the DKA and they are aware of the position of the other businesses in the DKA.
- Suggest that Council leave the moratorium in place until the cabaret owners take responsibility and fix the problems that exist. The negative effects of the existing establishments need to be resolved before Council considers lifting the moratorium.
- McDonald's Restaurants once had a policy to clean-up all litter for 5 blocks. That is what the cabarets need to do and the clean-up has to be done before the morning when the mess becomes visible. Evidence is seen first thing in the morning. By 10 a.m. or 11 a.m. most of the mess has been cleaned up.

Staff:

- Clarified that a lot of the downtown office buildings and cabarets are grandfathered for the existing parking that they have which in some cases is zero. If one of these buildings was torn down and rebuilt, parking would have to be provided as per the City's Zoning Bylaw. If a building were added onto, the owner would be responsible for providing whatever parking was attributable to the addition.

Rita Milne:

- Asked about the Social Contract the City entered into last year with the downtown nite clubs.

Staff:

- The majority of the downtown cabaret owners signed social contracts with the City when the club owners applied for approval of extended hours. The contracts are more of a morality check and are not legally enforceable.

There were no further comments from the public gallery.

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Council:

- Lifting the moratorium does not mean that more cabarets would be permitted in the downtown. Any applications for cabarets would be considered on a site specific basis and would be subject to a public process when the public would have a say.

Moved by Councillor Day/Seconded by Councillor Cannan

R683/01/08/28 THAT Bylaw No. 8709 be adopted.

Carried

Mayor Gray and Councillor Cannan opposed.

7.7 Bylaw No. 8717 – Amendment No. 11 to Development Application Fees
Bylaw No. 8034

Staff:

- Outlined the public process that would be triggered for a cabaret application.

Moved by Councillor Blanleil/Seconded by Councillor Day

R684/01/08/28 THAT Bylaw No. 8717 be adopted.

Carried

8. REMINDERS

- The Parks Department is accepting suggestions for naming an official flower for the City of Kelowna until the end of the month.

9. TERMINATION

The meeting was declared terminated at 9:04 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am