

A Public Hearing of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, July 8, 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: City Manager, R.A. Born; Deputy City Clerk, S.C. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 7:00 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna Official Community Plan (1994-2013) Bylaw No. 7600" and "Zoning Bylaw No. 8000", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

The Deputy City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on June 20, 2003, and by being placed in the Kelowna Daily Courier issues of June 30 and July 2, 2003, and in the Kelowna Capital News issue of June 29, 2003, and by sending out or otherwise delivering 1,497 letters to the owners and occupiers of surrounding properties between June 20-24, 2003.

The correspondence and/or petitions received in response to advertising for the applications on tonight's agenda were arranged and circulated to Council in accordance with Council Policy 309.

3. INDIVIDUAL BYLAW SUBMISSIONS

3.1 1299 Rodondo Place

- 3.1 Bylaw No. 9052 (Z03-0018) – Jacob & Irene Welder (Lynn Welder Consulting Ltd.) – 1299 Rodondo Place - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Plan 29771, Sec. 6, Twp. 23, ODYD, located on Rodondo Place, Kelowna, B.C. from the RR1 – Rural Residential zone to the RU1 – Large Lot Housing zone.

Staff:

- The applicant is proposing to subdivide the subject property to create two lots.
- Connection to the sanitary sewer will be a requirement for subdivision approval.
- There is concern in the neighbourhood that the applicant's intent is to build a care home but indication from the applicant is that the intent is to build a home where the family can take care of the father. It should be noted that a Care Centre Intermediate is a permitted use under the existing R1 zoning. The requested RU1 zoning permits a Care Centre Minor which allows a much smaller capacity.
- A Care Centre is typically a day care operation for adults or children but is limited to only day time use.
- The Advisory Planning Commission recommends support of the application, as do staff.

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

- letter of support from Russ Foster, Project Manager at Blenk Development Corp.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Lynn Welder, applicant:

- Indicated she had nothing to add at this time.

There were no further comments.

3.2(a) Retail Liquor Sales and Liquor Primary Zoning Designations

3.2(a) Bylaw No. 8960 (TA02-0007) – City of Kelowna – THAT City of Kelowna Zoning Bylaw No. 8000 be amended as follows:

- to add 'rls' (Retail Liquor Sales) and/or 'lp' (Liquor Primary) zoning designations to the C2 – Neighbourhood Commercial, C3 – Community Commercial, C4 – Town Centre Commercial, C6 – Regional Commercial, C7 – Central Business Commercial, C8 – Convention Hotel Commercial, C9 – Tourist Commercial, P1 – Major Institutional, P3 – Parks and Open Space, P5 – Municipal District Park zones;
- to change the names of the CD5, CD6, CD8 and CD12 Comprehensive Development zones to CD5 - Multi-Purpose Facility, CD6 – Comprehensive Residential Golf Resort, CD8 – Heritage Industrial, and C12 – Airport zones and add the 'rls' (Retail Liquor Sales) and/or 'lp' (Liquor Primary) zoning designations to the renamed zones;
- to amend Subsection 1.3.4 by adding paragraphs (d) and (e) to provide for 'rls' and 'lp' notations on the Zoning Map;
- to delete Subsection 1.3.6 in its entirety;
- to delete 'Eating and Drinking Establishments, Major and Minor' and 'Wine/Beer Store'; and add Food Primary Establishment; Food Primary License; Licensee Retail Store Liquor Primary Establishment, Major and Minor, Liquor Primary License; Retail Liquor Sales Establishment (rls); and VQA Wine Retail Store; and add the appropriate new use in Tables 8.1, 8.2 and 8.3 of Section 8 – Parking and Loading; and in the C2, C3, C4, C6, C7, C8, C9, C10 – Service Commercial; I1 – Business Industrial; I2 – General Industrial; I4 – Central Industrial; P1 – Major Institutional, P3, P5, W2 – Intensive Water Use, CD2 – Kettle Valley Comprehensive Residential Development, and CD3 – Comprehensive Development Three; CD5, CD6, CD8, CD9 – Heritage Commercial; CD12 and CD14 zones.
- to change the definitions of Private Club; Motel; Retail Stores, Convenience; Service Stations, Major; and Winter Garden;
- to add the provision that 'rls' establishments shall not have a gross floor area of greater than 186 m² to the 'Other Regulations' of the C2, C3, C4, C6, C7, C8, C9, CD8 and CD12 Zones.

Staff:

- The changes are a result of the new B.C. Liquor Control Board regulations that came into effect December 2, 2002. Under the new regulations there are only two classes for liquor license establishments: Liquor Primary (LP) and Retail Liquor Sales (RLS). Licensed LP establishments include bars, pubs, lounges and nightclubs where the serving of liquor, rather than food, is the primary business. The proposed amendments would require that LP establishments with over 100 seating capacity be rezoned to add the 'lp' suffix to their zoning designation. LP establishments with less than 100 seats would not be required to rezone. Licensed Retail Liquor Sales (RLS)

include both the existing Provincial run liquor stores and the private liquor stores that will result from the Provincial deregulation of liquor sales. The proposed amendments would require that RLS establishments be rezoned to add the 'rls' suffix to their zoning designation and would restrict the gross floor area for retail liquor sales to maximum 186 m² (2,000 sq. ft.).

- The amendments are intended to increase Council's control over the location of Licensed Liquor Primary establishments and Licensed Retail Liquor sales businesses.

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

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

3.2(b) Various Properties

- 3.2(b) Bylaw No. 8980 (Z03-0007) – City of Kelowna - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of the following properties as indicated:

Rezone from C2 – Neighbourhood Commercial to C2rls – Neighbourhood Commercial (Retail Liquor Sales):

1. 3929 Lakeshore Road; Lot A, Sec. 6, Twp. 26, ODYD, Plan 36411
2. 2789 KLO Road; Lot A, Sec. 9 & 10, Twp. 26, ODYD, Plan 43297
3. 663 Finns Road; Lot 1, Sec. 34, Twp. 26, ODYD, Plan 42743

Rezone from C3 – Community Commercial to C3lp – Community Commercial (Liquor Primary):

1. #129-948 McCurdy Road; Lot 1, DL 143, ODYD, Plan KAP54790

Rezone from C3 – Community Commercial to C3lp/rls – Community Commercial (Liquor Primary/Retail Liquor Sales):

1. 435 Glenmore Road; Lot B, Sec. 32, Twp. 26, ODYD, Plan KAP54790

Rezone from C4 – Town Centre Commercial to C4lp – Town Centre Commercial (Liquor Primary):

1. 200 Rutland Road South; Lots 11 & 12, Sec. 23, Twp. 26, ODYD, Plan 12078
2. 3-1745 Spall Road; Lot 2, DL 140, ODYD, Plan 24969

Rezone from C4 – Town Centre Commercial to C4rls – Town Centre Commercial (Retail Liquor Sales)

1. #100-1740 Gordon Drive; Lot A, DL 138, ODYD, Plan KAP55098
2. 1937 Gordon Drive; Lot 1, DL 137, ODYD, Plan 3543
3. #41 –3155 Lakeshore Road; Lot 2, DL 14 & 135, ODYD, Plan KAP54407;
4. 1840 & 1920 Cooper Road; Lot A, DL 127 ODYD, Plan KAP48113
5. #14-590 Highway 33 West; Lot B, Sec. 26 & 27, Twp. 26, ODYD, Plan 30302

Rezone from C4 – Town Centre Commercial to C4lp/rls – Town Centre Commercial (Liquor Primary/Retail Liquor Sales)

1. 1171 Harvey Avenue; Lot B, DL 137, ODYD, Plan KAP64836
2. 3110 Lakeshore Road; Lot C, DL 14, ODYD, Plan 22527 except Plan 35659
3. 155 Rutland Road South; Lot 3, Sec. 23, Twp. 26, ODYD, Plan 2221 except Plan 35578 and 43627

Rezone from C6 – Regional Commercial to C6lp – Regional Commercial (Liquor Primary)

1. 1992 Dilworth Drive; Lot 1, DL 127 & 4646, ODYD, Plan KAP47930

Rezone from C6 – Regional Commercial to C6rls – Regional Commercial (Retail Liquor Sales):

1. #109-1835 Dilworth Drive; Lot 4, DL 127, ODYD, Plan KAP59534;

Rezone from C7 – Central Business Commercial to C7lp – Central Business Commercial (Liquor Primary):

1. 262 Bernard Avenue; Lot B, Sec. 32, Twp. 26, ODYD, Plan KAP54790
2. 220 Lawrence Avenue; Lot 9, Blk 13, D.L. 139, ODYD, Plan 462
3. 238 Leon Ave; Lot 7, Block 10, DL 139, ODYD, Plan 462
4. 275 Leon Avenue; Lot 1, DL 139, ODYD, Plan 32713
5. 235 Queensway Avenue; Lot A, DL 139, ODYD, Plan 2180
6. 1630-1654 Ellis Street; Lots 1 & 2, Blk 8, DL 139, ODYD, Plan 462
7. 540 Leon Avenue; Lot A, DL 139, ODYD, Plan 16322

Rezone from C7 – Central Business Commercial to C7rls – Central Business Commercial (Retail Liquor Sales)

1. 575 Bernard Avenue; Lot B, DL 139, ODYD, Plan 14322

Rezone from C7 – Central Business Commercial to C4lp/rls – Town Centre Commercial (Liquor Primary/Retail Liquor Sales)

1. 353 Bernard Avenue; Lot 9, Block 14, DL 139, ODYD, Plan 462 except the east 15 feet thereof
2. 348 Bernard Avenue; Lot 3, Block 17, DL 139, ODYD, Plan 462

Rezone from C8 – Convention Hotel Commercial to C8lp – Convention Hotel Commercial (Liquor Primary)

1. 1310 Water Street; Lot A, DL 139, 4041 & 4082 ODYD, Plan KAP47378 except KAP47378 and Lot B, DL 139, 3454 & 4082 ODYD, Plan KAP47378

Rezone from C9 – Tourist Commercial to C9lp – Tourist Commercial (Liquor Primary)

1. 500 Cook Road; Lot 1, Sec. 1 & 12, DL 134 & 5225 ODYD, Plan KAP67232
2. 3766 Lakeshore Road; Lot A, DL 134, Sec. 6, Twp. 26, ODYD, Plan KAP56428 Except Plan KAS1776

Rezone from C9 – Tourist Commercial to C9lp/rsl – Tourist Commercial (Liquor Primary/Retail Liquor Sales)

1. 2402 Highway 97 North; Lot A, DL 125, ODYD, Plan 19786 except Plans H18058 and KAP44339
2. 2170 Harvey Avenue; Lot A, DL 127, ODYD, Plan 42733

Rezone from CD12 – Airport Comprehensive Development to CD12lp/rls – Airport Comprehensive Development (Liquor Primary/Retail Liquor Sales)

1. 5415 Airport Way; Lot 3, DL 32 & 120, Sec. 14, Twp. 23, ODYD, Plan 11796

Rezone from CD5 – Multi-Purpose Facility Comprehensive Development to CD5lp – Multi-Purpose Facility Comprehensive Development (Liquor Primary)

1. 1223 Water Street; Lot 1, DL 139, ODYD, Plan KAP60698 except Air Space Plan KAP60701

Rezone from CD8 – Heritage Industrial Comprehensive Development to CD8lp/rls – Heritage Industrial Comprehensive

1. 1340 Ellis Street; Lot 1, DL 139, ODYD, Plan 42511;

Rezone from P1 – Major Institutional to P1lp – Major Institutional (Liquor Primary)

1. 1557 Burtch Road; Lot 2, Sec. 20, Twp. 26, ODYD, Plan 32159
2. 663 Recreation Avenue and 552 Gaston Avenue; Lot 2, DL 139, ODYD, Plan 19829
3. 551 Recreation Avenue; Lot B, DL 139, ODYD, Plan 18028

Rezone from P3 – Parks and Open Space to P3lp – Parks and Open Space (Liquor Primary)

1. 2725 KLO Road; Lot A, Sec. 9 & 10, Twp. 26, ODYD, Plan KAP45934
2. 1297 Glenmore Drive; Lot A, Sec. 29, Twp. 26, ODYD, Plan 23125 Except Plan KAP60640
3. 2777 KLO Road; Lot A, Sec. 9 & 10, Twp. 26, ODYD, Plan 43297
4. 1085 Lexington Drive; Lot 1, DL 168, Sec. 6, Twp. 26, ODYD, Plan KAP49584
5. 1959 KLO Road; Lot A, DL 131, Sec. 8, Twp. 26, ODYD, Plan 35770

Councillor Shepherd declared a conflict of interest because one of the subject properties, Pheasant & Quail Pub, is immediately adjacent to a property that she is part owner of and left the Council Chamber at 7:20 p.m.

Mayor Gray declared a conflict of interest because a distant relative has involvement with the future VQA wine store at Orchard Plaza and left the Council Chamber at 7:20 p.m.

Deputy Mayor Hobson assumed the Chair.

Staff:

- The subject rezonings are City-initiated and are required as a result of the Text Amendment that was just discussed. This application will apply the 'lp' and 'rls' suffix to the parent zone of all the existing liquor establishments in the city that are in conformance with the Zoning Bylaw, in order that they can continue to be conforming uses. The liquor establishments that are non-conforming are not included in this application but have the option of submitting their own rezoning application.

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

Deputy Mayor Hobson invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

Mayor Gray and Councillor Shepherd returned to the Council Chamber at 7:23 p.m. and Mayor Gray resumed the Chair.

3.2(c) 1992 Dilworth Drive

3.2(c) Bylaw No. 9016 (Z03-0021a) – Willcliff Holdings Ltd. (City of Kelowna) – 1992 Dilworth Drive (R.J. McMaster's Pub) - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, D.L. 127 and 4646, O.D.Y.D., Plan KAP47930 being 1992 Dilworth Drive (R.J. McMaster's Pub) from the C6 – Regional Commercial zone to the C6rls – Regional Commercial Retail Liquor Sales zone.

Staff:

- The provincial Liquor Distribution Branch (LDB) lifted a moratorium that it had imposed on liquor licensing applications from April 2002 to November 2002. During that time, the LDB received 10 applications for proposed Retail Liquor Sales (rls) establishments. Each of the 10 properties has met the LDB eligibility guidelines and is in one form or another of approval by the LDB. However, the LDB has not kept City staff in the loop on these applications and so not knowing the details of the proposals, staff did not recommend in favour of rezoning the properties at this time. It was on Council's direction that the 10 applications were advanced to public hearing.
- Approval of this rezoning would allow the applicant to open a private liquor store on the premises. The liquor store would require a separate entrance but could be in the same building as the Liquor Primary (pub) establishment. The retail sales area would be limited to 2,000 sq. ft. and would still require final approval from the LDB.
- The Task Force recommended limiting the size of the retail sales area to 2,000 sq. ft. because that was the size restriction the Province had in place in April 2002, when the moratorium was lifted.
- RJ McMasters Pub complies with the proximity guidelines recommended by the Mayor's Entertainment District Task Force (Task Force).
- Recommend support for this application.

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

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

3.2(d) 1630 and 1654 Ellis Street, and 466 and 484 Leon Avenue

3.2(d) Bylaw No. 9017 (Z03-0021b) – MS Developments Inc. (City of Kelowna) – Ellis Street and Leon Avenue (Yamas Taverna) - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots 1 and 2, Blk. 8, D.L. 139, Plan 462 being 1630 and 1654 Ellis Street and 466 and 484 Leon Avenue (Yamas Taverna) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- Yamas already has the LP designation and has an instream RLS application with the provincial Liquor Distribution Branch for a private liquor store.
- Do not recommend support for this application because of its close proximity to social services in the area.

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

- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Tony Panazopolus, owner of Yamas:

- Yamas is an approved Liquor Primary establishment for 102 seats (neighbourhood pub) and has received preliminary clearance from the Province for a private liquor store.
- Already has a building permit for the liquor store.
- Does not understand why staff are not supporting this application.

Staff:

- The Task Force said that in considering RLS applications there should be some consideration for the proximity from other LP establishments and the potential for line-ups and alcohol related problems. The subject application meets the proximity criteria from other LP establishments but the close proximity to the social agencies in the immediate area are why staff recommend non-support. If those social agencies were to move, staff would reconsider this position.

There were no further comments.

3.2(e) 500 Cook Road

3.2(e) Bylaw No. 9018 (Z03-0021c) – R93 Enterprises Ltd. (City of Kelowna) – 500 Cook Road (Hotel Eldorado) - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, Secs. 1 and 12, D.L. 134 and 5225, O.D.Y.D., Plan KAP67232 being 500 Cook Road (Hotel Eldorado) from the C9 – Tourist Commercial zone to the C9rls –Tourist Commercial Retail Liquor Sales zone.

Staff:

- Hotel Eldorado is in compliance with the proximity criteria of the Mayor's Entertainment District Task Force.
- Recommend support.

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

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Jim Nixon, Eldorado:

- Asked for assurance that being within 450 m proximity to Creekside Pub met with criteria. Staff confirmed that it did.

There were no further comments.

3.2(f) 235 Queensway Avenue

- 3.2(f) Bylaw No. 9019 (Z03-0021d) – K & J Noble Holdings Ltd. (City of Kelowna) – 235 Queensway Avenue (Willow Inn Hotel) - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 6 and 7, D.L. 139, O.D.Y.D., Plan 505 and Lot A, D.L. 139, O.D.Y.D., Plan 2180 being 235 Queensway Avenue (Willow Inn Hotel) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- Does not meet the proximity criteria of the Mayor's Entertainment Task Force.
- Recommend non-support.

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

- letter of support from Canyon Lumber Co. on Lawrence Avenue.
- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

(Also see after 3(h) for more on the Willow Inn application.)

3.2(g) 1180 Sunset Drive

- 3.2(g) Bylaw No. 9020 (Z03-0021e) – City of Kelowna – 1180 Sunset Drive (Waterfront Wines) - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, D.L. 139, O.D.Y.D., Plan KAP49982 except Strata Plan KAS1261 being 1180 Sunset Drive (Waterfront Wines) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- The associated LP establishment would be an LP-Minor establishment so the 'lp' zoning suffix not required.
- The building is currently under construction.
- The applicant's intent is to create a unique establishment that offers cooking classes and wine appreciation courses and focuses primarily on wine.
- Meets the proximity criteria of the Mayor's Entertainment District Task Force.
- Recommend support.

The Deputy City Clerk advised that the following petitions of opposition were received prior to the date of advertising for this public hearing but have been recopied and are included in Council's agenda package:

- petition bearing 40 signatures of residents at 1152 and 1156 Sunset Drive
 - petition bearing 45 signatures of residents at 1160 Sunset Drive
- opposed because of concerns about increased noise and vandalism, traffic and parking problems, and stating that the area is already well served with retail liquor outlets.

The Deputy City Clerk advised that the following correspondence was received in response to the advertising for tonight's public hearing:

- letter from Brent Peacock, applicant, giving an overview of the proposal and advising that he met with the Dolphins strata council after learning about the petitions of opposition to try to clarify what was proposed and address their concerns.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Margaret Wort, resident of the Dolphins:

- Owns property at the Dolphins but did not sign a petition.
- Wrote a letter about the congestion on the corner (Sunset and Water) when she first moved into the Dolphins but City Engineering staff said they saw no problem. There will be absolute congestion on that corner regardless of the business and a liquor store will create a lot of traffic unless it is going to be a drive thru like MacDonalds.

Janice Fingado, 1152 Sunset Drive:

- Concerned about the groups that come out of Skyreach after certain concerts and head across the street with beer, rowdiness and noise. Security is already a problem at the Dolphins and introducing more people into the area will make it worse.
- The Wine Museum already meets the needs of the area.
- So much has been spent developing the cultural district why trash it now?
- Would like a deli but not a liquor store.
- Did not attend the meeting with the applicant.

Brent Peacock, applicant:

- Made every attempt to communicate with both the Lagoons and the Dolphins strata councils but was unable to meet with the Lagoon's strata. Intends, regardless of the outcome tonight, to communicate with the residents of both buildings.
- He and his brother also own and operate the Equinox Financial Group which will occupy about 3,500 sq. ft. of the same building as the proposed liquor store. As owner-occupiers of the building they will share the area residents' concerns about parking, congestion and security.
- Proposing to provide an upscale boutique focusing primarily on hard to find wines and international wines but also selling beer and alcohol and a large selection of giftware.
- Received a positive response to the proposal from the residents of Pointe of View as well as from the other businesses in the cultural district.
- The size and hours of the boutique will be managed with the community in mind.
- There will be residential units on the top floor of the proposed building.

Staff:

- Overflow parking is available in the adjacent City-owned parking lot.

There were no further comments.

3.2(h) 1675 Abbott Street

3.2(h) Bylaw No. 9021 (Z03-0021f) – Bill-Ed Logging Ltd. (City of Kelowna) – 1675 Abbott Street (Prestige Inn) - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 139, O.D.Y.D., Plan 36244 being 1675 Abbott Street (Prestige Inn) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- The subject property is on the boundary of the downtown area where Council endorsed the recommendation of the Task Force to allow no changes to existing liquor licenses. Recommend non-support because the property is on that boundary.

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

- letter of support from Canyon Lumber Co. on Lawrence Avenue.
- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

The Deputy City Clerk confirmed that all of the owners of the properties under application tonight received a notice stating that Council would hear submissions at this meeting.

Staff:

- The recommendations for support and non-support of the applications being considered tonight reflect the Mayor's Entertainment District Task Force recommendations that were recently endorsed by Council. The owners of the applications not being recommended for support were not sent separate notifications to tell them the staff recommendation would be negative.

Mayor Gray noticed that the applicant for the Willow Inn had just arrived and invited him to address Council.

3.2(f) 235 Queensway Avenue

3.2(f) Bylaw No. 9019 (Z03-0021d) – K & J Noble Holdings Ltd. (City of Kelowna) – 235 Queensway Avenue (Willow Inn Hotel)

Ken Noble, Willow Inn:

- The provincial Liquor Distribution Branch (LDB) has already given him pre-clearance approval for a liquor store and had he not been held up with getting the up-to-date plans the LDB required, he would have already received final approval from the LDB to proceed.
- Received a building permit from the City and the building is already half finished.
- Thought that approval of his application would be a formality so did not come expecting to make a presentation tonight.
- Did not know before tonight that staff were recommending against his application.

Staff:

- Explained that the Willow Inn has pre-clearance approval and has been working through the process with the LDB and the LDB was aware that these applicants for private liquor stores also required rezoning approval but despite that for some reason the LDB carried on with processing the applications.
- The applicants were told that they could proceed with getting their plans done and obtaining the building permits but it was made clear to them that the zoning had to be approved before proceeding further, and to start construction would be at their own risk.
- When the downtown LP establishments become busy it could be a problem with people standing around in line-ups and having an RLS nearby.
- The building permit is for a tenant improvement and is not tied to a liquor store which is why the permit could be issued without proper zoning.

There were no further comments.

3.2(i) 238 Leon Avenue

- 3.2(i) Bylaw No. 9022 (Z03-0021g) – 475872 BC Ltd. (City of Kelowna) – 238 Leon Avenue (Gotcha) - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 7, Blk. 10, D.L. 139, O.D.Y.D., Plan 462 being 238 Leon Avenue (Gotcha) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- The subject property is within the boundaries of the downtown area where Council endorsed the recommendation of the Task Force to allow no changes to existing liquor licenses.
- Recommend non-support.

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

- letter of support from Canyon Lumber Co. on Lawrence Avenue.
- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Dominic Panucci, Gotcha:

- He and brother Gino are partners in the properties at 238 and 248 Leon Avenue. He owns the land and his brother owns the nightclub.
- Purchased the property adjacent to Gotcha in November 2002 with the intention of having a liquor store and so that his brother could expand the seating for Gotchas.
- His concern is as a landowner. It is difficult to use the property for anything else, particularly with the surrounding uses. Likes the idea of residential and would gladly demolish the buildings and develop residential but the existing uses would have to change first. Cannot put residential in an area with a body shop, a mission and nightclubs.
- Learned in March or April this year that the staff recommendation would be negative for this application.

There were no further comments.

3.2(j) 274 Lawrence Avenue

- 3.2(j) Bylaw No. 9023 (Z03-0021h) – 614030 B.C. Ltd. (City of Kelowna) – 274 Lawrence Avenue (Senior Frogs) - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Block 13, D.L. 139, O.D.Y.D., Plan 462 being 274 Lawrence Avenue (Senior Frogs) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- The subject property is within the boundaries of the downtown area where Council endorsed the recommendation of the Task Force to allow no changes to existing liquor licenses.
- Recommend non-support.

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

- letter of support from Canyon Lumber Co. on Lawrence Avenue.
- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Shabbir Dhalla, representing the Royal Anne Hotel and O'Flannigan's pub:

- Invested a lot of money in the beer store next to O'Flannigan's and that investment would be at risk if the Willow Inn, Prestige Hotel, Gotchas and Senior Frogs were approved for a liquor store. The market is already being serviced well in the downtown area; if too many are in close proximity none will be viable.
- Guests in the Royal Anne Hotel already complain about noise from the private liquor store on Bernard and more liquor stores would add to the noise problem and compromise public safety in the downtown area.

There were no further comments.

3.2(k) 1310 Water Street

3.2(k) Bylaw No. 9024 (Z03-0021i) – Grand Okanagan Resort Ltd. (City of Kelowna) – 1310 Water Street (Grand Okanagan Resort) - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots A and B, D.L. 139, 4041 and 4082, O.D.Y.D., Plan KAP47378 except Strata Plan KAS1140 being 1310 Water Street (Grand Okanagan Resort) from the C8 – Convention Hotel Commercial zone to the C8rls – Convention Hotel Commercial (Retail Liquor Sales) zone.

Staff:

- The subject property could meet the 100 m proximity criteria; however, staff recommend non-support.

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

- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Gail James, representing The Grand Okanagan Resort Hotel:

- The proposed establishment would be located beside Malibu Marine on Water Street.
- The facility would be 1,100 sq. ft. in size and it is anticipated that 65% to 75% of sales would be to guests of the hotel.
- The Wine Museum closes at 7 p.m. and does not sell beer and liquor. Will work with them and try not to sell the same wines as they do.
- Parking is not an issue.
- Received notification of this meeting but was not aware the staff recommendation for this application was negative.

3.2(I) 2130 Harvey Avenue

- 3.2(I) Bylaw No. 9025 (Z03-0021j) – Northland Properties Ltd. (City of Kelowna) – 2130 Harvey Avenue (Sandman Inn) - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 127, O.D.Y.D., Plan 23746 being 2130 Harvey Avenue (Sandman Inn) from the C9 – Tourist Commercial zone to the C9rls – Tourist Commercial Retail Liquor Sales zone.

Staff:

- The Ramada Hotel is next door but staff recommend in support of this application because there have been no conflicts with other LP establishments within the area.

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

- letter from the Downtown Kelowna Association supporting the Mayor's Entertainment District Task Force recommendations.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Staff, in response to questions of Council:

- Council would have to approve a Development Variance Permit application for an RLS establishment to be more than 2,000 sq. ft. in size.
- Would monitor establishments zoned for retail liquor sales when the liquor license is moved to a new location. If the former location remained vacant for a certain amount of time, staff would consider bringing forward a recommendation to remove the 'rls' zoning designation.

Councillor Cannan commented that he had just phoned the owner of Senior Frogs and Mr. Habib had advised that he was not aware that staff were recommending non-support of his application. Mr. Habib had also advised that his intention, when he applied for the 'rls' designation, was to transfer it to his new location.

Moved by Councillor Clark/Seconded by Councillor Given

P616/03/07/08 THAT the portion of this Public Hearing dealing with Bylaws No. 9052, 8960 and 8980 be closed;

AND THAT the portion of this Public Hearing dealing with Bylaws No. 9016 to 9025 be adjourned to the Public Hearing at 7:00 p.m. on Tuesday, July 22nd, 2003.

Carried

4. TERMINATION:

The Hearing was declared terminated at 9:44 p.m.

Certified Correct:

Mayor

Deputy City Clerk

BLH/bn