

Public HearingMarch 9, 2010

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, March 9<sup>th</sup>, 2010.

Council members in attendance: Mayor Sharon Shepherd, Councillors Kevin Craig, Charlie Hodge, Graeme James, Angela Reid, Michele Rule and Luke Stack.

Council members absent: Andre Blanleil and Robert Hobson

Staff members in attendance were: City Manager, Ron Mattiussi; Deputy City Clerk, Karen Needham; GM, Community Sustainability, Jim Paterson; Subdivision Approving Officer, Ryan Smith; Land Use Manager, Danielle Noble; Land Use Planner, Luke Turri; and Council Recording Secretary, Arlene McClelland.

(\* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:03 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 February 19, 2010 and by being placed in the Kelowna Daily Courier issues of March 1, 2010 and March 2, 2010, and in the Kelowna Capital News issue on February 28, 2010, and by sending out or otherwise delivering 741 letters to the owners and occupiers of surrounding properties between February 19, 2010 and February 24, 2010

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. 10250 (Z09-0027) - JQ Developments/QB Habitat Resources Inc. - 248 Leon Avenue - THAT Council receive, for information, the report from the Community Sustainability Division dated February 10, 2010 with respect to the additional review completed for the proposed rezoning application;

AND THAT the Public Hearing with respect to Rezoning Application No. Z09-0027 be rescheduled to March 9, 2010.

Staff:

- Confirmed that the public hearing was kept open and noted the previous resolution adopted by Council.
- The Applicant is not seeking a minor's endorsement at this time but is still pursuing the event driven license.
- Liquor referral would come before Council at a later date if favourable outcome. This is a two stage process and is specific to the zoning.
- RCMP Inspector Anne Morrison is present to address any concerns.

Inspector Anne Morrison:

- Advised Council that this request to rezone is not supported by the RCMP. The Kelowna Detachment does not have the resources to deal with the patron ratio.
- Concerned that the establishment will be turned into a night club.
- Requested deferral of process for one year.

Public HearingMarch 9, 2010

- Suggested looking at tri-scoping technology as a business license because it minimized criminal environment.

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

Letters of Concern:

Arthur Razzini, 110 Hamptons Circle  
Cheryl Caldwell, Liquor Control and Licensing Branch, 1019 Wharf St, Victoria

Letter of Opposition:

Brian August, Kelowna Motors Ltd, 2560 Enterprise Way

Letters of Support:

Claire Larose, 716 Petterson Rd  
Erin Fowlie, Vernon, BC  
Andrew Kyle, 2782 Thacker Drive  
Andrea East, 325 Dalglish Court  
Aaron Dean Gordon, 2263 Mulberry Road  
Seth Meister, 370 Burne Ave

Form Letters of Support:

A package of form letters submitted by 30 residents/owners of the surrounding area

Additional Information Submitted by Applicant:

A package of 268 pages of correspondence re-submitted by applicant that was originally submitted for the Public Hearing on November 17, 2009

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

Applicant: Quinn and Catrina Best, Habitat Owner

- Reviewed history of their proposal.
- The issue is that this is a new designation. No other establishment has applied for this in Kelowna. It is designed as an event primary license and not as a liquor primary license. The focus is on events with liquor service as an added amenity.
- Many policies surrounding the Yellow Zone were made to mitigate concerns around the bar flush. We are receiving pressure from the Liquor Branch to find a more appropriate license for the Habitat. We have worked at capacity for 133 people and our venue is capable of holding much more than this. We have also compromised on our hours of operation and close at midnight.
- Without the minor's endorsement the lost business opportunities range from weddings, fundraiser that are booked by UBCO and the College, Faculty Events, Theatre Clubs, 30K Club fundraisers, Kelowna Gospel Mission, and Church groups.
- At the last Public Hearing we heard comments that the Habitat is unique and is a needed cultural outlet for the young and old. In general, people spoke of community and making connections with like minded people.
- Our motivation is to not change our business plan but to get an appropriate license to continue to do what we have already been doing. Our goal is to be event driven. We currently open only when there is an event and that will continue. Emerging tour market bands look at Habitat as a smaller stop between cities and we provide a space to support their music.
- We do not have an enforcement history with the RCMP just premise checks. We only call the RCMP if there is an act of violence outside of facility; there have been none inside.

## Gallery:

Millan Djordjevich, 725 Lawson Avenue

- Supports the Habitat application and believes it is a valuable addition to the City. Habitat is not like surrounding clubs in the district. A mature person can attend this facility and feel comfortable. The Habitat has made it possible for touring bands to visit this City. The Habitat promotes music and culture. It cannot exist as a non-profit organization. Most patrons of the Habitat want to exit prior to the bar flush.
- Provided letter of support.

## Mayor Shepherd:

- Asked speakers to submit their written comments to be part of City records.

Jeff Pike, 5108 Hobson Road, Peachland

- Moved here 3 years ago from Alberta and plays in a band. The Habitat has a venue that has a following. It is a unique venue for bands to play and is important to support. Great for local musicians and there could be a new band that has 100 patrons watching. From a local musician perspective I think it is something the City should support.

Steve Stinson, Owner/Operator of Keg, 1580 Water Street

- I have operated the Keg for 22 years and I am the President and Chair of the Downtown Association but I am not here on behalf of the Association.
- I support this application.
- I understand the liquor license difficulties and I would not support additional nightclubs in the down town core. Hopefully the Liquor Branch can be more adaptable for community needs by supporting these kinds of applications that offer smaller, safer venues that reflect the public interest.

Carmel Koff, 737 Leon Avenue

- Supports the application.
- I think that Habitat is a draw and has made my life pleasant. I am an employee who assists with booking the bands. We do not have bar flush issues. Some of the biggest nights, dictated on when bands are touring, come through on a Thursday or Sunday night.

Pyper Geddes, 13-1-Gran Street

- Supports the application.
- Provided letter of support.

Jeff Willard, 1579 Cloppenburg Road

- Supports the application. I am the Resident photographer for the Habitat. This is a special place for the arts and culture and is an important part of the community. Concerns of the RCMP are valid but the patronage is a different nature than other bars on the street.

Trent Kitsch, 135 Flintoff Avenue

- Supports the application. The Habitat has been part of the community since 2005 and the owners have tried to improve the area.
- Provided letter of support.

Maria Hampson, 135 Flintoff Avenue

- Supports the application.
- The owners have office spaces above the Habitat that I have been able to use to teach yoga.

Public HearingMarch 9, 2010Julia Athens, 1555 Griffith Place

- I am a student at UBCO and am 19 years old. I support this application. Habitat is a great venue. This is a place I always feel safe. I work at the Habitat as door staff and greet people.

Brendan Fletcher, 1058 Aldon Road

- Supports the application.
- Big bands play big cities on the weekend. Bar flush issues do not really apply to the Habitat.

Mackalyn Johnson, 2303 Abbott Street

- Supports the application. I am an employee that books special events. I deal with non profit groups, weddings groups and Christmas events. Clients would not want to book with me if we did not allow minors. I do office administration and see behind the scenes of the business. The Habitat helps the non profit organizations. Moving forward with the liquor primary will not be changing our operation a lot but we would feel better about it.

Rob Myer, Resides in Glenmore

- Supports the application. There is a misconception that the owners will turn the Habitat into a nightclub.

Millan Djordjevich, 725 Lawson Avenue

- The Provincial Government took away gaming grants from arts and culture and that will have an impact. We will need to look toward the private sector for arts and culture. The owner, Quinn is always present at the Habitat unlike some establishments where the owner does not even reside in Kelowna.

## Mayor Shepherd:

- Inquired with the Applicant if they had considered the suggestion from RCMP about the utilization of the tri scope technology in their establishment

## Applicant:

- We have developed methodology for ID check with a wrist band. Our establishment also has video surveillance. The tri scope is a system used in Vancouver thru Bar Watch, however treoscope has lost a privacy commission lawsuit and it is considered against the law. The system has not been dialled in yet.

There were no further comments.

Meeting recessed at 7:59 p.m.

Meeting reconvened the Public Hearing at 8:08 p.m.

- 3.2 Bylaw No. 10290 (Z09-0064) - W.P.C. Holdings Ltd/CTO Consultants Ltd - 4561 McCulloch Road - THAT Rezoning Application No. Z09-0064 to amend City of Kelowna zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Section 1, Township 26, ODYD Plan 26785, located at 4561 McCulloch Road from the A1 - Agriculture 1 zone to the RR1 - Rural Residential 1 zone, be support by Council;

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

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of Infrastructure Planning, Development Engineering and Land Use Management being completed to their satisfaction.

Public HearingMarch 9, 2010

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

Letter of Concern:

Ronald Clark, 1-4490 Gallagher's Forest S

Letter of Opposition:

Colin Grain, 4190 Gallagher's Forest S

Letter of Support:

Rick Pasutto, 4300/4370 June Springs Road

Applicant: Graham Dimmick, CTQ Consultants Ltd.

- The Planning staff provided most of my comments the staff report. The current zoning is A1 and our application is RR1 zone. Proposal is 4 lots approximately 1 hectare a piece. There is a 5 m setback for road dedication off of McCulloch Road. As part of our process we held an Open House. Since the application was submitted we have had discussions with concerned neighbours on how to resolve these issues. We have increased landscaping requirements to a level 3 planting or opaque fencing. Current owner will build fence along property line at the southwest corner of the property. Will pay and install fence along chain link fence. No build will limit the building footprint and maintain some trees on site. We have tried to address some of the issues and are open to any further suggestions to accommodate my neighbours. The AAC recommended a Covenant on Title that there will be farming practices near by and we have agreed to that.

Mayor Shepherd:

- Suggested one driveway from two lots as this road gets extremely busy.

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

Richard Beirnes, 4508 Gallaghers Edgewood Court

- My property is being shown and I am interested in the proposal. Looks like a lot of thought put into this and pleased with the 30 m no build zone. At this point I support this application. I have two questions, where will septic beds be located; present property has a lot of storage of RV's and Old cars, what assurances can neighbours get that properties won't be used for the same.

Staff:

- Advised that vehicles are permissible but if there is an infraction of unsightly premises it would be dealt with through bylaw enforcement.

Applicant:

- The septic field locations have not been determined. A Geotech study will be done prior to 4<sup>th</sup> reading. Storage issues will be addressed via buffering with fencing and landscaping options. The Unsightly bylaw would come into affect if it became out of control. We thought of a covenant to limit this issue but were not sure how this would be monitored. Fencing would hopefully alleviate some of those issues.
- Confirmed that SEKID reviewed and noted there was adequate water supply for additional three units.

There were no further comments.

- 3.3 Bylaw No. 10291 (Z08-0071) - Tysen Properties Ltd/Bill Bonn - 543 South Crest Drive - THAT Rezoning Application No. Z08-007 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of a portion of Lot C, Section 24, Township 28, SDYD, Plan 30848, located at 543 South Crest

Public HearingMarch 9, 2010

Drive Kelowna, B.C. from the from the RU1 - Large Lot Housing zone to the RU2h - Medium Lot Housing (Hillside Area), and RU6 - Two Dwelling Housing zones, as shown on Map "A" attached to the report of the Land Use Management Department, dated January 29, 2010, be considered by Council;

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

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter by the Approving Officer.

Staff:

- Applicant is in attendance and will answer any questions.

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

**Letter of Opposition:**

Mel and Ann Billings, 531 South Crest Drive

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

There were no further comments.

4. **TERMINATION:**

The Hearing was declared terminated at 8:30 p.m.

Certified Correct:

---

Mayor

---

Deputy City Clerk

ACM/dld