

Public HearingMay 3, 2005

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, May 3, 2005.

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

Council members absent: Councillors A.F. Blanleil and S.A. Shepherd.

Staff members in attendance were: Acting City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; 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 7:07 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 April 20, 2005 and by being placed in the Kelowna Daily Courier issues of April 25 & 26, 2005 and in the Kelowna Capital News issue of April 24, 2005 and by sending out or otherwise delivering 795 letters to the owners and occupiers of surrounding properties on April 21, 2005.

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(a) **394 Stellar Drive**

- 3.1(a) Discharge of Land Use Contract No. 77-1002 – Verena & Dirk Stroda – Stellar Drive - THAT the Land Use Contract 77-1002 (Bylaw 4468-77 - Lombardy Developments Ltd.) registered in the Land Title Office at Kamloops, British Columbia against title to the lands on Lot 163, Section 23, Township 28, SDYD, Plan 32591, located on Stellar Drive, Kelowna, B.C., under Registration Number P1861 on January 11, 1979 be amended by discharging those portions of said Land Use Contract.

See discussion under 3.1(b).

3.1(b) 394 Stellar Drive

- 3.1(b) Bylaw No. 9406 (Z05-0013) – Verena & Dirk Stroda – Stellar Drive - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 163, Sec. 23, Twp. 28, SDYD, Plan 32591, located on Stellar Drive, Kelowna B.C., from the RR1 - Rural Residential 1 zone to the RU1 - Large Lot Housing zone.

Staff:

- The Land Use Contract (LUC) allowed for the creation of residential lots that at the time were low density and that were regulated by the requirements for septic fields by the Medical Health Officer of the day.
- The area is now serviced with sanitary sewer and the applicant is proposing to discharge the LUC to allow the property to be rezoned for a subdivision.
- There is an existing 1½ storey building on the site; the Zoning Bylaw allows up to a 2½ storey building height.
- Showed a photo of the existing house and the new lot that would be created noting that both lots would be more than double the minimum lot size required by the RU1 zone.
- The rezoning request is consistent with City Planning policies.
- Technical issues would be addressed at the subdivision stage.

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

- letter from Robert & Shirley Milne, 376 Quilchena Drive, concerned about the potential negative impact on the view of neighbours.
- Letter from Lawrence Tailleir, 382 Okaview Road, objecting to smaller lots being developed.

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

Verena Stroda, applicant:

- Was not aware any neighbours had concerns.
- Has not thought about how many storeys the new dwelling would be.
- Has not yet decided which lot they will live on.

Staff:

- The new lot is likely to be developed with a 2-storey house with a walkout basement similar to others in the neighbourhood.

There were no further comments.

3.2 2030 Highway 33 East

- 3.2 Bylaw No. 9387 (Z04-0074) – City of Kelowna (Bell Mountain Estates) – Highway 33 East – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 5, Sec. 18, Twp. 27, ODYD, Plan 1991, Except Plans B4079 & 22266, located on Highway 33 East, Kelowna, B.C., from the RR3 - Rural Residential 3 zone to the RU1 - Large Lot Housing, P3 - Parks and Open Space and P4 - Utilities zones, as shown on Map "A" attached to the report of Planning & Corporate Services Department dated March 8, 2005.

Councillor Day declared a conflict of interest because he owns property within the notification radius for this application and left the Council Chamber at 7:19 p.m.

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- The property is commonly known as the Kopetski property. The property is owned by the City of Kelowna but is under contract to sell to the applicant.
- The applicant is creating Bell Mountain Drive for main access to lands to the north that are currently under an approved Area Structure Plan and are in various phases of rezoning.
- The subject application is consistent with the Black Mountain Sector Plan and the City of Kelowna Official Community Plan.
- The lands on either side of the subject property are developed predominantly with single family detached units. Staff view this proposal as a compatible land use plan.

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

Support:

- letter from Olga Stuhlberg, 1785 Swainson Road, stating that the existing subdivisions will benefit from the high end custom homes and large park areas.

Opposition:

- petition bearing 20 signatures of residents on Lund Road
- letter from Kitty Green, 1508 Lund Road
- two letters from Doug & Monica Giesbrecht, 1472 Lund Road
- letter from Kevin Holmes, 1484 Lund Road
- letter from D. Noble and J. Ough, 1866 Large Avenue

Opposed generally on the basis that the property owners from 1500 to 1292 Lund Road would not have vehicular access to their back yards; there would be a negative impact on traffic patterns with only one way access into the neighbourhood; and property values, privacy and quality of life would be negatively impacted.

Staff:

- Explained that the Lund Road residents have been using City property to access their back yards; City Transportation staff see no need for the City to have a lane there.
- The property owners could approach the developer to see if an agreement could be reached for an easement road to access their back yards but that would be between them.

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

Kitty Green, 1508 Lund Road:

- Reiterated points from her written submission.
- Despite all the meetings she has attended over the years, she was not aware that the subject property would ever be developed. Had always expected that it would remain open space or park.
- Properties on Lund Road are steep with the house at the top. Would like a narrow lane for access to the rear yards at the bottom.
- Concerned that the detention pond will be a breeding ground for mosquitoes.
- Does not want another 40 homes in the neighbourhood.

Doug Giesbrecht, 1472 Lund Road:

- The residents on Lund Road cannot maintain their properties without an access road at the rear. It would also benefit the applicant if the residents could maintain their lots.
- Need to be able to get access to the rear of the lots with a truck and/or bobcat.
- Concerned that the detention pond would be a breeding ground for mosquitoes.

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- Is speaking on behalf of about 22 residents. They have responded to at least three notices they have received on the subject property going back over a year yet none of their submissions were read into the record. Wants to be sure the concerns expressed over this period of time are on record.
- The applicant has bent over backwards to deal with the residents requests, and City staff have been helpful. The main concern of the residents now is to be on record that they want to be sure that a portion of the wetland is preserved.

Staff:

- The correspondence would be in Planning Department files, and would be taken into consideration by the Approving Officer when he deals with the subdivision application for the subject property.

Marlin Weninger, applicant:

- The concerns raised by Mr. Cartier and the other Duncan Drive residents were addressed at Phase 2 of this development.
- The wetland is in an area of road dedication.

Staff:

- The Approving Officer uses road dedications to preserve stream protection areas under the Land Titles Act.

Marlin Weninger, continued:

- The lots on Lund Road are very steep. A lane could be built for 5 or 6 of the houses but the rest would have to take out their fences and build the lane on their own property. The Lund Road residents should get together and adjust some fences and get access to their rear yards from the front like most people do. It would be very expensive to do a rear lane for them and he would not want to do that.
- The detention pond area would be like a park with some trees. The intent is to wait to see what happens this spring and summer and then decide how much water to permanently leave in the pond, based on the amount of water flow that comes through.
- Where there are wetlands there are mosquitoes.

There were no further comments.

Councillor Day returned to the Council Chamber at 7:59 p.m.

3.3 921 and 923 Richter Street

- 3.3 Bylaw No. 9410 (Z04-0087) – JJW Holdings Ltd. and Jacob & Juliet Warkentin (New Town Planning Services Inc.) – Richter Street – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots 4 and 5, Section 30, Township 26, ODYD Plan 1304, located on Richter Street, Kelowna, B.C., from the RU6 – Two Dwelling Housing zone to the I4 – Central Industrial zone.

Staff:

- The original application was to rezone the 4 lots north of and adjacent to the Kelowna Steel Fabricators (KSF) site. However, the two most northerly lots were dropped from the application in response to concerns raised when the application was considered by the Advisory Planning Commission.
- It was City staff who had encouraged the applicant to include all 4 lots in their rezoning application.
- The applicant is proposing to extend the façade of the building to create another industrial bay and internalize some of the aspects of the operation that were being done outside and on neighbouring properties. The balance of the subject property would be used for parking and storage.

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- The expansion will help solve some of the problems in the area resulting from some of the outside uses.
- KSF has a lease with the City on property to the south. That lease is current and can be extended. KSF has indicated interest in purchasing the land in order to be able to expand to the south; however, the City is not yet prepared to sell because the Transportation Division has not yet determined the land requirements for realigning the Crowley/Weddell intersection.
- The subject property and the properties along the south side of Bay Avenue are all designated as future Industrial in the City of Kelowna Official Community Plan.

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

Support:

- letter from Art Grant, 802 Walrod Street, stating that there have never been any problems in the neighbourhood to do with KSF including noise; the owner of KSF has gone out of his way to being a good neighbour; and the alleys in the neighbourhood are always treated by the City, so there is no problem with dust.

Opposition:

- letter from Marie McIntosh, North End Residents Association member
- letter from Richard Wensink, 890 Jones Street, along with a petition bearing 136 signatures of area residents.
- letter from Shirley Ganton, 672 Bay Avenue
- letter from Melissa Pehudoff & Pierre Menard, 768 Jones Street

Opposed on the basis of the negative impact on the character of the neighbourhood and on property values as a result of the increase in noise, pollution, truck traffic and the encroachment of industry into the residential neighbourhood; concern about the lack of safety for the nearby residents and concern that approval of this application could set a precedent.

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

Keith Funk, applicant:

- Kelowna Steel Fabricators (KSF) has been in operation for 33 years and is bursting at the seams.
- KSF has to remove the material currently being stored on the Ace Courier site because Ace Courier needs the space for its own use.
- Currently, spraying the steel is being done outdoors in a tented environment. The proposed expansion would allow the entire operation to be contained on-site. The new industrial bay would include a spray booth and outdoor storage would be improved.
- Has met with the neighbourhood on a number of occasions. People had concern about the PA system and it was turned off immediately; concerns about paint fumes would be addressed with the proposed paint booth; and concerns about noise from the facility would be addressed with the proposed 8 ft. high concrete fence which would enclose the storage area. All steel would be stored on-site in storage racks adjacent to the concrete retaining wall and the applicant would comply with all parking requirements. Activity in the lane would be reduced to delivery trucks from time to time.
- If the rezoning is approved, the applicant will be asking for a variance of the front yard setback so the proposed building addition can line up with the existing building.
- KSF wants to buy the land to the south and wants that to be on record, if the land is not needed for the final Crowley/Weddell intersection design.

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- Owns the property where he resides on Walrod Street as well as property at 844, 848 and 852 Crowley Avenue which he purchased about a year ago as investment property. One of the Crowley Avenue properties is currently vacant; the other two are leased by a Sign Shop and as a storage facility for a Mine Company. Would prefer to see the neighbourhood transition into similar light industrial or commercial uses that have less impact on the adjacent residential area.
- The people who live in close proximity to the subject property have no vested interest in the neighbourhood. In the 7 years he has lived there, has not slept right through the night without being woken up by steel hitting the street and the constant noise of grinders, fork lifts, etc. Does not think that a concrete wall will conceal the noise.
- From his point of view the proposed expansion would be detrimental to the residential neighbourhood. If KSF needs to expand it should be relocating to an industrial park where residential neighbours would not be impacted.

Wayne Lydyniuk, 628 Roenoke Avenue:

- Has lived at this address since 1989. Is opposed to the subject application. Does not want the area to grow into heavy industrial. The neighbourhood is already dealing with the mill and other businesses that are contributing to the noise and the proposed expansion would contribute more noise.
- The owner of the KSF does not live in the area and at the end of the day goes home to a nice quiet neighbourhood. Residents in this area come home from work and have to listen to the noise generated by KSF and cannot sleep with windows open because of the noise.
- Concerned that there is nothing to stop KSF from running shifts all night long.

Melissa Perehudoff, 768 Jones Street:

- Has lived at this address for 3 years now and loves the neighbourhood which is all owner-occupied.
- Was not aware that the south side of Bay Avenue is slated for future Industrial uses and does not understand how the City can support industrial uses on one side of a street and residential on the other.
- Feels that she would have to move from the neighbourhood if KSF was to expand north beyond the two lots under application. Asked for a guarantee that they will not expand onto the other two lots.

Staff:

- KSF would have to apply to rezone in order to expand the Industrial use further to the north at which time the public would again have an opportunity to have input.

Annette Hathaway, 632 Bay Avenue:

- Speaking as president of the North End Residential Association.
- Read an email she sent to the City yesterday indicating the members are opposed to the proposed expansion because of late night noise, poor air quality, and concern for the safety of pets and of pedestrians walking to the bus stop with the increased truck traffic.
- Single family housing in the downtown part of Kelowna is already limited.
- Residential property values will go down as Industry encroaches into the area.
- There are industrial parks designed for businesses such as KSF.
- Expanding to the south instead of to the north would be more acceptable as a compromise and would have less of an impact.
- Would prefer that KSF stay the way it is even though that would be without the proposed improvements.
- Light industry tends to be a lot quieter and noise is the biggest issue.

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- There are a lot of young families in the neighbourhood with children and pets and they all have to put up with noise and air pollution from KSF, the trains, and traffic on Clement which keeps getting busier. The residents are entitled to a liveable environment.
- Concerned about the ability of large transport trucks to access the subject property given that the alley is tee'd at both ends. Also trucks would apparently stop in the lane and back into the site and the beeping noise while backing up would be disturbing to people sleeping.
- Has not been able to find out when the decision was made for this area to be designated for future Industrial.
- Would prefer commercial over industrial.

Richard Wensink, 890 Jones Street:

- Reiterated concerns of previous speakers regarding noise and not being able to sleep with open windows.
- KSF is in the wrong location.
- Was not aware, when he purchased his property in 1994, that the south side of Bay Avenue was designated for future Industrial. People expect the neighbourhood to be RU6 and it would be in the best interests of the residents who live there to change the future land use for the south side of Bay Avenue back to residential.

Nick Kummer, 810 Bay Avenue:

- Also owns 811 Bay Avenue. Has lived at 810 Bay Avenue for 45 years and in the area for 60 years and at no time was he or any of his neighbours told that the south side of Bay Avenue was going to be Industrial.
- Is opposed to the south side of Bay being Industrial.

Keith Funk, applicant:

- KSF is proposing to enclose work that was previous done outdoors and put a concrete fence around the outdoor storage space to help resolve noise concerns.
- KSF has never run more than two shifts so late night noise must be coming from somewhere other than KSF. KSF has no intention of running a third shift.
- KSF has been there over 30 years and there have been no complaints about bylaw infractions in the history of the company. The complaint mentioned by a speaker tonight about radio noise will be addressed in the morning.
- All of the surface storage currently on the Ace Courier site will be moved into storage racks on the expanded KSF site, eliminating the forklifts moving material across the lane.
- The business cannot simply pull up stakes and relocate.
- To expand further north would require another rezoning application.
- Air Pollution such as dust and paint odours would be reduced with the spray booth that currently does not exist.
- Would be willing to store the steel at the south end instead of the north end of the property, if that could be incorporated into their lease with the City.

There were no further comments.

3.4 4110 Tatlow Road

- 3.4 Bylaw No. 9404 (Z05-0007) – Kevin and Pamela Purnell – Tatlow Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 3, Section 3, Township 26, ODYD Plan 5504, located on Tatlow Road, Kelowna, B.C., from the A1- Agriculture 1 zone to the A1s- Agriculture 1 with Secondary Suite zone.

Staff:

- The applicant is proposing to construct an accessory building with a secondary suite on the site.

The Acting Deputy City Clerk advised that no correspondence and/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.

Kevin Purnell, applicant:

- Met with each of the neighbouring owners and tenants and all signed letters indicating support for the suite and also for a possible height variance that may be requested to allow for a shop below the suite.

There were no further comments.

3.5 999 Lanfranco Road

- 3.5 Bylaw No. 9401 (Z05-0005) – Lorie Bradshaw – Lanfranco Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, D.L. 135, ODYD Plan 20294, located on Lanfranco Road, Kelowna, B.C. from the A1- Agriculture 1 zone to the RU2 - Medium Lot Housing zone.

Staff:

- The rezoning is requested to facilitate a 2-lot subdivision.
- The existing house is oriented toward Lanfranco Road. The southerly portion of the property would be subdivided off to create a new lot. A Development Variance Permit application is on tonight's Regular Meeting agenda to deal with a lot width deficiency for the proposed new lot.

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

- letter of support from Glen Shuttleworth, 965 Wintergreen Drive
- two form letters bearing a total of 14 signatures supporting the proposed subdivision but all expressing concern that a basement suite is being created in the existing house.

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

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Lorie Bradshaw, applicant:

- The basement in the existing house was already finished when he bought the property. He obtained a permit and moved a couple of walls and put in another kitchen.
- The existing house and lot will be sold to a co-worker.
- Does not plan on doing anything on the vacant lot to be created at this point, but when he does, it would be to build a rancher with no basement in keeping with the rest of the neighbourhood.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 9:39 p.m.

Certified Correct:

Mayor

BLH/am

Acting Deputy City Clerk