

Public HearingJanuary 10, 2006

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, January 10, 2006.

Council members in attendance: Mayor Sharon Shepherd, Councillors B.A. Clark, C.B. Day, B.D. Given, C.M. Gran, R.D. Hobson, N.J. Letnick and M.J. Rule.

Council members absent: Councillor A.F. Blanleil.

Staff members in attendance were: Acting City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; City Clerk, A.M. Flack; Manager of Development Services, A.V. Bruce; Subdivision Approving Officer, R.G. Shaughnessy\*; and Council Recording Secretary, B.L. Harder.

(\* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 5:01 p.m.
2. Mayor Shepherd advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "*Kelowna 2020 - Official Community Plan 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 City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on December 23, 2005, and by being placed in the Kelowna Daily Courier issues of January 3 & 4, 2006, and in the Kelowna Capital News issue of January 1, 2006, and by sending out or otherwise delivering 415 letters to the owners and occupiers of surrounding properties between December 23 & 28, 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) **2980 Gallagher, 2045 and 2061 Garner and 1625 Verdure Roads**

- 3.1(a) Bylaw No. 9429 (OCP04-0018) – Gordon Kirschner, Heidi-Sabine Kirschner, Donald Kirschner, Amy Kirschner, Allan Kirschner, Angelica Kirschner and Kirschner Mountain Estates (New Town Planning Services) – Gallagher, Garner and Verdure Roads – THAT Map 19.1 of the *Kelowna 2020 - Official Community Plan Bylaw No. 7600* be amended by changing the Future Land Use designation of part of Lot 1, Secs. 12 & 13, Twp. 26 and Secs. 7 & 18, Twp. 27, ODYD, Plan KAP71697 located on 2980 Gallagher Road; Part of Lot A, Sec. 13, Twp. 26, ODYD, Plan KAP48770 except Plans KAP75167 and KAP76806, located on 2045 Garner Road; Lot D, Sec. 13, Twp. 26, ODYD, Plan KAP48770, located on 2061 Garner Road; and Lot 3, Sec. 13, Twp. 26 and of Sec. 18, Twp. 27, ODYD, Plan KAP44995 except Plan KAP76806, located on 1625 Verdure Road, Kelowna, B.C., to adjust the boundaries of the Single/Two Unit Residential, Multiple Unit Residential – low density and Major Park/Open Space designations, as shown on Map "A" attached to the report of Planning & Corporate Services Department dated November 28, 2005.

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## Staff:

- The Kirschner Mountain Area Structure Plan (ASP) was adopted by Council in February 2002 and the land uses that were identified in the ASP were subsequently incorporated into the Official Community Plan.
- The applicant is now ready to proceed with the next phase of development and is requesting some minor revisions to the zoning boundaries.
- Staff are satisfied that the amount of open space would be similar to what was shown in the ASP.

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

- letter of opposition from Robert & Loretta Smith, 2180 Charleswood Drive
  - letter of opposition from Aase De Simone, 2301 Charleswood Drive
  - letter of opposition from Roy Hayward, 2290 Charleswood Drive
- opposed generally on the basis that there would be a negative impact on ground water and septic systems in the area, and traffic congestion would increase on the local roads.

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

Keith Funk, applicant:

- Gave a PowerPoint presentation of the key neighbourhood elements, including the Gopher Creek Trailhead, landmark street lighting, sidewalks on all roadways, widened local roads, tree lined arterial roadways; and xeroscape landscaping in all the boulevards. A public trail partnership has been put into place to create the first set of trails; would have architectural design control without designated builders, and a strategic tree retention plan is in place.
- The alignment for the primary arterial which is Loseth Road has been changed from what was shown in the ASP to satisfy grade requirements and curves and to work in with the topography.
- Open spaces designated in the ASP are unchanged with this application.
- Densities have been shuffled around without changing the net density, primarily because of the change in the Loseth Road alignment and the topography.
- This phase of development would include about 20 acres of park, 50 acres of single family, and 10-12 acres of low density multi-family development which would be basically cluster housing.
- The major change with this phase is that the minimum lot depth for the large lot hillside development would be increased from 30 m to 40 m for improved tree retention and more usable back yards.

There were no further comments.

**3.1(b) 2980 Gallagher, 2045 and 2061 Garner and 1625 Verdure Roads**

- 3.1(b) Bylaw No. 9430 (Z04-0075) – Gordon Kirschner, Heidi-Sabine Kirschner, Donald Kirschner, Amy Kirschner, Allan Kirschner, Angelica Kirschner and Kirschner Mountain Estates (New Town Planning Services) – Gallagher, Garner and Verdure Roads – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of part of Lot 1, Secs. 12 & 13, Twp. 26 and Secs. 7 & 18, Twp. 27, ODYD, Plan KAP71697; located on 2980 Gallagher Road, Part of Lot A, Sec. 13, Twp. 26, ODYD, Plan KAP48770 except Plans KAP75167 and KAP76806; located on 2045 Garner Road; Lot D, Sec. 13, Twp. 26, ODYD, Plan KAP48770; located on 2061 Garner Road; and Lot 3, Sec. 13, Twp. 26 and of Sec. 18, Twp. 27, ODYD, Plan KAP44995 except Plan KAP76806, located on 1625 Verdure Road, Kelowna, BC, from the A1 – Agriculture 1 zone to the P3 – Parks & Open Space, RU1h – Large Lot Housing (Hillside Area), and RM3h – Low Density Multiple Housing (Hillside Area) zones as shown on Map "B" attached to the report of Planning & Corporate Services Department dated November 28, 2005.

See discussion under 3.1(a).

**3.2 570 Bach Road**

- 3.2 Bylaw No. 9501 (Z05-0057) – Nagina & Kuldip Johal (Surinder Gosal/United Homes) – Bach Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 25, Section 26, Township 26, ODYD, Plan 22499 located on Bach Road, Kelowna, B.C. from the RU1-Large Lot Housing zone to the RU6 - Two Dwelling Housing zone.

Staff:

- This application was previously defeated (November 1, 2005 Regular Meeting) but the applicant appealed to Council to reconsider the decision because he was unable to be at the November 1<sup>st</sup> Public Hearing for family reasons. Council agreed and this is the second Public Hearing for this application.
- There is an existing dwelling on the property which fronts onto Bach Road and is accessed off Bach Road. The applicant is proposing to build a second dwelling on the property, oriented to Hemlock Road.
- There are other RU6 zoned properties in the neighbourhood.
- The Advisory Planning Commission did not support the rezoning application because of neighbourhood opposition expressed at the APC meeting.
- Staff recommend support, as the rezoning is consistent with the OCP and the lot is large enough to meet the requirements of the requested zone.
- If the rezoning is successful, a Development Permit would be required to address form and character issues.

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

November 1, 2005 Public Hearing:

- Three letters of opposition which were re-circulated in the agenda package for this meeting.

Tonight's Public Hearing:

- letter of opposition from Stephen & Elaine Elder, 515 Bach Road
  - petition of opposition bearing 10 signatures from residents on Bach Road
- all opposed generally on the basis of the negative impact on property values and the character of the neighbourhood, increased traffic congestion, lack of parking, and the lot is not large enough to accommodate two separate dwellings.

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

Surinder Gosal, applicant:

- He would be the builder if the rezoning is approved.
- There was an existing suite when the owners purchased the home and they assumed the suite was legal. The neighbours did not say anything to the owners about the suite. The suite has since been removed and will not be recommissioned.
- Building a second home on the property would be a better use of the land than a secondary suite.
- Parking would not be an issue for the new home.
- The existing home is not run-down, it is just dated. The owners intend to upgrade and sell the existing home and live in the new dwelling. Assured Council that the existing dwelling will be upgraded,
- Gave the addresses of the properties where he spoke to the occupants about the proposed application and advised which indicated support and which indicated opposition.
- Disagreed that parking would be an issue and pointed out that there are other ways the resident concerned about loss of view of the Rutland Sportsfields could lose that view.
- Read an excerpt of an email dated October 30, 2005 that was submitted to the City from a neighbour in opposition to the rezoning for Council to assess for themselves the credibility of the individual.

Staff:

- Showed concept designs for what the new house may look like.

Greg Withers, 595 Bach Road:

- He was not contacted by the applicant regarding this application.
- On-street parking is used by people using the sportsfields. Some of that parking was lost when the road was narrowed in places and more parking would be lost with this development.
- The privacy wall the applicant proposes to build between the properties is not in keeping with the character of the area.
- The other multi-family development is three blocks away; this is right in their subdivision.
- Does not expect that he would have gotten a second opportunity to oppose this application had he not come to the last Public Hearing so questioned why the applicant is getting a second chance.
- Was told that the land would be strata titled with one owner of the land but potentially different owners of the houses. Concerned that he is now hearing that the owners intend to sell the house and property.
- Main concerns are parking and increasing the density in the area.

Surinder Gosal, continued:

- The owners intend to live in the new home, stratify and sell the existing home. Their decision to do this was mainly because of the neighbours' concern that a rental would be run down.
- People refuse to park in the sportsfield parking lot. It is not up to the owners to provide parking for the soccer fields.

## Staff:

- The lot is close to one-half acre in size and could support a much larger house even under the current zoning. Usually form and character in this type of application is approved by staff via a direct Development Permit (DP). What the applicant comes in with under the RU6 zoning could end up being considerably different from what was shown conceptually at this meeting (i.e. demolish the existing house and build one larger house, a duplex or an entirely different second home). A carriage house would not be permitted. If the DP is too different from what was shown conceptually tonight, staff will refuse the direct DP and bring it to Council instead.

There were no further comments.

### **3.3 Miscellaneous Amendments to Zoning Bylaw 8000**

#### 3.3 Bylaw No. 9530 (TA05-0009) – Miscellaneous Housekeeping Amendments to the Zoning Bylaw No. 8000 – City of Kelowna – THAT City of Kelowna Zoning Bylaw No. 8000 be amended to clarify the following:

- when a non-conforming driveway access will be permitted;
- definitions of “Food Primary Establishment” and “Top of Bank”;
- miscellaneous provisions in Section 6 – General Development Regulations;
- prohibit use of razor wire fences unless associated with places of incarceration;
- minimum side yard setback requirements in certain Urban Residential Zones;
- change drive-in food services from a land use definition to a development regulation.

## Staff:

- The proposed amendments deal with non-conforming driveways, top of bank to be consistent with riparian area; clarify that razor wire fences are not allowed; that swimming pool setback requirements include decks around above-ground pools; clarify wording for setbacks, bring City definitions into concurrence with provincial terminology; clarify allowable projections into side and rear yard setbacks for architectural features; drive-in food services are changed from a land use to a development regulation which gives Council the ability to consider granting a variance to allow drive-in food service.
- The table in the staff report indicates drive-in food services being removed from a list of zones – 14.9.6 (C9 Motel zone) should **not** have been included in that list. The bylaw needs to be so amended at first reading.

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

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

#### Valerie Hallford, 429 Park Avenue:

- Concerned about the proposed changes to the non-conforming use of driveways primarily as it applies to heritage conservation areas and heritage buildings in the city where the driveways are non-conforming because they were prior to setback requirements being established. Requiring new development to have a driveway conforming to current setbacks could result in further loss of heritage buildings in the area. The proposed amendment in certain instances could result in a request for demolition instead of redevelopment.

## Staff:

- Clarified that the amendment would allow non-conforming driveways to be retained for the existing development on site. Any new development would have to have a conforming driveway.

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Basil Zailo, I have a C9 property:

- Asked for confirmation that C9 establishments would not be affected by the proposed amendments.

Staff:

- Clarified that C9 zoning would still allow drive-in food services without any special requirements.

There were no further comments.

### **3.4 Height of Accessory Buildings in A1s – Agriculture 1 with Secondary Suite Zone**

- 3.4 Bylaw No. 9532 (TA05-0010) – Amendments to Section 9 – Specific Use Regulations of Zoning Bylaw No. 8000 – City of Kelowna – THAT City of Kelowna Zoning Bylaw No. 8000 Section 9.5.1(b) dealing with when a mobile home may be considered a secondary suite within an accessory building be amended by deleting “provided it is not in the Agricultural Land Reserve” from the end of the sentence and adding a second sentence that reads as follows:

“All such development shall be in compliance with the *British Columbia Agricultural Land Commission Act*, Regulations and Orders.”;

AND THAT Section 9.5 1(e) of Zoning Bylaw No. 8000 be deleted and replaced with the following wording:

“An accessory building shall not be higher than the lesser of 4.5 m or the height of the existing principal dwelling unit on the same property, except in the A1(s) Agriculture 1 with Secondary Suite zone the maximum height of an accessory building containing a secondary suite shall be the lesser of 9.5 m or the height of the existing principal dwelling unit on the same property.”

Staff:

- The current maximum 4.5 m restriction on the height of accessory buildings containing secondary suites in the A1s zone has resulted in a number of Development Variance Permit applications. The proposed amendment would change the allowable height of an accessory building containing a secondary suite to be the lesser of 9.5 m or the height of the principal dwelling unit on the same property.
- The proposed amendment also clarifies the terminology in the Zoning Bylaw regarding use of a mobile home as a secondary suite to indicate that if a mobile home is to be used as a secondary suite in the A1s zone it must be in compliance with the ALR regulations.

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

Mayor Shepherd invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. There was no response.

Public HearingJanuary 10, 2006**3.5 2330 Silver Place**

- 3.5 Bylaw No. 9535 (Z05-0071) – Robert and Cheryl Blasco (Robert Todd Blasco) – Silver Place – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A Section 33 Township 26 Osoyoos Division Yale District Plan KAP61113, located at 2330 Silver Place, Kelowna, B.C. from the A1 – Agriculture 1 Zone to the A1s – Agriculture 1 with Secondary Suite zone.

Staff:

- Permits were issued for an accessory building without a suite but what was constructed has gone beyond what was approved and the applicant now wants to build the upper level as a secondary suite.
- The Agricultural Land Commission has approved a suite in the accessory building.
- The accessory building is slightly over the height restriction; the applicant would benefit from the text amendment just considered by Council under the previous item.

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

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

Robert Blasco, applicant:

- The building is over height by 8¾ inches.

There were no further comments.

**3.6 1281 Highway 33 East**

- 3.6 Bylaw No. 9536 (Z05-0069) – Judston and Karen Wickwire (Jud Wickwire) – Highway 33 East – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2 Section 13 Township 26 Osoyoos Division Yale District Plan 15924 Except Plans 22851 and H8383, located at 1281 Highway 33 East, Kelowna, B.C. from the A1 – Agriculture 1 Zone to the A1s – Agriculture 1 with Secondary Suite zone.

Staff:

- The subject property is in the Agricultural Land Reserve but is exempt from ALC consideration of land use issues because the property is less than 2 acres in area.
- There is an existing principal residence on the property. The proposed accessory building with suite would be on the north portion of the property. The lower floor of the accessory building would be undeveloped storage space. There would be no internal stairs from the storage area to the suite above so as to prevent the storage space from being converted into additional living area for the suite.
- A height variance would be required if it were not for the text amendment regarding height of accessory buildings on A1 zoned property which Council considered earlier in this meeting.

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

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

Jud Wickwire, applicant:

- Indicated he had nothing to add at this time.

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4. TERMINATION:

The Hearing was declared terminated at 6:29 p.m.

Certified Correct:

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Mayor

City Clerk

BLH/am