



City of Kelowna Regular Council Meeting Minutes

Date: Tuesday, February 2, 2016
Location: Council Chamber
City Hall, 1435 Water Street

Council Members Present: Mayor Colin Basran and Councillor Maxine DeHart*, Ryan Donn, Gail Given, Tracy Gray, Charlie Hodge, Brad Sieben, Mohini Singh and Luke Stack

Staff Present: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Community Planning Department Manager, Ryan Smith; Urban Planning Manager, Terry Barton, Divisional Director, Community Planning & Real Estate, Doug Gilchrist*; Legislative Systems Coordinator, Sandi Horning

(* denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 7:13 p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor Singh.

3. Confirmation of Minutes

Moved By Councillor DeHart/Seconded By Councillor Gray

R086/16/02/02 THAT the Minutes of the Public Hearing and Regular Meeting of January 19, 2016 be confirmed as circulated.

Carried

4. Bylaws Considered at Public Hearing

- 4.1 160 Gibbs Road West, BL11183 (Z15-0055) - Lance Johnson & Tracey Skulmoski

Moved By Councillor Gray/Seconded By Councillor Hodge

R087/16/02/02 THAT Bylaw No. 11183 be read a second and third time.

Carried

- 4.2 150 Homer Road, BL11186 (OCP15-0004) - The BC Muslim Association

Moved By Councillor Hodge/Seconded By Councillor Gray

R088/16/02/02 THAT Bylaw No. 11186 be read a second and third time.

Carried

- 4.3 150 Homer Road, BL11187 (Z15-0018) - The BC Muslim Association

Moved By Councillor Given/Seconded By Councillor Donn

R089/16/02/02 THAT Bylaw No. 11187 be read a second and third time.

Carried

5. Notification of Meeting

The City Clerk advised that Notice of Council's consideration of these Development Variance Permit Applications was given by sending out or otherwise delivering 150 statutory notices to the owners and occupiers of surrounding properties, and 2666 informational notices to residents in the same postal delivery route, between January 19 and 22, 2016.

Notice of these amendments to Liquor Primary Licences were advertised by being posted on the Notice Board at City Hall on January 19, 2016, and by being placed in the Kelowna Capital News issues on January 22 and 27, 2016 and by sending out or otherwise delivering 15 statutory notices to the owners and occupiers of surrounding properties, and 508 informational notices to residents in the same postal delivery route, between January 19 and 22, 2016.

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

- 6.1 275 Leon Avenue, LL15-0023 - 1568447 Alberta Ltd.

Staff:

- Displayed a PowerPoint presentation summarizing the application before Council and responded to questions from Council.

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

Letters of Opposition:

- Karen Bylsma, Water Street
- Melanie Humphreys, Rosemead
- Jessi Neuhauser, Water Street

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

Carly Wilson, Owner, The Level Night Club, Applicant's Representative:

- Provided the rationale for the increase in capacity, including the patio area, as well as the change in hours of operation.
- Advised that the request for the change in hours of operation is event-driven.
- Responded to questions from Council.

Burt Hick, Rising Tide Consultants, Applicant's Representative:

- Provided further rationale for the application before Council.
- Displayed a copy of the floor plan for the site and indicated the location of the patio.
- Responded to questions from Council.
- Confirmed that the patio is part of the overall capacity of the nightclub.

Staff:

- Responded to questions from Council.

There were no further comments.

Moved By Councillor Hodge/Seconded By Councillor Donn

R090/16/02/02 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 No. 359, BE IT RESOLVED THAT:

1. Council recommends support of an application from The Level Night Club for a liquor primary license agreement for Lot 1, DL139, ODYD, Plan 32713, located at 275 Leon Avenue, Kelowna, BC for changes to the licensed hours of sales from the current 7:00 pm to 2:00 am seven (7) days a week to the proposed 11:00 am to 2:00 am seven (7) days a week for the following reasons:

2. Council's comments on LCLB's prescribed considerations are as follows:

Criteria for license amendment:

- a) The potential for noise if the application is approved:
There is a potential for negative impacts to public safety and policing costs.
 - b) The impact on the community if the application is approved:
There is a potential for negative community impacts and policing costs.
3. Council's comments on the views of the residents are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather view of residents were as per Council Policy No. 359 "Liquor Licensing Policy and Procedures."

Carried

Moved By Councillor Hodge/Seconded By Councillor Singh

R091/16/02/02 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 No. 359, BE IT RESOLVED THAT:

1. Council recommends support of an application from The Level Night Club for a liquor primary license agreement for Lot 1, DL139, ODYD, Plan 32713, located at 275 Leon Avenue, Kelowna, BC for an extension of the current occupant load of 464 persons to include the existing patio area for the following reasons:
2. Council's comments on LCLB's prescribed considerations are as follows:
Criteria for license amendment:
 - a) The potential for noise if the application is approved:
There is a potential for negative impacts to public safety and policing costs.
 - b) The impact on the community if the application is approved:
There is a potential for negative community impacts and policing costs.
3. Council's comments on the views of the residents are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather view of residents were as per Council Policy No. 359 "Liquor Licensing Policy and Procedures."

Carried

Moved By Councillor Hodge/Seconded By Councillor Stack

R092/16/02/02 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 No. 359, BE IT RESOLVED THAT:

1. Council recommends support of application from The Level Night Club for a liquor primary license agreement for Lot 1, DL139, ODYD, Plan 32713, located at 275 Leon Avenue, Kelowna, BC for a change in capacity from the current occupant load of 464 persons to the proposed 500 persons for the following reasons:
2. Council's comments on LCLB's prescribed considerations are as follows:
Criteria for license amendment:
 - a) The potential for noise if the application is approved:
There is a potential for negative impacts to public safety and policing costs.
 - b) The impact on the community if the application is approved:
There is a potential for negative community impacts and policing costs.
3. Council's comments on the views of the residents are as contained within the minutes of the meeting at which the application was considered by Council.

The methods used to gather view of residents were as per Council Policy No. 359 "Liquor Licensing Policy and Procedures."

Defeated
Councillors DeHart, Given, Gray, Singh & Stack - Opposed.

7. Development Permit and Development Variance Permit Reports

7.1 125 Dundas Road & 815 Highway 33 W, BL11165 (Z15-0046) - Unico One Developments Ltd.

Moved By Councillor Sieben/Seconded By Councillor Singh

R093/16/02/02 THAT Bylaw No. 11165 be amended at third reading by deleting the legal description that reads "Lot A, Section 22, Township 26, ODYD, Plan 19344 except Plan 39372" and replacing it with a new legal description "Lot 1, Section 22, Township 26, ODYD, Plan EPP51775.

Carried

Moved By Councillor Sieben/Seconded By Councillor Singh

R094/16/02/02 THAT Bylaw No. 11165 be adopted as amended.

Carried

7.2 125 Dundas Road, DP15-0197 & DVP15-0198 - Unico One Developments Ltd.

Staff:

- Displayed a PowerPoint presentation summarizing the application before Council and responded to questions from Council.

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

Letters of Opposition:

- Lynda Reis, Cupar Road
- Michael Du Mont, for Strata Plan KAS3297, Barber Road
- Jillian Cornock, Houghton Road
- Don and Betty-Anne Cornock, Dundee Road
- Indrajith & Jacqueline de Silva, Barber Road
- Jackie Wynsouw, Barber Road

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

David Hallonquist, Unico One Developments Ltd., Applicant's Representative:

- Displayed a PowerPoint presentation summarizing the proposed development and the requested variances.
- Advised that the proposal is focused on purpose-built student housing.
- Responded to questions from Council.

Dave Cullen, CTQ Consulting, Applicant's Representative:

- Spoke to the potential for an additional crosswalk on Highway 33.
- Responded to questions from Council.

Gallery:

Brenda Lawrence, Barber Road

- Raised concerns over proximity of the development to her strata property.
- Raised a concern with noise.
- Raised a concern with the parking variance.
- Expressed a concern that the students will jaywalk and not use the crosswalk at Hollywood Road.

Tara Longfellow, Chilliwack, BC

- Owns a nearby property that is currently rented by her son and friends of her son that are attending UBC-O.
- Raised a concern with the parking variance.
- Raised concerns with the setback variances and the impacts on privacy and noise.
- Raised concerns with pedestrian safety.

Stephen Morneault, Dundas Road

- Opposed to the variances.
- Raised concerns with noise and the parking variance.
- Expressed a concern with the congestion on Highway 33.

David Hallonquist, Unico One Developments Ltd., Applicant's Representative:

- Responded to the concerns raised by the interveners.
- Will be erecting a landscape buffer to alleviate any noise or privacy concerns.
- Confirmed that there will be no balconies on the building.

There were no further comments.

Moved By Councillor Given/Seconded By Councillor Stack

R095/16/02/02 THAT Final Adoption of Zoning Amending Bylaw No. 11165 be considered by Council;

AND THAT Council authorize the issuance of Development Permit DP15-0197 for Lot 1, Section 22, Township 26, ODYD, Plan EPP51775, located on 125 Dundas Road, 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 to 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 authorizes the issuance of Development Variance Permit DVP15-0198 for Lot 1, Section 22, Township 26, ODYD, Plan EPP51775, located on 125 Dundas Road, Kelowna, BC.

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

Section 13.11.6 Development Regulations

To vary the maximum site coverage from 40% permitted to 43.05% proposed in sub-paragraph (b);

To vary the side yard setback from 7.0m permitted to 5.2m proposed in sub-paragraph (e); and

To vary the rear yard setback from 9.0m permitted to 7.1m proposed in sub-paragraph (f)

Section 8.1.11 (b) Size and Ratio

To increase the maximum percentage of small sized parking stalls from 10% permitted to 18.5% 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 and Development Variance Permit be valid for two (2) years from the date of Council approval, with no opportunity to extend.

Carried
Councillor Hodge - Opposed.

Moved By Councillor Donn/Seconded By Councillor Sieben

R096/16/02/02 THAT Council directs staff to conduct a workshop on the Payment in Lieu of Parking Bylaw and Policy.

Carried

7.3 732 Highpointe Place, DVP15-0271 - JSI Supply Inc.

Staff:

- Displayed a PowerPoint presentation summarizing the application before Council and responded to questions from Council.

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

Letters of Support:

- Navi Kandola (Bal), Highpointe Place
- Jill Douglas, Stonepointe Court
- Brad and Zozana Pederson, Highpointe Court
- Andrew Brennan, Rockcliffe Place
- Patricia Shevchuk, Highpointe Place
- Scott Linttell, Stonepointe Court
- Tara Sullivan-Woll, Stonepointe Court
- Jim Meiklejohn, Meiklejohn Homes, Edith Gay Road

Letters of Opposition or Concern:

- Garry Lapointe, KeyPointe Group, Rockcliffe Place
- Kelly Cairns, Thomas Butler LLP (on behalf of Greg Ducharme, owner of S.L. 26), Dolphin Avenue

- Norbert and Regina Bernoth, Rockcliffe Place
- Kelli and Greg Ducharme, Highpointe Place
- Pihl Law Corporation (on behalf of Garry and Lisa Lapointe, owner of property on Rockcliffe Place), Ellis Street
- Richard and Shelly Hanson, Tucker Court

Letter of Comment:

- John Hampton, President, Highpointe Strata Council, St. Paul Strett

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

Dave Shevchuk, JSI Supply Inc., Applicant:

- Provided the rationale for the requested variance.
- Spoke to the steep topography of the lot.
- Advised that it will be a 2-storey dwelling on 3 of the sides.

Gallery:

Jim Meiklejohn, Edith Gay Road

- Spoke to the challenges of building in this subdivision.
- Believes that the design is spectacular and beneficial to the neighbourhood.
- The Building Scheme for the subdivision is very strict.

Gary & Lisa Lapointe, Rockcliffe Place

- Expressed a concern for the lack of consideration for the surrounding neighbours.
- Raised a concern that the building does not fit the lot.
- Believes that the height variance is required in order to provide a better view for the owner.
- Believes that this will set a precedent in the neighbourhood.
- Inquired how the height/grade is determined.
- Raised concerns with actual percent of grade and how building is shown in "subject property elevations" drawings. Suggested that the drawings submitted are not accurate.
- Opposed to the variance.
- Responded to questions from Council.

Staff:

- Responded to questions from Council.

Norbert & Regina Bernoth, Rockcliffe Place

- Opposed to the height variance.
- The change in height will negatively impact the views of three neighbours.
- Believes that the height variance is requested to improve the owner's view.
- Does not believe that all of the residents were contacted regarding the height variance.
- Does not believe that the slope is as bad as was said.
- Relying on the Building Scheme to protect building height in the subdivision.

Richard Hanson, Owner of Lot 28 Highpointe Place

- Was contacted by the Applicant regarding a patio door rather than a height variance.
- Believes that the only reason for the height variance is so the Applicant can have a better view.
- The height will negatively impact the neighbours.

Dave Shevchuk, JSI Supply Inc., Applicant:

- Responded to concerns raised by the interveners.

Trevor Beatty, Designer, Harrison Court, Applicant's Representative:

- Confirmed that the house is not being lifted for the view.
- Confirmed that the lot grades have not been changed and that the lot was surveyed twice to confirm the grades.
- Explained the topography of the site.
- Provided the rationale for the design of the house.
- Responded to questions from Council.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Donn

R097/16/02/02 THAT Council authorizes the issuance of Development Variance Permit No. DVP15-0271 for Strata Lot 27 Section 30 Township 26 ODYD Strata Plan KAS3162, together with an interest in the common property in proportion to the unit entitlement of the Strata Lot as shown on Form V, located at 732 Highpointe Place, Kelowna, BC;

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

Section 13.1.6(b): RU1 - Large Lot Housing Development Regulations
To vary the height of the building from 9.5 m maximum to 12.19 m proposed.

Carried

7.4 3657 Highway 97 N, BL10934 (Z13-0037) - Raul Holdings Ltd.

Moved By Councillor Singh/Seconded By Councillor Stack

R098/16/02/02 THAT Bylaw No. 10934 be adopted.

Carried

7.5 3657 Highway 97 N, DP13-0159 & DVP13-0160 - Raul Holdings Inc.

Staff:

- Displayed a PowerPoint presentation summarizing the application before Council.

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

Mayor Basran 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 come forward.

Moved By Councillor Given/Seconded By Councillor Gray

R099/16/02/02 THAT in accordance with Development Application Procedures Bylaw No. 10540, the deadline for the adoption of Zone Amending Bylaw No. 10934 (Z13-0037, Raul Holdings Inc, 3657 Hwy 97N), be extended from April 15, 2015 to January 19, 2016;

AND THAT final adoption of Zone Amending Bylaw No. 10934 be considered by Council;

AND THAT Council authorizes the issuance of Development Permit No. DP13-0159 for Lot A, Section 35, Township 26, ODYD Plan 19674 Except Plan 23587 located on 3657 Hwy 97N, Kelowna, BC subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land, be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City, a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP13-0160, for Lot A, Section 35, Township 26, ODYD Plan 19674 Except Plan 23587, located on 3657 Hwy 97N, Kelowna, BC;

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

Section 7: 7.6.1 Minimum Landscape Buffers

To vary level 5 landscape buffer against ALR lands required to Level 1 buffer 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 and Development Variance Permit Application in order for the permit to be issued.

Carried

8. Reminders

8.1 Mayor Basran re: Toronto Animation Arts Festival International - April 22-24, 2016

Moved By Councillor Donn/Seconded By Councillor Singh

R100/16/02/02 THAT Council authorizes the Mayor to travel to attend the Toronto Animation Arts Festival International from April 22 - 24, 2016, with expenses up to a maximum of \$2,000.00, to be paid in accordance with Council Remuneration and Expense Bylaw No. 7547.

Carried

8.2 Mayor Basran re: BC Mayors Caucus Steering Committee Meeting - May 2 & 3, 2016

Moved By Councillor Hodge/Seconded By Councillor DeHart

R101/16/02/02 THAT Council authorizes the Mayor to travel to Fort St. John to attend the BC Mayors Caucus Steering Committee meeting on May 2 & 3, 2016, with expenses up to a maximum of \$1,500.00, to be paid in accordance with Council Remuneration and Expense Bylaw No. 7547.

Carried

8.3 City Clerk re: FCM Board Meetings in 2018 - Request for Interest in Hosing

Councillor DeHart declared a conflict of interest as she is employed in the hotel/motel industry and left the meeting at 10:44 p.m.

City Clerk:

- Advised that FCM is inquiring whether or not the City of Kelowna would like to host a 2018 FCM Board meeting.
- Advised that the meetings would be held in March or September of 2018 and that there are commitments from the City that will need to be agreed to.
- The deadline to apply for 2018 is February 16, 2016.
- Responded to questions from Council.

Council:

- Agreed that hosting in 2018 is not feasible as 2018 is an election year.

9. Termination

The meeting was declared terminated at 10:48 p.m.

Mayor

City Clerk

/slh