

Public HearingAugust 8, 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, August 8, 2006.

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

Council members absent: Councillors B.D. Given and M.J. Rule.

Staff members in attendance were: City Manager, R.L. Mattiussi; Deputy City Clerk, S.C. Fleming; Acting Director of Planning & Development Services, S.K. Bagh; Acting Manager of Development Services, S. Gambacort; Development Planner, N. Wight; Community Planning Manager, T. Eichler*; Traffic & Transportation Engineer, H. Thompson*; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:08 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 Deputy City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on July 21, 2006 and by being placed in the Kelowna Daily Courier issues of July 31 & August 1, 2006 and in the Kelowna Capital News issue of July 30, 2006, and by sending out or otherwise delivering 1,043 letters to the owners and occupiers of surrounding properties between July 21 & 24, 2006.

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 **153 Pinto Road**

- 3.1 Bylaw No. 9639 (Z05-0043) – 0740639 BC Ltd. (Lynn Welder Consulting) – Pinto Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 21, Sec. 2, Twp. 23, O.D.Y.D., Plan 18861, located on Pinto Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the I2 – General Industrial zone.

Council:

- On Sunday, a visit to the site revealed that there were a number of signs on the property but nothing was written on the signage as to meeting dates.

Staff:

- The rezoning is required to permit development of the site with an industrial garage, bus wash and service buildings.
- The application is in compliance with the Official Community Plan future land use designation.
- A 10 m right-of-way would be required on the north side of the property to address the Transportation Department's requirements for a road network as a result of the Hollywood Road North extension.
- The Advisory Planning Commission recommends support as do staff.

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The Deputy 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.

Lynn Welder, applicant:

- Clarified that there is only one sign posted in the middle of the property and the date and other required wording was put on the sign about two weeks ago. It is the property across the street that has multiple signs.

There were no further comments.

3.2 610 Bell Road

- 3.2 Bylaw No. 9643 (Z06-0017) – Alfred Kuschat – Bell Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, Sec 23, Twp 26, ODYD, Plan 15597, located on Bell Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone.

Staff:

- The applicant is proposing to create a secondary suite in the basement of the existing single family dwelling.
- Parking requirements can be met on-site.
- The floor area for the suite is slightly over what is permitted by the zoning bylaw and therefore a variance would also be required.
- Recommend support.

The Deputy 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.

Alfred Kuschat, applicant:

- Confirmed that he wants to put a suite in the basement.

There were no further comments.

3.3 3416 Scott Road

- 3.3 Bylaw No. 9640 (Z05-0077) – MacLean Homes (New Town Architecture) – Scott Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 4, Section 7, Township 26, ODYD, Plan 3886, located on Scott Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RM3 – Low Density Multiple Housing zone.

Staff:

- The rezoning would facilitate 26 units of row housing that would be developed in five buildings.
- Access to the property would be off Scott Road with an emergency access off Patsy Road.
- Outlined the dedications that would be required for road.
- Variances would be required for reduced drive isle width and increased building height.
- The Advisory Planning Commission recommends support as do staff.

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Mayor Shepherd declared a conflict of interest because her husband is part owner of a property that is in close proximity to the subject property and left the Council Chamber at 6:22 p.m.

Deputy Mayor Hobson assumed the Chair.

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

Opposition:

- letter of opposition from Elli Daminato, 3419 Moberly Road
- petition of opposition bearing 35 signatures

Letters of Concern:

- Ian & Carol Sanderson, 3440 Patsy Road
- Calvin Bardal, 3453 Moberly Road
- Rick Ikebuchi, 3411 Moberly Road
- Pauline Wallace, 3460 Patsy Road
- Dorothy Norris, 3430 Patsy Road
- Lorraine Hladik, for Strata Council KAS1063, 3335 Richter Street

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

Staff:

- Responded to questions of Council advising that the project would be three storeys throughout, with no reduced height at the ends.
- The property does not have frontage on Richter Street and the applicant was not asked to pursue an access across the abutting Fortis property because access off Scott would be preferred.

Graham MacLean, applicant:

- Has a letter from Fortis denying his request for a right-of-way.

Pat McCuster, New Town Architecture, project architect:

- The buildings would exceed the required setback from the side and front yards.
- On-site parking requirements would be achieved and exceeded because an additional 11 visitor parking stalls are also proposed.
- The style of architecture was modified from contemporary to a more traditional look.
- The majority of the trees next to the existing single family homes will have to be removed to accommodate the new lane.

Rick Ikebuchi, 3411 Moberly Road:

- Advised that one of the letters of concern mentioned by the Deputy City Clerk were from him. He is not opposed to the rezoning; his concerns are regarding the variances.

Lorraine Hladik, for Strata Council KAS1063, 3335 Richter Street:

- Speaking as secretary/treasurer for the Strata Council. They are concerned about the loss of privacy with removal of the mature trees, the increase in traffic, and that overflow parking would spill into the parking lot for their building. Would rather there be less units and more green space.

John Przywara, 3431 Scott Road:

- The development would enhance the neighbourhood and is a good idea.
- Concerned that singular access to the property will be off Scott and Moberly; visitors and guests will increase the traffic tremendously in the cul-de-sac which would be equal to a round-about. Would like access to the proposed development to be shared off Richter and off Patsy.
- Concerned about the number of units that are proposed; 26 units is too many units on a small parcel of land. Around 15-16 units would be better and that in turn would reduce the amount of traffic.
- Also concern about the width of the road.
- 35 (the number of signatures on the petition of opposition) represents the majority of the homeowners in the neighbourhood.
- This is an established neighbourhood - would like the existing way of life to continue and concerned that the proposed development would impose on that.

Bill Heimbecker, President of KLO-Central Residents Association:

- The Advisory Planning Commission supported the rezoning but they unanimously did not support the variances.
- Drainage is from the northeast corner of the property to a collector system on Richter. If water can flow across the site in a utility corridor why not the access and a sidewalk too for accessing the beach?
- Referred to the future land use map in the Official Community Plan and a property on the west side of Patsy Road that is also designated for RM3 development. The applicant should be approaching the other land owner to make a more homogenous development. Access should be off Patsy Road.
- The proposed development includes tandem parking; tandem parking does not work. People find that it is easier to park on the street so they do not have to move the cars around.

Paul Rousseau, 740 Swordy Road:

- Is not opposed of the development but thinks 26 units are too many and concerned about the traffic flow. Does not understand why staff are not pushing for access off Richter. Council could put pressure on Fortis to allow access through their property. If access cannot be off Richter, then would prefer to have the traffic distributed between Patsy and Scott Roads.
- Primary concern is about safety with the large number of children and elderly using walkers and the increase in the amount of traffic that would be coming onto Scott and Moberly Roads. The amount of traffic in those roads is also of concern because of the close proximity to Gyro Park beach.

Graham MacLean, applicant:

- Fortis responded to their inquiry about a right-of-way with a flat 'no'.
- Moberly and Scott being connected is the long term objective of the City.
- Will save as many trees as possible. A lot of the trees could be retained if it were not for the lane that is being required by City staff.
- Would not be adverse to spitting the traffic between Patsy and Scott. Access off Richter would introduce even more traffic into the neighbourhood from people short-cutting.
- The proposed units would not be much higher than a single family house with a roof on it; the variance is just for ½ storey.

Dave Cullen, traffic consultant for the project:

- Did a one day traffic count on a similar development by this developer in the Orchard Park area. The traffic count works out to about 7 trips per day per unit for this type of development. A single family home generates between 10-12 trips per day so the tighter density in this form generates less trips due to the nature of the people who buy into and live in this type of development.
- The subject property could support between 8-10 single family homes and generate similar traffic volumes to what the proposed 26 units would generate. With or without the rezoning, the site would develop and result in a change in the traffic pattern.
- Connection to Richter would provide quite an outlet for the rest of the neighbourhood including the 75 homes on Swordy and so would result in more of a traffic impact.
- Originally the lane was to be a hammerhead to provide vehicles a turn around at the end of the lane on the development property. The lane is dead end right now.

Jason Benko, #11, 1853 Parkview Crescent:

- There are 30 plus units in his complex. Half the units have tandem parking and there is zero tolerance for parking in the laneway. People buying into the complex know the parking that is allotted and to his knowledge they are having no problems.
- Parkview Crescent is one road in and there is one road out. There is not an abundance of overflow into the public areas yet on any given night the 6 parking stalls at the end of both laneways in the complex are never all taken.
- As a resident in a complex with tandem parking, does not see any problem with tandem parking.

Staff:

- Clarified that the lane dedication is a condition/requirement of the rezoning application.

There were no further comments.

Mayor Shepherd returned to the Council Chamber at 7:05 p.m and resumed the Chair.

3.4(a) 150, 158, 166 & 174 McCurdy Road East

- 3.4(a) Bylaw No.9641 (OCP06-0011) – Corey Knorr Construction Ltd. (Serko Property Services) – McCurdy Road East – THAT Map 19.1 of *Kelowna 2020* - Official Community Plan Bylaw No. 7600 be amended by changing the Future Land Use designation of Lots 4 & 5, Section 26, Township 26, ODYD, Plan KAP65904 located on McCurdy Road East, Kelowna, B.C., from the Single/Two Dwelling Housing designation to the Low Density Multiple Unit Residential designation.

Staff:

- The OCP amendment applies to the easterly two lots (166 & 174 McCurdy).
- The rezoning to RM3 applies to all four properties.
- The applicant proposes to consolidate the properties and develop the site with 16 units of row housing in 5 semi-detached buildings and two 3-plex buildings.
- Displayed a concept plan of what the project could look like if the rezoning was favourably considered.

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The Deputy 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.

Larry Serko, applicant:

- A letter of support was emailed to the City last Friday afternoon from Stephen Graham, 925 Rutland Road North.
- The subject property used to be a commercial site, the Greenery Nursery. There is history to this application, related to Tower Ranch, and there were some errors made in the past some of which would be corrected with this application.

The Deputy City Clerk confirmed that the City did receive the emailed letter from Mr. Graham and that it was included in the package of late correspondence circulated to Council.

Stephen Graham, 925 Rutland Road North:

- It seems like the property is being under-utilized. Would prefer a little higher density. Densification is conducive to families.

There were no further comments.

3.4(b) 150, 158, 166 & 174 McCurdy Road East

- 3.4(b) Bylaw No. 9642 (Z06-0026) – Corey Knorr Construction Ltd. (Serko Property Services) – McCurdy Road E. – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lots 2, 3, 4 & 5, Section 26, Township 26, ODYD, Plan KAP65904 located on McCurdy Road East, Kelowna, B.C. from the RM1 - Fourplex Housing zone and the RU6 – Two Dwelling Housing zone to the RM3 - Low Density Multiple Housing zone.

See discussion under 3.4(a).

3.5 270 Merrifield Road

- 3.5 Bylaw No. 9644 (Z06-0025) – IBJ Holdings Ltd. (Bernie Kvamme) – Merrifield Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot D, Sec. 26, Twp. 26, ODYD, Plan 18164, located on Merrifield Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone.

Staff:

- The applicant is proposing to construct a second dwelling on the property. The intent would be to retain the existing house, enclose the carport with a garage and attach the second dwelling to the garage.

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

- letter of opposition from Ben & Kelly Sargent, 390 Merrifield Road
- petition of opposition bearing 29 signatures.

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

Bernie Kvamme, applicant:

- Was not aware there were so many people opposed to his application. Did not think there were that many people in the neighbourhood.
- The building was designed as a duplex but looks more like a large home with a single front entrance and one side entrance. The second dwelling would be a 1 bedroom unit with 1 bedroom in the basement so would not be adding to traffic or noise in the neighbourhood.
- Landscaping on the corner of Rutland/Springfield will be changed to something that produces some shade because it is hot in the neighbourhood.
- The Sargents live kiddie corner across the street from his property.
- City staff wanted fences or a cedar hedge for privacy for the neighbours but neither neighbour wants that because their garden areas would be shaded.

Staff:

- Displayed photos of neighbouring properties.

Campbell Matner, 245 Merrifield Road:

- There is only one other duplex on Merrifield Road and living beside it is not very pleasant. The owner has not been very fussy about who he has rented to.
- What is being shown tonight is totally different from what he saw last time.

Staff:

- Clarified that the application has been the same from the beginning.

Sheila Matner, 245 Merrifield Road:

- Their property is across the street from the subject property. The petition is from people living on Merrifield and who are opposed.
- Concerned the neighbourhood is becoming all rental and concerned about putting duplexes in an area of single family houses.
- All of the lots are large. Does the City want the whole street to become duplexes?
- Their main concern is that the rentals tend to be to young people not young families with children. Would have liked to be able to show Council a print-out of how many times in the last 5 years the RCMP have had to come to Merrifield Road. The neighbourhood is nosier than it used to be.

Council:

- The petition gives names in opposition but does not state the reasons for opposition.

Campbell Matner, continued:

- He took around the petition. The people signed because they are against duplexes.

Bernie Kvamme, applicant:

- His daughter has been living on the subject property for 2 months now and she intends to continue to live in one side of the duplex.

There were no further comments.

3.6(a) 1459 & 1469 KLO Road

- 3.6(a) Bylaw No. 9646 (OCP05-0015) – Witmar Developments Ltd. (Witmar Holdings (Walter, Tony and Albert Weisstock)) – KLO Road - THAT Map 19.1 of the Kelowna 2020 - Official Community Plan Bylaw No. 7600 be amended by changing the Future Land Use designation of Lot 1, District Lot 131, Plan 13798, O.D.Y.D. except Plan KAP79224, and Lot 2, District Lot 131, O.D.Y.D. Plan 13798 except Plan KAP79225, located on K.L.O. Road, Kelowna, B.C., from the multiple unit residential (low density) designation to the multiple unit residential (medium density) designation, as shown on Map “A” attached to the report of Planning & Development Services Department dated June 30, 2006.

Withdrawn from the agenda.

3.6(b) 1459 & 1469 KLO Road

- 3.6(b) Bylaw No. 9647 (Z05-0066) - – Witmar Developments Ltd. (Witmar Holdings (Walter, Tony and Albert Weisstock)) – KLO Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, District Lot 131, Plan 13798, O.D.Y.D. except Plan KAP79224, and Lot 2, District Lot 131, O.D.Y.D. Plan 13798 except Plan KAP79225, located on K.L.O. Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the RM5 – Medium Density Multiple Housing zone.

Withdrawn from the agenda.

3.7 600-602 Bolotzky Court

- 3.7 Bylaw No. 9634 (LUC06-0001) – John Madsen and Joyce Madsen (John Madsen) – Bolotzky Court – THAT Land Use Contract No. LUC76-1077 registered under number M32024 against the lands described as Lot 5, Section 26, Township 26, ODYD Plan 25745, located on Bolotzky Court, Kelowna, B.C. be discharged.

Staff:

- The applicant is asking that the Land Use Contract be discharged to allow for stratification of the existing semi-detached building.

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.

John Madsen, applicant:

- Has owned the building for 18 years. Wants to strata title the duplex and live in one side. The existing tenants are aware of this application.

There were no further comments.

3.8 1342 Shaunna Road

- 3.8 Bylaw No. 9645 (Z05-0083) – 0714422 BC Ltd. (Acorn Communities Ltd.) – Shaunna Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Parcel Identifier: 003-513-076 Lot C Section 18 Township 27 Osoyoos Division Yale District Plan 32142, located at 1342 Shaunna Road, Kelowna, B.C., from the A1 – Agriculture 1 zone to the RU5 – Bareland Strata Housing and the RU2 - Medium Lot Housing zones.

Staff:

- The applicant is proposing to subdivide the property to create 23 RU5 lots and one RU2 lot. The RU2 lot would be at the entrance to the development and be accessed off Shaunna Road. The RU5 lots would be accessed off a private easement road.
- The City's Approving Officer requires more information from the developer for five of the proposed RU5 lots. This application would rezone the entire property but only 18 of the RU5 lots and the one RU2 lot would be developed at this time. The remaining five RU5 lots would only be approved if the regrading can be proven out.
- The applicant has been working with the adjacent property owners to resolve their concerns.
- A staff recommendation for non-support of the application was not accepted by the Advisory Planning Commission who opted instead to support the rezoning.

The Deputy 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.

John Hickey, Acorn Communities - applicant:

- Is also the developer at Sunset Ranch. For this application the company is numbered because there are also other partners.
- Water would be extended from the property to the immediate west.
- Sanitary sewer would be gravity.
- Confirmed that five of the RU5 lots would not be developed at this time because the City's Approving Officer has concerns about engineered fill.

Jim Roe, engineering consultant, CTQ Consultants:

- Only minor regrading is required to provide the roads and homesites on the subject property.
- The City's Approving Officer is prepared to support 18 of the RU5 lots but the other five will not be approved until he has proof that the geotechnical requirements can be met.

Staff:

- If the five RU5 lots cannot be proven out, a no-disturb/no-build covenant could be registered on that portion of the property and that area would then be part of the open space portion of the development.

John Hickey, applicant:

- There is very little undisturbed land on the entire site and a lot of clean-up work is required. Was concerned that there could be some environmentally damaging material on the property and so as part of their due diligence undertook a stage 1 environmental assessment before buying the property.
- The existing cul-de-sac is on a bit of a plateau so working to make sure the existing views of some of the lots above are not impacted.
- The work on the common property (i.e. the building, perimeter fencing, etc.) will be done prior to the strata council assuming responsibility.

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- Expanded on the engineering issues surrounding achieving a buildable area for the five lots being considered for the future.
- Would adhere to whatever is required for building on engineered fills.

Stephen Akune, 1300 Shaunna Road:

- Is not concerned about the proposed rezoning.
- Owns Lot 119 on the golf course. Questioned the integrity of the applicant noting that in verbal conversations, Mr. Hickey agreed to provide a 5 ft. privacy fence above a concrete retaining wall between his property and where they are cutting the road on the northeast side intended to access the five future homes. However, the written document he received from Mr. Hickey only mentions the 6 ft. fence with no mention of the retaining wall. Neither he nor his neighbour to the west want a fence between their properties but Mr. Hickey has indicated he intends to put a 5 ft. chain link fence between them. Would like to be sure the concrete barrier (retaining wall) will also be put in place.
- The underground water in this area runs like a river. Houses below his have been shifting over the years.
- Has lived on his property for 16 years and observed over the years all the junk being filled onto the subject property.

Resident at 1324 Shaunna Road:

- Concerned about the roads leading to the development. The roads are narrow with lots of ditches and without improvements would not be adequate for the increased traffic.
- Concerned that the developer is proposing too much development in too small an area – the houses will be crammed together and that noise and crime would increase.

Cindy Akune, 1300 Shaunna Road:

- Does not support the rezoning.
- She and her husband purchased their property in 1990 and thought the 5 acres behind would remain in the Agricultural Land Reserve and that their lifestyle would be preserved.
- The filled portion of the subject property has been a dumping ground for the last 26 years and is not stable. Concerned about the health aspects of digging up the junk.
- Their concerns have not been addressed by the developer (i.e. landscaping concerns, barrier wall between Acorn strata complex and their land, fence between them and their neighbour, etc.).
- Concerned about the natural underground water source that zig zags through this area and that rezoning the subject property would change their way of life.

Jim Roe, engineering consultant:

- At this stage of the process, the applicant has gone to more lengths than required to try to resolve the concerns of the neighbourhood. However, there may have been some miscommunication; will continue to work on resolving the issues through the subdivision process.
- There is a lot of old fill on the site and it will all be removed. A significant portion of the site is deemed unbuildable and will be retained as open space.
- The proposed lot sizes on average are equivalent to RU1 zoning.
- This type of development is considered to be low density which is consistent with the Official Community Plan.

John Hickey, applicant:

- Has been keeping the Approving Officer informed about the commitments he has made with neighbouring properties.

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The Deputy City Clerk noted that the subject bylaw was amended at first reading to include the RU2 component but the RU2 was inadvertently missed in the newspaper advertising for tonight's Public Hearing.

John Hickey, applicant:

- The RU2 lot would be developed with a lower building envelope and roof line of the house in response to concerns from the adjacent property owner above.
- Agreed to have the RU2 component be considered in a separate application.
- The proposed density is well below what it could be.
- Took exception to the slanderous comments about his integrity.

4. TERMINATION:

The Hearing was declared terminated at 8:53 p.m.

Certified Correct:

Mayor

Deputy Mayor Hobson

Deputy City Clerk

BLH/am