

Regular MeetingApril 2, 2002

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, April 2, 2002.

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

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; Long Range Planning Manager, S.K. Bagh*; and Council Recording Secretary, B.L. Harder.

(*denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 8:14 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, March 18, 2002
Public Hearing, March 19, 2002
Regular Meeting, March 19, 2002

Regular Meeting, March 19, 2002:

Councillor Hobson suggested that the paragraph before the resolution on page 188 of the minutes be clarified by changing the wording from "Agreed that a covenant be registered..." to read "Agreed to the applicant registering a covenant..."

Councillor Hobson suggested that the wording of the paragraph under agenda item 7.3 on page 189 of the minutes be amended to read "...a notice was sent to an individual who apparently is planning to start a Bed & Breakfast Association *in the region* (rather than in Kelowna).

Moved by Councillor Given/Seconded by Councillor Nelson

R285/02/04/02 THAT the Minutes of the Regular Meeting of March 18 and the Minutes of the Public Hearing of March 19, 2002 be confirmed as circulated;

AND THAT the Minutes of the Regular Meeting of March 19, 2002 be confirmed as amended.

Carried

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

Regular MeetingApril 2, 20025. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)**

- 5.1 Bylaw No. 8817 (Z01-1067) – Deby Helpard & David Gelpke – 956 Ryder Drive

Councillor Nelson declared a conflict of interest being a neighbour to the subject property and left the Council Chamber at 8:17 p.m.

Moved by Councillor Given/Seconded by Councillor Clark

R286/02/04/02 THAT Bylaw No. 8817 be read a second and third time.

Carried

Councillor Clark opposed.

Councillor Nelson returned to the Council Chamber at 8:18 p.m. and took his place at the Council Table.

- 5.2 Bylaw No. 8820 (TA02-001) – Miscellaneous Amendments to City of Kelowna Zoning Bylaw 8000

Council:

- Considered requiring, as a part of the business licensing process, that applicants for Bed & Breakfast operations notify their neighbours of their intent to open a B & B. Agreed not to make this a requirement because of concern that it could create expectations by the neighbours that they could veto a Bed & Breakfast application and could complicate the licensing process.
- Agreed not to reduce the number of permitted guest rooms from 4 to 3.
- Council to debate, at a future date, the merits of creating a new zone for B & B's similar to the zoning requirements for secondary suites.
- Copies of any complaints staff receive about B & B's are to be circulated to all of Council.

Moved by Councillor Given/Seconded by Councillor Nelson

R287/02/04/02 THAT Bylaw No. 8820 (TA02-001) be amended at first reading to delete clause 2(i)(a) and allow the current limit on guest rooms for a bed and breakfast operation to remain at 4.

Carried

Moved by Councillor Given/Seconded by Councillor Nelson

R288/02/04/02 THAT Bylaw No. 8820, as amended, be read a second and third time.

Carried

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- 5.3 Bylaw No. 8815 (Z01-1066) – Gerald & Helena Doeksen (Grant Maddock/Protech Consultants Inc.) – 759 Dehart Road

Moved by Councillor Shepherd/Seconded by Councillor Clark

R289/02/04/02 THAT Bylaw No. 8815 be read a second and third time, and be adopted.

Carried

- 5.4 Bylaw No. 8821 – Heritage Designation Bylaw – 721 Bernard Avenue

Moved by Councillor Clark/Seconded by Councillor Shepherd

R290/02/04/02 THAT Bylaw No. 8821 be read a second and third time, and be adopted.

Carried

6. **PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENSE APPLICATION:**

- 6.1 Planning & Development Services Department, dated March 13, 2002 re: Proposed Class “D” Neighbourhood Public House Licence for Kelly O’Byran’s - 262 Bernard Avenue (LL02-001)

Staff:

- The applicant is seeking a Class “D” license for the upper floor of the building which would be separate from the restaurant on the main floor.
- Because of the age of the building, providing an elevator or lift to provide access to the second floor for the disabled would not be practical and therefore that requirement would be exempted.
- Capacity for the upper floor could not exceed 60 patrons, including any patio seating.
- The RCMP have indicated no concerns with this application.
- The Liquor Control Branch has applied discretion regarding the proximity of the subject property to other neighbourhood pubs and will rule on that formally if this is supported by Council tonight.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by this liquor licence application to come forward.

Reg Henry, Kelly O’Bryans:

- Kelly O’Bryans moved into the building about 5 years ago and have been dedicated to bringing it up to Code and increasing its value as a heritage building.
- This license would make the building more versatile.

Moved by Councillor Shepherd/Seconded by Councillor Given

R291/02/04/02 THAT the Council of the City of Kelowna considers the majority of the area residents to be in favour of the application for a Class "D" Neighbourhood Public House liquor licence at 262 Bernard Avenue, Kelowna, BC (Kelly O'Bryan's);

AND THAT Council support the following amendments to the current operating restrictions specifically requested by 520528 BC Ltd. (Reg Henry) subject to the applicant meeting the requirements of the Inspection Services Department:

- To obtain a Class "D" Neighbourhood Public House Liquor Licence for the upper floor at the premises at 262 Bernard Avenue (Kelly O'Bryan's) for a total of 60 seats (interior and patio);
- To obtain the ability of "off-premises" sales of liquor;
- To allow the hours of operation to be extended until 1:00 a.m. on Friday and Saturday nights;

AND THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Board in Victoria.

Carried

7. PLANNING

7.1 (a) **BYLAWS PRESENTED FOR ADOPTION**

- (i) Bylaw No. 8797 (OCP01-012) – Canada Lands Company CLC Limited (Dale Knowlan) – 1175 Sunset Drive **requires majority vote of full Council (5)**

Moved by Councillor Clark/Seconded by Councillor Shepherd

R292/02/04/02 THAT Bylaw No. 8797 be adopted.

Carried

- (ii) Bylaw No. 8798 (Z01-1047) – Canada Lands Company CLC Limited (Dale Knowlan) – 1175 Sunset Drive

Moved by Councillor Day/Seconded by Councillor Blancheil

R293/02/04/02 THAT Bylaw No. 8798 be adopted.

Carried

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- (b) Planning & Development Services Department, dated March 27, 2002 re: Development Permit Application No. DP02-10,005 – City of Kelowna and Canada Lands Company CLC Ltd. (Brian Kilpatrick/BKDI Architects Inc.) – 1175 & 1195 Sunset Drive and 1150 Ellis Street (3060-20)

Staff:

- The initial proposal was rejected by the Advisory Planning Commission because of concerns about massing of the building, roof forms and that the street level architecture was incongruent with the upper floors.
- As a result, phase 1 of the project has been down-sized and phase 2 up-sized. The phase 1 building footprint remains much the same but would now be 185 rooms and 5-storeys. Phase 2 would include a 12-storey tower feature that would be joined by a second storey bridge and would bring the number of rooms up to what was originally proposed. The upper storey part of the hotel now incorporates a stronger more significant roof line and building details take on the character of the former railway building across the street.
- A height variance is required for the phase 2 tower.

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

Barbara Rhodes, representing the Dolphins strata council:

- Overall the residents are pleased with the hotel development but their main concern is the traffic congestion that will occur on Sunset as a result of the tower when it is built and the general development of surrounding lands.
- Suggest that the hotel parking exit onto Ellis Street to reduce congestion on Sunset Drive, that a traffic light be installed at the corner of Sunset and Clement, and that no parking be permitted on Sunset Drive.

Brian Kilpatrick, architect for the applicant:

- The parkade has been designed to be one-half level below grade at Ellis and at ground level at Sunset. This allows the parkade at Ellis to be screened by the layer of retail along Ellis.
- Could explore a way to achieve an exit to Ellis; it would make it challenging through the parkade but the design is very schematic at this stage and it could still be done if that is a concern.
- Phase 1 could have surface parking that would have access/egress from both Sunset and Ellis.

Council:

- Staff to review all traffic concerns surrounding the Canada Lands development property and report back before issuance of the building permit for either the tower development or the parkade.

Lawrence Rychjohn, project developer:

- The delay (as a result of rejection of the application by the APC) has cost money.
- Hopes to start construction no later than July 1st in anticipation of the hotel opening on the 2003 May long-weekend.
- Hopes to get going on the tower in a year and does not want any complications to hold that up.

Regular MeetingApril 2, 2002Moved by Councillor Hobson/Seconded by Councillor Day

R294/02/04/02 THAT Municipal Council authorize the issuance of Development Permit No. DP02-10,005; for Part of Lot 7, Lots 8, 9 & 10, D.L. 139, O.D.Y.D., Plan KAP68693, located on Clement Avenue, Sunset Drive, and Ellis 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;

AND THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued;

AND FURTHER THAT staff review all traffic concerns surrounding the Canada Lands development property and report back to Council before issuance of the building permit for either the tower development or the parkade.

Carried

- (c) Planning & Development Services Department, dated March 20, 2002 re: Development Variance Permit Application No. DVP02-10,006 – City of Kelowna and Canada Lands Company CLC Ltd. (Brian Kilpatrick/BKDI Architects Inc.) – 1175 & 1195 Sunset Drive and 1150 Ellis Street (3090-20)

Moved by Councillor Shepherd/Seconded by Councillor Given

R295/02/04/02 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP02-10,006; BKDI Architects Inc.; Part of Lot 7, Lots 8, 9, & 10, D.L. 139, O.D.Y.D., Plan KAP68693, located on Sunset Drive, Clement Avenue and Ellis Street, Kelowna, B.C.;

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

Vary Section 14.4.5(e) Development Regulations, minimum south side yard from 2.0 m required from a flanking street to 0.0 m side yard proposed.

Carried

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- 7.2 Planning & Development Services Department, dated March 7, 2002 re: Development Variance Permit Application No. DVP02-10,013 – Darrell & Cynthia Hudson – 1536 Sonora Drive (3090-20)

Staff:

- The subject property backs onto a small park. The applicant is asking for a variance to the rear yard setback to allow construction of a garage to accommodate a disabled-accessible vehicle.
- The applicant has provided letters of support from abutting neighbours.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by the required variance to come forward. There was no response.

Moved by Councillor Nelson/Seconded by Councillor Shepherd

R296/02/04/02 THAT Municipal Council authorize the issuance of Development Variance Permit No. DVP02-10,013; Darrell & Cynthia Hudson; Lot 12, Sec. 29, Twp. 26, O.D.Y.D., Plan KAP49263, located on Sonora Drive, Kelowna, B.C.;

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

Section 13.1.5(e) Development Regulations minimum rear yard set back for an accessory building be varied from 1.5 m required to the 0.6 m set back proposed.

Carried

7.3 (a) **BYLAW PRESENTED FOR ADOPTION**

- (i) Bylaw No. 8782 (Z01-1042) – Paul Leinemann Construction Ltd. (Gordon Hartley) – 2999 Tutt Street

Moved by Councillor Blanleil/Seconded by Councillor Day

R297/02/04/02 THAT Bylaw No. 8782 be adopted.

Carried

- (b) Planning & Development Services Department, dated March 13, 2002 re: Development Permit Application No. DP01-10,064 and Development Variance Permit Application No. DVP01-10,095 – Paul Leinemann Construction Ltd. (Gordon Hartley) – 2999 Tutt Street

Staff:

- The subject property until recently was zoned RU6 and was the last remaining residential lot on Tutt Street. The lot will be consolidated with the adjacent property for an addition to the existing medical offices building.
- Main access to the rear parking is off Tutt Street. The low ceiling height of the access driveway prohibits accessibility to the site by large trucks and current uses of the building do not rely on large trucks for daily deliveries. Therefore the applicant is requesting a variance of the requirement for 2 loading stalls.
- Staff support the DP application but cannot support the DVP because in future the current uses of the building could change to other uses permitted by the zone that would require loading bays.

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

Gordon Hartley, applicant:

- About 90% of the delivery to the building is via courier vehicles and they do not drive into the parking area – they park at the entrance driveway or on the street because it is short term – same with taxis.
- There is no feasible way to get overheight vehicles onto the property for deliveries.

Moved by Councillor Blanleil/Seconded by Councillor Hobson

R298/02/04/02 THAT Council authorize the issuance of Development Permit No. DP01-10,064; Lot 1, D.L. 135, ODYD, Plan KAP70704, located on Tutt 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. Signage to be provided be in general accordance with Schedule "D";
5. The applicants 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;
6. The applicant provide payment of cash-in-lieu for one parking stall in the amount of \$3,000.00;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP01-10,095; Lot 1, D.L. 135, ODYD, Plan KAP70704, located on Tutt Street, Kelowna, B.C.;

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

Table 8.2 – Loading Schedule: Vary the loading stall requirements from 1 per 1,900m² required to 0 provided.

Carried

8. BYLAWS

(BYLAWS PRESENTED FOR FIRST READING)

8.1 Bylaw No. 8827 (Z01-1068) – Philip Flett – 2205 Bonn Road

Moved by Councillor Nelson/Seconded by Councillor Cannan

R299/02/04/02 THAT Bylaw No. 8827 be read a first time.

Carried

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- 8.2 Bylaw No. 8828 (Z01-1069) – John & Sarina Weisbeck and John, Patricia, Walter & Henk Verwoerd – 1494 Highway 33 East & 1177 Oswell Drive

Councillor Day stated for the record that he owns property within the notification radius and therefore would be in a conflict of interest and will remove himself from the meeting when this application comes back to Council.

Moved by Councillor Nelson/Seconded by Councillor Given

R300/02/04/02 THAT Bylaw No. 8828 be read a first time.

Carried

(BYLAWS PRESENTED FOR ADOPTION)

- 8.3 Bylaw No. 8822 – Amendment No. 1 to Five Year Financial Plan Bylaw, 2002-2006, No. 8788

Moved by Councillor Cannan/Seconded by Councillor Blanleil

R301/02/04/02 THAT Bylaw No. 8822 be adopted.

Carried

9. REMINDERS

- (a) Heritage Conservation Area

Councillor Shepherd reported that the City is circulating a questionnaire to the residents/property owners of the 700-800 block of Bernard Avenue and the 700-1000 blocks of Lawrence Avenue regarding the potential establishment of the area as a Heritage Conservation Area. Planning Department staff will be reporting on the outcome of the questionnaire in the next few weeks.

10. TERMINATION

The meeting was declared terminated at 10:02 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am