

Regular MeetingJanuary 10, 2012

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 10<sup>th</sup>, 2012.

Council members in attendance: Mayor Walter Gray\*, Councillors Colin Basran, Andre Blanleil, Maxine DeHart, Gail Given, Robert Hobson, Mohini Singh, Luke Stack and Gerry Zimmermann.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; Manager, Development Engineering, Steve Muenz\*; and Council Recording Secretary, Sandi Horning.

(\* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 10:14 p.m.

2. A Prayer was offered by Councillor Hobson.

3. CONFIRMATION OF MINUTES

Regular A.M. Meeting - December 12, 2011  
 Regular P.M. Meeting - December 12, 2011  
 Public Hearing - December 13, 2011  
 Regular Meeting - December 13, 2011

Moved by Councillor Stack/Seconded by Councillor Blanleil

**R019/12/01/10** THAT the Minutes of the Regular Meetings of December 12, 2011 and December 13, 2011 and the minutes of the Public Hearing of December 13, 2011 be confirmed as circulated.

Carried

4. Councillor Blanleil 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. 10440 (OCP10-0008) - John & Alana Marrington and John Balla (Site 360 Consulting Inc.) - 2149, 2159, 2169, 2179 and 2189 Pandosy Street - **Requires a majority of all Members of Council (5)**

Moved by Councillor DeHart/Seconded by Councillor Zimmermann

**R020/12/01/10** THAT Bylaw No. 10440 be read a second and third time.

Carried

5.2 Bylaw No. 10439 (Z10-0040) - John & Alana Marrington and John Balla (Site 360 Consulting Inc.) - 2149, 2159, 2169, 2179 and 2189 Pandosy Street

Regular MeetingJanuary 10, 2012Moved by Councillor DeHart/Seconded by Councillor ZimmermannR021/12/01/10 THAT Bylaw No. 10439 be read a second and third time.Carried

- 5.3 Bylaw No. 10617 (OCP11-0003) - OCORP Development Ltd. (PC Urban Properties) - 1966 - 1968 Kane Road - **Requires a majority of all Members of Council (5)**

Moved by Councillor Stack/Seconded by Councillor ZimmermannR022/12/01/10 THAT Bylaw No. 10617 be read a second and third time.Carried

- 5.4 Bylaw No. 10618 (Z11-0033) - OCORP Development Ltd. (PC Urban Properties) - 1966 - 1968 Kane Road

Moved by Councillor Stack/Seconded by Councillor ZimmermannR023/12/01/10 THAT Bylaw No. 10618 be read a second and third time.Carried

- 5.5 Bylaw No. 10637 (Z11-0075) - Michael and Deborah Ritchie (Gord Turner Renovations Ltd.) - 4195 Finch Road

Moved by Councillor Hobson/Seconded by Councillor BlanleilR024/12/01/10 THAT Bylaw No. 10637 be read a second and third time.Carried

- 5.6 Bylaw No. 10641 (Z11-0084) - Mewa and Kulwinder Dosanjh (Axel Hilmer Planning Consultant) - 1135 Schell Court

Moved by Councillor Basran/Seconded by Councillor SinghR025/12/01/10 THAT Bylaw No. 10641 be read a second and third time.Carried

- 5.7 Bylaw No. 10642 (Z11-0077) - Neil & Beverley Beardmore, Scott Beardmore and Noemi Catbagan (Neil & Beverley Beardmore) - 625 Cassiar Crescent

Moved by Councillor Hobson/Seconded by Councillor BlanleilR026/12/01/10 THAT Bylaw No. 10642 be read a second and third time.Carried

Councillor Singh - Opposed.

6. THE CITY CLERK WILL PROVIDE INFORMATION AS TO HOW THE FOLLOWING ITEMS ON THE AGENDA WERE PUBLICIZED.

Regular MeetingJanuary 10, 2012Moved by Councillor Stack/Seconded by Councillor Zimmermann

R027/12/01/10 THAT the meeting be continued past 11:00 p.m. in accordance with Section 5.5 of Council Procedure Bylaw No. 9200.

Carried

## 7. LIQUOR LICENSE APPLICATION REPORTS

- 7.1 Land Use Management Department, dated December 9, 2011 re: Liquor Licensing Application No. LL11-0014 - 594919 BC Ltd. (Waterfront Restaurant & Wine Bar) - #104 - 1180 Sunset Drive Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.

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

- Letters of Opposition:
  - Cathryn Wellner, 1128 Sunset Drive
  - Garry Hartley, 1703-1075 Sunset Drive
  - John Fair, Sunset Waterfront Resort, 1007-1128 Sunset Drive
- Letter of Support:
  - Keith Atkinson, 1003-1128 Sunset Drive
- Letter of Concern:
  - Patricia Mason, 504-1160 Sunset Drive
- Letter of No Objection:
  - Fred Speckeen, 116-1156 Sunset Drive

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

### Mark Filktow, Applicant's Representative

- Advised that the Waterfront Restaurant & Wine Bar has been operating for the past 7 years.
- Advised that the owners/operators of the business would like to see it grow.
- Advised that the kitchen area will be take up approximately 40% of the footprint of the newly expanded restaurant.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Given

R028/12/01/10 In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy #359, be it resolved THAT:

Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application from Waterfront Restaurant & Wine Bar at #104-1180 Sunset Drive, Kelowna BC, (legally described as Strata Lot 73, District Lot 139, ODYD, Strata Plan KAS1261) for an expansion to the existing Liquor Primary Establishment from 51 to 85 persons and a change in hours of service from 11:00am-Midnight daily to 9:00am-Midnight (Sun-Wed) and 9:00am-1:00am (Thurs-Sat), are as follows:

- a) The potential for noise if the application is approved:

Regular MeetingJanuary 10, 2012

Only an incremental increase in noise from the existing operation is anticipated.

- b) **The impact on the community if the application is approved:**  
The potential for negative impacts is considered to be minimal.
- c) **View of residents.**  
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 #359 "Liquor Licensing Policy & Procedures."
- d) **Recommendation:**  
Council recommends that the application for a structural change to increase the capacity and to increase the hours of sale of the existing Liquor Primary establishment be approved.

Carried

8. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

8.1 (a) BYLAWS PRESENTED FOR ADOPTION

- (i) Bylaw No. 10599 (OCP11-0004) - Simple Pursuits Inc. (Worman Commercial) - 565, 591, 615 & 641 Osprey Avenue and 564, 594, 616 & 636 Raymer Avenue - Requires a majority of all Members of Council (5)

Moved by Councillor Hobson/Seconded by Councillor Basran

R029/12/01/10 THAT Bylaw No. 10599 be adopted.

Carried

- (ii) Bylaw No. 10600 (Z11-0034) - Simple Pursuits Inc. (Worman Commercial) - 565, 591, 615 & 641 Osprey Avenue and 564, 594, 616 & 636 Raymer Avenue

Moved by Councillor Hobson/Seconded by Councillor Stack

R030/12/01/10 THAT Bylaw No. 10600 be adopted.

Carried

- (b) Land Use Management Department, dated December 9, 2011 re: Development Permit Application No. DP11-0077 and Development Variance Permit Application No. DVP11-0078 - Simple Pursuits Inc. (Worman Commercial) - 565, 591, 615 & 641 Osprey Avenue and 564, 594, 616 & 636 Raymer Avenue 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.

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

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

Regular Meeting

January 10, 2012

Applicant was present, but did not have anything further to add to staff's comments. No one came forward.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R031/12/01/10 THAT Final Adoption of OCP Amending Bylaw No. 10599 be considered by Council;

AND THAT Final Adoption of Zone Amending Bylaw No. 10600 be considered by Council;

AND THAT Council authorize the issuance of Development Permit No. DP11-0077 for Lots A & C D.L. 14, ODYD, Plan EPP15783, located on Osprey Avenue and B & D, D.L. 14, ODYD, Plan EPP15783 located on Raymer Avenue, Kelowna, 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) That demolition permits and bonding for the cost of demolition be submitted for the affected properties prior to issuance of the Development Permit.

AND THAT the applicant be required to complete the above-noted condition No. 4 within 180 days of Council approval of the Development Permit application in order for the permit to be issued.

AND THAT Council authorize the issuance of Development Variance Permit No. DVP11-0078 for Lots A & C D.L. 14, ODYD, Plan EPP15783, located on Osprey Avenue and B & D, D.L. 14, ODYD, Plan EPP15783 located on Raymer Avenue, Kelowna, B.C.;

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

**Table 8.2 Loading Schedule**

To vary the required loading spaces from 1 required for each building (4 total) to 0 proposed.

Carried

- 8.2 Land Use Management Department, dated December 9, 2011 re: Development Permit Application No. DP11-0085 and Development Variance Permit No. DVP11-0086 - Davara Holdings Ltd. - 596 Leon Avenue 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.

Regular MeetingJanuary 10, 2012

Mayor Gray declared a conflict as he owns property within the notification area of the subject property and left the meeting at 11:07 p.m. Deputy Mayor Blanleil took over as Chair of the meeting at 11:07 p.m.

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

- Letter of Support:
  - Andrew Bruce, Melcor Developments Ltd., 207-1664 Richter Street
- Additional Information:
  - A package of additional information containing a Petition of Support signed by 146 owners/occupiers of the surrounding properties and 2 form letters of support as submitted by the Applicant.

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

David Sargent, Davara Holdings Ltd., Applicant

- Gave a PowerPoint Presentation with respect to the proposed development.
- Believes that this development will create activity along Leon Avenue
- Will consider some type of public art for the development
- Will commit to updating the façade with lighting and stamped concrete as indicated by Council

Moved by Councillor Stack/Seconded by Councillor Hobson

**R032/12/01/10** THAT Council authorize the issuance of Development Permit No. DP11-0085 for Lot A, D.L. 139, ODYD Plan 33185, located at 596 Leon Ave, Kelowna, BC 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 Development Engineering requirements to be satisfied prior to issuance of the Development Permit;
- 6) Land Use Management staff receiving revised plans showing an updated lighting treatment and enhanced architectural detail, including the garage entrance doors, along the Bertram Street frontage prior to issuance of the Development Permit;

AND THAT the applicant be required to complete the above-noted condition No. 4 within 180 days of Council approval of the Development Permit application in order for the permit to be issued;

Regular MeetingJanuary 10, 2012

AND THAT Council authorize the issuance of Development Variance Permit No. DVP11-0086 for Lot A, D.L. 139, ODYD Plan 33185, located at 596 Leon Ave, Kelowna, B.C.;

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

**Table 8.1 Parking Schedule**

To vary the required parking stalls from 13 required to 12 proposed.

**Table 8.2 Loading Schedule**

To vary the required loading spaces from 1 required to 0 proposed.

**Section 14.7.6 (f) C7 - Central Business Commercial - Other Regulations**

Vary the required commercial frontage at grade from 75% required to 45% proposed.

Carried

Mayor Gray rejoined the meeting at 11:32 p.m. and took over as Chair of the meeting at 11:32 p.m.

- 8.3 Land Use Management Department, dated December 5, 2011 re: Development Variance Permit Application No. DVP11-0193 - Cody L. Franson (Gerry Scrimbit Construction) - 652 Devonian Avenue **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.**

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

- o Letter of Concern:
  - Andrew Craig, 649 Devonian Avenue

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

Dan Cotton, Applicant's Representative

- Advised that there was a misunderstanding with respect to the east side yard setback when the pool equipment shed was constructed.

Gallery:

Colin Gulenchyn, Snowsell Road

- Advised that he is speaking on behalf of his mother, Susan Gulenchyn, who resides at 660 Devonian Avenue.
- Advised that there was no discussion with the Applicant prior to the pool shed being constructed.
- Displayed several photos that were taken from his mother's residence.
- Expressed a concern with the noise that will be generated by the pool equipment being housed in the shed.
- Wants the shed completed to the BC Building Code and insulated to help reduce the noise from the pool equipment.
- Wants the façade completed to match the residence.

Dan Cotton, Applicant's Representative

- Advised that the exterior of the shed will be hardi-plank siding which will match the front of the house.

Regular MeetingJanuary 10, 2012

- Confirmed that the shed is currently sitting incomplete because the owner did not want to proceed until the variance was considered.

Susan Gulenchyn, 660 Devonian Avenue

- Believes that the Applicant did not receive a Building Permit, only a Pool Permit.
- Wants to ensure that the shed is completed to her satisfaction.
- Believes that the pool equipment and subsequent shed could have been located in another area of the property.

Dan Cotton, Applicant's Representative

- Advised that the original Building Permit for the pool indicated an equipment enclosure.
- Advised that the vent cannot be moved to the north end as a result of how the equipment has been situated within the structure.
- Advised that he is prepared to put the vent out the side of the structure as opposed to the top.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Given

**R033/12/01/10** THAT Council authorize the issuance of Development Variance Permit No. DVP11-0193, for Lot 18, District Lot 357, SDYD Plan KAP78751, located on Devonian Avenue, Kelowna, BC, subject to:

- 1) the exterior of the pool equipment shed being finished to match the façade of the house;
- 2) the vent on the pool equipment shed being moved to the side wall; and
- 3) a Building Permit for the shed being submitted to the City;

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

**Section 13.1.6(d): Development Regulations**

To vary the east side yard set back from 2.0m permitted to 1.0m proposed;

Carried

9. REMINDERS - Nil.

10. TERMINATION

The meeting was declared terminated at 12:04 a.m.

Certified Correct:


---

 Mayor

---

 City Clerk

---

 Deputy Mayor Blanleil

SLH/dld