

Regular MeetingJune 24, 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, June 24, 2003.

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, E.A. Horning and S.A. Shepherd.

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

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:13 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, June 9, 2003
Public Hearing, June 10, 2003
Regular Meeting, June 10, 2003

Moved by Councillor Given/Seconded by Councillor Day

R570/03/06/24 THAT the Minutes of the Regular Meetings of June 9 and June 10, 2003 and the Minutes of the Public Hearing of June 10, 2003 be confirmed as circulated.

Carried

4. Councillor Hobson 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. 9040 (Z03-0014) – Shelly Gellner – 942 Nassau Crescent

Moved by Councillor Given/Seconded by Councillor Horning

R571/03/06/24 THAT Bylaw No. 9040 be read a second and third time, and be adopted.

Carried

Councillors Cannan, Clark, Day and Hobson opposed.

6. UNFINISHED BUSINESS**6.1 Mayor's Entertainment District Task Force, dated June 16, 2003 re: Final Report**

Norm Letnick, member of the Task Force:

- The Task Force was established to look at existing alcohol related problems on the downtown streets, changes to liquor regulations, whether there was need to establish an Entertainment District, and the impact of current development on potential development of residential land uses in the downtown.
- The area of primary focus was Leon and Lawrence Avenues between Abbott and Water Streets, where there are five existing cabarets.
- Outlined the extensive process undertaken to obtain public input.
- Presented the following recommendations for Council's endorsement:
 1. That Council request staff to bring forward a tax incentive strategy to encourage redevelopment of the "yellow area", to coincide with anticipated implementation of the Community Charter;
 2. In an effort to add to the vitality of the area and counteract the "dead zones", Council should consider permitting early opening of liquor primary establishments.
 3. That Council support changes to the hours of operation for all Liquor Primary establishments allowing liquor service until 2:00 a.m.
 4. That City staff and the RCMP work with the Nightclub Owners Association to establish a Bar Watch Program for the Downtown.
 5. That Council Policy No. 255 be amended as follows:
 - a. No new, expanded or relocated Liquor Primary establishments with a capacity greater than 500 shall be permitted.
 - b. Any new, expanded or relocated Liquor Primary establishment with a person capacity of 350 persons or more shall not be located closer than 300 metres (shortest travel distance) to another Liquor Primary establishment with a capacity of 350 persons or greater; and no closer than 100 metres (shortest travel distance) to another Liquor Primary establishment with a person capacity between 150 and 350; and not abutting or adjacent to another Liquor Primary establishment with a person capacity of less than 150 persons.
 - c. Any new, expanded or relocated Liquor Primary establishment with a person capacity between 150 and 350 persons shall not be located closer than 100 metres (shortest travel distance) to another Liquor Primary establishment with a capacity of greater than 150 persons; and shall not be located abutting or adjacent to another Liquor Primary establishment with a capacity of less than 150 persons.
 - d. That, in order to avoid problems associated with rowdy behaviour in line ups at Liquor Primary establishments, when considering applications for Liquor Retail establishments associated with Liquor Primary Licensees, Council should have regard to the size of the Liquor Primary establishment, the nature of the clientele, the likelihood of line ups, and the number and proximity of other Liquor Primary Licensees in the area.
 - e. That, in order to avoid concentrations for this use (e.g. in the same block or at the same intersection), generally the store should be at least 300 metres (shortest travel distance) from an existing Licensed Retail Store, BC Liquor Store, or wine and beer store. A reduced distance (generally not less than 100 metres) may be warranted in locations such as the City Centre, the Highway Centre (Highway 97/Springfield) or the two Town Centres (Rutland and Pandosy).

6. That no additional Liquor Primary establishments be located within the “yellow area” and no expansion shall be approved to existing Liquor Primary establishments within the “yellow area”.
7. That amendments to the Zoning Bylaw that would permit Retail Liquor Stores not be approved within the “yellow area” at this time.
8. That staff prepares amendments to the Business License and Regulations Bylaw No. 7878 that would require all Liquor Primary establishments to enter into a Good Neighbour Agreement with the City of Kelowna as a condition of their Business License.
9. That, in conjunction with the implementation of the Good Neighbour Agreements as a requirement of business licenses for Liquor Primary establishments, staff prepare a criterion for benchmarking or evaluating the performance of Liquor Primary establishments with respect to the Terms of the Good Neighbour Agreement.
10. That the Task Force report be distributed to all land owners within the “yellow area” of the Downtown Plan, to the Downtown Kelowna Association, the Chamber of Commerce, and be posted on the City of Kelowna website (www.city.kelowna.bc.ca).
11. That the City continues to work with the Gospel Mission and other social agencies within the “yellow area” to mitigate the effects of the clustering of these services. And when possible, find other locations in the city that may better serve the needs of clients.
12. That Council considers adjacency of residential uses when considering applications for patios associated with Liquor Primary establishments with a view to restricting the hours of operation for the patio area.
13. That Council requests the Provincial Government to not change the current 11:00 p.m. closing time for Retail Liquor Stores in future.
14. Finally, if the situation within the “Yellow area of the Downtown Plan” (Leon and Lawrence) does not improve after one year or there is a lack of cooperation amongst the Liquor Primary Licensees in the area working with the City of Kelowna and the RCMP, it is recommended that Staff investigate ways in which Business License Fees could be increased to cover the additional expenses incurred by the taxpayer for policing this unique area.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

R572/03/06/24 THAT further consideration of the recommendations in the final report of the Mayor’s Entertainment District Task Force be deferred for two weeks to allow for more public input.

DEFEATED

Mayor Gray and Councillors Clark, Day, Given, Hobson and Horning opposed.

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R573/03/06/24 THAT the Mayor's Entertainment District Task Force final report dated June 16, 2003 be received and the recommendations adopted as policy;

AND THAT staff be instructed to deal with all liquor licensing enquiries and applications in accordance with this policy, as well as the policy "that the hours of liquor service for Liquor Primary establishments within the City of Kelowna remain at 2:00 a.m. at this time" that was endorsed by Council under resolution No. R420/03/05/05 when the interim report of the Task Force was considered.

Carried

Councillors Blanleil, Cannan and Shepherd opposed.

6.2 Deferred from the Regular Meeting of May 13, 2003: Planning & Development Services Department, dated April 9, 2003 re: Liquor Licensing Application No. LL03-0006 – Gotcha Nightclub – 238 Leon Avenue

Staff:

- The applicant is seeking Council support to extend the hours of operation for Gotcha Nightclub from 2 a.m. to 4 a.m.
- The request is contrary to the Mayor's Entertainment District Task Force recommendations that were just endorsed by Council.

City Clerk advised that all correspondence received when this application had first been considered was recirculated to Council in addition to the following new correspondence that was received subsequent to the advertising to this meeting:

Support:

- Letter from The Webster Group, 251 Lawrence Avenue
- Petition bearing 12 signatures of patrons of Gotchas
- Petition bearing 257 signatures of patrons of Gotchas

Opposition:

- Letter from Richard Sharpe, 1585 Abbott Street, submitting that adding 2 more hours of drinking time would add to the number of drunk drivers on the streets and add to the problems nightclubs cause in the downtown core.

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

Gino Panucci, owner of Gotcha Nightclub:

- The nightclubs do not get busy until 11 to 11:30 p.m. Extending the closing time from 2 a.m. to 4 a.m. would allow more time to generate revenue.
- Willing to compromise and go for a 3 a.m. closing time.
- Would support a 90 day trial period for later closing times.
- It is important that any changes, including the hour change, apply to all nightclubs in Kelowna in order to keep a level playing field for all.

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Doug McMinniman, Manager of Gotchas and Club Oasis:

- The Task Force report is all about housing and is a slap in the face for the downtown nightclubs.
- Cleaning up any mess on the street is part of the Social Agreement and Gotchas has always upheld that.
- Every community is different. The only way to know how the extended closing time would work in Kelowna is to try it in Kelowna.
- Concerned Gotchas could lose its clients to other communities where the nightclubs stay open later.
- Willing to do whatever it takes to work with the City and achieve the extended closing time.
- Urged Council not to consider increasing the property taxes for downtown clubs.

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R574/03/06/24 THAT Council support an increase to the hours of operation from the current 2:00 a.m. closing to a 4:00 a.m. closing proposed by Gotchas Nightclub located on Lot 6, Blk. 10, D.L. 139, O.D.Y.D. Plan 462, being 238 Leon Avenue, Kelowna, B.C.;

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

DEFEATED

Mayor Gray and Councillors Cannan, Clark, Day, Given, Hobson, Horning and Shepherd opposed.

Moved by Councillor Clark/Seconded by Councillor Day

R575/03/06/24 THAT Council *not* support an increase to the hours of operation from the current 2:00 a.m. closing to a 4:00 a.m. closing proposed by Gotchas Nightclub located on Lot 6, Blk. 10, D.L. 139, O.D.Y.D. Plan 462, being 238 Leon Avenue, Kelowna, B.C.;

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

Carried

Councillor Blanleil opposed.

6.3 Deferred from the Regular Meeting of May 5, 2003: Planning & Development Services Department, dated March 10, 2003 re: Liquor Licensing Application No. LL03-0003 - Flashbacks Entertainment Ltd. – 1250 & 1298 Ellis Street

Staff:

- The application is to increase the person capacity through a structural change from 491 to 686 persons, to increase the hours of operation to allow for a 9 a.m. opening and a 4 a.m. closing, Monday to Sunday.
- The 4 a.m. closing time is contrary to the Mayor's Entertainment District Task Force recommendations that were just endorsed by Council. However, the 9 a.m. earlier hour of opening could potentially be approved, and increasing the person capacity to 500 would be in keeping with policy.

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THAT Council support the person capacity increase (from 491 to 686 persons) proposed by Flashbacks Entertainment Ltd for 1250-1298 Ellis Street;

AND THAT Council support an extension to the permitted hours of liquor sales from 9:00 a.m. to 2:00 a.m., Monday to Sunday, proposed as the second option by Flashbacks Entertainment Ltd. for 1250-1298 Ellis Street;

AND FURTHER THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Branch in Victoria subject to the following:

- The applicant meeting the parking requirement or arranging for a cash in-lieu payment to the City of Kelowna
- Sprinkler testing and upgrading throughout the building.

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

Bill Shepherd, owner of Flashbacks Nightclub:

- Would be happy with 500 person capacity and 9 a.m. to 2 a.m. hours of operation.

The City Clerk advised that no new correspondence or petitions had been received but that correspondence received prior to the date of advertising for this meeting had been recirculated to Council.

Amendment Moved by Councillor Given/Seconded by Councillor Cannan

R576/03/06/24 THAT the motion be amended to allow 500 seating capacity and extend the permitted hours of operation to 9 a.m. to 2 a.m.

Carried

The amended motion was then voted on and carried, as follows:

Moved by Councillor Horning/Seconded by Councillor Blanleil

R577/03/06/24 THAT Council support a person capacity increase from 491 to 500 persons for Flashbacks Entertainment Ltd. located at 1250-1298 Ellis Street;

AND THAT Council support an extension to the permitted hours of operation for Flashbacks Entertainment Ltd. to 9:00 a.m. to 2:00 a.m., Monday to Sunday for 1250-1298 Ellis Street;

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

Carried

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

- 7.1 Planning & Corporate Services Department, dated May 22, 2003 re: Liquor Licensing Application No. LL02-0010 – M.S. Developments Inc. (Nicholas Sintichakis) – 1630-1654 Ellis Street, 466-484 Leon Avenue

Staff:

- The applicant is seeking Council's support to increase person capacity through a structural change for the pub that is currently under development from 102 to 132.
- The application is consistent with the recommendations in the Mayor's Entertainment District Task Force report for establishments of less than 150 seating capacity.

City Clerk advised that no correspondence or petitions had been received.

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

Bert Hick, agent representing the applicant:

- The applicant is still proposing to also have a liquor retail store but that application will come to Council separately.

Moved by Councillor Hobson/Seconded by Councillor Day

R578/03/06/24 THAT Council support an increase in person capacity from 102 persons to 132 persons on Lots 1 and 2, Blk. 8, D.L. 139, Plan 462, proposed by Nicholas Sintichakis and Antonio Pantazopolos for 1630 Ellis Street;

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

Carried

- 7.2 Planning & Corporate Services Department, dated May 28, 2003 re: Liquor Licensing Application No. LL03-0010 – Callahan Construction/3720 Investments (Fred Hamel/Laughing Loon Pub Inc.) – 15-590 Highway 33 West

Staff:

- Provincial legislation does not provide for stand alone retail liquor stores (RLS) and requires that they be linked to a Liquor Primary (LP) establishment.
- The applicant is seeking Council support for the relocation of his licence for a Liquor Primary (LP) establishment and Retail Liquor Sales (LRS) establishment from Williams Lake to Kelowna, in the portion of the Willow Park Mall that was until recently used for a government liquor store. He is proposing to establish a 34-seat neighbourhood pub along with an retail liquor store outlet and a refrigerated area.
- The application includes potential hours of operation from 11 a.m. to midnight, Sunday to Thursday and 11 a.m. to 1 a.m., Friday and Saturday.
- The application does not conflict with any of the recommendations in the Mayor's Entertainment District Task Force report.
- Residents in the area have received misleading information regarding this application. The information was copied on the back side of a copy of the notice sent out by the City of Kelowna. This was done without permission and the message is not from the City and is not correct.

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

Support:

- letter from Michael Wieshlow, 407-669 Houghton Road
- letter from Ken Wilson, Williams Lake
- letter from Brayds Family Hair, Willow Park Mall
- letter from Brad Atwood, resident in Rutland
- 3 form letter of support with a total of 42 signatures.

Opposition:

Letters from the following:

- Jan Dyck(no address submitted)
- Eileen Holubowich, 180 Hollywood Road North
- Dorothy McCluskey, 180 Hollywood Road North
- V. Brodowich, 240 Hollywood Road North
- James H. Hayes, 780 Houghton Road
- Stella Reynaud, 240 Hollywood Road North
- David Fast, 240 Hollywood Road North
- Susan Campbell, 669 Houghton Road
- Mary Fuhr, 669 Houghton Road
- Nellie Fast, 240 Hollywood Road North
- Elsie Melnychuk, 240 Hollywood Road North
- Mary Picklyk, 240 Hollywood Road North
- Dorothea Leguilloux, 240 Hollywood Road North
- Anni Schlieff, 669 Houghton Road
- Lorraine Hobson, 669 Houghton Road
- Dorothy Jankulak, 669 Houghton Road
- Florence Newfield, 217-669 Houghton Rd
- Dorothy Maciak, 669 Houghton Road
- Helen Woykin, 669 Houghton Road
- Bea Parkes, 709 Houghton Road
- Margaret Ludwig, 102-709 Houghton Rd
- Shirley Carolei, 730 Badke Road
- Ann Sander, 730 Badke Road
- Valerie Walker, 730 Badke Road
- Sid Whittle, 200 Hollywood Road North
- Doris Whittle, 200 Hollywood Road North
- Aldona & Steve Zaldokas, 200 Hollywood Road North
- Philippine Unrau (& unlegible signature), 200 Hollywood Road North
- Dorothy & Tom Riding, 200 Hollywood Road North
- Verna & Orval Likes, 200 Hollywood Road North
- Lois & John Dyck, 200 Hollywood Road North
- Elsie & Archie Pawluk, 200 Hollywood Road North
- Katie Skoretz, 200 Hollywood Road North
- Mary & Herman Sawatsky, 200 Hollywood Road North
- Chiz Tateyama, 200 Hollywood Road North
- Betty-Anne Cornock, 675 Dundee Road
- Joanne Gagne, 240 Hollywood Road North
- Clinton & Chrystal Myers, 669 Houghton Road
- Evelyn Bell, 200 Hollywood Road North
- Violet Olsen, 200 Hollywood Road North
- Doreen Hilstob, 200 Hollywood Road North
- Owner (no name) of #200 Hollywood Road North
- Peter & Irene Kootchin (no address submitted)
- Fridea Kolschefskey, 669 Houghton Road
- Yvonne Murray, 730 Badke Road
- Ms. C. Marruette (no address submitted)
- Kelly Troup, 200 Hollywood Road North
- Dennis Graham, Pheasant & Quail Pub

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All opposed because of concern about increased traffic (pedestrian and vehicular), lack of parking, increased noise and vandalism, decreased property values, lack of policing, safety of seniors and children (at nearby parks and crosswalks), and submitting that Willow Park Mall is a "family mall" and the proposed location for the RLS and LP establishments is too close to the Crossroads Treatment Centre.

- Petition bearing 55 signatures of surrounding residents asking that no liquor store or pub be permitted in Willow Park Mall.

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

Fred Hamel, applicant:

- Operated the Laughing Loon in Williams Lake for 14 years with a flawless record; won numerous awards.
- Outlined the criteria highlights for applying to transfer a liquor license noting his liquor license has already been transferred to Kelowna.
- The Provincial Liquor Store was operating on a month-to-month lease at the subject location and the Province had no plans to renew the lease.
- The liquor store is his primary focus; the pub is a requirement of the Liquor Distribution Branch (LDB). Would not leave the pub open longer than the liquor store.
- His application to the LDB was for 11:30 a.m. to 7:30 p.m. hours of operation but the City was required to advertise what they received from the Province and that would allow midnight and 1 a.m. closing times. However, 11 p.m. would be the latest that the proposed pub/liquor store would be kept open and his current business plan is to close the pub earlier than the store.
- Will do his best to meet the wants and peace of mind of the people of Rutland and the other tenants of Willow Park Mall.

Dave Fast, 240 Hollywood Road North:

- The residents of his complex are mostly seniors. They are concerned that the noise and squealing tires from patrons of the liquor store and pub would keep them awake until late into the night.

EXTENSION OF MEETING

Moved by Councillor Shepherd/Seconded by Councillor Given

R579/03/06/24 THAT the Rules of Procedure governing Kelowna City Council be suspended and the meeting be continued beyond 11 p.m.

Carried

Alice Walker, 180 Hollywood Road North:

- Speaking as a member of the Rutland Residents Association.
- Concerned that the pub could attract undesirables to the area.
- All the condos in the area have seniors living in them, many with walkers, wheelchairs and canes. Do not want a pub across the street. Concerned that it would be loud when crowds are leaving after closing (boom boxes, music and fights) and that traffic would increase during the daytime.
- The healthy seniors would be afraid to go out for a walk at night with the pub.

Rosemarie Strasser, 301 Badke Road:

- Concerned about noise at night when the patrons leave the pub.
- The government liquor store closed at 6 p.m. and the people had to open the bottles in order to drink. A pub is different.
- If Council supports this application, it will be area residents who have to live with the fall-out, and it is their freedom to boycott the application.

Susan Campbell, 669 Houghton Road:

- The government liquor store was not a problem. The objections are with the pub: the location being in a shopping centre, personal safety, noise, size. Everything is up in the air for how big the pub could get; once the license is approved the pub could expand, as could the proposed hours.
- The crosswalk from the mall to Badke Road is a high traffic area with many pedestrians.
- Circulated a map to Council showing the proximity of the subject property to the schools and playgrounds and the Crossroads Treatment Centre.
- The location is not suitable for a pub of any size and adds another element to this densely populated residential area.

Dennis Mitchell, owner of Willow Park IGA:

- Spoke in support of the application. The government liquor store was an anchor tenant that drew people to the mall. The other mall merchants would lose a lot of business without a liquor store.
- The applicant is a reputable operator and what he is proposing will not bring drunks into the area. If there were any problems, mall merchants would be quick to bring them to applicant's attention and the attention of the landlord.

Craig Cameron, owner/operator of the IDA pharmacy in Willow Park mall.

- Spoke in support of the application.
- Reputation is important to the mall merchants. There seems to be a misconception of what the pub would be.

Karla McFadden, Creekside Road:

- Opposes the application because she lives near a similar situation and there are concerns with traffic in the parking lot (conflicts between families there to shop), the atmosphere outside of the liquor store, lack of parking, vandalism, fighting, disturbances, etc.
- Malls are not a good location for pubs and there is no guarantee the pub would not be expanded down the road.
- The seniors want a community where they can walk and feel safe.

Steve Berezan, owner of Zodiac Pub:

- Lives in Surrey. The pub is managed by a local person.
- The Zodiac already has a liquor store and has submitted an application to move its existing license to a new location and to increase person capacity.
- There are already enough neighbourhood pubs in the Rutland area.
- Asked that Council defer this application so that it can be considered concurrent with his application to determine whether 2 facilities are really needed in that area.

Staff:

- The property that Zodiac Pub is moving to has to be rezoned. The application was just received in complete form last week and will take time to process.

Nick Franz, and owner of Woody's Pub in Lake Country:

- Applied approximately 3 years ago to relocate Woody's Pub to a location in Kelowna and was turned down. Today, the application probably would have been approved. Things are changing so quickly it is like a flip of a coin. Maybe no decisions should be made until the Province completes their review. Approval of this liquor license transfer would set a precedent and all kinds of pubs could end up transferring into Kelowna.
- The applicant only wants the property for a liquor store and probably would not put much effort or money into the pub because that is not what he wants.
- All of the LP owners are waiting for the ability to find out how big they can get.

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(Ms.) Kelly LaLonde, 9020 Jim Bailey Road:

- Asked if a kitchen is required in order to open a pub.

Staff:

- There is no requirement to have a kitchen for an LP license.
- The applicant has made arrangements to have food provided in the proposed pub but his plans do not include an in-house kitchen.

(Mr.) Kelly Troup, 200 Hollywood Road:

- The residents of his complex are very much opposed to a pub in Willow Park mall. There are at least 14 businesses there and families are shopping all day long. People can have too much to drink and then drive in the parking lot and cause serious accidents.
- The Highway 33/Hollywood Road intersection is busy and there are 3 entrances into the mall. Not all crosswalks leading to the mall are controlled with traffic signals.

Don Jack, 1772 Sunrise Road:

- Should wait until the government review is completed.
- Opposed because a pub could bring downtown Kelowna problems out to that area of Rutland.

A resident of Keyes Road:

- Does not think the pub will be a problem and the area needs a liquor store.
- Need the liquor store to attract business for the mall merchants.
- The former staff of the government liquor store were good at looking after what went on inside and outside the store.

Chris Bayne, 2224 Peters Road, Westbank:

- Has been in the restaurant industry for the last 25 years. Consulted with the applicant and helped him build his business. Found him to be a first class operator. When he says he is going to do something he will do it with his heart and he will do it honestly. He is a man of his word and takes great pride in having top level customer service.

Gerald Bugera, owner/operator of OK Coral:

- The existing regulations for transfer of liquor licenses open the door for people to go to another city, buy a cheaper establishment there and then apply to transfer to Kelowna.

Nettie Larson, 741 Camelia Road:

- Supports a liquor store in the mall but not a pub. It is a family mall. Orchard Park mall would be okay but not Willow Park.

Staff:

- If this is approved, the LP area would be 493 sq. ft. and the capacity could be expanded only to what fits into that area. To expand beyond that, would require an application to increase capacity through a structural change and that application would have to go through Council and go through this whole public process again.

Jamie Bennett, manager of Zodiac Pub:

- The Zodiac Pub has built its reputation on serving the neighbourhood and has had a huge involvement in helping the neighbourhood through sponsorship of all kinds of events and activities. Patrons of pubs are neighbourhood people, local taxpayers.
- Would not allow her children to go to Willow Park Mall if a pub goes into the mall.
- There are 16 other local pubs just waiting to get liquor store approval. Why approve a transfer from outside Kelowna?

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John Dyck, 200 Hollywood Road North:

- Acknowledges that the owner of the proposed liquor store has an impeccable reputation but still concerned that when the opportunity arises, the size of the pub could be enlarged.

Staff:

- The requirement for owners of LP liquor licensed establishments to enter into a Good Neighbour Agreement (GNA) will not be in place until next year. The GNA would provide opportunity to impose restrictions (i.e. size, hours of operation).

Ralph Berezan, owner of Zodiac Pub, and resident of Surrey:

- There will be 500 new liquor store applications before the Province and 16 that will be in front of Kelowna Council in future.
- Questioned why the applicant wants to relocate to Kelowna if he was so successful in Williams Lake.
- It is easy in this community to come back and get expanded seating capacity.

Evelyn Bell, 200 Hollywood Road:

- The size of the pub and liquor store will be determined based on profitability.

Tom Smithwick, representing the applicant:

- The government liquor store has already closed down. The neighbourhood will be dealing with change no matter what happens and there will always be fear of change.
- The applicant's primary concern is a reopening of the liquor store, but to do that he has to have the small lounge. Food would be catered and the applicant has no desire to increase the size. Operating hours would be complementary to the hours of the other merchants in the mall. The absolute latest closing time would be 11 p.m.
- Concern about conflicts with schools and other community facilities in the neighbourhood are unfounded. This is simply the replacement of a liquor outlet that existed with an LP establishment that would be like a restaurant.

Fred Hamel, applicant:

- His business in Williams Lake was 70% food and 30% liquor.
- Willing to commit to the pub closing no later than the liquor store.
- Willing to sign a Good Neighbour Agreement.

Staff:

- Staff to ensure that a GNA is signed with the applicant.

Moved by Councillor Blanleil/Seconded by Councillor Day

R580/03/06/24 THAT Council support the transfer of a Liquor Primary License to Lot B, Plan 30302, Sections 26 and 27, Township 26, ODYD proposed by Fred Hamel of the Laughing Loon Pub Inc. for #15 - 590 Highway 33 West;

AND THAT Council support the transfer of a Licensee Retail Store License to Lot B, Plan 30302, Sections 26 and 27, Township 26, ODYD proposed by Fred Hamel of the Laughing Loon Pub Inc. for #15 - 590 Highway 33 West;

AND THAT the hours of operation for the pub be no longer than the hours for the liquor store and in any event no later than 11 p.m. closing;

AND FURTHER THAT Council, having received and considered the staff report dated May 28, 2003 for LL03-0010 (Laughing Loon Pub Inc), direct staff to forward the appropriate resolution to the Liquor Control and Licensing Branch in Victoria".

Carried

Councillor Cannan opposed.

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8. PLANNING

- 8.1 Planning & Corporate Services Department, dated May 21, 2003 re: Development Variance Permit Application No. DVP03-0041 – James Odermatt – 3735 Gordon Drive

Staff:

- The variance is needed as a result of an error in placement of the foundation.
- The adjacent neighbour has no objection to the variance.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by this liquor licence application to come forward. There was no response.

Moved by Councillor Shepherd/Seconded by Councillor Hobson

R581/03/06/24 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0041 for Lot A, Section 7, Township 26, ODYD, Plan 21018 except Plan H15764, located on Gordon Drive, Kelowna, B.C.;

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

Section 11.1.5 – Agriculture 1

- Vary the required side yard setback from the 3.0 metres required to allow a setback of 2.5 metres.

Carried

- 8.2 Planning & Corporate Services Department, dated May 22, 2003 re: Development Variance Permit Application No. DVP03-0043 – Corcoran Industries Ltd. (Ken Corcoran) – 4-4190 Lakeshore Road

Staff:

- The variance is needed as a result of an error made during construction of the dwelling that now exits on the site.
- The adjacent property owner has no objection.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by this liquor licence application to come forward. There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R582/03/06/24 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0043, for Strata Lot 4, Section 6, Township 26, District Lot 5040, ODYD, Strata Plan KAS2157, located on Lakeshore Road, Kelowna, B.C.;

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

Section 13: RU1-Large Lot Housing: Subsection 13.1.5 (d):

- Vary the northern side yard setback from 2.3 m required to 2.15 m proposed (for the second storey).

Carried

Regular Meeting

June 24, 2003

- 8.3 Planning & Corporate Services Department, dated May 13 re: Development Variance Permit Application No. DVP03-0036 – Andrea Gostlin (Maric Construction) – 2312 Dewdney Road

Staff:

- The applicant proposes to construct a tramway and deck within the riparian management area.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by this liquor licence application to come forward. There was no response.

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R583/03/06/24 THAT Council authorize the issuance of Development Variance Permit No. DVP03-0036; for Lot A, Section 20, Township 23, ODYD, Plan 27495, located on Dewdney Road, Kelowna, B.C. subject to the following:

1. Landscaping to be provided on the land in general accordance with Schedule "A";

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

Section 6.14: Stream Protection Leave Strips:

- Vary the setback from Okanagan Lake from the 15.0 m required to 0.0 m;

AND THAT issuance of the Development Variance Permit be subject to the issuance of License to Occupy Crown Foreshore by Land & Water British Columbia Incorporated;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the Development Variance Permit application in order for the permit to be issued.

Carried

- 8.4 Planning & Corporate Services Department, dated May 23 re: Development Permit Application No. DP03-0029 and Development Variance Permit Application No. DVP03-0030 – RSSD Ventures Ltd. c/o Porter Ramsay (Tony Lockhorst) – 1959, 1965 & 1971 Pandosy Street

Staff:

- The applications would allow for construction of a 3.5 storey, 36-unit apartment building with variances to the front yard, side yard, rear yard and Mill Creek setback requirements, site coverage and required parking.
- Asked that recommendation in the staff report be amended to remove “designating a portion of the units as affordable housing” from the end of No. 5 under the terms and conditions of issuance for the Development Permit.

Mayor Gray invited anyone in the public gallery who deemed themselves affected by this liquor licence application to come forward. There was no response.

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R584/03/06/24 THAT Council authorize the issuance of Development Permit No. DP03-0029 for Lot A, D.L. 14, ODYD, Plan KAP56528; Lot 2, Block 20, D.L. 14, ODYD, Plan 830 except Plan B1750; Lot 3, Block 20, D.L. 14, ODYD, Plan 830 except Parcel 3A on Plan B1750, located on Pandosy 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 enter into a landscape restoration and enhancement agreement with the City of Kelowna;
5. The applicant be required to enter into a Housing Agreement with the City of Kelowna;
6. The applicant be required to dedicate registered plan No. A12965 as part of the planned Pandosy Road widening;
7. The applicant provide a 10 m creek dedication and Riparian Management Area Covenant for the subject properties;
8. The applicant be required to complete the required lot consolidation;
9. The applicant enter into a covenant tying the off-site parking to the proposed development;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0030; Lot A, D.L. 14, ODYD, Plan KAP56528; Lot 2, Block 20, D.L. 14, ODYD, Plan 830 except Plan B1750; Lot 3, Block 20, D.L. 14, ODYD, Plan 830 except Parcel 3A on Plan B1750, located on Pandosy Street, Kelowna, B.C.;

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

Section 13: RM5 – Medium Density Multiple Housing: 13.11.5 (b):

- Vary maximum permitted building site coverage from 40% max to 45% proposed;

Section 8: Parking and Loading: Table 8.1 (Apartment Housing)

- Vary minimum number of parking stalls required (49.5 required to 41 proposed);

Section 13: RM5 – Medium Density Multiple Housing: 13.11.5 (d):

- Vary minimum front yard setback from 6.0 m required to 4.5 m proposed;

Section 6: General Development Regulations: Subsection 6.14.1 – Stream Protection Leave Strips

- Vary Mill Creek setback from 15 m required to 10 m proposed;

Regular Meeting

June 24, 2003

Section 13: RM5 – Medium Density Multiple Housing: 13.11.5 (e):

- Vary northern side yard setback from 7.5 m required to 5.0 m proposed;

Section 13: RM5 – Medium Density Multiple Housing: 13.11.5 (e):

- Vary southern side yard setback from 7.5 m required to 7.1 m 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

9. BYLAWS

(BYLAWS PRESENTED FOR FIRST READING)

- 9.1 Bylaw No. 9052 (Z03-0018) – Jacob & Irene Welder – 1299 Rodondo Place

Moved by Councillor Horning/Seconded by Councillor Given

R585/03/06/24 THAT Bylaw No. 9052 be read a first time.

Carried

10. REMINDERS – Nil.

11. TERMINATION

The meeting was declared terminated at 1:08 a.m.

Certified Correct:

Mayor

BLH/am

City Clerk