

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, July 22, 2003.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blangleil, R.D. Cannan, B.A. Clark, C.B. Day, R.D. Hobson, E.A. Horning and S.A. Shepherd.

Council members absent: Councillor B.D. Given.

Staff members in attendance were: City Manager, R.A. Born; Deputy City Clerk, S.C. Fleming; Director of Planning & Corporate Services, R.L. Mattiussi; Manager of Development Services, A.V. Bruce; Special Projects Planning Manager, H.M. Christy; and Council Recording Secretary, B.L. Harder.

1. Mayor Gray called the Hearing to order at 7:04 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna Official Community Plan (1994-2013) Bylaw No. 7600" and "Zoning Bylaw No. 8000", and all submissions received, either in writing or verbally, will be taken into consideration when the proposed bylaws are presented for reading at the Regular Council Meeting which follows this Public Hearing.

The Deputy City Clerk advised that notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on July 4, 2003, and by being placed in the Kelowna Daily Courier issues of July 14 & 15, 2003, and in the Kelowna Capital News issue of July 13, 2003, and by sending out or otherwise delivering 351 letters to the owners and occupiers of surrounding properties between July 4 to 8, 2003.

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

Mayor Gray advised that the July 8, 2003 Public Hearing on the next 10 applications was adjourned to tonight because there was suggestion that not all owners were notified and that building permits had been applied for on two of the Retail Liquor Sales (rls) applications and the buildings were already under construction.

Staff:

- Clarified that after the last Public Hearing individual letters were sent to each of the 10 properties stating what the staff recommendation was and that they could make representation to Council tonight. They were also asked to contact staff to advise whether they would be in attendance. A response was not received from the Sandman Hotel, the Prestige Inn or the Willow Inn.
- At the time that the City initiated these applications, letters were sent to the property and business owners of all liquor license holders to advise them why the rezonings were being initiated, of the process, and how they would be affected by the split between liquor major and minor categories, etc. As part of that summary, at the end of the letter it said that all new LP and RLS establishments would be required to undertake a rezoning prior to applying for a Business License.
- After the April 15<sup>th</sup> Public Hearing date was set another letter was sent to that same group advising them of the date of that meeting.

**3.1(a) 1992 Dilworth Drive**

- 3.1(a) Bylaw No. 9016 (Z03-0021a) – Willcliff Holdings Ltd. (City of Kelowna) – Dilworth Drive (RJ McMaster's Pub) – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, D.L. 127 and 4646, O.D.Y.D., Plan KAP47930 being 1992 Dilworth Drive (R.J. McMaster's Pub) from the C6 – Regional Commercial zone to the C6rls – Regional Commercial Retail Liquor Sales zone.

## Staff:

- The application is in keeping with the recommendations of the Mayor's Entertainment District Task Force.
- Confirmed that there is no active building permit but that some work has been done on-site.
- A Development Permit (DP) was authorized for issuance but the staff report made it clear the DP was for building only and that the liquor licensing was a separate issue to be pursued through the appropriate channels.

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

Mayor Gray invited the owner or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

**3.1(b) 1630 and 1654 Ellis Street and 466 and 484 Leon Avenue**

- 3.1(b) Bylaw No. 9017 (Z03-0021b) – MS Developments Inc. (City of Kelowna) – Ellis Street and Leon Avenue (Yamas Taverna) - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots 1 and 2, Blk. 8, D.L. 139, Plan 462 being 1630 and 1654 Ellis Street and 466 and 484 Leon Avenue (Yamas Taverna) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

## Staff:

- A Liquor Primary (LP) establishment was approved by Council at this location earlier this year.
- The building permit issued for the renovations for the LP establishment also showed the RLS. Confirmed that no work was been done to date on the RLS component.
- The RLS application is not contrary to the Mayor's Entertainment District Task Force recommendations; however, staff are recommending non-support because of concern about the proximity of the property to a number of social agencies on the block.
- The application is for a 1,000 sq. ft. RLS outlet but that could be expanded up to max. 2,000 sq. ft. without further approvals by Council unless another DP is required for exterior alterations.

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

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

Tony Panazopolus, owner of Yamas and Christophers:

- The proposed RLS would be 1,277 sq. ft. and there are no plans to expand the size if this application is successful.
- All spirits would be kept behind the counter, the wines would be high-end wines, not cheap, and they would not sell singles (beer).
- Wants to concentrate more on higher end wines and in future if permitted by the Liquor Distribution Branch, would like to supply his own businesses with the liquor from the RLS.
- Would be monitoring the location 7 days a week, 24-hours a day and, although City staff have concerns about the social agencies in the area, they have never experienced problems; the people working at the social agencies frequent their establishment but not the clients.
- Yamas is a successful restaurant and the pub will be opening in the next few weeks so they have a lot at stake and would not want to jeopardise that.
- Was issued a building permit on April 11, 2003 to build a neighbourhood pub and RLS.
- Hours of operation for the RLS outlet would be the same as the restaurant.

There were no further comments.

**3.1(c) 500 Cook Road**

- 3.1(c) Bylaw No. 9018 (Z03-0021c) – R93 Enterprises Ltd. (City of Kelowna) – Cook Road (Hotel Eldorado) – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, Secs. 1 and 12, D.L. 134 and 5225, O.D.Y.D., Plan KAP67232 being 500 Cook Road (Hotel Eldorado) from the C9 – Tourist Commercial zone to the C9rls –Tourist Commercial Retail Liquor Sales zone.

Staff:

- The RLS outlet would be part of a future expansion that is proposed at the southeast corner of the building.
- The application is in keeping with the recommendations of the Mayor's Entertainment District Task Force.

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

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

Jim Nixon, Hotel Eldorado:

- The RLS outlet would be about 1000 sq. ft. in size.

There were no further comments.

**3.1(d) 235 Queensway Avenue**

- 3.1(d) Bylaw No. 9019 (Z03-0021d) – K&J Noble Holdings Ltd. (City of Kelowna) – Queensway Avenue (Willow Inn Hotel) – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 6 and 7, D.L. 139, O.D.Y.D., Plan 505 and Lot A, D.L. 139, O.D.Y.D, Plan 2180 being 235 Queensway Avenue (Willow Inn Hotel) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- Recommend non-support because this establishment does not meet the proximity requirements of the Mayor's Entertainment District Task Force.

The Deputy City Clerk advised that the following correspondence had been received since the July 8<sup>th</sup> Public Hearing:

- letter from a managing partner of the Royal Anne expressing concern that the area is already over-served with RLS outlets and that the increase in availability of alcohol will increase noise and other problems in the downtown.

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

Ken Noble, Willow Inn Hotel:

- Spoke about the many ways in which the Willow Inn has contributed to the community over the years.
- Has had no problems with rowdism at the Willow Inn that they could not handle themselves.
- Has never had a citation from the Liquor Distribution Branch.
- Already has the ability to sell beer, cider, coolers and wine – just not liquor. Most pubs have had the ability to have off-sales for years but that will disappear from the bars when they get the liquor stores.
- The RLS outlet would be about 2,000 sq. ft. in size including storage, etc.

There were no further comments.

### **3.1(e) 1180 Sunset Drive**

- 3.1(e) Bylaw No. 9020 (Z03-0021e) – Grand Okanagan Resort Ltd. (City of Kelowna) – Sunset Drive (Waterfront Wines) – THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, D.L. 139, O.D.Y.D., Plan KAP49982 except Strata Plan KAS1261 being 1180 Sunset Drive (Waterfront Wines) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

Staff:

- Waterfront Wines is in the process of finalizing an LP application which is a requirement of the Liquor Distribution Branch for approval of the RLS.
- The application is in keeping with the recommendations of the Mayor's Entertainment District Task Force.
- Recommend support.

The Deputy City Clerk advised that the following correspondence or petitions had been received since the July 8<sup>th</sup> Public Hearing:

- letter from the applicant outlining details of their application.
- letter from a resident of 1160 Sunset Drive opposed because of noise and privacy problems and the residents feel "misrepresented" regarding changing developments for the area, and indicating that more support would be granted provided the outlet only sold wine and never beer or spirits.
- 23 letters of support from business people and individuals in the area.
- petition bearing 24 signatures of support signed by people living in and out of Kelowna.

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

Brent Peacock, Waterfront Wines:

- Outlined the attempts they have made to discuss and resolve the concerns of the neighbours, including hosting a wine and cheese at the Yacht Club. The concerns of the Dolphins and the Lagoons residents were hours, noise and future business plans. The majority indicated they would support the application if a covenant were entered into guaranteeing that the business plan would never change. Could not agree to enter into such a covenant.
- Does not believe the proposed RLS would add to the noise problem because of the nature of the clientele they are trying to attract.
- He and his brother will operate the Equinox Professional Group from the second floor of the proposed building. To do anything detrimental would be suicide for their business. There will be 7 residential units above the second floor and the building will have its own strata council with bylaws for governance and self-policing.
- No underground parking is proposed for the clients of the building but underground parking will be available for staff and key managers. The development meets the parking requirements of the C7 zone, the parking lot to the south is extremely under-utilized, and there is other parking nearby.
- Discussed the proposal with staff of the Laurel Building in a meeting that was supportive.
- The prime focus will be on international wines and higher end local wines.
- The main floor of the building would be about 2,700 to 2,800 sq. ft. with about 1,500 sq. ft. for the RLS and the balance for the wine bar. The RLS would close at midnight on weekends and earlier on weekdays.

Barbara Rhodes, 1160 Sunset Drive:

- Reviewed the issues raised in the letter she had submitted.
- Is not on the Dolphins strata council now but when she was, the strata council was promised that there would only be professional offices in the proposed building and no retail. Also the proponents of the development were all going to live upstairs and only they would be using the underground parking stalls. With that in mind, she had recommended to the strata members that they support the proposal.
- Not happy with what is being proposed now and no longer believes anything that the proponents say.
- The proposed RLS outlet would be too close to a residential area. It is the drunken behaviour that goes on that bothers her.
- Does not believe people will go to the proposed establishment and drink and leave without causing problems.
- Did not attend the wine and cheese because she felt that the residents were being bought.

Pat Doyle, 1160 Sunset Drive:

- Is not in disagreement with the business plan as proposed and hopes it works because he expects to be a customer. However, wants safeguards in place to mitigate potential downsides if the business plan does not work.
- This proposal is unique from the others being considered tonight, because this application would put a licensed establishment with all that it entails at the entrance to their homes. None of the other proposals are intertwined with residential – they are all stand alone commercial.
- Is not part of the strata council but knows that Waterfront Wines was not part of the development proposal 8 months ago when the developers spoke to the strata council.
- Realize this is an economic enterprise and the proponents are risking their own capital, etc. and as such are entitled to the risks and rewards that come with it. But the residents should have an opportunity to protect their economic interests too, that being their homes.
- A wine & cheese party is not the environment in which to conduct business. It is fine for hearing what people think but not to bring business to a conclusion.

- The residents of the Dolphins are not unreasonable but it is not their responsibility to promote Kelowna as a wine centre.
- Asked that Council defer this application until the applicant agrees to a covenant to restrict what can be proposed.

Fred Speckeen, 1156 Sunset Drive:

- He and his wife have owned and operated retail businesses and are quite supportive of the plan that is put forward.
- They did due diligence before moving into their unit in 1994 and realized there could be some type of development on the subject property. They also knew that moving into a downtown location would mean more traffic and noise but felt that the inconveniences would be offset by the benefits of being downtown.
- The problems from Skyreach Place never materialized to the extent that they anticipated and are nothing they cannot live with.
- There are already businesses operating in the tower that lead to more pedestrian and vehicular traffic and they are not a bother.
- He and his wife are very supportive of what they think will be an upscale operation.
- The residents living in the 7 units in the proposed building will be the first to complain if there are problems below them.

Margaret Wort, owner of property in the Dolphins and Lagoons towers (1156 and 1160 Sunset Drive):

- There are 21 spots in the Dolphins parkade for tenants of the proposed building. Customers will expect to park in front of the building.
- The area is woefully lacking in parking for visitors and service vehicles. Overflow parking goes down Sunset Drive to Manhattan and with the vehicles parking on the street the corner is horrendous. Need answers to the parking issues on Sunset Drive regardless of how the subject property develops.
- Need to take a more realistic view of parking requirements. Could be a rise in disgruntled customers when they use the parking lots and get tickets.

John Gough, 1160 Sunset Drive:

- Concerned about the lack of notification; the residents did not learn of this application until receiving the notice sent out from City Hall and 14 days is an inadequate amount of time for a major project especially for a condo with the number of units in the Dolphins to get the strata members together.
- Concerned that the proposal could change over time.
- Shared the concerns of previous speakers regarding noise, rowdy behaviour and lack of parking.
- Asked that this application be deferred to allow time for proper consultation.

Michael Geddes, 244 Riverside Avenue:

- Spoke in support. Situations like this will be unavoidable and are to be expected as part of living in the downtown.

John Peacock, Waterfront Wines:

- In the last 2 weeks they have been very open to dialogue with the Lagoons and Dolphins residents and have spent countless hours trying to communicate with them.
- The C7 zoning provides for the type of development that is proposed.
- Could consider a covenant on hours of operation but it would be difficult to address issues beyond that in a covenant.
- He and his brother will have their business on the second floor of the proposed building and are also concerned about parking for their clients. This concern will lead to strong level of self-policing in the proposed building.
- Sees this project as complementary to the arts and entertainment district and to the services that residents will come to expect moving into the area.
- The LP will have a seating capacity of about 40-60 persons.

There were no further comments until later in the meeting, after agenda item No. 3.3.

**3.1(f) 1675 Abbott Street**

- 3.1(f) Bylaw No. 9021 (Z03-0021f) – Bill-Ed Logging Ltd. (City of Kelowna) – Abbott Street (Prestige Inn) – THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 139, O.D.Y.D., Plan 36244 being 1675 Abbott Street (Prestige Inn) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

## Staff:

- Recommend non-support because contrary to the proximity recommendations of the Mayor's Entertainment District Task Force.

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

Mayor Gray invited the owner or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

**3.1(g) 238 Leon Avenue**

- 3.1(g) Bylaw No. 9022 (Z03-0021g) – 475872 BC Ltd. (City of Kelowna) – Leon Avenue (Gotcha) – THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 7, Blk. 10, D.L. 139, O.D.Y.D., Plan 462 being 238 Leon Avenue (Gotcha) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

## Staff:

- Recommend non-support because the property is within the area identified in the Mayor's Entertainment District Task Force recommendations where private liquor stores, expansion of seating capacity or expansion of hours should not be supported. The location is also contrary to the proximity recommendations of the Task Force.

Don Pennuchi, Gotchas:

- Gotchas Nightclub is at 238 Leon Avenue. The RLS outlet would be at 248 Leon Avenue.
- Has no connection with the nightclub other than being the land owner.

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

Mayor Gray invited the owner or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

**3.1(h) 274 Lawrence Avenue**

- 3.1(h) Bylaw No. 9023 (Z03-0021h) – 614030 BC Ltd. (City of Kelowna) – 274 Lawrence Avenue (Senior Frogs) – THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Block 13, D.L. 139, O.D.Y.D., Plan 462 being 274 Lawrence Avenue (Senior Frogs) from the C7 – Central Business Commercial zone to the C7rls – Central Business Commercial Retail Liquor Sales zone.

## Staff:

- Senior Frogs was the business name on the license transfer; however the establishment is now being called the Club Med Cabaret.
- Recommend non-support because the property is within the area identified in the Mayor's Entertainment District Task Force recommendations where private liquor stores, expansion of seating capacity or expansion of hours should not be supported. The location is also contrary to the proximity recommendations of the Task Force.

- Recommend non-support because it is within the area identified in the Task Force recommendations where private liquor stores should not be supported.

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

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

David Habib, owner of Club Med Cabaret:

- A private liquor store was a permitted use when he submitted his application to the Province in winter 2002 and at that time no City input was required and no Public Hearings were required, just money (\$4700). Since then the rules have changed and now he would like his money returned.
- Need to treat all LP liquor license holders the same way to make it a level playing field for all.

Shabbir Dahla, representing the ownership of Royal Anne Hotel:

- Like the Willow Inn, the Royal Anne has played a good community role in the past and are doing so again under new ownership.
- 6 of these 'rls' applications are within 6 blocks of the Royal Anne and could severely impact plans to upgrade the Royal Anne hotel. Not many businesses can afford to sustain that kind of competition (300% increase within a 6 block radius). If all 6 applications were approved there would be 2½ times as much retail space as exists now in the government liquor store.

There were no further comments.

### **3.1(i) 1310 Water Street**

- 3.1(i) Bylaw No. 9024 (Z03-0021i) – Grand Okanagan Resort Ltd. (City of Kelowna) – 1310 Water Street (Grand Okanagan Resort) – THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots A and B, D.L. 139, 4041 and 4082, O.D.Y.D., Plan KAP47378 except Strata Plan KAS1140 being 1310 Water Street (Grand Okanagan Resort) from the C8 – Convention Hotel Commercial zone to the C8rls – Convention Hotel Commercial (Retail Liquor Sales) zone.

Staff:

- The proposed RLS outlet would be in the building fronting Water Street and could meet the 100 m proximity criteria in the recommendations of the Mayor's Entertainment District Task Force. However, staff recommend non-support.

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

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

Gail James, The Grand Okanagan Resort:

- Their primary market would be the guests of the resort and their intent would not be to compete with the wine museum.
- They work well with their neighbours and expect to do the same with the wine museum.
- The space proposed for the RLS is 1,100 sq. ft. in size and is between Malibu and the Casino.

There were no further comments.



**3.1(j) 2130 Harvey Avenue**

- 3.1(j) Bylaw No. 9025 (Z03-0021j) – Northland Properties Ltd. (City of Kelowna) – Harvey Avenue (Sandman Inn) – THAT the City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 127, O.D.Y.D., Plan 23746 being 2130 Harvey Avenue (Sandman Inn) from the C9 – Tourist Commercial zone to the C9rls – Tourist Commercial Retail Liquor Sales zone.

## Staff:

- The Mayor's Entertainment District Task Force proximity recommendations are based on separation being measured by travel distance. There is an RLS outlet with the Ramada Hotel which is next door but is beyond 300 m travel distance. Based on that and the fact that there are not a lot of LPs of significant nature in the immediate area, staff recommend support.

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

Mayor Gray invited the owner or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council. There was no response.

**3.2(a) Glenmore Highlands**

- 3.2(a) Bylaw No. 9054 (OCP03-0009) – Glenwest Properties Ltd./City of Kelowna – (Ekistics Town Planning Inc./Paul Rosenau) – Clifton Road, Glenmore Road, East of Grainger Road, East of Rio Drive, West and North of Union Road, Begbie Road – THAT Map 19.1 of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by changing the Future Land Use designation of Lot A, Sec. 6, Twp. 23, ODYD, Plan KAP70041; Lot A, Sec. 32, Twp. 26, ODYD, Plan KAP55949 except Plan 70047; South West 1/4 of Sec. 5, Twp. 23, ODYD; North West ¼ of Sec. 5, Twp. 23, ODYD except Plan 20895; Part of Lot 8, Sec. 8, Twp. 23, ODYD, Plan 29568; North East ¼ of Sec. 5, Twp. 23, ODYD, except Plans 896, B645 & KAP69724; Part of Lot A, Secs. 4, 5, 8, & 9, Twp. 23, ODYD, Plan KAP69724 except Plan KAP71944; Part of South East ¼ of Sec. 8, Twp. 23, ODYD except Plan 22400 & KAP69724; Part of North East ¼ of Sec. 8, Twp. 23, ODYD except Plan KAP69724; Part of South East ¼ of Sec. 17, Twp. 23, ODYD; Part of South West ¼, Sec. 16, Twp. 23, ODYD, located west of Union Road and East of Clifton Road & Rio Drive, Kelowna, BC, **from** the Single/Two Unit Residential, Multiple Unit Residential – low density, Multiple Unit Residential – low density transition, Mixed Residential Commercial, Major Park/Open Space, Future Urban Reserve designations **to** the Single/Two Unit Residential, Multiple Unit Residential – low density, Neighbourhood Commercial, Public Services/Utilities, Major Park/Open Space designations, as shown on Map "A" attached to the report of Planning & Corporate Services Department dated June 18, 2003;

AND THAT Map 7.1 of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by refining the Natural Environment/Hazardous Condition Development Permit Area Designation (slopes over 30%) for Lot A, Sec. 6, Twp. 23, ODYD, Plan KAP70041; Lot A, Sec. 32, Twp. 26, ODYD, Plan KAP55949 except Plan 70047; South West 1/4 of Sec. 5, Twp. 23, ODYD; North West ¼ of Sec. 5, Twp. 23, ODYD except Plan 20895; Part of Lot 8, Sec. 8, Twp. 23, ODYD, Plan 29568; North East ¼ of Sec. 5, Twp. 23, ODYD, except Plans 896, B645 & KAP69724; Part of Lot A, Secs. 4, 5, 8, & 9, Twp. 23, ODYD, Plan KAP69724 except Plan KAP71944; Part of South East ¼ of Sec. 8, Twp. 23, ODYD except Plan 22400 & KAP69724; Part of North East ¼ of Sec. 8, Twp. 23,

ODYD except Plan KAP69724; Part of South East ¼ of Sec. 17, Twp. 23, ODYD; Part of South West ¼, Sec. 16, Twp. 23, ODYD, located west of Union Road and East of Clifton Road & Rio Drive, Kelowna, BC, as shown on Map "B" attached to the report of Planning & Corporate Services Department dated June 18, 2003;

AND THAT Map 6.2 of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by adding the General Commercial Development Permit Area Designation for that Part of the South West ¼ of Sec. 5, Twp. 23, ODYD; located west of Union Road and East of Clifton Road & Rio Drive, Kelowna, BC, as shown on Map "A" attached to the report of Planning & Corporate Services Department dated June 18, 2003;

AND THAT Map 14.2 of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by adding the Trail Network for Lot A, Sec. 6, Twp. 23, ODYD, Plan KAP70041; Lot A, Sec. 32, Twp. 26, ODYD, Plan KAP55949 except Plan 70047; South West 1/4 of Sec. 5, Twp. 23, ODYD; North West ¼ of Sec. 5, Twp. 23, ODYD except Plan 20895; Part of Lot 8, Sec. 8, Twp. 23, ODYD, Plan 29568; North East ¼ of Sec. 5, Twp. 23, ODYD, except Plans 896, B645 & KAP69724; Part of Lot A, Secs. 4, 5, 8, & 9, Twp. 23, ODYD, Plan KAP69724 except Plan KAP71944; Part of South East ¼ of Sec. 8, Twp. 23, ODYD except Plan 22400 & KAP69724; Part of North East ¼ of Sec. 8, Twp. 23, ODYD except Plan KAP69724; Part of South East ¼ of Sec. 17, Twp. 23, ODYD; Part of South West ¼, Sec. 16, Twp. 23, ODYD, located west of Union Road and East of Clifton Road & Rio Drive, Kelowna, BC, as shown on Map "C" attached to the report of Planning & Corporate Services Department dated June 18, 2003.

Staff:

- This is one of the largest rezoning applications the City has dealt with; approximately 290 ha that would ultimately allow for about 1,275 residential units. Phase 1 allows for approximately 450 units and was approved last year.
- The applicant has provided information that has made it possible to measure out lot depths, etc. and identify rezoning and development areas in detailed configuration.
- Outlined the proposed OCP amendments.
- Displayed maps showing the areas proposed as green space, the areas proposed for the various types of development, and a small portion of property where the applicant is proposing a minor modification to the application to allow part to remain within the rural residential zoning and the remainder within the subject application.
- Showed the proposed phasing map noting market conditions will prevail but the intent is to move from the south to the north following the contours of the land as the reservoirs are constructed to service the subdivisions.
- Reviewed the off-site traffic impacts and noted that there are still many uncertainties in terms of the growth of other developments in and around the area and therefore off-site road upgrades will be dealt with as each phase of subdivision comes forward when the impacts can be assessed more clearly. The uncertainty of the time horizon is of equal concern to the City and the developer. The City would require traffic impact studies at each phase.
- There was a draft Traffic Noise Policy endorsed in principle by Council in 1996 but the policy required more work and that work has not been done to date so the policy is still in draft form.

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

Paul Roseneau, Ekistics Town Planning, representing Gerhardt Blenk and Blenk Corporation:

- Work on this development began in 1996. In April 2000 the Area Structure Plan (ASP) was approved by Council for Glenmore Highlands and last summer zoning for the first phase of development was achieved for 500 or so lots. Lot sales are just beginning.
- Most of the land under application was rezoned in 1983 but was based on inaccurate information. The proposed amendments will change the shapes of what is shown in the OCP to more accurately reflect how the land will be developed.
- Phase 2 encompasses all of the land within the 20 year servicing plan boundary which consists of approximately 289 ha to be developed in anywhere from 6 to 12 phases to create between 1,250 and 1,275 lots at a mix generally of 90% single family and 10% multi-family units. Phasing would follow the water pressure zones.
- Rezoning Phase 2 land now ensures a continuity between the ASP and the zoning and allows the land owner to respond to the fluctuating residential market in a more efficient and timely manner. It also spreads out the cost of off-site infrastructure.
- The development includes interesting innovations such as the environmental development permit, the hillside road standards, overall parks agreement, a comprehensive trail network and park system, and two village centres. Geothermal heating is also being considered.
- All of the park land established as part of the Parks Agreement will be turned over to the City and be under City ownership as the different subdivision applications come forward. Summit Park will be dedicated to the City as soon as there is road access to the park site.
- Traffic studies will look at volumes that will trigger off-site road and intersection improvements.
- Each lot has been proven out to ensure all can be serviced within a building site while still protecting the lands over 30% slope.

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

There were no further comments.

### **3.2(b) Glenmore Highlands**

3.2(b) Bylaw No. 9055 (TA03-0007) – Ekistics Town Planning/Paul Rosenau – Glenmore Highlands Area Structure Plan – THAT City of Kelowna Zoning Bylaw No. 8000 be amended as follows, to provide for the next phase of the Glenmore Highlands development:

- (a) Amend **Section 13.3 RU3 – Small Lot Housing** by adding:
  - RU3hs – Small Lot Housing (Hillside Area) with Secondary Suite;
- (b) Amend **Section 13.3.5 (c)** by adding:
  - For the RU3hs zone the maximum height of any vertical wall element facing a front, side or rear yard (including walkout basements) is the lessor of 6.5 m or 2 storeys, above which the building must be stepped back at least 1.2 m;

(c) Amend **Section 13.3.5** by adding:

- (h) For the RU3hs zone, all decks, supporting posts or columns shall not exceed the lesser of 4.5 m or 1 storey in height, such measurements to include the height of any support structure or retaining wall.

See discussion under 3.2(a)

### 3.2(c) Glenmore Highlands

3.2(c) Bylaw No. 9056 (Z02-1061) – Glenwest Properties Ltd./City of Kelowna (Ekistics Town Planning Inc./Paul Rosenau) – Clifton Road, Glenmore Road, E. of Grainger Road, East of Rio Drive and West and North of Union Road and Begbie Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Sec. 6, Twp. 23, ODYD, Plan KAP70041; Lot A, Sec. 32, Twp. 26, ODYD, Plan KAP55949 except Plan 70047; South West 1/4 of Sec. 5, Twp. 23, ODYD; North West 1/4 of Sec. 5, Twp. 23, ODYD except Plan 20895; Part of Lot 8, Sec. 8, Twp. 23, ODYD, Plan 29568; North East 1/4 of Sec. 5, Twp. 23, ODYD, except Plans 896, B645 & KAP69724; Part of Lot A, Secs. 4, 5, 8, & 9, Twp. 23, ODYD, Plan KAP69724 except Plan KAP71944; Part of South East 1/4 of Sec. 8, Twp. 23, ODYD except Plan 22400 & KAP69724; Part of North East 1/4 of Sec. 8, Twp. 23, ODYD except Plan KAP69724; Part of South East 1/4 of Sec. 17, Twp. 23, ODYD; Part of South West 1/4, Sec. 16, Twp. 23, ODYD, located west of Union Road and East of Clifton Road & Rio Drive, Kelowna, BC, **from** the A1 – Agriculture 1; RR3 – Rural Residential 3; RU1 – Large Lot Housing, RU4 – Low Density Cluster Housing, RM3 – Low Density Multiple Housing; RM5 – Medium Density Multiple Housing; C2 – Neighbourhood Commercial; P2 – Education & Minor Institutional; and P3 – Parks & Open Space zones **to** the RU1h – Large Lot Housing (Hillside Area), RU2h – Medium Lot Housing (Hillside Area), RU3hs – Small Lot Housing (Hillside Area) with Secondary Suite, RU4 – Low Density Cluster Housing, RM2h – Low Density Row Housing (Hillside Area), RM3 – Low Density Multiple Housing; RM5 – Medium Density Multiple Housing; C1 – Local Commercial; C2 – Neighbourhood Commercial – Community Commercial; P2 – Education & Major Institutional; P3 – Parks & Open Space, and P4 – Utilities zones as shown on Map "D" attached to the report of Planning & Corporate Services Department dated June 18, 2003.

See discussion under 3.2(a)

### 3.3 2094 Abbott Street

3.3 Bylaw No. 9057 (HRA03-0001) – Cheryl and David Cross-Negrin – Abbott Street – THAT the City of Kelowna enter into a Heritage Revitalization Agreement for Lot A, District Lot 14, ODYD, Plan KAP47142, located at 2094 Abbott Street, in the form of such agreement attached to and forming part of this bylaw as "Schedule A".

Staff:

- The property is within the Abbott Street Heritage Conservation Area and the Hughes-Games house is identified as a potential heritage resource on the Kelowna Heritage Register.
- The applicant purchased the property with the intention of restoring the house; however, costs have become prohibitive. Plans to demolish the house and build a new home on the property were abandoned because of opposition. The applicant is

now proposing to subdivide the property and move the existing house slightly forward and north on the lot with access still from Abbott and create a new irregular lot with access off Cadder Avenue, and to designate the Hughes-Games house for heritage. The Heritage Revitalization Agreement (HRA) provides the tool to modify, restore and preserve a building on the Heritage Register.

- The Community Heritage Commission recommends support for the HRA subject to the Hughes-Games house remaining on the southern lot with the same orientation to the streets, retaining the mature landscaping, and full restoration of the Hughes-Games property being paramount.
- The hedge along Abbott would be retained as would some of the trees and the rose garden. The property line between the old restored house and the new house would be delineated by landscape buffer rather than fencing.
- The design of the new home would be modern style that complements the Hughes-Games house.
- Asked that the HRA be amended to include two new clauses, which he read, for cancelling the agreement should the Hughes-Games house be destroyed during the relocation on the site.
- If the City sought involuntary designation of the property for heritage, the City would have to pay compensation to the landowner. The amount that would have to be paid has never been determined.

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

- letter of support from 2072 Abbott Street.
- 6 letters of opposition from 2071 Abbott Street, 356 Park Avenue, 943 Fuller Avenue, 1858 Abbott Street, 366 Park Avenue, and Doryan Street stating the application is contrary to the spirit and intent of the Abbott Street Heritage Conservation Area Bylaw, would set unacceptable precedents, and machinery to move the house would damage surrounding green space, gardens and disrupt surrounding wildlife.
- letter of concern from 1998 Abbott Street suggesting that a carriage house that complements the property would be preferred.
- form letter signed by 42 people saying the proposal is contrary to the spirit and intent of the Abbott Street Conservation Area Bylaw.

Mayor Gray gave the Deputy City Clerk a letter of opposition that he was presented with just before the meeting from Steve Kabella, 606 Sherwood Road.

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

Cheryl Negrin, applicant:

- Read a short letter outlining their efforts to resolve the concerns.
- The large mature tree seen from the water will remain on the site.
- The structural integrity of the foundation of the building is a safety issue but they have chosen to work with the City toward restoration of the building nonetheless.
- Asked for Council's approval.

Paul Heinrichs, Ford Engineering:

- Reviewed the house in 2001 and there are definitely structural problems with the house (framing of the house, moisture damage, ventilation, etc.) in addition to the foundation. Cannot guarantee costs of restoration until after demolition starts in the parts of the house that have structural problems. The same unknowns will have to be addressed with moving the house onto a new foundation.

Staff:

- Construction estimates ranging from \$188,000 to \$233,500 were based on four different assessments of the structural integrity of the house.

Craig Hostland, professional engineer and building investigator:

- Was contracted on three occasions to inspect the building. In two cases the sale of the property did not proceed. The third report was for the present owner of the property to understand the safety and structural concerns with the building. The building foundation is moving and the foundation is not on competent ground.
- It would be extremely difficult to lift the building, redo the foundation and replace the building in its present location because of the internal structural issues that are inherent in the home. With the proper support the building could be moved practically. A new foundation designed properly would be a more practical engineering feat than lifting the building and trying to deal with the ground conditions exactly where the foundation is now. The existing house conveys in the opposite direction on all levels. If cost was not an issue it could be done but not practically.
- In his opinion, the building is not salvageable, practically, it is not a viable structure, and if he was a structural engineer he would identify it to be destroyed.

Cheryl Negrin, applicant:

- Right now the quotes are from \$188,000 to \$233,000 but construction costs could go a lot higher. The foundation alone is about \$80,000 and the rest is to repair the house.
- Has already spent about \$130,000 trying to repair the house.
- Bought the property in 1998 and had an inspection done at that time. Was told that the structural problems/issues with the house had occurred years ago and that it (the building condition) was not changing but has found that it is changing, daily.

Shirley Clarke, 1935 McDougall Street:

- Read her letter opposing relocation of the heritage home and building a new home.
- The neighbourhood and street was quiet in 1956 but now she has difficulty backing out of her driveway. Sees her street as a prime example of densification at its very worst and concerned that the Hughes-Games home will be destroyed and then the lot considered prime for densification.
- If the Hughes-Games home is moved, its stature will be completely diminished.
- FRAHCAS feels the present foundation can be replaced at no more cost to the owner than the cost of what is now being proposed.

John Finch, 2095 Abbott Street:

- If the subject application is to be approved, to ensure that relocation of the Hughes-Games house is a success, suggest make the approval conditional on the applicant and the City doing the feasibility plan as offered by the Heritage Branch with the province providing 50% of the funding.
- Moving the house would result in a loss in its heritage value.
- Concerned about setting a precedent for subdividing all the lots along the lakeshore; would not like to see that extent of densification on the foreshore.

Jillian Stamp, 2083 Abbott Street:

- Showed a photo of the current lake view from her ground floor window and voiced opposition because of the impact of the proposal on her view given the width of the one lot being only 9 m wide.
- The large mature tree and the garden should be preserved in their original form.
- Will lose parking at the beach access.
- Will adversely impact the value of properties in the area.
- If the owner can afford to do what they are proposing, should just fix the house in its current location.

Walley Lightbody, 2302 Abbott Street:

- Referred to a letter addressed to the Mayor and Council from Donald Luxton, architect, on behalf of the Canadian Art Deco Society raising concerns about what is being proposed, that the subject bylaw and HRA would not fully protect the heritage features that are important to the integrity of the house, and that the heritage value of the house has never been defined, and urging Council to ensure that the elements that define the heritage value of the site (massing of the house, detail and material, relationship to landscaping) are protected.
- The Hughes-Games house is a significant structure for its building style, historical value and architectural value. All options should be fully explored before deciding to move the house.
- The subject bylaw does not define the obligations of the owner; the house could be completely gutted and rebuilt.

George Shernoff:

- Retired from Vancouver 10 years ago to Kelowna. Buys, renovates and sells properties as a hobby.
- Helped to look after the Hughes-Games house over the last 5 years and the frustrations of the tenants over leaky pipes, backed up toilets, the sagging roof, etc.
- Common sense would indicate that Mr. Lyons, the architect of the Hughes-Games house, would not consider the house to be his prize project given that the house is almost collapsing after only 60 years.
- Wonder how a small group of well-intentioned people can adversely impact the wellbeing of others. The owners have been through a nightmare, both financially and emotionally, because of the opposition of the heritage people, yet the owners have tried to comply with everything asked of them.
- Was there when the City inspector examined the property and agreed with how much would be needed to restore the house.
- The abutting neighbour supports moving the house.

Steve Kabella, 606 Sherwood Road:

- This is a heritage conservation area (HCA) where non-densification should be encouraged.
- The owners should have investigated the implications of being in a HCA before buying the property.

Elise Clark, 1847 Maple Street:

- The City has taken significant steps to recognize and preserve heritage in this area of the city.
- Mr. Lightbody brought some really good information that gives the potential to do this properly and save the Hughes-Games house.

Michael Griffin, 2021 Abbott Street:

- Sympathized with the applicant because there are other homes in the area that also have foundation problems, including his home and it has some heritage value too.
- If this application goes ahead, asked that other property owners with similar issues in the HCA be able to seek the same relief for their problem.

David Marshall, 1953 Knox Crescent:

- Moved to the neighbourhood because of the large mature trees, big yards and the proximity to Kelowna Secondary School.
- Did not want to be in a heritage area but now that he is does not want to have to keep going around the neighbourhood to see whether or not the residents support proposed changes.
- People who buy in an established area have a sense of security that there will not be significant changes to the lots.

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- Every house that is in the area was built on bog and all the foundations are shifting. Experts say they can be fixed in place and that would be the best thing to do with the Hughes-Games house.
- The Negrins are wanting the new home for a summer home.
- Could support the City buying the subject property with tax dollars in order to preserve the home.

Son of former Mayor Hughes-Games:

- Showed photos of the house at the time Mayor Hughes-Games lived in it.
- Outlined the history of what his father did for Kelowna since 1906.
- There is nothing in Kelowna named after his father except this house. The house is a very significant building and should be preserved in its current location and a plaque should be put on the fence to tell people about him.
- The corner of the lot where the applicant's propose to relocate the house was a slough. With a slab foundation the house could be preserved in its present location.

Lorraine McLarty, 3985 Bluebird Road:

- Representing the Central Okanagan Heritage Society.
- Read a motion the Central Okanagan Heritage Society passed recommending that, to ensure the long term retention of the house as a heritage resource, the HRA include that the structure have dominant frontage on Abbott, the moving be prior to construction of the new home, landscaping be preserved as much as possible, and the new house be in keeping with the heritage guidelines of the area. Advised that there were 4 members of the executive present when the motion was passed.
- Moving the building so that it can be restored could be done successfully and is suggested as a compromise.

David Lovell, 795 Lawrence Avenue:

- Representing the Kelowna South-Central Association of Neighbourhoods (KSAN).
- KSAN currently has 62 members. The majority (6 or so) of the executive was present when this application was discussed on May 5<sup>th</sup> – they recognize a compromise is being proposed but cannot support it because they feel that there are too many problems with the wording of the HRA.
- Signage and advertising requirements for the proposed project have not been done properly.
- Subdivision would set a precedent within the HCA.
- The Hughes-Games house is a landmark building that should be restored on its present location.

Wayne Ross, 2175 Abbott Street:

- Gave his opinion, as a licensed realtor, of market evaluation of the subject property in comparison with three other neighbouring properties in the area (188 Beach Avenue, 191 Beach Avenue, 2110 Abbott Street) and suggested that the subject property as it is now could sell for \$750,000.
- If allow subdivision of this lot, other neighbours with similar types of lots could also apply for subdivision.

Valerie Hallford:

- Representing the Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS).
- FRAHCAS is a non-profit society, incorporated in 1998, with 210 members. At their July 14<sup>th</sup> meeting all 10 board members were present and they agreed to continue to oppose any subdivision of the subject property or relocation of the Hughes-Games House. They also agreed to canvass the neighbourhood.



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- Door to door canvassing revealed that 95% of the residents contacted were opposed and 5% were in support.
- Submitted an information kit to show the information that the canvassers used when going door to door.
- Read the wording from two petitions stating FRAHCAS's opposition to the application.
- Referred to excerpts of the conservation area guidelines regarding setbacks and lot frontage that she suggested would be contravened with the proposed subdivision and relocation of the house.
- Concerned that the landscaping would have to be bulldozed in order to move the house.
- Approval of the application would set an undesirable precedent within the HCA.
- The estimates appear to confuse structural value with total value.
- Replacing the foundation without moving the house is a common architectural practise.
- The applicant knew there were problems with settlement when she bought the house.
- Suggest the applicant consider building a strata titled coach house on the property and use the revenue from sale of that to restore the Hughes-Games house in its current location.

Marietta Lightbody, 2302 Abbott Street:

- Sees the HCA as a museum of the architectural history in Kelowna.
- The HCA concept is starting to be accepted by the residents because they like knowing their area is protected.
- Conducts heritage walks for Heritage Week and in three years has seen the attendance increase to well over 100 people.
- Does not live in the HCA but has a passionate heritage interest.
- Her father had their family house raised in order to fix its foundation and the house is now as good as it was when it was built in 1939, the same year the Hughes-Games house was built.

Anne Higgs, 2071 Abbott Street:

- Enjoys her view of the lake during winter months when the leaves are off the trees. Will lose that view if the Hughes-Games house gets moved.
- Purchased her home in 1977 because the house was old and in an old district with mature trees.
- Would be willing for the City to buy the subject property with taxpayer money.

Loy Pierce, 1858 Abbott Street:

- Read the letter that she had submitted. Their home is the G.D. Loane house which was built by the same architect as the Hughes-Games house. They are not sure about the architectural integrity of their home either, and realize it will be a lot of work to restore the building but took that on because they want to do the work. Would never expect the City to allow them to subdivide the property in order to pay for restoring the house.
- The Hughes-Games house is important because of its unique style and architectural value. Asked that Council reject this proposal and preserve the Hughes-Games house.

Paul Currie-Johnson, Sutherland Avenue:

- Secretary of FRAHCAS.
- Concerned about how many lots there may be in the Abbott Street Heritage Conservation Area that could be considered for infill housing and the potential loss of green space if they were all developed.

Cheryl Negrin, applicant:

- One of the houses that Mr. Ross included in his market evaluation has an approved Development Permit for a new house and the existing house is probably about 30 years older than the Hughes-Games house.
- Bought the house to live in Kelowna; should not have to move in order to do that.
- The new house that is proposed for construction is infill housing. Intends to use the house year-round with her family and eventually retire there; has no intentions of renting the house out.
- As proposed, the Hughes-Games house would be about 4 feet lower than it now is so the resident across the street would have her view improved.
- The existing house is in poor structural condition; door jams are splitting from top to bottom, the floor is 6-8 inches out of line, etc.
- Has already incurred a lot of costs associated with this property – when is enough finally enough? If FRAHCAS wants to pay for an inspection of the Hughes-Games house they are welcome to do that.

There were no further comments.

**3.1(e) 1180 Sunset Drive**

3.1(e) Bylaw No. 9020 (Z03-0021e) – Grand Okanagan Resort Ltd. (City of Kelowna) – Sunset Drive (Waterfront Wines)

Staff:

- Clarified that current Provincial regulations require that retail liquor stores be in conjunction with a liquor primary (lp) establishment. This application is for approval of the 'rls' zoning designation to permit the retail liquor store. The 'lp' application for this property is not likely to be before Council until sometime in September. If the 'lp' application is not supported by Council, the 'rls' application would die.

Brent Peacock, Waterfront Wines:

- Asked that Council close the Public Hearing on this application so that they can get on with the licensing process. Construction of the building is already well underway and they have already given Council assurances that they will meet with the area residents again to try to deal with their concerns.
- Delaying would be devastating to their investments.
- The only covenant they would be willing to consider would be on the hours of operation.
- Will never be able to satisfy all of the concerns of the select few residents in the Dolphins who are opposing the application.
- He and his brother would own 2/7ths of the proposed building. Putting his reputation on the line that they will keep their commitments and develop what they have said they would.

Council:

- A motion moved by Councillors Hobson and Cannan to keep this portion of the Public Hearing dealing with the Waterfront Wines application (Z04-0021e) open until such time as Council deals with the 'lp' application so the 'lp' and 'rls' applications can be considered concurrently was withdrawn.

There were no further comments.

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4. TERMINATION:

The Hearing was declared terminated at 1:35 a.m.

Certified Correct:

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Mayor

BLH/am

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Deputy City Clerk