

Regular MeetingOctober 14, 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, October 14, 2003, 2003.

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

Council members absent: Mayor Walter Gray and Councillor B.D. Given.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, A.M. Flack; Manager of Development Services, A.V. Bruce; Subdivision Approving Officer, R.G. Shaughnessy*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. CALL TO ORDER

Deputy Mayor Horning called the meeting to order at 8:10 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, September 29, 2003
Public Hearing, September 30, 2003
Regular Meeting, September 30, 2003
Regular Meeting, October 6, 2003

Moved by Councillor Clark/Seconded by Councillor Blanleil

R842/03/10/14 THAT the Minutes of the Regular Meetings of September 29, September 30 and October 6, 2003 and the Minutes of the Public Hearing of September 30, 2003 be confirmed as circulated.

Carried

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

5. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)

5.1 Bylaw No. 9091 (Z03-0040) - Melvin & Rita Uppenborn (D.E. Pilling & Associates/Greg Reschke) - 1101 Bentien Road

Councillor Day declared a conflict of interest as an owner of property within the notification radius of the subject property and left the Council Chamber at 8:13 p.m.

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Councillor Cannan missed the public hearing for this application and the next application on the agenda and therefore was unable to participate in the vote on the bylaws and consequently left the Council Chamber at 8:13 p.m.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R843/03/10/14 THAT Bylaw No. 9091 be read a second and third time.

Carried

Councillor Day returned to the Council Chamber at 8:13 p.m. and took his place at the Council Table.

(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)

5.2 Bylaw No. 9086 (Z03-0046) - Timothy Pincin & Amanda Erdely (Timothy Pincin) – 142 Celano Crescent

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R844/03/10/14 THAT Bylaw No. 9086 be read a second and third time, and be adopted.

Carried

Councillors Clark and Shepherd opposed.

5.3 Bylaw No. 9094 (OCP03-0012) - Bell Mountain Area Structure Plan ASP02-0001 – Colin Day, Balbir Singh & Preminder Jeet Wariache, 590921 BC Ltd., Black Mountain Irrigation District (Weninger Construction and Design Ltd./Marlin Weninger) – East of Lone Pine Drive/South of Swainson Road **requires majority vote of Council (5)**

Councillor Day declared a conflict of interest as owner of a property within the Bell Mountain Area Structure Plan area and left the Council Chamber at 8:19 p.m.

Councillor Cannan returned to the Council Chamber at 8:19 p.m. and took his place at the Council Table.

Moved by Councillor Blanleil/Seconded by Councillor Cannan

R845/03/10/14 THAT Bylaw No. 9094 be read a second and third time, and be adopted.

Carried

Councillor Day returned to the Council Chamber at 8:22 p.m. and took his place at the Council Table.

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6. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATIONS

- 6.1 Planning & Corporate Services Department, dated September 16, 2003 re: Liquor Licensing Application No. LL03-0015 – 641300 BC Ltd. (Steve Berezan/Black Mountain Pub Ltd.) – 2040 Joe Riche Road

Staff:

- The applicant proposes to re-license the Black Mountain School House Pub as a liquor primary establishment and operate a pub and restaurant on the subject property.
- Licensed capacity will stay under the 100 person capacity as regulated by the City Zoning Bylaw.

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

- letter of support from Joe Johannesson, 1389 Lund Road
- letter from Kitty Green, 1508 Lund Road, concerned about long hours of operation and noise from the outdoor patio of the pub.

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

Steve Berezan, applicant:

- Bought the property almost 2 years ago. Efforts to lease it out have been unsuccessful and so decided to apply for a pub license himself in hopes that with all the new development in the area the public can be viable again.
- The 'lp' license allows the pub to be open from 9 a.m. to 2 a.m.; however would only open early for local sporting events like the Black Mountain Rodeo and intend to only be open until 1 a.m. on weekends.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R846/03/10/14 THAT Council support a Liquor Primary License on Part of Lot 5 shown on Plan B4079, Section 18, Township 27, ODYD Plan 1991; proposed by Black Mountain Pub Ltd. for 2040 Joe Riche Road;

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

Carried

- 6.2 Planning & Corporate Services Department, dated September 8, 2003 re: Liquor Licensing Application No. LL03-0016 – Evergreen Lands Ltd., 594919 BC Ltd., Peacock Insurance & Financial Group Inc., Viewcrest Estates Ltd., and Brainwave Management Inc. (Brent Peacock/640341 BC Ltd.) – 1180 Sunset Drive

Staff:

- The site is split zoned from the rest of the property which is developed with a 16-storey residential highrise known as the Dolphins.
- The applicant has already obtained the appropriate zoning and a building permit for a 3-storey, mixed use building for this portion of the site and the project is currently under construction. A retail liquor store, a wine and tapas bar and the Equinox Financial Group will occupy the ground floor, with commercial or office uses on the second floor and residential units above. The primary focus of the licensed premises would be on high quality wines.

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- The applicant has already applied for the 'rls' zoning designation for the retail liquor store and is now following through with an application for the 'lp' license for the wine and tapas bar. Adding the 'lp' liquor license is consistent with the terms of the Mayor's Entertainment Task Force.
- Seating in the wine and tapas bar (lp) would be kept to below 100 even though the liquor license permits over 100 person capacity.

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

Support:

- letter of support from Irene & Dick Laidlaw, 1088 Sunset Drive
- package of 31 letters and a 24-signature petition, submitted late by the applicant.

Opposition:

- letter of opposition from Don & Bette Green, 1088 Sunset Drive
 - letter of opposition from Colin Grain, #1202, 1156 Sunset Drive
 - letter of opposition from Jim & Dorothy Carrie, 1160 Sunset Drive
 - letter of opposition from Irene Buchheim, 1156 Sunset Drive
 - letter of opposition from Ruth & Terry Brooks, 1088 Sunset Drive
 - letter from Clifford Ames, as Acting President, Dolphins Condo
 - letter from Clifford Ames, as owner of 2 units in the Dolphins Condo
 - three petitions bearing a total of 144 signatures
- all opposed for reasons including traffic congestion, lack of parking, the proposed location of the wine and tapas bar and potential for increased noise and crime.

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

Brent Peacock, applicant:

- Goal is to be wine destination for the discerning wine buyer and drinker. Nothing has changed since the last time the application was before Council.
- Hours and seating seem to be the biggest concern. Seating will be limited to max 60-70 persons and a summer patio of 20. Expect that closing hours for the wine store would be no later than 9 p.m. Sunday to Thursday and 10 p.m. on Friday and Saturday. Expect that closing hours for the wine bar would be 10 p.m. Sunday to Wednesday, 11 p.m. on Thursday, and midnight on Friday and Saturday.
- The outdoor patio would be used during the summer and there would be only soft background music played on the patio. Jazz and background music would be played inside as well. The building is concrete for noise containment. There are residential units on the top floor of the building and those residents will also be complaining if noise becomes an issue.
- The development meets parking requirements of the Zoning Bylaw and there is optional parking available at Skyreach and in the adjacent City parking lot along with on-street parking on Water Street.
- There will be no access to the underground parking.
- Has a vested interest in the success of this project; Equinox Financial will cover the entire 2nd floor and he and his brother will own 2/7ths of the building. Local residents will be their clients. Will protect their reputation by standing by their word.

Staff:

- Clarified that the outdoor patio would be adjacent to Sunset Drive across from the Canada Lands property.

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Art Koss, 1160 Sunset Drive:

- The patio would be no more than 100 ft. from the nearest residence. If approved, residents in the area could find themselves living next to a full retail liquor outlet.
- There have been too many changes to the project. The wine and tapas bar as originally set forth would have been acceptable. But what is proposed now goes way beyond that and the residents of the area see the wine bar as becoming a full blown pub. Would like a covenant registered to ensure that the wine and tapas bar remains as proposed and cannot become a pub.

Murray Johns, 1150 Sunset Drive:

- The plans to have an outdoor patio are new; the patio would be directly beside his bedroom window.
- Objects because of concerns about noise from the patio.
- Is on the Lagoons Strata and at no time did the Strata at the Lagoons ever receive any communication from the applicant.

Fred Speckeen, 1156 Sunset Drive:

- Spoke in support of the application.

Ruth MacKay, 1156 Sunset Drive:

- Was in support of a liquor store but does not support the wine and tapas bar. Traffic and parking is already congested and noise is already an issue. Concerned about security; people already trespass and with bar next door the problem will get worse.
- Developer says they will target to upscale clientele, but cannot discriminate. When people drink they get louder.

Pat Doyle, 1160 Sunset Drive:

- Spoke in support but noted that the change in hours and the fact that there will be an outdoor patio is significant. There is nothing to prevent other changes from occurring. If this application is supported, Council needs to take the uncertainties into consideration.

Doug Stranaghan, 1160 Sunset Drive:

- Spoke in support.

Barbara Christian, 1160 Sunset Drive:

- This application would be adding a liquor outlet and wine store in an area already inundated with liquor outlets and wine stores.
- Sound goes up and there will be noise. It is unfair to the residents living in the area to take away their privacy and peace and quiet for a liquor outlet that is unnecessary.
- Object to the 'lp' liquor license with or without an outdoor patio. The patio would be 5 ft. from the sidewalk and there are multi-family units with children right next door.

John Gough, 1160 Sunset Drive:

- The applicant has not met the requirements of Council Policy No. 255 with respect to discuss plans with neighbours and local residents prior to proceeding to Council. Had the applicant done that, the residents would have known that seating would be restricted to under 100 and would have know the proposed closing times. Frustrated about all the effort the residents have gone to based on wrong information.
- Concerned that the area could become a more high crime area with what is proposed. Traffic flow and on and off-site parking have not been addressed and the residents do not know what the occupancy will be of the other commercial space in the building.

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A female resident of 1156 Sunset Drive:

- Spoke in support.

Stu Turcott, art gallery owner:

- Spoke in support.

Evelyn Durnin, 1160 Sunset Drive:

- The Dolphins strata council was told by the developer of phase 2 that the proposed building would be 2 storeys with professional offices on the main level and residential units above. The changes are substantial.
- Should require a covenant to prevent the 'lp' license establishment from being open passed midnight.

Helene Scott:

- Just recently moved to Kelowna from South Africa:
- Spoke in support.

Brent Peacock, applicant:

- Clarified that the majority of the patio would be in front of 988 Sunset Drive. No loud music would be played on the outdoor patio.

Moved by Councillor Blanleil/Seconded by Councillor Shepherd

R847/03/10/14 THAT Council support a Liquor Primary License on Lot B, Plan KAP49982, D.L. 139, ODYD, except Strata Plan KAS1261; proposed by Brent Peacock for 1180 Sunset Drive, based on the following:

- Hours of operation being restricted as follows:
 - Wine Store – 9 p.m. closing Sunday to Thursday and 10 p.m. on Friday and Saturday;
 - Wine Bar – 10 p.m. closing Sunday to Wednesday, 11 p.m. on Thursday and midnight on Friday and Saturday;
- Seating capacity for the wine and tapas bar be limited to under 100 persons;
- The applicant signing a Good Neighbour Agreement with the City of Kelowna;
- Provision of adequate screening and sound limitations on the outdoor patio for the adjacent residential building to the north;

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

Carried

Councillor Clark opposed.

7. PLANNING

- 7.1 Planning & Corporate Services Department, dated September 18, 2003 re: Development Permit Application No. DP03-0094 – William Stewart (James Elder/Whitworth Holdings) – 1250-1298 Ellis Street

Withdrawn from the agenda at the request of the applicant.

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- 8.1 Draft Resolution re: Cancellation of Monday, November 10, 2003 Regular Council Meeting

Moved by Councillor Blanleil/Seconded by Councillor Hobson

R848/03/10/14 THAT further consideration of a motion to cancel the Regular Meeting scheduled for Monday, November 10, 2003 be deferred to the Regular Meeting of Monday, October 27, 2003.

Carried9. BYLAWS**(BYLAWS PRESENTED FOR FIRST READING)**

- 9.1 Bylaw No. 9099 (Z03-0036) – Royce & Leeann Dockrill – 3517 Lakeshore Road

Moved by Councillor Shepherd/Seconded by Councillor Clark

R849/03/10/14 THAT Bylaws No. 9099, 9100, 9101, 9102 and 9103 be read a first time.

Carried

- 9.2 Bylaw No. 9100 (Z03-0041) – Mamre Holdings Inc. (Renee Wasyluk) – 1856 Ambrosi Road

See resolution adopted under item No. 9.1.

- 9.3 Bylaw No. 9101 (Z03-0035) – Zodiac Pub (Steve Berezan) – 200-210 Highway 33 West

See resolution adopted under item No. 9.1.

- 9.4 Bylaw No. 9102 (Z03-0049) – Pierre & Amber Piche – 1086 Raymer Avenue

See resolution adopted under item No. 9.1.

- 9.5 Bylaw No. 9103 (Z03-0048) – Janet Dommasch (Peter Chataway) – 124 Lake Avenue

See resolution adopted under item No. 9.1.

10. REMINDERS – Nil.

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11. TERMINATION

The meeting was declared terminated at 10:19 p.m.

Certified Correct:

Deputy Mayor Horning

City Clerk

BLH/am