

Public HearingJuly 27, 2004

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 27, 2004.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil*, 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; Acting Deputy City Clerk, D.M. Fediuk; Manager of Development Services, A.V. Bruce; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 7:02 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 Acting Deputy City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on July 9, 2004, and by being placed in the Kelowna Daily Courier issues of July 19 & 20, 2004 and in the Kelowna Capital News issue of July 18, 2004, and by sending out or otherwise delivering 769 letters to the owners and occupiers of surrounding properties between July 9-12, 2004 and on July 21, 2004.

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 3588 Spiers Road

- 3.1 Bylaw No. 9267 (Z04-0038) – Dawn and Darryl Cairney – 3588 Spiers Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2, Section 8, Township 26, ODYD, Plan 11176, located on Spiers Road, Kelowna, B.C. from the RR3 - Rural Residential 3 to RR3s – Rural Residential 3 with Secondary Suite zone.

Staff:

- The site is currently developed with a single family house with an extensive rear yard.
- The applicant is pursuing a suite in an accessory building on the rear portion of the property, accessed by a driveway along the south side of the property.
- Staff had concerns about a suite on the property because the site is serviced with a well and is on septic disposal; however, the Health Unit has confirmed they have issued an approval.

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

- letter from Eleonore Stacha, 2055 Heimlich Road
- letter from Robert & Naomi Bothe, 2055 Heimlich Road
- letter from Reed & Carol Crosland, 2087 Heimlich Road

Opposed generally on the basis that the new septic field would have a negative impact on the surrounding neighbours' wells, loss of privacy, increased noise, and potential precedent for the other neighbours to do the same.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Naomi Bothe, 2055 Heimlich Road:

- Opposed to adding to the density in this rural area where the residents now enjoy space and privacy.
- Her property is adjacent. Concerned that the occupant of the suite could complain about the chickens and fruit trees on her property and impact her ability to continue with those.
- Concerned that circumstances could change and the entire property could end up being rental.

Steve Baldwin, 3598 Spiers Road:

- Is a direct neighbour and is in support of this project.

Eleonore Stacha, 2055 Heimlich Road:

- Naomi Bothe is her daughter.
- All of the properties in the area have septic fields and wells. Concerned that the septic could impact wells, particularly in wet weather conditions.
- Concerned that the approval by the Health Inspector may have been given without knowing the location of all of the wells in the area.
- Considered building a cottage at the rear of her property but after looking at the impact on the neighbourhood, and the cost, decided to build a 10 ft. addition onto the garage instead. She lives in the addition; her daughter lives in the main house. This minimized the impact on the neighbourhood and negated the need for another septic disposal field on the site. Would prefer that the applicant build an addition onto the existing house for the suite as opposed to a suite in an accessory building which would require another septic field.
- Her chicken yard goes right up to the fence; the carport for the proposed suite would be about 8 ft. from the property line. The proposed accessory building would also be 8 ft. back from the property line of the neighbours to the north who would also be negatively impacted by increased noise and loss of privacy.

Darryl Cairney, applicant:

- The Health Inspector visited the subject property and determined that minimum requirements are exceeded.
- The side yard setbacks for the proposed accessory building are not cast in stone. The minimum setback is 2 m but that does not mean the building is going to be that close. However, the lot is long and narrow so it will be close to the Heimlich Road property.
- The accessory building would be one level so that the suite could be wheelchair accessible. The existing house is 968 sq. ft. and requires the smallest septic field.
- Met with the neighbours to discuss his plans prior to applying for the rezoning and so was aware of their concerns at the time of applying for this rezoning.

Staff:

- Clarified the zoning would permit either a suite in the existing dwelling or a suite in an accessory building. This application was in stream before the intensive design guidelines were put in place for second unit infill development and therefore the applicant would not be required to apply for a Development Permit (DP). Even if the property was subject to a DP application, the guidelines were developed more for infill situations in urban areas and so may not be applicable to rural areas. The main thrust of the guidelines is to minimize impact on neighbouring properties from windows on the second level which the proposed building is a single storey; and to deal with architectural issues to ensure the new structure fits in with the existing character of the area. There is no consistent theme of architecture in this neighbourhood to offer guidance for the form and character of the proposed building.
- Council could require the applicant to apply for a Development Permit to tie the proposal to the plan shown tonight.
- The subject property is about 1/3 acre in size; the zoning would permit a 1.5 storey accessory building on the site; the proposed setbacks exceed minimum requirements.

There were no further comments.

3.2 3690 Gordon Drive

- 3.2 Bylaw No. 9268 (Z04-0013) – 472499 BC Ltd. – 3690 Gordon Drive - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, D.L. 134 O.D.Y.D. Plan KAP56005, located at 3690 Gordon Drive., Kelowna, B.C. from A1 – Agriculture 1 zone to RM5 – Medium Density Multiple Housing zone.

Staff:

- The property is 2.62 ha in size and is located at the corner of Gordon Drive and Casorso Road. The property is out of the Agricultural Land Reserve and was designated for Medium Density Multiple Housing through the OCP review process. The land use change was shown in detail at many of the open houses for the OCP review. However, at the time the review was presented to Council, there was not a list of all the properties because of the length of the list. There was disclosure through the Public Hearing though.
- The applicant has not yet submitted a Development Permit application; however, the concept plan shows temporary access off Casorso and permanent access in future from Mission Springs Drive. The applicant is proposing to develop the site with five 4-storey apartment buildings with underbuilding parking (indicated on map the location of the proposed 5 buildings on the subject property).
- At initial consideration, the applicant presented two options: the proposed 4-storey design, and an option that included a 10-storey tower in the middle and 2-storey row housing around the perimeter. The applicant advises that the unit count under either scenario would have been approximately 220 units.
- The Advisory Planning Commission recommends support as does the Agricultural Advisory Committee.
- The adjacent property to the north is currently under construction for a 171-bed congregate housing complex.

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

Opposition:

- letter from Roy & Sandra Hogarth, 876 Springside Court
 - letter from Alan, Andrea & Nicola Silcock, 860 Springside Court
- Both opposed generally because of increased traffic and lack of privacy.
- letter from Richard Drinnan, 669 Greene Road, opposed generally on procedural issues.

Support:

- letter from Doug Stickney, 859 Mission Springs Crescent, in support of the proposed option which limits the development to 4 storeys in height.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Sandra Hogarth, 876 Springside Court:

- A proposal for a 4 storey development across the road was changed to a 2-storey building height in response to neighbourhood opposition due to concerns about increased traffic and loss of views.
- Increased traffic is her main concern. Assuming two vehicles for each unit, with the number of units proposed safety would be an issue. Traffic is already congested and children are walking to the elementary school nearby.
- The proposed development would be across from her back yard and the view from the upstairs master bedroom which looks out to the hills would be impacted by 4 storey buildings.
- The neighbourhood gets their mail in a green box down the street. Found her notice of this Public Hearing in the bushes and thought it was trash. One neighbour got a notice in a decorative mailbox on their house and the other did not get one at all.

The Acting Deputy City Clerk advised that notices are hand delivered to each house within the notification radius.

Councillor Blanleil entered the Council Chamber at 7:20 p.m. and took his place at the Council Table.

Colleen Haskins, 852 Springside Court:

- Does not have a mailbox on her house and did not receive a notice of this Public Hearing. Found out about it 2 days ago from a neighbour. The newspaper advertisement for the Public Hearing is contrary to what the notice that was delivered to the houses states with respect to how written comments or petitions would be circulated to Council.
- Primarily concerned about the increase in traffic when it is already congested.
- 220 more family units would increase the number of children in the school when there is already a waiting list for students.
- A 4 storey development would do nothing for the ambience of the Mission Springs area. Would prefer single family dwellings, 2 storey or townhouses like those along Casorso Road.
- Expressed annoyance that the applicant would be required to provide buffering for the adjoining agricultural activities and not for the existing residents to mitigate noise from traffic.
- Never expected that the subject property could be developed with higher than 2-storey buildings.

Public HearingJuly 27, 2004Eleanor Kool, 3585 Windermere Road:

- What this developer is proposing is just a continuation of the 4-storey development that is on Barnes Road.
- Supports the concept that is now being proposed; would have opposed the 10-storey concept.
- Concerned about traffic and the eventual extension of Mission Springs Road which would link the Windermere area to the other areas and bring the through traffic into the area.
- Gordon Drive and Casorso Roads are both busy. Concerned about the lack of sidewalks for the children walking to school.

Staff:

- Current standards do not require sidewalks on local roads.
- The adjoining parcel to the west is not in the ALR but indications are that the property owner intends to continue farming. City Transportation staff want to achieve the road extension but until the next property comes forward for redevelopment that access cannot be made.
- The Casorso access could remain as a restricted access in future but ultimately the main access would be from Mission Springs Road which is considered a collector road.
- The roads are intended to serve the residents who live in the neighbourhoods and they will find the quickest way out. Potential shortcutting through the Windermere subdivision is not viewed as a long term issue. It may happen in the short term but the new route would be shorter and easier than cutting through a residential subdivision.
- There have been several development applications for the subject property and each time, the Mission Springs road extension has been shown. The extension does not show up on the City's major road plan because building the road would be the responsibility of the developer.

Richard Drinnan, 669 Greene Road:

- The South Pandosy Sector Plan and OCP in 2002 showed the land use designation of the subject property as Low Density Multi-Family with Medium Density Multi-Family to the immediate west and north. The Low Density Multi-Family OCP designation was changed in November 2003. No notices were sent to residences; no signs were posted on the property; and there was no mention of this property at the OCP 2020 Public Hearing. The only reference to the change in land use was the colour change on the generalized future land use map in the Kelowna 2020 OCP that went to Public Hearing. The public did not know the land use was being changed. The land use issue needs to be addressed before Council considers this rezoning.

Staff:

- The changes to the future land use designation of the subject and adjacent properties were denoted in various open house sessions, not by a property list but by a map that indicated the changes. When more than 10 properties with more than 10 owners are impacted, individual notices are not required and are not sent out. The Long Range Planner advised at the OCP Public Hearing that maps were in the lobby to indicate the properties affected and she indicated she would go over the list if requested by Council. Council did not request that and so no property by property list was presented with the OCP report although she did make reference in her report to the areas where there was significant change.
- The map was not formally adopted until early in 2004 because the Transportation Plan held that up.
- The OCP general land use map was attached to the report and that was the form of notice for the changes. Staff have no question that the Medium Density Multi-Family land use designation is legal and that proper protocol has been followed with the Local Government Act.

Ed Hall, Canadian Adult Communities:

- Owns a property in the Missionwood development to the north which is adjacent to the subject property and most affected by the subject application. Fully supports the application as an appropriate use of the land.
- Would like the applicant to consider creating as much setback as possible from the southeast and southwest corners of the star shaped building in Missionwood because it was necessary to shorten the building setbacks of that building in order to make it fit. Creating as much setback as possible in those corners would allow for more light for the residents of Missionwood.
- Would have preferred the concept with a tower and townhouses clustered around the outside because that would allow more light into the Missionwood property and have less impact on that development.
- Would also support the developer including a small commercial node on the corner of the subject property adjacent to the intersection of Casorso/Gordon.

Doug Lane, Water Street Architecture, representing the applicant:

- The OCP allows RM5 zoning on the property.
- No variances are being requested.
- Will take into consideration the request for increased setbacks.
- Will do a traffic study along with the Development Permit application.
- The proposed development would be marketed to create a typical neighbourhood with a mix of seniors and families.

There were no further comments.

3.3 850 Kinnear Court

- 3.3 Bylaw No. 9269 (Z04-0015) – Maurice and Marlene Hitchcock – Kinnear Court – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 52, DL 135, ODYD, Plan 26296 located on Kinnear Court, Kelowna, B.C. from the RU2 – Medium Lot Housing zone to the RU2s – Medium Lot Housing with Secondary Suite zone.

Staff:

- The applicant is pursuing development of a suite in an accessory building at the rear of the property, with a carport accessed from the lane.
- Drawings submitted by the applicant indicate a 1½ storey building with limited second storey windows facing only north and south with a varied roof line and architectural features.

The Acting Deputy 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, followed by comments of Council.

Maurice Hitchcock, applicant:

- Indicated he had nothing to add but was available to answer questions of Council.

There were no further comments.

3.4 1324 St. Paul Street

- 3.4 Bylaw No. 9270 (Z04-0024) – Eugene Weisbeck and Katherine Kraushar (Peter Chataway) – 1324 St. Paul Street – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 15, D.L. 139 O.D.Y.D. Plan 645, located at 1324 St. Paul Street, Kelowna, B.C. from the I2 – General Industrial zone to the C7 – Central Business Commercial zone.

Staff:

- The applicant is proposing to add a residential unit to the upper floor of the existing building. The plans include a roof garden area on the upper floor and improvements to the landscaping on the ground floor for buffering.
- The application was reviewed and supported by the Advisory Planning Commission.

The Acting Deputy 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, followed by comments of Council.

Peter Chataway, applicant:

- The application meets OCP and Town Centre objectives to bring residents into the downtown.
- Letters of support were submitted along with the application.
- The residential unit will aid in crime prevention as it will provide eyes overlooking the lane and the street.

There were no further comments.

3.5 3967 Bluebird Road

- 3.5 Bylaw No. 9271 (Z04-0035) – Hugh Culver – 3967 Bluebird Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2, Sec.1, Twp. 25, ODYD Plan 7334, located on Bluebird Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone.

Councillor Day declared a conflict of interest because he owns property within the notification area and left the meeting at 8:41 p.m.

Staff:

- The proposed secondary suite would be in the lower level of the existing dwelling.
- No significant changes are proposed to the exterior with the addition of the suite.
- The property is on a bus route that runs down Lakeshore Road.
- The rezoning is consistent with the OCP designation and policies for redevelopment.
- The adjacent property fronting onto Radant has the 's' zoning designation as does one other property on Bluebird that backs onto Mission Creek.

The Acting Deputy 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, followed by comments of Council.

Hugh Culver, applicant:

- Indicated he had nothing to add at this time.

There were no further comments.

3.6 160 Bryden Road

- 3.6 Bylaw No. 9272 (Z04-0025) – Donald and Rosemary Bigham- Bryden Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 9, Sec. 27, Twp. 26, ODYD, Plan 11286 located at 160 Bryden Road, Kelowna, B.C. from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone.

Staff:

- The rezoning would allow for a secondary suite within the principal dwelling unit.
- The applicant proposes to construct an addition to the existing dwelling. Upon completion of the construction, the existing part of the house would become the secondary suite.
- The property is designated for a higher land use (Low Density Multi-Family) along with other properties on the corner of Bryden and Highway 33. The Planning Department has taken the position that no OCP amendment is required if the OCP land use is a higher designation which is the case with the subject property.

The Acting Deputy 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, followed by comments of Council.

Donald Bigham, applicant:

- Was advised by Planning Department staff when he initially inquired about rezoning for a suite to go around the neighbourhood and explain what he was proposing. The petition of support obtained at that time was submitted along with the application for rezoning.

Councillor Day returned to the Council Chamber at 8:49 p.m.

There were no further comments.

3.7 345-365 Mills Road

- 3.7 Bylaw No. 9273 (Z04-0033) – Michael Reibin (City of Kelowna) – Mills Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots 1 and 2, DL.125, ODYD Plan 9504, located on Mills Road, Kelowna, B.C. from the RM3 – Low Density Multiple Housing zone to the RM4 – Transitional Low Density Housing zone.

Staff:

- This is a City-initiated rezoning to correct an error that occurred during the transition from Zoning Bylaw No. 4500 to Zoning Bylaw No. 8000. Properties designated with the R-3a Medium Density – Multi-Family Residential Transition zone under Zoning Bylaw No. 4500 were generally converted to the RM4 – Transitional Low Density Housing zone rather than the RM3 – Low Density Multiple Housing zone.

The Acting Deputy 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, followed by comments of Council.

There was no response.

3.8 770 Bernard Avenue

- 3.8 Bylaw No. 9274 (HRA04-0002) – Cheryl McKenzie (Tammy Moore/Scott Davis) – Bernard Avenue – THAT the City of Kelowna enter into a Heritage Revitalization Agreement for the property at Lot 9, Block 12, DL 138, ODYD Plan 202, being 770 Bernard Avenue, Kelowna, B.C., in the form of such agreement attached to and forming part of the bylaw as ‘Schedule A’ to allow the heritage property to be used as a professional office for an advertising/design studio along with a residential dwelling unit, and through the HRA govern all aspects of development and land use on the subject property and require the land owner to preserve, maintain and protect the heritage character of the building.

Staff:

- The property is on the Kelowna Heritage Register. The requested Heritage Revitalization Agreement would allow the applicant to use the property as a professional office and a residential unit. There would be no major changes to the building other than improvements to landscaping in the front area for the walkway and the addition of parking at the rear.
- Parking at the rear would provide for 5 parking stalls, essentially doubled up in tandem. Staff and the occupant of the residential unit would use the front portion of the parking stalls and the rear portion would be reserved for clients.
- The application is consistent with adaptive re-use guidelines and what is occurring along this block of Bernard.
- The application was supported by both the Advisory Planning Commission and the Community Heritage Commission.

The Acting Deputy 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, followed by comments of Council.

Tammy Moore, applicant:

- Indicated she had nothing to add at this time.

There were no further comments.

3.9 Adds ‘Public Libraries and Cultural Exhibits’ as a Permitted Use in the C3 Zone

- 3.9 Bylaw No. 9257 (TA04-0004) – To amend the City of Kelowna Zoning Bylaw No. 8000 by adding “Public Libraries and Cultural Exhibits” as a principle permitted use and “Community Recreation Services” as a secondary permitted use to the C3 - Community Commercial zone.

Staff:

- The text amendment was originally presented with a development application for the corner of Sarsons and Lakeshore Roads. However, the text amendment is not tied to that application and should be considered separately.
- Public Libraries and Cultural Exhibits were permitted in the C3 zone under Zoning Bylaw No. 4500 but were inadvertently not transferred over into the new C3 zone under Zoning Bylaw No. 8000.

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The Acting Deputy 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, followed by comments of Council.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 8:59 p.m.

Certified Correct:

Mayor

BLH/am

Acting Deputy City Clerk