

Public HearingSeptember 30, 2008

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 September 30, 2008.

Council members in attendance: Mayor Sharon Shepherd, Councillors Andre Blanche, Colin Day, Brian Given, Carol Gran, Robert Hobson, Norm Letnick and Michele Rule.

Council members absent: Councillor Barrie Clark.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Subdivision Approving Officer, Shelley Gambacort; Planner, Nelson Wight; and Council Recording Secretary, Sandi Horning.

(\* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:00 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 September 12, 2008, and by being placed in the Kelowna Daily Courier issues of September 22, 2008 and September 23, 2008, and in the Kelowna Capital News issue of September 21, 2008, and by sending out or otherwise delivering 252 letters to the owners and occupiers of surrounding properties between September 12, 2008 to September 17, 2008.

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 Bylaw No. 10059 (OCP08-0020) – City of Kelowna - THAT the OCP Bylaw No. OCP08-0020, to amend Kelowna 2020 – Official Community Plan Bylaw No. 7600, by removing text in Section 8.3, as outlined in Schedule "A" of the report of the Planning and Development Services Department, dated August 13, 2008, be considered by Council.

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.

Gallery:  
Karen Martin, 455 Hardie Road

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- Requested clarification with respect to the amendment being requested.

There were no further comments.

- 3.2 Bylaw No. 10075 (Z08-0065) – Gurdev and Parmjit Sra / (Gurdev Sra) – 1285 Tanemura Cr - THAT Rezoning Application No. Z08-0065 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, Section 13, Township 26, O.D.Y.D, Plan KAP85143, located on Tanemura Cr, Kelowna, B.C. from the RU1 – Large Lot Housing Zone to the RU1(s) – Large Lot housing with a Secondary Suite Zone be considered by Council.

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. No one came forward.

- 3.3 Bylaw No. 10076 (Z08-0060) – Ronald Egert / (Egert Development Ltd.) – 425 Hardie Road - THAT Rezoning Application No. Z08-0060 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B, Section 26, Twp. 26, ODYD, Plan 14901, located at 425 Hardie Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone be considered by Council.

Staff:

- Does not believe that the building will be unnaturally set back on the property and therefore will not require any variances.

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

- o Letters of Opposition:
  - Karen Martin, 455 Hardie Road
  - Maurice Martin, 440 Hardie Road
  - Norma Hannebauer, 460 Hardie Road
- o Letter of Support:
  - Susan Walker, 470 Hardie Road
- o Petition of Opposition:
  - A Petition submitted by approximately 84 residents/owners of the surrounding area, as submitted by Karen Martin, 455 Hardie Road
- o Form Letters of Opposition:
  - A package of form letters submitted by 25 residents/owners of the surrounding area.
- o Form Letters of Support:
  - A package of form letters submitted by 11 residents/owners of the surrounding area.

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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.

Ronald Egert, Applicant:

- Canvassed the neighbourhood regarding this application and received positive responses.
- Confirmed that the development will not require any variances.
- Believes that the development will enhance the area and that it will fit in with the neighbourhood.
- Believes that even if the lot size was smaller, it would still require a rezoning.

Gallery:

Karen Martin, 455 Hardie Road

- The applicant does not live at 425 Hardie Road.
- Wanted to know why the APC supported this application when the requirements of the rezoning are not being met.
- Believes that the development will not fit into the neighbourhood and is opposed to the rezoning.
- Her backyard will be completely shaded by the development
- Believes that it will cost her more to light her home and heat her house due to the shading from this property.

Norma Hannebauer, 460 Hardie Road

- Opposed to the development.
- Feels that the building is too much for the size of the lot.
- Would prefer a duplex on the property rather than the current proposal.

Al Reynolds, Director, BC Team Challenge, Tenant of 425 Hardie Road

- Staff live in the house for free due to the kindness of Mr. Egert.
- Believes that some the used building materials will be able to be reused and sold and the proceeds given to BC Team Challenge.

Ronald Egert, Applicant:

- Believes that the Petition that was circulated misrepresented the application.
- Confirmed that he has been allowing BC Team Challenge to live in the property rent free.
- Received support from the actual owner of 475 Hardie Road and advised that the letter of opposition was submitted by the tenant of the property.
- Believes this will allow someone to enter into the housing market that might otherwise not be able to afford to.

There were no further comments.

- 3.4 Bylaw No. 10077 (OCP07-0037) and Bylaw No. 10078 (Z07-0107) – FortisBC Inc. / (New Town Planning Services Inc.) – 3550 Lochrem Road - THAT Official Community Plan Amendment Application No. OCP07-0037 to amend the future land use designation on a portion of Lot 2, Section 23, Township 23, O.D.Y.D., Plan 2257, Except Plan H15414, from Rural/Agricultural to Public Services/Utilities, in accordance with Map “A” be considered by Council;

AND THAT Council considers the Advisory Planning Commission public process to be appropriate consultation for the purpose of section 879 of the Local

Government Act, as outlined in the report of the Planning and Development Services Department, dated August 29, 2008.

AND THAT Rezoning Application No. Z07-0107 to rezone a portion of Lot 2, Section 23, Township 23, O.D.Y.D., Plan 2257, Except Plan H15414, from A1 – Agriculture 1 to P4 – Utilities, in accordance with Map “B” be considered by Council.

Staff:

- Confirmed that the additional information that Council requested at the initial consideration of this application was provided to Council.
- Summarized the May 2008 letter from NAV Canada.

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

- o Letters of Opposition:
  - Judy Clayton, 3330 Lochrem Road (encl. information) (4) (3 sent by Kelly Cairns, Legal Representative for Judy Clayton)
  - Colin Bechtel, 2160 Capistrano Crescent
  - Mike McBurney, 2093 Capistrano Drive
  - Garry Gelowitz, 2165 Capistrano Drive
  - Diane Moore, 2298 Country Club Drive
  - Joie Seagram & Dave Jones, 3090 Quail Run Drive
  - Sandra and Benji Peterson,
  - Brian Roth, 2311 Quail Run Drive (2)
  - Trish Long, 3006 Valentino Court (2)
  - Michael and Donna Graigen, 2353 Capistrano Drive
  - Gary Stroeder, 3009 Brindisi Place
  - Ray Morrison, 133-2365 Quail Run Drive
  - Peter Cook, 2109 Capistrano Drive
  - Lynda Donnellan, 112-2365 Quail Run Drive
  - Candida Fenrick, 3001 Quail Crescent
  - Ryan Neil Hrudey, 3030 Valentino Court
  - William G. Roberts, 116-1910 Capistrano Drive (2)
  - Alex Miller, 1305-3168 Via Centrale
  - Donald Steer and Henrietta Beauchesne, 2516 Quail Lane (2)
  - Ruth and Phillip Geyer, 135-1950 Capistrano Drive
  - Peter and Shirley Morrison, 3102 Capistrano Court
  - Martin and Christine Jackson, 1310-3168 Via Centrale
  - Jennifer Todd, 2995 Valentino Court
  - J. Craig Revill, 2306 Quail Run Drive
  - Meg Poursistani, 1201-3168 Via Centrale Road
  - Kenneth G. Lowe, 2137 Capistrano Crescent
  - Gloria Rutkowski, Maurice Cuillerier and Ashley and Vanessa Headington, 2085 Capistrano Drive
  - Allen and Sandra Ohlhauser, 2234 Quail Run Drive
  - Kevin A. Evers, 3020 Volterra Court
  - Neil Green, 103-3179 Via Centrale
  - Ray Cenci, 3006 Valentino Court
  - Rose Stevens R.T., 2279 Capistrano Drive
  - Dirwyn Hayes, 2029 Capistrano Drive
  - Darlene Hayes, 2029 Capistrano Drive
  - Robert and Janice Hodgson, 2283 Capistrano Drive
  - Blair Donnelly, 3022 Allegro Mews
  - Terry and Nancy Dunham, 3073 Quail Crescent

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- Gwyneth Barichello, 235 Cambie Road
  - Marcia and Doug Sloane, #110-1950 Capistrano Drive
  - Mac Campbell, 2502 Quail Place, QRRA (3)
  - Bob Fugger, 2504 Gale Rd
  - Linda Thesen, 2336 Country Club Drive
  - Joyce Brandner, 2455 Quail Ridge Blvd
  - Wolf Penz, 2287 Capistrano Drive
  - Patricia Lloyd, 3075 Quail Run Drive
  - Chris and Gill Drakeford-Lewis, 204-1795 Country Club Drive
  - Gary Sternig, 2361 Capistrano Drive
  - Ken Littlewood and Bonnie Flynn, 1989 Capistrano Drive
  - Karen and Hakon Nielsen, 1108 Ray Road
  - Joanne Garrard-Barton, 3067 Quail Run Drive
  - Craig and Sue Reville, 2306 Quail Run Drive
  - Sandra Seifriet, 2408-3178 Via Centrale Drive
  - Karen and Dennis Anderson, 117-1910 Capistrano Drive
  - Claudette Senger,
  - Denton Powles, KLO Central Neighbourhood Association
  - Ken Barton and Joanne Garrard-Barton, 3067 Quail Run Drive
  - John Jack, 114-1950 Capistrano Drive
- Petitions of Opposition
    - A petition signed by approximately 519 residents/owners of the surrounding area, as submitted by Judy Clayton, 3330 Lochrem Road
  - Form Letters of Opposition:
    - A package of form letters submitted by 112 residents/owners of the surrounding area.
  - Letters/Information from City Staff:
    - Nelson Wight (2) (update from meeting with NAV Canada, Briefing Note from Fortis)
    - Sam Samaddar

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, New Town Planning & Architecture, Applicant's Representative:

- Gave a presentation to Council with respect to:
  - Customer Service Requirements
    - The existing system in the area is at capacity
    - Expanding demand in the area
    - Distribution network interconnections required
    - FortisBC is regulated and controlled by the BC Utilities Commission
    - Electrical Utility is an essential service
    - Maintain Public Safety
  - Time & Consequences
    - No capacity for expansion
    - Ongoing risk of rotating, power outages during peak periods
    - Delay = \$80,000/month – Added to customers rates
  - Accommodating the Community
    - This process has been going on for the past 20-24 months
    - Held BC Utility Commission hearings
    - Held Quail Residents Association meeting
    - Held Public Meetings
  - Network Distribution Accommodations

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- Pole removal and underground of existing facility
  - Underground new distribution service
- Visual Impact Analysis
  - Recessed location reduces visibility
  - Landscape screening
- Issue Analysis
  - Pick another site or do it differently
- Negative impact on property values
  - Closest neighbour is approximately 850 metres away
  - Adjacent agricultural property approximately 100 metres away
  - Kent MacPherson assessed the financial impact of the area – No material impact on values of property in Quail Ridge
- EMF exposure as a health risk
  - EMF at naturally ambient levels at 30m from the substation equipment
  - Health Canada states “Posing No Health Risk”
- Instrument landing system interference
  - Transport Canada defers to NAV Canada
  - NAV Canada supports based on certain conditions being met
  - Monthly testing will be conducted by NAV Canada
  - There is an agreement in place between FortisBC and NAV Canada
  - Similar precedents in Edmonton and Vancouver that have never had any incidents
- City of Kelowna liability
  - NAV Canada agreement with FortisBC prior to adoption of the bylaw
  - Local Government Act
- Careful consideration given
- FortisBC has an obligation to service
- NAV Canada has agreed to the proposal as it meets all of their guidelines.
- The BC Utilities Commission has deferred its position relative to the position of NAV Canada. It is expected that NAV Canada will rule in favour of this proposal.
- A representative from NAV Canada was not available to attend the Public Hearing.
- Confirmed that additional berming will be done prior to any planting of trees in the landscape area.
- Advised that the owner of FortisBC’s first choice withdrew its agreement to sell the property to FortisBC.

## Council:

- Concerned that the information provided by FortisBC is incomplete.

## Martin Ward, FortisBC Representative:

- The site selection that was provided to Council was limited as the information that was provided was a matter of public record and he wished to limit the information to information that was made public.
- The site is approximately 3 metres below Quail Ridge Boulevard. The trees located on the property will actually screen most of the site as they are today.
- Three (3) towers will be required in order to run the transmission lines from the Highway to the substation
- Prefer to use natural landscaping to screen the site rather than using a decorative wall as a decorative wall could be tagged with graffiti.
- The BC Utilities Commission regulates FortisBC’s spending.

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Paul Chernikhowsky, FortisBC Representative:

- Clarified the guidelines and the actual distance from the runway to the substation.
- Have received documentation from both Transport Canada and NAV Canada that they will approve this substation based on certain conditions being met.
- The Airport currently has wireless internet in the building that NAV Canada agreed to, which has not resulted in any problems with the ILS.
- The Richter Street substation is 1/3 or 1/4 of the size of the proposed Ellison substation and the height would be almost identical.
- The Richter substation is on the corner of Richter & Saucier across the road from the Old KSS site.

Gallery:

Teresa Johnston, 2584 Gale Road

- Her property is two (2) orchards over from the actual site.
- Concerned about health issues as a result of the substation.
- Concerned about her children's health and how will this affect the orchard crops in the area.

Kelly Cairns, Thomas Butler Law Firm, on behalf of Judy Clayton

- Mrs. Clayton is currently appealing both the BC Utilities Commission and NAV Canada decisions.
- The basis for the appeal is:
  - o NAV Canada letter raises the Airport safety issue;
  - o FortisBC is not entitled to sign any Operating Agreement without BCUC approval;
  - o Won't know if there is a problem with air safety until after construction of the substation is complete.
- Have not heard back from BCUC regarding their request for reconsideration.

Mac Campbell, 2502 Quail Place

- Inquired if Council received certain correspondence.

Guy Labossie, 2450 Quail Ridge Boulevard

- The Quail Ridge Residents Association has been monitoring this project for the past 2 years.
- Does not feel that FortisBC is disclosing information in timely and accurate manner.
- Believes that the information provided by FortisBC at the BCUC hearings was incomplete and incorrect.

Mac Campbell, 2502 Quail Place

- Believes that BCUC was not aware of how close the substation is to the Airport

Ms. Tucker, 3080 Quail Crescent, Director of the Residents Association

- Opposed to the application.
- Believes that FortisBC will be relentless in its pursuit in building this substation.

Mac Campbell, 2502 Quail Place

- Is opposed to the application.
- Noted that FortisBC did not disclose important information at the BCUC hearing.
- This matter should be put back to BCUC for further consideration based on the new information.

Public HearingSeptember 30, 2008Brian Roth, 2311 Quail Run Drive

- Opposed to the substation.
- Concerned about the possibility of having aircraft approach the runway by coming directly over the substation as he has actually witnessed aircraft approaching the runway from that angle.
- Why not put the substation on the other side of the highway?
- Believes that FortisBC indicated at the BCUC hearing that FortisBC was prepared to expropriate land for this substation if necessary.

Mayor Shepherd advised the gallery that it has been brought to Council's attention that the development signage with respect to Bylaw No. 10079 (Z07-0063), Item 3.5 on the Agenda, was incorrect and therefore that item would have to be deferred.

Moved by Councillor Letnick/Seconded by Councillor Rule

**R876/08/09/30** THAT Council defer consideration of Bylaw No. 10079 (Z07-0063) to the October 28, 2008 Public Hearing.

CarriedIrene, 1875 Country Club Drive

- Has never received any correspondence with respect to this Public Hearing.
- Opposed to the application as she believes that there is a health risk.
- Feels that not enough residents were made aware of this application.

## City Clerk:

- Provided clarification with respect to the notification process followed by City staff.

Brett Johnson, 2584 Gale Road

- Represents the Dry Valley homeowners.
- Identified property across the highway at the entrance to the airport in which the substation could be placed rather than the proposed location.
- Knows that there are other sites that were considered that were not identified by FortisBC.
- Concerned about the down wind effect from EMF exposures.

Rick Gordon, 2237 Capistrano Drive

- Retired aviation pilot.
- Concerned about the proximity of the substation to the airport.
- Is aware of NAV Canada's guidelines.
- It is possible that a cell phone could interfere with navigational equipment, therefore, if cell phones can interfere, then a substation would also interfere.

Rick Gordon, on behalf of David Hale, 2344 Capistrano Drive

- Read a letter in opposition.

John Jack, 1950 Capistrano Drive

- Inquired whether or not Council received the correspondence with respect to EMF and interference at airports.
- Believes that the City property across the highway would be more suitable for this substation.



Public HearingSeptember 30, 2008Glen Maddess, 3010 Allegro Muse

- Gave a PowerPoint Presentation to Council.
- Believes that there are not adequate guidelines in place to deal with any situations that may occur as a result of this substation.
- Concerned about the safety of the community and the traveling public.

Judy Clayton, 3330 Lochrem Road

- The substation would be 200 yards from her home.
- Only 2 residents were notified in notice area that the City Clerk identified.
- Believes that exposure to EMF will cause health problems, especially in children.
- Concerned about the affect of the substation on the fruit production.
- Opposed to the rezoning.

Debra Kelly, 1875 Country Club Drive

- Opposed to the rezoning.
- Concerned about the affect of the substation on the Airport's navigational systems.
- Showed pictures of the Glenmore substation so that Council can see what substations actually look like.
- FortisBC should find a more suitable location for this substation,

Gary Stradder, Quail Ridge Resident

- Been involved in the process from the beginning.
- Feels that FortisBC did not fully disclose what they are actually proposing.

Colin Bechtel, 2160 Capistrano Crescent

- Submitted a letter to Council regarding this application.
- Is a Captain of a major airline and has flown into Kelowna for over the past 30 years.
- Has a friend who flies with the NAV Canada Inspection Branch and his friend expressed a concern about the location of the substation to the Airport.
- The glide slope at the Kelowna International Airport is non-standard and therefore is steeper than normal.
- Explained how NAV Canada will monitor interference in the area,
- Electro-magnetic radiation will cause interference in airport navigational systems,
- If the ILS is taken off line, aircraft will be diverted to another airport, which could result in other pilots not wishing to land in the Kelowna area due to ongoing safety concerns.

Donna Kelly

- Concerned that FortisBC is already constructing on the site.
- Is opposed to the rezoning.

The meeting recessed at 9:13 p.m. and reconvened at 9:28 p.m.

Keith Funk, Martin Ward, Paul Chernikhowsky, All on behalf of the Applicant:

- It is clear that there is no financial impact on the neighbourhood.
- A lot of sites were looked at informally, while a lot of sites were looked at formally.
- There is a push to have this substation online by the winter of 2010.
- Did approach the City with respect to its property; however staff did not wish to sell the property.
- The Sexsmith substation would require a lot of underground work which would not be very cost effective.

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- There no plans at this point in time to build additional transmission lines in the area.
- The work being done on the site by FortisBC is actually being done on existing lines and not on the actual site itself.
- The EMF transmissions are 100 times lower that the recommended guidelines. All of the evidence that FortisBC has indicates that there are no concerns regarding EMF transmissions.
- Expects a decision from both NAV Canada and BCUC prior to adoption of the rezoning bylaw.
- If this application is turned down, FortisBC would have to revisit the issue and seek guidance from BCUC.
- If the substation is not built by the winter of 2010, FortisBC will be unable to service the area and unavoidable, rotating power outages may have to occur during peak times.
- Believes that the proximity of the site to the airport was disclosed at the BCUC hearing.
- Confirmed that there were no direct questions asked at the BCUC hearing with respect to the location of the site to the Airport.
- Met with the Airport General Manager and was advised that he did not have any concerns.
- The cost for expanding the Sexsmith substation would be \$27.4 Million, while the cost of this substation would be \$15.8 Million. All costs are born and financed by the rate payers, which would include all of the residents of the City of Kelowna.
- Would not request adoption of the bylaw without submitting a clear decision by NAV Canada.
- Confirmed that UBC-O is directly serviced by this area.

There were no further comments.

City Clerk:

- Provided Council with options on how to proceed with this application.

Moved by Councillor Hobson/Seconded by Councillor Rule

**R877/08/09/30** THAT the Public Hearing with respect to Bylaw No. 10077 (OCP07-0037) and Bylaw No. 10078 (Z07-0107) be kept open pending further receipt of further information for consideration by Council.

Carried

Councillor Letnick – Opposed.

- 3.5 Bylaw No. 10079 (Z07-0063) – Robert Anderson / (Roblyn Developments Ltd.) – 1000 Graham Road - THAT Rezoning Application No. Z07-0063 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 42, Section 22, Township 26, O.D.Y.D., Plan 28367, located on Graham Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone be considered by Council.

See Resolution #R876/08/09/30 above.

4. TERMINATION:

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The Hearing was declared terminated at 10:10 p.m.

Certified Correct:

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Mayor

City Clerk

SLH/hp