

Regular MeetingMay 13, 2003

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, May 13, 2003.

Council members in attendance were: Deputy Mayor B.A. Clark, Councillors A.F. Blanleil, R.D. Cannan, C.B. Day, B.D. Given, R.D. Hobson, E.A. Horning and S.A. Shepherd.

Council members absent: Mayor Walter Gray.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, A.M. Flack; Director of Planning & Corporate Services, R.L. Mattiussi; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

1. CALL TO ORDER

Deputy Mayor Clark called the meeting to order at 7:12 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, April 28, 2003
Public Hearing, April 29, 2003
Regular Meeting, April 29, 2003
Regular Meeting, May 5, 2003

Moved by Councillor Hobson/Seconded by Councillor Given

R472/03/05/13 THAT the Minutes of the Regular Meetings of April 28, April 29 and May 5, 2003 and the Minutes of the Public Hearing of April 29, 2003 be confirmed as circulated.

Carried

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

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)

5.1 Bylaw No. 9013 (OCP02-0014) – City of Kelowna (Parks Division) – 3441 & 3451 Lakeshore Road **requires majority vote of full Council (5)**

Moved by Councillor Given/Seconded by Councillor Horning

R473/03/05/13 THAT Bylaw No. 9013 be read a second and third time, and be adopted.

Carried

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- 5.2 Bylaw No. 9014 (Z02-1057) – City of Kelowna (Parks Division) – 3441 & 3451 Lakeshore Road

Moved by Councillor Given/Seconded by Councillor Horning

R474/03/05/13 THAT Bylaw No. 9014 be read a second and third time, and be adopted.

Carried

6. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATION:

- 6.1 Planning & Development Services Department, dated April 9, 2003 re: Liquor Licensing Application No. LL03-0006 – Gotcha Nightclub – 238 Leon Avenue

The City Clerk advised that the following application was advertised to this agenda prior to Council's consideration of the interim report of the Mayor's Entertainment District Task Force on May 5, 2003 when a portion of the resolution that Council adopted stated that the hours of liquor service for Liquor Primary establishments within the City of Kelowna would remain at 2:00 a.m. at this time. The applicant has asked that this application for extended hours be considered by Council regardless.

Staff:

- The application is to extend the hours of operation for Gotcha Nightclub which is classified as a Liquor Primary (LP) licence from 2 a.m. to 4 a.m., 7 days a week.
- The applicant probably would not stay open that late every day of the week but the changes in liquor licensing regulations allows that and so that is what is being requested.
- Staff recommend that Council not approve the extended closing time.
- If Council denies the application, the same application could not be made for a period of 6 months.

The City Clerk advised that the following correspondence had been received:

- letter from Richard Sharpe, 505-1585 Abbott Street, opposed on the basis that the application is inconsistent with the Downtown Plan and the objective to achieve a healthy mix of residential and business development in the downtown area.

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

David Habib, 4493 Stewart Road East:

- Four cities have already been approved for and are running on the extended hours. Penticton feels their request for extended hours will be approved by the Liquor Control Board within the next few weeks. Under the new hours, the clubs would have to close the doors at 2:30 a.m. and not allow anyone in after that time, liquor service would continue until 4 a.m. and the premises would be closed at 4:30 a.m.

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- If the nightclubs in neighbouring communities can stay open until 4 a.m. then the clubs in Kelowna need the same hours for an even playing field.
- Suggest that Council approve the extension of hours for a 2 or 4 month trial period. The Liquor Control Board have indicated that a test period can be easily done within a couple of weeks and they strongly support that.
- Vancouver tried extending the clearing out period by 30 minutes (sale of alcohol ended at 2 a.m. but patrons could stay until 3 a.m. before leaving) and experienced a 30% reduction in the occurrence of incidents in the evenings.
- Supports the extension of hours for Gotchas Nightclub.

Staff:

- The interim report was provided by the Task Force to give Council direction on dealing with applications for extended hours.
- The Task Force has asked for and received input from the public and will now formulate recommendations that will specifically go to the industry and lead up to the recommendations in the final report to Council.

Andrew Mercer, Manager of Splashes Nightclub:

- Read an excerpt of an article in a local newspaper saying downtown clubs will have to close earlier than other clubs in the City of Kelowna and neighbouring communities to force or coerce them into leaving the downtown.
- Whatever rules Council comes up with have to apply to all the clubs equally across the board.

Doug McMinniman, Manager of Gotchas and Club Oasis:

- Is opposed to allowing increased capacity and extended hours for clubs outside the downtown core giving them an unfair business advantage.
- Wants the same rights as the other club owners.
- It used to be that people were lined up at 9 p.m. to get into the clubs but times have changed and now people do not start coming until 11 p.m. to midnight. That does not give much time for the clubs to generate enough revenue to cover expenses.
- Willing to compromise and go for a 3 a.m. end to liquor service with a 1 hour clearing out period and 4 a.m. closing.

Council:

- Staff to readvertise that public input will be accepted when the in-stream liquor licensing applications from Gotchas, Flashbacks, etc. are rescheduled to a Council meeting concurrent with the final report of the Mayor's Entertainment District Task Force.

Moved by Councillor Shepherd/Seconded by Councillor Given

R475/03/05/13 THAT further consideration of the application to extend the hours of operation to 4:00 a.m. for Gotcha Nightclub at 238 Leon Avenue be deferred until after Council considers the final report of the Mayor's Entertainment District Task Force.

Carried

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- 7.1 Planning & Development Services Department, dated April 8, 2003 re: Development Variance Permit Application No. DVP03-0026 – Paul & Leslie Hilder – 5042 South Ridge Drive

Staff:

- Construction has commenced for an extension of the existing deck.
- The applicant has provided letters of support from the two abutting neighbours.

The City Clerk stated for the record that no correspondence had been received.

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

The applicant indicate he had nothing to add.

Moved by Councillor Hobson/Seconded by Councillor Cannan

R476/03/05/13 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0026 for Lot 21, DL 1688S, SDYD, Plan KAP68647, located on South Ridge Drive, Kelowna, B.C.:

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

Section 13.2.5: RU2 – MEDIUM LOT HOUSING

- Vary the maximum site coverage from the 40% permitted to allow for a site coverage of 41.85%;

AND FURTHER 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.

Carried

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

Bylaw No. 8956 – Z02-1051 – Walter and Lidia Baumgart – 952 & 962 Lawson Avenue

Moved by Councillor Day/Seconded by Councillor Cannan

R477/03/05/13 THAT Bylaw No. 8956 be adopted.

Carried

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- (b) Planning & Development Services Department, dated April 9, 2003 re: Development Permit Application No. DP02-0104 and Development Variance Permit Application No. DVP02-0105 – Walter & Lidia Baumgart – 952-962 Lawson Avenue

Staff:

- The variance is to increase the maximum allowable site coverage.
- The application has been revised from 16 units to 12 units. 20 on-site parking stalls are proposed, exceeding Zoning Bylaw requirements by 2 stalls.

The City Clerk stated for the record that the following correspondence had been received:

- letter from Don Stolz, 970 Lawson Avenue, opposed because of lack of parking and the proposal does not support the character of the area.

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

Graham Stuart, 942 Lawson Avenue:

- Concerned about privacy for his tenants who occupy the adjacent property to the west. Also the noise impact from air conditioners.

Walter Baumgart, applicant:

- Will get the quietest air conditioners available and can put a muffler around the compressor to help deaden the noise.
- Will be planting 6 ft. cedars on both sides of the property to help with the privacy issue.
- The proposed on-site parking meets the requirements of the City's Zoning Bylaw.

Moved by Councillor Cannan/Seconded by Councillor Day

R478/03/05/13 THAT Council authorize the issuance of Development Permit No. DP02-0104 for Lot A, D.L. 138, ODYD Plan 4491, and Lot B, D.L. 138, ODYD Plan 4491, located on Lawson Avenue, 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 be required to complete the required lot consolidation and road dedications;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP02-0105; Lot A, D.L. 138, ODYD Plan 4491, and Lot B, D.L. 138, ODYD Plan 4491, located on Lawson Avenue, Kelowna, B.C.;

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

Section 13.9 – Low Density Multiple Housing: Subsection 13.9.5 (b):

- Vary the maximum site coverage of buildings, driveways and parking areas from 50.0% permitted to 51.0% proposed.

AND FURTHER 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.

Carried

8. BYLAWS

(BYLAWS PRESENTED FOR FIRST READING)

- 8.1 Bylaw No. 9038 (Z01-1050) – Dale Draper (Pauline Draper) – 2034 Pandosy Street

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R479/03/05/13 THAT Bylaws No. 9038 and 9041 be read a first time.

Carried

- 8.2 Bylaw No. 9041 (TA03-001) – City of Kelowna Zoning Bylaw Text Amendment

See resolution adopted under 8.1 above.

9. REMINDERS

- City Manager to follow-up on a letter received from Vineyard Inn regarding the negative impact on their business if medians are installed to eliminate left turn access to their property from Highway 97.

10. TERMINATION

The meeting was declared terminated at 8:44 p.m.

Certified Correct:

Deputy Mayor Clark

City Clerk

BLH/am