

Regular MeetingJune 1, 2004

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 1, 2004.

Council members in attendance were: Mayor Walter Gray, Councillors R.D. Cannan, B.A. Clark\*, C.B. Day, B.D. Given, R.D. Hobson, E.A. Horning and S.A. Shepherd.

Council members absent: Councillor A.F. Blanleil.

Staff members in attendance were: City Manager, R.A. Born; Acting City Clerk, S.C. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi; Manager of Development Services, A.V. Bruce; Manager of Policy Research & Strategic Planning, S.K. Bagh\*; Planner-Long Range, G. Routley\*; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 11:46 p.m.

EXTENSION OF MEETING:

Moved by Councillor Given/Seconded by Councillor Horning

**R515/04/06/01** THAT pursuant to Section 5.5 of Council Procedure Bylaw No. 9200, this Council meeting be permitted to convene after 11:00 p.m.

Carried

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Regular Meeting, May 17, 2004  
Public Hearing, May 18, 2004  
Regular Meeting, May 18, 2004  
Public Hearing, May 25, 2004

Moved by Councillor Given/Seconded by Councillor Horning

**R516/04/06/01** THAT the Minutes of the Regular Meetings of May 17 and May 18, 2004 and the Minutes of the Public Hearings of May 18 and May 25, 2004 be confirmed as circulated.

Carried

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

Regular MeetingJune 1, 20045. PLANNING BYLAWS CONSIDERED AT PUBLIC HEARING**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS)**5.1 Bylaw No. 9228 (Z04-0022) – City of Kelowna – Various PropertiesMoved by Councillor Given/Seconded by Councillor Horning**R517/04/06/01** THAT Bylaw No. 9228 be read a second and third time.Carried5.2 Bylaw No. 9238 (TA04-0001) – City of Kelowna Zoning Bylaw Amendment to Add the CD16 – Bingo and Gaming Zone

Councillor Given declared a conflict of interest because he works for an agency that derives money from this facility and left the Council Chamber at 11:52 p.m.

Councillor Day declared a conflict of interest because a direct family member owns adjoining property and left the Council Chamber at 11:52 p.m.

Staff:

- Clarified that the CD16 zone would be specific to only the Bingo Kelowna site.
- Approval of this text amendment would take the requests for gaming and liquor licensing to the next step. In the past the lottery commission has taken Council's support for the zoning as and support for the gaming license. The liquor license would come back for a separate resolution of Council.
- Council could support the text amendment and still not support the liquor license.
- Related gaming uses would include everything that a casino has.

Moved by Councillor Horning/Seconded by Councillor Cannan**R518/04/06/01** THAT Bylaw No. 9238 be read a second and third time.Carried

Councillors Cannan and Clark opposed.

5.3 Bylaw No. 9239 (Z04-0011) – Springfield Plaza Inc. – 1585 Springfield RoadMoved by Councillor Horning/Seconded by Councillor Cannan**R519/04/06/01** THAT Bylaw No. 9239 be read a second and third time.Carried

Councillors Cannan and Clark opposed.

Moved by Councillor Hobson/Seconded by Councillor Shepherd**R520/04/06/01** THAT staff send a letter to the BC Lotto Commission asking for the specifics (i.e. number/type of slot machines) of the gaming licence being considered for the Kelowna Bingo establishment;

AND THAT Bylaw No. 9238 and Bylaw No. 9239 not be advanced for adoption consideration by Council until a response has been received from the BCLC.

Carried

Regular MeetingJune 1, 2004

Council:

- Staff to also advise the Lottery Corporation that Council's support of the CD16 zone should not be taken as support for the gaming license for the Bingo Kelowna facility and ask that they come back to Council for a resolution of support for the gaming license after the specifics of the gaming license are known.

Councillors Day and Given returned to the Council Chamber at 12:24 a.m.

**(BYLAWS PRESENTED FOR SECOND & THIRD READINGS AND ADOPTION)**

- 5.4 Bylaw No. 9217 (Z04-0018) – Kelowna Speedometer Ltd (664918 BC Ltd) – 441 Lawrence Avenue

Moved by Councillor Horning/Seconded by Councillor Given

**R521/04/06/01** THAT Bylaw No. 9217 be read a second and third time, and be adopted.

Carried

- 5.5 Bylaw No. 9236 – Kelowna 2020 Official Community Plan Amendments **requires majority vote of Council (5)**  
Housekeeping amendments to OCP Bylaw No. 7600

Moved by Councillor Clark/Seconded by Councillor Shepherd

**R522/04/06/01** THAT Bylaw No. 9236 be read a second and third time, and be adopted.

Carried

- 5.6 Bylaw No. 9240 (OCP04-0009) – Official Community Plan Amendment re Intensive Residential Development Permit Areas **requires majority vote of Council (5)**

Moved by Councillor Hobson/Seconded by Councillor Day

**R523/04/06/01** THAT Bylaw No. 9240 be read a second and third time, and be adopted.

Carried

Council agreed to accept the following motion put forward by Councillor Shepherd as a Notice of Motion for consideration at a future Council meeting.

THAT staff initiate a public review process to consider the designation, under Section 970.1 of the Local Government Act, of the 700-800 block of Bernard Avenue and the 700-1000 blocks of Lawrence Avenue as a heritage conservation area.

- 5.7 Bylaw No. 9243 – Official Community Plan Amendment **requires majority vote of Council (5)**

Withdrawn from the agenda.

Regular MeetingJune 1, 20046. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATIONS

- 6.1 Planning & Corporate Services Department, dated April 22, 2004 re: Liquor Licensing Application No. LL04-0004 – Frank Beckmann/Kelowna Speedometer Ltd. [Mark Vinette/664981 BC Ltd. (The Blue Gator)] – 441 Lawrence Avenue

Staff:

- Clarified that the requested hours of operation were 11 a.m. to 1 a.m. and on Sundays 1 p.m. to 1 a.m. However, staff recommended that the closing time be extended to 2 a.m. to be consistent with the Mayor's Entertainment District Task Force recommendations and that is how this application was advertised.
- Recommend support but with restrictions on the hours for liquor service on the patio to 11 a.m. to 11 p.m. in order to try to control noise on the patio.

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

- letter from Marian Grimwood, Wasco Holdings Inc., opposed on the basis of vandalism to her building and increased in garbage in the area.

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

Moved by Councillor Shepherd/Seconded by Councillor Hobson

**R524/04/06/01** THAT Council support a liquor primary license (Person capacity: 107 and Hours of Operation: Monday-Saturday: 11 a.m. to 2 a.m./Sunday: 1 p.m. to 2 a.m.) for the Blue Gator on of Lot 1, District Lot 139, ODYD Plan 3508 ; proposed by the Blue Gator for 441 Lawrence Avenue;

AND THAT Council restrict liquor service on the patio from 11 a.m. to 11 p.m.;

AND THAT Council restrict the applicant from using speakers in the patio area;

AND FURTHER 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 April 22, 2004 re: Liquor Licensing Application No. LL04-0005 – 622623 BC Ltd. (Brian Lucas/Rascals Night Club) – 150 Highway 33 West

Councillor Clark left the meeting at 12:48 a.m.

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

Regular MeetingJune 1, 2004

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

Moved by Councillor Hobson/Seconded by Councillor Day

**R525/04/06/01** THAT Council support an extension to the permitted hours of liquor service for Rascals Nightclub from 7:00 p.m. to 2:00 a.m. Monday through Sunday to 9:00 a.m. to 2:00 a.m. Monday through Sunday on Lot 1, Section 26, Township 26, Plan 2073, ODYD except plan 15675, for 150 Highway 33 West;

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

Carried

Councillor Cannan opposed.

## 7. PLANNING

7.1 Planning & Corporate Services Department, dated April 27, 2004 re: Development Variance Permit Application No. DVP04-0042 – Robert Gaspari – 447 Cascia Drive

The Acting City Clerk advised that one letter of opposition had been received from Michelle McFetridge, 453 Cascia Drive, giving no details for why she is opposed.

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

Moved by Councillor Given/Seconded by Councillor Horning

**R526/04/06/01** THAT Council authorize the issuance of Development Variance Permit No. DVP04-0042; Lot 6, District Lot 167, ODYD Plan KAP70756, located on Cascia Drive, Kelowna, B.C.;

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

Section 13.1: RU1 – Large Lot Housing: Subsection: 13.1.6(c):

- Vary front yard setback from 6.0 m required to 5.75 m proposed.

Carried

7.2 Planning & Corporate Services Department, dated May 4, 2004 re: Development Permit Application No. DP04-0035 and Development Variance Permit Application No. DVP04-0036 – 371868 BC Ltd. (Steve Shoranick/MKS Resources Inc.) – 1895-1905 Pandosy Street

Staff:

- The applicant is proposing to develop the site with a 27-unit, 4.5 storey apartment building.
- The property backs onto a creek and in 1995 a site plan was approved by Council that included dedications along the creek that were in accordance with the requirements of the day. A Development Permit was approved and issued but not acted on. The applicant is now back with a similar building footprint; however, in the interim the zoning bylaw has changed and the property is zoned differently than when the original application went through. The change in zoning is the reason for the long list of variances.

Regular MeetingJune 1, 2004

- The Advisory Planning Commission recommends support for the application.
- Staff recommend support for all but the variance to parking requirements.

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

- letter of opposition from Lynn Slamka, 1860 Marshall Street, opposing the rear yard setback because of concern over the impact on the Mill Creek corridor.

Staff:

- Reminded Council of the comment made at tonight's Public Hearing [agenda item 3.2(a)] by Mike Gardner, 1855 Pandosy Street, suggesting that the stamped concrete area at the corner of Lake Avenue and Pandosy Street be changed to pavement.

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

Steve Shoranick, applicant

- The proposed units are 2 bedrooms plus a loft. The Building Code does not acknowledge a loft as a bedroom and so according to the Building Code the project is short by two parking stalls. According to the Zoning Bylaw a loft is a bedroom and as such the project is short by four stalls.
- Not all tenants will have cars.
- A lot of the variances are technicalities because of the Zoning Bylaw changing.
- The number of units is critical to the viability of the project; it would be difficult to reduce the number of units in order to meet the parking requirement.

Moved by Councillor Hobson/Seconded by Councillor Cannan

**R527/04/06/01** THAT Council authorize the issuance of Development Permit No. DP04-0035 for Lot A, DL 14, ODYD Plan KAP55835, 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;
5. The applicant be required to register a Section 219 covenant stipulating 'no build setbacks from the creek for any future structure';
6. The applicant be required to register a Section 219 covenant saving harmless this City of Kelowna from possible flood related damage on the subject property;

Regular MeetingJune 1, 2004

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0036; Lot A, DL 14, ODYD Plan KAP55835, located on Pandosy Street, Kelowna, B.C.;

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

Section 13.11: RM5 – Medium Density Multiple Housing: 13.11.6(b):  
Vary the maximum site coverage for buildings from 40% permitted to 48.9% proposed;

Section 13.11: RM5 – Medium Density Multiple Housing: 13.11.6(c):  
Vary the maximum permitted height from 4 storeys permitted to 4.5 storeys proposed;

Section 13.11: RM5 – Medium Density Multiple Housing: 13.11.6(e):  
Vary the required setback for portions of a building exceeding 2.5 storeys in height from 7.5 m required to 4.5 m proposed;

Section 13.11: RM5 – Medium Density Multiple Housing: 13.11.6(f):  
Vary the rear yard setback from 9.0 m required to 5.0 m proposed;

AND THAT variances to the following sections of Zoning Bylaw No. 8000 ***not*** be granted: ***amended by Resolution No. R580/04/06/07 adopted June 7 to grant the parking variance***

Section 8: Table 8.1: Parking Schedule:  
Vary the required parking from 43 stalls required to 39 stalls 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

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

- (i) Bylaw No. 9230 (OCP04-0001) – Canada Lands Company – 1187 Sunset Drive **Requires majority vote of Council (5)**

Councillor Hobson advised that he was not in attendance at the Public Hearing on this application but that he has read the minutes and therefore would participate in the vote.

Moved by Councillor Day/Seconded by Councillor Hobson

**R528/04/06/01** THAT Bylaw No. 9230 be adopted.

Carried

- (ii) Bylaw No. 9231 (Z04-0004) – Canada Lands Company – 1187 Sunset Drive

Moved by Councillor Day/Seconded by Councillor Hobson

**R529/04/06/01** THAT Bylaw No. 9231 be adopted.

Carried

Regular Meeting

June 1, 2004

- (b) Planning & Corporate Services Department, dated May 4, 2004 re: Development Permit Application No. DP04-0018 and Development Variance Permit Application No. DVP04-0019 – Canada Lands Co. CLC Ltd. (Mark Hamilton/The Hulbert Group) – 1153-1157 & 1187 Sunset Drive

Staff:

- The application is for a proposed multiple unit residential development consisting of an 82-unit, 20-storey tower and 7 townhouse units.
- The variances are to increase the maximum building height from 16 storeys to 20 storeys, increase the permitted vertical daylighting angle, and reduce the rear and side yard setbacks to the proposed parking structure.
- The Advisory Planning Commission recommends support for the DP and DVP as do staff.

Richard Hulbert, architect for the development:

- The proposed development is known as Brandt's Creek Crossing, and occupies the former CNR train yard lands.
- The site would be developed in 6 phases. Buildings will occupy less than 20% of the site. Phase 1 includes a 20 storey high-rise apartment building and 7 townhouse units.
- Gave details of how the site would be developed. Approximately 600 units are proposed overall, in a variety of housing types for young families to seniors, from purchase fee-simple to rentals. This first phase would not be considered affordable.

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

**Opposition:**

- letter from Karen Bieber, #232 Discovery Bay
- letter from Donald & Maureen Anderson, 290 Middle Road

Opposed generally on the basis that the rear yard setback would have a negative effect on the appearance of the area, and a 20-storey building is too high.

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

John Zeger, Citizens for Responsible Community Planning:

- Opposed because the development would create unacceptably high residential densities and increase traffic congestion; no affordable housing is provided for in the project; highrises are socially alienating; the architectural design does not reflect the uniqueness of Kelowna; impacts on view corridors; and the development would ease the way for more high rises in this end of the city.
- Suggested the subject property be developed as multi-family with no structure exceeding 4 storeys in height.

There were no further comments.



Moved by Councillor Hobson/Seconded by Councillor Day

**R530/04/06/01** THAT Council authorize the issuance of Development Permit No. DP04-0018 for a part of Lot 7, District Lot 139, ODYD, Plan KAP68693 except Plan KAP73017 and a part of Lot A, District Lot 139, ODYD, Plan KAP 73017 located on Sunset Drive, 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 registration of a plan of subdivision at Land Title Office in Kamloops to address the lot line adjustment and create the new development site, as well as the registration of a reciprocal access agreement for pending Lot 4;
5. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0019; for a part of Lot 7, District Lot 139, ODYD, Plan KAP68693 except Plan KAP73017 and a part of Lot A, District Lot 139, ODYD, Plan KAP73017, located on Sunset Drive, Kelowna, B.C.;

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

- a) Section **6.1.1(b)&(c) Daylighting Standards** – from the Daylighting Standard Vertical Angle for the east side lot line and the rear lot line of 65° required to 73° proposed;
- b) Section **13.12.6(c)** – High Rise Apartment Housing zone, **Development Regulations**, from the maximum building height of the maximum of 16 storeys or 55 m to 20 storeys or 64.7 m proposed;
- c) Section **13.12.6(e)** – High Rise Apartment Housing zone, **Development Regulations**, from the minimum north & south side yard setback of 4.5 m required to the 0.0 m proposed to the parking structure;
- d) Section **13.12.6(f)** – High Rise Apartment Housing zone, **Development Regulations**, from the minimum east rear yard setback of 9.0 m required to the 0.0 m proposed to the parking structure;

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

Regular Meeting

June 1, 2004

8. BYLAWS

**(BYLAWS PRESENTED FOR ADOPTION)**

- 8.1 Bylaw No. 9162 – Road Closure & Removal of Highway Dedication Bylaw  
– 3974 Todd Road

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

Moved by Councillor Given/Seconded by Councillor Shepherd

**R531/04/06/01** THAT Bylaw No. 9162 be adopted.

Carried

- 8.2 Bylaw No. 9233 – Road Closure Bylaw – Union Road

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

Moved by Councillor Shepherd/Seconded by Councillor Given

**R532/04/06/01** THAT Bylaw No. 9233 be adopted.

Carried

- 8.3 Bylaw No. 9241 – Amendment No. 7 to Development Application  
Procedures Bylaw No. 8140

Moved by Councillor Cannan/Seconded by Councillor Day

**R533/04/06/01** THAT Bylaw No. 9241 be adopted.

Carried

9. REMINDERS – Nil.

10. TERMINATION

The meeting was declared terminated at 1:52 a.m.

Certified Correct:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Acting City Clerk

BLH/am