

Report to Council



Date: March 20, 2023
To: Council
From: City Manager
Subject: Business Licence Application Reconsideration
Department: Business Licensing – Development Services

Recommendation:

THAT Council NOT authorize the issuance of Business Licence 4075809 to allow a Home-Based Business, Major esthetic services establishment, located at 145 Summer Wood Dr, Kelowna, BC.

Purpose:

To hear a request for reconsideration of a Home-Based Business, Major business licence application on the subject property.

Background:

Section 60 of the Community Charter enables a business licence to be refused in any specific case, but

- a) the application must not be unreasonably refused, and
- b) on request, the person or body making the decision must give written reasons for the refusal.

Written reasons have been given to the owner and are based on non-compliance with the parking regulations within Zoning Bylaw 12375. *Section 60 (5) of the Community Charter* states: "If a municipal officer or employee exercises authority to grant, refuse, suspend or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have the council reconsider the matter." Thus, the applicant has exercised their right to request that Council reconsider their business licence application.

The applicant for Business Licence 4075809 applied to change the location of their business to the subject property. The business has been licensed as a 'Home-Based Business, Major' at two previous locations since 2014. The subject property is a newly constructed single-family dwelling with a suite that received occupancy on December 15, 2022 and is located in a hillside subdivision. The dwelling has a double car garage with a double wide driveway, with walkways on either side, that is 6 m in length from the garage to the sidewalk. This permits a single parking spot to be located on the driveway for the suite and tandem parking for the principal dwelling.

The property is zoned RU2 – Medium Lot Housing, which allows principal dwelling as a primary use. The zone permits secondary suites and 'Home-Based Business, Major' as secondary uses. Zoning Bylaw 12375 requires two parking stalls for the principal dwelling and one parking stall for the secondary suite which may be located on the driveway. The addition of a 'Home-Based Business, Major' would require one additional parking stall which cannot currently be accommodated onsite.

Discussion:

Staff does not support the licensing of a 'Home-Based Business, Major' esthetic services establishment at the subject property. The primary function of business licensing is to verify that proposed business licences comply with the Business Licence Bylaw and all other relevant municipal bylaws. In this case, the proposal is not in compliance with the Zoning Bylaw as it relates to required parking. If the owner built an additional parking space onsite or applied for and was issued a Development Variance Permit to reduce the required parking onsite, then a business licence could be issued by Staff once the work has been completed or variance granted. Without a detailed dimensioned site plan, Staff initially reviewed the potential to add an additional parking stall and determined it was unlikely to be provided without variances.

The 'Home-Based Business, Major' land use permits up to two clients at any time including up to one employee in a residential zone. Given the scale of potential additional traffic this could bring to the property, this is why 'Home-Based Business, Major' require one additional onsite parking stall to accommodate the business use.

The applicant has been made aware of the following possible paths to move forward.

1. Apply for a 'Home-Based Business, Minor' use with option to operate itinerantly (travel from customer to customer). This would permit up to one customer per day to the subject property with no employees onsite and has no additional parking requirement.
2. Relocate the business to an appropriately zoned location.
3. Apply for a Development Variance Permit to vary the number of parking stalls required from four to three stalls.
4. Decommissioning of the secondary suite to permit the 'Home-Based Business, Major' land use.

Application Chronology

Date of Application Received: January 2, 2023

Date of Staff request for parking and floor plan: January 5, 2023

Date of Applicant attending City Hall to provide and review parking and floor plan: January 9, 2023

Date of Rejection of Business License: January 31, 2023

Subject Property: 145 Summer Wood Dr



Alternate Recommendation:

THAT Council authorize the issuance of Business Licence 4075809 for a 'Home-Based Business, Major' located at 145 Summer Wood Dr, Kelowna, BC.

AND THAT Council direct Staff to not enforce Zoning Bylaw regulations for minimum parking required onsite for the subject property located at 145 Summer Wood Dr, Kelowna, BC.

Internal Circulation:

Development Planning, Development Engineering

Legal/Statutory Authority:

Section 59 Powers to require and prohibit and Section 60 Business license authority under Division 9 – Business Regulation of the Community Charter

Submitted by: Sarah Krakower, Licensing & Property Use Inspector

Reviewed By:

Graham March, Licensing & System Improvement Supervisor

Approved for inclusion:

Ryan Smith, Divisional Director of Planning & Development Services