

Regular MeetingJune 16, 2009

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 16th, 2009.

Council members in attendance: Mayor Sharon Shepherd, Councillors Andre Blanleil, Robert Hobson, Charlie Hodge, Graeme James, Michele Rule and Luke Stack.

Council members absent: Brian Given, Angela Reid

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Director Land Use Management, Shelley Gambacort, Theatre Manager, Randy Zahara, and Council Recording Secretary, Arlene McClelland.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Shepherd called the meeting to order at 6:09 p.m.

2. PRAYER

2. Prayer was offered by Councillor Rule.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting – June 1, 2009
Regular P.M. Meeting – June 1, 2009
Public Hearing – June 2, 2009
Regular Meeting – June 2, 2009

Moved by Councillor Hodge/Seconded by Councillor James

R675/09/06/16 THAT the Minutes of the Regular Meetings of June 1, 2009 and June 2, 2009 and the Minutes of the Public Hearing of June 2, 2009 be confirmed as circulated.

Carried

4. Councillor James is requested to check the minutes of this meeting.

5. BYLAWS CONSIDERED AT PUBLIC HEARING

(BYLAWS PRESENTED FOR SECOND AND THIRD READINGS AND ADOPTION)

5.1 Bylaw No. 10202 (OCP09-0007/TUP09-0001) – City of Kelowna – 311 Harvey Avenue

Moved by Councillor Rule/Seconded by Councillor Hodge

R676/09/06/16 THAT Bylaw No. 10202 be read a second and third time and be adopted.

Carried

Moved by Councillor Hobson/Seconded by Councillor Stack

R677/09/06/16 THAT Council authorize Temporary Use Permit No. TUP09-0001 to allow "Contractor Services, General" on Lot B, District Lot 139, ODYD, Plan 33086 Except Plan KAP83092, located at 311 Harvey Avenue, Kelowna, B.C., as

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shown on Map "A" attached to the report of the Land Use Management Department, dated May 8, 2009, subject to the following conditions:

- a) Water Street at Highway 97 (Harvey Ave) remains physically closed.
- b) No direct access from the subject property to Highway 97.
- c) The staging area is fenced and dust control onsite is implemented during heavy machinery activity or as required.
- d) The site be maintained and cleaned on a regular basis.

CarriedMoved by Councillor Stack/Seconded by Councillor Hobson

R678/09/06/16 THAT Council defer Public Hearing Item 3.1, 245 Briarwood Road Application to the June 30, 2009 Public Hearing beginning at 6:00 p.m. in Council Chambers.

Carried

6. LIQUOR LICENSE APPLICATION REPORTS

- 6.1 Community Sustainability Division, dated May 22, 2009 re: Liquor Licensing Application No. LL09-0001 – City of Kelowna – 1375 Water Street

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

Letter of Opposition:

Yvonne Topf, Kelowna Community Concert Association, 212 Magic Drive

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

Council:

- Council confirmed with staff that management of liquor use would be determined at the contract stage.
- Council confirmed with staff that there have been no negative impacts to maintenance of the facility with liquor usage.
- Council confirmed that plastic cups are used in the Theatre. Council directed staff to look into reusable cups for usage.

There were no further comments.

Moved by Councillor Hodge/Seconded by Councillor Blanleil

R679/09/06/16 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy 315 be it resolved THAT:

- 1. Council recommends the amendment of the license for the application from the City of Kelowna to obtain a liquor primary license for the establishment located at 1375 Water Street, Kelowna, BC (Kelowna

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Community Theatre), and legally described as Lot C, District Lot 139, ODYD, Plan KAP56114 for the following reasons: the proposed license amendment would not be a major departure from existing uses, and little negative impacts are anticipated.

2. The Council's comments on the prescribed considerations are as follows:
 - (a) *The potential for noise if the application is approved remains unchanged.*
 - (b) *The impact on the community if the application is approved is considered minimal given that the facility is well established with programmed events.*
3. The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents are as contained within Council Policy #315 "Liquor Licensing Procedures - Liquor Primary and Retail Liquor Sales."

Carried

- 6.2 Community Sustainability Division, dated May 22, 2009, re: Liquor Licensing Application No. LL09-0007 – Black Mountain Golf Club (Melcor Lakeside Inc.) – 575 Black Mountain Drive

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

Letter of Concern:

C.W. Holford, 1305 Shaunna Rd

Letter of Support:

Rocky and Binnie Sethi, 970 Stockley Street

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

Council:

- Directed Development Services staff to follow up with Mr. Holford's letter of concern.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Hodge

R680/09/06/16 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy 315 be it resolved THAT:

1. Council recommends the issuance of the license for the application from Black Mountain Golf Club to obtain a liquor primary license for the establishment located at 575 Black Mountain Drive, Kelowna, BC, and legally described as Lot 2, Section 19, Township 27, ODYD, Plan KAP87003, for the following reasons: the proposed license would be in keeping with other golf courses in the community, and does not pose any negative effects to the surrounding area.
2. The Council's comments on the prescribed considerations are as follows:

- a) *The location of the establishment.* The proposed location is within a master-planned residential/golf community and does not present any major land use concerns.
 - b) *The proximity of the establishment to other social or recreational facilities and public buildings:* There are no public facilities within a 3km radius of the proposed establishment.
 - c) *The person capacity and hours of liquor service of the establishment.* Service which is limited to golf course users between 9:00AM to 9:00PM is appropriate.
 - d) *The number and market focus or clientele of the liquor-primary license establishments within a reasonable distance of the proposed location:* the proposed establishment will cater to golf course patrons during golf.
 - e) *Traffic, noise, parking and zoning:* the establishment is not expected to negatively affect traffic patterns and noise is not expected to be an issue. The applicant has met the requirements of the zoning bylaw with regard to road access and parking.
 - f) *Population, population density and population trends:* are suitable for the intended license. The site will be a destination golf course, attracting a far-reaching clientele base both within the community, and abroad.
 - g) *Relevant socio-economic information:* the strong tourist market, specifically for golf resorts, is beneficial to the current application.
 - h) *The impact of the community if the application is approved:* no negative impacts are anticipated, with positive growth for tourism a possibility.
3. The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #315 "Liquor Licensing Procedures - Liquor Primary and Retail Liquor Sales."

Carried

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

7.1 (a) **BYLAW PRESENTED FOR AMENDMENT AT THIRD READING AND ADOPTION**

Bylaw No. 10031 (Z07-0082) – Bruckal Developments Corp. – 443 Christleton Avenue

Moved by Councillor Hodge/Seconded by Councillor Rule

R681/09/06/16 THAT Bylaw No. 10031 be amended at third reading to reflect the new legal descriptions of the subject properties and rezone the subject properties and be adopted.

Carried

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- (b) Community Sustainability Division, dated May 21, 2009 re: Development Permit Application No. DP07-0248 and Development Variance Permit Application No. DVP07-0247 – Bruckal Developments Corp. – 443 Christleton Avenue & 432 Birch Avenue

Staff:

- A covenant will be registered to maintain the character of the area with the setback of buildings.
- Significant changes to elevations have been made to this application.

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

Letter of Opposition:

Horst and Donna Jassmann, 422 Birch Avenue

Additional Information from Applicant:

Myles Bruckal, 2622 Pandosy Avenue, overview of meeting with area residents in regards to plans for the subject property.

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

Gallery:

Steve Bruckal, Applicant

- Staff provided a concise summary of the last 2 years. When we first brought this application forward we were met with a lot of neighbourhood opposition but we have met with neighbours, revised our plan, and this is the outcome. The letter of opposition that was noted is the first sign of opposition that I have heard of today. These people have not been in the meetings with the other neighbours. We are asking for a site coverage variance, not a building size variance so it would not affect size or height. We have had a number of meetings with a number of neighbours as well as providing notices. We are planning on putting restrictive covenants on the set backs.

Wayne Dods, 420 Christleton Avenue

- We have worked closely with Council and Developer and I believe this is the best development we can get. The general consensus in the neighbourhood is that there is support for this development. We are all pleased to see the end of this process.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R682/09/06/16 THAT Final Adoption of Zone Amending Bylaw No. 10031 be considered by Council;

THAT Council authorize the issuance of Development Permit No. DP07-0248 for Lot A, District Lot 14, ODYD, Plan KAP88197, located at 443 Christleton Avenue, Lot B, District Lots 167 and 358, ODYD, Plan KAP88197, located at 432 Birch Avenue Kelowna B.C., subject to the following:

- a) The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";

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- b) The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
- c) Landscaping to be provided on the land be in general accordance with Schedule "C";
- d) The applicant be required to satisfy the Development Engineering Branch requirements prior to issuance of the Development Permit;
- e) The applicant be required to register the Easement and the Statutory Right of Way for the vehicular access and turning requirements at the Land Titles Office prior to issuance of the Development Permit.

AND THAT Council authorize the issuance of Development Variance Permit No. DVP07-0247 for Lot B, District Lots 167 and 358, ODYD, Plan KAP88197, located at 432 Birch Avenue, Kelowna, B.C;

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

Section 13.6.6 (a) Development Regulations – Site Coverage
Vary the site coverage from 50% permitted to 59.3% proposed

Carried

7.2 Community Sustainability Division, dated May 22, 2009 re: Development Variance Permit Application No. DVP09-0038 – - Don Orr – 847 Coronation Avenue

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

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor James

R683/09/06/16 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0038 for Lot 41, DL 138, ODYD, Plan 1277, located at 847 Coronation Avenue, Kelowna, BC.

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

Section 13.6.6 (d) – Minimum Side Yard – To vary the east side yard setback from 2.0m required to 1.77m proposed, and to vary the west side yard setback from 2.0 required to 1.29m proposed to accommodate the building addition.

Carried

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- 7.3 Community Sustainability Division, dated June 10, 2009 re: Development Variance Permit Application No. DVP09-0021 – Timothy Marshall (IHS Design) – 2795 Longhill Road

Mayor Shepherd invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. No one came forward.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor James

R684/09/06/16 THAT Council authorize the issuance of Development Variance Permit No. DVP09-0021 for Lot 1, Section 34, Township 26, ODYD, Plan 42588, located at 2975 Longhill Road, Kelowna, BC;

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

Section 12.2.6 (b) – Maximum Height – To vary the maximum height allowed for accessory buildings from 4.5m to 6.518m to facilitate the construction of two barns.

AND FURTHER THAT issuance of the Development Variance Permit be subject to the owner of the property entering into an agreement with the City of Kelowna that future property acquisition costs for the Central Okanagan Multi-Modal Corridor not be impacted as a result of the construction of the proposed pole barn in the northeast corner of the property.

Carried

8. REMINDERS

9. TERMINATION

The meeting was declared terminated at 6:43 p.m.

Certified Correct:

Mayor

City Clerk

ACM/dld