

Regular MeetingJanuary 22, 2008

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, January 22nd, 2008.

Council members in attendance: Mayor Sharon Shepherd, Councillors Barrie Clark, Colin Day, Carol Gran, Robert Hobson, Norm Letnick and Michele Rule.

Council members absent: Councillors Andre Blanleil and Brian Given.

Staff members in attendance were: City Manager, R.L. Mattiussi; Deputy City Clerk, Stephen Fleming; Director of Financial Services/Interim Director of Planning and Development Services, Paul Macklem; Current Planning Manager, Shelley Gambacort; Planner, Danielle Noble*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:45 p.m.

2. PRAYER

A prayer was offered by Councillor Letnick.

3. CONFIRMATION OF MINUTES

Special Meeting – December 11, 2007
 Special Meeting – December 13, 2007
 Regular Meeting A.M. – December 17, 2007
 Regular Meeting P.M. – December 17, 2007
 Regular Meeting A.M. – January 7, 2008
 Regular Meeting P.M. – January 7, 2008
 Public Hearing – January 8, 2008
 Regular Meeting – January 8, 2008
 Regular Meeting A.M. – January 14, 2008
 Regular Meeting P.M. – January 14, 2008

Moved by Councillor Letnick/Seconded by Councillor Rule

R056/08/01/22 THAT the Minutes of the Special Meetings of December 11th, 2007 and December 13th, 2007 and the Regular Meetings of December 17th, 2007, January 7th, 2008, January 8th, 2008 and January 14th, 2008 and the minutes of the Public Hearing of January 8th, 2008 be confirmed as circulated.

Carried

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

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS)

5.1 Bylaw No. 9908 (Z07-0064) – Eckhard & Doris Krenz (Lynn Welder Consulting Ltd.) – 932-934 Borden Avenue

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Moved by Councillor Clark/Seconded by Councillor Letnick

R057/08/01/21 THAT Bylaw No. 9908 be read a second and third time.

Carried

5.2 Bylaw No. 9909 (Z07-0090) – David Konfederak (Ed Konfederak) – 735 Taylor Road

Moved by Councillor Clark/Seconded by Councillor Rule

R058/08/01/21 THAT Bylaw No. 9909 be read a second and third time.

Carried

5.3 Bylaw No. 9910 (OCP07-0025) – Stephen & Michele Graham and 0790388 BC Ltd. (Grason Enterprises) – 130 Hartman Road, 915A-915B, 925 & 935 Rutland Road – **Requires a majority of all Members of Council (5)**

Moved by Councillor Gran/Seconded by Councillor Day

R059/08/01/21 THAT Bylaw No. 9910 be read a second and third time.

Carried

5.4 Bylaw No. 9911 (Z07-0075) – Stephen & Michele Graham and 0790388 BC Ltd. (Grason Enterprises) – 130 Hartman Road, 915A-915B, 925 & 935 Rutland Road

Moved by Councillor Day/Seconded by Councillor Gran

R060/08/01/21 THAT Bylaw No. 9911 be read a second and third time.

Carried

Moved by Councillor Letnick/Seconded by Councillor Day

R061/08/01/21 THAT Council direct staff to review and evaluate traffic options including, but not limited to, the impacts of closing to vehicular traffic the portion of the laneway that runs into Duggan Court.

Carried

Councillor Gran – Opposed.

6.. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

6.1 Planning & Development Services Department, dated December 13, 2008 re: Development Permit Application No. DP07-0257 and Development Variance Permit Application No. DVP07-0258 – 0794942 BC Ltd. (Garry Tomporowski Architect Ltd.) – 129 Wyndham Crescent **City Clerk to state for the record any correspondence received. Mayor to invite anyone in the public gallery who deems themselves affected by the required variance(s) to come forward.**

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

- Letter of Concern:
 - Clinton & Lesley Schnee, 133 Wyndham Crescent

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Garry Tomporowski, Applicant:

- Confirmed that the visitor parking is located at the parkade level with a separate access.
- Advised that the Glenmore Bypass location will be disclosed to any potential purchasers.
- Advised that that he has been working with Long Range Planning and Parks in order to develop the landscaping plan and mitigate any design concerns.

Staff:

- Confirmed that they are satisfied with the redesign of the development.

Kate Buss, #131 – 133 Wyndham Crescent:

- Concerned that there may not be enough parking for the residents of the development.

Garry Tomporowski, Applicant:

- Confirmed that there are twenty (20) suites with two (2) bedrooms plus a den.
- The size of the units are quite generous and could house families.
- Advised that they have met all of the City's requirements for parking.
- Read a letter of support from a Mr. Jack Ryan. Mr. Ryan owns the property adjacent to the subject property and does not have any concerns with this development.

Staff:

- Confirmed that the bedroom count does affect the parking requirements.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Day

R062/08/01/22 THAT Council authorize the issuance of Development Permit No. DP07-0257 for Lot 26, Sec. 4, Twp 23, ODYD, Plan KAP51847, located on Wyndham Crescent, 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 Attachment "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Attachment "B";
3. Landscaping to be provided on the land be in general accordance with Attachment "C", as amended;
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 estimate value of the landscaping, as determined by a professional landscaper;

AND THAT the applicant be required to complete #4 of the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

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AND THAT Council authorize the issuance of Development Variance Permit No. DVP07-0258 for Lot 26, Sec. 4, Twp 23, ODYD, Plan KAP51847, located on Wyndham Crescent, Kelowna, B.C.

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

Section 6.4.2 – Projection Into Yards

To vary the projection into a side yard to 1.68m proposed where 0.6m is permitted.

Section 13.11.6(e) – Development Regulations

To vary the minimum site side yard (northern and southern) to 4.5m proposed where 7.5m is required.

Carried

7. UNFINISHED BUSINESS

- 7.1 Planning & Development Services Department, dated December 4, 2007 re: Liquor Licensing Application No. LL07-0010 – Blue Gator Bar & Grill 2005 Ltd. (Larry Smith) – 441 Lawrence Avenue **Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.**

Staff:

- Advised that the Blue Gator is the only business in the area with a patio that has restricted hours.
- Confirmed that the Blue Gator is outside of the “yellow zone”.

The Deputy City Clerk advised that no additional correspondence and/or petitions had been received since Council last dealt with the item at the January 8, 2008 Council meeting.

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Graham Scofield, Representative of the Blue Gator:

- Establishments with Liquor Primary Licences can close their kitchen at any time they like as food does not have to be served with liquor.
- Most of the other pubs in the area do not have their kitchen open past 10:00 p.m.
- Most of the Blue Gator's clientele leaves between 11:00 p.m. – 12:00 a.m.
- Would like to allow their clientele to have a smoke outside while having a drink after 11:00 p.m. at night
- Advised that he has not canvassed any of the surrounding property owners as they are all businesses that close by 5:00 p.m.

There were no other comments.

Moved by Councillor Letnick/Seconded by Councillor Hobson

R063/08/01/22 In compliance with Section 53 of the *Liquor Control and Licensing Regulation* be it resolved THAT:

1. Council **SUPPORTS** an application from Larry Smith, Operating Partner, Blue Gator Bar & Grill 2005 Ltd. located at 441 Lawrence Avenue and legally described as: Lot 1 DL 139 ODYD Plan 3508 for an **extension of**

hours of liquor service because no change to the licensed area has been proposed and the extended hours will be confined to the interior of the establishment currently under license.

2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved is anticipated to remain relatively unchanged;
 - b) The impact on the community if the application is approved is considered minimal as the establishment is currently located within a predominantly commercial area.
 - c) It is not anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose.
3. The Council's comments on the views of residents are as contained within the staff report submitted for consideration and the minutes of the meeting at which the application was considered by Council.

AND FURTHER THAT:

1. Council **SUPPORTS** an application from Larry Smith, Operating Partner, Blue Gator Bar & Grill 2005 Ltd. located at 441 Lawrence Avenue and legally described as: Lot 1 DL 139 ODYD Plan 3508 for an **extension of hours of liquor service on the exterior patio** because the character of the establishment's business is not anticipated to increase the potential for noise and rowdy behaviour in the area.
2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved is not anticipated to increase significantly;
 - b) The impact on the community if the application is approved is not considered significant over the long term as the character of the establishment's business is not expected to result in the same issues that have arisen at other late night patios; and
 - c) It is not anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose.
3. The Council's comments on the views of residents are as contained within the staff report submitted for consideration and the minutes of the meeting at which the application was considered by Council.

Carried

Councillor Rule – Opposed.

8. REMINDERS – Nil.

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9. TERMINATION

The meeting was declared terminated at 7:29 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk