

Public HearingMay 19, 2009

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 19th, 2009.

Council members in attendance: Mayor Sharon Shepherd, Councillors Andre Blanleil, Brian Given, Robert Hobson, Charlie Hodge, Graeme James, Angela Reid*, Michele Rule and Luke Stack*.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; Planner, Luke Turri*; and Council Recording Secretary, Sandi Horning.

Guests: RCMP, Sgt. Ann Drinnan*.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:04 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 May 1, 2009, and by being placed in the Kelowna Daily Courier issues of May 11, 2009 and May 12, 2009, and in the Kelowna Capital News issue of May 10, 2009, and by sending out or otherwise delivering 714 letters to the owners and occupiers of surrounding properties on between May 1, 2009 and May 6, 2009.

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

Mayor Shepherd advised the gallery that Item 3.02 on the Public Hearing Agenda is being deferred as the applicant did not meet the Development Procedures Bylaw criteria.

- 3.01 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;

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AND FURTHER THAT final adoption of the OCP amending bylaw and zone amending bylaw be considered subject the following:

1. Landscaping to be provided on the land be in general accordance with Schedule "C";
2. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper.

Councillor Reid declared a conflict of interest as she has a business relationship with the applicant and left the meeting at 6:08 p.m.

Councillor Stack declared a conflict of interest as he has been advised by the City Solicitor that he may be perceived as having a non-pecuniary conflict of interest in this application as the organization he works for employs the applicant's agent, New Town Architectural Services, as its agent, and left the meeting at 6:09 p.m.

Staff:

- Clarified the dates contained in the Memorandum from the City Manager to Mayor and Council.

City Manager:

- Advised that both the Airport Director and the City's Risk Manager will not be attendance tonight as the City's representatives rely on NAV Canada with respect to air transport safety;
- Advised that both the Airport Director and City's Risk Manager have provided their comments with respect to this matter and that those comments are now a matter of public record.

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

- Letters of Opposition:
 - Doug Hamilton & Sylvia Stewart-Hamilton, 221-2455 Quail Ridge Blvd
 - Betty Ivans, 30-2300 Silver Place
 - Lynn Weger, 2306 Country Club Drive
 - Anita Bechtel, 2160 Capistrano Crescent
 - Cpt. Colin Bechtel, 2160 Capistrano Crescent
 - Steve Bechtel, 2160 Capistrano Crescent
- Letter of Support:
 - Barry Lapointe, Kelowna Flightcraft, 5655 Airport Way
- Letter of Concern:
 - Glen Maddess, Maddess Consulting Services Inc., 3010 Allegro Mews
- Letter of Information:
 - Judy Clayton, 3330 Lochrem Road
- Letter of Inquiry:
 - John Jack, 114-1950 Capistrano Drive
- Additional Information from City Staff:
 - Memorandum from City Manager to Mayor & Council
- Additional Information/Letters from Applicant:
 - FortisBC, Letter from FortisBC

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- o Robert McDonell, Letter from Counsel for FortisBC

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

Paul Chernikhowsky, Chief Planning Engineer, and
Martin Ward, Project Manager, FortisBC, Applicant's Representatives

- Advised that FortisBC does not have any new information to provide.
- Advised that if the rezoning is not approved then FortisBC will not be able to accept any new customer growth. Any potential new customers would have to be charged additional fees in order to have upgrades done to supply power to them.
- Advised that any upgrades to the existing substations in the area would involve a substantial increase in poles and wires which would have a substantial impact on those people living in those areas.
- Provided further details with respect to the landscape buffering being considered for this site.
- Presumes that NAV Canada would be aware of any unusual, unique or important characteristics with respect to the ILS at the Kelowna International Airport.
- Any expansion by UBC-O will be considered "new load" for this area.

Gallery:

Judy Clayton, 3330 Lochrem Road

- Opposed to the substation location more so than ever.
- Believes that FortisBC has not provided conclusive evidence that there will not be any health concerns, that property values will not decrease or that the ILS system at the Airport will not be adversely affected.
- Feels that FortisBC should consider increasing the size of the existing substations or locating the substation somewhere else.

Debra Kelley, Resides in Kelowna

- Believes that Transport Canada's rule for substations located close to airports should be adhered to.
- Believes that it is not safe to have a substation so close to the Airport's ILS installation.

Steven Bechtel, 2160 Capistrano Crescent

- Is a commercial pilot and has had dealings with both NAV Canada and Transport Canada.
- Read an email from Rob Ogden, Senior Inspector, Transport Canada Pacific Region, to Judy Clayton dated May 25, 2008 regarding the placement of substations near airports.
- Advised that he believes that Transport Canada's authority supersedes NAV Canada's authority.
- Believes that without technical evidence, the experts' report submitted by FortisBC cannot be relied on.

Linda Weger, 2306 Country Club Drive

- Believes that Council's top priority should be the health and safety of the residents of Quail Ridge.
- Provided information regarding substations that have exploded over the past year.
- Concerned that if there was an incident at the substation, there not be sufficient fire fighters and fire trucks to fight the fire. Expressed a concern that she believes that there is only one road in and out of the Quail Ridge area.

Staff:

- Clarified that only a portion of the property is being rezoned and identified the portion that is the subject of the rezoning.

Mac Campbell, 2502 Quail Place

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- Advised that the Quail Ridge Residents Association received information from Transport Canada with respect to this FortisBC Substation application and provided Council with some of the information received.
- Believes that FortisBC has not respected the application process as it relates to the British Columbia Utilities Commission hearings.
- Believes that another site should be selected for the substation (i.e. Site #5)
- Believes that FortisBC is negligent in not following Transport Canada's proper procedures.

Ronnie Horn, Quail Ridge Resident

- Inquired with respect to the City Manager's Memorandum to Mayor & Council and requested clarification.

Rick Horne, 2149 Capistrano Drive

- Believes that NAV Canada never actually approved the installation of the substation so close the Kelowna International Airport and pointed out that NAV Canada stated that it does not object to the substation location.
- Made reference to Bylaw No. 8462, Council Indemnification Bylaw.
- Believes that if Council approves this substation, it will result in negligence on behalf of Council.
- Does not believe that there is any form of landscaping that could be erected to alleviate any concerns of the neighbourhood.
- Believes that real estate values in the area will be adversely affected by the location of the substation.

Brian Roth, 2251 Quail Run Drive

- Advised that he has been following the process from the beginning.
- Expressed a concern with the entire process, the FortisBC representatives, and FortisBC's inability to listen to the concerns of the Quail Ridge residents.
- Believes that the British Columbia Utilities Commission did not listen to the concerns of the Quail Ridge residents.
- Urged Council to listen to the Quail Ridge residents and deny this substation.

Arlene Rannelli, 1875 Country Club Drive

- Represents the Strata Councils for 1875 & 1873 Country Club Drive.
- Advised that the Strata Corporations are opposed to the location of the substation.
- Concerned about the proximity of the substation to the airport.

Sylvia Stewart-Hamilton, 221-2455 Quail Ridge Blvd

- Advised that when she bought in Quail Ridge, she knew that there were gravel pits on each side of the entrance; however she understood that those gravel pits would eventually disappear. She never anticipated a substation being erected in the area.
- Is a cancer survivor and walking by the substation could potentially lead to health concerns.
- Feels that FortisBC is bullying Council into allowing this substation to be constructed.

Ken Martin, 3067 Quail Run Drive

- Until such time as Transport Canada changes their rules with respect to substations and instrument land systems, City Council and FortisBC should abide by those rules.

Staff:

- Believes that Transport Canada's regulations are considered guidelines and not rules.

Don Mushta, 5305 Highway 97 North

- Owner of the property that borders the proposed substation.
- Commented that the local residents have dealt with many FortisBC representatives with respect to this application.

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- Due to the state of the recent economy, believes that there is an opportunity to do things right and ask FortisBC to go back and reconsider locations.

Glen Mattis, 3010 Legime Drive

- Disappointed that a risk management assessment was not conducted by the City.
- Believes that a risk management analysis is required to completely understand the impacts of the substation on the citizens of the City of Kelowna.

Brett Johnson, 2584 Quail Road

- Member of the Dry Valley Homeowners Association and lives four (4) doors down from the proposed site.
- Concerned about EMF's and health safety issues. Recent studies have shown that it is not necessarily the proximity to the EMF source, but the down wind affect that raises a health concerns.

Colin Bechtel, 2160 Capistrano Crescent

- A professional pilot and Senior captain with a major airline.
- Believes that NAV Canada does not supersede Transport Canada and that Transport Canada is not prepared to amend their guidelines.
- Referred to the letter from Rob Ogden, Senior Inspector, Transport Canada Pacific Region, to Judy Clayton with respect to substation impacts on airports.
- Does not believe that City Council has the required level of confidence to make an informed decision based on NAV Canada's responses.
- Have attempted to obtain further technical information from NAV Canada; however NAV Canada is not willing to come forward with that information.
- Advised that Transport Canada does routine flyovers to determine accuracy of signals and that those flyovers occur approximately every 6 to 12 months.
- Concerned that NAV Canada is saying that FortisBC should build the substation and if there is any interference, then that interference will have to be mitigated.
- Explained the difference between the ILS at the Vancouver International Airport and the ILS at the Kelowna International Airport. Confirmed that some aircraft can land at the Vancouver International Airport totally on autopilot.

Pat Lloyd, 3075 Quail Run Drive

- Is opposed to the location of the substation.

Janet Graham, Capistrano Drive

- Just recently moved to Kelowna because of the natural beauty of the area.
- If there was already a substation in the area, she would not have bought her home in Quail Ridge.

Paul Chernikhowsky, Chief Planning Engineer, and
Martin Ward, Project Manager, FortisBC, Applicant's Representatives

- Clarified the 3 year timeline process that was done with respect to this application.
- Referred Council to TP1247 Guidelines (Section 2.5.2).
- Advised Council of non-conforming examples of TP1247 within Canada.
- Pointed out another non-conforming example of TP1247 being Hartsfield-Jackson Atlanta International Airport (Atlanta, Georgia USA).
- Advised that the monitoring system that was installed at the Edmonton Airport was installed specifically to monitor affects of the substations in the vicinity on the ILS.
- Referred to notes of a conversation by a previous City employee, Nelson Wight, with NAV Canada with respect to this application. Advised that the notes indicate that NAV Canada does not have any concerns with the location of the substation. The notes also indicate that NAV Canada referred to their "guidelines" as "guidelines only" but that those guidelines can be adjusted if deemed acceptable by NAV Canada.
- Advised that it was noted by the British Columbia Utilities Commission that it would be extremely unlikely that the substation would have to be moved if EMF interference exceeds acceptable levels. There is no evidence to suggest that anything beyond

- regular maintenance will be required to monitor the EMF interference with the ILS at the Kelowna International Airport.
- Believes that the substation will be a safe environment.
 - The Dry Valley Road Site (Site #5/Site #8) was not considered as it was a producing orchard that is currently in the ALR and has limited possibility for screening. There would also be more customers in close proximity to that site.
 - FortisBC fully expects NAV Canada to inspect and identify any possible interference by the substation with the airport's ILS.
 - The balance of the site (east portion) will remain in the A1 zone. FortisBC does not have any plans at this time to construct anything on that site. FortisBC intends on bringing that portion of the property back to its natural vegetation.
 - FortisBC was made aware of Transport Canada's guidelines following the British Columbia Utilities Commission's process in April 2008.
 - Feels that the site is already substantially bermed in order to minimize the visual impact of the substation.
 - There will be a perimeter fence erected on the property for security purposes.
 - Confirmed that the FortisBC Executive has full knowledge of the substation and its proximity to the Kelowna International Airport.
 - Advised that there is no agreement in place with NAV Canada with respect to the Duck Lake Substation.
 - Advised that this substation is currently planned to have an additional transmission; however that would not affect the layout of the substation or the footprint.

There were no further comments.

The Public Hearing recessed at 9:22 p.m. The Public Hearing reconvened at 9:38 p.m.

Councillors Reid and Stack rejoined the meeting at 9:38 p.m.

- 3.02 Bylaw No. 10179 (Z09-0002) – Jaskaran Kandola/(Axel Hilmer) – 446 Dell Road – THAT Rezoning Application No. Z09-0002 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Section 23, Township 26, O.D.Y.D., Plan KAP87488, located on Dell road, Kelowna, B.C. from the RU1 – Large Lot Housing Zone to RU1(s) – Large Lot Housing with a secondary suite be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

Mayor Shepherd advised that this item will be deferred to the June 2, 2009 Public Hearing as the applicant did not meet the Development Procedures Bylaw criteria with respect to signage notification.

- 3.03 Bylaw No. 10180 (HRA09-0002) – Davara Holding Ltd. (Dustin Sargent) – 911 Borden Avenue - THAT Council consider a bylaw which would authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for the property Lot 1, District Lot 138, ODYD, Plan 2601, located at 911 Borden Avenue, Kelowna, B.C., in the form of such agreement attached to the report from the Land Use Management Department dated April 8, 2009 as "Schedule A";

AND THAT the Heritage Revitalization Agreement Authorization Bylaw be prepared and forwarded to a Public Hearing for further consideration;

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AND THAT final adoption of the Heritage Revitalization Agreement be considered subsequent to the requirements of the Development Engineering Department and the applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper.

Councillor Stack declared a conflict of interest as the organization he works for owns property within the notification area and left the meeting at 9:39 p.m.

Staff:

- Staff believe that there will be sufficient space on the site to allow vehicles to turn around.
- Confirmed that a condition could be imposed by Council that the vehicular access to the site be restricted to front in and front out (no backing in or out).

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.

Dustin Sargent, Applicant

- Advised that the objective of the redevelopment includes a complete restoration of the interior, exterior and landscaping of the heritage site.
- Believes that once the demolition bins are removed, there will be sufficient space on the site to allow for vehicles to turn around. He personally does not back in or out of the property.
- Believes that this will have a positive impact on the surrounding area.

David Schafer, on behalf of Darlene Tait, 1852 Carruthers Street

- Ms. Tait objects to the construction of the secondary building (carriage house) on the site.
- The proposed carriage house would create a visual impact from Ms. Tait's residence and she is concerned about the proposed height variance being considered.
- Ms. Tait believes that the proposed change of use significantly takes away from the residential nature of the surrounding neighbourhood.
- Called into question the Heritage Procedure Bylaw as it relates to notification of adjacent neighbours.
- Called into question the process of the Community Heritage Commission as it relates to this application.
- Advised that Ms. Tait is opposed to the change in use of the subject property from residential to a residential/commercial mix.
- Ms. Tait is concerned about the view from her deck being blocked by the construction of the carriage house.
- Ms. Tait believes that the proposed commercial use would increase the traffic (vehicular and pedestrian) in the area.

Staff:

- Showed a picture of the Development Sign indicating the dates of the Community Heritage Commission meeting and the Public Hearing meeting.
- Advised that the only notification of the Community Heritage Commission meeting and Advisory Planning Commission meeting are newspaper advertisements.
- Provided evidence that the Public Hearing Notices were delivered on May 5, 2009.

Gallery:

Dustin Sargent, Applicant

- Advised that there was extra signage posted on the site explaining the type of family business that would be carried on at the premises.

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- Advised that he has been working very closely with City staff with respect to the design of the carriage house and that the design in front of Council is a direct result of this consultation.
- Advised that the business is not a store-front business and therefore any increased vehicular or pedestrian traffic would be minimal.
- Confirmed that the business would be open Monday to Friday from 9:00 a.m. to 5:00 p.m.
- Advised that he did speak to the surrounding neighbours, as well as the Kelowna South-central Association of Neighbourhoods (“KSAN”); however he did not actually speak to the owner of 1852 Carruthers Street as he did not take into account the visual impact of the carriage house on her property.
- Showed the proposed landscape plan for the property and advised that he has provided the City with a \$43,000 landscape deposit to ensure that the landscaping is followed through.
- Would be willing to provide screening on the rear of the property.
- Believes that there will be sufficient parking on the site.
- At the moment, there are currently 5 separate suites on the property. The new proposal would include commercial with 2 secondary, one-bedroom suites.

Staff:

- Confirmed that the Heritage Revitalization Agreement (“HRA”) is site specific to what the applicant is proposing to the site and that if there are any changes to the HRA, the applicant will have to come back to Council.

There were no further comments.

Councillor Stack rejoined the meeting at 10:23 p.m.

- 3.04 Bylaw No. 10181 (Z09-0016) – 696617 BC Ltd./(Ken and Barbara Redlick) – 1310 Tanemura Crescent – THAT Rezoning Application No. Z09-0016 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 8, Section 13, Township 26, O.D.Y.D., Plan KAP85143, located on Tanemura Crescent, Kelowna, B.C. from the RU1 Large Lot Housing to the RU1(s) Large Lot Housing with a Secondary Suite zone considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

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.

Wayne Baumgartner, Owner of 1310 Tanemura Crescent, Applicant

- Advised that he just purchased the property approximately 4 days ago and produced a letter from the previous owners, the Redlicks, indicating this fact.
- Would like Council to approve this rezoning.

There were no further comments.

- 3.05 Bylaw No. 10185 (OCP09-0005) and Bylaw No. 10186 (Z09-0015) – Dorion Developments Ltd. (CEI Architecture) – 565, 591, 615, 641, 657 and 683 Osprey Avenue; 564, 594, 616, 636 and 656 Raymer Avenue and 2764 Richter Street - THAT OCP Bylaw Amendment No. OCP09-0005 to amend Map 19.1 of the Kelowna 2020 – Official Community Plan Bylaw No. 7600 by changing the Future Land Use designation of Lot 35, D.L. 14, ODYD, Plan 3769, located at 564 Raymer Avenue, Lot 34, D.L. 14, ODYD, Plan 3769, located at 594 Raymer Avenue, Lot 33, D.L. 14, ODYD, Plan 3769, located at 616 Raymer Avenue, Lot 32, D.L. 14, ODYD, Plan 3769, located at 636 Raymer Avenue, Lot 31, D.L. 14,

ODYD, Plan 3769, located at 656 Raymer Avenue, Lot 30, D.L. 14, ODYD, Plan 3769, located at 2764 Richter Street, Lot 29, D.L. 14, ODYD, Plan 3769, located at 683 Osprey Avenue, Lot 28, D.L. 14, ODYD, Plan 3769, located at 657 Osprey Avenue, Lot 27, D.L. 14, ODYD, Plan 3769, located at 641 Osprey Avenue, Lot 26, D.L. 14, ODYD, Plan 3769, located at 615 Osprey Avenue, Lot 25, D.L. 14, ODYD, Plan 3769, located at 591 Osprey Avenue, Lot 24, D.L. 14, ODYD, Plan 3769, located at 565 Osprey Avenue, Kelowna, B.C. from the Multiple Unit Residential - Medium Density designation to the Commercial designation, as shown on Map "A" attached to the report of the Planning & Development Services Department, dated April 9, 2009, be considered by Council;

THAT Council considers the APC 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 & Development Services Department dated April 9, 2009;

THAT Rezoning Application No. Z09-0015 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 35, D.L. 14, ODYD, Plan 3769, located at 564 Raymer Avenue, Lot 34, D.L. 14, ODYD, Plan 3769, located at 594 Raymer Avenue, Lot 33, D.L. 14, ODYD, Plan 3769, located at 616 Raymer Avenue, Lot 32, D.L. 14, ODYD, Plan 3769, located at 636 Raymer Avenue, Lot 31, D.L. 14, ODYD, Plan 3769, located at 656 Raymer Avenue, Lot 30, D.L. 14, ODYD, Plan 3769, located at 2764 Richter Street, Lot 29, D.L. 14, ODYD, Plan 3769, located at 683 Osprey Avenue, Lot 28, D.L. 14, ODYD, Plan 3769, located at 657 Osprey Avenue, Lot 27, D.L. 14, ODYD, Plan 3769, located at 641 Osprey Avenue, Lot 26, D.L. 14, ODYD, Plan 3769, located at 615 Osprey Avenue, Lot 25, D.L. 14, ODYD, Plan 3769, located at 591 Osprey Avenue, Lot 24, D.L. 14, ODYD, Plan 3769, located at 565 Osprey Avenue, Kelowna, B.C. from RU6 – Two Dwelling Housing to the C4 – Urban Centre Commercial Zone be considered by Council;

THAT the OCP Bylaw Amendment No. OCP09-0005 bylaw and the zone amending bylaw be forwarded to a Public Hearing for further consideration;

THAT final adoption of the zone amending bylaw be considered subsequent to the registration of a plan of subdivision to consolidate the properties into one title;

THAT final adoption of the zone amending bylaw be considered subsequent to the lane closure and the registration of the public access Right of Way;

THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Permit on the subject properties;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Fire Department, Development Engineering Branch and the Building and Permitting Department being completed to their satisfaction.

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

- Letter of Concern:
 - Gwen & Adriaan Boek, Ducky Down Downquilts, 2821 Pandosy Street

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

Tim McLennan, CEI Architecture, Applicant

- Gave a presentation to Council regarding the requested OCP amendment and rezoning.
- The current plan is to have 6-storey buildings constructed on the site.

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There were no further comments.

- 3.06 Bylaw No. 10187 (Z09-0017) – Sonya and William Peitsch – 4485 Gordon Drive - THAT Rezoning Application No. Z09-0017 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B, District Lot 358, O.D.Y.D., Plan 25928, located on Gordon Drive, Kelowna, B.C. from the from the RU1- Large Lot Housing zone to the RU1(s) – Large Lot Housing with a Secondary Suite zone be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

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

- Letter of Opposition:
 - Anne Pawlowski, Centre for Arts & Technology, 100-1632 Dickson Avenue

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

William Peitsch, Applicant

- Advised that he owns 4485 Gordon Drive; however he does not reside in the subject property. He actually lives 2 blocks away.
- Advised that the letter of opposition relates to previous tenants that lived in the property. Advised that he has not had any incidents with the current tenant of the property.
- Advised that the lot is quite large and would accommodate a secondary suite.
- Advised that there are other properties in the area that are already zoned to allow for secondary suites.
- He wants to legalize the suite that is currently in the property.

There were no further comments.

- 3.07 Bylaw No. 10194 (Z08-0098) – 51561 BC Ltd. (Arthur Razzini) – 425 Leon Avenue - THAT Rezoning Application No. Z08-0098 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Strata Lot 2, District Lot 139, ODYD, Strata Plan K668, located at 425 Leon Avenue (tenant address), Kelowna BC, from the C7 – Central Business Commercial zone to the C7LP – Central Business Commercial (Liquor Primary) zone be considered by Council.

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration.

The Guest, RCMP, Sgt. Ann Drinnan, joined the meeting at 10:41 p.m.

Staff:

- Since this application received initial consideration, there have been 3 additional liquor applications for the surrounding area.

Guest, RCMP, Sgt. Ann Drinnan:

- Advised that she is here as a representative of Superintendent McKinnon.
- Advised that there are currently 3200 liquor seats in the Entertainment District.
- Advised that between May 15, 2008 and May 15, 2009 between the hours of 8:00 p.m. to 3:00 a.m., the calls for service greatly increased.

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- Explained how the calls for service within the Entertainment District are processed by the RCMP. The RCMP and bar owners are currently in the process of establishing a better calls for service protocol.
- Believes that there is not enough late night public transportation within the Entertainment District.
- Confirmed that Superintendent McKinnon believes that there are not enough RCMP members to adequately patrol the Entertainment District if this application is approved. With more Members being deployed to the Entertainment District, there would be a lack of Members available to respond to other areas of the City. The RCMP would require 2 additional RCMP members to work overtime to accommodate the increase of patrons in the Entertainment District at cost of approximately \$116,480.00 per annum.
- The RCMP believe that the TreoScope device would be a valuable tool for bar owners, as would "soft" closings.

Moved by Councillor Hodge/Seconded by Councillor Stack

R561/09/05/19 THAT the Public Hearing be continued past 11:00 pm in accordance with Section 5.5 of the Council Procedure Bylaw No. 9200.

Carried

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

- Letters of Opposition:
 - Jason Colvig, TLC Okanagan, 466 Leon Avenue
 - Christine Clar, Uniglobe Direct Travel Ltd., 1568 Pandosy Street
 - Diane M.A. Roy, Trades Okanagan, 1658 Pandosy Street
 - Rita Milne, Downtown Kelowna Association, 200-287 Bernard Avenue
 - Corissa Bolle, 4392 Finch Road
 - Mark Baron, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Marion Bomford, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Janessa Nienhuis, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Lisa MacInnis, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Margo Wideman, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Una Gabie, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Mark Price, Doak Shirreff LLP, 200-537 Leon Avenue
 - Clark & Marguerite Berry, 806 Bernard Avenue
 - Pat Munro, Kelowna South-Central Association of Neighbourhoods, 368 Cadder Avenue
 - Bob Guy, Strata Corp. KAS3411, 1630 Pandosy Street
 - Dr. Cliff Moore, 1619 Pandosy Street
 - Clarke Burnett, Pushor Mitchell LLP and Legum Management Ltd., 301-1665 Ellis Street (2)
- Letters of Support:
 - Jeanne Bates, Kelowna Sculptors Network Society, 952 Lone Pine Drive
 - Dr. Kamilla Bahbahani, 716 Lawson Avenue
 - Jorum Schramm, Leverage Sports and Entertainment, 101-1865 Dilworth Drive
 - Mimi Orr (no address provided)
 - Trevor Salloum
 - Rolf Ratz, Westfall Motors Ltd., 1170 Leathead Road
 - Heike Milo, MyTravel Canada, 1649 Pandosy Street

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- Form Letters of Support
 - A package of form letters submitted by 32 residents/owners of the surrounding area
- Petition of Support:
 - A Petition signed by 122 owners/occupiers of the surrounding area in support of the proposed zoning changes of the subject property.
- Petitions of Opposition (2):
 - A Petition signed by 31 owners/occupiers of the surrounding area in opposition to the proposed zoning changes of the subject property.
 - A Petition signed by 5 owners/occupiers of the surrounding area in opposition of the proposed zoning changes of the subject property.

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

Arthur Razzini, Applicant

- Displayed a rendering of the exterior of the building.
- Advised that the landlord is committed to renovating the building in order to accommodate this proposal.
- Confirmed that the target age demographic for this establishment is 25 to 35 year olds.
- Believes that Kelowna's tourism industry would play a big role in the viability of this business.
- Confirmed that he had discussions with the RCMP, City staff and the DKA with respect to this proposal prior to bringing the application forward to Council.
- Provided details with respect to the proposed security plan for the venue as he believes that security is the biggest problem that this venue will face.
- Favours staggered closing times for all liquor establishments.
- Is willing to work together to address any concerns of Council or the public.
- Gave a virtual tour of the proposed interior of the building.
- Advised that the actual seating capacity has not yet been determined.
- Will be installing a TreoScope device to be used as an additional security measure.
- Is seriously considering live entertainment for each night of the week.

Chelsea Harding, Asset Manager for Stiner Properties, Landlord

- Advised that the building has been vacant since A & B Sound vacated the premises over 3 years ago.
- Believes that many of the challenges facing the landlord with respect to renting the property would be alleviated by the proposed liquor establishment.
- Advised that the landlord has incurred substantial costs in order to maintain the premises.
- Advised that the landlord intends on improving the look and quality of the building. The improvements can only take place as long as Mr. Razzini is able to secure this rezoning and open up the proposed establishment.
- Confirmed that Mr. Razzini is prepared to lease both the 2nd and 3rd floors.
- Advised that there is currently an Offer to Lease in place with Mr. Razzini; however the actual lease negotiations have not yet been finalized.
- The landlord is prepared to complete the renovations to the exterior of the building within six (6) months of Council granting approval of this application.

Gallery:

Ilene Robertson, representative of Kelowna South-central Association of Neighbourhoods ("KSAN")

- Believes that Friday and Saturday nights are a problem in the downtown core.
- Is tired of cleaning up vomit and seeing people commit indecent acts.

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- Is constantly picking up beer bottles and glass in her neighbourhood.
- Believes that the City does not need another drinking establishment in the downtown area.

Bev Kalmakoff, Rowcliffe Avenue

- Is also a representative of KSAN.
- Is concerned about the activities in the area as a result of the liquor establishments.
- Currently avoids that area of downtown.
- Is opposed to another liquor establishment in the area.

Rita Milne, President, Downtown Kelowna Association ("DKA")

- Feels sympathy for the applicant as a plan for the downtown core would be beneficial to anyone wishing to relocate and redevelop in the downtown.
- Believes that hospitality zones and venues need to have good planning in order to deal with any concerns of the residents.
- Believes that guidelines, goals and principals need to be developed by City Council.
- Believes that the Mayor's Entertainment District Task Force should be revived
- Advised that the DKA has formed a sub-committee to address long-term goals and planning for the downtown core.
- Based on speaking with people in the area, it was determined that there was a strong opposition to this application.
- Advised that the DKA board voted in favour of this opposition, except for one member.

Bob Guy, Representative of Strata Corporation KAS3411

- All 18 owners of the strata corporation strongly oppose this application.
- The people that live in the "Worman" building have come from other parts of the community in order to live in the downtown core.
- The noise from the existing night clubs can already be heard by the residents of the "Worman" building.

Larry Martin, Resident of Suite 604, 1630 Pandosy Street

- Lived in Cannery Lofts for 2 years, but recently moved the "Worman" building on Pandosy.
- Has had to endure the most uncivilized of human activities as a result of the night clubs in the area.
- Is opposed to the rezoning.

Gene Zaporofsky, 6100 Old Vernon Road

- Is supportive of the rezoning.
- Has been a resident of Kelowna since the early 1970's and was the Manager of the Capri Hotel during the time that Tramp's nightclub was in operation.
- Has known Mr. Razzini for the past 16 years.

Doug, Representative of Gotchas & The Level Nightclubs

- Advised that neither Gotchas nor The Level nightclubs are for or against the proposed rezoning.
- Advised that should Council approve this rezoning, both nightclubs will be prepared to make applications to Council for various reasons (extended hours/extended capacity).
- Advised that when The Level nightclub was purchased 2006, the owners tried to attract an "older" clientele. This strategy almost bankrupted the nightclub and the owners then decided to abandon that concept.
- Both clubs are open approximately 3 to 4 days a week; however during the summer, it's more like 5 to 6 days a week.
- The owners are considering the TreoScope system; however at present, they are using metal detectors and do not allow gang colours in the establishments.

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- Advised that he has been participating in regular monthly meetings with the RCMP and have been discussing the fact that the TreoScope system needs to be implemented for both of the nightclubs.
- Did experiment with the "soft" closing and believes that it worked very well.

Bob Evans, Co-owner of 540 Leon Avenue

- Even though he was originally opposed to the rezoning, he now supports it.

Quinn Best, Owner of The Habitat, 248 Leon Avenue

- Believes that there needs to be an industry standard developed for Kelowna.
- Feels that this application should be turned down and that Council should consider reviewing the Mayor's Entertainment District Task Force's recommendations before going forward with any new liquor primary establishments in the downtown core.

Arthur Razzini, Applicant

- Feels that the other nightclub owners are pressuring Council in that if this application is approved they will be coming forward to Council with their own applications.
- Advised that there is a hallway that leads from the elevator all the way to the back of the building and that he would be encouraging patrons to leave the building through that back entrance.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 1:06 a.m.

Certified Correct:

Mayor

City Clerk

SLH/dld