

Regular MeetingJune 15, 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 15, 2004.

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.

Council members absent: Councillors A.F. Blanleil and B.A. Clark.

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

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:01 p.m.

2. PRAYER

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

3. CONFIRMATION OF MINUTES

Public Hearing, June 1, 2004  
Regular Meeting, June 1, 2004  
Regular Meeting, June 7, 2004

Moved by Councillor Hobson/Seconded by Councillor Day

**R607/04/06/15** THAT the Minutes of the Regular Meetings of June 1 and June 7, 2004 and the Minutes of the Public Hearing of June 1, 2004 be confirmed as circulated.

Carried

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

5. PUBLIC MEETING TO RECEIVE INPUT ON LIQUOR LICENCE APPLICATIONS

5.1 Planning & Corporate Services Department, dated May 21, 2004 re: Liquor Licensing Application No. LL04-0003 – R 243 Enterprises Ltd. (David Low) – 230 Highway 33 East

Staff:

- The site is zoned C3 and the existing building is vacant. The applicant intends to renovate the building to look like a German pub and to add some additional parking to the site.
- If this liquor license application is supported by Council, a Development Permit application will come forward to Council shortly.
- The 98 seat capacity puts the establishment in the Liquor Primary Minor category, negating the need for adding the 'lp' designation to the base zoning.
- In keeping with Policy No. 255 of the Mayor's Entertainment District Task Force, as long as the location is not adjacent to another liquor primary establishment it can be supported.
- Staff recommend support.

Regular MeetingJune 15, 2004

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

**Letters of Opposition**

- letter from Marcy Smith, 138 Prior Road South
- letter from Linda Cunday, Rutland
- letter from Morgan Smith, 138 Prior Road South
- letter from Marcie Devitt, Rutland
- letter from Brent & Heather Kirby 517 Harrop Ave; Garry & Diana Becker 475 Holbrook Court East; and Chad & Dhana Nippard 320 Jade Road
- letter from Ellen Voth, 620 Seaford Road
- letter from Barabara Milnes, 142 Prior Road South
- letter from Angie Paul, 2947 Springfield Road
- letter from Peter Milnes, 142 Prior Road South
- letter from Donna Miller & Carl Knowles, 180 Prior Road North

**Petition of Opposition**

- petition bearing 7 signatures of residents of Prior Road South

All opposed generally on the basis that the subject property is too close to a school; there are already 3 other drinking establishments within a 2 block radius; the lack of parking in the area is already resulting in overflow onto Prior Road; increase in automobile/pedestrian traffic, night time noise, vandalism and litter.

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

Keith Wilson, representing the applicants:

- The site was formerly a Red Rooster store. Since then the building has been used sporadically for a number of different businesses, none for any length of time. The building is in a state of disrepair.
- The applicants are proposing extensive renovations to the building to house a restaurant/eatery of a Bavarian theme, featuring German and Western foods with imported beers and ales on-tap. The kitchen would be one of the largest in Kelowna because of the extensive menu that will be offered.
- A 6 ft. high perimeter fence would be constructed on 3 sides of the property along with 10 ft. high cedars for a sight/sound barrier and for aesthetics.
- The gate on the existing walkway would be moved and the walkway extended to Highway 33. The subject property would not be visible or accessible from the walkway other than from off Highway 33.
- The Rutland area comprises a large portion of the population of Kelowna and is currently very under-serviced. The proposed facility would cater to a market looking for other than standard café or pub food.
- Parking requirements would be met, with 25 stalls, 3 oversized for handicap parking and loading vehicles.
- Would like the same hours for the patio as for the rest of the facility but if there are complaints from the neighbourhood about the patio will do what whatever is needed to address their concerns.

Mike Koutsantonis, Olympia Greek Taverna in Rutland:

- Supports the application. The proposed facility will help keep people in Rutland. Would like to see more of this in Rutland which is currently terribly under-serviced.

Regular MeetingJune 15, 2004

Bill Newman, 290-209 Highway 33 East:

- Is resident in a 30 unit complex to the east of the subject property. All residents of the complex support this application because many of them do not have vehicles and will enjoy having a facility like this within walking distance.

Marcie Smith, 138 Prior Road South:

- Concerned that patrons of the facility will park in front of her home, which is directly across Highway 33 from the subject property, and be returning to their vehicles at midnight and causing a lot of noise.
- There is already litter in the streets as a result of the 7-11 store; the proposed facility would likely result in more litter.
- Is upset about this application and feels the proposed facility would have a negative impact on her quality of life.

Mr. Lynn Smith, 134 Prior Road South

- Lives in the same complex as the previous speaker.
- The neighbourhood is primarily residential.
- Fails to see the need for an additional liquor outlet when there is already the Zodiac, Corner Pin and Rascals in the area and all serve alcohol.
- Concerned concerned that traffic will increase on Prior Road putting the safety of the children riding their bikes and walking home from school more at risk.

Keith Wilson, representing the applicant:

- Confident that the on-site parking would be sufficient to meet their needs; however, there are a couple of commercial business across the street that close early and anticipate overflow parking would go there.
- The clientele they are looking for are not the people who go out to get drunk; but rather more mature people who are out for a cocktail and to socialize.
- May have live entertainment.
- The business plan for the proposed facility does not include future off-sales.

Moved by Councillor Hobson/Seconded by Councillor Cannan

**R608/04/06/15** THAT Council support a liquor primary license with a capacity of 98 persons and hours of operation from 11:00 a.m. to 12:00 a.m. Monday to Sunday on Lot 8, Section 26, Township 26, ODYD, Plan 25529 proposed by David Low of 676698 BC Ltd. for 230 Highway 33 East;

AND THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Board in Victoria, with a recommendation for the hours of operation on the outdoor patio to be until 11 p.m. with a temporary extension until midnight for their first summer season of operation.

Carried

Regular MeetingJune 15, 20046. PLANNING

- 6.1 Planning & Corporate Services Department, dated May 20, 2004 re: Development Variance Permit Application No. DVP03-0169 – McIntosh Properties Ltd. (Norson Construction Ltd.) – 1840-1920 and 1890 Cooper Road

Staff:

- The applicant is seeking permission to increase the permitted height and area of a new freestanding sign proposed for Orchard Plaza.
- Orchard Plaza currently has two pylon signs, one facing Springfield Road and one facing Harvey Avenue. The proposed new sign would face Cooper Road and provide uniform signage on all 3 frontages of the mall.

The Acting City Clerk advised that no correspondence or petitions had been received relevant to this application.

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

Moved by Councillor Given/Seconded by Councillor Shepherd

**R609/04/06/15** THAT Council authorize the issuance of Development Variance Permit No. DVP03-00169, Norson Construction Ltd., Lot B, DL 127, ODYD, Plan 29104 & Lot A, DL 127, ODYD, Plan KAP48113, located on Cooper Road, Kelowna, B.C.;

AND THAT a variance to the following section of Sign Bylaw No. 8235 be granted:

Section 6.1: Specific Zone Regulations: Major Commercial (C4-Urban Centre Commercial Zone):

- A VARIANCE TO ALLOW FREESTANDING SIGNAGE TO BE 10.62 METRES IN HEIGHT WHERE ONLY 8.00 METRES IS PERMITTED;
- A VARIANCE TO ALLOW FREESTANDING SIGNAGE TO BE 36.6 M<sup>2</sup> IN SIZE WHERE ONLY 12.00 M<sup>2</sup> IS PERMITTED.

Carried

- 6.2 Planning & Corporate Services Department, dated May 28, 2004 re: Development Variance Permit Application No. DVP04-0030 – Dwaine Parker, Loralie and Rebecca Eidse, Ronald Egert, and Dwaine & Verna Parker (Dwaine Parker) – 547, 559, 569, 579, 589 and 605 Elliot Avenue

Staff:

- The subject properties all front onto Elliot Avenue and have rear access off a lane that does not and will not connect to Pandosy. Access from the lane to Pandosy was closed of when Pandosy underwent road improvements a couple of years ago.
- All the lots are zoned RU6 allowing for 2 dwelling units on the property.
- All the lots are a similar width which is short of bylaw requirements for duplex housing. With the exception of one lot, all meet lot area requirements.
- The requested variances deal with lot width and setback requirements from the lane, and driveway access from the front of the property where lane access is available.
- Each lot would be developed with a new principal building orientated to Elliot Avenue and a second building facing the lane which is being treated as a front yard for those dwelling units.

Regular MeetingJune 15, 2004

- Showed conceptually the building sketches to indicate what is proposed for construction noting the sketches would form part of the DVP.
- Do not see the application as precedent setting because the lots would serve as a transitional boundary between existing multi-family and single family uses and because there are streets stubbing into the lane at several locations.
- There have been problems with the existing houses being run down over the years and the proposed redevelopment of the lots would be an improvement in the area.
- Because the application was instream prior to recent changes to make 2 unit development subject to a Development Permit, this application is grandfathered under the old regulations and a DP was not required.
- Each property would apply for a building stratification for the two buildings on the lot; each lot would remain a single lot held in common ownership.
- The rear lane would be paved.

The City Clerk advised that the following correspondence had been received relevant to this application:

- 15 similar letters signed by residents living in the area in support of the development, 3 with comments about parking and lane improvements.

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

Moved by Councillor Horning/Seconded by Councillor Given

**R610/04/06/15** THAT Council authorize the issuance of Development Variance Permit No. DVP04-0030 for Lot 3, Blk. 19, District Lot 14, ODYD Plan 830, located at 547 Elliot Avenue, Kelowna, B.C. subject to the following:

1. Successful completion of a lot line adjustment, such that the subject lot meet the 700 m<sup>2</sup> minimum area requirement for duplex housing, as per the attached Sketch Plan of Lots 3 – 6, Plan 830;
2. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
3. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
4. Naming of the lane at the rear of the subject properties;
5. A well-lit, well-marked pathway to be provided between Elliot Avenue and the entrance to each of the rear units, and this pathway should not be impeded by fences or landscaping;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0030 for Lot 4, Blk. 19, District Lot 14, ODYD Plan 830, located at 559 Elliot Avenue, Kelowna, B.C. subject to the following:

1. Successful completion of a lot line adjustment, such that the subject lot meet the 700 m<sup>2</sup> minimum area requirement for duplex housing, as per the attached Sketch Plan of Lots 3 – 6, Plan 830;
2. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "C";
3. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "D";
4. Naming of the lane at the rear of the subject properties;
5. A well-lit, well-marked pathway to be provided between Elliot Avenue and the entrance to each of the rear units, and this pathway should not be impeded by fences or landscaping;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0030 for Lot 5, Blk. 19, District Lot 14, ODYD Plan 830, located at 569 Elliot Avenue, Kelowna, B.C. subject to the following:

1. Successful completion of a lot line adjustment, such that the subject lot meet the 700 m<sup>2</sup> minimum area requirement for duplex housing, as per the attached Sketch Plan of Lots 3 – 6, Plan 830;
2. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "C";
3. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "D";
4. Naming of the lane at the rear of the subject properties;
5. A well-lit, well-marked pathway to be provided between Elliot Avenue and the entrance to each of the rear units, and this pathway should not be impeded by fences or landscaping;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0030 for Lot 6, Blk. 19, District Lot 14, ODYD Plan 830, located at 579 Elliot Avenue, Kelowna, B.C. subject to the following:

1. Successful completion of a lot line adjustment, such that the subject lot meet the 700 m<sup>2</sup> minimum area requirement for duplex housing, as per the attached Sketch Plan of Lots 3 – 6, Plan 830;
2. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "C";
3. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "D";
4. Naming of the lane at the rear of the subject properties;
5. A well-lit, well-marked pathway to be provided between Elliot Avenue and the entrance to each of the rear units, and this pathway should not be impeded by fences or landscaping;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0030 for Lot 7, Blk. 19, District Lot 14, ODYD Plan 830, located at 589 Elliot Avenue, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "C";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "D";
3. Naming of the lane at the rear of the subject properties;
4. A well-lit, well-marked pathway to be provided between Elliot Avenue and the entrance to each of the rear units, and this pathway should not be impeded by fences or landscaping;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP04-0030 for Lot 8, Blk. 19, District Lot 14, ODYD Plan 830, located at 605 Elliot Avenue, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "C";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "D";
3. Naming of the lane at the rear of the subject properties;
4. A well-lit, well-marked pathway to be provided between Elliot Avenue and the entrance to each of the rear units, and this pathway should not be impeded by fences or landscaping;

Regular MeetingJune 15, 2004

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

**Section 13.6: RU6 – Two Dwelling Housing**

Vary the minimum lot width from 18.0 m required to no less than 14.7 m proposed for a site with two principle dwelling units (see attached Sketch Plan of Lots 3 – 6, Plan 830);

Vary the minimum rear yard setback from 7.5 m required to 4.5 m or 6.0 m from a garage or carport;

**Section 13.6.6 – Other Regulations**

Vary the requirement that vehicular access to the development be permitted from the rear lane only, to allow access from both the rear lane and Elliot Avenue.

Carried

7. BYLAWS

**(BYLAWS PRESENTED FOR FIRST READING)**

Mayor Gray asked whether Council wished to deal with the bylaws in one resolution. Councillor Day advised that he was in a conflict of interest for the bylaws under agenda items No. 7.3 and 7.4 and asked that they be dealt with separately.

- 7.1 Bylaw No. 9245 (Z04-0031) – Candace & Andrew Wheeler – 3195 Hall Road

Moved by Councillor Given/Seconded by Councillor Horning

**R611/04/06/15** THAT Bylaws No. 9245, 9246, 9250, 9251 and 9252 be read a first time.

Carried

- 7.2 Bylaw No. 9246 (Z04-0026) – Mailey Developments Ltd. – 518, 548 McKay Avenue

See resolution adopted in resolution under item No. 7.1 above.

- 7.5 Bylaw No. 9250 (TA04-0002) – City of Kelowna

See resolution adopted in resolution under item No. 7.1 above.

- 7.6 Bylaw No. 9251 (TA04-0003) – City of Kelowna

See resolution adopted in resolution under item No. 7.1 above.

- 7.7 Bylaw No. 9252 (Z04-0016) – Gary Grant & Joyce Decock (Emeral Developments Inc.) – 993 & 1003 Harvey Avenue

See resolution adopted in resolution under item No. 7.1 above.

Regular Meeting

June 15, 2004

- 7.3 Bylaw No. 9247 (OCP04-0007) – Aberdeen Holdings Ltd. (Protech Consultants Ltd.) – 2350 Byrns Road **requires majority vote of Council (5)**

Councillor Day declared a conflict of interest because a direct family member owns adjoining property and left the Council Chamber at 8:10 p.m.

Moved by Councillor Given/Seconded by Councillor Horning

**R612/04/06/15** THAT Bylaws No. 9247 and 9248 be read a first time.

Carried

- 7.4 Bylaw No. 9248 (Z04-0021) – Aberdeen Holdings Ltd. (Protech Consultants Ltd.) – 2350 Byrns Road

See resolution adopted under item No. 7.3 above.

Councillor Day returned to the Council Chamber at 8:10 p.m.

8. REMINDERS – Nil.

9. TERMINATION

The meeting was declared terminated at 8:10 p.m.

Certified Correct:

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Mayor

BLH/am

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Acting City Clerk