



# City of Kelowna

## Regular Council Meeting Minutes

Date: Tuesday, April 28, 2015  
Location: Council Chamber  
City Hall, 1435 Water Street

Members Present Deputy Mayor Brad Sieben, Councillors Maxine DeHart, Gail Given, Tracy Gray, Mohini Singh, Luke Stack

Members Absent Mayor Colin Basran, Councillors Ryan Donn, Charlie Hodge

Staff Present Deputy City Manager, Paul Macklem; Deputy City Clerk, Karen Needham; Urban Planner, Ryan Roycroft\*; Urban Planning Supervisor, Lindsey Ganczar\*; Urban Planning Manager, Ryan Smith; Council Recording Secretary, Arlene McClelland

(\* denotes partial attendance)

### 1. Call to Order

Deputy Mayor Sieben called the meeting to order at 7:31 p.m.

### 2. Reaffirmation of the Oath of Office

The Oath of Office was read by Councillor Stack.

### 3. Confirmation of Minutes

Moved By Councillor Given/Seconded By Councillor Gray

R315/15/04/28 THAT the Minutes of the Public Hearing and Regular Meeting of April 14, 2015 be confirmed as circulated.

Carried

### 4. Bylaws Considered at Public Hearing

4.1 605 Wallace Road, BL11079 (Z15-0003) - Robert John Volk & Gwendlyn Genevive Miller

Moved By Councillor Given/Seconded By Councillor Gray

R316/15/04/28 THAT Bylaw No. 11079 be read a second and third time.

Carried

4.2 BL11077 (OCP14-0002) - Amendments to Chapter 14, Urban Design DP Guidelines

Moved By Councillor Gray/Seconded By Councillor Given

R317/15/04/28 THAT Bylaw No. 11077 be read a second and third time.

Carried

4.3 BL11082 (TA14-0001) - Amendment to Section 15, Industrial Zones

Moved By Councillor Singh/Seconded By Councillor DeHart

R318/15/04/28 THAT Bylaw No. 11082 be read a second and third time.

Carried

5. Notification of Meeting

The Deputy City Clerk advised that Notice of these (amendments to Liquor Licences) were advertised by being posted on the Notice Board at City Hall on April 14, 2015, and by being placed in the Kelowna Capital News issues on April 17 and April 22, 2015 and by sending out or otherwise delivering 96 statutory notices to the owners and occupiers of surrounding properties, and 3034 informational notices to residents in the same postal delivery route, between April 14 and April 17, 2015.

Notice of Council's consideration of these Development Variance Permit Applications was given by sending out or otherwise delivering 152 statutory notices to the owners and occupiers of surrounding properties, and 474 informational notices to residents in the same postal delivery route, between April 14 and April 17.

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

6.1 293-297 Bernard Avenue (Unit 1500 Water Street), LL15-0002 - Viewcrest Estates Ltd.

Staff:

- Provided a PowerPoint Presentation summarizing the presentation and responded to questions from Council.

The Deputy City Clerk advised that no correspondence was received.

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

Applicant

- Present and available for questions.

There were no further comments.

Moved By Councillor Grey/Seconded By Councillor Given

**R319/15/04/28** 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 Fresco Restaurant Ltd. 293-297 Bernard Avenue (unit address 1500 Water St.), Kelowna BC, (legally described as Lot 10, Block 13, DL 139, O.D.Y.D., plan 462 and Lot 11, Block 13 District Lot 139, ODYD Plan 462 except Plan 9892) to add a patio with capacity of 11 persons to an existing Liquor Primary license are as follows:

- a) The impact of noise on the community in the immediate vicinity of the establishment:  
The potential for noise would be compatible with surrounding land uses.
- b) The impact on the community if the application is approved:  
The proposed addition of a patio area to the existing license would add to the continued development of a safe, vibrant Downtown area.
- 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 change to a Liquor Primary license to add a patio be approved

Carried

**6.2 267-271 Bernard Avenue (Unit 271 Bernard Avenue), LL15-0004 - Dutchcad B.I.L. Investments Ltd.**

Staff:

- Provided a PowerPoint Presentation summarizing the presentation and responded to questions from Council.

The Deputy City Clerk advised that no correspondence was received.

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

Applicant:

- Not in attendance.

Gallery:

Jim Stewart, Peachland BC

- Owner of business adjacent to Applicant, Smokes Pouterie; business is open late nights.
- There is no bearing wall between establishments; limited or no insulation.
- Music is disruptive to clientele; could be rectified with sound proofing the walls.
- Would be supportive of the application if sound mitigation was provided between the shared walls.
- Was not aware of application. Not advised of application until City notification.
- Responded to questions from Council.

Cody Chambers, Kelglen Crescent, Rivals General Manager

- Would like to host bands but main focus is Karaoke and sports trivia; want the patrons to actively participate.
- Believe closing time at 12:00 a.m. is impacting business and are losing customers.
- Majority of live entertainment would take place Friday and Saturday evening.
- Was not aware of the sound being an issue.
- The building has multiple units and businesses, beside and above.
- Responded to questions from Council.

Staff:

- The existing liquor license allows for bands and live music. The request is for dancing and patrons active participation in music and events.

Council:

- Raised concern regarding potential noise affecting neighbouring businesses and would like sound mitigation issues addressed.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Given

**R320/15/04/28** 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:

1. Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application at address: 271 Bernard Ave., Kelowna BC, (legally described as Amended Lot 14 (DD142773F), Block 13, District Lot 139, O.D.Y.D., Plan 462) for closing at 1am and to include a patron participation entertainment endorsement, are as follows:
  - a) The potential for noise if the application is approved:  
Council is concerned with potential noise affecting adjacent businesses and would like to see sound mitigation issues addressed.
  - 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) The person capacity and hours of liquor service of the establishment:  
The total person capacity proposed for food primary service is 84 seats inside and a patio of 15 patrons, with operating hours of 9:00am to 1:00am for Sunday to Saturday.
  - e) Traffic and parking:  
There is no increase in traffic or parking associated with this application as there is no additional space or seating being added as part of the application. Therefore the parking and traffic situation should remain unchanged.
  - f) If the proposed endorsement would result in the establishment being operated in a manner which is contrary to its primary purpose:

The endorsement is being sought to offer an additional level of service to the food primary establishment. The focus of the proposed facility will be as a food primary establishment.

g) Recommendation:

Council recommends that the application for Food Primary License to close after midnight and the application for a patron participation entertainment Liquor License endorsement be approved.

**6.3 2986-3030 Pandosy Street, LL14-0017 - AD Sopa Holdings Inc.**

Staff:

- Provided a PowerPoint Presentation summarizing the presentation and responded to questions from Council.
- Clarified closing times of other establishments in the vicinity.

The Deputy City Clerk advised that the following correspondence was received:

Letters of Support

Heidi Adhofer and Al Janusas, Abbott Street

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

Daniel Ilg, Ambrosi Road, Applicant

- The goal is to provide late night food services in South Pandosy area.
- This is the first franchise location in BC; all other franchises are open until 2:00 a.m.
- This franchise is better known for the food than the brew.
- Canvassed businesses and residents in the area and received a lot of good feedback.
- Confirmed there will be an outdoor patio; the Franchise has very strict noise regulations. Patio music will be quieter than music inside.
- There is 10 meters of concrete between walls so noise should not be an issue.
- No late night deliveries on the backside of the building where residents are located.
- Pleased to advise that in 15 years have not received one noise complaint.

There were no further comments.

Moved By Councillor Given/Seconded By Councillor DeHart

**R321/15/04/28** 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:

1. Council's comments on the Liquor Control & Licensing Branch (LCLB)'s prescribed considerations for the application at address: 3030 Pandosy St., Kelowna BC, (legally described as Lot A, District Lot 14 and Section 13, Township 25, ODYD, Plan KAP90796, except Air Space Plan EPP17953) for closing at 1am and to include a patron participation entertainment endorsement, are as follows:
  - a) The potential for noise if the application is approved: The potential impact for noise is minimal and would be compatible with surrounding land uses.
  - 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) The person capacity and hours of liquor service of the establishment:  
The total person capacity proposed for food primary service is 243 seats inside and a patio of 33 patrons, with operating hours of 11:00am to 1:00am for Sunday to Saturday.
- e) Traffic and parking: There is no increase in traffic or parking associated with this application as there is no additional space or seating being added as part of the application. Therefore the parking and traffic situation should remain unchanged.
- f) If the proposed endorsement would result in the establishment being operated in a manner which is contrary to its primary purpose:  
The endorsement is being sought to offer an additional level of service to the food primary establishment. The focus of the proposed facility will be as a food primary establishment.
- g) Recommendation:  
Council recommends that the application for Food Primary License to close after midnight and the application for a patron participation entertainment Liquor License endorsement be approved.

Carried

## 7. Development Permit and Development Variance Permit Reports

### 7.1 1290 Bothe Road, DVP15-0014 - Cheryl Rogers

Staff:

- Provided a PowerPoint Presentation summarizing the presentation.

The Deputy City Clerk advised that no correspondence was received.

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

Applicant:

- Present and available for questions.

There were no further comments.

Moved By Councillor Given/Seconded By Councillor DeHart

R322/15/04/28 THAT Council authorizes the issuance of Development Variance Permit No. DVP15-0014, for Lot G District Lot 131 ODYD Plan 38135, located on 1290 Bothe Road, Kelowna, BC;

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

Section 13.1.6(d) RU1 - Large Lot Housing Zone Development Regulations

To vary the side yard from 2.3m required to 2.13m existing;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval with no opportunity to extend.

Carried

### 7.2 845 Bernard Avenue, DVP15-0046 - Wendy Marcolli

Staff:

- Provided a PowerPoint Presentation summarizing the presentation and responded to questions from Council.

The Deputy City Clerk advised that no correspondence was received.

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

Wendy Marcolli, Bernard Avenue, Applicant

- Planning on using the garage for extra storage.
- Not intending to use the building as a carriage house; however, useful for re-sale.
- Confirmed photo image displayed of the garage that had been provided to neighbours as well as an information package. Neighbours are aware that it could potentially be a carriage house.

Council:

- Would have preferred the application be zoned for carriage house before requesting a variance.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Singh

**R323/15/04/28** THAT Council authorizes the issuance of Development Variance Permit No. DVP15-0046, for 845 Bernard Avenue, located on Lot 26 Block 15 District Lot 138 ODYD Plan 262, Kelowna, BC;

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

**Section 13.6.6 (b): RU6 - Two Dwelling Housing Development Guidelines**

To vary the maximum height of an accessory building from 4.5m to 4.8m;

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval with no opportunity to extend.

**Carried**

### **7.3 1480 Guisachan Place, DVP15-0037 - Andrew & Joan Marceau**

Staff:

- Provided a PowerPoint Presentation summarizing the presentation.

The Deputy City Clerk advised that no correspondence was received.

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

Joan Marceau, Guisachan Place, Applicant

- The variance is required to accommodate a vehicle with a wheelchair lift. Existing garage is not large enough to accommodate.

There were no further comments.

Moved By Councillor DeHart/Seconded By Councillor Gray

**R324/15/04/28** THAT Council authorizes the issuance of Development Variance Permit No. DVP15-0037, for Lot 4 District Lot 136 ODYD Plan 9353, Located at 1480 Guisachan Place, Kelowna, BC;

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

**Section 13.1.6(e): RU1 - Large Lot Housing - Development Regulations**  
Vary the minimum required rear yard setback from 7.5 m required to 6.0 m proposed.

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval with no opportunity to extend.

**Carried**

**7.4 1502 & 1506 Sutherland Avenue, DP15-0033 & DVP15-0034 - Nor-Can Ventures Ltd.**

Staff:

- Provided a PowerPoint Presentation summarizing the presentation and responded to questions from Council.

The Deputy City Clerk advised that no correspondence was received.

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

Gary Trombowski, Nor-Can Holdings, Applicant Representative

- This is a challenging site however very excited about the project.
- Will be developed in phases due to leasing considerations. Intend to get the car wash up and running.
- Commented on integration with surrounding area and parking contained within the structure eliminating mass parking surrounding the building.
- Believes landscaping is very inviting and a key feature.

There were no further comments.

**Moved By Councillor Stack/Seconded By Councillor Given**

**R325/15/04/28** THAT Council authorizes the issuance of Development Permit No. DP15-0033 for Lot A & B, District Lot 141, ODYD, Plan 19444, located on 1502 & 1506 Sutherland 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";
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. That an access easement be registered on Lot A & B to ensure adequate vehicle stacking for the car wash be maintained.
5. That a blanket Statutory Right-of-Way for maintenance access to the riparian area be registered on Lot A & B.
6. That the land swap agreement between the applicant and the City of Kelowna be completed.



7. Prior to issuance of the Building Permit, the requirements of the Development Engineering Branch must be satisfied as described in the attached report dated March 5<sup>th</sup> 2015”;
8. That 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;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP15-0034 for Lot A, District Lot 141, ODYD, Plan 19444, located on 1502 & 1506 Sutherland Avenue, Kelowna, BC.

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

**Section 14.3.5 (d) Development Regulations**

Vary the front yard setback requirement from 3.0 metre required setback to 1.5 metre proposed; AND

**Section 14.3.5 (e) Development Regulations**

Vary the west flanking side yard setback requirement from 2.0 metre required setback to 1.5 metre proposed.

AND THAT the applicant be required to complete the above noted conditions of Council’s approval of the Development Permit / Development Variance Permit Applications in order for the permit to be issued.

AND FURTHER THAT this Development Permit / Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

**Carried**

**7.5 2422 Richter Street, DVP15-0039 - David & Janet Garland**

Staff:

- Provided a PowerPoint Presentation summarizing the presentation.

The Deputy City Clerk advised that no correspondence was received.

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

Birte Decloux, Applicant Representative

- Staff did a good job describing the property.
- Had investigated a carriage house however the site is challenging and that option would not work.
- Displayed photos of the property and highlighted where the addition would go.
- Stated the secondary suite is for an elderly family member.

There were no further comments.

**Moved By Councillor Dehart/Seconded By Councillor Singh**

**R326/15/04/28** THAT Council authorizes the issuance of Development Variance Permit No. DVP15-0039, for Lot 7, DL 14, O.D.Y.D., Plan 1141, located on 2422 Richter Street, Kelowna, BC;

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

**Section 13.6.6(e): Development Regulations:**

To vary the rear yard setback from 7.5m required to 2.9m proposed.

AND FURTHER THAT this Development Variance Permit be valid for two (2) years from the date of Council approval, with no opportunity for extension.

**Carried**

**7.6 1539-1541 Bedford Avenue, 1507-1511 Dickson Avenue and 1517-1521 Dickson Avenue, BL11051 (Z14-0050) - Dickson Avenue Holdings Ltd.**

Moved By Councillor DeHart/Seconded By Councillor Singh

**R327/15/04/28** THAT Bylaw No. 11051 be adopted.

**Carried**

**7.7 1539-1541 Bedford Avenue, 1507-1511 Dickson Avenue & 1517-1521 Dickson Avenue, DP14-0197 & DVP14-0195 - Dickson Avenue Holdings Ltd.**

Staff:

- Provided a PowerPoint Presentation summarizing the presentation.

The Deputy City Clerk advised that the following correspondence was received:

Letters of Opposition or Concern  
David & Shirley Carter, Dunn Street  
James S. & Chika Phillips, Burtch Road

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

Jim Meiklejohn, Ellis Street, Applicant

- Spoke to the site plan drawing and rendering.
- Requested site coverage partly to accommodate townhouses brought forward of the parkade to the sidewalk for better connection with the street.
- Contained parking on site to avoid variances for parking. Micro suites require one stall.
- Spoke to variances and why they are warranted.

Council:

- Commented that they would like to see a parking study in the area.
- Believe amenity deck is imperative with micro suites.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Given

**R328/15/04/28** THAT Final Adoption of Zoning Amending Bylaw No. 11051 be considered by Council;

AND THAT Council authorize the issuance of Development Permit DP14-0197 for Lot 2-4, District Lot 141, ODYD, Plan 13608, located on 1539-1541 Bedford Ave, 1507-1511 Dickson Ave, & 1517-1521 Dickson 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. That 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;

AND THAT Council authorize the issuance of Development Variance Permit DVP14-0195 for Lots 2-4, District Lot 141, ODYD, Plan 13608, located on 1539-1541 Bedford Ave, 1507-1511 Dickson Ave, & 1517-1521 Dickson Ave, Kelowna, BC, subject to the following:

**Section 13.11.6 (d) RM5 Development Regulations:**

To vary the front yard setback for a patio from 1.5m required to 1.0m proposed.

**Section 13.11.6 (e) RM5 Development Regulations:**

To vary the side yard setback for the parkade from 4.5m required to 1.5m proposed.

**Section 13.11.6 (f) RM5 Development Regulations:**

To vary the rear yard setback for the parkade from 9.0m required to 3.0m proposed.

**Section 13.11.6 (b) RM5 Development Regulations:**

To vary the site coverage of building from 40% required to 66.3% proposed.

**Section 13.11.6 (b) RM5 Development Regulations:**

To vary the site coverage of buildings, driveways & parking from 65% required to 78.5% proposed.

AND FURTHER THAT this Development Permit and Development Variance Permit be valid for two (2) years from the date of Council approval, with no opportunity to extend.

**Carried**

8. Reminders - Nil.

9. Termination

The meeting was declared terminated at 9:35 p.m.

\_\_\_\_\_  
Deputy Mayor

/acm

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Deputy City Clerk