

Public HearingAugust 29, 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, August 29, 2000.

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

Council members absent: Councillors A.F. Blanleil and B.D. Given.

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; Subdivision Approving Officer, R.G. Shaughnessy\*; Special Projects Planning Manager, H.M. Christy; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 7:00 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Zoning Bylaw No. 8000" and to consider an amendment to a Development Agreement. 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 August 10, 2000, and by being placed in the Kelowna Daily Courier issues of August 21 & 22, 2000, and in the Kelowna Capital News issue of August 20, 2000, and by sending out or otherwise delivering 687 letters to the owners and occupiers of surrounding properties between August 9 & 14, 2000.

Staff:

- Agenda item (d) is not a land use, Official Community Plan or zoning matter.
- The property has an agreement registered against it that deals with the specific form, character and number of units originally envisaged for development on the site.
- A new owner has come forward with a different proposal that meets the requirements of the zone but differs from the requirements of the agreement registered on title.
- Before Council can consider a Development Permit for the new proposal, Council must first deal with the existing agreement.
- The purpose of the Public Hearing on item (d) is to allow the public an opportunity to comment on the proposal to change the Development Agreement.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8581 (Z00-1003) - Yale County Capital Ventures Ltd. and Mill Creek Developments Ltd. (D.E. Pilling & Associates Ltd. (Dale Pilling)) - 4275 & 4355 Highway 97 North - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of part of Lot 4, D.L. 123, O.D.Y.D., Plan 4183 except Plans B6145 and H16596; and Parcel A (DD 39702E and Plan B6145) of Lot 4, D.L. 123, O.D.Y.D., Plan 4183 except Plans H764 and H16596, as shown on Map "A" attached to the report of the Planning & Development Services Department dated July 19, 2000, located on Highway 97, Kelowna, B.C. in order to allow development of the site for uses permitted in the I2 zone.

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- The applicant proposes to rezone the westerly half of the property to facilitate a 14 lot industrial subdivision. This portion of the property has been removed from the Agricultural Land Reserve.
- All lots would be accessed from Acland Road which would be extended as part of the subdivision.
- The easterly portion of the property would be consolidated and would remain in the Agricultural Land Reserve.
- The proposed consolidated lot contains Simpson's Pond which is identified as having a moderate wetland rating in the City of Kelowna's Wetland Habitat Management Strategy. The pond would form part of the storm water management plan for this proposed subdivision and the Ellison Drainage Basin.
- The pond and the connecting drainage ditch to Mill Creek, located at the northwest corner of the subject property, would require a right-of-way agreement for drainage purposes as part of the subdivision approval process.
- The northwest portion of the subject property located between Mill Creek and Highway 97 would be dedicated as road and would form part of the Mill Creek stream protection corridor.
- The area on the east side of Mill Creek adjacent to Mill Creek will be dedicated to provide future public access to link with the stream protection corridor.

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.

Dale Pilling, applicant:

- Indicated he had nothing to add at this time.

There were no further comments.

- (b) Bylaw No. 8582 (Z00-1010) - Okana Masonry Ltd. (Emil Anderson Construction Co. Ltd.) – 5111 Killdeer Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Sec. 24, Twp. 28, SDYD, Plan KAP59499, located on Killdeer Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RU1 – Large Lot Housing, RU5 – Bareland Strata Housing and P3 – Parks and Open Space zones as shown on Map "A" attached to the report of the Planning & Development Services Department, dated July 20, 2000 in order to allow development of the site for uses permitted in the RU1, RU5 and P3 zones.

Councillor Clark declared a conflict of interest because the subdivision is contiguous to a development in which he is a minor partner and left at 7:12 p.m.

Staff:

- The property is at the southwest corner of the Area Structure Plan (ASP) area for Neighbourhood 2 in the Southwest Mission. The bylaw for the ASP is still at 3<sup>rd</sup> reading and there are three other applications for development within Neighbourhood 2 that are also at 3<sup>rd</sup> reading. The bylaws for the subject property are on tonight's Regular Meeting agenda for 2<sup>nd</sup> & 3<sup>rd</sup> readings and the intent is bring them all forward for adoption in the near future.
- Approximately 100 residential properties are proposed to be created through this application, however, the first phase is proposed to be 20 lots.
- Killdeer Road would be extended to connect to Chute Lake Road with this application.
- The alignment for the Killdeer road extension was established by City staff and Ministry of Environment staff to resolve concerns about the wildlife corridor and preservation of the ravine.

- The knoll just east of the Killdeer Road extension will be flattened in order to achieve a 10% road grade for Killdeer and a culvert will be installed under the Killdeer/Chute Lake Road intersection to allow passage for wildlife.
- Levelling the knoll will allow a development lot on the east side of Killdeer Road.
- Two access points are protected as options for getting to the wildlife corridor between the RU2 and RU5 development which is proposed for the highpoint.
- The rezoning is consistent with all of the City's planning documents and the draft Neighbourhood 2 Area Structure Plan which is at 3<sup>rd</sup> reading.
- Construction of the Killdeer Road extension could be completed this fall, weather permitting. Frost Road would be used for construction traffic to Killdeer until that road is constructed and then Killdeer would be used as the construction road to service construction traffic to the land to the east.
- Road improvements to Lakeshore/Gordon Roads would not be triggered by the build-out of the 4 instream rezoning applications and road impacts will be looked at based on where the units develop.

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.

Mike Jacobs, Emil Anderson Construction, applicant:

- When Killdeer is connected to Chute Lake Road, the culvert will go out into adjacent City-owned land which is right in the middle of a ravine.
- Will work with the City to develop a trail network.
- Intend to utilize sand and gravel that is on the site for construction of site servicing (sewer, water, road building) and that will reduce the number of dump trucks so there will be very little off-site hauling and limited construction traffic other than the crew going to and from work.
- Emil Anderson Construction is active in building a majority of the homes and controlling the builders in the developments and ensuring they follow the rules (i.e. courteous to the neighbours, follow speed limits, etc.).
- The narrowest point of the wildlife corridor is 28 m and most of the corridor is 30 m wide. The corridor is also enhanced with the City lands that make for an even larger corridor.
- Three groups of two duplexes are proposed for construction on the knoll at the highest point. The area is viable for building and it can be developed sensitively by only developing exactly where the buildings are and not in between.
- Loss of units impacts project viability.

There were no further comments.

Councillor Clark returned to the Council Chamber at 7:45 p.m. and took his place at the Council Table.

- (c) Bylaw No. 8583 (Z00-1039) - 482627 B.C. Ltd.; Envirotech Real Estate Inc.; Gordon & Emelie Wallace; and Dorothy & Elizabeth Howe (Envirotech Real Estate Inc.) – 1681, 1683, 1667 & 1659 Ethel Street; 931 & 941 Leon Avenue and 932 Harvey Avenue - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, D.L. 138, O.D.Y.D., Plan 3133, Lot 2, D.L. 138, O.D.Y.D., Plan 3133 Except Plan 36604, Lots 1, 2, 3, and 4, D.L. 138, O.D.Y.D., Plan 6535, and Lot 1, D.L. 138, O.D.Y.D., Plan 3007 Except Plan 36604, located on Harvey Avenue, Ellis Street, and Leon Avenue, Kelowna, B.C., from the RU6 – Two Dwelling Housing zone to the RM6 – High Rise Apartment Housing zone in order to allow development of the site for uses permitted in the RM6 zone.

**Staff:**

- The Development Permit indicates a building oriented diagonally with access from Leon Avenue. Parking would be underground, accessed from Leon. No access is contemplated from Ethel Street or Harvey Avenue.
- The landscape plan indicates open space uses with a putting green, a patio area, and likely some seating features.
- The zone permits up to a 16-storey building. The building would be sited as near to Harvey Avenue as possible. The public amenities would be on the main floor with a total of 134 congregate housing units above.
- The units would have limited kitchens and there would be a common dining area.
- Based on the requirements for congregate housing, 51 parking stalls are required for this facility and 55 parking stalls are proposed.
- In 1988 the original North Central Area Plan was done and it indicated R-4 zoning for the subject property and that would permit up to 3 storeys of development. In 1993 that plan was amended to indicate high density residential development (R5 to R6). That was the highest density zone and it permitted up to 12 storeys. In 1998 when the new zoning bylaw was adopted, the permitted height for the RM6 zone was increased to 16 storeys in response to the highrise development on the waterfront. The intent of increasing the permitted building height to 16-storeys was to create a gateway at the Harvey/Ethel intersection.
- The application was reviewed by the Advisory Planning Commission and supported with no conditions.
- The proposed zoning is consistent with all City planning documents.
- Staff support the application and recommend it be advanced.

The City Clerk advised that the following correspondence and/or petitions had been received:

**Opposition:**

- Petition bearing 127 signatures
- Petition bearing 23 signatures

All opposing the application for the following reasons

- Increased traffic congestion, noise and pollution;
- Obstruction of view for nearby property owners;
- Incompatible with existing residential character;
- Previously assured that there would be no high rises constructed in the area.
- letter from George & Diane Caldwell, 204-933 Harvey Avenue
- letter from Mary Laure Coote, 333-863 Leon Avenue

Both opposing the application for the following reasons:

- Unit density will be the highest of any intersection in Kelowna;
- Proposed height is out of character with surrounding area;
- Increased traffic and Ethel Street will not meet the need;
- Property values will drop;
- Light will reflect from the building causing suites on Ethel to warm up.
- Late letter from New Town Planning Services Inc.
- Late letter from Gloria Barnes, 863 Leon Avenue
- Late letter from Vera Blue, 863 Leon Avenue
- Late letter from Evelyn Boos, 863 Leon Avenue
- Late letter from Chris Campbell, 863 Leon Avenue
- Late letter from Ernie Johns, 863 Leon Avenue
- Late letter from Marion Kirschner, 863 Leon Avenue
- Late letter from S.B. Lichtenstein, 304-1318 Richter Street
- Late letter from Katie Perry, 863 Leon Avenue
- Late letter from Margaret Spanetz, 863 Leon Avenue
- Late letter from Mary Thomas, 863 Leon Avenue
- Late letters (2) from Olive Thwaite, 863 Leon Avenue
- Late letter from Edith Toovey, 863 Leon Avenue

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- Late letter from C.J. Ward, 863 Leon Avenue
- Late letter from Therese McGurd
- Late letter from Joan Gordon, Kelowna South-Central Neighbourhood Association
- Late letter from Michael Johns, 863 Leon Avenue
- Late letter from Gwen Sladen, 1641 Ethel Street

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- Late letter Vince Hughes, 980 Leon Avenue
  - Late letter from Shirley Collier, 891 Lawrence Avenue
- All opposing the application for the following reasons:
- Height of building is inappropriate for area;
  - Tall buildings should be located nearer to Town Centre core;
  - Increase traffic, noise and pollution;
  - Will create parking problems in area;
  - Concerned about effect on air traffic;
  - Neighbouring properties will lose their view;
  - Will affect daylight on neighbouring properties; create shadows & glare
  - Can change local micro climate (thermal reflection and increased wind);
  - Loss of privacy;
  - Most seniors do not want to ride in an elevator for 16 floors;
  - Lower the quality of the neighbourhood;
  - Existing homes may not be able to withstand vibration during construction;
  - Unstable ground may not be able to support building;
  - Increased activity may lead to additional ground movement.

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

Tor Camren, Envirotech Real Estate Inc., applicant:

- The proposed development is unique and is targeted at a market that is not targeted by existing facilities; living in the facility would be like living in a 5-star hotel.
- The project is targeted at 70-80 year olds so noise would be minimal.
- Traffic would be minimal and the only vehicular access would be off Leon Avenue.
- There would be no open balconies to speak of so no bicycles stored there.
- No reflector glass would be used; the glass is a light thermal glass for heat and cold, to protect from UV rays and to keep noise from going in or out.
- Proposing a nice landscaped area.
- There would be no food smells from the individual units.
- Noise is not a problem with seniors facility.
- Made every effort to ensure that the proposal is consistent with the City of Kelowna Official Community Plan.
- Offered at the Advisory Planning Commission to meet with the neighbourhood association, if required, but the neighbourhood association made no formal request for a presentation.
- Consultation was primarily with City Planning staff.

Ms. Margaret Christensen, 203-945 Lawrence Avenue:

- Opposed to 16-storey seniors buildings at this corner.
- As a senior citizen she would not move into a 16-storey building. Would not want to walk down 16 flights of stairs when elevators not operating (i.e. a fire).
- Questioned how many elevators are proposed.
- The residents in the area were under the understanding that no buildings in the area would exceed 3-4 storeys.
- Would like the trees retained on the site, particularly a Red Maple tree.
- Loss of view.
- Kelowna still has the aura of a small town and a 16-storey building is inappropriate.
- Tourists come for the small town atmosphere and tall buildings will turn off the tourists.
- Was not aware of the APC meeting so did not attend.
- Asked that the City's plans be reconsidered and that development on the subject property be kept down to 3-4 storeys.
- A high rise would stick out like a store thumb.
- Concerned about the shadow affect and wind tunnels.
- Once you start putting in tall buildings they will start going up all over.

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- The proposed density is not the problem, just the building height.

Evelyn Karow, 308-1055 Lawrence Avenue:

- Concerned that the 55 parking stalls would be inadequate to provide parking for the residents, visitors and staff working at the facility.
- Main concern is traffic. Routes for travelling east from her building are already too congested and with the density that is proposed traffic will increase and expand on an already bad traffic situation.
- Do not support a building higher than 3-4 storeys. The proposed 16-storey building would set a precedent.

David Lovell, 795 Lawrence Avenue:

- Speaking on behalf of the Kelowna South-Central Association of Neighbourhoods (KSAN) and as a resident that would be living in the shadow of the proposed tower.
- KSAN was represented at the Advisory Planning Commission (APC) meeting and voiced opposition at that time and KSAN represents the interests of a large number of people. More than half of the KSAN board of 7 is opposed.
- There was no consultation by the applicant with KSAN.
- The siting of the building is different on the site plan shown tonight from the site plan shown at the APC meeting.
- 16-storeys is too high and is out of character with the neighbourhood. Not opposed to higher density in general but the proposed building does not fit in.
- The proposed building height is 177 feet, just short of the maximum height permitted. Asked that Council consider reducing the building height to 6-8 storeys.
- There has been talk that the area will be designated a Heritage Conservation Area and concerned that the heritage character of the area would be negatively impacted by the proposed development.
- Opposed for reasons already cited (i.e. loss of privacy, wind tunnel affect, heat & light reflection, shadow affect on gardens, construction noise, blocked views, etc.)
- Ask that reject this application.
- The 16-storey building height is out of scale with downtown the permitted building height is up to 12 storeys.

Staff:

- Clarified that the zoning downtown permits up to 7 storeys; the Downtown Plan that has not yet been adopted supports up to 12 storeys for commercial buildings.
- Other RM6 zoned properties include the waterfront and Canada Lands property on Sunset Drive.

Gordon Sladen, representing his mother who resides at 1641 Ethel Street:

- Leon/Ethel is already a bad corner for traffic because the Leon is out of configuration.
- The future land use map in the OCP is misleading because the Dorchester site to the west is also shaded brown and it is not 16-storeys.
- The proposed building not compatible with the site.
- The proposed building will be immediately across the street from his mother's house and will block her sunlight particularly during the winter and will not do her home any good.
- His mother has not objected to any other development around her and she would support 4 storeys on the subject property.
- His mother should have been contacted by the applicant directly given her close proximity to the site.
- Strongly object to the height of the building.

Gwen Sladen, 1641 Ethel Street:

- Did not object to the 12-storey proposal because the lot to the west was sold to Dorchester and so was of no concern.

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- She was the KSAN representative that attended the APC meeting and disappointed that the applicant did not speak to her then.
- Over the last week she made at least 83 phone calls to all the members in KSAN and with the exception of 1 all said please express our feelings that would not like a 16-storey building on the subject property.
- A 6 to 8 storey building would be better.
- Do not want a lob-sided gateway with 4 storeys on one corner and 16 on the other.

Doris Norman, 107-933 Harvey Avenue:

- Opposed to 16-storey building for reasons already stated.
- There are many retired and very elderly people that are not so able to walk very far in the vicinity. More green space is needed and suggest the subject property be a park site conducive to elderly people and keep the highrise buildings where they already exist.

Tim Nakashoji, representing Westwind Nurseries:

- Spoke in support of the application as it creates jobs for his company and his employees.
- The proposed configuration maximizes green space and the landscaping envisaged is similar to two other projects in town that have maximized the landscaping.
- The proposed landscaping is designed to be a recreational area for the residents.
- Do not know where the Red Maple tree is on the site, but the underground parking will take out a lot of the trees. The trees along the perimeter could be saved.

Debbi Krivsky, 930 Leon Avenue:

- Save the Maple tree.
- The proposed building will change the neighbourhood.
- Concerned about traffic. She and her children ride their bikes and safety is also a concern.
- Concerned that the sanitary sewer is not sized to accommodate the proposed building in addition to the residential area.

Staff:

- The site would be serviced from Ethel Street where a new sewer main was installed last summer. The main is sufficient to handle current and projected flows. The sewer main on Leon Avenue would have to be upgraded along the frontage of the subject property with this development.

Mabel Muntean, 308-945 Lawrence Avenue:

- A 16-storey building is too high and will spoil the whole corner.
- The rooms are not care units and the residents would have to go down to the main floor to eat which means there would be 134 people going down 3 times a day for meals. Not good for senior citizens. If the elevator breaks down, the residents are going to panic.
- Elevators in hotels are very busy and it takes a long time to get to the main floor from high up because the elevator stops frequently.
- Would prefer 3-4 storey building even if takes up more of the site and reduces the greenspace.
- At the age of 70-80 not sure how many people will use the green space for activity.

Keith Funk, Newtown Planning Services:

- Representing the residents of Dorchester Home and in alliance with KSAN and also speaking on behalf of himself as an urban planner.
- Circulated a small model which he said was built to scale to show the mass of the proposed development compared to the other development in the area.

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- The gateway envisaged by the OCP was intended to be a balanced entrance to a larger density community.
- The proposed development maxes out the potential of the zone.
- All the landscaping is above the sidewalk at an elevation such that it will not be enjoyed from the sidewalk.
- Exceeds the zoning density permitted on the property.
- Opposed because huge shadow-casting building, glaring reflections, all glass reflects light and UV reflection also is akin to infrared or heat reflection and that is a huge issue with stand-alone high buildings, delivery traffic has to go around the front of the building to get to the loading bay.
- Tall buildings are intended in the core areas of the town centres and stepping down from there.
- The proposed building is totally out of scale.
- The proposed building would be inappropriate for Calgary let alone Kelowna.
- An 8-storey terraced building would be better.
- Lack of involvement of the neighbourhood and disregard for the input of good urban design.
- The zoning should be defeated.
- Support the OCP future land use but not the proposed building and personally opposed to the subject application.
- The building is 1.5 m above grade in order to have the underground parking.
- The proposed building puts a pinnacle between the Capri and Downtown Town Centres.
- The wind will rush around the building and form vortexes.
- Asking Council to defeat the application for urban planning reasons and compassion reasons. If that is enough, do not want to talk about whether for competitive reasons.
- Could still have the same number of units as proposed and do an 8-storey building.

Dave Jurome:

- Submitted and read a letter of support from W & S Bernard, owner of 11 adjacent properties to the immediate east of the subject property.

Therese Elvis, representing the residents of the Dorchester Retirement Home:

- The building is out of sync in the area and contrary to sensitive infilling.
- The residents quality of life would be impacted for reasons already mentioned.
- Staff and delivery trucks and friends and family all have an impact on traffic and so traffic will certainly increase. Traffic is already starting to be a factor at the Dorchester.
- The proposed large and looming building would change the unique atmosphere in downtown Kelowna forever.
- I know you all personally and am confident you will make the right decision in turning this down.

Vince Krivsky, 930 Leon Avenue:

- Shadow affect would be a deterrent to people living nearby.
- Traffic has already increased dramatically.
- The height of the building is too much for the area.

Mr. Czombos, #115-933 Harvey Avenue:

- Support the comments of previous speakers.
- Questioned how the proposed 16 storey building would be like a hotel.
- The proposed building would be an eyesore.

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- 90% of the 55 units in Copperstone do not support the development.
- Height is the concern, not density.

Cindy Kruger, Dilworth Mountain.:

- Supports the proposed development because it would enhance the view from Dilworth and would add a lot of business to Kelowna.

Sharon Lichtenstein, 304-1318 Richter Street:

- When Skyreach Place was built and pile drivers were brought in there was a lot of shaking and noise. Construction at this location would likely be the same because they would have to go down to hardpan and they would likely have to drive more pilings down for a 16 storey building than for 4 storey building.
- Poorly designed building, far too tall and should have setbacks.
- The landscaping will be at a higher elevation than her height.

Brian McKernan, 840 Saucier Avenue:

- Opposed to 16-storeys for reasons already spoken.
- Concerned that not all the units would be geared for the 70-80 age group in which case there could be younger people in the building.
- Concerned about loss of privacy and market value for his property.
- Would support 70% building and 30% greenspace instead of vice versa.

Dennis Foote, architect for the proposed development:

- There would be 3 elevators in the building.
- There is a 20 foot setback from Leon and Ethel and the elevation is a terracing effect that steps up so the perimeter would not a 1.5 m high wall.
- There would be no pile driving – the subsoil is too deep.
- Shadow effect from the model produced by Keith Funk was very deceptive and represents all bad times of the year.
- Truck delivery would be the same for this development as for the Dorchester Home to the west.
- To make the development viable it is necessary to achieve the 30% building/70% greenspace equation. It would not be possible to develop two 8-storey buildings on the site.

Staff:

- Explained the density bonusing for the proposed development.
- Advised that two buildings on the site would reduce the overall density because the applicant would not get the bonus the proposed development affords.
- Wind tunnelling has never been a problem based on experience in Calgary.

Tor Camren, applicant:

- The target market is the 70-80 age group. There would be no teenagers. Young people would not be able to afford to live there.
- The proposed design meets with the existing OCP and asks for nothing more and it is on that basis that Envirotech can afford to do a very high end development. The proposed development will be in a class of its own with no competition with the kind of service and quality that would be provided.
- The upper units would command a higher price than the lower units, as with any highrise development.
- The proposed development is suited for purchasers and renters. The lower floors are proposed for rental and the upper floors are for ownership. The building operator will retain ownership of the lower 3 floors and so would have a vested interest.
- Few of the building residents would have their own cars. The facility would have small buses to shuttle the residents around.
- Traffic would be no worse than at the Dorchester across the street.

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There were no further comments.

- (d) Development Agreement - Lakepoint JV Investments Ltd. (Protech Consultants (1989) Ltd.) – 1050, 1106 & 1124 Sunset Drive – THAT the existing Indenture Agreement registered in the Land Title Office, Kamloops, B.C. as a Section 219 covenant identified as document No. KG25682 be discharged from the following properties:

Lot A, D.L. 139 and 3457, O.D.Y.D., Plan KAP45698, and Lot B, D.L. 139, 1349, 3454 and 3457, O.D.Y.D., Plan KAP45698 located on Sunset Drive, Kelowna, BC;

AND THAT a new Development Agreement as attached to the report of the Planning & Development Services Department dated August 8, 2000 as Schedule "A" be concurrently registered against the following properties:

Lot A, D.L. 139 and 3457, O.D.Y.D., Plan KAP45698, and Lot B, D.L. 139, 1349, 3454 and 3457, O.D.Y.D., Plan KAP45698 located on Sunset Drive, Kelowna, B.C.

**Staff:**

- When the City owned the property, it was rezoned for high rise development with an agreement envisaging the type of development for the site. The property was then sold. The proposal for the property by the new owners is contrary to what was envisaged in the indenture agreement.
- The property is at the north end of the waterfront development north of the Dolphins and Lagoons towers.
- The indenture agreement included an artist's rendering that indicated the form and character of development that was envisaged on the site, and that was 2 towers somewhere between 12-16 storeys, a 3½ storey apartment building and some townhouse buildings next to the lagoon.
- The potential new owners have a proposal that is different; their application proposes consolidation of the two northern lots and construction of 3 segments of 6 storey building with 4 storeys of residential units above a 2-storey parking structure and two storeys of residential units around the perimeter of the parking structure with two storey townhouses along the waterfront. The waterfront promenade would be extended around the site. A total of 258 units are proposed.
- The revised development agreement is unchanged other than acknowledging the schedules that reflect the form and character of the proposed development and the increase in the number of residential units.
- Development Permit and Development Variance Permit applications have been submitted for the proposed development.

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

- letter from Gordon & Anna Leslie, 1005-1152 Sunset Drive, expressing concern about increased traffic flow and provision of adequate parking.

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

**Mr. Peter Foreman:**

- Advised he was part of the original development group that developed The Grand Hotel and the Dolphins and Lagoons highrises on the adjacent waterfront and that he is representing Axor Pacific.
- Axor has planning permission granted for the third tower (phase 2 of the Lagoons) but in the context of the original development agreement.
- Axor is not necessarily opposed to the subject proposal but would like more information and a week to review it so they can comment before this is approved.

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- Would have thought that as owner of the parcel immediately adjacent and still being effectively bound by the tripartite agreement, that Axor would have been notified of any substantial change but no notice was received.
- Having paid \$1.4 million for the land and when developed under the original concept it will be \$25 million, Axor simply wants to protect their investment.

The City Clerk clarified that a notice was mailed to the address shown on the tax roll. The owner on the tax roll is identified as a numbered company with Box 22, 999 West Hastings, Vancouver as the address and the notice was mailed August 9<sup>th</sup>.

The City Clerk further clarified that the request before Council is to quit claim the agreement from only the 2 lots and then register a new agreement on the 2 properties to replace the development schedules to identify this proposal. If Council is prepared to accept a different proposal than what was original envisaged for the 2 lots, then the Public Hearing on this item can be closed because it is issues related to the Development Permit applications on the Regular Meeting agenda that Mr. Foreman is referencing.

Grant Maddock, representing the potential new owners of the subject property:

- Axor was invited to the meetings with City staff to discuss the form and character and the lagoons operating agreement.
- The potential new owners have a non-refundable deposit on the purchase of this property and they need a decision tonight on the Development Permits or they will lose a substantial amount of money having to walk away from the project if there is no resolution to this.
- Axor was given ample notice and Mr. Greg Stinson could speak further to this with respect to the discussions with Axor.

Mr. Greg Stinson, representing Point of View out of Calgary:

- Point of View is dealing with Axor and has an offer to purchase the property.
- Chuck Davison is Axor's representative in Kelowna and all the agreements have been sent to him.
- Right now Point of View is only concerned about the northern portion of the waterfront site.

Staff:

- Clarified that the revised development agreement would have no affect on any other property than the 2 lots in question. The original development agreement would stay in place, in tact, on the remaining lands until either they are developed in accord with current rules or the applicants request an amendment to the development agreement.

Peter Foreman, representing Axor Pacific:

- Clarified that Axor did receive the notice of this meeting but no information regarding what is proposed.

Staff:

- The original development agreement contemplated 485 units. The proposed new development agreement respects those same numbers and affords the two subject properties 213 residential units and still carries over the same premium to be paid for units above that, as was in the original agreement.
- The new development agreement still respects the 485 units with the ability to add extra units subject to paying a premium to the City.
- The current proposal contemplates 258 units and the City can negotiate the premium to be paid for the extra units (from 213 to 258).
- Axor has the same opportunity to apply for an amendment of the development agreement over their site for phase 2 of the lagoons.

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Peter Foreman:

- Does not think that Axor would have any object to this proposal, based on what has been said.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 11:03 p.m.

Certified Correct:

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Mayor

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City Clerk

BLH/bn