

Public HearingApril 6, 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, April 6, 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 and S.A. Shepherd.

Council members absent: Councillors J.D. Leask and 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; Special Projects Planning Manager, H.M. Christy; Licensing & Bylaw Enforcement Supervisor, M.A. McCorkell; and Council Recording Secretary, B.L. Harder.

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 24, 1999, and by being placed in the Kelowna Daily Courier issues of March 30 and March 31, 1999, and in the Kelowna Capital News issue of March 28, 1999, and by sending out or otherwise delivering 1,537 letters to the owners and occupiers of surrounding properties between March 19 and March 23, 1999.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8367 (City of Kelowna Zoning Bylaw Text Amendment No. TA99-005)
- The proposed amendments to the City of Kelowna Zoning Bylaw No. 8000 are a result of a review of the bylaw and include clarification of existing definitions, refinements to regulations concerning accessory buildings and outside storage, clarification of regulations and diagrams governing landscaping, revision of selected parking standards, clarification of side yard setbacks in individual zones, renaming the Airport zone from Industrial to Comprehensive Development, and corrections to mapping errors and resultant non-conformities created by the adoption of Zoning Bylaw No. 8000, as follows:

- .1 Amending wording throughout the Bylaw for clarification, consistency and refinement within the Bylaw.
- .2 Updating Bylaw 8000 to include clauses that were not brought forward from the previous zoning Bylaw No 4500.
- .3 Replacing the I6 Airport zone with a new zone entitled Comprehensive Development Zones - CD12 – Airport.
- .4 **Section 1 – General Administration**
 - Adding a provision to **Subsection 1.8 – Undersized Lots** to allow the RR2 zone regulations to apply to lots created with the Agricultural Land Commission approval for a home site severance.

.5 **Section 2 – Interpretation**

- Replacing the definitions of **Grade, Building; Mobile Home; Recycled Materials Drop-Off Centre; Retail Store, Convenience; Retail Store, General; and Sleeping Unit; and**
- Adding a definition for **Retail Store, Service Commercial.**

.6 **Section 6 – General Development Regulations**

- Amending **Subsection 6.3 Yards** by including wording that would allow more flexibility for agricultural or rural residential lots;
- Amending **Subsection 6.4 Projections Into Yards** by adding wording to allow additional flexibility for projections into a required yard;
- Amending **Section 6.5 Accessory Development** to provide a required side yard setback for mechanical equipment; and
- Adding a new **Subsection 6.15 Storage of Materials** to regulate storage of materials in any front yard.

.7 **Section 8 – Parking Loading**

- Amending the parking standards in **Table 8.1 - Parking Schedule** for Group Homes, Major; General Industrial Uses and Religious Assemblies.

.8 **Specific Use Regulations**

- Amending **Subsection 9.6 Bed and Breakfast Homes** to provide for a maximum number of two guests per sleeping unit in a bed and breakfast home.

.9 **Section 13 - Urban Residential Zones**

- Setting the maximum site coverage together with paved surfaces at 50% for the **RU1 - Large Lot Housing/RU1S – Large Lot Housing with Secondary Suite, RU2 - Medium Lot Housing/RU2s – Medium Lot Housing with Secondary Suite** and **RU3 - Small Lot Housing;**
- Amending **Subsection 13.10.6(b)** of the **RM4 - Transitional Low Density Housing zone** by deleting reference to building design regulations adjacent to neighbouring development; and
- Amending **Subsection 13.11.5. (e) RM5 - Medium Density Multiple Housing zone** to allow design flexibility to infill situations.

.10 **Section 14 - Commercial Zones**

- Amending the **C2 – Neighbourhood Commercial zone** by deleting **Retail Stores, General** as a principal use; and
- Amending the **C10 - Service Commercial** by adding rapid drive through vehicle services as a principal use; replacing **Retail Stores, General** with **Retail Stores, Service Commercial** and by adding regulations for outside storage.

.11 Section 16 – Public & Institutional Zones

- Amending the **P2 - Education and Minor Institutional** zone by providing for residential uses as part of the purpose;

.12 Rezonings

- Changing the zoning classification of Lot 1, D.L. 129, O.D.Y.D., Plan 4738 Except Plan 41097, located on 1810 Spall Road; Lot 2, Plan 4738 and Lot 6, Plan 4738 Except Plan KAP47177, all of Sec. 20, Twp. 26, D.L. 129, Lot A, Plan KAP44697 Except Plan KAP47177; Strata Lots 1 to 4 inclusive, Plan K574, located on 1843, 1857, 1863, 1787, 1789, 1791, 1793, 1795, 1797, 1813, 1825 and 1835 Harvey Avenue from the C10 - Service Commercial zone to the C3 - Community Commercial zone; and
- Changing the zoning classification of Strata Lots 1 to 39 inclusive D.L. 142, O.D.Y.D., Strata Plan KAS2046 and Lot A, D.L. 142, O.D.Y.D., Plan KAP61232, except Plan KAS2046 located on 1950 Durnin Road from the RM5 - Medium Density Multiple Housing zone to the RM6 – High Rise Apartment Housing zone;
- Changing the zoning classification of Parcel A (DD 3829E and Plan B5986) of Lot 3, Sec. 34, Twp. 26, O.D.Y.D, Plan 3236 located on 680 Fitzpatrick Road from the C2 – Neighbourhood Commercial zone to the I1 Business Industrial zone;
- Changing the zoning classification of Lot 9, Sec. 35, Twp. 26, O.D.Y.D., Plan KAP57139 located on 3777 Highway 97 N. from the C3 – Community Commercial to the C10 - Service Commercial;
- Changing the zoning classification of part of Lot 3 D.L. 32 and 120, Sec. 14, Twp. 23, Plan 11796; Lot 1, D.L. 120, Plan 1929, Except Plan H14326; part of Lot 7, Sec. 14, Twp. 23, D.L. 32, Plan 1502, Except Plan H16596; Lot 18, Sec. 23, Twp. 24, D.L. 32, Plan 1502, Except Plan H16596 and KAP59550; Lot 19, D.L. 32, O.D.Y.D., Plan 1502, Except Plans 21657 and H16596; and Lot A, D.L. 32, Sec. 14, Twp 23, Plan KAP59550 all located on 5414, 5445, 5475, 5549, 5583, 5553, 5543, 5655, 5725, 5765, 5805, 5845, 5895, 5935, 5975, 6015, 6055, 6095, 6105, 6135, 6245, 6315, 6355, 6395, 5997, 5667, and 5837 Highway 97 N and Lot B, D.L. 122, Plan 41159 located on 4125 Conroy Road from the I6 - Airport zone to the Comprehensive Development zone CD12 - Airport;
- Changing the zoning classification of Lot A, D.L. 137, O.D.Y.D., Plan 10512, located on 1450 Sutherland Avenue from the P2 – Education and Minor Institutional to the P1 - Major Institutional;
- Changing the zoning classification of part of Lot A, Sec. 35, Twp. 26, O.D.Y.D., Plan KAP60477, located on 3481 and 3491 Sexsmith Road from the I1 – Business Industrial to the I2 - General Industrial;

- Changing the zoning classification of Lots 1 to 75 inclusive, all of Sec. 24, Twp. 26, O.D.Y.D., Plan KAP62497, located on 129, 137, 145, 153, 161, 169, 177, 185, 193, 201, 209, 217, 225, 233, 241, 249, 257, 265, 273, 281, 289, 297, 305, 313, 321, 329, 337, 324, 304, 276, 266, 256, 246, 236, 226, 216, 206, 196, 186, 144, 136, and 128 Brighton Road; 560, 552, 544, 498, 503, 511, 519, 527, 535, 543, 551, and 567 Milton Road, 498, 506, 514, 522, 530, 538, 546, 501, 509, 517, 525, 533, 541 and 549 Harrop Avenue; 498, 508, 514, 522, 530, 538, and 546 Holbrook Road, East from the RU1 - Large Lot Housing to the RU2 - Medium Lot Housing;

The Special Projects Planning Manager advised that after having had the opportunity to work with the new zoning bylaw for several months, staff have noticed areas that need fine tuning or correction. She highlighted the more significant amendments proposed and advised that because the bylaw also amends the zoning map, notices were sent out to the owners of certain properties. The notices created concern with some of the property owners; however, the zoning amendments are simply correcting errors in translation from the old zoning bylaw to the new and will result in no changes to the existing development on the sites.

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

Mr. Keith Funk, representing the Urban Development Institute, advised that although the UDI participated in the process of re-writing the zoning bylaw, the UDI had no opportunity to participate in the proposed refinements. The UDI would like to do their own housekeeping with regard to the amendments relating to site coverage, parking, land use, etc. and request that the Public Hearing on this bylaw be adjourned for two weeks.

Moved by Councillor Shepherd/Seconded by Councillor Blanleil

P252/99/04/06 THAT the portion of the Public Hearing dealing with Bylaw No. 8367 (Zoning Bylaw Text Amendment No. TA99-005 – miscellaneous housekeeping amendments) be adjourned to the Public Hearing of Tuesday, April 20, 1999 to allow the Urban Development Institute to review and comment on the proposed amendments.

Carried

There were no further comments.

- (b) Bylaw No. 8383 (Zoning Bylaw Text Amendment No. TA99-006) – The proposed amendments to the City of Kelowna Zoning Bylaw No. 8000 are intended to tighten up definitions, provide consistency with other bylaws, and clearly differentiate pawnshops and second hand dealers from other types of consignment uses as follows:
- Replace the existing definition of Second-Hand Stores with a definition for Second-Hand Dealerships;
 - Add definitions for Thrift Stores and Used Goods Stores;
 - Amend the definitions of Auctioneering Establishments and Flea Market;

Public HearingApril 6, 1999

- Delete Pawnshops as a principal use from the C10 - Service Commercial zone;
- Delete Second-Hand Stores as a principal use from the C3 – Community Commercial, C4 - Town Centre Commercial, C7 - Central Business Commercial and C10 - Service Commercial zones;
- Add Used Good Stores as a principal use to the C3 - Community Commercial, C4 - Town Centre Commercial, C7 - Central Business Commercial and C10 - Service Commercial zones.

The Special Projects Planning Manager referred to charts displayed on the overhead projector and reviewed the amendments for Council noting the definitions have been changed to be consistent with definitions in the Second Hand Dealer and Pawnbroker Regulation Bylaw. The majority of the pawnshops in Kelowna are within the C2 and C3 commercial zones and are presently non-conforming. There are currently three pawnshops within the C10 zone and they too would become non-conforming with the proposed amendments. The intent is to restrict pawnshops to the I4 – Central Industrial zone to enable better bylaw enforcement.

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

- letter from Mr. Martin Strasser, Director of the B.C. Pawnbrokers Association, including minutes of the Association's meeting held to discuss the proposed bylaw changes as well as a license fee analysis for comparative licensing rates in the City of Kelowna.
- two late letters from Mr. Mark Koochin of Porter Ramsay, legal counsel for 9 Kelowna pawnbrokers asking that this public hearing be adjourned to allow them more time to prepare submissions to Council. The second letter also includes a letter of opposition dated March 17, 1999 from the B.C. Pawnbrokers Association.
- late letter of concern from the Kelowna Chamber of Commerce.

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

Mr. Mark Koochin, Porter Ramsay, representing 9 pawnbrokers in the City of Kelowna, gave a lengthy presentation of opposition. Their primary concerns are the amendment to remove pawnshops as a permitted use in the C10 zone thus restricting them to only the I4 zone, and the increase in business license fees for pawnbrokers from \$415.66 to \$3000. Mr. Koochin argued that the proposed amendments are unfair, inequitable, collectively ill-founded, and will drive the honest pawnbrokers that are already barely making ends meet out of business. He advised that approximately one-tenth to one-half of one percent of all items going through these businesses are stolen which hardly supports the RCMP position that pawnshops facilitate break-ins. Pawnshops are places where people in need of money can take items of value to get short term, and generally low monetary value, loans on average of about \$70. About 90% of the items pawned are recovered by the person pawning. Pawnshops in Kelowna and elsewhere are about 50% retail and significant space is required to display this merchandise. The zones the pawnbrokers are presently doing business in allow retail businesses and are in visible locations. Mr. Koochin submitted that no retail outlet would survive in the I4 zone in Kelowna, especially not a business that services a low income population, and questioned how only allowing pawnshops to operate in the industrial zone will limit what is perceived to be fencing operations.

Mr. Koochin advised that his clients applaud the City's goal to eliminate property crime and are willing to help the police stem the flow of stolen goods but they do not appreciate being smeared with the thought that they are all bad because of a dishonest minority. According to his clients, almost none of the recovered goods result from RCMP seizures, rather the goods are recovered after the RCMP receives the pawnbroker's reports and the pawnbroker loses the money he paid out for those items. Mr. Koochin submitted a document signed by 7 businesses in the same strip mall as Premier Pawnbrokers & Discount stating that the walk-through traffic attracted by the pawnshop benefits all of their businesses, they have not had any problems with Premier or any of their clients, and they oppose the rezoning of a service based firm into an industrial region. Mr. Koochin also submitted a petition which he advised contains approximately 750 signatures collected over a one week period stating that the pawnshops offer a valuable service to the community, they do not contribute to the property crime problem and should not be forced into industrial zoning.

Mr. Koochin quoted comments solicited from the public by the Province newspaper regarding a similar fee increase for pawnshops in Surrey, B.C. all opposing the fee increase. He also read excerpts from a study by the Credit Research Centre in Georgetown University, Washington, DC that concluded that pawnshops should be encouraged. Mr. Koochin noted the City of Kelowna bylaw makes provision for pawnbrokers to fax their reports to the RCMP, yet one pawnbroker was told today that he could not fax his report and had to deliver it in person. Mr. Koochin's clients question why the new reporting requirements include a separate entry for the date goods are returned or sold and why they must photocopy the I.D. of the person pawning. He suggested that it would be better to impose fines to penalize the people who are causing the problems than to proceed with the proposed amendments.

The Director of Planning & Development Services advised that two weeks ago only 2 of the 15-17 pawnbrokers in the area were members of the B.C. Pawnbrokers Association, the others have joined since then. On average, there are roughly 2 to 2½ pawnbrokers that are complying with the reporting requirements of the bylaw.

A member of Council commented that if there were great improvements in compliance to the bylaw by pawnshops owners, Council could always reconsider the amount of the business license fee increase before time for license renewals next year.

Responding to questioning by Council, Mr. Koochin said he could agree, in principle, to increasing the fee for other purveyors of used goods and pawnbrokers based on costs of enforcement for both.

Mr. Lawrence Ortt advised he is a commercial landowner in the central Rutland area of the City and that he has two pawnshops as tenants in his buildings and neither have ever caused any problems. Mr. Ortt spoke in opposition to restricting pawnshops to the I4 zone noting they rely on foot traffic and they bring business to the area. Putting them all in the north end of town makes no sense because the majority of the customers cannot afford to take a cab to the north end to try to pawn a \$50 item to get \$10 to get them through to the end of the week. The City needs to do what is necessary to ensure the pawnshops operate in a clean and honest manner but they have to be located in different areas of the community so as to be accessible to all.

The Director of Planning & Development Services clarified that Mr. Orrt's buildings are zoned C3 and his pawnshop tenants became legally non-conforming uses as of last October. The proposed zoning change would not close down any of the existing pawnshop businesses. The pawnshops can stay at their current locations as long as the use does not change or the business does not shut down for more than 6 months.

Mr. Doug McIntyre, owner of one of the pawnshops on Asher Road, took exception to the comment that only 2 pawnshops are complying to reporting requirements. He submitted that the majority of the pawnbrokers are trying to run their businesses honestly. The increased business license fee will hurt the little guys and anyone who has to locate in the north end of the city will never make it. He also stated that RCMP have come into his pawnshop and made derogatory statements in front of customers and that there needs to be cooperation both ways between the RCMP and the pawnbrokers.

Mr. Jeremy Kamoschinski, owner of Valley Pawnbrokers in Rutland, advised his is not one of the pawnshops represented by Mark Koochin. He commented that in 1995 the City's bylaw was amended and some solutions were proposed to increase efficiency but there was never any follow-up enforcement to make sure they happened. In order to be fair, the City's bylaw needs to also address other venues dealing in second hand goods, such as electronics stores that accept trade-ins or jewellery stores that buy old jewellery. He expressed concern that if the number of pawnshops complying to reporting requirements does not change before year end, the 2 to 2½ pawnshops that are reporting correctly will still get lumped into the same category and have to pay the \$3,000 increased business license fee.

Mr. Martin Strasser, Premier Pawnbrokers & District, commented that restricting pawnshops to the I4 zone would deny other businesses the possible benefits of having a pawnshop in the region. Pawnshops attract a lot of foot traffic that also benefits the other businesses. Conversely, people come in and browse the CD rack in the pawnshop while waiting for their pizza. He said that in his 4 years as a business owner, he has never had a bylaw enforcement officer or RCMP officer offer to show him how to fill out the required reports. If the reports are being filled out incorrectly, then teach the businesses the correct way to fill them out instead of making all the pawnbrokers pay for what a few are doing. Thieves are more likely to take stolen jewellery to a jeweller where there is no tracking record than to a pawnshop. Pawnshops should be treated on a level playing field with other businesses that are unpoliced such as repair stores, jewellery stores, used CD stores, used video stores, used sporting goods stores that do not have to report to the RCMP.

Mr. Wayne Taylor, Ellis Used Goods and Pawn Shop, advised his shop is on the north side and having to buy and maintain a photocopier is just an added cost when competition is already tough. If the existing bylaw was enforced there should be no problem and there should be no reason for policing costs to increase. He added that in his view the proposed fee increase is highly discriminatory.

RCMP Constable Doug Bricknell advised that over the past 4 months 49 RCMP files were created with direct relationship to pawnshops. Most of the files relate to recovery of stolen property and there were 64 stolen items recovered during that time. Maintaining accurate statistics is difficult because few people have records of the serial numbers of the items in their homes and so the goods cannot be recovered if they are stolen and pawned. Many people no longer report minor thefts to the police anymore and some items cannot be traced (i.e. frying pans). Const.

Public Hearing

April 6, 1999

Bricknell stated that in his opinion, pawnshops do not provide a community service. Many of the people who need the use of a pawnshop are socially or economically disadvantaged and there is a correlation between substance abuse the need for quick access to quick loans. Also, pawnshops charge very high interest for items being pawned.

Const. Bricknell explained that numbers can be inadvertently incorrectly transposed and photocopying ID such as a drivers license would at least provide the correct date of birth and drivers license number. Reporting the date pawned items are returned or sold allows the RCMP to determine whether an item was returned to the pawner or sold to another customer. The quality of information that is received by the RCMP needs to be greatly improved in order to eliminate stolen items in the pawnshops. Many times pawn slips have been submitted to the RCMP with information that is incomprehensible making it impossible to track down the person who pawned the item. Even when slips are filled out correctly it can be difficult for the RCMP to track the people due to changes of address or other issues. The RCMP use community policing volunteers to assist in trying to decipher and enter pawn ticket information into the system and they have put in 439 hours of volunteer time since January 1999. The proposed bylaw revisions would allow the RCMP to more effectively check the items being pawned. The problem of stolen items in pawnshops has been looked at over the years but only recently as a priority. Each of the pawnbrokers has been contacted and provided with a copy of the relevant sections of the Municipal Act and reporting information.

Responding to questioning, Const. Bricknell advised that frequently substance abuse problems or other social issues are the motivation to steal. Usually the thief wants to get rid of the item quickly to reduce the odds of getting caught. Since substance abuse is causing problems in the downtown area, the downtown area is not a good location for pawnshops, and nor are residential areas.

The Director of Planning & Development Services added that the proposed bylaw amendments are not a perfect solution but they show that the community cares and recognizes that it is difficult to deal with thefts in the absence of accurate records. A bag of gold is not an accurate description for jewellery and that was actually a record taken by one pawnbroker.

Responding to questioning, Const. Bricknell explained that the RCMP do not have ready access to records for a quick response on passport checks nor do they have access to the files to enable checks on Native status cards. Also, Native status cards can be easily altered.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 9:56 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am