

Public HearingApril 18, 2000

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 18, 2000.

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

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi; Current Planning Manager, A.V. Bruce; 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 April 6, 2000, and by being placed in the Kelowna Daily Courier issues of April 10 & 11, 2000 and in the Kelowna Capital News issue of April 9, 2000 and by sending out or otherwise delivering 1,366 letters to the owners and occupiers of surrounding properties between March 30 and April 3, 2000.

The City Clerk outlined Council's policy adopted to ensure all speakers have an equal opportunity to address Council.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8529 (Z00-1002) – Brian & Lillian Berry (Keith Funk/New Town Planning Services) – 1571 Sutherland Avenue - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 8, D.L. 141, O.D.Y.D., Plan 3736, located on 1571 Sutherland Avenue, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the C3 – Community Commercial zone in order to allow development of the site for uses permitted in the C3 zone.

Staff:

- The rezoning would facilitate the development of a single storey medical eye clinic on the site.
- The application is consistent with the direction of the Official Community Plan.
- The site would be accessed from Sutherland Avenue with parking in front of the building and additional parking spaces and a loading zone off the lane.
- A Development Variance Permit would be required to allow for a zero west side yard setback and a reduction in parking requirements.
- The owner of the adjacent property to the west supports this application.
- The Advisory Planning Commission reviewed the application and passed a recommendation of support with no conditions.

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

- late letter from Joe Sheremeto, tenant at 1514 Dickson Avenue
 - late letter from Nelly Van Tol, owner of 1514 Dickson Avenue
 - late letter from Bill & Lise Sinclair, 1506 Dickson Avenue,
- all concerned about the condition of the rear lane.

Public HearingApril 18, 2000

Staff:

- This applicant will be required to upgrade the lane frontage abutting the subject property.

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

Keith Funk, representing the applicant:

- A fence is also required along the side yards and the applicant is also requesting that this requirement be waived. The adjacent property owners also prefer not to have the fence.
- The applicant is required to pave the rear lane for the length of the subject property. The lane along the property to the immediate east is already upgraded and the property to the immediate west is about to redevelop and will also be required to upgrade the lane. The balance of the lane remains unimproved.

Bill Sinclair, 1506 Dickson Avenue:

- The lane gets a lot of commercial traffic and potholes and dust are a problem.
- City staff are good about coming out to grade the lane but that only lasts about a week and then the potholes are back. All the grading has reduced the elevation of the lane considerably and that has created a drainage problem.
- The alley beside Lot 12 is always a mess.
- The City will only do dust control on the lane once a year.
- A lot of the homes are rented and the landlords are not interested in paying a share to get the lane oiled and nor are a couple of the existing commercial developments.
- With the type of development along the lane, the lane gets used as a mini-street and should be upgraded for the full length.
- The cost of maintaining the alley over the past 5 years would likely warrant improving the entire lane outside a local improvement.
- Submitted two letters to the City Clerk from residents on the lane both asking that paving the entire gravel portion of the lane be a condition of approval for this application.

The City Clerk noted for the record that the correspondence was from the following:

- Thomas & Jane Smart, 1540 Dickson Avenue
- Keith Westwood, 1530 Dickson Avenue.

There were no further comments.

- (b) Bylaw No. 8530 (OCP99-003 and Z99-1002) – Excalibur Enterprises Incorporated and Carey Road Properties Ltd. (Al Kleinfelder) – 2650 Highway 97 North, 2658 & 2660 Highway 97 North; 2590 Highway 97 North; and Lot B North of Carey 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 A, D.L. 125, O.D.Y.D., Plan KAP64644, Lot 4, D.L. 125, O.D.Y.D., Plan 7319, Lot 4, D.L. 125, O.D.Y.D., Plan 3522 and that part of Lot B shown on Plan B5087, D.L. 125, O.D.Y.D., Plan 2042, located on Highway 97, Kelowna, BC, from Industrial to Commercial, as shown on Map “A” attached to the report of the Planning & Development Services Department dated March 8, 2000;

AND THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 125, O.D.Y.D., Plan KAP64644, Lot 4, D.L. 125, O.D.Y.D., Plan 7319 and Lot 4, D.L. 125, O.D.Y.D., Plan 3522 and that part of Lot B shown on Plan B5087, D.L. 125, O.D.Y.D., Plan 2042, located on Highway 97, Kelowna, BC from the A1 – Agriculture 1 zone to the I1 – Business Industrial, C9 – Tourist Commercial, C10 – Service Commercial and P3 – Park and Open Space zones as shown on Map "A" attached to the report of the Planning & Development Services Department dated March 8, 2000 in order to allow development of the site for uses permitted in the I1, C9, C10, and P3 zones.

Staff:

- The proposed development involves four properties, one of which fronts onto Highway 97 but all with legal access from Highway 97.
- The Ministry of Transportation & Highways (MOTH) have indicated that none of the properties can be developed with direct access to the highway.
- The subject application would facilitate a subdivision to create an industrial and commercial business park that would be accessed from an extension of Leathead Road from its present terminus to the southern boundary of the subject property.
- 9 Service Commercial lots are proposed fronting the new Leathead Road frontage, 3 Business Industrial lots would be accessed by a cul-de-sac off the Leathead Road extension, and park and open space would be dedicated adjacent to Mill Creek.
- The applicant would be required to prepare a habitat mitigation plan to address leave strip deficiencies along Mill Creek.
- In future, the cul-de-sac providing access to the business industrial lots is proposed to be extended to connect to Highway 97.
- A mid-line road is proposed along the rear spine of the properties. The requirement for the mid-line road is a result of the MOTH Highway 97 Access Management Plan.
- The mid-line road is a road reserve intended to provide access to the properties fronting Highway 97. Dedication and construction would not occur until the full length of the road is achieved.
- One section of the mid-line road would be achieved through the subject application, along the lot that fronts onto Highway 97.
- The owner has made a commitment to give the old Brent's Mill buildings that are on the southern portion of the property to the Historical Society to be moved to another site for preservation.
- The Official Community Plan designates the subject property for future industrial use and that the property would be used for big box retail if developed as one large site.
- The application was reviewed and supported by the Advisory Planning Commission with recommendations that have been addressed by the applicant.
- The exact alignments of the lots, mid-line road and the future connection of the cul-de-sac to Highway 97 will be subject of scrutiny with the subdivision application.
- Since the preplan in 1986, the alignment of the Leathead Road extension and the proposed mid-line road have been shifted to the east.

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

- letter from Arnie Brown, owner of Lot 2, Plan 35785 (2598 Highway 97 North), supporting the application, in principle, subject to clarification of the proposed road right-of-way which would negatively impact his property.
- late letter from Anthony Lunelli, owner of Lot 3, Plan 7319 and Lot A, Plan 12318 (2670 and 2674 Highway 97 North – Subaru and Suzuki Dealerships), expressing concern about the impact of the proposed mid-line road reserve on his property and the eventual loss of the Highway 97 access to his property, and asking that the applicant be encouraged to meet with all affected parties to determine an alignment for the mid-line road reserve to the mutual satisfaction of all.

Public Hearing

April 18, 2000

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

Al Kleinfelder, representing both applicants:

- The road reserve for the mid-line road is completely on the properties fronting onto Highway 97 and only relates to one of the subject properties.
- Approximately 1/3 of the entire subject property has been lost through land dedications for the Leathead Road extension, creek dedications and the internal road.

Peter Klimuk, 1027 Harvey Avenue, representing Arnie Brown and Anthony Lunelli:

- The mid-line road reserve dedication should be apportioned equally between the abutting properties.
- The currently proposed mid-line road reserve would go right through a service building that was constructed on the Lunelli property with approval from the City less than 4 years ago, respecting the road reserve which at that time was further west. Shifting the road reserve to the east creates a remnant parcel that would not meet minimum lot size criteria.
- Would want the City to provide written assurances that the current use on the Lunelli property would not be impaired by the proposed alignment and that the ability to make modifications to the building would not be impaired as a result of the proposed road reserve.
- Maximizing the applicant's return should not be at the expense of the adjacent property owners.
- The mid-line road may not be needed now but the adjacent highway properties will be impacted when it is in future.
- Mr. Brown would ultimately lose over 50% of his property through proposed road dedication requirements.
- Suggested that the right-of-way that exists one lot further to the south be used for the Highway 97 access road.

Milton Cook, owner of the Scott Chrysler property, 2690 Highway 97 North:

- A year ago was required to dedicate property for the Leathead Road alignment.
- If the mid-line road reserve is taken off the rear, the property would be rendered useless for a car dealership use.
- Opposed establishing a mid-line road reserve without any discussion with the affected properties.

Mrs. Lunelli:

- The proposed mid-line road is not going to benefit the Lunelli property.
- It sounds like the alignment of the mid-line road reserve was shifted east just so that the developers of the subject property can make more money.

Balthasar (Frank) Roth, owner of Lot 1, Plan 3522 (2636 Highway 97 North):

- Do not understand how the City can tell them they have to dedicate property out of the blue.
- If more road is required in order to develop the subject properties, then the road should be on the subject property.
- Support the zoning and OCP amendment but do not want to donate land for the mid-line road reserve.

Al Kleinfelder again (representing both applicants):

- The mid-line road will not benefit the applicants and is not something the applicants want. An alignment for the mid-line road is being forced on them because of the requirement to dedicate a section of the road over Lot 13 with this application.
- The mid-line road reserve should be on the highway fronting properties because only they will benefit from the road.
- These are 2 property owners going forward with a joint application but not a joint development.
- The mid-line road is required solely so that MOTH can ultimately take highway access away from the highway fronting properties and if any of those properties tried to rezone or redevelop, they would be forced to dedicate that rear access.
- The narrow right-of-way to the south is ancient and was never intended to form any type of access to Highway 97.

Grant Gauchier, representing Excalibur Enterprises (one of the applicants):

- The proposed Lot 10 could not be further subdivided and conform to the lot size requirements of the zone so Lot 10 would derive no benefit from the mid-line road.
- Neither applicant wants the mid-line road.
- The amount of net usable land is important to the viability of the proposed development.

Milton Cook again:

- Dedicated the corner of the Scott Chrysler property for Leathead Road and built the road along his property frontage in exchange for a piece of land from the City at the rear of his property. Concerned that a road is now being considered at the rear of the property.

There were no further comments.

- (c) Bylaw No. 8528 (TA99-011) – City of Kelowna – The proposed amendments to the City of Kelowna Bylaw No. 8000 are a result of a review of the bylaw. The following is a general outline of the proposed amendments:

i. Section 1 - General Administration

- Adding a provision to **Subsection 1.4 - Uses and Regulations** paragraph 14.3(f) to allow temporary outdoor uses on properties zoned for agriculture located within Town Centre areas;

ii. Section 2 - Interpretation

- Replacing the definitions of **Agricultural Dwelling, Additional; Financial Services;; and Offices; and**
- Adding a definition for **Government Agency; and Offices, Construction and Development Industry;**

iii. Section 6 - General Development Regulations

- Amending **Subsection 6.4 Projections Into Yards** to regulate structural projections;
- Amending **Subsection 6.5 Accessory Development** paragraph 6.5.1(b) by including wording that would allow more flexibility for a person holding an Amateur Radio License to erect an accessory structure;
- Amending **Subsection 6.5 Accessory Development** paragraph 6.5.8(b) to regulate side yard setback requirements for accessory buildings housing secondary suites; and
- Amending **Subsection 6.11 Okanagan Lake Sight Lines** paragraph 6.11.1 to add wording to regulate siting of buildings and structures greater than 1.2 m above natural grade along Okanagan Lake foreshore;

iv. Section 7 – Landscaping and Screening

- Amending **Subsection 7.5 Fencing and Retaining Walls** by adding a new section to regulate the height of retaining walls and fences within 1.2 m of the property line where an affected property remains at natural grade;
- Amending **Subsection 7.6 Minimum Landscape Buffers** paragraph 7.6.1(e); 7.6.6 and 7.6.7 by adding wording to provide and regulate size, and placement of landscape buffers including school sites; and
- Amending the Landscape Buffer Treatment in **Diagram 7.5 – Minimum Landscape Buffer Treatment Highway 97 & 33; Diagram 7.6 Minimum Landscape Buffer Treatment ALR;**

v. Section 8 – Parking and Loading

- Amending **Subsection 8.1 Off-Street Vehicle Parking** paragraph 8.1.12 to include size requirements for two way aisles and one way aisles;
- Amending **Subsection 8.3 Development Standards Vehicle Parking and Loading** paragraph 8.3.1 to add wording to regulate tandem parking for off street parking and paragraph 8.3.2 to add wording regulating forward entry and exit for off street parking directly to a dedicated public street or lane;
- Amending the parking standards in **Table 8.1 – Parking Schedule** for Community Recreation Services, Exhibition and Convention Facilities and Private Clubs; and
- Amending **Table 8.3 – Bicycle Parking Schedule** standards for Congregate Housing and Group Homes, Major;

vi. Specific Zones

- Setting the maximum site coverage together with driveways and parking areas 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, RU3 - Small Lot Housing, RU6 - Two Dwelling Housing/RU6b - Two Dwelling Housing with Boarding or Lodging House;**
- **RU5 - Bareland Strata Housing zone** by amending the wording for side yards set backs;
- Amending **RM3 - Low Density Multiple Housing zone-** adding "congregate housing and group home, major" as permitted principal uses; adding regulations for the provision of private open space; and adding a minimum lot area of 900m²;
- Amending **RM4 – Transitional Low Density Housing, RM5 – Medium Density Multiple Housing; RM6 – High Rise Apartment Housing; C4 – Town Centre Commercial** zones to provide a minimum area of private open space required for congregate housing and group homes;
- Setting the maximum site coverage together with principal buildings, accessory structures, and parking areas and driveways at 50% for the **RM6 – High Rise Apartment Housing zone;**
- Amending the **C2 – Neighbourhood Commercial , C3 – Community Commercial** and **C5 - Transition Commercial** zones to provide a minimum area of private open space required for group homes;
- Amending **C7 – Central Business Commercial** zone by providing a minimum area of private open space required for congregate housing;
- Amending the **C10 – Service Commercial** zone by adding construction and development industry offices and government agencies as a principal use;
- Amending **I4 – Central Industrial** zone by adding fleet services as a principal use;
- Amending **P1 – Major Institutional** by adding congregate housing as a secondary use;
- Setting the maximum site coverage for buildings at 40% and together with buildings, parking areas and roads at 60% for the **P2 – Education and Minor Institutional** zone;
- Amending **P3 – Parks and Open Space** zone by adding participant recreation services, indoor as a secondary use; and
- Amending **P4 – Utilities** zone by adding participant recreation services, outdoor as a secondary use;

vii. Rezoning - to change the zoning classifications of the following properties as a result of mapping errors arising from the mapping conversion of Zoning Bylaw 4500 to Zoning Bylaw 8000:

- Lot 8, Sec. 26, Twp. 26, O.D.Y.D, Plan 25529 located at 230 Highway 33 East from the C5 - Transition Commercial to the C3 – Community Commercial zone;
- Parcel A (DD 38294E and Plan B5986) of Lot 3, Sec. 34, Twp. 26, O.D.Y.D., Plan 3236 located at 680 Fitzpatrick Road from the I1 - Business Industrial to the I2 - General Industrial zone;
- Lot 4, Secs. 20 and 29, Twp. 26, O.D.Y.D., Plan KAP60338 located at 1390 Ridgeway Drive from the RM3 - Low Density Multiple Housing to the RM4 - Transitional Low Density Housing zone;
- Lots 2 and 3, Sec. 26, Twp 26, O.D.Y.D., Plan KAP65904 located at 150 and 158 McCurdy Road East from the RM1 - Fourplex Housing to the RM2 - Low Density Row Housing zone;
- Lot 2, D.L. 531, O.D.Y.D., Plan 36374 located at 2243 - 2293 Leckie Road from the I3 - Heavy Industrial to the I1 - Business Industrial zone;
- Part of Lot A, D.L. 125 and 532, O.D.Y.D., Plan 39897 and part of Parcel A (KC24963) D.L. 125 and 532, O.D.Y.D., Plan 35888 located at 2303 and 2343 Leckie Road from the A1 - Agriculture 1 to the C10 - Service Commercial zone; and
- Part of Lot B, D.L. 125 and 532 O.D.Y.D., Plan 39897 located with the boundaries of Land Use Contract 77-1085 and located at 2330 Enterprise Way from the C10 - Service Commercial to the A1 - Agriculture 1 zone.

Staff:

- The proposed text amendments are generally housekeeping issues since adoption of Zoning Bylaw 8000 in 1998.
- Some amendments to zoning boundaries are proposed to correct drafting errors on the zoning maps.

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

- letter from R. Brown, 230 Enterprise Way, indicating that he was not aware that a small portion of his property was covered by Land Use Contract until he received notice of this Public Hearing. City staff are working with him to find a way to remove the LUC from his property at no cost to him.
- letter from Wasa Developments, 2293 Leckie Road, asking for confirmation that the proposed amendments would not impact their property.

Public HearingApril 18, 2000

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

Keith Funk:

- The parking and loading requirements under section 8.3.2 of the bylaw would preclude having parking along commercial lanes.

Staff:

- There is a typographic error in the bylaw. The entire last sentence at the end of section 8.3.1 of the bylaw belongs at the end of section 8.3.2b and the bylaw will be so amended.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 9:37 p.m.

Certified Correct:

Mayor

City Clerk

BLH/bn