

Public HearingFebruary 27, 2001

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, February 27, 2001.

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.

(* 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 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 February 7, 2001, and by being placed in the Kelowna Daily Courier issues of February 19 & 20, 2001, and in the Kelowna Capital News issue of February 18, 2001, and by sending out or otherwise delivering 529 letters to the owners and occupiers of surrounding properties between February 7-11, 2001.

3. INDIVIDUAL BYLAW SUBMISSIONS

- (a) Bylaw No. 8636 (Z00-1056) - Larry Hawkins – 704 Barnaby Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, D.L. 357, Sec. 30, Twp. 29, O.D.Y.D., Plan 39067, located at 704 Barnaby Road, Kelowna, B.C., from the RR1 - Rural Residential 1 zone to the RR2 - Rural Residential 2 zone in order to allow development of the site for uses permitted in the RR2 zone.

Staff:

- The rezoning is requested to accommodate subdivision of the property into 2 lots. The existing house would remain on one lot and one vacant lot would be created.
- A Restrictive Covenant would be required to protect the integrity of the escarpment running along the north portion of the property.
- The application was reviewed and supported by the Advisory Planning Commission with no conditions.
- The rezoning is consistent with the Future Land Use designation in the Official Community Plan.

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.

Tony Markoff, 744 Barnaby Road:

- Indicated he was representing the applicant and was available to answer questions of Council.

There were no further comments.

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- (b) Bylaw No. 8637 (Z00-1053) – Thomas Poole (Tom Smithwick/Porter Ramsay) – 3994 Bluebird Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, Sec. 1, Twp. 25, O.D.Y.D., Plan 11257, located at 3994 Bluebird Road, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU6 - Two Dwelling Housing zone in order to allow development of the site for uses permitted in the RU6 zone.

Councillor Day declared a conflict of interest as an owner of adjoining property and left the Council Chamber at 7:08 p.m.

Staff:

- The rezoning is requested to accommodate construction a 2-family dwelling.
- A Development Variance Permit would be required to deal with a variance to the lot width and to allow parking over and above that required for a 2-dwelling zone.
- Just prior to tonight's meeting, the applicant's agent asked that consideration be given to holding the public hearing on this item open to March 27th because of recent interest raised in the neighbourhood about the application and the owner not being available to discuss the issues with them.
- The applicant's agent has advised that he is not prepared to make a presentation at tonight's meeting and will defer his comments to the March 27th public hearing.

Council:

- Agreed to hear from the public before entertaining a motion to adjourn the public hearing to March 27th.

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

- Marg & Ed Conville, #301-4004 Bluebird Road
 - Allan Birkholz, #101-4004 Bluebird Road
 - Gordon Shuster, #105-4004 Bluebird Road
 - Amanda Shaw, #412-4004 Bluebird Road
 - Florian Riecker & Kathy Parton, #303-4004 Bluebird Road
 - Sherry Priebe, #411-4004 Bluebird Road
 - Maureen & Kenneth Hanak, #205-4004 Bluebird Road
 - Lloyd & Johanne O'Toole, #406-4004 Bluebird Road
 - Brenda M. Ward, #203-4004 Bluebird Road
 - John Toljanich, #403-4004 Bluebird Road
 - Ms. Antonia Austin, #201-4004 Bluebird Road
 - G.B. & E.J.L. Bouma, #405-4004 Bluebird Road
 - Doug Kalls, #409-4004 Bluebird Road
 - Kerry Fitzpatrick, #408-4004 Bluebird Road
 - Gary & Maureen Bennett, #304-4004 Bluebird Road
 - Joanne Branch, #410-4004 Bluebird Road
 - Leslie Singleton, #404-4004 Bluebird Road
 - Warren Swanson, #401-4004 Bluebird Road
 - Mrs. Alice Fraser, #402-4404 Bluebird Road
 - Norm McLeod, #103-4004 Bluebird Road
 - late letter from Rick & Dawn Campbell, #306 & #102-4004 Bluebird Road
- All opposed because of concerns that views would be obstructed due to the height of any proposed structure because of fill placed on the site, reduction of available sunlight to neighbouring San Ocello Condos, proximity of proposed construction would create wind tunnel, the applicant has a history of activity on property that gives no confidence to the current proposal and its potential for future expansion, density too high, too many people and cars proposed for one site, the property width is too narrow for the proposed zoning and multi-family dwelling, the proposal does not sensitively integrate with surrounding natural features and existing neighbourhoods and is aesthetically unacceptable, surrounding property values would decrease, the rezoning would create a troublesome precedent and would be contrary to the OCP, and loss of privacy.

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

Kerry Fitzpatrick, 4004 Bluebird Road:

- Speaking on behalf of the other owners in San Ocello Condos.
- The residents of San Ocello Condos would like to see the subject property developed but with a single family home in accordance with the present RU1 zoning.
- The OCP clearly indicates need to preserve view corridors such that any new buildings would be sited so as to minimize obstruction of lake views from existing development. The subject proposal does not observe these.
- The photos supplied to each member of Council show how the elevation of the subject property has been raised by approximately 4 feet beginning at the lake frontage. This higher elevation combined with the narrow lot width will result in a massive structure close to the lake.
- The application for a variance to allow 9 stalls on this narrow lot is absurd.
- A single family dwelling with the same size footprint as the proposed building would be more acceptable because it would be zoned RU1.
- The subject property does not even meet the standard width requirement for a single family home. The minimum lot width for RU1 is slightly over 54 ft. and the minimum lot width for RU6 is slightly over 59 ft. The subject property is 49.9 ft. wide.
- Personal greed should not prevail over the common good.

Staff:

- Clarified that under RU6 zoning, the lot width required for a 2 family dwelling is 18 m (59 ft.) and for a single family house with a secondary suite it is 13 m. The subject property is 14.2 m wide so the zoning is only required to achieve the applicant's objective to get two unrestricted units on the site.
- There is no restriction on floor area.

Ken Day, 3992 Bluebird Road:

- Concerned about putting two homes on such a narrow lot.
- Allowing two homes on the subject property could set a precedent and would be a major change from what exists in the area.
- Concerned about raising the elevation of the subject property by 4 ft. and then building a 2-storey building over a parkade on top of the fill.

Donald Knox, 3988 Bluebird Road:

- The two units proposed for construction will each be 3,200-3,600 sq. ft. in size.
- The San Ocello Condos development was actually a down-zoning of a previous motel on that site.
- Met with the applicant and his agent after the Advisory Planning Commission (APC) meeting on December 5, 2000 and asked for a meeting with them. A meeting was not possible and there has been no contact with the applicant since the APC meeting.
- Concerned about a huge 2-unit development on the subject property and would prefer the zoning remain RU1. If anything other than RU1 is approved, would want a legally binding contract in place to ensure that what is proposed is what is actually built. Could not support rezoning the property without that since once zoning is in place there would be opportunity to do otherwise.

Dorothy Zoellner, 3956 Bluebird Road:

- Support the comments of previous speakers.
- Prime concern is the increased traffic with 9 or 10 parking spaces versus the usual 4 stalls for two units. The increase in traffic with the blind corner to the south on Lakeshore and on Bluebird will not be an advantage to the neighbourhood.

Public HearingFebruary 27, 2001Tom Smithwick, agent for the applicant:

- The owner is out of the province and efforts to reach him have been unsuccessful.
- The plans are in the process of amendment by the architect.
- Delaying the Public Hearing would allow time to get the neighbourhood the answers they need.
- Told two people that there would be an adjournment of the public hearing on this item; they are both at tonight's meeting.

Donald Knox, 3988 Bluebird Road:

- Told his mother who lives at 3990 Bluebird and Mr. Lewis who is not well and so unable to come that the Public Hearing would be delayed.
- Would have been more prepared for tonight had he known the application may not be delayed.

Council:

- The owner was contacted in Calgary a couple of weeks ago by a member of Council and made aware of some of the concerns in the community and so has ample time to tell his agent and architect that there were issues to be dealt with.

Gary Bennett, #304-4004 Bluebird Road:

- Concerned about why the applicant would want parking for 9 vehicles and what he might have in mind down the road.
- Concerned that the people in the gallery all came in good faith to express their opinions.
- Obviously the applicant considered this Public Hearing to be frivolous or he would have been here tonight.
- Do not support adjourning this Public Hearing to another date.
- This proposal is contrary to the Official Community Plan and approval would set a dangerous precedent for other lots of a similar size to also be rezoned to RU6.

Ken Day, 3992 Bluebird Road:

- The subject property as it is now has become a public swimming beach and is a nightmare; the lot will remain a nightmare if the applicant does nothing with it.
- Would not object to deferring the application in order to find out what exactly the applicant is proposing for the site.

Kerry Fitzpatrick, 4004 Bluebird Road:

- The residents of San Ocello Condos had their annual general meeting scheduled for tonight. After being told that tonight was their only opportunity to voice their opinion, they changed the date of the annual general meeting.
- The San Ocello Condo residents are here and want this dealt with tonight.

Staff:

- Clarified that the application is consistent with the Official Community Plan future land use designation.
- The RU1 zone allows the same size building as the RU6 zone but the RU6 zone allows a maximum of 5 parking stalls where the RU1 zone only allows 3 parking stalls. At issue is whether there is 1 unit or 2 units on the property.

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Council:

- The applicant has had ample opportunity to inform this Council that he wanted the Public Hearing delayed.
- The applicant had plenty of time to discuss the concerns with the neighbourhood.
- The people who wanted to be heard with respect to this application have been heard.

Moved by Councillor Hobson/Seconded by Councillor Nelson

P150/01/02/27 THAT the portion of this Public Hearing dealing with Bylaw No. 8637 (~~Z00-1053~~ – Tom Smithwick for Thomas Poole – 3994 Bluebird Road) be adjourned to March 27, 2001.

DEFEATED

Mayor Gray and Councillors Blanleil, Cannan, Clark, Given, Hobson, Nelson and Shepherd opposed.

There were no further comments.

Councillor Day returned to the Council Chamber at 8:11 p.m. and took his place at the Council Table.

- (c) Bylaw No. 8640 (Z01-1003) - Vintage Properties Inc. (Greg Dusik) – 1716 Marona Court - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 18, Sec. 32, Twp. 26, O.D.Y.D., Plan KAP68018, located on Marona Court, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone in order to allow development of the site for uses permitted in the RU1s zone.

Staff:

- The subject property is in newly created subdivision that is proceeding with future phases.
- The applicant has submitted plans for a building permit that indicate a secondary suite.
- The site would be accessed from Spruceview Place South.
- The proposed contemporary style of the building should fit in well with the rest of the subdivision.

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

Opposition:

- letter from Christian & Elinor Sobon, 13 Alameda Court
- letter from Audrey Paul, 9 Alameda Court
- late petition bearing 18 signatures

All opposed because the rezoning would set a precedent leading to mass rezoning in the neighbourhood, increased traffic, street parking and noise would have negative impact, and property values would decrease.

Support:

- late petition bearing 13 signatures
- late petition bearing 4 signatures

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

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Greg Dusik, applicant:

- Canvassed the owners of the lots that have been purchased to show them the preliminary plans for the building.
- Displayed a map of the neighbourhood on the overhead projector showing green dots at the addresses where support was indicated and red dots at the addresses where the residents have indicated opposition via letters and the petition.
- The developer represents 5 of the 19 green dots indicated on the map.
- The proposed building is 3,400 sq. ft. with a triple garage and would be home for his parents as well as for him and his wife and 6 year old son.
- Traffic generated by the 4 of them should be no different than a family with 2 teenage children.
- The main dwelling unit would be upstairs with the secondary suite for his parents on the main floor. The only access to the basement would be from the upstairs; the suite would have no access to the basement.
- The secondary suite is designed with only one bedroom and an oversize kitchen.

Councillor Day indicated to the City Clerk that he was in a conflict of interest and left the Council Chamber at 8:22 p.m.

The City Clerk explained that Councillor Day left the meeting having realized that his brother-in-law was the developer of this subdivision and still owns some of the lots.

Brad Boback, 1780 Spruceview Court:

- The support in the immediate area is far less than what is indicated on the applicant's map.
- Submitted a letter signed by the owners of three properties (lot 17 on Alameda Court, lot 36 on Spruceview Court/Spruceview Place South, and lot 40 Spruceview Court) shown on the map with green dots saying that they have withdrawn their support.
- The applicant is employed by the Marshall family and most of the green dots represent vacant lots still owned by the Marshalls and their related companies.
- The first phase of this subdivision is single family with large nice homes and the expectation is for that to continue not only for the 19 lots in this phase but for future phases.
- Not concerned about one individual putting in a suite for their parents, but concerned that once one is approved, it could progress to the remaining lots that are unsold, as suites make homes more affordable.
- Showed the front page of the local newspaper with a picture of a house on Dilworth Mountain that was recently trashed because of a rental suite.
- Concerned that a year or two down the road the property could be sold and potentially become 2 rental units. The applicant has a history of frequent movement and if he moves again a precedent would be set for far more than 2 units in the subdivision.
- Concerned about traffic. One more vehicle and a couple of people would not make a big difference but the area was to be one of the first for traffic calming measures; the area is hilly and there are a lot of children. Neighbourhood opposition to closing off Clifton and opening Skyline related to traffic diversion through the area. By rezoning and allowing rental suites and more traffic, that problem would be exacerbated. Need policies to deal with the traffic before allowing more development and more traffic into the neighbourhood. There are others in the neighbourhood who feel similar but they are not here to voice that opinion.

Staff:

- There is an application in-stream to legalize an existing secondary suite in the area.
- The the house on Dilworth that the newspaper article was about had an illegal suite.

There were no further comments.

Councillor Day returned to the Council Chamber at 8:47 p.m. and took his place at the Council Table.

- (d) Bylaw No. 8641 (Z00-1061) - Wade Benner – 640 Seaford Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 23, Sec. 23, Twp. 26, O.D.Y.D., Plan 24631, located on Seaford Road, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone in order to allow development of the site for uses permitted in the RU1s zone.

Staff:

- The rezoning would legalize an existing suite that was discovered as a result of a complaint simply about the existence of the suite not about noise or traffic.
- There are currently no legal secondary suites in the immediate vicinity of the subject property.
- There have been several complaints regarding illegal suites in the area in recent years.
- The lot is serviced by sanitary sewer not septic as was indicated at initial consideration.

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

- petition of support bearing 22 signatures.

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

Wade Benner, applicant:

- Indicated he was available to answer questions if required.

There were no further comments.

- (e) Bylaw No. 8642 (Z00-1055) - Skoglund Enterprises Ltd. (Dave Skoglund) – 1735 Richter Street - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, DL 138, O.D.Y.D., Plan 42558, located on Richter Street, Kelowna, B.C., from the C4 - Town Centre Commercial zone to the C10 – Service Commercial zone in order to allow development of the site for uses permitted in the C10 zone.

Staff:

- In 1993, prior to adoption of City of Kelowna Zoning Bylaw 8000, the applicant received approval by Council to rezone the site to a zone that would permit a car wash facility and a lube bay (C-8), contrary to a recommendation by City Planning staff.
- The applicant did not pursue that development and when Zoning Bylaw 4500 was replaced with Bylaw 8000, the C-8 zone was replaced by the C4 zone which allows a gas bar and convenience store but not a stand alone car wash facility and lube bay.
- The requested C10 zoning would rectify the situation and allow the applicant to achieve what was previously approved. The applicant has voluntarily agreed to register a covenant restricting use of the property solely for operation of a lube serve and car wash consistent with rapid drive through service.
- Council was told at initial consideration that the applicant was charged the regular fee for this rezoning application. In fact, the applicant was not charged any fee for the rezoning but was charged for the Development Permit application that would be considered concurrent with adoption of the zone amending bylaw should it proceed.

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- The buildings have been oriented to minimize traffic conflicts and the impact on the residential uses adjacent to the lane.
- A solid fence would be installed along the lane to provide a solid barrier between the proposed development and the residential uses.
- This application was reviewed and supported by the Advisory Planning Commission, with no conditions.

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 Skoglund, applicant:

- Indicated he had nothing to add at this time but was available to answer questions.

Joanne Fast, 736 Saucier Avenue:

- Enquired about loud music playing inside or outside of the bays, roof lighting (the roof lighting from the Petro Can station at Richter/Harvey is a red neon light that glows into their dining room area), hours of operation, and where the garbage receptacle would be located.
- Requested shrubs in addition to the solid barrier proposed along the lane to cut down on pollution/noise, to divide the commercial from the residential and for site appeal.
- Did not find out until visiting City Hall that the plans showing the building facing south toward Saucier had been amended to a north/south orientation. As an adjacent property impacted by the proposed development, should have been advised of that change.
- Anticipate that the noise impact will be worse now that the building orientation has changed.
- Concerned about traffic congestion and additional traffic on Saucier especially if Richter becomes a one-way couplet.
- Cannot support the current proposal. With the site orientation the way it is, the proposed development will decrease the appeal of the area to families.
- Would prefer the site to remain C4 without a car wash and lube.
- Their only contact with the applicant has been with respect to problems with tenants when there were rental units on the site. The applicant had indicated that they would be contacted when timelines were in place for development of the site but that never occurred.

Staff:

- The site orientation was changed for better on-site traffic flow.
- Issues such as landscaping and other aesthetic values on the site are dealt with at the Development Permit stage.

Dave Skoglund, applicant:

- Made a number of efforts to contact the Fast's, leaving business cards in their front door. Heard nothing back from them and so assumed they had no problem with the proposed development.
- The revised plan addresses on-site traffic flow and directs the noise from the car wash toward Richter Street.
- The decibel noise from dryers is less than from traffic so noise is a perceived problem not actual. The solid barrier wall should alleviate the potential problem of loud music in vehicles on the site and the buildings are sited as far away from the lane as possible to reduce the impact on the neighbourhood.
- The proposed lighting will be in the bays where required with unobtrusive site lighting for security reasons.

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- The facility will close at 6 p.m. in the winter and by maximum 8 p.m. or 9 p.m. in the summer.
- Traffic impact on the neighbourhood should be relatively low because anticipate about 40-50 cars a day in the lube shop and 60-80 cars in the car wash versus the estimated 400 visits a day to the Petro Can site.
- The garbage receptacle would be in the northeast corner of the site and the fence would be a continuation of the cedar fence on the Petro Can site.
- Agreed to provide pyramid cedars along with 8-10 ft. canopy trees in addition to the solid barrier fence along the lane.

Steven Fast, 736 Saucier Avenue:

- Enquired whether the public would have another opportunity for input into the proposal.

Staff:

- Written comments can be relayed through staff to Council at the Development Permit stage and that will likely be in the next 2 weeks.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 9:18 p.m.

Certified Correct:

Mayor

BLH/bn

City Clerk