



## City of Kelowna Regular Council Meeting Minutes

Date: Tuesday, September 12, 2023  
Location: Council Chamber  
City Hall, 1435 Water Street

Members Present Mayor Tom Dyas, Councillors Ron Cannan\*, Maxine DeHart, Gord Lovegrove, Mohini Singh, Luke Stack, Rick Webber and Loyal Wooldridge

Members Participating Remotely Councillor Charlie Hodge\*

Staff Present City Manager. Doug Gilchrist; Deputy City Clerk, Laura Bentley; Divisional Director, Planning & Development Services, Ryan Smith; Urban Planning Manager; Jocelyn Black; Planner, Jason Issler\*; Planner, Tyler Caswell\*; Planner, Mark Tanner\*; Planner Specialist, Trisa Atwood\*; Legislative Technician, Natasha Beauchamp

Staff Participating Remotely Legislative Coordinator (Confidential), Clint McKenzie

(\* Denotes partial attendance)

### 1. Call to Order

Mayor Dyas called the meeting to order at 4:00 p.m.

### 2. Reaffirmation of Oath of Office

The Oath of Office was read by Councillor DeHart.

### 3. Confirmation of Minutes

Moved By Councillor Lovegrove/Seconded By Councillor Stack

THAT the Minutes of the Public Hearing and Regular Meeting of August 15, 2023 be confirmed as circulated.

**Carried**

Councillor Cannan joined the meeting at 4:02 p.m.

### 4. Call to order the Regular Meeting

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

## 5. Liquor License Application Reports

### 5.1 STARTTIME 4:00 PM - Bernard Ave 257-261 - LL23-0015 - Paramount Court Inc., Inc. No. Aoo86803

#### Staff:

- Displayed a PowerPoint Presentation summarizing the application and rationale for non-support.

#### PJ Leroux, Kestrel Pl, Vernon, Applicant

- Spoke to the brewery operations and the other craft breweries they operate across Canada.
- Not planning to change operations for hours or capacity.
- Operate as proposed in other provinces that don't have similar restrictions under food primary.
- Apply for patron participant endorsement 6 times per year for events and holidays.
- Commented on provincial regulations for food primary and liquor primary licences.
- Spoke to Council Policy 359 provisions and reduction to adhere to 500 or less capacity, existing rooftop patio, and proximity to other liquor licence holders.
- No bylaw complaints since operations began and no comments from RCMP on application.
- Rooftop use is seasonal.
- Commented on previous applications and decisions of Council.
- Liquor licence is specific to that operation.

Deputy City Clerk invited anyone participating online or in the gallery who deemed themselves affected to indicate they wish to speak followed by comments from Council.

#### Gallery:

#### David Habib, Stewart Rd E

- Owns property on Abbott St and owns and operates a business in the area.
- Commented on recent Liquid Zoo application and review of liquor policy.
- Spoke to representing the Standard Nightclub/Pub Association as the Chair. The latest meeting with the RCMP had limited representation from downtown businesses.
- Several issues RCMP deal with on Bernard Ave and with this establishment and others who don't have enough security.
- Spoke to the need for more security professionals when dealing with liquor primaries.
- Spoke to the need for a liquor policy review.

#### Daniel Mulgrew, Abbott St

- Owns and operates a food primary establishment on Lawrence Avenue.
- Previously spoke with City staff about similar licensing changes.
- More work to manage patrons than liquor primary due to restrictions.
- Spoke to their request for a liquor primary being declined.
- Compared operations on Lawrence Avenue to those on Bernard Avenue.

#### Applicant in Response:

- Spoke to each application needing to be considered separately.
- Will continue to operate as a restaurant. They are looking for more flexibility for corporate and other events beyond patron participation endorsement applications being applied for six times per year.
- Spoke to if there were RCMP complaints regarding their establishment, that the issues would be brought up during the application.
- Do not have any concerns with restrictions placed on dancing.

Staff responded to questions from Council.

The applicant responded to questions from Council.

There were no further comments.

Moved By Councillor Stack/Seconded By Councillor Wooldridge

THAT Council directs Staff to forward the following Recommendation to the Provincial Liquor and Cannabis Regulation Branch (LCRB):

In accordance with 'Division 9 (71)' of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council NOT recommend support of an application from Blue Diamond Hospitality Inc. for a Liquor Primary License, located at Parcel Z (Plan B5763) Block 13 District Lot 139 ODYD Plan 462, Kelowna, BC for the following reasons:
  - The application is contrary to Council Policy #359: Liquor Licensing Policy & Procedures for Liquor Primary (LP) Establishments;
  - The application is contrary to the 2040 Official Community Plan which indicates significant residential growth in the area;
  - The increase of noise and activity associated with a large rooftop Liquor Primary License may adversely affect current and future area residents;
1. Council's comments on LCLB's prescribed considerations are as follows:
  - a. The location of the establishment:  
The location is within the Downtown Urban Centre on Bernard Avenue which is intended for businesses with an entertainment focus.
  - b. The proximity of the establishment to other social or recreational facilities and public buildings:  
The location is in close proximity to several food primary establishments, liquor primary establishments and government buildings.
  - c. The person capacity and hours of liquor service of the establishment:  
The proposal does not seek changes to the current person capacity of 505 persons. The hours of the outdoor patio may affect nearby residents.
  - d. The number and market focus or clientele of liquor-primary license establishments within a reasonable distance of the proposed location:  
The 200 block of Bernard Ave contains several liquor primary businesses ranging in scale, hours, and focus.
- a. The impact of noise on the community in the immediate vicinity of the establishment:  
  
The potential impact for noise from the rooftop patio may be disruptive and would not be compatible with surrounding land uses.
- b. The impact on the community if the application is approved:  
  
The potential for negative impact on the community may increase due to the size, capacity, and hours of the establishment on the rooftop patio with the addition of Patron Participation Entertainment uses, which is contrary to Council Policy #359 which states that Patios associated with liquor establishments should be located and designed to limit potential impacts on surrounding property owners.

**Carried**

## 6. Temporary Use Permit

### 6.1 START TIME 4:00 PM - Gordon Dr 104-1111 - TUP23-0002 - Lakeside Land Development Corp., Inc. No. BCo797739

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Kendra Helene, Lucky Neko Tattoo Garage, Parkbridge Dr, Applicant

- Spoke to the development of their business as a tattoo studio.
- Spoke to finding a building that accommodates their needs and provides a safe space for staff and their clients.
- Unaware that personal services establishments were not allowed in the building.
- Spoke to a tattoo studio complimenting other uses in the area.
- Support from other businesses in the area.

Deputy City Clerk invited anyone participating online or in the gallery who deemed themselves affected to indicate they wish to speak followed by comments from Council.

No one came forward from the gallery or online.

Staff responded to questions from Council.

There were no further comments.

Moved By Councillor Cannan/Seconded By Councillor Singh

THAT Council authorizes the issuance of Temporary Use Permit Application No. TUP23-0002 to allow for a personal service establishment business to operate at Lot 1 Section 30 Township 26 ODYD Plan EPP44783, located at 104 – 1111 Gordon Drive, Kelowna, BC for a three (3) year period commencing from Council approval subject to the following conditions:

- a. The dimensions and siting of building to operate in the existing building as per Schedule "A";

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

**Carried**

## 7. Development Permit and Development Variance Permit Reports

### 7.1 START TIME 4:45 PM - Lapointe Dr 6320 BL12544 (TA23-0005) - City of Kelowna

Moved By Councillor Wooldridge/Seconded By Councillor Stack

THAT Bylaw No. 12544 be adopted.

**Carried**

### 7.2 START TIME 4:45 PM - Lapointe Dr 6320 - DP23-0091 DVP23-0092 - City of Kelowna

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Bruce Anderson, JRTW Planning Services, Victoria, Applicant

- Spoke to positive staff interactions during the application.
- First Truck business is relocating from West Kelowna to Kelowna. It will be a signature location for the applicant with a new design at a major intersection.

- Innovative approach to address landscaping requirements, including adding trees to the Okanagan Rail Trail Corridor.
- Spoke to the signage variances being requested as being considerate as maximums are not being applied for.

The Deputy City Clerk invited anyone participating online or in the gallery who deemed themselves affected to indicate they wish to speak followed by comments from Council.

No one from the gallery or online came forward.

Staff responded to questions from Council.

The applicant responded to questions from Council.

There were no further comments.

Moved By Councillor Lovegrove/Seconded By Councillor Singh

THAT final adoption of Zoning Bylaw Text Amendment Bylaw No. 12544 be considered by Council;

AND THAT Council authorizes the issuance of Development Permit No. DP23-0091 and Development Variance Permit No. DVP23-0092 for Lot 1 District Lot 120 ODYD Plan EPP65593, located at 6320 Lapointe Drive, 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 amount of 125% of the estimated value of the Landscape Plan, as determined by a Registered Landscape Architect;

AND THAT variances to the following sections of Sign Bylaw No. 11530 be granted:

**Section 8.3(a)a.: Local Commercial Zones, Signage Regulations**

To vary the maximum size of Fascia Signs from 4.0 m<sup>2</sup> permitted to 6.0 m<sup>2</sup> proposed.

**Section 8.3(a)b.i.: Local Commercial Zones, Signage Regulations**

To vary the maximum size of a Free-Standing Sign from 3.0 m<sup>2</sup> permitted to 6.0 m<sup>2</sup> proposed.

**Section 8.3(a)b.ii.: Local Commercial Zones, Signage Regulations**

To vary the maximum height of a Free-Standing Sign from 3.0 m permitted to 5.0 m proposed.

**Section 8.3(b)a.i.: Local Commercial Zones, Signage Regulations**

To vary the maximum number of non-illuminated Fascia Signs from two (2) permitted to three (3) proposed.

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

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

Carried

**7.3 START TIME 4:45 PM - Saucier Ave 802-812 - BL12436 (Z21-0041) - Westrich Saucier Developments BC Ltd., Inc. No. BC1367262**

Moved By Councillor Stack/Seconded By Councillor Wooldridge

THAT Bylaw No. 12436 be amended at 3<sup>rd</sup> reading as follows:

By deleting the Legal Description that reads:

"a. LOT 5 BLOCK 1 DL 138 ODYD PLAN 7117, located on Harvey Ave, Kelowna, BC;  
b. LOT 6 BLOCK 1 DL 138 ODYD PLAN 7117, located on Harvey Ave, Kelowna, BC;  
c. LOT 7 BLOCK 1 DL 138 ODYD PLAN 7117, located on Harvey Ave, Kelowna, BC;  
d. LOT 8 BLOCK 1 DL 138 ODYD PLAN 7117, located on Harvey Ave, Kelowna, BC;  
e. LOT 20 BLOCK 1 DL 138 ODYD PLAN 7117, located on Saucier Ave, Kelowna, BC;  
f. LOT 19 BLOCK 1 DL 138 ODYD PLAN 7117, located on Saucier Ave, Kelowna, BC;"

And replacing it with:

"Lot A District Lot 138 ODYD Plan EPP127793, located on Saucier Avenue, Kelowna, BC";

And by deleting "801, 809, 819, 831 Harvey Avenue and 802,";

And replacing it with "802-"

Carried

Moved By Councillor Stack/Seconded By Councillor Wooldridge

THAT Bylaw No. 12436, as amended, be adopted.

Carried

**7.4 START TIME 4:45 PM - Saucier Ave 802-812 - DP22-0035 DVP22-0036 - Westrich Saucier Developments BC Ltd., Inc. No. BC1367262**

Staff:

- Displayed a PowerPoint Presentation summarizing the application.

Nola Kimbarton, WSP, Able Place, Applicant's agent

- Spoke to the 27 large trees being planted onsite.
- Spoke to the CMHC Select Program application for affordability and accessibility and climate outcomes by the applicant.
- Spoke to the 25 to 35 EV parking stalls being provided.
- Spoke to the variances requested are due to the road dedications on Harvey and Saucier result in a smaller buildable area.

The Deputy City Clerk invited anyone participating online or in the gallery who deemed themselves affected to indicate they wish to speak followed by comments from Council.

Gallery:

Colleen Black, Kelowna

- Own the rental property across the street.
- Spoke to the major issues the subject property has had before the redevelopment was proposed.
- Raised concerns about traffic access into the development and would like to know if access if from Saucier or Harvey Avenue.

Heather Friesen, Kriese Rd

- Supportive of the application.
- The Housing Needs Assessment identifies the need for rental projects.
- Traffic should not be a concern in the effort to build more housing in the community.
- Need housing faster than it is being built or approved.

Applicant in Response:

- Spoke to working toward a more affordable rental option.
- Spoke to the same peak traffic levels will occur as there will be residents with flexible working schedules, seniors resulting in a diversity of units and residents.
- Spoke to the location making it easier to reduce the need for vehicles.

Staff responded to questions from Council.

There were no further comments.

Councillor Hodge left the meeting at 5:54 p.m.

Moved By Councillor Wooldridge/Seconded By Councillor DeHart

THAT Rezoning Bylaw No. 12436 be amended at third reading to revise the legal descriptions of the subject properties from:

- LOT 5 BLOCK 1 DL 138 ODYD PLAN 7117, located at 801 Harvey Ave, Kelowna, BC;
- LOT 6 BLOCK 1 DL 138 ODYD PLAN 7117, located at 809 Harvey Ave, Kelowna, BC;
- LOT 7 BLOCK 1 DL 138 ODYD PLAN 7117, located at 819 Harvey Ave, Kelowna, BC;
- LOT 8 BLOCK 1 DL 138 ODYD PLAN 7117, located at 831 Harvey Ave, Kelowna, BC;
- LOT 20 BLOCK 1 DL 138 ODYD PLAN 7117, located at 802 Saucier Ave, Kelowna, BC;
- LOT 19 BLOCK 1 DL 138 ODYD PLAN 7117, located at 812 Saucier Ave, Kelowna, BC;

to:

- LOT A DL 138 ODYD PLAN EPP127793, located at 802-812 Saucier Ave, Kelowna, BC;

AND THAT final adoption of Rezoning Bylaw No. 12436 be considered by Council;  
AND THAT Council authorizes the issuance of Development Permit No. DP22-0035 and Development Variance Permit No. DVP22-0036 for LOT A DL 138 ODYD PLAN EPP127793, located at 802-812 Saucier Ave, 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 amount of 125% of the estimated value of the Landscape Plan, as determined by a Registered Landscape Architect;

AND THAT variances to the following sections of Zoning Bylaw No. 12375 be granted as shown on Schedule "A" and Schedule "B":

**Section 13.5: MF3, Development Regulations**

To vary the required maximum site coverage of all buildings from 65% required to 66% proposed.

**Section 13.5: MF3, Development Regulations**

To vary the minimum building setback from front yard on Saucier Ave from 3.0 m required to 2.1 m proposed (at Level 2).

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

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

Carried

**8. Reminders**

There were no reminders.

**9. Termination**

The meeting was declared terminated at 5:59 p.m.

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Mayor Dyas

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Deputy City Clerk

cm/lb