

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 30, 2002.

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; Current Planning Manager, A.V. Bruce; Subdivision Approving Officer, R.G. Shaughnessy; 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.

Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on April 12, 2002 and by being placed in the Kelowna Daily Courier issues of April 22 & 23, 2002, and in the Kelowna Capital News issue of April 21, 2002, and by sending out or otherwise delivering 266 letters to the owners and occupiers of surrounding properties between April 12 to 16, 2002.

### 3. INDIVIDUAL BYLAW SUBMISSIONS

#### **3.1 Jozsef & Elizabeth Csiki**

- 3.1 Bylaw No. 8831 (Z02-1006) – Jozsef & Elizabeth Csiki – 455 Hollywood Court – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 7, Sec. 23, Twp. 26, ODYD, Plan KAP44682, located on Hollywood Court, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone to allow for development of the site for uses permitted in the RU1s zone.

Staff:

- The applicant is proposing to construct a new dwelling with a secondary suite in the basement area.
- There are RU6 zoned properties in the vicinity but no other RU1s zoned properties.
- Access to the suite is provided by a separate doorway from an exterior stair.

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

- letter of opposition from Linda Will, 445 Hollywood Court
  - letter of opposition from G. Saleski, 395 Perth Road
  - late letter of opposition from Sandy Unser, 495 Hollywood Court
  - late letter of opposition from Candace Dowhaniuk, 510 Hollywood Court
- all opposed because of concern that on-street parking and traffic would increase and the character of the neighbourhood would be changed.

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

Jozsef Csiki, applicant:

- Indicated he had nothing to add at this time.

Staff:

- Indicated on a map the address of the property owners that submitted the letters of opposition.
- Responded to the allegation in one of the letters that Rutland is constantly the target of 's' rezonings compared with other areas of the city submitting that there is not an unproportionate share of 's' zoned properties in Rutland.

There were no further comments.

### **3.2 434003 BC Ltd., Singla Bros. Holdings Ltd., and South Okanagan Construction Ltd.**

- 3.2 Bylaw No. 8834 (Z01-1051) – 434003 BC Ltd.; Singla Bros. Holdings Ltd.; South Okanagan Construction Ltd. (Planning Solutions Consulting Inc – Tony Markoff) – 4639 Lakeshore Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Section 25, Township 28, SDYD and of DL 167, ODYD, Plan 6731 except Plans 34961, 37256 and H13734, located on Lakeshore Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RU1 – Large Lot Housing and P3 – Parks and Open Space zones as shown on Map "A" attached to the report of Planning & Development Services Department dated March 27, 2002 to allow development of the site for uses permitted by the RU1 and P3 zones.

Staff:

- The rezoning is requested to accommodate development of a 9-lot single family residential subdivision along with a 1.8 ha park site.
- The lots would front onto Vintage Terrance and the park would be along Bellevue Creek.
- An existing barn on the property would remain with a legally non-conforming side yard setback. The barn has heritage significance as it was the first in the area to have electricity and was used for dances by the riding club.
- An existing house on the property also has been identified for heritage value in the City's heritage register.
- There is also some archaeological significance with 6 Indian middens (depressions surrounded by rocks) on the property.
- The application was reviewed by the Advisory Planning Commission (APC) in October 2001 when further consideration was deferred pending consultation between the applicant, Westbank First Nation, the City, and the Provincial Archaeological Branch regarding the archaeological significance of the property. That consultation took place and the Province issued a letter of support on March 6, 2002 stating that all constituents of the site are to be protected. The City will ensure the requirements of the Heritage Conservation Act are completed prior to registration of the subdivision and that could include registration of a covenant to ensure protection.
- The application was reconsidered by the Advisory Planning Commission in March 2002 at which time the application was supported 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.

Diane Burnard-Anderson, 592 Vintage Terrace Court:

- Concerned about parking on Vintage Terrace Road. The road grade is steep and motorists have to bunk up to the curb to keep their vehicles from sliding in the winter when the roads are icy. The road is not wide enough and there will be collisions if vehicles are parked on the road.
- Would like no parking allowed on the Vintage Terrace Road hill or alternatively that the road be widened.
- Would also like a sidewalk on Vintage Terrace Road because that is also the route the children take to school.
- The bank backing on to the creek is steep and so for reasons of stability would not want to see many trees removed from near that edge and would not want the homes built too close to the bank.
- The public hearing agenda indicates that the subdivision will be for  $\pm 9$  lots. Does that mean that there could be more than 9 lots?
- There is also a cabin on the subject property.

Staff:

- A Preliminary Layout Review (PLR) letter has been issued for 9 residential lots and the developer would be required to undertake road improvements along Vintage Terrace Road which is already at the maximum 12% grade for a local road.
- The City's Subdivision, Development and Servicing Bylaw does not require that a sidewalk be provided; however, the improvements being considered will include some sort of pedestrian pathway.
- The applicant would be required to register a no disturb/no tree removal covenant over the areas to be protected.
- The cabin is on property that would be owned by the City and developed as public park.

Councillor Chad Paul, Westbank First Nation (WFN):

- Spoke in opposition to any development in this area.
- The cultural depressions are unique to this site and only a few other locations in the Kelowna area. Some bone matter and at least 1 artifact have also been found on the site – the bone matter is at least 1,600 years old. These types of areas are to be fully respected and preserved as is. There are other areas of interest that should also be inspected and assessed for archaeological value.
- Urged Council to defer further consideration of this application until the WFN Council and City Council can meet to discuss the application.

Roxanne Lindley, Cultural Coordinator for Westbank First Nation (WFN):

- Cultural depressions are significant to Okanagan people and a flake has been found on the subject property. Need to understand and respect the collective right of WFN.
- WFN have traced back historical and family ties to the subject area; the area is where WFN people gathered and made tools. Recommend that the entire area be protected.
- There needs to be a protocol agreement between the WFN Planning Department and Kelowna City Council so that the two jurisdictions work together to protect other recorded sites with historical significance.
- WFN was offered an opportunity to purchase one of the proposed lots at fair market value but WFN does not think it should have to pay to get back what was once the territory of its people.
- Offered to come back sometime with visual aids and some of the elders so that Council could hear their words to try to understand.

Janet Lutsch, 526 Bayhill Place:

- Concerned about traffic.
- The children walk off the street on ground that will become part of the lots so when the lots are developed, the children will be forced to walk on the road.
- On-street parking would be very dangerous when the roads are slippery.

Tony Markoff, applicant:

- The heritage consultant has worked with WFN to ensure the cultural areas are preserved.
- Will work with the City's Approving Officer to ensure safe pedestrian movement along the road and will comply with whatever is required.
- The driveways will be developed at as flat a grade as possible.
- On-street parking is an enforcement issue and could be prohibited during the winter.
- A geotechnical report requirement is to ensure adequate building setbacks from sloped areas. The back of the lots next to the slopes will be fenced.

Martin Handy, Archaeologist, Kutenai West Heritage Consulting:

- Flakes are the debris left over after making a stone tool and they have been found in several locations on the subject property, probably a residue of trail/road construction.
- Reviewed the findings of the archaeological testing conducted on the site noting there were quite a few artifacts and flakes recovered from the proposed park site but it appears they were dumped there by someone and so were not considered to be of archaeological value. Also one depression appears to have been rebuilt at some point in the past.
- Explained the management recommendations of the archaeology branch for protection of the depressions.
- There are approximately 17 of these sites between the B.C. border and Ellison Park to the north and there are 3 or 4 in the Fraser Canyon.
- The bone matter that was found on the site was deer bone not human.

There were no further comments.

### **3.3 Steven & Barbara Keeley**

- 3.3 Bylaw No. 8835 (Z02-1003) – Steven & Barbara Keeley – 142 Kathler Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Sec. 4, Twp. 23, ODYD, Plan 20730, located on Kathler Road, Kelowna, B.C. from the RR3 – Rural Residential 3 zone to the RR3s – Rural Residential 3 with Secondary Suite zone to allow development of the site for uses permitted by the RR3s zone.

Staff:

- The subject property is a double fronting lot on Kathler and Millard Place.
- The applicant intends to remove the existing garage and construct a new garage with a secondary suite on the upper level on the Millard side of the property.
- The adjoining property to the south was recently approved for RR3s zoning for a similar type of use.

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

- letter from Mr. & Mrs. Brian Dyer, 148 Kathler Road, opposing the application on the basis of increased traffic and density and loss of privacy.

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

Steven Keeley, applicant:

- Submitted a letter explaining his plans for the site.
- Confirmed that he would construct a fence along the north property boundary.

There were no further comments.

### **3.4 Luigi Giovanni Russo (Tom Smithwick/Porter Ramsay)**

3.4(a) Bylaw No. 8832 (OCP01-019) – Luigi Giovanni Russo (Tom Smithwick/Porter Ramsay – 1982 & 1040 Old Vernon Road – THAT City of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by changing the Generalized Future Land Use Map 15.1 designation for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546, located on Old Vernon Road, Kelowna, B.C., from Rural/Agricultural to Industrial.

3.4(b) Bylaw No. 8833 (Z01-1063) – Luigi Giovanni Russo (Tom Smithwick/Porter Ramsay) – 1982 & 1040 Old Vernon Road - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546 located on Old Vernon Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the I2 – General Industrial zone to allow for development of the site for uses permitted in the I2 zone.

Staff:

- The 2 lots that are subject of this application are in the middle of 4 parcels owned by the Russos. In the past, the sawmill involved all 4 of the properties but the sawmill use was restricted by the Land Reserve Commission (LRC) to only the 2 lots and the sawmill use has been removed from the other 2 lots as required by the LRC.
- At initial consideration the Planning Department did not recommend support of this application because of concern that once the Industrial zoning is in place, if the LRC was to remove their restriction on the uses, the property could be developed with any of the range of uses permitted by the I2 zone without the necessary upgrades to servicing.
- Since Council's initial consideration of the application, a restrictive covenant has been provided, acceptable to City staff and the LRC, to restrict the uses of the property to those approved by the LRC. That covenant has been executed by the City and returned to the applicant for registration on title. The applicant has also provided letters of support from the abutting property owners.
- With the assurances provided by the applicant, staff are satisfied that the covenant would limit use of the property to the sawmilling use that exists today and that the Industrial zoning designation would not open the door for other industrial uses should the LRC's restriction on use be removed. Therefore staff now recommend in support of the subject application.
- Also since Council's initial consideration of the application, the applicant has confirmed that he is prepared to construct an on-site access road around the boundary of the property to accommodate fire fighting equipment and to install the 2 private fire hydrants as requested by the Fire Department. Also there is a holding pond on Lot 4 that could be used in the event of a fire. While this does not meet the fire flow requirements of the zoning bylaw, it is enough that the Fire Department is satisfied that the fire flow that could be achieved would meet the on-site needs.
- The large piles of sawdust and wood waste would be monitored for internal combustion.

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

- letter of concern from Alex & Antonia Dudka, 2105 Morrison Road, suggesting that the sawmill should have to meet higher industrial standards of clean air, noise and odour reduction and fire protection.
- late letter of support from Dale & Laura Collins, 840 Old Vernon Road
- late letter of support from Colleen & Don Ivens, 2551 Old Vernon Road
- late letter of support from Katherine Kline, 2570 Old Vernon Road
- late letter of support from Keith & Carol Gabert, 2150 MacKenzie Road.

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

Tom Smithwick, representing the applicant:

- The Russo family has been operating this sawmill for 50 years, before the Agricultural Land Reserve was established and prior to the City's Zoning Bylaw. Over the decades people have moved into the area.
- The property should have been recognized as industrial 30 years ago when the City of Kelowna Zoning Bylaw was put in place.
- The Land Reserve Commission (LRC) has allowed the Russos to operate their business on the middle two parcels with a 10-acre buffer on either side.
- The Russos need the zoning in order to get financing to continue operating. If the zoning is not approved, they are literally down the tubes.
- The sawmill is a major operation, in good times employing up to 40 employees on-site and providing 70 jobs off-site.
- The covenant is very restrictive as to what uses would be permitted on the property.
- The only neighbour in opposition to the rezoning is to the immediate south and hopefully what has been agreed to regarding fire safety will satisfy their concerns.
- Lots 3 & 2 will be bermed and landscaped to form a complete visual screen.
- Variances are requested because urbanizing Old Vernon Road would accomplish nothing.
- The holding pond, pipes and pumps exist now (on Lot 4) and that is over and above the improvements required by the Fire Dept.

Dick Main, 776 Old Vernon Road:

- Purchased his property 10 years ago for a hobby farm raising horses. At that time, Lot 1 was an orchard and Lots 2 & 3 were piled with sawmill related logs or slab wood. Over the years it has become a wastewood landfill and that has badly depreciated the value of his property. The site is an eyesore and has caused him to lose 2 deals on sale of his property.
- All types of demolition wood and stumps from land clearing jobs are hauled to the subject property almost on a daily basis. The mill operates from daybreak to well into the dark of night 7 days a week, they say because of logging trucks coming and going but that is not the case.
- They are supposed to, but do not, have a device for picking up nails.
- There are gases trapped under the wastewood and there is continual smouldering that keeps igniting - as late as last week.
- The holding pond is an underground creek that ran across his property for well over 50 years but they re-routed it and at times they pump it into the golf course.
- Would like to know where the \$2 million was spent to improve the property because no improvements are visible.
- Is totally opposed to this application unless the whole block is rezoned.
- What the Russo's are doing is far more than a sawmill operation and if they are grandfathered then his property should be grandfathered too.

## Staff:

- Clarified that the internal road network would have to be contained within Lots 2 & 3. The other 2 lots would have to be used for agricultural use. Stockpiling of chips is required to be removed from Lot 4. There is discussion with the LRC about using some of the material for ground cover but nothing has been decided yet.

Joyce Rhoades, 768 Old Vernon Road:

- Bought her property 1½ years ago, knowing of the grandfather clause for Lots 2 & 3.
- Intends to apply to have her property removed from the Agricultural Land Reserve (ALR) and rezoned to Industrial if this application is approved.
- Main concern is fire hazard because of the number of times that the fire trucks have been called to the site and because the fencing that was put up along Lot 3 would be no deterrent to anyone wanting to get in and set a fire.
- Also concerned about air quality.
- Would like to see proof of the upgrades the Russos allegedly spent money on.
- The previous speaker's property is accessed via an easement road over her property. Both of their properties have been devalued because of the unsightliness of the sawmill.

## Staff:

- Clarified that the LRC has just approved the continuing non-farm use of the property within the ALR. The subject property is not being excluded from the ALR.

Tim Marshall, 2511 Old Vernon Road:

- His family owns the Marshall Feedlot. The Russo family is just trying to make a living like his family is with the Feedlot.

Rick Roberge:

- His family owns 768 Old Vernon Road.
- Rarely sees trucks leaving the subject property with material but sees a lot of trucks bringing material to the site. Questioned how much material is being sold. Does not view the operation on the subject property as a sawmill.
- The sawdust is an eye sore. Questioned how high they can go with the sawdust.
- A taller fence (not wood picket fence) is needed. Kids are starting fires all the time out there. Cannot believe the City would allow this without full water protection to meet today's standards.
- The rezoning is just being requested for financial benefit. The covenant and grandfathering should be enough.

John Sharhon, City of Kelowna Fire Prevention Officer:

- Explained the requirements of the Fire Code for wood chips and hog materials and the restrictions on the width, height and spacing between the piles.
- The additional hydrants and internal roadway would allow the Fire Department to meet the needs of the site. The road would be designed and engineered to carry the heaviest fire truck at pumping capacity.
- With the requested zoning, the operation would become an Industrial occupancy and as such would be inspected on a regular basis. The Fire Department would work out a process with the applicant for checking and regulating the internal thermal temperatures inside the piles. How the material is mulched and keeping the product wet is key.
- Since 1998 there have been 7 actual working calls to the Russo property. The other times were when crews were going out just to check it.
- The neighbouring properties are not nearby to the sawmill operation; there could be air quality impact from the smouldering fires.

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- Fire Flow requirements would be contravened if the property was used for another of the uses permitted by the Industrial zone. Potential for liability to the City for allowing a reduced fire flow is covered off by the covenant. Once the property is rezoned to Industrial, with the proposed use and the restrictive covenant in place, and with the network of roads and hydrants that would be provided, fire concerns would be satisfactorily addressed.

Tom Smithwick, representing the applicant:

- People have at times phoned the Fire Department thinking there is a fire on the Russo property when it was just steam from applying water to the hot composting materials.
- The Russos do not own Lot 5 and the creek that flows from Lot 5 onto the golf course is not owned by Russos.
- The Russos are discussing with the Land Reserve Commission, potential for having a turf farm on Lot 4 as an agricultural buffer.
- Hours of operation are 7 a.m. to 6 p.m. six days a week, Monday to Saturday.

There were no further comments.

3.4(b) Bylaw No. 8833 (Z01-1063) – Luigi Giovanni Russo (Porter Ramsay [Tom Smithwick]) – Old Vernon Road - THAT the City of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by changing the Generalized Future Land Use Map 15.1 designation for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546, located on Old Vernon Road, Kelowna, BC, from Rural/Agricultural to Industrial;

AND THAT Rezoning Application No. Z01-1063, for Lot 2 & Lot 3, Sec. 1, Twp. 23, ODYD, Plan 546 located on Old Vernon Road, Kelowna, BC, to amend the zoning classification from the A1 – Agriculture 1 zone to the I2 – General Industrial zone be approved by the Municipal Council.

See 3.4(a).

There were no further comments.

#### 4. TERMINATION:

The Hearing was declared terminated at 9:30 p.m.

Certified Correct:

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Mayor

BLH/am

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City Clerk