



City of Kelowna Regular Meeting Minutes

Date: Tuesday, June 22, 2021
Location: Council Chamber
City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart*, Ryan Donn, Gail Given, Brad Sieben* and Loyal Wooldridge

Members participating remotely Councillors Charlie Hodge, Mohini Singh and Luke Stack

Staff Present City Manager, Doug Gilchrist*; City Clerk, Stephen Fleming; Divisional Director, Planning & Development Services, Ryan Smith; Community Planning & Development Manager, Dean Strachan*; Development Planning Department Manager, Terry Barton*; Planner, Aaron Thibeault*; Legislative Technician, Rebecca Van Huizen

Staff participating remotely Legislative Coordinator (Confidential), Arlene McClelland

(* Denotes partial attendance)

1. Call to Order

Mayor Basran called the meeting to order at 7:40 p.m.

2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor DeHart.

3. Confirmation of Minutes

Moved By Councillor Donn/Seconded By Councillor Hodge

R0632/21/06/22 THAT the Minutes of the Public Hearing and Regular Meeting of June 1, 2021 be confirmed as circulated.

Carried

4. Liquor License Application Reports

4.1 START TIME 6:40 PM - Richter St 1080-1090 - LL20-0009 - Bromaxx Property Group Ltd., Inc. No. BC1021305

Councillor Sieben declared a conflict of interest due to being a shareholder in BNA Brewing Company and close proximity of the application and departed the meeting at 7:42 p.m.

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Andrew Seminiuk and Powell Maxfield, Applicant

- Present and available for questions.
- Responded to questions from Council.

Mayor Basran invited anyone participating online who deemed themselves affected to indicate they wish to speak followed by comments from Council.

Online Participants:

Martin Weilmeier, Kelowna Badminton Club

- Referenced previously submitted correspondence.
- Raised concerns with parking and how such an expansion will affect parking in the area.
- Responded to questions from Council.

Andrew Seminiuk and Powell Maxfield, Applicant

- Unaware of previous parking concerns from the Badminton Club.
- There are other influences in the area that can affect parking.
- Responded to questions from Council.

Staff:

- Responded to questions from Council.

City Manager joined the meeting at 8:10 p.m.

Moved By Councillor Donn/Seconded By Councillor Wooldridge

R0633/21/06/22 THAT Council directs Staff to forward the following Recommendation to the Provincial Liquor and Cannabis Regulation Branch (LCRB):

In accordance with Section 53 of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council recommends support of an application from Red Bird Brewing for a special event area endorsements/license amendment for Lot 1 District Lot 139 ODYD, Plan 7858, located at 1080-1090 Richter Street, Kelowna, BC for the following reasons:
2. Council's comments on LCLB's prescribed considerations are as follows:

a. The location of the lounge/special event area:

The property is located adjacent to Recreation Avenue Park but is not in close proximity to any residential uses other than 740 Clement Ave / 1195 Richter St (zoned for mixed-use residential/commercial) which is located approximately 160.0 m to the south. There are a number of other existing breweries and distilleries in the area. The location of the subject property is suitable for an increase to the existing lounge/special event area liquor service capacity.

b. The proximity of the lounge/special event area to other social or recreational facilities and public buildings:

The subject property is located adjacent to Recreation Avenue Park which includes recreational facilities and public buildings. The liquor service area proposed for the site predominantly faces Richter St and the building location and orientation on-site

provides a natural buffer to Recreation Avenue Park. Furthermore, a public lane is located in between the rear of the buildings which naturally help to buffer the on-site uses from the park. The potential for negative impacts on the adjacent park is considered to be minimal.

c. The person capacity of the lounge/special event area:

The application is to increase the approved establishment capacity from 99 persons existing to 500 persons proposed. The expansion involves a large majority of the site, including both interior and exterior spaces. With the expansion, the capacity would increase by 401 persons in total. The existing liquor service will be removed from the existing building and relocated to the rear building on-site and include an expansion of the seasonal patio space.

d. Traffic, noise, parking and zoning:

Expanding the existing liquor service for the site to include an additional liquor licence capacity of 401 persons will increase the potential conflict for traffic, noise, and parking demand. Of the 500-person capacity proposed, 314 persons would be for the outdoor seasonal (march-sept) patio space with the additional 186 persons being for the interior of the building which will remain open during all 12-months of the year.

e. The impact on the community if the application is approved:

Due to the fairly large exterior seasonal patio space capacity proposed, Staff have some concerns regarding the potential impact noise could have on the surrounding area and the largely single-family residential properties situated to the north of the site and at the base of Knox Mountain Park. The applicants have been operating on the subject site since 2017, have hosted a number of outdoor events and have had minimal impact on the surrounding community to date. It is expected that the applicants will manage noise complaint issues as best they can. Additionally, there are a number of other existing brewery and distilleries in the area which also incorporate exterior seasonal patio spaces in a range of sizes and capacities.

Liquor Service Hours Change Proposed

The applicants are proposing to amend the existing liquor service hours from 12:00pm opening Sunday-Saturday, to 9am opening Sunday-Saturday and will close at the same time as existing (midnight) 7 days a week. The applicants intend to open the establishment 3 hours earlier than they do currently to be able to provide a breakfast service with liquor consumption.

3. Council's comments on the views of residents 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 and Procedures."

Carried

Councillor Sieben rejoined the meeting at 8:16 p.m.

5. Development Permit and Development Variance Permit Reports

5.1 START TIME 6:40 PM - Baron Rd 2125 - TUP21-0001 - Victor Projects Ltd

Staff:

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

Nola Kilmartin, WSP Canada Group and Brian Menzies, Construction Project Manager, Applicant

- Shared a PowerPoint Presentation.
- Provided rationale for crushing on site; noting fewer truck trips reduce road congestion and improves safety around the site.
- Material found on site will be crushed; rocks will not be brought on site for crushing.
- The goal is to have maximum separation distance to residents; spoke to potential decibel levels at different distances to residential buildings.
- Provided information on the order of operations and dust mitigation efforts.
- Spoke to noise and subject to Noise Bylaw restrictions.
- Spoke to public consultation with residents and businesses in the area.
- Responded to questions from Council.

Mayor Basran invited anyone participating online who deemed themselves affected to indicate they wish to speak followed by comments from Council.

Online Participants:

Stuart Rosove, Durnin Road Bristol Gardens

- Opposed to the application.
- Raised concern with additional materials being brought on site that need to be crushed and dust particles.
- Raised concern with noise impacts and noted that many residents work from home.
- Responded to questions from Council.

Bill Doyle, Durnin Road, Briston Gardens

- In support of the application.

Ron Ready, Leckie Road

- Opposed to the application.
- Raised concern with amount of dust being deposited on nearby properties and believes there is inadequate water sources to mitigate the dust.
- Raised concern with ground vibration disturbance.
- Questioned why the rocky soil conditions were not recognized earlier.

Nola Kilmartin, and Brian Menzies, Applicant

- Importing of material is not the intent, crusher to process by product of what is on site only.
- Responded to questions from Council.

There were no further comments.

Moved By Councillor Given/Seconded By Councillor Donn

R0634/21/06/22 THAT Council authorizes the issuance of Temporary Use Permit No. TUP21-0001 to allow the operation of a mobile rock crusher for Lot A District Lot 126 ODYD, Plan EPP110834, located at 2125 Baron Road, Kelowna, BC for a three (3) month period commencing from Council approval subject to the following conditions:

- a. The duration of the Temporary Use Permit Application TUP21-0001 shall be for a total of three (3) months.
- b. The siting and location of the mobile rock crusher to be in accordance with Schedule "A".

AND FURTHER THAT any application to extend the permit must be approved by Council prior to this permit expiring.

Carried

Councillors Hodge and Wooldridge - Opposed

5.2 START TIME 7:20 PM - Uplands Crt 377 - DVP21-0003 - Dale and Kimberly Loewen

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Michele Watson, Uplands Court, Applicant

- Looking to expand the usable recreational space.
- Available for questions.

Mayor Basran invited anyone participating online who deemed themselves affected to indicate they wish to speak followed by comments from Council.

No one participating online indicated they wished to speak.

There were no further comments.

Moved By Councillor Sieben/Seconded By Councillor DeHart

Ro635/21/06/22 THAT Council authorizes the issuance of Development Variance Permit No. DVP21-0003 for Lot 1 Section 23 Township 28 SDYD Plan KAP66197, located at 377 Uplands Court, Kelowna, BC;

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

Section 7.5.9 – Landscaping and Screening, Fencing and Retaining Walls

To vary the maximum height of the retaining wall from 1.2 m required to 4.8m 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

5.3 START TIME 7:20 PM - Patterson Ave 664 - DVP21-0082 - Scott Carmen Wells and Hilary Evelyn Wells

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

The Applicant was not in attendance.

Mayor Basran invited anyone participating online who deemed themselves affected to indicate they wish to speak followed by comments from Council.

No one participating online indicated they wished to speak.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Given

Ro636/21/06/22 THAT Council authorizes the issuance of Development Variance Permit No. DVP21-0082 for Lot 2 District Lot 14 Osoyoos Division Yale District Plan 31764, located at 664 Patterson Avenue, Kelowna, BC;

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

Section 9.5b.1(g): Carriage House Regulations

To vary the maximum height of a carriage house to be higher than the height of the principal dwelling, as measured to the midpoint, to a maximum of 4.8 m.

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

5.4 START TIME 7:40 PM - Capozzi Rd 3838 - DP21-0014 DVP21-0015 - Aqua Resort LTD. Inc. No. BC0796165

Councillor DeHart declared a conflict of interest as the Applicant is in competition with her hotel employer and she owns two short term rental units downtown and departed the meeting at 9:30 p.m.

Staff:

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

Councillor Singh lost Teams connection at 9:46 p.m. and rejoined the meeting at 9:49 p.m.

Luke Turri, Mission Group Applicant

- Shared a PowerPoint Presentation.
- Spoke to the history of the development and recent delays due to Covid-19; the project has since been refined and believe it is better than originally presented in 2018.
- Spoke to the vision of Aqua as being a lakefront destination, waterfront village, community hub, highly accessible and a world class design.
- Shared an explanatory video presentation of the proposed site.
- Spoke to project improvements since 2018 approvals being reduced building massing; enhanced public realm and streetscaping; reimagined public plaza and porte cochere; public art mural and over \$2.5 million in new Park DCC's.
- Highlighted community benefits.
- Responded to questions from Council.

Mayor Basran invited anyone participating online who deemed themselves affected to indicate they wish to speak followed by comments from Council.

Online Participants:

Mark Jeanes, GM Eldorado Resort

- Referenced previously circulated correspondence.
- Opposed to the variances requested.
- Believes this development on this scale and massing is not in keeping with the lower mission area.
- Would like residents and business community to have a more public forum with stakeholders as this proposal will have a significant impact.
- Recommended the meeting for this item be deferred due to the time of evening and lack of public on-line.
- Responded to questions from Council.

Staff:

- Responded to questions from Council.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Wooldridge

Ro637/21/06/22 THAT Council authorizes the issuance of Development Permit No. DP21-0014 for Lot A Section 1 Township 25 ODYD Plan EPP92691, located at 3838 Capozzi Road, Kelowna, BC subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A,"

2. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";
3. Landscaping to be provided on the land be in 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 Registered Landscape Architect;

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP21-0015 for Lot A Section 1 Township 25 ODYD Plan EPP92691, located at 3838 Capozzi Road, Kelowna, BC;

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

Section 14.9.5l: C9 – Tourist Commercial Development Regulations

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

Section 14.9.5(d): C9 – Tourist Commercial Development Regulations

To vary the required minimum side yard from a flanking street from 4.5 m permitted to 0.0m proposed (Truswell Rd.).

Section 14.9.5(d): C9 – Tourist Commercial Development Regulations

To vary the required minimum side yard from 3.0m permitted to 0.0m proposed (Cook Rd. Boat Launch).

Section 8.2.10: Parking & Loading, Off-Street Parking Regulations, Numbers of Spaces

To vary the required minimum number of off-street parking spaces for Phase I of the project from 249 required to 233 proposed.

Section 14.9.6(f): C9 – Tourist Commercial Other Regulations

To vary the maximum height for boat storage from 6m and 1 tier of storage permitted to 20m and 4 tiers of storage proposed.

Section 14.9.5(b): C9 – Tourist Commercial Development Regulations

To vary the maximum height from 22.0m or 6 storeys permitted to 42m and 13 storeys; 46m and 15 storeys; and 54m and 17 storeys proposed.

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permit Application in order for the permits to be issued;

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

Carried
Councillor Donn - Opposed

6. **Reminders – Nil.**

7. **Termination**

The meeting was declared terminated at 10:45 p.m.

Mayor Basran

City Clerk

/acm