

Public HearingMarch 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, March 23, 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 and S.A. Shepherd.

Council members absent: Councillor J.D. Nelson.

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 Planning Manager, L.V. Foster\*; Planning & Development Officer, D. Huang\*; 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 March 3<sup>rd</sup>, 1999, and by being placed in the Kelowna Daily Courier issues of March 15<sup>th</sup> and 16<sup>th</sup>, 1999, and in the Kelowna Capital News issue of March 14<sup>th</sup>, 1999, and by sending out or otherwise delivering 206 letters to the owners and occupiers of surrounding properties between March 3<sup>rd</sup> and 5<sup>th</sup>, 1999.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8327 (OCP98-025) – City of Kelowna – To amend the Official Community Plan to provide direction for managing and preserving wetlands in the City in accordance with the recently adopted Wetland Habitat Management Strategy. The proposed amendments include the addition of the Natural Environment/Hazardous Condition Development Permit designation to thirteen wetland areas.

Mayor Gray advised this item is reconvened from the January 26, 1999 Public Hearing.

The Long Range Planning Manager advised that in November the strategy was adopted by Council and those portions that would result in an Official Community Plan (OCP) amendment were forwarded to Public Hearing. At the public hearing, a number of the amendments to the bylaw were discussed but were not formally approved by Council. Those amendments would need to be approved before further readings of the bylaw. Also, staff have prepared a supplemental report summarizing and responding to issues that were raised at that public hearing.

The Planning & Development Officer advised that Andrew Gibbs and Hugh Hamilton, the consultants who prepared the Wetland Habitat Management Strategy are in the public gallery and available to answer questions if required.

The Planning & Development Officer reviewed the proposed amendments that have been discussed but not yet approved by Council, as follows:

- Change the wording of policy .15 being added as 1(e) of Bylaw 8327 to read as follows:  
“**Wetland Guidelines.** Where a Natural Environment/Hazardous Condition Development Permit is required for land disturbances within the leave strip of a Protected Wetland, the development shall comply with the Wetland Guidelines, attached as Appendix 16 to this OCP.”;
- Delete “Lots 31 & 42, Sec. 35, Twp. 26, O.D.Y.D. Plan 425 both located on Cornish Road, Kelowna, B.C., and” from 2(c)(iv) of the bylaw (leaving Lot 43, Plan 425 as the only property under this section).
- Revise Map 2.1 to reflect new boundaries of wetland site 110, 124a and 124b;
- Revise Map 4 to remove two properties (Lots 31 & 42, Plan 425);
- Revise Map 7 to reduce the size of the wetland area for 124a and 124b.

The Planning & Development Officer reviewed the supplemental report advising that a further site visit was conducted subsequent to the last public hearing in order to reassess Lot 43, Plan 425 (wetland #110). The conclusion was that in its current condition wetland #110 is a Moderate value wetland and staff continue to recommend that it remain in a Development Permit area. However, staff recognize that any future development on Lot 42 could reduce the remaining wetland area on Lot 43. The system of assessment and classification used for the City of Kelowna Wetland Habitat Management Strategy was based on wetland function and therefore did not differentiate between natural and created wetlands. The Property Profile Permit (PPP) process was instituted by the Planning Department in June 1998 for Natural Environment/Hazardous Condition Development Permit Areas. This is a free process in which the applicant submits a general site plan to determine whether or not a Development Permit is required. Since its inception, there have been over 70 PPP applications with less than 5% requiring a Development Permit.

The Planning & Development Officer reviewed the appendices attached to the supplemental report giving examples of activities that could take place on ALR land, when a Development Permit may be required, and identifying the municipal and/or provincial regulations that would be applicable; as well as outlining when some form of compensation may be considered in conjunction with protection of a natural feature.

Responding to questioning by Council, the Planning & Development Officer advised that by definition, all water courses are considered *streams* in the Official Community Plan, including Okanagan Lake. He gave examples of how the leave strip width would be determined for wetland areas along a stream with and without a public route of access, noting that the wetland strategy provides guidelines, the DP allows assessments on a site by site basis.

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward.

Mr. Brian Lakusta, representing his mother who owns Lot 43 on Old Vernon Road, identified as wetland area #110, circulated a number of photographs advising that the property as it stands today has never been wetter. He noted there is a drainage right-of-way held by the Black Mountain Irrigation District (BMID) in the middle of Lot 42 and suggested that that since the low spot is actually on Lot 42 which has had a substantial amount of fill put onto it, and if it is the fill that is displacing the water onto Lot 43, along with the clogged ditches, then the designation should just be on Lot 42. He also expressed concern that applications to the Agricultural Land Commission for permission to add topsoil to improve farm land are processed through the City, placing the City in a conflict position when there is a wetland on the property. Mr. Lakusta submitted that adding the Natural Environment/Hazardous Condition Development Permit designation to the wetland on his mother's property effectively puts a caveat on the property that could have a detrimental impact on the selling price because of the conflict between wetland and farm land. He emphasized that the property in recent history has not been wetland. The moisture that is there today is the result of a number of factors and regardless of the decision tonight efforts will take place to take care of the dampness problem. If the ditches were opened up on Lots 42 and 43, the water would be able to drain off Lot 42 onto and across Lot 43 and continue draining south.

Mr. Al Pansegrau, owner of Lot 42, clarified that the drainage right-of-way has been taken over from BMID by the City but that it has been neglected and the ditch is clogged. If the ditch was opened up, the water would drain away. The original drainage ditch was required because of the syphon boxes that were used years ago when irrigating the land. Snow run-off from surrounding properties can create a small lake but over a few weeks it all drains away.

Mr. Tony Markoff, advised he was speaking on behalf of his Aunt, Mrs. Esther Demofsky who owns Lot A, Plan 1920 on Wildwood Road abutting the Mission Creek Greenway. Her property is included in wetland #123 with a High wetland rating. This is a small area of land that is retaining water because of a crushed culvert underneath the dyke which drained lands on the east side of the creek. The culvert is not draining now and so water is ponding, rendering the area unusable. Wetland #123 is described as a creek channel with rushes and scrub lands, although it is no different than any other lands along the creek. Mrs. Demofsky is concerned that she was not told of the Wetland Management Strategy during negotiations for the Mission Creek Greenway. Mr. Markoff noted that he wrote a letter dated February 5<sup>th</sup> to the City's Planning Department outlining his Aunt's concerns.

Responding to questions of Council, Mr. Markoff advised that his Aunt's property is currently unoccupied, unused, rural-residential property with no home on it but that his Aunt's two sons intend to build residential on it in future. Her concern is that the designation is not warranted given that the wetland is just trapped water that should be drained into the creek and because the designation creates a caveat on the land.

The Planning & Development Officer advised that the designation of wetland site #123 had to do with the former bed of the creek, from the Oxbow before it was dyked.

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Mrs. Michelle Davies, 1585 Lewis Road, referred to a map she had circulated in an information package to Council prior to the meeting and advised that the boundary of her property crosses through Garner Pond. She read one of two letters from realtors saying the proposed wetland designation would result in a huge negative impact on the property. She displayed photos of the property to show that at points the 15 m leavestrip almost bisects the property in half. She submitted that private land should be left private as long as the natural environment is being protected. The proposed designation takes away the option to one day sell part of the property to help pay the mortgage or to put horses on the property.

The Planning & Development Officer advised that the Davies' property was included in the Natural Environment/Hazardous Condition Development Permit area in 1995 in order to protect Garner Pond to its edges. The designation being considered tonight would also protect a leavestrip from the natural boundary of the pond. The Davies' land has already been disturbed and therefore only a 5 m leavestrip would be required around the pond. The leavestrip requirement would be 15 m if there was no previous land disturbance. Horses and/or cattle would be permitted on the property and could still walk down to the pond to drink water.

A member of Council noted the map shows an easement on the Davies' property. Mrs. Davies advised the easement is in favour of BMID and added that the property is in the ALR now but could be released down the road and then the land could easily be subdivided. If the proposed designation limits the potential for future subdivision of the land, then the impact would be huge.

Dr. Alex Rezansoff read a letter expressing opposition to his property being designated an unconfirmed wetland and stating that when he purchased the property in 1995, the Official Community Plan designated the land for future urban consideration. He submitted that the City is responsible for the drainage problem that is creating the wetland on his property and suggested that if the City wants it protected, the City should buy it. He also advised that the strip of land alongside Michaelbrook Golf Course is a runway that he wants to start using again and that he does not need birds with a runway.

The Long Range Planning Manager confirmed that the Rezansoff property is identified in the strategy as an unconfirmed wetland but advised that the unconfirmed wetlands are not a subject of this Public Hearing.

Dr. Rezansoff responded advising he does not even want his property included as an unconfirmed wetland.

Mr. Andrew Gibbs, one of the consultants who prepared the Wetland Habitat Management Strategy, advised that nothing said by Mr. Rezansoff would change his decision to designate the Rezansoff property as an unconfirmed wetland.

The City Clerk advised that 7 letters of concern, 6 letters of opposition and 1 letter of support were presented at the January 23, 1999 Public Hearing and the following new correspondence had been received in response to the Public Hearing of January 23, 1999:

- letter of opposition from Armand & Beth Gilbert, 959 Curtis Road
- letter expressing numerous concerns from Esther Demofsky, owner of Lot A, Plan 1920 located at 3290 Wildwood Road

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The City Clerk further advised that at the start of the Public Hearing he received one unsigned letter from Jack McKnight and one signed letter from Eric Prehofer addressed to the Davies concerning their property, as well as receiving the letter submitted from Dr. Rezansoff as part of this presentation.

There were no further comments.

The Director of Planning & Development Services, the Long Range Planning Manager, and the Planning & Development Officer left the Council Chamber at 8:52 p.m.

- (b) Bylaw No. 8368 (Z98-1053) – Stephen Vines – 624 McClure Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot C, D.L. 357, S.D.Y.D., Plan KAP6313, located on McClure Road, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone in order to allow development of the site for uses permitted in the RU1s zone.

The Current Planning Manager indicated the property on a map displayed on the overhead projector and advised that the existing single family dwelling was constructed on the site in 1966 and an addition was constructed at the rear of the dwelling in 1978 by a previous owner. The addition included a second kitchen and an affidavit was signed by the then owner saying it would only be used by family members. The current property owner is not using the suite as a secondary suite but would like to and hence the application. There is sufficient on-site parking to meet bylaw requirements. Three property owners have indicated opposition to the application on the basis that the area is primarily single family residential and introduction of the secondary suite would set a precedent. City Planning staff are aware of one application that is pending to legalize an existing suite in the area and anticipate that there will be other similar applications. However, staff are of the opinion that the application is supportable and recommend favourable consideration by Council.

The Subdivision Approving Officer entered the Council Chamber at 8:55 p.m.

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

- letter of opposition from Don Morrison, 634 McClure Road
- late letter of opposition from Steven Leahy, 644 McClure Road
- late letter of opposition from Ernst & Jean Grahn, 655 McClure Road

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

Mr. Steve Vines, applicant, advised he has lived on the property for 6 years. McClure Road runs between Lakeshore Road and Gordon Drive and is on a bus route and within walking distance of a shopping centre. There is an existing duplex across the street and, two years ago when he considered making this application and at that time petitioned the neighbourhood, he encountered two additional in-law suites and one other summer kitchen in the immediate block so the proposed secondary suite would not be unique to the subject property.

There were no further comments.

- (c) Bylaw No. 8369 (Z98-1048) – Vaughan Hooper – 428 Christleton Avenue – THAT City of Kelowna Zoning Bylaw No. 8000, be amended by changing the zoning classification of Lot 2, D.L. 14, O.D.Y.D., Plan 2553, located on Christleton Avenue, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone in order to allow development of the site for uses permitted in the RU1s zone.

The Current Planning Manager indicated the property on a map displayed on the overhead projector and advised the applicant is seeking approval for the secondary suite zone. The existing single family dwelling was built in 1930 and an addition was constructed in 1977. If this application is approved, a kitchen would be constructed within the addition. There is a driveway access from the site onto Christleton Avenue which would have to be removed to comply with the zoning bylaw requirement to use the rear lane for access. Staff recommend favourable consideration.

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. Murray Wilson, representing the owner who is out of town, advised he was available to answer questions.

There were no further comments.

- (d) Bylaw No. 8371 (Z98-1047) – Kenneth Stocks and Randall Scott – 55 Caramillo Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 43, Sec. 32, Twp. 26, O.D.Y.D., Plan 21321, located on Caramillo Road, Kelowna, B.C., from the RR3 – Rural Residential 3 zone to the RU1 – Large Lot Housing zone in order to allow development of the site for uses permitted in the RU1 zone.

Councillor Cannan declared a conflict of interest because an immediate family member owns an adjacent property and left the Council Chamber at 9:11 p.m.

The Subdivision Approving Officer indicated the property on maps displayed on the overhead projector and advised that the applicant is proposing to rezone the property to accommodate a 2-lot single family residential subdivision. The property is approx. .4 of an acre and both lots would meet the minimum lot size of the zone and be consistent with surrounding lot sizes in the neighbourhood. The existing residence in the middle of the lot would be moved onto proposed Lot 2. The Advisory Planning Commission recommends support for 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.

Mr. Ken Stocks, applicant, advised the house was built in 1972 and is quite run-down as it has been a rental property for some time. The adjacent properties are all new homes and the intent is to renovate the house when it is moved onto Lot 2 so that it is representative of the area and will do the neighbourhood justice.

The Director of Planning & Development Services returned to the Council Chamber at 9:14 p.m.

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Mr. Rick Cannan, owner of 51 Caramillo Road, commented that at one time Caramillo Road ended in front of his property and was a gravel road to the corner. That little stretch of road has since been paved and has created a drainage issue as the water now pools in front of proposed Lot 2 and then runs down and erodes his driveway. Mr. Cannan also advised there are large pine trees along the common property boundary and there could be potential soil erosion problems if any have to be taken out to accommodate the proposed application. Mr. Cannan advised he has no objections to the application, he just wants his concerns taken into consideration.

The Subdivision Approving Officer confirmed that both concerns would be reviewed through the subdivision application.

There were no further comments.

Councillor Cannan returned to the Council Chamber at 9:19 p.m. and took his place at the Council Table.

- (e) Bylaw No. 8370 (Z98-1020) – J.E. Arthur & Associates (John Arthur) – 2730 Arthur Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, Sec. 20, Twp. 23, O.D.Y.D., Plan 42230, located on Arthur Road, Kelowna, B.C., from the RR2 – Rural Residential 2 zone to the RR3 – Rural Residential 3 zone in order to allow development of the site for uses permitted in the RR3 zone.

The Subdivision Approving Officer indicated the property on maps displayed on the overhead projector and advised the rezoning would accommodate a 2-lot subdivision within an established rural residential neighbourhood. The application complies with City's development policies and since the application was made prior to adoption of the City's Subdivision Development & Servicing Bylaw in 1998, the application may be considered for subdivision irrespective of the requirement for a sanitary sewer connection for lots under 1 acre in size. The City's Public Health Officer advises that the proposed two lots meet the requirements of the Health Act. The Advisory Planning Commission recommends support as do staff.

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

- letter of concern from David Burtch and Mary Tough, 202 Jurome Road.

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 indicated he had nothing to add at this time.

There were no further comments.

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4. TERMINATION:

The Hearing was declared terminated at 9:25 p.m.

Certified Correct:

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Mayor

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City Clerk

BLH/bn