

Public HearingApril 7, 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, April 7th, 2009.

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

Council members absent: Councillor Brian Given.

Staff members in attendance were: Acting City Manager, Jim Paterson; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; Planner, Paul McVey; Manager, Development Engineering, Steve Muenz* and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:05 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 March 20th, 2009, and by being placed in the Kelowna Daily Courier issues of March 30th, 2009 and March 31st, 2009, and in the Kelowna Capital News issue of March 29th, 2009, and by sending out or otherwise delivering 199 letters to the owners and occupiers of surrounding properties between March 20th, 2009 and March 25th, 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
- 3.1 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 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;

AND 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.

AND FUTHER 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.

Councillor Reid declared a conflict of interest as she has a business relationship with the applicant and left the meeting at 6:09 p.m.

Councillor Stack declared a conflict of interest as the organization he is affiliated with has a business relationship with the applicant's representative and left the meeting at 6:09 p.m.

Staff:

- Advised that the British Columbia Utilities Commission ("BCUC") has reaffirmed its approval of the Ellison Substation being proposed by FortisBC.
- Clarified the future land use designations of the surrounding properties and confirmed that the lands have been designated as rural-agricultural and that they are part of the Agricultural Land Reserve.
- Confirmed that staff have not received any direct correspondence from NAV Canada with respect to this application.
- The Ministry of Environment and the City's Environmental Manager have instructed FortisBC to follow "best practices" as they relates to wildlife in the area, and in particular with respect to the impact of the eagles nesting in the area.

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

- Letters of Opposition:
 - Lynn Weger, 2306 Country Club Drive (2)
 - Betty Ivans, 30-2300 Silver Place
 - Claudette Senger, 3000 Quail Crescent
 - Rick and Lynn Weger, 2306 Country Club Drive
 - Linda Thesen, 2336 Country Club Drive
 - Robert and Janice Hodgson, 2283 Capsitrano Drive
 - Anita Bechtel, 2160 Capistrano Crescent
- Letter of Support:
 - Mike Udala, Kelowna Flightcraft, 5655 Airport Way
- Letters of Additional Information/Inquiry:
 - Mac Campbell, QRRA, 2502 Quail Place (8)
 - Kelly Cairns on behalf of Judy Clayton, 700-1708 Dolphin Avenue
 - Judy Clayton, 3330 Lochrem Road (2)
 - Martin Ward, FortisBC, 100-1975 Springfield Road
 - Rod and Lois McLeod, 3020 Quail Crescent
 - Dave and Pat Driscoll, 2548 Quail Lane
 - DVHA and CCQRLR, no address, no contact name(s)
 - Lynn Weger, 2306 Country Club Drive (2)
 - FortisBC package of information (282 pages)
 - Evan Young, North Country Appraisals, on behalf of Judy Clayton, 5-1905 Evergreen Court (3)
 - Chris and Pat Lloyd, 3075 Quail Run Drive

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- Letters/Information from City Staff:
 - Paul McVey, BCUC participant guide, BCUC users guide, Certificate of Public Convenience and Necessity (CPCN) guidelines.
- Letters of No Objection:
 - Alisa Fowler, Terasen Gas, 16705 Fraser Highway
- Letter of Response:
 - Jodie Foster Sexsmith, FortisBC, 100-1975 Springfield Road
 - Martin Ward, FortisBC, 100-1975 Springfield Road (2)

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, FortisBC, Applicant

- Gave a presentation to Council with respect the proposed substation.
- Confirmed that the BCUC has reaffirmed its original decision regarding this substation.
- Provided background information to Council regarding the BCUC process.
- Advised that the agreement with NAV Canada to monitor any affects the substation may have on the Kelowna International Airport has now been executed.
- Advised that FortisBC do not know of any problems with respect to aircraft navigation where the substations are located near airports.
- Clarified the public process that was done by FortisBC with respect to this substation.
- Identified all of the substations within the City's boundaries.
- Advised that the construction of the Ellison substation would cost approximately \$14 Million, while the cost to expand the Duck Lake Substation and the Sexsmith Substation would be approximately \$29 Million.
- FortisBC will monitor the existing trees for pine beetle damage and will mitigate any damage as a result of it.
- FortisBC's intention is to maintain the screening/buffering around the substation as is reasonably necessary.
- Advised that the site itself has the space for expansion; however the fence line surrounding the substation will not be expanded. Based on a 20 year forecast, FortisBC does not believe that the substation will require expansion.
- Confirmed that both the Hollywood Road and Okanagan Mission Substations are bordered by residential properties.
- Advised that the Duck Lake Substation is directly in the flight path of the Kelowna International Airport.
- Clarified what infrastructure will have to be constructed in order to bring power from the substation.

Martin Ward, Project Manager, FortisBC, Applicant

- Provided information regarding the eagles nesting in the area and what FortisBC intends to do to mitigate any impact to the eagles nests.

Gallery:

Steven Bechtel, 2160 Capistrano Crescent

- Advised that he is a student at UBC-O and a professional, commercial pilot.
- Advised that he has flown into many airports in the Country using an Instrument Landing System ("ILS").
- Showed pictures of the location of the substation in relation to the Airport's centre runway.
- To his knowledge, there is no electrical substation this close to any airport in the entire country.

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- Advised that he has experienced problems with the ILS in Winnipeg and has personally witnessed the interference caused with the ILS as a result of a substation in the near vicinity.
- Is opposed to the location of substation as it too close to the Airport.

Teresa Johnston, 2584 Gale Road

- Lives within 0.5 km of the proposed site and does not want a substation in the vicinity of her family home.
- Believes that this substation would impact property values in the area.
- Believes that there is a possibility that the EMF generated from the site will negatively impact the residents and children in the area.
- Advised that she works for the Canadian Cancer Society.

Rick Horne, 2149 Capistrano Drive

- Believes that FortisBC is down playing the sensitivity of the ILS at the Airport.
- Alerted Council to the "Navigation Alert" that went out to pilots weeks before Buffalo crash.
- Advised that he has worked for 27 years in the insurance field.

Rick Gordon, 2237 Capistrano Drive

- Advised that he is a retired military and professional, commercial pilot with 36 years of experience.
- Advised that he is an executive member of the Quail Ridge Residents Association.
- Believes that NAV Canada limits work being down around the ILS shack in order to mitigate any interference with the ILS system.
- Provided details of the BCUC hearing process.

Mac Campbell, 2502 Quail Place

- Advised that he is the President of the Quail Ridge Residents Association.
- Provided details of the BCUC intervener hearing with respect to this application.
- Believes that FortisBC did not consult with NAV Canada until later in the process.
- Believes that this site is the wrong site for the substation and that the site closer to Duck Lake (on the westside of the highway) would be a more suitable location.
- Believes that the NAV Canada Guidelines should be adhered to.
- Advised that the Quail Ridge Residents Association chose not to contest the BCUC findings as it would cost too much in legal fees.
- Confirmed that when the #2 site (across the Highway from this site) was identified by the Quail Ridge Residents Association as a possible location for the substation, they were unaware of NAV Canada's restrictions.
- Feels that the experts' opinions are biased as they were hired by FortisBC.

Linda Thesen, 2336 Country Club Drive

- Advised that she originally met with FortisBC approximately 3 years ago, however since that time, FortisBC has refused to meet with her to discuss her concerns.
- Feels that NAV Canada did not have all of the facts when they considered this proposal.
- Believes that NAV Canada did not actually approve this location and that they only provided conditional approval.

Judy Clayton, 3330 Lochrem Road

- Believes that the EMF issue is just as important as the ILS and airport issue.
- Opposed to this rezoning.
- Believes that the property values will decrease even though FortisBC has provided an appraiser's opinion stating that property values will not be affected.
- Believes that other sites within the City would be a better suited for the substation.
- Believes that the cost to expand the other substations would actually not cost that much more than to construct this substation.

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- Advised that she never received any notification with respect to any FortisBC public consultations.

Don Mushta, Resident of Kelowna

- Owns 115 acres near the proposed site.
- Concerned about the process that was carried out by FortisBC with respect to this matter as FortisBC has never invited the residents of Quail Ridge or Dry Valley Road to attend any public consultation.

Dr. Jerry Bohemier, 2279 Capistrano Drive

- Believes that the standards for EMF in Canada are too high and should be lowered.
- The world standard for EMF is now being challenged and a couple of law suits have already been won in favour of residents. As a result, the power companies been torn down for public safety reasons.
- Advised that his is a chiropractor as well as a commercial pilot; however he never actually flew for a commercial airline.
- Made reference to the "Precautionary Principle".

Janette Gunn, 2434 Gale Road

- Has been involved in this process for the last 3 years.
- Believes that FortisBC has not handled the public consultation process professionally and confirmed that she was not notified by FortisBC. She believes that not one single resident affected by the proposed substation was notified by FortisBC.
- Opposed to the rezoning.

Bob Kruger, 2504 Gale Road

- Does not feel that additional polls will be required if the Sexsmith and Duck Lake substations are expanded.
- Opposed to the rezoning application.

Ronnie Horn, Kelowna Resident

- Opposed to the rezoning.

Debra Kelly, 2425 Dubbin Road

- Advised that she is the co-owner of a condo in Quail Ridge and a frequent flyer out of Kelowna.
- Opposed to the rezoning.

Mary Ann Graham, President, Rutland Residents Association

- Advised that she is here in support of the Quail Ridge Residents Association.
- Believes that the health and safety of the residents is being compromised.
- Pointed out that Quail Ridge Boulevard is the sole access road to the subdivision.
- Believes that Council should be listening to the neighbourhood's concerns.
- Believes that future planning of infrastructure should be considered through the OCP.

Glen Mattis, 3010 Legime Drive

- Advised that at the September 30, 2008 Public Hearing he requested that a risk benefit analysis be conducted.
- Believes that if this rezoning is approved, Council should direct staff to conduct a risk benefit analysis.
- Believes that approving the rezoning would be a mistake by Council.

Paul Chernikhowsky, Chief Planning Engineer, FortisBC, Applicant

- Advised that an independent expert's study was obtained regarding the impact of the substation on the ILS at the Airport.
- FortisBC takes its guidance from the BCUC with respect to EMF's and BCUC takes its guidance from various sources (Health Canada and the World Health Organization).

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- Confirmed that no work has been done on the property that is the subject of this rezoning. Advised that the working being done in the area is on existing utilities, which work has been approved by BCUC
- Provided details with respect to the proposed screening of the substation.
- Advised that the substation will directly serve the higher density areas of the Pier Mac site, UBC-O and the Airport. UBC-O and the Airport will be the largest consumers of power from the substation.
- Advised that Kelowna has a Category 1 ILS therefore the pilots have to make visual contact with the runway. Vancouver has a Category 3 ILS which allows pilots to land at the airport solely based on instruments.
- Confirmed that NAV Canada recommended the installation of a substation monitoring system; not FortisBC.
- Advised that FortisBC has revised his practice with respect to public consultation.
- Advised that Site #9 is the only site that would be outside the 3.2km distance.
- Advised that the document that was signed with NAV Canada was prepared and produced by NAV Canada and that this is the first type of document FortisBC has entered into with NAV Canada.

Council:

- Expressed a concerned with respect to the NAV Canada process and approval of this application.

Staff:

- Displayed the NAV Canada website with respect to certain procedures that are to be followed.

Moved by Councillor Hodge/Seconded by Councillor Hobson

R448/09/04/07 THAT the Public Hearing with respect to Bylaw No. 10077 (OCP07-0037) and Bylaw No. 10078 (Z07-0107) be kept open.

Carried

There were no further comments.

The meeting recessed at 9:40 p.m. The meeting reconvened at 9:55 p.m.

Councillors Reid and Stack rejoined the meeting at 9:55 p.m.

- 3.2 Bylaw No. 10161 (OCP08-0027) and Bylaw No. 10162 (Z08-0104) – 0823250 BC Ltd/(Architecturally Distinct Solutions) – 695 Webster Road - THAT OCP Bylaw Amendment No. OCP08-0027 to amend Map 19.1 of the Kelowna 2020 – Official Community Plan Bylaw No. 7600 by changing the Future Land Use designation of Block 35 Section 26 Township 26 ODYD Plan 264 Except: (1) Plans B991, B4202 and B4348 (2) Parcel A on Plan CG 157, located at 695 Webster Road, Kelowna, B.C. from the Single/Two Unit Residential designation to the Multiple Unit Residential - Low Density designation, as shown on Map “A” attached to the report of the Planning & Development Services Department, dated February 5, 2009, not be considered by Council;

AND THAT Rezoning Application No. Z08-0104 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Block 35 Section 26 Township 26 ODYD Plan 264 Except: (1) Plans B991, B4202 and B4348 (2) Parcel A on Plan CG 157, located at 695 Webster Road, Kelowna, B.C. from RU1 – Large Lot Housing Zone to the RM3 – Low Density Multiple Housing Zone not be considered by Council;

AND THAT Council not forward a Bylaw authorizing a Housing Agreement between the City of Kelowna and 0823250 B.C. LTD., INC. NO. BC0823250

which requires the owner(s) to designate 7 dwelling units for affordable ownership housing on Block 35 Section 26 Township 26 ODYD Plan 264 Except: (1) Plans B991, B4202 and B4348 (2) Parcel A on Plan CG 157, located at 695 Webster Road, Kelowna, B.C. for reading consideration.

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

- Letters of Opposition:
 - Doreen Deck, 675 Webster Road
 - Miachelle Lawton, 655 Girard Road
- Letters of Support:
 - Lee Reid, 669 Hardie Court
 - Jason Verigin, 815 Webster Road
 - Herman and Grace Brundula, 688 Webster Road
 - Mary Hamre, 659 Webster Road
 - Ruth Koslurk, 735 Girard Road
 - Doug Dinan, 680 Hardie Court
 - Denny Thompson, 737 Stoltz Court
 - Jason Halyk, 715 Girard Road
 - James Howk, 685 Girard Road
 - John Schvanauer, 665 Girard Road
 - Deanna Tuoko, 848 Webster Road
 - Tawna Reid and Neil Taylor, 675 Girard Road
- Letter of Non-Opposition:
 - Cheryl Ellis, 695 Girard Road
- Petition of Support and Opposition:
 - A Petition signed by 4 owners/occupiers of the surrounding area, 3 in support and 1 opposed to the proposed changes to the OCP and zoning changes of the subject property.
- Petition of Opposition:
 - A Petition signed by 30 owners/occupiers of the surrounding area in opposition to the proposed changes to the OCP and 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.

Matt Johnston, Architecturally Distinct Solutions, Applicant's Representative

- Gave a presentation to Council regarding the project.
- Advised that changes to the proposal were made based on community concerns and provided details of those changes.
- Advised that there is enough parking on site for the residents as well as any visitors to the site.
- Provided details of the affordable units being proposed.

Rob Richardson, Site 360, Applicant's Representative

- Provided site engineering details.

Ken, Applicant's Representative

- Advised that the Housing Agreement in place is the original Housing Agreement that was previously executed by the property owner.
- Advised that he has made numerous attempts to ensure that the neighbourhood is provided with the best information with respect to this application.

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Staff:

- Clarified the terms of the Housing Agreement as it relates to affordable housing and special needs housing.
- Advised that the site profile work has been completed and that there is no further information being required.

Gallery:

Karen Martin, 455 Hardie Road

- Advised that she is the previous owner of 695 Webster Road.
- Advised that there are two (2) neighbours in the vicinity that have daycares that would be affected by this application.
- Feels that there is not enough green space on the site to accommodate 19 units of family-oriented housing.
- Believes that there is a contamination issue on the site due to the previous owners use of the property. Advised that she has spoke with City staff and was told that only a geotechnical study was conducted and that a contaminated soil study is the responsibility of the applicant.

Bryan Darroch, 675 Hardie Court

- Generally opposed to the rezoning.
- Concerned about the safety of the school zone at the bottom of Webster Road.
- Concerned about the general character of the neighbourhood and its proximity to agricultural lands.
- Has attended all of the public meetings held by the applicant.
- Advised that he has not had specific discussions with the applicant regarding visual buffering to his property.

Doreen Deck, 675 Webster Road

- Advised that she was the person who submitted the Petition in opposition of the application.
- Feels that the applicant pressured the neighbours into signing in support of this application.
- Was advised by one of the neighbours that this property originally had three (3) water springs on the land. Confirmed with the irrigation district that there is only one (1) water pipe on the site and that the property owner was pumping and using water from another source.
- Believes that there is already a drainage problem with properties located on Stoltz Court.
- Advised that she deals with people everyday that are in need of affordable housing and does not feel that the property is within close proximity of these peoples' needs.
- Concerned about the agricultural activity in the neighbourhood.
- Advised that there is not a sufficient bus service that services the area.

Mike Dapavo, 1077 Webster Road

- Has been using Webster Road since 1958.
- Concerned about the road widening being proposed for the area as the road is currently very narrow and there is not sufficient space to widened the road as there is a drainage ditch that runs along it.
- Concerned about traffic safety in the area and the congestion that will be caused in close proximity to Rutland Elementary School.
- Concerned about on-street parking in the area.

Staff:

- Explained the proposed road widening process for Webster Road. The widening being proposed is 3.2m, which will achieve 16.2m of roadway. The other side of the road will be widened at some time in the future.
- The road widening will include space for on-street parking.

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- For everyone of the homes in this development, each one has a minimum requirement of private space.
- Believes that the single access point to the property will provide for greater safety.

Rob Richardson, Applicant's Representative

- A Geotechnical Report was required for this development and a full environmental study of the site was conducted. The contamination issue was resolved from a building permit perspective and ongoing monitoring of the site will be done during construction.
- Addressed the road widening issue and what the developer is required by the City.
- Confirmed that there is no evidence of a private spring system on the site; however that will be monitored during construction.
- Confirmed that Black Mountain Irrigation District has asked for a water system upgrade as a result of this proposed development.

Moved by Councillor Hodge/Seconded by Councillor Blanleil

R449/09/04/07 THAT the meeting be continued past 11:00 pm in accordance with Section 5.5 of Council Procedure Bylaw No. 9200.

CarriedKen, Applicant's Representative

- Advised that there is bus stop within 2km of this development.
- Feels that this would be a suitable development for people requiring affordable or special needs housing.

Staff:

- Advised that the width of the entrance is a concern to staff; however, the location of the entrance is within staff's guidelines.
- Advised that the applicant is not contributing to the widening of the other side of the road.
- Believes that any safety concerns as they relate to Webster Road will be decreased as a result of the road widening and sidewalks being proposed for the area.
- Advised that the applicant is required to contain the water to the site.

There were no further comments.

- 3.3 Bylaw No. 10164 (Z09-0009) – Detailed Developments Ltd/(Carl Scholl) – 2488 Abbott Street - THAT Rezoning Application No. Z09-0009 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2, DL 14, O.D.Y.D., Plan 2813, located on Abbott Street, Kelowna, B.C. from the RU1 – Large lot Housing zone to the RU1(s) Large Lot Housing with Secondary Suite zone 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 in conjunction with Council's consideration of a Development Variance Permit on the subject property;

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

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Staff:

- Believes that the property is outside of the Abbott Street Conservation Area.

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.

- 3.4 Bylaw No. 10168 (Z08-0118) – Robert and Lula Mills – 684 Barnaby Road – That Rezoning Application No. Z08-0118 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 3, District Lot 357, O.D.Y.D., Plan KAP83090, located on Barnaby Road, Kelowna, B.C. from the Rural Residential 1 zone to the Rural Residential 3 zone 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 Department being completed to their satisfaction;

AND THAT final adoption of the zone amending bylaw be subject to registration of a no-disturb covenant to preserve the steep slopes area.

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

- Additional Information from the Applicant:
 - Letter of information including background information/history of the subject property as submitted by Robert (Gray) Mills, 684 Barnaby Road

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

Robert Mills, Applicant

- Advised that his long-term vision is to divide the property for his three (3) children.
- Advised that he is prepared to enter into a No-Disturb Covenant with the City.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 11:19 p.m.

Certified Correct:

 Mayor

 City Clerk

SLH/dld