

Public HearingFebruary 23, 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, February 23, 1999.

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

Council members absent: Councillor R.D. Hobson.

Staff members in attendance were: Acting-City Manager/Director of Planning & Development Services, R.L. Mattiussi; City Clerk, D.L. Shipclark; Special Projects Planning Manager, H.B. Christy; 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 February 3, 1999, and by being placed in the Kelowna Daily Courier issues of February 15 & 16, 1999, and in the Kelowna Capital News issue of February 14, 1999, and by sending out or otherwise delivering 56 letters to the owners and occupiers of surrounding properties between February 3 & 7, 1999.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8353 (Z98-1006) and OCP Amendment No. OCP98-001 – Gallaghers Canyon Land Development Ltd. and Blairmont Investments Ltd. (CRC Developments Ltd.) – 3980 and 4150 Field Road - THAT the Kelowna Official Community Plan be amended to include Lot A, Sec. 1, Twp. 26, O.D.Y.D., Plan 28022; Lot B, Sec. 1, Twp. 26, O.D.Y.D., Plan 28022 except Plan 43748; and Lot B, Sec. 1, Twp. 26, O.D.Y.D., Plan 26785, located on Field Road, Kelowna, B.C., as a part of the Gallaghers Canyon Golf Resort Area Structure Plan;

AND THAT the Kelowna Official Community Plan be amended to include the 1998 Addendum to Gallaghers Canyon Golf Resort Area Structure Plan which includes up to a 170 unit increase in the total number of dwellings units proposed;

AND THAT Map 15.1 GENERALIZED FUTURE LAND USE of Schedule "A" of the Kelowna Official Community Plan (1994-2013) Bylaw No. 7600 be amended by changing the Future Land Use designation of Lot A, Sec. 1, Twp. 26, O.D.Y.D., Plan 28022; Lot B, Sec. 1, Twp. 26, O.D.Y.D., Plan 28022 except Plan 43748; and Lot B, Sec. 1, Twp. 26, O.D.Y.D., Plan 26785, located on Field Road, Kelowna, B.C., from "Rural/Agricultural" to "Comprehensive Residential Golf Resort";

AND FURTHER THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Sec. 1, Twp. 26, O.D.Y.D., Plan 28022; Lot B, Sec. 1, Twp. 26, O.D.Y.D., Plan 28022 except Plan 43748; and Lot B, Sec. 1, Twp. 26, O.D.Y.D., Plan 26785, located on Field Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the CD6 – Comprehensive Residential Golf Resort zone in order to allow development of the site for uses permitted in the CD6 zone.

The Special Projects Planning Manager indicated the property on maps and plans displayed on the overhead projector and advised that the applicant is proposing to add three properties to the existing Gallaghers Canyon Golf Course development. The most northerly two parcels (Fercot property) comprise approximately 10 ha and are geographically central to the village centre of the existing Gallaghers development. The third parcel (Blairmont) comprises approximately 7 ha and is at the southerly end of the Gallaghers development, to the south of McCulloch Road. The proposed amendments would allow the development of up to 170 bareland strata single family and conventional strata duplex residential units bringing the total number of units in the community up to approximately 700. The Special Projects Planning Manager displayed concept plans to show what the new areas proposed for development could look like and reviewed the conditions that the Advisory Planning Commission attached to their support of the application. She noted that a number of letters have been received from residents of the development raising issues internal to the Gallaghers Canyon Strata Corporations. Those issues would not be subject of this presentation as they are matters to be dealt with by the strata councils.

The Special Projects Planning Manager advised that input received indicates that expansion of the existing water and sewer infrastructure could easily be accommodated. A traffic impact study has been completed by the applicant and reviewed by City Engineering staff. In addition, ICBC is carrying out an independent audit on traffic in the entire area that should be concluded by the end of March. The applicant has indicated in writing that he is prepared to undertake whatever requirements are necessary to address the impact on roads in the Southeast Kelowna sector area. City Planning staff recognize that technically the impact of the additional units on the road system can be addressed but are concerned about expansion of the development beyond the current 540 unit limit in advance of the Official Community Plan review which is currently underway.

The Director of Planning & Development Services advised that completion of the overall OCP review is targeted for June 2000. However, the work on the transportation aspect of the Southeast Kelowna sector could be completed in the next few months and City Planning staff would have preferred to defer this application until then.

The City Clerk advised that the following correspondence was received in June and July 1998, subsequent to the Advisory Planning Commission's review of the application in May 1998:

- 87 letters of opposition
- 1 letter addressing specific concerns and
- 1 letter of support.

The City Clerk advised that the following correspondence was received as a result of advertising for this public hearing:

- 5 letters of opposition from the following:
 - Lorne Lacroix, 4030 Gallaghers Terrace
 - W. Caswell, 4197 Gallaghers Crescent
 - Joyce & Phil Ellwood, 3956 Gallaghers Circle
 - Brant Ducey, Chair of Strata Corp. at 4400 Gallagher's Drive East
 - Don & Linda Harford, absentee owners of 4048 Gallaghers Terrace
 all opposing the application because traffic and sewage treatment will increase, the negative impact on the environment, and the original proposal was for a maximum of 540 homes;
- 6 late letters of support from the following:
 - Michael Coulthard, 4020 Field Road
 - Margaret Witty, 4651 McCulloch Road
 - Elizabeth Zaseybida, 4025 Field Road
 - Jim & Sheila Jacques, 4151 McCulloch Road
 - Tiziano Pasutto, 4090 Field Road
 - Ken Parker, 4651 McCulloch Road
- 2 late letters of opposition from the following:
 - Kenneth & Doreen Fergusson, 3930 Gallagher's Circle
 - Thomas Drobott, 3992 Gallaghers Parkway
 both opposing the application because of the negative impact on internal traffic flow, recreational amenities and aesthetic appeal, and the original proposal was for a maximum 540 homes.

The City Clerk advised that at the start of tonight's public hearing, he had received and circulated written copies of two presentations which the authors intend to make this evening, from the following:

- Jack Heinrich, 3879 Gallaghers Green, and
- Reg Dorrett, 3961 Gallaghers Circle.

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

Mr. Tony Markoff, applicant, advised he had nothing to add at this time but reserved the right to respond at the conclusion of the input.

Mr. Reg Dorrett, 3961 Gallaghers Circle, submitted 101 form letters bearing 185 signatures of residents of the Village of Gallaghers Canyon, representing over 50% of the occupied homes in the development, in opposition to the subject application. He reviewed the comments provided in his written submission (already circulated to Council) indicating the residents are concerned that the existing community recreation facilities, property values and overall lifestyle would be detrimentally impacted. The residents do not support expanding the development beyond the maximum 540 homes. They have lost faith in this developer and feel that he has deceived them because he has always said the project would be maximum 540 homes and because the developer made no effort to inform the residents about the proposed expansion prior to appearing before the Advisory Planning Commission (APC) meeting on May 12, 1998. Efforts made by the developer subsequent to the APC meeting have not resulted in a community consensus. In a letter dated February 5, 1999, the developer said that the proposal to Council would recommend an increase in both in and outdoor amenity space in direct proportion to that already provided, but the developer has refused to meet with the strata council to discuss the matter. The residents are frustrated because the voting weight is

with the developer and he out-votes the strata councils at every opportunity. They are also concerned that without a clearly stated written agreement, they will have to pay the additional costs. They feel that if this application is granted, future further expansions would be impossible to resist by future Councils. The residents feel the buyers of the approved 540 lots should be allowed to live under the conditions that prevailed when they bought. Mr. Dorrett made reference to specific sections of the Planning Department's report and asked that Council reject this proposal and require the developer to live up to his commitment and abide by the policies and objectives in the City's planning documents.

Ms. Patricia Damgaard, 3949 Gallaghers Circle, advised she is chairperson of the largest strata (183 lots) in the development and read a motion unanimously passed at their last general meeting held in June 1998 opposing the subject application. The motion stated reasons for their opposition, including imposing the 540 home maximum, expansion beyond 540 would result in prolonged noise and air pollution from construction, increased demand on the sewer treatment system, increased traffic, lack of on-street parking, and community recreational facilities are already at times inadequate. Ms. Damgaard advised that at no time since their June general meeting has the developer approached the strata council to address these issues. From a fiscal standpoint, it is frightening because the residents are not in control of what happens. The residents have received no cost analysis of the incremental expenses that would be incurred with the additional homes. The project will already be dense with the 540 units proposed and the aesthetics would be lost with the additional units. Ms. Damgaard submitted a copy of her presentation to the City Clerk and asked that Council deny this application.

Mr. Jack Heinrich, 3879 Gallaghers Grange, endorsed the comments of previous speakers. He made reference to a letter dated June 10, 1998 from the developer to Council and to another letter dated July 6, 1998 from Gallaghers to all homeowners. He advised that the developer's response to invitations to attend a town hall meeting the residents would arrange was that the process would not necessarily be democratic or representative of the majority. Mr. Heinrich noted that the property owner agreement provides that responsibility for operation of the sewage treatment centre can be turned over to the owners at the option of the developer as soon as the last lot is registered on title. Given that the residents will be responsible for all capital and operating costs when the developer leaves, and given that increased demand on the sewer system will exacerbate the costs, the residents are entitled to know what the impact on cost would be with the additional lots. Mr. Heinrich asked that Council look beyond the economic benefits and consider what is fair and equitable and at least adjourn the public hearing since there is no urgency for the application to proceed.

Mr. Ken Fergusson, 3930 Gallaghers Circle, endorsed the comments of the two previous speakers and advised that his concern is regarding the sewer treatment plant. As a civil engineer, he questioned the facts and figures given by the developer regarding the plant's capacity/ability to support the increased usage. He also noted that the OCP indicates there would be pocket parks with benches and pathways but the parks are just grass and shrubs.

Mr. Brent MacDonald, 4686 Maranda Street, spoke in support of the application stating that the developer's track record and the potential use of the land being acquired for the proposed additional lots are two important issues that need to be considered. The developer has donated a lot of land for the enjoyment of the public and has captured the sense of community with the existing development. Expansion of this type of development should be encouraged on the surrounding land as an enhancement to the community.

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Mr. Norm Penson, 4043 Gallaghers Terrace, submitted a copy of his written presentation to the City Clerk and indicated his main concern was the potential for additional costs/uncertainty for the existing homeowners as to their future responsibilities.

Ms. Catherine O'Neill, 3799 Jean Road, read a written submission supporting past and future development in the area as the growing population has resulted in improved services/amenities for the residents of South Kelowna.

Mr. Matt Cameron, 3950 June Springs Road, spoke in support of the application noting the McCulloch Road improvements from the pub to Gallaghers were due to the Gallaghers Canyon development. The problems voiced by the residents appear to be mainly internal concerns typical of strata developments.

Mr. Paul Wedge, 3897 Gallaghers Grange, advised that sewer is his concern. Frequently there is the smell of effluent in the air on a summer evening and sometimes foul water bubbles up from the practise greens. These problems will only worsen with further expansion. Mr. Wedge advised he is not opposed to the additional parcels of land being developed provided the new development has its own recreational facilities, sewer system, gated fence, and access road from McCulloch.

Mr. Richard Mahoney, 3899 Gallaghers Grange, commented that he was on the Board of Directors for the South East Kelowna Residents Association back when it was determined through sector plan discussions that there would be approximately 700 to 800 housing units allowed in Southeast Kelowna of which 540 would be for Gallaghers and the remaining would be for other infill areas. To allow this developer to have the entire allotment is contrary to what was agreed upon and it is incumbent upon Council respect the area sector plan.

At the request of Council, the Special Projects Planning Manager clarified that the Southeast Kelowna Sector Plan projects 1,107 dwelling units in total and that included the 540 units for Gallaghers for a total of about 2,900 people. The proposed 110 to 170 units would be in addition to what the sector plan anticipated.

Mr. Tony Lockhurst, 3999 Field Road, advised his land is immediately adjacent to the proposed development and that he is not opposed to further residential development in the area as the lands in the area are not suitable for agriculture. He noted, however, that although Field Road is shown on the map as a public road, the road has become an internal strata road for the exclusive use of the Gallaghers development. He suggested that Field Road should be re-opened for use by the general public.

At the request of Council, the Special Projects Planning Manager clarified that Field Road is a dedicated road as shown on the legal plan. However, to her understanding Gallaghers has been allowed to landscape the road allowance because the actual date for development of Field Road is in the future.

Mr. Ken Peterson, 2335 Cascade Court, representing Tri-Centre Builders spoke in support of the subject application noting the Village of Gallaghers Canyon is a first class development and, with housing down, Council should welcome the subject application. The proposed expansion would provide needed employment and the City would benefit from the expanded tax base and through the DCC process.

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Mr. Lorne Lacroix, 4030 Gallaghers Terrace, commented that he purchased his property in 1993 and at that time he received a map of the development and a disclosure statement. In 1995, the disclosure statement was arbitrarily changed by the developer without consultation with the residents and in fact most of the residents did not find out it had been changed until the Advisory Planning Commission meeting in May 1998. The residents have not challenged that change yet because when a letter was written to the Superintendent of Real Estate to find out if what had happened was legal, the reply was that they were not sure and that it would cost a lot of money to find out. Mr. Lacroix stated he would not support an additional 170 units sharing the sewage treatment plant or road system.

Mayor Gray invited the applicant to come forward.

Mr. Tony Markoff of CRC Developments Ltd. responded to issues raised advising that the 185 name petition that was tabled would represent approximately 35% of the residents to date, not the majority. When the initial rezoning was approved in 1992, the approval was for 540 homes *within* the boundaries of the site; the subject application is an expansion of that community by approximately 42 acres. The working committee meetings were the appropriate place to discuss adding amenities with the residents and a letter pledging that commitment has already been sent to all 292 owners in the community along with a copy to the City. City of Kelowna staff would not allow development to proceed beyond the 540 units until the necessary amenities are secured. This rezoning application is not one of deception. The residents were informed of the acquisition of the Fercot property in 1997; it was not a target property and the acquisition was not hidden from the people. The area of land allocated for housing is approximately 100 acres for the 540 homes. This application would expand the community by approximately 42 acres that could accommodate up to 170 homes without compromising the quality and integrity of the community. Two open houses were held and working committee meetings were run by someone outside CRC developments to encourage input on the type of amenities that would be required. It was decided that since the development is not yet near the 540 units, it would be inappropriate to make decisions regarding the future amenities at this time but a commitment has been made in writing to add amenities proportionate to what exists. Statistics from the Urban Development Institute indicate the proposed expansion would generate in excess of 500 man-years of employment and the combined direct and indirect benefit to the community would exceed \$70 million.

A member of Council noted that ongoing operational costs for the treatment plant and the potential impact on strata fees from an additional 170 units appear to be of concern to the residents. Mr. Markoff referred to the letter regarding the increase of amenity space and advised that different trends have already emerged from what was envisaged from the beginning. It maybe more appropriate to build more nature trails if outdoor amenities are what the residents want; if indoor amenities are what they want, then that is what will be provided. Whatever amenities are provided will be in direct proportion to what is there today.

Mr. Bill LeClair advised he is vice-president of finance for Berard International in Vancouver and he also owns a unit in Gallaghers. Mr. LeClair clarified that the sewage treatment plant cannot be forced on the owners. The wording says it may be *offered* to the owners or residents when the final unit is built. If the residents do not accept that, the sewage treatment plant would remain in the ownership of the golf course; the plant is constructed on property owned by the golf course. The City of Kelowna is the governing factor on that, as co-guarantor of the permit with the Ministry of Environment. This is the third largest bareland strata corporation in the province and involves more management. The strata councils will all have input on

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the types of amenities or the improvements to amenities as the developer backs out of the development by building out. Because the costs passed down to the strata owners are fixed, adding more units could reduce the strata fees because there would be a larger number of units by which to amortize the fixed costs over. The cost of operation of the village as it exists now have been shown to the strata corporations, and the amount of the developer's subsidy to date has been disclosed as well. The disclosure shows where the money is being spent and shows there are adequate dollars in the strata fees they are paying today to cover the costs after the developer backs out, other than inflation or other factors that neither the developer nor residents can control.

Responding to questions of Council, Mr. Markoff advised that he, as development manager in the community, was never invited to any of the strata council meetings; Mr. LeClair and Mr. Reith attend all association meetings. Mr. Markoff explained that each stage of the development has its own strata corporation; there are currently 4 strata corporations and each have representatives to the association which meets on a quarterly basis. He reiterated that open houses were held and working committees were formed to hear individual responses to issues of concern and in his opinion there is nothing more he can do, other than being available to residents in the community anytime and he is on the site every day of the week. He added that the number of times he has been contacted personally in his office is less than 1 dozen times. Mr. Markoff noted that having additional people share in the capital costs, including the treatment plant, could result in lower operating costs. He also noted that resale values have been in excess of what was originally paid for lots in most cases.

Mr. Bill LeClair advised that a requirement of the development was the posting of a \$200,000 maintenance bond, secured by cash, for the treatment plant; the bond is held by the Ministry of Environment and is likely to be retained in perpetuity. The bond money is for emergencies. Operating and capital costs are paid by current and future property owners using the plant and they pay pro rata by each homeowner and the golf course, should it be hooked up which it is not at this time. Mr. LeClair confirmed that CRC would add to the maintenance bond amount, if required. He also explained that Gallaghers has an association of strata corporations and all property owners have input through their strata corporation. The golf course retained the ability to out-vote the strata corporations in order to maintain the quality of how the course is impacted by the adjacent property owners. Once the real estate developer is finished, then the only joint sharing cost the developer will have will be on how the main road is maintained. The golf course will continue to own land and be represented on the association board.

Mr. Gary Threlfall of Reid Crowther spoke as a consultant for the applicant advising that the sewage treatment plant capacity is ultimately designed at 300 gallons per day per unit. The permit requires Gallaghers to do everything possible to control the odour to a minimum and Gallaghers have been good at responding to any concerns raised by the Ministry of Environment or the City; however, sewage treatment is not an odourless process. An exhaust fan was moved at one point to help the problem. An expansion of the sewer treatment plant is proposed once the project has reached 60% of the 540 units. However, actual use is more like 120 gallons per day per unit and on that basis the plant could probably handle the additional 170 units today.

Mr. Bill LeClair clarified that the developer would have to pay for any expansion of the sewage treatment plant, even if it had to be expanded for the 540 units. The developer would also have to pay for expansion of the plant before proceeding with unit 541 as part of the development cost.

Responding to questions of Council, Mr. Tony Markoff explained that there are very few remaining unencumbered properties on Field Road and the developers view this proposal as an opportunity to expand incrementally without taking away from the standard of development that exists today. The number of units that are developed each year is market driven; about 50 units have been developed each year. Currently there are 292 property owners and 185 of the homes are occupied. Although there is still an inventory of lots available within the existing development, the Fercot property would likely be considered for development earlier than later because of its proximity to the village centre. If the subject application is approved, the work that has to be done in advance of construction would start immediately. Mr. Markoff added that the developer has acknowledged that the village centre parking area would be inadequate with the additional units and would need to be expanded if the subject application is approved. If there are recommendations from the independent traffic analysis being undertaken by ICBC that have not yet been targeted in the Ward traffic study or by City staff, they will be addressed by the developer. Field Road north of McCulloch is being used as the primary access to the Pinnacle project and to minimize the impact of construction on the community. The gate is locked for security purposes both to Scenic Canyon Regional Park and to the Village site; when there is a park caretaker he will close and open the gate. Meanwhile, Mr. Markoff advised the access through the Field Road right-of-way from the gate to the Canyon edge is available to all members of the public, and that in fact, many members of the public park in the Pinnacle parking lot and start their hike from there, to which he has no objection. If the subject application is approved, access for construction would be from Field Road for development of the Fercot property and off Barnaby Road for the Blairmont property. The disclosure statement for the first 172 units was silent on the total number of units proposed. As the later stages proceeded, the statements were amended to clarify that the total number of units were anticipated to be 540 but that the number could change depending on marketing conditions. There have been in the order of 7 to 9 amendments to the disclosure statement.

Mr. Bill McClair responded to questions of Council advising that in 1994 dollars, the existing amenities cost approximately \$700,000. Inflated to when the amenities would be built, the additional amenities will cost approximately \$1 million. The additional amenities would have to be built before unit 541; what those additional amenities are will be determined based on input received at that time.

A member of Council noted that the timing for construction of Gulley Road was set for year 2013 based on 540 units. If the additional 170 units are to be approved, the road improvement issues need to be addressed now rather than later. The Director of Planning & Development Services clarified that the traffic impact has been addressed; it is the financial side of the traffic impact and whether or not Gulley Road will be triggered earlier is yet to be determined. However, the developer has provided a letter agreeing to whatever infrastructure changes are required. In addition, the bylaw would not be adopted until a development agreement is in place.

The Special Projects Planning Manager reiterated that the 170 units would be in addition to the 1,107 units anticipated in the South East Kelowna Sector Plan and added that there is no thought that the additional 170 units would be taken from another area.

Mr. Tony Markoff advised that he could not guarantee that 15 years from now there will not be another rezoning application to expand the development if another property comes available.

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Moved by Councillor Blanleil/Seconded by Councillor Nelson

P133/99/02/23 THAT the portion of this Public Hearing dealing with Zone Amending Bylaw No. 8353 (Z98-1006 – Gallaghers Canyon Land Developments Ltd./CRC Developments Ltd. – Field Road) be adjourned to the Public Hearing of March 23, 1999 to give the developer the opportunity to meet with the residents to resolve the concerns raised at the public hearing.

LOST DUE TO A TIE VOTE

Mayor Gray and Councillors Cannan, Leask and Shepherd opposed.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 10:52 p.m.

Certified Correct:

Mayor

City Clerk

BLH/bn