

Regular Meeting - Chauffeur's Permit AppealJune 26, 2012

A Regular Meeting of the Municipal Council of the City of Kelowna was held in the Knox Mountain Meeting Room, 1435 Water Street, Kelowna, B.C., on Tuesday, June 26, 2012.

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

Council members absent: Councillor Maxine DeHart.

Staff members in attendance were: Acting City Manager, Jim Paterson; City Clerk, Stephen Fleming; and Deputy City Clerk, Karen Needham.

Guests: RCMP Cpl. Jayson Lucash, NCO in charge of the Central Okanagan Traffic Section; and Limousine Driver, Nathaniel Daggett.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 4:02 p.m.

2. Councillor Given was requested to check the minutes of the meeting.

3. CHAUFFERUR'S PERMIT APPEAL HEARING

Mayor Gray provided opening remarks with respect to the conduct of the Chauffeur's Permit Appeal Hearing.

Cpl. Lucash, RCMP:

- Advised that the RCMP's decision was based on three (3) points:
 - o Interactions with the Kelowna RCMP - Provided case history with RCMP from 2009 and 2010;
 - o Drivers Licence History - Mr. Daggett drove with an expired permit and has four (4) driving charges on his record;
 - o Criminal History - 2002 case from Toronto, Ontario.

Councillor Blanleil joined the meeting at 4:15 p.m.

Mr. Daggett:

- Advised that he moved to Kelowna in 2003 in order to provide a limousine service.
- Advised that he did not mean to create a problem with the RCMP.
- Advised that when a limousine is hired, there is an expectation that the customer will be dropped off as closely as possible to the event location. This resulted in incidents with the RCMP as the rules do not permit this type of expectation.
- He has always tried his best to serve his customers and work with the RCMP.
- Responded to questions from Council.

Comments from Council:

- Suggested that the Chauffeur's Permit be reinstated subject to a one (1) year probationary period.
- Expressed a concern that Mr. Daggett appears to be fundamentally opposed to current Bylaw provisions.
- Commented that it would be preferable to see Mr. Daggett successfully get through his current Court imposed probationary period.
- Believes that the police reports are accurate and that Mr. Daggett was belligerent.
- Acknowledged Mr. Daggett for his passion for his profession and noted his remorse.
- Expressed a concern that Mr. Daggett has not stated that he will accept the rules and the RCMP authority.

Moved by Councillor Zimmermann/Seconded by Councillor Basran

R604/12/06/26 THAT Council reinstates the Chauffeur's Permit for Richard Nathaniel Daggett subject to an expiry date of June 11, 2013.

Carried
Councillors Basran and Zimmermann - Opposed.

4. TERMINATION

The meeting was declared terminated at 5:47 p.m.

Certified Correct:

Mayor

/scf/slh

City Clerk

DRAFT

A Regular Meeting of the Municipal Council of the City of Kelowna was held in the Knox Mountain Meeting Room, 1435 Water Street, Kelowna, B.C., on Tuesday, July 10, 2012.

Council members in attendance: Mayor Walter Gray, Councillors Andre Blancheil; Colin Basran, Robert Hobson, Luke Stack and Gerry Zimmermann.

Council members absent: Councillors Maxine DeHart, Gail Given and Mohini Singh.

Staff members in attendance were: City Manager, Ron Mattiussi; and City Clerk, Stephen Fleming.

Guests: RCMP Cpl. Jayson Lucash, NCO in charge of the Central Okanagan Traffic Section; RCMP Reserve Constable, Randy McEwan; Lawyer, Heritage Law Group, Martin Johnson; and Cab Driver, Resham Lal Bhatti.

(* denotes partial attendance)

1. CALL TO ORDER

Mayor Gray called the meeting to order at 3:06 p.m.

2. CHAUFFEUR'S PERMIT APPEAL HEARING

Mayor Gray provided opening remarks with respect to the conduct of the Chauffeur's Permit Appeal Hearing.

Cpl. Jayson Lucash, RCMP:

- Advised that Mr. Bhatti is the owner and operator of Apple Cabs.
- Advised that based on Mr. Bhatti's driving record and criminal record, the Chauffeur Permit was revoked in November 2011.
- Confirmed that Mr. Bhatti appealed the RCMP's decision in March 2012 and Council upheld the RCMP's decision.
- Advised that Mr. Bhatti re-applied for a Chauffeur's Permit upon his birthday in April 2012, which application was once again denied by the RCMP, and subsequent appealed by Mr. Bhatti.
- Presented incidents regarding Mr. Bhatti's driving record, including convictions and contested, outstanding tickets. These are being appealed; however no trial date has been set.
- Confirmed that the incidents occurred in the Fall of 2011.
- Reviewed Mr. Bhatti's criminal record which included convictions in 1983 and 1998.

Reserve Constable Randy McEwan, RCMP:

- Made comments regarding his interaction with Mr. Bhatti while at the Kelowna International Airport.

Cpl. Jayson Lucash, RCMP:

- Advised that the short timeframe between Mr. Bhatti's first Appeal and his re-application for a Chauffeur's Permit is due to Mr. Bhatti's birth date being in April.
- Advised that Mr. Bhatti's poor driving record, the fact that his outstanding tickets are yet to be dealt with, and the fact that Mr. Bhatti had very little time to demonstrate a change in driving habits, it was determined by the RCMP that the circumstances surrounding Mr. Bhatti haven't changed since the previous appeal.

Martin Johnson on behalf of Mr. Bhatti:

- Raised questions pertaining to the process followed by Stg. Swecera and the RCMP in revoking the permit in November 2011.

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- Raised questions as to the lack of disclosure of the RCMP's allegations and perceptions.
- Raised questions as to whether the RCMP has provided due process with respect to Mr. Bhatti's permit review and decision.
- Advised that Mr. Bhatti could have applied to have his earlier convictions struck due to the passage of time.

Philip Patara, Royal Star Enterprises Inc.:

- Spoke as a character witness for Mr. Bhatti.

Council questions directed to the RCMP:

- Inquired as to the very short period of time between the first appeal decision in March and the reapplication due to Mr. Bhatti's April birth date. How long is appropriate?
- Inquired as to the number of convictions, types of convictions, date of incidents, public safety implications being examined by the RCMP when making a determination of whether to issue or revoke a Chauffeur's Permit.

Resham Lal Bhatti:

- Explained the circumstances surrounding the "purse incident".

Cpl. Jayson Lucash, RCMP:

- Provided an overview of the Central Okanagan Traffic Section and staffing.

Council:

- Agreed that there is a need to establish a set of policy guidelines for reviewing Chauffeur's Permits, including some thresholds that the RCMP will consider.
- Agreed that any policy guidelines need to be made known to the taxi companies.
- Believes that Mr. Bhatti's criminal convictions are too old to consider.
- Believes that Mr. Bhatti's being out of work since November 2011 has been a form of punishment.
- Believes that Mr. Bhatti needs to redeem himself.
- Agreed that a new Bylaw needs to clearly spell out some kind of notice and due process for Chauffeur's Permits.
- Confirmed that the public safety is a paramount consideration of Council.

Moved by Councillor Blanleil/Seconded by Councillor Stack

R652/12/07/10 THAT Council reinstates the Chauffeur's Permit for Resham Lal Bhatti subject to expire upon Mr. Bhatti's birthday in April 2014.

Carried

4. TERMINATION

The meeting was declared terminated at 4:49 p.m.

Certified Correct:

Mayor

/scf/slh

City Clerk

Public HearingJuly 10, 2012

A Public Hearing of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, July 10th, 2012.

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

Council members absent: Councillor Gail Given.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; General Manager, Community Sustainability, Jim Paterson*; Director, Land Use Management, Shelley Gambacort*; Manager, Long Range Planning, Gary Stephen; Manager, Development Engineering, Steve Muenz; Manager, Transportation & Mobility, Peter Truch*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 6:01 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna 2030 - Official Community Plan Bylaw No. 10500" and "Zoning Bylaw No. 8000", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

The City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on June 22, 2012 and by being placed in the Kelowna Capital News issues of June 29, 2012 and July 3, 2012, and by sending out or otherwise delivering 3,421 letters to the owners and occupiers of surrounding properties between June 22, 2012 and June 29, 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 309.

3. INDIVIDUAL BYLAW SUBMISSIONS

- 3.1 Bylaw No. 10621 (OCP11-0016) - City of Kelowna - Text Amendment - That Council receives, for information, the report from the Long Range Planning Manager dated June 1, 2012 with respect to amendments to Official Community Plan 2030 bylaw 10500;

AND THAT Bylaw No. 1061, being an amendment to Bylaw No. 10500 Kelowna 2030 - Official Community Plan, be forwarded to the July 10, 2012 Public Hearing;

AND FURTHER THAT Bylaw No. 10702, being an amendment to Bylaw No. 10500 Kelowna 2030 - Official Community Plan, be forwarded to the July 10, 2012 Public Hearing.

Staff:

- Provided an overview of the proposed text amendments to the Kelowna 2030 - Official Community Plan.

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. No one came forward.

- 3.2 Bylaw No. 10634 (OCP11-0009), Bylaw No. 10635 (TA-0008), Bylaw No. 10636 (Z11-0063) - R 366 Enterprises ltd./Ekistics Town Planning Inc. - 2030 Benvoulin Road and 2190 Mayer Road - THAT Council receives for information, the Supplemental Report of the Community Sustainability Division dated June 13, 2012 with respect to the requested Traffic Impact Study for OCP11-0009, TA11-0008 and Z11-0063;

AND THAT Official Community Plan Bylaw Amendment No. OCP11-0009 (Bylaw 10634) be amended at first reading to include an amendment to Map 5.8 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by adding the Comprehensive Development Permit Area Designation to Lot 3, District Lot 142, ODYD, Plan KAP82214 and Lot 4, District Lot 142, ODYD, Plan KAP82214, located at 2030 Benvoulin Road and 2190 Mayer Road, Kelowna, B.C., as shown on Map "A" attached to the Report of Land Use Management Department dated June 13, 2012, be considered by Council;

AND FURTHER THAT the Official Community Plan Bylaw Amendment Bylaw, the Text Amendment Bylaw and the Zone Amending Bylaw be forwarded to a Public Hearing for further consideration.

Councillor Stack declared a conflict of interest with respect to Agenda Item Nos. 3.02 and 3.03 as he is the Executive Director of the Society of Hope, which owns property within the notification area of the subject properties, and left the meeting at 6:09 p.m.

Councillor Blanleil advised that he previously declared a conflict of interest with respect to Agenda Item Nos. 3.02 and 3.03; however, after discussions with staff, it was determined that he did not have a conflict of interest as the property he owns is outside of the notification area of the subject properties.

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

- o Additional Information submitted by Property Owner:
 - 9 pages of additional information including a copy of an Agreement between the City of Kelowna and the property owner regarding the Dilworth Drive Road Extension and Sewer Line.

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

Paul Fenske, Ekistics Town Planning Inc., Applicant's Representative

- Displayed a PowerPoint Presentation with respect to the Mission Crossing (Eastside Lands) for the proposed public & open air markets.

Peter Klimuk, Applicant's Representative

- Expressed a concern with respect to the site improvements being required by the Development Engineering Branch as per the Traffic Impact Study.
- Advised that there isn't any official agreement between the property owner and Mission Creek Greenway with respect to public access to the Greenway through the subject property.

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- Advised that it is the City's policy to have Servicing Agreement executed prior to adoption of any amending bylaw.
- Advised that the draft CD23 zone regulations and proposed Design Guidelines were provided to the Agricultural Land Commission for comment. Staff received correspondence from the Agricultural Land Commission stating that the Commission did not have concerns with respect to the application as it is being presented to Council.

Gallery:Malcolm Broxham, 124 - 3535 Casorso Road

- While he supports agriculture, he is not sure if this is the best location for this type of market.
- Expressed a concern with the added traffic in the area as a result of the proposed market.
- Expressed a concern with a lack of parking on the site.

Staff:

- Confirmed that staff is working with the Applicant with respect to on-site parking and that the parking issue will be dealt with through the Development Permit process. Staff is awaiting receipt of the necessary criteria in order to determine the parking requirements for the market.

Bob Chisholm, President, Kelowna Farmers' & Crafters' Market Society

- Very interested in seeing this proposal go forward as the Society has already conducted a comprehensive strategic plan for the market and believes that the proposed development will fit in with the strategic plan.
- Confirmed that the Society will be working with the Applicant in order to achieve the 25-year lease commitment as requested by the Agricultural Land Commission.
- In favour of the Official Community Plan amendment and rezoning.
- Advised that the Society is unable to determine exactly how much parking will be required for the market as the parking requirement will change with the seasons (different parking requirements in May, then in July, then in November).

Mark Haggan, 2021 Stirling Place

- In favour of the Official Community Plan amendment and rezoning.

Warren Postnikoff, 230 Bryden Road, on behalf of the Society of Hope

- In favour of the Official Community Plan amendment and rezoning.
- Believes that the proposal will benefit the residents in their building.
- Confirmed that the pedestrian crossings in the area are very important to their residents and inquired if there will be an additional pedestrian crossing in the area to accommodate the increase in foot traffic should the proposal be approved by Council.
- Inquired whether or not the City will require the Mayer Road extension to be completed as a result of the development proposal.

Staff:

- Advised that the Mayer Road extension is not part of the servicing requirements for the proposed development.
- Confirmed that an additional pedestrian crossing in the area is part of the servicing requirements for the proposed development.

Paul Fenske, Ekistics Town Planning Inc., Applicant's Representative

- Responded to questions from Council with respect to on-site parking.
- Advised that the development proposal includes underground parking on the permanent market site together with surface parking.

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- Likes the idea of the market.

There were no further comments.

- 3.3 Bylaw No. 10638 (OCP11-0008), Bylaw No. 10639 (Z11-0062) - R 355 Enterprises Ltd./Ekistics town Planning Inc. - 2241 Springfield Road - THAT Council receives for information, the Supplemental Report of the Community Sustainability Division dated June 5, 2012 with respect to the requested Traffic Impact Study for OCP11-0008, TA12-0001, and Z11-0062;

AND THAT Council waives the requirement for staff to review a Retail Impact Analysis with respect to OCP11-0008 prior to a Public Hearing;

AND FURTHER THAT the Official Community Plan Amendment Bylaw and the Zone Amending Bylaw be forwarded to a Public Hearing for further consideration.

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

- o Letter of Support:
 - Lorne Gerber, Society of Hope
- o Additional Information submitted by Property Owner:
 - 9 pages of additional information including a copy of an Agreement between the City of Kelowna and the property owner regarding the Dilworth Drive Road Extension and Sewer Line.

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

Paul Fenske, Ekistics Town Planning Inc., Applicant's Representative

- Displayed a PowerPoint Presentation with respect to the Mission Crossing (Westside Lands) for the proposed Mission Crossing Development Lands.
- Advised that access to the site will be provided via Benvoulin Court and via Benvoulin Drive. There will not be any access via Springfield Road.

Peter Klimuk, Applicant's Representative

- Addressed any concerns raised during the initial consideration of this application.
- Addressed any concerns with respect to the residential and commercial aspects of the proposed development.
- Believes that the market does not warrant any further residential units in the area as there are a lot of residential opportunities already in existence.
- Requested that Council not approve staff's recommendations to require a Restrictive Covenant on the site to limit the commercial area of the subject property.

Trevor Ward, Ward Consulting Group, Applicant's Representative

- Highlighted some of the challenges with respect to the Traffic Impact Study for the site.
- Believes that the intersection upgrades (Springfield/Spall/Leckie/Dilworth intersections) would be required whether or not this development proceeds.
- Provided an overview of the Traffic Impact Study.
- Believes that some of the improvements identified by the City seem to be out of the realm of this proposal.
- Responded to questions from Council.

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Staff:

- Responded to questions from Council regarding the requirement for a Restrictive Covenant with respect to the residential and commercial uses of the property.
- Responded to questions regarding the Terms of Reference for the Traffic Impact Study and provided staff's rationale for requesting that 18 intersections be included in the Traffic Impact Study.
- Confirmed that staff is looking for upgrades to accommodate pedestrians and bicycle traffic rather than vehicle traffic.

Councillor Singh left the meeting at 7:51 p.m.

Staff:

- Confirmed that staff is not asking for the applicant to pay for the cost of a left-hand turn off of Springfield Road to Benvoulin Road.
- Advised that the upgrades required to the road network are not currently funded through the DCC program.
- Advised that currently there is not enough land available to complete the required widening to the roads in the area.

Gallery:

Warren Postnikoff, 230 Bryden Road, on behalf of the Society of Hope

- Advised that the Society owns the property south of subject site.
- Generally supportive of the proposal, but expressed concerns with the residential/commercial interface of the area.
- Expressed a concern regarding the shared property line with the Society's property and the commercial property.
- Expressed a concern with lighting from the proposed development such as glare from commercial properties onto the residential properties.
- Expressed a concern that the garbage and recycling containers could negatively impact the Society's residents depending on their location on the site.
- Expressed a concern with respect to potential noise from the site (delivery of supplies, garbage removal, cleaning of the site, etc.).
- Looking for assurances from the Applicant that any concerns expressed by the Society and its residents will be addressed.

City Clerk:

- Clarified the terms of the City's Noise Bylaw and advised that the time restriction in the Bylaw is only specific to construction noise.

Margaret Radi, 3566 Athalmer Road

- Expressed a concern with how an additional pedestrian crosswalk will impact traffic flow in the area.

Staff:

- Responded to concerns with respect to the required pedestrian crosswalks in the area.
- Advised that there will be 2 pedestrian crossings for the development and that Mayer Road will be the main intersection.

There were no further comments.

- 3.4 Bylaw No. 10702 (OCP12-0005) - City of Kelowna - Text Amendment - THAT Council receives, for information, the report from the Long Range Planning Manager dated June 1, 2012 with respect to amendments to Official Community Plan 2030 bylaw 10500;

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AND THAT Bylaw No. 1061, being an amendment to Bylaw No. 10500 Kelowna 2030 - Official Community Plan, be forwarded to the July 10, 2012 Public Hearing;

AND FURTHER THAT Bylaw No. 10702, being an amendment to Bylaw No. 10500 Kelowna 2030 - Official Community Plan, be forwarded to the July 10, 2012 Public Hearing.

Councillor Stack rejoined the meeting at 8:12 p.m.

Staff:

- Provided an overview of the proposed text amendments to the 2030 Kelowna Official Community Plan.

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. No one came forward.

- 3.5 Bylaw No. 10719 (Z12-0034) - Shawn and Christina Smith - 1563 Large Avenue - THAT Rezoning Application No. Z12-0034 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 5, Section 13, Township 26, ODYD Plan KAP74112, located on Large Avenue, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT the suite be eligible for final occupancy prior to final adoption of the zone;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of Black Mountain Irrigation District being completed to their satisfaction.

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

- o Letter of Opposition:
 - Nicole Hunka, 1557 Large Avenue

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.

- 3.6 Bylaw No. 10720 (Z12-0033) - Harry and Judith Van Asseldonk - 570 Brighton Road - THAT Rezoning Application No. Z12-0033 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 101, Section 24, Township 26, ODYD Plan 24631 located on Brighton Road, Kelowna, BC from the RU1- Large Lot Housing zone to the RU1s- Large Lot Housing with Secondary Suite zone be, considered by Council.

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

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

- 3.7 Bylaw No. 10721 (Z12-0028) - Jens Christensen - 909 Mount Royal Drive - THAT Rezoning Application No. Z12-0028 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 32, Section 30, Township 26, ODYD Plan 17272, located on Mount Royal Drive, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT a building permit for the suite be applied for prior to final adoption of the zone;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction.

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

- 3.8 Bylaw No. 10722 (Z12-0038) - Paulyn Chua - 811 Tamarack Drive - THAT Rezoning Application No. Z12-0038 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 29, Section 15, Township 26, ODYD Plan 24818, located on Tamarack Drive, Kelowna, BC from the RU1-Large Lot Housing zone to the RU1s- Large Lot Housing with Secondary Suite zone be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT a building permit for the suite be applied for prior to final adoption of the zone.

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

- 3.9 Bylaw No. 10723 (TA12-0006) - City of Kelowna - Text Amendment - THAT Zoning Bylaw Text Amendment No. TA12-0006 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule 'A' attached to the Report of the Land Use Management Department dated June 6, 2012, be considered by Council;

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AND THAT the Text Amendment Bylaw be forwarded to a Public Hearing for further consideration.

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

- Package of Additional Information:
 - Package of additional information as submitted by Robert Morrell, Best Buy Homes

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.

4. TERMINATION:

The Hearing was declared terminated at 8:28 p.m.

Certified Correct:

Mayor

SLH/dld

City Clerk

DRAFT

Regular MeetingJuly 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, July 10th, 2012.

Council members in attendance: Mayor Walter Gray, Councillors Colin Basran, Andre Blaneil, Maxine DeHart, Robert Hobson, Luke Stack* and Gerry Zimmermann.

Council members absent: Councillors Gail Given and Mohini Singh.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; General Manager, Community Sustainability, Jim Paterson*; Manager, Long Range Planning, Gary Stephen*; 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 8:41 p.m.

2. A Prayer was offered by Councillor Hobson.

3. CONFIRMATION OF MINUTES

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Moved by Councillor Zimmermann/Seconded by Councillor Hobson

R653/12/07/10 THAT the Minutes of the Public Hearing of June 26, 2012 and the minutes of the Regular Meeting of June 26, 2012 be confirmed as circulated.

Carried

4. BYLAWS CONSIDERED AT PUBLIC HEARING

4.01 Bylaw No. 10621 (OCP11-0016) - City of Kelowna - Miscellaneous Housekeeping Amendments - Requires a majority of all Members of Council (5)

Moved by Councillor Basran/Seconded by Councillor Stack

R654/12/07/10 THAT Bylaw No. 10621 be read a second and third time and be adopted.

Carried

4.02 Bylaw No. 10634 (OCP11-0009) - R 366 Enterprises Ltd. (Ekistics Town Planning Inc.) - 2030 Benvoulin Road and 2190 Mayer Road - Requires a majority of all Members of Council (5)

Councillor Stack declared a conflict of interest with respect to Agenda Item Nos. 4.02, 4.03, 4.04, 4.05 and 4.06 as he is the Executive Director of the Society of Hope, which owns property within the notification area of the subject properties, and left the meeting at 8:43 p.m.

Regular MeetingJuly 10, 2012Moved by Councillor Hobson/Seconded by Councillor DeHartR655/12/07/10 THAT Bylaw No. 10634 be read a second and third time.Carried

- 4.03 Bylaw No. 10635 (TA11-0008) - R 366 Enterprises Ltd. (Ekistics Town Planning Inc.) - Text Amendment to City of Kelowna Zoning Bylaw No. 8000

Moved by Councillor Blanleil/Seconded by Councillor HobsonR656/12/07/10 THAT Bylaw No. 10635 be read a second and third time.Carried

- 4.04 Bylaw No. 10636 (Z11-0063) - R 366 Enterprises Ltd. (Ekistics Town Planning Inc.) - 2030 Benvoulin Road and 2190 Mayer Road

Moved by Councillor Zimmermann/Seconded by Councillor DeHartR657/12/07/10 THAT Bylaw No. 10636 be read a second and third time.Carried

- 4.05 Bylaw No. 10638 (OCP11-0008) - R 366 Enterprises Ltd. (Ekistics Town Planning Inc.) - 2241 Springfield Road - Requires a majority of all Members of Council (5)

Moved by Councillor Blanleil/Seconded by Councillor BasranR658/12/07/10 THAT Bylaw No. 10638 be read a second and third time.Carried

- 4.06 Bylaw No. 10639 (Z11-0062) - R 366 Enterprises Ltd. (Ekistics Town Planning Inc.) - 2241 Springfield Road

Moved by Councillor Basran/Seconded by Councillor BlanleilR659/12/07/10 THAT Bylaw No. 10639 be read a second and third time.CarriedMoved by Councillor Blanleil/Seconded by Councillor Hobson

R660/12/07/10 THAT Council directs staff to remove the condition that final adoption of the Zone Amending Bylaw for Rezoning Application No. Z11-0062 be considered subsequent to a Section 219 Restrictive Covenant in a registrable form that stipulates a minimum gross floor area of residential tenure on the subject property to no less than 30% of the total build out.

Carried

Councillor Stack rejoined the meeting at 8:53 p.m.

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- 4.07 Bylaw No. 10702 (OCP12-0004) - City of Kelowna - Miscellaneous Amendments - Requires a majority of all Members of Council (5)

Moved by Councillor Blanleil/Seconded by Councillor Basran

R661/12/07/10 THAT Bylaw No. 10702 be read a second and third time and be adopted.

Carried

- 4.08 Bylaw No. 10719 (Z12-0034) - Shawn & Christina Smith - 1563 Large Avenue

Moved by Councillor Zimmermann/Seconded by Councillor DeHart

R662/12/07/10 THAT Bylaw No. 10719 be read a second and third time.

Carried

- 4.09 Bylaw No. 10720 (Z12-0033) - Harry & Judith Van Asseldonk - 570 Brighton Road

Moved by Councillor DeHart/Seconded by Councillor Zimmermann

R663/12/07/10 THAT Bylaw No. 10720 be read a second and third time.

Carried

- 4.10 Bylaw No. 10721 (Z12-0028) - Jens Christensen - 909 Mount Royal Drive

Moved by Councillor Zimmermann/Seconded by Councillor DeHart

R664/12/07/10 THAT Bylaw No. 10721 be read a second and third time.

Carried

- 4.11 Bylaw No. 10722 (Z12-0038) - Paulyn Chua - 811 Tamarack Drive

Moved by Councillor Stack/Seconded by Councillor DeHart

R665/12/07/10 THAT Bylaw No. 10722 be read a second and third time and be adopted.

Carried

- 4.12 Bylaw No. 10723 (TA12-0006) - Pier Mac Petroleum Installations Ltd. (Robert Morell) - 1433 Velocity Street

Moved by Councillor DeHart/Seconded by Councillor Stack

R666/12/07/10 THAT Bylaw No. 10723 be read a second and third time.

Carried

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

The City Clerk advised that Notice of the amendments to the Liquor Primary Licences were advertised by being posted on the Notice Board at City Hall on June 22, 2012 and by being placed in the Kelowna Capital News issues of June 29, 2012 and July 3, 2012 and by sending out or otherwise delivering 464 letters to the owners and occupiers of surrounding properties between June 22, 2012 and June 29, 2012.

The City Clerk advised that Notice of Council's consideration of the Development Variance Permit Applications was given by sending out or otherwise delivering 1,674 letters to the owners and occupiers of the surrounding properties between June 22, 2012 and June 29, 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

- 6.01 Land Use Management Department, dated June 11, 2012 re: Liquor Licensing Application No. LL12-0006 - The Kelowna Club - 237 Lawrence Avenue Mayor to invite anyone in the public gallery who deems themselves affected by the liquor license application to come forward.

Staff:

- As part of the Liquor License Application, the patron capacity will be reduced from 148 to 99.

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 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 Basran

R667/12/07/10 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 The Kelowna Club at 237 Lawrence Avenue, Kelowna BC, (legally described as Lot 2 District Lot 139 Osoyoos Division Yale District Plan 27581) for the relocation of a Liquor Primary license from 554 Leon Avenue to 237 Lawrence Avenue, are as follows:

- a) **The potential for noise if the application is approved:**
No increase in noise is expected compared to current circumstances.
- 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

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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 the liquor primary license relocation from 554 Leon Avenue to 237 Lawrence Avenue be approved.

Carried

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 7.01 Land Use Management Department, dated June 8, 2012 re: Heritage Alteration Permit Application No. HAP12-0002 - Condor Holdings Ltd. (Worman Resources Inc.) - 315 Cadder 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.

Shane Worman, Applicant's Representative

- Advised that he is very excited about the project.

No one came forward.

Moved by Councillor Hobson/Seconded by Councillor Stack

R668/12/07/10 THAT Council authorize the issuance of Heritage Alteration Permit No. HAP12-0002 for Lot 1, DL 14, ODYD, Plan 5056, located at 315 Cadder 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 be in general accordance with Schedule "C";
4. The Development Engineering requirements must be satisfied prior to issuance of the Heritage Alteration Permit;
5. Prior to issuance of the Heritage Alteration Permit a plan of subdivision must be registered at the Land Titles Office to subdivide the subject property.

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

Section 13.1.5 (b) Subdivision Regulations - Lot Depth

To vary the lot depth of Lot 'A' from 30m required to 27.4m proposed and to vary the lot depth of Lot 'B' from 30m required to 26.5m proposed.

Carried

- 7.02 Land Use Management Department, dated June 13, 2012 re: Development Variance Permit Application No. DVP12-0095 - Margaret Jane Bennison & Paula Jane Dennert (Carl & Paula Dennert) - 1232 Ethel 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 City Clerk advised that the following correspondence and/or petitions had been received:

- o Letter of Opposition:
 - Mr. & Mrs. Pyett, 853 Coronation Avenue

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 not present. No one came forward.

Moved by Councillor Stack/Seconded by Councillor Basran

R669/12/07/10 THAT Council authorize the issuance of Development Variance Permit No. DVP12-0095, for Lot 9, District Lot 138, O.D.Y.D., Plan 1277, located on Ethel Street, Kelowna, BC;

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

Section 13.6.6(b) Development Regulations

To vary the maximum height of an accessory building from 4.5m permitted to 5.6m proposed (as per Schedule "A");

Carried

- 7.03 Land Use Management Department, dated June 13, 2012 re: Development Variance Permit Application No. DVP12-0103 - Kathleen Mackenzie - 3070 Shayler Court 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 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 Zimmermann

R670/12/07/10 THAT Council authorize the issuance of Development Variance Permit No. DVP12-00103 for Lot 12, Section 29, Township 23 ODYD, Plan KAP70569, located at 3070 Shayler Court, Kelowna, BC;

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

Section 6.6.2 Height and Grade

Vary the maximum height for the lowest floor of a walkout basement from 3.6m required to 4.88m proposed as per schedule "A";

AND THAT issuance of the Development Variance Permit be subject to the issuance of a Natural Environment Development Permit by the Director, Land Use Management;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council's approval of the Development Variance Permit, in order for the permit to be issued.

Carried

7.04 Bylaw No. 10652 (OCP11-0002) - Risso Estates Ltd. (Troika Developments Ltd.) - 1013 Barnes Avenue - **Requires a majority all Members of Council (5)**

Moved by Councillor Stack/Seconded by Councillor Zimmermann

R671/12/07/10 THAT Bylaw No. 10652 be adopted.

Carried

7.04.1 Bylaw No. 10653 (Z11-0030) - Risso Estates Ltd. (Troika Developments Ltd.) - 1013 Barnes Road

Moved by Councillor Stack/Seconded by Councillor Zimmermann

R672/12/07/10 THAT Bylaw No. 10653 be adopted.

Carried

7.04.2 Land Use Management Department, dated June 13, 2012, re: Development Permit Application No. DP12-0081 and Development Variance Permit Application No. DVP12-0086 - Risso Estates Ltd. (Troika Developments Ltd.) - 1013 Barnes Road

Sohan Khangura, 3596 Athalmer Road

- Addressed Council and submitted a Petition Letter to Council that had been submitted to the City Clerk previously, after the Public Hearing for the rezoning was closed, and subsequently not circulated to Council by staff.

City Clerk:

- Provided an overview of the Public Hearing process and the City's policy with respect to circulation of correspondence.

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- Confirmed that the letter submitted by Mr. Khangura speaks to issues that were discussed at the Public Hearing and provided an overview of the letter that was submitted.

Council:

- Had a discussion with respect to how to proceed with the Development Permit and Development Variance Permit application.

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

- o Letters of Opposition:
 - Ken & Teresa Erickson, 208-3739 Casorso Road
 - Shari Holland, 3586 Athalmer Road

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

Renee Wasylyk, Troika Developments Ltd., Applicant

- Introduced the presentation and responded to questions from Council.

Bryce Tucker and Bruce McKenzie, NORR Architects Planners Inc., Applicant's Representatives

- Displayed a PowerPoint Presentation and responded to questions from Council.

Gallery:

Malcolm Broxham, 125 -3535 Casorso Road

- Expressed a concern that there may be some conflict with the neighbouring property as this development is being proposed for families and the neighbouring property is senior orientated.
- Disturbed that there is more and more farmland being developed and expressed a concern that the development is on agricultural lands, even though those lands are not within the Agricultural Land Reserve.
- Believes that there needs to be more green space and less building space and is therefore opposed to the requested variances.

Sohan Khangura, 3596 Athalmer Road

- Opposed to the site coverage variance.
- Expressed a concern that the number of proposed units is higher than was originally communicated to the area residents.
- Expressed a concern with traffic impacts as a result of the proposal.
- Expressed a concern with pedestrian impacts as a result of the proposal.
- Requested that Council turn down the proposed variances.
- Submitted his speaking notes for the record.

Staff:

- Clarified how staff determine the Floor Area Ratio as well as site coverage.
- Clarified that any designs/drawings that were shown during the rezoning process are only conceptual.

Margaret Radi, 3566 Athalmer Road

- Inquired if the RM5 zoned property will still have 3 structures on it.
- Expressed a concern that the structures being proposed do not fit into the character of the neighbourhood.
- Opposed to the proposed variances.

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- Believes that the developer wanted to come before Council with a variance rather than being upfront about the entire development.
- Opposed to the proposed variances.
- Expressed a concern with the parking being provided as he does not believe that there are enough parking spots to accommodate the number of units being proposed on the site.
- Requested that Council defeat the variances.

Staff:

- Confirmed that a road dedication was to be provided as part of the rezoning for June Springs Road.

John Manderson, 3520 Windmere Road

- Agrees with Mr. Radi's comments.
- Opposed to the variances.
- Expressed a concern with the traffic and vehicle impacts on the neighbourhood.
- Believes that the plan presented today is different than the plan that the developer presented during their public consultation meetings.
- Parking and traffic are a concern in the area.

Christine Blomquist, 940 Wintergreen Drive

- Expressed a concern with the lack of green space for a family-oriented development.
- Expressed a concern with the proposed form and character of the development.
- Expressed a concern with privacy impacts to the properties along Barnes Road.

Sohan Khangura, 3596 Athalmer Road

- Opposed to the requested variances.

Renee Wasyluk, Troika Developments Ltd., Applicant

- Confirmed that the development team met with the School District and the School District did not have any concerns with the proposed variances.
- Displayed a map of the RM5 zoned area and the RM3 zoned area.
- Advised that the townhomes were designed as 3-bedrooms.
- Confirmed that the parking requirements have been met.
- Addressed some of the concerns raised by the interveners and responded to questions from Council.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Stack

R673/12/07/10 THAT final adoption of Official Community Plan Amending Bylaw No. 10652 be considered by Council;

AND THAT final adoption of Zone Amending Bylaw No. 10653 be considered by Council;

AND THAT Council authorizes the issuance of Development Permit No. DP12-0081 for Lot B, District Lot 134, ODYD, Plan KAP91847, located on 1013 Barnes Avenue, 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";

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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 Landscape Architect;

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP12-0086, for Lot B, District Lot 134, ODYD, Plan KAP91847, located on 1013 Barnes Avenue, Kelowna, BC;

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

Section 13.9.6(b): Development Regulations (Site Coverage)

To vary the maximum site coverage of buildings, driveways and parking areas from 50% permitted to 58.4% proposed;

Section 13.9.6(f): Development Regulations (Site Rear Yard)

To vary the minimum site rear yard from 7.5m permitted to 6.5m proposed;

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council's approval of the Development Permit, in order for the permits to be issued.

Carried

Moved by Councillor Blanleil/Seconded by Councillor Hobson

R674/12/07/10 THAT Council directs staff to require that construction traffic for the development at located 1013 Barnes Road (DP12-0081) be accessed off of Casorso Road.

Carried

8. REMINDERS - Nil.

9. TERMINATION

The meeting was declared terminated at 10:37 p.m.

Certified Correct:

Mayor

City Clerk

SLH/dld