

Regular MeetingJune 26, 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, June 26th, 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: Acting City Manager, Jim Paterson; Deputy City Clerk, Karen Needham; Manager, Urban Land Use, Danielle Noble; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 7:43 p.m.

2. A Prayer was offered by Councillor DeHart.

3. CONFIRMATION OF MINUTES

Public Hearing - June 12, 2012
Regular Meeting - June 12, 2012

Moved by Councillor Given/Seconded by Councillor Stack

R605/12/06/26 THAT the Minutes of the Public Hearing and Regular Meeting of June 12, 2012 be confirmed as circulated.

Carried

4. BYLAWS CONSIDERED AT PUBLIC HEARING

4.1 Bylaw No. 10673 (OCP09-0016) - Calcan Investments Ltd. - 5505 Chute Lake Road - **Requires a majority of all Members of Council (5)**

Staff:

- Confirmed that the building envelopes for the three (3) lots in question could be dealt with during the subdivision phase of the development.

Moved by Councillor Given/Seconded by Councillor Stack

R606/12/06/26 THAT Bylaw No. 10673 be read a second and third time.

Carried

4.2 Bylaw No. 10670 (TA09-0007) - City of Kelowna Zoning Bylaw No. 8000 - Section 13, Urban Residential Zones - Adding New Hillside Zones

Moved by Councillor Stack/Seconded by Councillor Given

R607/12/06/26 THAT Bylaw No. 10670 be read a second and third time.

Carried

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- 4.3 Bylaw No. 10668 (Z09-0071) - Calcan Investments Ltd. - 5505 Chute Lake Road

Moved by Councillor Zimmermann/Seconded by Councillor DeHartR608/12/06/26 THAT Bylaw No. 10668 be read a second and third time.Carried

- 4.4 Bylaw No. 10669 (Z09-0071) - Calcan Investments Ltd. - 5505 Chute Lake Road

Moved by Councillor DeHart/Seconded by Councillor ZimmermannR609/12/06/26 THAT Bylaw No. 10669 be read a second and third time.Carried

- 4.5 Bylaw No. 10713 (Z12-0015) - Antonio & Jennifer Pagnotta - 1356 Mountainview Street

Council:

- Councillor Blanleil expressed a concern with the proposed parking and the fact that the Applicants did not approach the neighbours prior to bring this application forward.
- Councillor Hobson expressed a concern with the proposed on-site parking for both the principle residence and the proposed carriage house. Would prefer that the secondary suite be contained within the principle residence.
- Councillor Singh expressed a concern with the impact on traffic, roads and parking in the area.
- Councillor DeHart expressed a concern with the proposed on-site parking and the impact on the traffic congestion in the area.
- Councillor Zimmermann expressed a concern with the proposed on-site parking and the impact on the traffic congestion in the area.
- Councillor Basran would prefer that the secondary suite be contained within the principle residence rather than a carriage house.
- Mayor Gray expressed a concern with the proposed on-site parking and the impact on the traffic congestion in the area.

Moved by Councillor Blanleil/Seconded by Councillor BasranR610/12/06/26 THAT Bylaw No. 10713 be read a second and third time.DEFEATEDMayor Gray and Councillors Basran, Blanleil, DeHart, Hobson, Singh and Zimmerman - Opposed.

- 4.6 Bylaw No. 10715 (Z12-0026) - Bhushan & Arunlata Singla - 678 Westpoint Court

Moved by Councillor Hobson/Seconded by Councillor SinghR611/12/06/26 THAT Bylaw No. 10715 be read a second and third time.Carried

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- 4.7 Bylaw No. 10716 (Z12-0025) - David & Monica Haiworonsky - 4155 McClain Road

Moved by Councillor Hobson/Seconded by Councillor Singh

R612/12/06/26 THAT Bylaw No. 10716 be read a second and third time.

Carried

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

The Deputy City Clerk advised that Notice of Council's consideration of the amendments to the Liquor Primary Licences were advertised by being posted on the Notice Board at City Hall on June 8, 2012, and by being placed in the Kelowna Capital News issues on June 15, 2012 and June 19, 2012 and by sending out or otherwise delivering 1,042 letters to the owners and occupiers of surrounding properties between June 8, 2012 and June 15, 2012.

The Deputy City Clerk advised that Notice of Council's consideration of the Development Variance Permit Applications was given by sending out or otherwise delivering 337 letters to the owners and occupiers of the surrounding properties between June 8, 2012 and June 15, 2012.

The correspondence and/or petitions received in response to advertising for the applications on tonight's Agenda were arranged and circulated to Council in accordance with Council Policy No. 309.

6. LIQUOR LICENSE APPLICATION REPORTS

- 6.1 Land Use Management Department, dated May 25, 2012 re: Liquor Licensing Application No. LL12-0005 - Moxie's Classic Grill - 1730 Cooper Road Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.

Staff:

- Confirmed that the parking requirements have been satisfied.

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

Moved by Councillor Blanleil/Seconded by Councillor Basran

R613/12/06/26 THAT Council directs staff to forward the following recommendation to the Provincial Liquor Control and Licensing Branch (LCLB):

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 Moxie's Classic Grill at 1730 Cooper Road, Kelowna BC, (legally described as Lot 5 District Lot 127 Osoyoos

Division Yale District Plan 34162 for the expansion of the existing Liquor License to the expanded patio, are as follows:

- a) **The potential for noise if the application is approved:**
There is an increased potential for noise with additional patio seating.
- 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 of the existing Liquor Primary establishment be approved.

Carried

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 7.1 Land Use Management Department, dated May 18, 2012 re: Development Variance Permit Application No. DVP11-0192 - Southkel Ventures Ltd. (Porter Ramsay) - 3960 Lakeshore Road 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 Deputy City Clerk advised 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.

Tom Smithwick, Porter Ramsay, Applicant's Representative

- Advised that the architect has signed off on the basis that the masonry wall is not required and therefore the masonry wall has not been constructed. The owner of the property is willing to erect the masonry wall if the City wants it to be constructed.

Gallery:

Mark Heinrichs, 529 Radant Road

- Opposed to the setback variance as he believes that there is room to put the storage facility on the north side of the building.
- Expressed a concern that there are already three (3) different rooflines and materials with respect to the current structures on the site.
- Inquired what type of materials will be stored in the facility.
- Feels that the structure will take away from the neighbourhood.

William Berger, 527 Radant Road

- Opposed to the setback variance.
- Expressed a concern that the City's regulations and processes were not followed.
- Believes that the owner of the property has not lived up to its original agreement.
- Believes that what was designed and approved by Council, wasn't actually built
- Advised that the people using the car wash park on the street to dry their cars.

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Tom Smithwick, Porter Ramsay, Applicant's Representative

- Advised that the original building is the highest roofline.
- Advised that the touchless car bay was added through a Development Permit process.
- Advised that the storage facility will contain soap for the car wash and if it was moved to the north side of the site, it would negatively affect the traffic flow in and around the building.

Staff:

- Confirmed that the Development Engineering comments indicate that a masonry wall is required.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Given

R614/12/06/26 THAT Council authorizes the issuance of Development Variance Permit No. DVP11-0192, for Strata Lot 2, Sec. 1, Twp. 25 and Sec. 6, Twp. 26, O.D.Y.D., Strata Plan KAS2714, located on Lakeshore Road, Kelowna, BC;

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

Section 14.2.5(e) - Development Regulations

To vary the minimum south side yard setback from 2.0m required to 0.15m proposed, as per Schedule 'A'.

AND THAT Council directs staff to ensure that the exterior materials of the storage facility be improved to complement the existing car wash's exterior.

Carried

- 7.2 Land Use Management Department, dated June 1, 2012 re: Development Permit Application No. DP12-0008 and Development Variance Permit Application No. DVP12-0009 - City of Kelowna (Meiklejohn Architects) - 1360 & 1410 Water Street 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 Deputy 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.

Stoke Tonne, Meiklejohn Architects, Applicant's Representative

- Displayed a presentation with respect to the KYC New Clubhouse Design.
- Advised that the public restaurant will be located on the first level of the structure and will include 40 inside table seats with 10-12 bar seats and 80+ outside patio seats.
- Advised that there will be a rentable banquet room on the second level that can be used by the public.

Gallery:

William Berger, 527 Radant Road

- Expressed a concern with the parking variances being requested.

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There were no further comments.

Moved by Councillor Zimmermann/Seconded by Councillor Stack

R615/12/06/26 THAT Council authorizes the issuance of Development Permit No. DP12-0008 for Lot 1, District Lot 139 & 4083, ODYD, Plan 8654, located at 1360 Water Street and Lot A, District Lot 139, ODYD, Plan 16592, located at 1410 Water 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. Prior to the issuance of a building permit the applicant be required to post with the City a "Letter of Credit" in the amount of 140% of the estimated value of the cost to design, construct and complete the parking area, which includes parking spaces and sidewalks as shown in general accordance with Schedule "C";
6. The applicant provide payment in lieu of off-street parking payment, on or before the completion date noted in the Purchase and Sale agreement between the Kelowna Yacht Club and The City of Kelowna, for the full amount of \$675,000.00 to satisfy the 30 parking stall shortfall.
7. Registration of a plan of subdivision at the Land Titles Office 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 authorizes the issuance of Development Variance Permit No. DVP12-0009 for Lot 1, District Lot 139 & 4083, ODYD, Plan 8654, located at 1360 Water Street and Lot A, D.L. 139, ODYD, Plan 16592, Located at 1410 Water Street, Kelowna, B.C.;

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

Section 16.1.5 (b) Development Regulations - Site Coverage

To vary the maximum site coverage from 50% permitted to 100% proposed.

Section 16.1.5 (d) Development Regulations - Front Yard

To vary the required front yard setback from 6.0 m required to 0.0 m proposed.

Section 16.1.5 (e) Development Regulations - Side Yard

To vary the required side yard setbacks from 4.5 m required to 0.0 m proposed.

Section 16.1.5 (f) Development Regulations - Rear Yard

To vary the required rear yard setback from 7.5 m required to 0.0 m proposed.

Table 8.1 - Parking Schedule

To vary the vehicle parking from 145 required to 30 proposed.

Table 8.2 - Loading Schedule

To vary the loading stalls from 1 required to 0 proposed on site.

Table 8.3 - Bicycle Parking Schedule

To vary the bike parking from 6 - Class I stalls and 12 - Class II stalls required to 0 proposed on site.

AND FURTHER THAT variances to the following sections of Sign Bylaw No. 8325 be granted:

Section 6.1 - P1 - Major Institutional (# of signs)

To vary the number of fascia/canopy signs from 3 permitted to 9 proposed.

Section 6.1 - P1 - Major Institutional (Sign Area)

To vary the area of Sign #1 from 4.0m² to 18.58m², Sign #2 from 4.0m² to 18.77m², Sign #3 from 4.0m² to 6.5m² and Sign #4 from 4.0m² to 6.18m² in general accordance with Schedule "A".

Carried

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 9:29 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk