

Regular MeetingFebruary 21, 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, February 21st, 2012.

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

Council member absent: Luke Stack

Staff members in attendance were: Acting City Manager, John Vos; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; Development Services Manager, Steve Muenz and Council Recording Secretary, Arlene McClelland.

(* denotes partial attendance)

The meeting recessed at 11:12 p.m. The meeting reconvened at 11:20 p.m.

1. CALL TO ORDER

Mayor Gray called the meeting to order at 11:20 p.m.

2. A Prayer was given by Councillor Given.

3. CONFIRMATION OF MINUTES

Regular AM Meeting - February 6, 2012
 Regular PM Meeting - February 6, 2012
 Public Hearing - February 7, 2012
 Regular Meeting - February 7, 2012
 Regular AM Meeting - February 13, 2012
 Regular PM Meeting - February 13, 2012

Moved by Councillor Basran/Seconded by Councillor Zimmermann

R178/12/02/21 THAT the Minutes of the Regular Meetings of February 6, 2012 and February 7, 2012 and February 13, 2012 and the minutes of the Public Hearing of February 7, 2012 be confirmed as circulated.

Carried

4. Councillor Basran 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. 10650 (Z11-0058) - Citizen Management Ltd. (CTQ Consultants Ltd.) - 3327 Lakeshore Road

Moved by Councillor Blanleil/Seconded by Councillor Basran

R179/12/02/21 THAT Bylaw No. 10650 be read a second and third time.

Carried

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- 5.2 Bylaw No. 10651 (Z11-0087) - Sheldon and Heather Upshaw (IHS Designs Ltd.) - 1401 Appleridge Road

Moved by Councillor Basran/Seconded by Councillor Blanleil

R180/12/02/21 THAT Bylaw No. 10651 be read a second and third time.

Councillors Zimmermann, Singh, DeHart, Blanleil, Hobson, Basran - Defeated
- Opposed

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

Moved by Councillor Blanleil/Seconded by Councillor Basran

R181/12/02/21 THAT Bylaw No. 10652 be read a second and third time.

Carried

- 5.4 Bylaw No. 10653 (Z11-0030) - Risso Estates Ltd. (Troika Developments Ltd.) - 1013 Barnes Avenue
To rezone the subject property from the A1 - Agriculture 1 zone to RM3 - Low Density Multiple Housing zone and the RM5 - Medium Density Multiple Housing zone.

Moved by Councillor Given/Seconded by Councillor Zimmermann

R182/12/02/21 THAT Bylaw No. 10653 be read a second and third time.

Carried

Moved by Councillor Hobson/Seconded by Councillor Blanleil

THAT Council direct staff to tie the timing of construction of the Mission Springs Drive extension to the occupancy permit for the RM5 construction.

Carried

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

7. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

7. LIQUOR LICENSE APPLICATION REPORTS

- 7.1 Land Use Management Department, dated January 27, 2012 re: Liquor Licensing Application No. LL11-0015 - 456288 BC Ltd. (Fernando's Taqueria) - 279 Bernard Avenue 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 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.

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Louis Drummond, Applicant:

- Acknowledged that staff summarized the proposal well.
- The Liquor Primary License would provide more opportunities for live entertainment.
- Would be catering to individuals 25 to 35 years old.

Gallery:

Wes Rosow, 279B Bernard Avenue

- Has lived directly above the pub for 12 years. Has renovated the suite and considers it home.
- Had not been made aware of this application.
- Concerned with extension of hours as it will be intolerable. Has been tolerant on many occasions but would be intolerable on a daily basis.
- Prefer if it were to continue as a restaurant.
- As a resident I have assisted RCMP with crimes going on in the neighbourhood.
- Opposed to this application.

Dustin Sergeant, 596 Leon Avenue

- Became aware of this application from the DP hanging in the window.
- Supports this application.

Louis Drummond, Applicant:

- Sound proofing would be impossible.
- The tenant has been obliging but we do not have to ask his permission to stay open late.
- Many other business owners acknowledged they were supportive of the application.
- Landlords had been made aware of our plan since last summer.
- Confirmed that with the current food primary licence the business could stay open 24 hours.
- Plan to have four to six full size live acts that would play from 9:00 to 11:00 p.m.

Moved by Councillor Blanleil/Seconded by Councillor Basran

R183/12/02/21 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 Fernando's Taqueria at 279 Bernard Avenue, Kelowna BC, (legally described as the easterly 26 feet of Lot 12, Block 13, District Lot 139, ODYD, Plan 462) for a Liquor Primary license with a capacity of 88 persons and hours of service from 10:00am-2:00am daily are as follows:

- a) **The location of the establishment:**
The property is located within the Downtown core, and is suitable for the proposed small-scale Liquor Primary license.
- b) **The proximity of the establishment to other social or recreational facilities and public buildings:**
No negative impact on surrounding facilities/buildings is anticipated.
- c) **The person capacity and hours of liquor service of the establishment:**
The capacity and hours are deemed appropriate based on other establishments in the immediate area.
- d) **The number and market focus of liquor-primary license establishments within a reasonable distance of the proposed location:**
The size and focus of the establishment would compliment existing establishments in the Downtown area.

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- e) **The impact of noise on the community in the immediate vicinity of the establishment:**
Only incremental changes in noise impacts are anticipated compared to the existing Food Primary operation. The potential for noise would be compatible with surrounding land uses.
- f) **The impact on the community if the application is approved:**
The proposed license would add to the continued development of a safe, vibrant Downtown area.
- g) **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."
- h) **Recommendation:**
Council recommends that the application for a Liquor Primary license be approved.

Carried

8. DEVELOPMENT PERMIT AND DEVELOPMENT VARIANCE PERMIT REPORTS

- 8.1 Land Use Management Department, dated January 19, 2012 re: Development Variance Permit Application No. DVP11-0190 - Wesley John Romaniuk (Worman Resources) - 38 Altura 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 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.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Blanleil

R184/12/02/21 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0190, for Lot 2, Sec. 32, Twp. 26, O.D.Y.D., Plan 35716, located on Altura Road , Kelowna, BC;

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

Section 6.5.8(a) Accessory Buildings in Residential Zones:

To vary the minimum front yard setback to an accessory building located in front of the principal dwelling, from twice the front yard setback (12.0m) required to 6.7 m proposed (as per Schedule "A").

Carried

- 8.2 Land Use Management Department, dated January 19, 2012 re: Development Variance Permit Application No. DVP11-0208 - Caroline Johanna Loesgen - 4634 Fordham 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.

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Staff:

- Advised that the Applicant was unable to attend.

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.

There were no further comments.

Moved by Councillor Blanleil/Seconded by Councillor Zimmermann

R185/12/02/21 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0208, for Lot A, DL 357, O.D.Y.D., Plan KAP53565, located on Fordham Road, Kelowna, BC;

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

Section 6.5.8(b) Accessory Development:

To vary the minimum south side yard setback to an accessory building from 1.0 m required to 0.91 m proposed (as per Schedule "A").

Carried

- 8.3 Land Use Management Department, dated January 24, 2012 re: Development Variance Permit Application No. DVP11-0210 - Peter and Lori Enright (Mullins Drafting and Design) - 2130 Capistrano Crescent 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:

Letter of Opposition:

Catherine and Gordon Kovacik, 2153 Capistrano Crescent

Mayor Gray 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 comment.

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R186/12/02/21 THAT Council authorize the issuance of Development Variance Permit No. DVP11-0210, for Lot 140, Section 15, Township 23, ODYD Plan KAP52925, located on Capistrano Crescent, Kelowna, BC;

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

Section 13.1.6(c): Development Regulations

To vary the required front yard from 6.0m to 2.0m proposed.

Carried

8.4 (a) **BYLAW PRESENTED FOR SECOND AND THIRD READINGS AND ADOPTION**

Bylaw No. 10646 (OCP11-0017) - TrILERMASTER Inc. and Canalta Real Estate Services Ltd. (DE Pilling & Associates Ltd.) - 3865-3867 Highway 97 and 2170 Rutland Road - Requires a majority of all Members of Council (5)

Moved by Councillor Given/Seconded by Councillor Zimmermann

R187/12/02/21 THAT Bylaw No. 10646 be read a second and third time and be adopted.

Carried

- (b) Land Use Management Department, dated January 9, 2012, re: Temporary Use Permit Application No. TUP11-0002 - TrILERMASTER Inc. and Canalta Real Estate Services Ltd. (DE Pilling & Associates Ltd.) - 3865-3867 Highway 97 and 2170 Rutland Road

Moved by Councillor Blanleil/Seconded by Councillor Zimmermann

R188/12/02/21 THAT Council authorizes the issuance of Temporary Use Permit No. TUP11-0002 to temporarily allow the use of "automotive and minor recreation vehicle sales/rental" for Lot A, Section 35, Township 26, O.D.Y.D., Plan 6372, located on Rutland Road, Kelowna, BC and for Lot B, Section 35, Township 26, O.D.Y.D., Plan 6372, located on Hwy 97, Kelowna, BC as shown on Map 'A' attached to the report of the Land Use Management Department, dated January 9, 2012 subject to the following condition:

- a) That a hard, dust free surface be maintained for this site.

Carried

9. REMINDERS

10. TERMINATION

The meeting was declared terminated at 12:35 a.m.

Certified Correct:

Mayor

City Clerk

ACM/dld