

Public HearingJanuary 12, 1999

A Public Hearing of the Municipal Council of the City of Kelowna was held in the Council Chamber, 1435 Water Street, Kelowna, B.C., on Tuesday, January 12, 1999.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil, M.I. Bremner, R.D. Cannan, C.B. Day, R.D. Hobson, J.D. Leask, J.D. Nelson and S.A. Shepherd.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi; Current Planning Manager, F.B. Pritchard; Subdivision & Approving Officer, R.G. Shaughnessy*; Long Range Planner, G. Stephen*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 7:00 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna Official Community Plan (1994-2013) Bylaw No. 7600" and "Zoning Bylaw No. 8000", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

The City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on December 23, 1998, and by being placed in the Kelowna Daily Courier issues of January 4 & 5, 1999, and in the Kelowna Capital News issue of January 3, 1999, and by sending out or otherwise delivering 427 letters to the owners and occupiers of surrounding properties between December 22 and 27, 1998.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8337 ((Zoning Bylaw Text Amendment No. TA98-008) – To amend the Text of the City of Kelowna Zoning Bylaw No. 8000 by adding the proposed CD11 – Comprehensive Seniors Housing and Care zone to provide for the development of congregate housing and group home facilities in conjunction with limited commercial space.

Mayor Gray advised that this bylaw would be presented concurrent with the application under 3(b).

See discussion under 3(b).

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- (b) Bylaw No. 8338 (OCP Amendment No. OCP98-014 and Z98-1031) – Fydell Properties Ltd. (John McAfee, CPAC (Care) Holdings Ltd.) – 654 Cook Road – THAT the Future Land Use Designation on Map 15.1 of the City of Kelowna Official Community Plan for Lot A, D.L. 134, O.D.Y.D. Plan 34182 located on Cook and Lakeshore Roads, Kelowna, B.C., be changed from Mixed Residential Commercial to Comprehensive Development Project as shown on Schedule "A" attached to the report from the Planning & Development Services Department dated November 16, 1998;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by adding the CD11 - Comprehensive Seniors Housing and Care zone to Schedule "B" of Zoning Bylaw No. 8000 as outlined in Schedule "B" attached to the report of the Planning & Development Services Department dated November 16, 1998;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by adding reference to the CD11 Zone to the sections of Zoning Bylaw No. 8000, as outlined in Schedule "C" attached to the report of the Planning & Development Services Department dated November 16, 1998;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 134, O.D.Y.D. Plan 34182 located on Cook and Lakeshore Roads, Kelowna, B.C., from the C9 – Tourist Commercial zone to the CD11 – Comprehensive Seniors Housing and Care zone.

The Current Planning Manager reviewed the proposed text amendment to introduce the new CD11 zone and indicated the property under application for the new zone on maps displayed on the overhead projector. A 231-unit seniors housing and care facility is proposed comprising of 59 units of independent living, 80 congregate care units and 92 units (beds) for full-time care along with 638 m² of ground floor, pedestrian oriented commercial space located immediately adjacent to the intersection of Cook and Lakeshore Roads. No route of public access would be provided along the south side of Wilson Creek. The site is currently developed and operated as Lakeside RV Resort. At this time there are two RVs occupying the site and they are temporary not permanent occupants of the park. The Advisory Planning Commission reviewed the application in October 1998 and passed a recommendation of support subject to conditions that have been addressed by the applicant. Staff believe the application is consistent with the Official Community Plan and the objectives of the Strategic Plan and the South Padosy/KLO Sector Plan and staff also recommend support.

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

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Mr. John McAfee, applicant, advised that CPAC is a public company trading on the Vancouver Stock Exchange. The owner has determined that it is not economically viable to continue with a seasonal RV use on the subject site. The Kelowna facility is designed conceptually after a similar facility CPAC built in White Rock with the various levels of continuing care within the one facility. Mr. McAfee showed

photographs of what the centre courtyard and the interior of the facility would look like and showed an artist's rendering of the facility proposed for construction. He described the proposed design layout for each floor of the project noting the building would be a concrete structure with steel studs and all 5 floors would be completely sprinklered to make the facility as fire proof as possible. Mr. McAfee discussed the proposed building setbacks and advised that the solid landscape fence along the easterly property boundary would be retained as would the mature trees on the site.

Mr. Cec Dillabough, spoke on behalf of the Central Okanagan Naturalists Club, the South Pandosy Residents Association, and himself as a resident of the area. The Naturalist Club does not support walkways infringing on the 15 m setback area. They would like to see the 15 m creek setback area returned to its natural state and retained for wildlife habitat instead of being landscaped and would prefer that the setback area also be fenced. The South Pandosy Residents Association would like to ensure that the proposal is a landmark development, that landscaping is provided along Cook and Lakeshore Roads, and that the project conforms to the as-yet-unreleased new Design Guidelines for the South Pandosy Area. As a resident of the area, Mr. Dillabough said he is opposed to the entire development simply because the developer only discussed the proposal on a one-to-one basis with residents of the area instead of on a group basis.

Responding to questions of Council, the Current Planning Manager clarified that the 15 m setback from Wilson Creek would not be a dedication but rather a leavestrip that would be retained in its natural state.

Mr. Dillabough commented that creek setback requirements are inconsistent and at times are inadequate to provide protection for a creek and suggested there should be a uniform policy for all creeks in the City. He also advised the Naturalist Club recommends that a 4 ft. fence be provided in order to keep dogs, etc. from straying into the setback area and disturbing the wildlife habitat.

Discussion ensued regarding the City's requirements for public routes of access and leavestrips along the various creeks.

Mr. McAfee responded to comments made, advising that he talked to 80% of the people in the area and that he prefers one-on-one meetings to group meetings; the creek will be protected by a fence during construction; the creek is also important to the developer as an amenity to be enjoyed by the people living in the facility; and that he would agree to an undisturbed 15 m setback area as long as the owners of the other lots backing onto the creek did likewise.

There were no further comments.

(c) Bylaw No. 8311 - Kelowna Official Community Plan Amendment No. 98-019 (Agricultural Plan) – As a result of the recently endorsed Agriculture Plan, certain sections of the Kelowna Official Community Plan require amendment to maintain consistency with general directions proposed in the Plan. Some of the proposed amendments will amend or add policies to the OCP affecting the following:

- (i) retention of wetland buffers and natural wetlands;
- (ii) use of the Agriculture Plan with respect to ALR matters;
- (iii) policy direction on Improvement District expansion and standards;
- (iv) retention of private irrigation systems;
- (v) cost-sharing of drainage requirements for development outside City boundaries; and
- (vi) initiatives concerning implementation of the Agriculture Plan.

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The Long Range Planner noted in October 1998, Council endorsed the Agriculture Plan and advanced a bylaw to incorporate portions of the Agriculture Plan into the Official Community Plan (OCP) to Public Hearing. Council also instructed staff to forward the Agriculture Plan to the Agricultural Land Commission (ALC) for comment prior to the Public Hearing being held. As a result of the response from the ALC, some changes have been made to the Plan and to the bylaw.

The Long Range Planner reviewed the amendments proposed by the subject bylaw, highlighting the changes that were made as a result of the input received from the Agricultural Planning Commission.

The City Clerk advised that the following correspondence had been received:

- letter from the Agricultural Land Commission outlining their review of the Agriculture Plan;
- late letter addressed to Councillor Cannan from Herb Tanaka opposing his mother's property at 2120 Cooper Road being included as agricultural land within the Agriculture Plan.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Mr. Ken Day, long time member of the agriculture community in Kelowna, spoke in support of the Agriculture Plan and the proposed OCP amendments noting it is important to preserve agricultural land and that the agricultural community needs all the support they can get.

A member of Council enquired about the future status of the property referred to in the letter from Herb Tanaka. The Director of Planning & Development Services advised that the Tanaka property will remain within the ALR until the ALC makes the decision to exclude it. The City does not have the power to exclude land from the ALR.

Discussion ensued regarding the potential for exclusion of the Marshall Feedlot site, drainage issues from use of the Mission Sportsfields and surrounding area, and the City's ability to control nuisance agriculture through the zoning bylaw rather than through the Agriculture Plan.

Mr. David Taylor complimented the City of Kelowna on behalf of the Agricultural Land Commission for establishing an Agriculture Plan adding that the plan will be an example to the rest of the province.

Mr. Richard Bullock, member of the Agricultural Advisory Committee that assisted with preparation of the Agriculture Plan, commended Council and City staff for adopting the Agriculture Plan and expressed support for developing an agriculture liaison within the City to work with the agricultural community.

There were no further comments.

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- (d) Bylaw No. 8333 (Zoning Bylaw Text Amendment No. 98-009) – To amend the text of the City of Kelowna Zoning Bylaw No. 8000 by creating a new version of the RU2 - Medium Lot Housing zone called the RU2s – Medium Lot Housing with Secondary Suite zone that would allow a secondary dwelling unit as a secondary use in a single family dwelling or in an accessory building.

Mayor Gray advised that this bylaw would be presented concurrent with the application under 3(e).

See discussion under 3(e).

- (e) Bylaw No. 8334 (Z98-1033) – Shada Enterprises Ltd. and Robert Richardson (Robert Richardson) – 432 Christleton Avenue - THAT City of Kelowna Zoning Bylaw 8000, be amended by adding the RU2s – Medium Lot Housing with Secondary Suite zoning designation as detailed in the report from Planning and Development Services Department dated December 3, 1998;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 14, Osoyoos Division Yale District Plan KAP60634, located on Christleton Avenue, Kelowna, B.C., from the RU2 – Medium Lot Housing zone to the RU2s – Medium Lot Housing with Secondary Suite zone.

The Current Planning Manager indicated the property on a map displayed on the overhead projector and advised the applicant proposes to rezone the property to the new RU2s zone being created by the proposed text amendment in order to facilitate construction of a suite within the basement of the house. The building is a class “A” heritage building constructed in 1904. In conjunction with a subdivision application in 1997, the house was relocated from its original location and placed on the western portion of the lot. At the time the building was relocated, a new foundation was constructed to elevate the building to accommodate a basement. No exterior changes are proposed to the house as part of this application and the suite would be constructed to meet the B.C. Building Code. The Community Heritage Commission recommends support of the application, as do staff.

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

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

A member of Council asked whether any consideration has been given to designating the home a heritage building given that it is identified as class ‘A’ in the heritage inventory.

Mr. Rob Richardson, applicant, asked that if designating the home as a heritage building is Council’s wish, the public hearing on this application not be closed until he can consult with his partner and respond.

The member of Council suggested that the applicant *consider* designating the home as a heritage building at some time in the future.

There were no further comments.

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- (f) Bylaw No. 8335 (Z98-1041) – Ed Fenwick – 774 Barnaby Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2, D.L. 357, Sec. 30, Twp. 29, O.D.Y.D., Plan KAP53193, located on 774 Barnaby Road, Kelowna, B.C., from the RR1 - Rural Residential 1 zone to the RR3 - Rural Residential 3 zone.

The Subdivision Approving Officer indicated the property on maps displayed on the overhead projector and advised that the rezoning would facilitate a 2-lot subdivision to give separate title to the two existing single family dwellings on the property. The common interior lot boundary is on an angle to respect the topographic features of the property. The Advisory Planning Commission recommends support of the application, as do staff.

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

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

The applicant's representative indicated he had nothing to add at this time.

There were no further comments.

The Subdivision Approving Officer left the Council Chamber at 8:50 p.m.

- (g) Bylaw No. 8336 (Z98-1026) – Avtar & Darshan Lot (Annie Beserekian) – 1212 Friesen Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 34, Sec. 26, Twp. 26, O.D.Y.D., Plan KAP51596, located on Friesen Road, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone.

The Current Planning Manager indicated the property on maps displayed on the overhead projector and advised that the requested zoning would allow the continuing use of an existing illegal suite in the single family dwelling on the site. The surrounding area is essentially zoned for single and two family development. The proposal meets the requirements for parking in the front yard. The suite is in the lower level of the building and there is a recreation area with a wetbar that is similar to a kitchen also on the lower level. The applicant advises there is only one secondary suite within the dwelling unit and it is on that basis that staff recommend support of the application. The Current Planning Manager showed a map indicating the location of the properties that have phoned or sent in letters in support and opposition to the application.

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

- 6 form letters of support from the following area residents:
 Judy Boyczuk, 1227 Friesen Road
 Kirpal Chima, 1328 Friesen Road
 Gurinder Dhaliwal, 1325 Friesen Road
 Jarnail Khunkhun, 423 McLennan Crescent
 Baldev Dhanwant, 1293 Friesen Road
 Pat Robertson, 1182 Friesen Road
- petition of support bearing 5 signatures;

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- 8 letters of opposition from the following:
E. Klatt and A. Csizmar, 1227 Friesen Road and 451 Wallace Road
Mike Mycholuk, 1234 Friesen Road
Ernest & Barbara Hoffman, 355 Wallace Road and 396 McLennan Crescent
Trevor & Carol Romanchuk, 384 McLennan Crescent
Ernest Hoffman, 400 McLennan Crescent
David Cronquist, 1205 Friesen Road
Larry & Shirley Reynolds, 430 Sumac Road East
all opposing the application on the basis that legalization of this suite will only add to problems that already exist (i.e. congested roadways due to over abundance of vehicles, unsightly driveways that are filled to capacity with vehicles, yards that are not cared for by the tenants, more traffic than the subdivision was designed for, and devaluation of R1 properties that were bought and developed on the assumption that the original zoning plans for the area would be strictly adhered to.
- late letter of opposition from Wanda Pidwerbeski, 400 Phipps Crescent, for reasons similar to those stated above.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

The applicant reserved the right to respond to comments from the public gallery.

Mr. Arthur Day, stated he was in support of agenda items (d) (e) (f) and (g).

Mr. Dave Cronquist, 1205 Friesen Road, commented that most if not all of the homes shown on the map with green dots (in support of the application) have illegal suites too. In 1994 the City and the developer agreed to a blend of R-1 and R-2 zones in this area to increase the density by allowing a certain number of secondary suites in the neighbourhood. Lots that were zoned for a secondary suite cost \$14,000 more and then construction costs were also higher in order for the suite to meet the requirements of the B.C. Building Code. There are many illegal suites in the area and if this application is approved, a precedent will be set to completely change the density of the neighbourhood. Legalizing the suites on the properties not zoned for suites will devalue the lots that were properly zoned and make it more difficult to find renters. Mr. Cronquist stated that his complaint is not against his neighbours but rather against the City for not enforcing their bylaws to do with illegal suites. Now the City is penalizing those property owners who followed the rules from the start by legalizing suites on the lower priced lots that were never intended to have suites. The desirability of the neighbourhood has already deteriorated because of the number of suites that exist and if all are legalized it will continue to be more difficult to find renters. Mr. Cronquist asked that Council see the unfairness of granting this rezoning to people who chose to go against the rules.

Mr. Larry Reynolds, 430 Sumac Road East, agreed with the previous speaker that there will be a flood of similar applications if this application is approved and that the properties initially zoned for suites would be devalued. He added that the subject property is one of only a very few not zoned for suites with adequate parking to support a suite; most do not and at times it would not be possible to get emergency vehicles through without having to move vehicles parked on the street.

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Ms. Annie Beserekian, representing the applicant, responded advising that based on information she has received from an appraiser at Okanagan Appraisers and an appraiser at the B.C. Assessment Authority, real estate prices are market driven and there is no evidence of duplex zones going down in value. Two other "S" (secondary suite) zoning applications have already been approved within a couple of blocks of the subject property. The house on the subject property was inspected in November and again yesterday and on both occasions only one secondary suite was found. The R-2 zone allows up to 75% of the total floor area for a suite whereas single family dwellings can only have up to 40% suite size so there is still a benefit to having the R-2 zone. Suites permitted by the "S" zone still must comply with Building Code requirements that can in some cases cost thousands of dollars in addition to the rezoning fee. Most of the letters of opposition are opposed to the whole "S" zone idea, not the subject property where on-site parking requirements are exceeded and the property is well landscaped and maintained. The owner wants to legalize the suite that was there when he bought the building so that his relatives can live there.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 9:45 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am