

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, March 18, 2003.

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, E.A. Horning and S.A. Shepherd.

Council members absent: Councillor A.F. Blanleil.

Staff members in attendance were: Acting City Manager/Director of Planning & Development Services, R.L. Mattiussi; City Clerk, D.L. Shipclark; Subdivision Approving Officer, R.G. Shaughnessy; and Council Recording Secretary, B.L. Harder.

1. Mayor Gray called the Hearing to order at 7:03 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 28, 2003, and by being placed in the Kelowna Daily Courier issues of March 10 & March 11, 2003, and in the Kelowna Capital News issue of March 9, 2003, and by sending out or otherwise delivering 483 letters to the owners and occupiers of surrounding properties between February 25 and March 4, 2003.

The City Clerk also advised that the correspondence and/or petitions received in response to advertising for the applications on tonight's agenda were arranged and circulated to Council in accordance with Council Policy 309.

3. INDIVIDUAL BYLAW SUBMISSIONS

3.1 **5109 Killdeer Road**

- 3.1 Bylaw No. 8976 (Z02-1024) – Tysen Properties Ltd. (Grant Maddock/Protech Consultants Ltd.) – 5109 Killdeer Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot C, Plan 30848, Twp. 28, Sec. 24, SDYD, located on Killdeer Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RU1 – Large Lot Housing zone.

Staff:

- The rezoning is requested to facilitate a 24-lot single family residential subdivision.
- The application is in conformity with the Area Structure Plan for Neighbourhood Two of the South West Mission Sector Plan.
- Site servicing, lot layout and road issues will be addressed through the subdivision process.
- The application was reviewed by the Advisory Planning Commission and supported with no conditions.

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

- letter from Gary McKillican, owner of 5061 and 5081 Killdeer Road, stating no objection to the rezoning provided that it does not interfere with his plans, current or pending, for his property.

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

Grant Maddock, applicant:

- Indicated he had nothing to add at this time.

There were no further comments.

3.2 4650 and 4654 Westridge Drive and 980 Maranda Court

3.2 Bylaw No. 8977 (Z99-1060) – Maranda Estates Ltd., Margaret Sharples, Guy Ferrari and City of Kelowna (Grant Maddock/Protech Consultants Ltd.) – 4650 and 4654 Westridge Drive and 980 Maranda Court – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 7, D.L. 580 A, S.D.Y.D., Plan 28238; Lot 8, D.L. 580 A, Sec. 29, Twp. 29, S.D.Y.D., Plan KAP62399; and part of Lot 141, Sec. 29, Twp. 29, S.D.Y.D., Plan 24972, located on Westridge Drive and Maranda Court, Kelowna, B.C., from the A1 – Agriculture 1 and RR3 – Rural Residential 3 zones to the RR 2 – Rural Residential 2, RU1 – Large Lot Housing and P3 – Parks & Open Space zones.

Staff:

- The rezoning would facilitate a subdivision of three RR2 lots, one RU1 lot and a park and open space lot.
- Showed the plan of proposed subdivision noting the three RR2 lots would front onto Westridge Drive by way of three panhandle lot configurations and all three lots would utilize a private reciprocal driveway access easement within the panhandle areas which would also include a public right-of-way for pedestrian access to the park and bridal path. The three property owners would be responsible for snow removal and maintenance.
- A right-of-way would be registered in favour of the City over the private driveway to allow the general public continued non-vehicular access to the park to the north and to the bridal path which is owned by the City. Vehicle access to the bridal path would be restricted, other than a right-of-way for park maintenance vehicles to access the park and former gravel pit.
- There is an existing single family dwelling on the proposed RU1 lot that is accessed off Maranda Court. The proposed park lot would connect to the park to the north and to the Woodhaven Park to the south which forms the Coronado Slope.
- The application was reviewed by the Advisory Planning Commission and supported with no conditions.
- The application took longer than usual to come forward because the area above was included in Sewer Specified Area No. 17 which serviced the Mission Flats area and the two properties had to be excluded – they will be served by septic tank disposal and will meet the minimum 1 ha lot size of the subdivision bylaw; and because of negotiations between the owner and the City for the access to the three RR2 lots.
- The application complies with current development policies.
- Slopes over 30% would be protected by a no disturb covenant registered on title.
- Alternative land use and conventional subdivision layouts with a public cul-de-sac were considered during the preparation of the North Mission/Crawford Sector Plan, but were not favourably considered by the public or the Council of the day.
- The proposed land uses and subdivision layout are the result of protracted negotiations between the respective property owners, the public and City staff.

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

Opposition:

- letter from Mr. & Mrs. Lester Horton, 4684 Westridge Drive, simply stating that they are opposed.

Concern:

- two letters sent via email from Kelly Fay – 4630 Westridge Drive
- letter from Doug & Betty Fay, 4660 Westridge Drive
- letter from Dennis & Nancy Malashewsky, 4642 Westridge Drive
- letter sent via email from John & Elaine Vink, 4648 Westridge Drive
- late letter sent via email from Steve & Natalie Versegghy, 4666 Westridge Drive

All wanting to retain continued access to the back of their properties from the vacant lot; and expressing concern that removing trees from the ridge could cause wind problems, erosion/sloughing from the hillside and negatively impact the pathway behind their homes.

Staff responding to questions of Council:

- The bridal path was never meant for vehicular access and is not a legally dedicated road that would facilitate traffic; the bridal path is for pedestrian access only. The developer of the day created title to the lot as a bridal path for the Crawford residents. The lot went into the ownership of the City and has continued as a bridal path ever since. The bridal paths are zoned RR3.
- The bridal path would remain as a bridal path with public pedestrian access retained both to the north and to the south. There is a locked gate to restrict vehicle access into the park to the north; the gate is controlled by Parks but still allows public pedestrian access. There is no gate on the south side.
- The slopes would continued to be treed on the ridge to the west going down to Coronado Court.

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

Grant Maddock, applicant:

- Revised the history of the various subdivision layouts that were considered that have led up to the proposed land uses and subdivision layout that are now proposed.
- The lots on the top of the dunes have already had the tree removal done. The proposed building areas would be landscaped and the materials stabilized through landscaping. All the hillside over 30% would be protected by a non-disturb covenant and drainage would be directed away from the slope. Some of the thin trees on the less than 30% slopes would be thinned out.
- Setbacks are determined based on a geotechnical report and there is ample room to provide septic disposal areas.
- The owners had full access to the bridal path until a couple of years ago when, because of parties, the City Parks Division installed the gates and chainlink fence. The existing fence would be moved over about 2.5 m to provide a better access into the rear for the new owners and for the park.
- The driveway to the lower lot would be along the west side of the bridal path which would remain as it is.
- Any disturbance of soils would be landscaped back either through grasses or xeriscape type landscaping.

Doug Faye, 4660 Westridge Drive:

- No reservations about the subdivision itself going in but wants continued access to the rear of his lot.
- The residents were assured years ago that they would all continue to have access to the rear of their lots from the bridal path.
- The owners impacted by the gate that goes to the north were all given keys to the gate for continued access to the rear of their lots.
- Does not have access to the rear of his lot from the front and does not want to lose the rear access.
- The bridal path may have been intended for horses at one time but now. mainly people use the bridal path and only rarely with horses.

Staff:

- The right-of-way agreement that would be registered with this subdivision would restrict vehicular access from the bridal path.
- Was not aware of the keys to allow vehicle access for some of the lots.
- Will talk to Parks staff about potential for vehicle access for the rest of the owners.

Les Horton, 4684 Westridge Drive:

- Asked if the bridal path would be gated or fenced off at the south end where it ends at Lot 15 to prevent pedestrians from going further south; the type of park that is proposed and whether the park would be intended for mountain bike use.

Staff:

- The park site would be retained as natural open space.
- Will talk to Parks staff about whether the bridal path would be gated or fenced off at the south end and whether mountain bikes would be permitted in the park site.

Grant Maddock, applicant:

- The owners of the subject property are willing to work with the City to provide access to the rear of Lots 12, 13 and 14, either with keys to a gate across the bridal path or down one of the driveways.

There were no further comments.

3.3 5065 Frost Road

- 3.3 Bylaw No. 8978 (Z02-1056) – 417860 Alberta Ltd. (Robert Bennett) – 5065 Frost Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2, DL 357, SDYD, Plan KAP47764, located on Frost Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the RU1 – Large Lot Housing zone.

Staff:

- Rezoning to facilitate a proposed subdivision comprising 16 single family residential lots.
- Showed the proposed subdivision layout.
- The application is consistent with the Neighbourhood Two Area Structure Plan.
- Will require road and utility servicing coordination between the landowner to the west and the applicant.
- The application was reviewed by the Advisory Planning Commission and supported with no conditions.

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

- letter from Lorne Davis, owner of 790 Barnaby Road, expressing concern with increased traffic on Paret Road and the resulting noise and erosion of the hillside; erosion of the green belt, and that the quiet and solitude that he purchased the property for are being threatened by this development.

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

Robert Bennett, applicant:

- Indicated he had nothing to add at this time.

There were no further comments.

3.4 2260-2270 Haynes Road

- 3.4 Bylaw No. 8979 (Z02-1046) – Starline Enterprises Ltd. (Wes Friesen/Points West Architecture) – 2260-2270 Haynes Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, DL 142, O.D.Y.D., Plan 15378 Exc. Plan KAP59549, located on Haynes Road, Kelowna, B.C. from the A1 – Agricultural 1 zone to the RM6 – High Rise Apartment Housing zone.

Staff:

- Rezoning to facilitate development of two 9-storey apartment buildings creating a total of 118 residential units with a 146-stall parking structure below the proposed buildings, a 32-stall surface parking area and a one-storey amenity building located on top of the parking structure between the two towers.
- Displayed the proposed site plan showing access from Durnin to the east and from a realigned Haynes Road to the west.
- Displayed an artist's rendering to show the design and exterior colours and features.
- A Development Permit application would be considered concurrent with adoption of the zone amending bylaw.
- The rezoning application was reviewed by the Advisory Planning Commission and supported with no conditions.
- The application is consistent with the Baron Road outline plan.

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

- late letter from Gary Dober, Pasadena Estates, 1950 Durnin Road, outlining a number of concerns about the impact of this development on the future development of his adjacent property.

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

Wes Friesen, architect for the applicant:

- Described the proposed development giving more detail about the building design, site layout, the types of suites and amenities proposed.

Gary Dober, 4429 Gordon Drive:

- Noted his concerns are outlined in his letter to Council and are primarily with respect to the siting of the buildings.
- The zoning and density are appropriate for the site but objects to the variances that would give a green light to the development as it is proposed.

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- Clarified that the public's opportunity for input into the Development Permit application was at the Advisory Planning Commission meeting although the public can still provide their comments about the Development Permit to staff who are then able to bring comments forward to Council.
- Confirmed that concerns were expressed by the public about the Development Permit application when it was considered by the Advisory Planning Commission.

Ray Dyer, 1950 Durnin Road:

- The residents of Park Residences are all here not because of the land use but because of the way the buildings are sited on the property.
- The green space on the north face of the proposed building is exaggerated in the artist's rendering and in fact, with the road there will be minimal.
- The through road (private drive) from Durnin to Haynes between the Park Residences and the proposed towers would create noise and there is no room to dispose of the snow from that road.
- Opposed to surface parking in the area; it invites vandalism, car theft, etc..
- Concerned about the location of the buildings; loss of sunlight for the lower floors of the Park Residences; the view of a flat tar and gravel roof with mechanical equipment and noise if air conditioning is on the roof would be a problem for the residents on the upper floors of the Park Residences.
- The development includes no visible green space and would devalue the Park Residences property.
- Not enough thought has been given to the way the buildings should be situated on the property.
- It is the location of the buildings and the design of the buildings that he is concerned with. Would prefer a single taller building in the middle of the property.

Victor Puffalt, 1950 Durnin Road:

- Agree with what has been said so far.
- Came to the area because of the greenery, the openness of it, and the absence of a lot of asphalt. It appears that what is proposed on the subject property would take away from that. Is proud of Park Residences development and does not want things to change so that he will wish he had not bought there.
- Suggest that the applicant cooperate with Mr. Dober and the 39 residents who live next door, all of whom are very much concerned.
- Submitted a letter from his neighbour (#408) who could not be at tonight's meeting.
- Would prefer an 18 storey building in the middle of the site. Too little is left for green space as it is.

Tony Vandeloof, President of Starline Enterprises, applicant:

- Starline Enterprises is a family business and they develop, build, service and sell their units to the average people. They do not build snob type units. Starline complies with all the City rules and are very proud of what they do. Starline is not capable of building an 18 storey building.
- Has met with Mr. Dober to discuss the proposal.
- Applied for this development and went through the proper channels. None of these concerns came up until the neighbours decided they would prefer an 18 storey building. Is hurt and resents being told Starline did not follow the proper steps.
- Is not willing to move from what is proposed for someone with a development twice as high as his. A variance is being requested in order that the proposed development can be another 10 ft. away from the neighbour. Other than that, the proposed development meets all requirements.
- He has proof that the type of development he builds does not use more than 0.9 parking stalls per suite; if the parking requirements could be reduced he could replace the surface stalls with green space.

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- Starline uses all non-combustible material in their buildings and are trying to be as flexible as possible with the design while still being profitable. If the application is going to be denied it has to be by the law and not based on feelings. He should be permitted to proceed when the development complies with the rules.
- The private driveway on the north side of the property would be bent in toward the building so it would not look like a road; it gives access to the amenity building and provides an emergency access.
- Taller buildings will always look down on roofs, that cannot be helped.

George Dickran, 1950 Durnin Road:

- Would be looking out his window at 100 ft. of concrete if this is approved. His wife is in a nursing home and he gets great comfort seeing the light and sunshine when he gets home. To think that he could lose that and could be looking at a building and a road instead is terrifying. He would have 9 stories of people looking into his unit and would have no sunshine.
- Asked that Council direct the applicant to reconsider this proposal as it would be devastating for the residents that are on the south side of the Park Residences building.

Bob Hadgraft, 1950 Durnin Road:

- Owns property in both the Park Residences.
- Questioned why the developer did not meet with Gary Dober and the residents of Park Residences 6 months ago.
- Park Residences is almost half greenspace; the proposed development is almost 1/3 asphalt.
- A garden on the roof could mask the air conditioners and ventilation.

Fred Lambert, 1950 Durnin Road:

- Moved there because of all the green and the amenities provided.
- With the road, there would not be any greenspace and with two buildings there would be no sunlight.
- Suggest the developer consider putting the road on the other side of the building to link up with Springfield Road.

Greg Klein, 1950 Durnin Road:

- No problem with the zoning but Gary Dober has set the standard for the green space and beauty with Park Residences and Park Place and this applicant should have to meet that standard.

Helen Graham, 1950 Durnin Road:

- Most of her concerns have already been covered.
- Bought there because of the beautiful landscaping. There appears to be no green space in what is proposed for the subject property.
- If no need for the roadway, get rid of it and the surface parking.

Cindy Leis, employee of Pasadena Estates:

- Works for Mr. Dober and owns property in the high rise (Park Place). Resents being called a snob.
- Mr. Dober did his homework and spoke to the neighbours in advance; his Development Permit breezed through Council.
- This developer just purchased the subject property recently and has made little effort to befriend the neighbours. Should have done more homework before purchasing in that neighbourhood to find out what is proposed and expected.
- The zoning is fine by her but would prefer to see the buildings moved closer together.
- Need to work together and find a way to cooperate and be happy neighbours.

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Richard Barton, 1950 Durnin Road:

- Vehicles parking above ground get broken into.
- The road comes out directly beside the exit from the underground parking to his building – concerned about safety.

Gerry Dreaper:

- Advised he is from Vernon and has purchased a unit in the adjacent high rise.
- Objects to the proposed density and the rezoning for the subject property.

Staff:

- Explained the Baron Road outline plan and how the proposed project complies with that plan.

Gerry Dreaper:

- Just because the Baron Road plan was done in 1995 does not mean it is relevant in 2003.

Gary Dober again:

- Has changed his mind; he now objects to the higher density zoning for the subject property.

Wes Friesen, architect for the applicant again:

- An 18 storey building would have blocked out sunlight for the court area that Mr. Dober has provided in his development.
- Without the variance, the building would have to be shifted to the north, decreasing the distance between the buildings.
- Would be willing to move the road if the parking requirements were reduced to delete the surface parking; the road could end at the front door of each building off Haynes and off Durnin. May require a service road to the amenity building but the residents could walk to the amenity building.
- The proposed landscape plan meets City bylaw requirements.
- There are flat roofs all around the area so the flat roof on the proposed buildings would not be the only flat roofs the residents on the top floors of the adjacent buildings would see.
- Moving the road to the south side of the property would shift the proposed buildings even closer to the buildings to the north.
- The buildings in the proposed project are very attractive.
- The discussion at the Advisory Planning Commission was based on the same drawings as have been presented tonight.

There were no further comments.

3.5 2085 Inkar Road

- 3.5 Bylaw No. 8984 (Z03-0002) – Fred Geismayr – 2085 Inkar Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Section 19, Township 26, ODYD, Plan 23622 located on Inkar Road, Kelowna, B.C. from the RU2 – Medium Lot Housing zone to the RU2s – Medium Lot Housing with Secondary Suite zone.

Staff:

- The rezoning would allow for a suite in a proposed 2 storey accessory building along with a single vehicle garage and covered patio on the south elevation of the building.
- The applicant has addressed an Engineering Department concern about the siting of the building in order to respect a mature tree situated on the neighbour's property.

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

- letter from Jim & Jenny Rogers opposed because of the impact on privacy to their back yard and family room and because of lack of commitment by the developer toward the upkeep of the property.
- Late item from Harvey Pearson, 1365 McKennis, advising that the application is okay with him.

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

Fred Geismayr, applicant:

- Spoke to the majority of the surrounding property owners; all but one had no objection to the application.
- It is a huge property and the shape is ideal for the proposed purpose.
- The corner has been neglected by the previous owner and will be improved with this application.

There were no further comments.

3.6 C4 – Town Centre Commercial Zone

- 3.6 Bylaw No. 8964 (TA02-0006) – City of Kelowna - To amend the C4 – Town Centre Commercial zone to permit drive-in food services on properties fronting Provincial highways.

Staff:

- Zoning Bylaw 4500 permitted eating establishments in C4 zones but was silent on drive-through pick-up windows. When Zoning Bylaw 8000 came into effect a number of establishments became non-conforming.
- It has become apparent that drive-in food services is an appropriate use along major arterial roads going through town, mainly on Highway 33 and Highway 97.

The City Clerk advised that no correspondence or petitions had been received.

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

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 9:54 p.m.

Certified Correct:

Mayor

BLH/am

City Clerk