

Public HearingNovember 16, 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, November 16, 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: Acting-City Manager/Director of Planning & Development Services, R.L. Mattiussi, City Clerk, D.L. Shipclark; Current Planning Manager, A.V. Bruce; Special Projects Planning Manager, H.M. Christy; Development Engineering Manager, S. Muenz; 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 November 5th, 1999, and by being placed in the Kelowna Daily Courier issues of November 8th and 9th, 1999, and in the Kelowna Capital News issue of November 7th, and by sending out or otherwise delivering 149 letters to the owners and occupiers of surrounding properties between October 29th and November 5th, 1999.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8471 – (TA99-010) – Crowning Glory Stylist – To amend the text of the City of Kelowna Zoning Bylaw No. 8000 by adding the fitting of custom wigs for medical patients to the definition of Major Home Based Business in Section 2 and the regulations for Major Home Based Businesses in Section 9.

The Current Planning Manager advised that Crowning Glory Stylist provides wigs and hair replacements primarily focusing on cancer patients who have lost their hair from cancer treatments. The proposed text amendment would allow the sale of custom wigs to patients referred by a physician as a home based business. The applicant feels the service she provides is very personal and more appropriately done through a home setting than through a commercial establishment.

The Current Planning Manager responded to questions raised by Council at initial consideration of this application advising that staff have contacted the cancer society and they do not actually give written referrals for wigs but they do refer patients to both Crowning Glory Stylist and to Nu-Reflections Salon, another business that supplies wigs. The cancer society does not sell wigs but they do loan wigs to patients so they can get comfortable with wearing them before buying. The proposed text amendment relies on the applicant's intent to only provide this service from her home to people coming through the cancer treatment program. Enforcement of the restriction to allow the sale of wigs only to patients referred by a physician would be on a complaint basis. In addition to the two businesses already mentioned that provide this service, there is apparently also a men's wig fare in Kelowna.

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

Public Hearing

November 16, 1999

- letter of objection from Jan Bekhuys, 2470 Pandosy Street, along with a copy of a letter from City bylaw enforcement staff responding to his complaint about retailing from 1760 Mountain Avenue.
- 2 additional letters submitted at the start of this meeting from Jan Bekhuys, 2470 Pandosy Street, stating reasons for objecting and providing Council with additional information about their concerns with the proposed text amendment.

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

Christine O'Connell, owner of Crowning Glory Stylists, responded to questions of Council advising that hair loss is very traumatic and in addition to fitting and selling wigs, she also offers her clients an ear to talk to. Her clients appreciate the home atmosphere and she understands how they feel because both she and her sister have had cancer. She fits and sells the wigs and then her clients take them to a stylist who cuts and styles the wig to suit the individual. The largest percentage of her clients are cancer patients but she also sells wigs to people who have lost their hair for other medical reasons. Ms. O'Connell advised that she is available whatever days and times are convenient for the customer and admitted that she has worked out of her home in order to accommodate out-of-town referrals. She also admitted that her business has slowed down considerably since being told by City bylaw enforcement staff that she cannot continue provide this service from her home. Ms. O'Connell clarified that doctors do give prescriptions for wigs for cancer patients and advised she has no problem with the restriction in the text amendment that clients must be referred by a doctor. She also noted that the wigs the cancer society loans out are used wigs and that she has donated wigs to the society for that purpose.

Jan Bekhuys, advised his wife owns Nu-Reflections Salon and has been specially trained in fitting and styling mens and womens wigs. He commented that in their 22 years of business they have never had a referral from a doctor in Kelowna that specifically sent a patient to their business. From time to time clients have prescriptions but that is only for insurance or income tax purposes. Mr. Bekhuys advised that when he and his wife asked the City for permission to operate from their home a couple of years ago, they were turned down and they accepted that. He advised that the reference to 'custom wig' in the proposed text amendment needs to be clarified. He explained that custom wigs are specially made to fit using a form that has been made of the head and advised that custom wigs cost from \$3,000 to \$6,000. With the advanced technology today there is very little demand for custom wigs. Mr. Bekhuys added that the product being sold is supposed to be made on the premise in order to qualify as a home based business and so the proposed text amendment should not even be considered.

Mr. Bekhuys responded to questions of Council advising that Nu-Reflections offers a private room where clients can go for their wig fitting if they so chose, but not all want that. He noted that Nu-Reflections brochure indicates that personal home visits are available in some cases but in his opinion it is better for the client to be fitted in the salon. He also added that his wife goes to the cancer centre once a month to wash and style wigs at no charge and that they too give wigs to the cancer society.

Public HearingNovember 16, 1999

The Current Planning Manager responded to questioning by Council, suggesting that it was likely at the business license stage when the Bekhuys were denied their request to operate from the home. Ms. O'Connell went beyond that and decided to try the text amendment route. If the proposed text amendment is approved, Council would be creating a bylaw that would be difficult to enforce, and would be opening the door to home based businesses selling other accessories that could be offered with a medical referral such as hearing aids, prosthesis, etc., If the proposed text amendment is not approved, Ms. O'Connell could continue to keep stock in her house and travel to other residences or other venues to conduct the sales and be within the current zoning regulations.

There were no further comments.

- (b) Bylaw No. 8480 (Z99-1043 and OCP 99-014) – 544805 B.C. Ltd. [Mike Culos/ Culos Developments (1996) Inc.] – 120 Leathead Road - THAT Map 15.1 – General 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 B and Lot C, Sec. 26, Twp. 26, O.D.Y.D., Plan 34969, Located on Rutland Road North and Leathead Road, from Multiple Family Residential – Low Density to Commercial as shown on Map “A”;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B and Lot C, Sec. 26, Twp 26, O.D.Y.D., Plan 34969, located on Rutland Road North and Leathead Road, Kelowna, B.C., from the RU1 – Large Lot Housing and RU6 – Two Dwelling Housing zones to the C2 – Neighbourhood Commercial zone in order to allow development of the site for uses permitted in the C2 zone.

The Current Planning Manager indicated the properties on maps displayed on the overhead projector and advised that the applicant is proposing to develop a 2-storey mixed use building with 3 medical offices on the lower floor and 3 two-bedroom apartment units on the upper floor. He showed conceptual drawings of the proposed site layout and advised that the application was reviewed and supported by the Advisory Planning Commission for the mixed uses presented. The Current Planning Manager reminded Council that at initial consideration of this application staff recommended non-support because the proposed uses do not comply with the Rutland Sector Plan or the Official Community Plan.

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

- letter from Jack & Margaret Senger, 135 Leathead Road, expressing concerns about potential loss of view, parking, and ability to access their garage.
- letter from secretary of the Rutland Residents Association discussing concerns they brought forward at the APC meeting.

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

Mike Culos, applicant, responded to questions of Council advising that he discussed the uses permitted in the C2 zone with City staff and they felt there was no need to register a covenant on title to restrict any particular use on the site. Mr. Culos advised that his intent is to maintain the scope and design presented on the conceptual plan shown tonight but there would be some minor amendments reflected in the Development Permit application when it comes forward. He also suggested that the neighbour's view would be improved with the proposed development.

Public Hearing

November 16, 1999

Jack Senger, 135 Leathead Road, advised the view he is concerned about losing is from a window that faces the lane. Also, parking could become a problem in the area once the seniors complex proposed across Rutland Road is built. Mr. Senger suggested that medical offices have a tendency of being broken into, bringing undesirables into the neighbourhood, and advised that he would prefer to see the site developed as a park.

Loretta Matheson, 520 Montgomery Road, submitted a letter and attached petition to the City Clerk and advised she canvassed all but 6 of the residents within the notification radius and none support this application.

The City Clerk read the letter into the record and advised that 15 names are represented on the petition.

A member of Council commented that doctors offices do not tend to get broken into any more because they no longer keep medication that people want to steal on site.

Ms. Matheson responded advising that she is a medical receptionist and that every office she has worked in has been broken into, although none were in Kelowna. She added that thieves may not get what they want but they still break in and then they sometimes go to the residences in the area for money to buy drugs. Ms. Matheson said she was told by her realtor that the area was single family and she would never have bought her property had she known the area would not remain single family.

At Council's request, the Current Planning Manager reviewed the road improvements that would be required if the proposed development proceeds, and advised that based on the conceptual plans provided, a total of 30 parking stalls would be required of which 15 would be surface stalls and 15 beneath the building. All parking would be accessed off the existing lane that is already paved and requires no further upgrading.

There were no further comments.

- (c) Bylaw No. 8475 (OCP99-011 and ASP97-003) – Central Park Golf Course Area Structure Plan – Cambridge Shopping Centres Limited (Marshall Hundert/IBI Group) – 2430 Highway 97 North - THAT Map 15.1 in the Official Community Plan Bylaw 7600 be amended to adopt the generalized land uses identified in the Central Park Golf Course Area Structure Plan, revised in March of 1999 (OCP99-011) and attached as Schedule "A" to the report of the Planning and Development Services Department dated September 2, 1999.

The Special Projects Planning Manager advised she would present this application concurrently with the next application on the agenda as they are both for the same development.

- (d) Bylaw No. 8476 (Z99-1028) – Cambridge Shopping Centres Limited (Marshall Hundert/IBI Group) – 2430 Highway 97 North - THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of part of Lot B, Plan 19786, Secs. 21 & 28, Twp. 26, O.D.Y.D., as shown on Schedule “B₁” attached to the report of the Planning and Development Services Department dated September 2, 1999, located on Highway 97, Kelowna, B.C., from the C9 – Tourist Commercial and P3 – Parks and Open Space zones to the C3 – Community Commercial, C4 – Town Centre Commercial, C10 – Service Commercial, and P4 – Utilities zones to permit development of the site for uses permitted in the C3, C4, C10 and P4 zones.

The Special Projects Planning Manager indicated the lands within the Area Structure Plan area on maps displayed on the overhead projector, noting the surrounding area comprises largely commercial and industrial uses. She reviewed excerpts of the Official Community Plan that set out in general terms the types of uses envisaged and advised that the ASP builds on those uses. She showed conceptually the generalized land uses indicated in the ASP area, including the commercial and light industrial areas proposed for development, the road extensions proposed, the area intended for a storm water pond, and the 15 m wide linear pathway dedications along both sides of Mill Creek along with the additional 15 m no disturb area that would be covenanted.

The Special Projects Planning Manager advised that the Area Structure Plan identifies the lands north of the CN Railway Tracks as a ‘special study area’ because of the uncertainty in the location of the future North End Connector. The Land Use Concept Map that is part of the ASP does not identify any potential uses for the special study area lands; however, the text of the ASP does indicate that the special study area *could potentially* be suitable for residential development, possibly multi-family residential, and that the undevelopable steeper slopes would either be a no-disturb area or be dedicated as open space. At this point no geotechnical work has been done to prove out any potential for development of the special study area lands, but there is a small flat area at the top of the property that may be suitable for residential development. A blanket road reserve would be registered on title over the entire property north of the tracks until such time as the alignment of the North End Connector is determined. Once that road alignment is set, then whether or not there is potential for development on those lands north of the tracks can be considered. Any future development of those lands would require a rezoning and an amendment to the Area Structure Plan. A map of potential uses for the special study area was introduced for clarification purposes only.

The Special Projects Planning Manager indicated the portion of the ASP lands that are subject of the rezoning application on a map and advised Phase 1 includes the Home Depot site and some adjacent lands for service and community commercial uses. Phase 1 also includes the storm water detention facility, the creek dedication for the linear pathway, completion of the Banks Road extension, and partial completion of the Enterprise Way extension. The Enterprise Way extension would be completed to connect with development to the east with subsequent phases of the development. The applicant has submitted two Development Permit applications, one for Home Depot and one generic application for the adjacent commercial area.

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

- letter from Linda Thiel, 1071 Cascade Place, expressing concern about development in the special study area north of the tracks.
- letter from J.W. McGregor, owner of 1420 Hunter Court, expressing concern the proposed development could cause high water problems for adjacent properties.

Public Hearing

November 16, 1999

Mayor Gray invited comments from the applicant.

Marshall Hundert, planning consultant for the applicant, advised the property is almost 100 acres in size. The land north of the tracks represents about ¼ of the entire holding. The only potential residential north of the tracks would be at the corner of Dilworth and Cascade, but that would be subject to a formal amendment in future once the North End Connector alignment is determined. A third westbound through lane on Highway 97 and an additional acceleration lane would also be constructed as part of Phase 1. Cambridge has already had B.C. Gas relocate three of the gas mains on the site in order to facilitate development of the site. Capital News and Shaw Cable have agreed to a land exchange in order to compensate for the land lost to accommodate improvements to Enterprise Way/Hunter Road. Public access to the open space areas will be provided via rights-of-ways through easements. A traffic impact assessment was prepared earlier in the process and that has been the basis for the engineering design drawings that specify the actual construction of what would be required for the roadway improvements and new roadways. The future Banks Road extension has been designed to allow some existing fairway vegetation to be retained. As a condition of the Development Permit Cambridge has agreed that trees will be replaced on a 1 for 1 basis with the exception of some of the trees that were planted as part of the driving range. Mr. Hundert advised that they hope to proceed with underground works this coming winter with surface works starting in the spring.

Mr. Hundert responded to questions of Council advising that Cambridge is committed to retain as many mature trees as possible, but that they would not want to protect the trees along the Banks Road extension by covenant because that could jeopardize construction of Banks Road. Some of the fairway trees may be accommodated within the road boulevard. Cambridge is carrying out a tree survey now and almost 40% of the site is being dedicated as open space. Mr. Hundert explained how the detention pond would be designed and advised that it would be a public utility owned by the City. He also advised that although there is potential for housing to occur as a secondary use above the main floor in Phase 1 construction, Cambridge does not believe it would be marketable because it would be a pocket of housing that would have to go through industrial or commercial to get in or out and would lack a community feeling. He also reminded Council that the covenant registered on title restricts the land use to heavy industrial and that the Agricultural Land Commission has agreed to what is being proposed but would not support residential.

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

Gunter Mattarn addressed Council on behalf of the adjacent property owners on Hunter Road and expressed concern if surface storm water is to be diverted onto adjacent lands. He advised that fill had to be added to the rear of one of the properties in order to make it be suitable for paving because the ground was already so saturated. The rear walls of the buildings on Hunter Court are constructed to the property line and they would also likely be detrimentally impacted by additional surface storm water. Right now the golf course is fenced but if the proposed pedestrian area is to be open, a security concern would be created because it would bring easy public access to the rear of the properties on Hunter Road and the valuable equipment the tenants of those premises store in their back yards. He submitted that if development of the former Central Park Golf Course land was put to a referendum, it would never be supported by the public. He suggested that the City preserve those lands as park and that the proposed shopping centre be built on the Western Star site once it is vacated.

Public Hearing

November 16, 1999

Marcel Arrance advised his family owns the restaurant on the corner of Leckie and Hunter Roads but that he was not speaking on their behalf. He wondered how much of the existing vegetation along Highway 97 would be lost with development of the property. The Special Projects Planning Manager advised that the vegetation abutting the highway would likely all be lost as a result of the required highway widening.

Bruce Blachford, 2108 Lillooet Court, expressed concern that the potential housing at the top of the special study area would create a dangerous situation at its access point off Dilworth Drive and asked that Home Depot be required to have all merchandise within their store.

Norm Fix advised he owns the Greyhound property on the corner of Dilworth and Leckie and that in his opinion, the proposed plan is one of the best he has seen presented to the City. He agreed it is sad to lose the golf course and added that he did not think the proposed storm water detention plan would negatively impact adjacent properties. He also noted that the trees along the highway would have to go even without the road widening because otherwise the public would not be able to see the businesses on the site.

Marshall Hundert, agent for the applicant, responded to comments of previous speakers stating that the existing flood water situation in the area would be improved. He suggested that security for the Hunter Road businesses would also be improved because it is better to have development next door than an open field. The traffic concern on Dilworth would be addressed if and when residential development becomes an option on the lands north of the railway tracks. Home Depot would comply with the zoning bylaw requirements for screening outdoor storage.

The City Clerk commented that preserving the land as park is not an option that is available. The covenant registered on title restricts the land use to industrial and the Agricultural Land Commission would not agree to discharge the covenant for park purposes.

Council acknowledged that the map the Special Planning Manager showed to indicate where potential residential development *could* occur in the special study area does *not* form part of the bylaw or the ASP under consideration. However, Council agreed that since the map was introduced into the record, to ensure it is clear in future that Council is simply acknowledging the lands north of the tracks as a special study area and not approving any uses for those lands, the map be amended to indicate North End Connector road reserve, open space/no disturb area, and *potential* residential.

The Special Projects Planning Manager displayed a map, so amended, for the record.

The Development Engineering Manager advised Council that the North End Connector is identified in the City's 20 year servicing plan for construction in 2010 or 2013, but that can change. The Director of Planning & Development Services clarified that regardless of when the North End Connector is built, Council ultimately decides land use and can still deny a rezoning of the property in the special study area if it is deemed to be premature.

There were no further comments.

Public Hearing

November 16, 1999

4. TERMINATION:

The Hearing was declared terminated at 10:01 p.m.

Certified Correct:

Mayor

City Clerk

BLH/bn