

Public HearingJuly 28, 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, July 28th, 2009.

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

Council members absent: Councillors Brian Given and Robert Hobson.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Urban Land Use Manager, Danielle Noble; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:06 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 July 10, 2009, and by being placed in the Kelowna Daily Courier issues of July 20, 2009 and July 21, 2009, and in the Kelowna Capital News issue of July 19, 2009, and by sending out or otherwise delivering 109 letters to the owners and occupiers of surrounding properties between July 10, 2009 and July 15, 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. 10207 (Z09-0024) – Rajinder and Basant Bhullar/(Suki Bhullar) – 1525 Collison Road - THAT Rezoning Application No. Z09-0024 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of a portion of Lot A Section 22 Township 26 ODYD Plan 11943, located at 1525 Collison Road, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU2 – Medium Lot Housing zone as shown on Map "A" attached to the report of Community Sustainability Division, dated June 19, 2009, be considered by Council;

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

AND THAT the 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 FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch and Rutland Water District being completed to their satisfaction.

Public HearingJuly 28, 2009

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

- Letters of Opposition:
 - Fred & Marilyn McRae, 1470 Collison Road
 - Don & Jennifer Geistlinger, 1505 Collison Road
 - Maureen & Gary Holling, 1485 Collison Road
- Additional Information submitted by the Applicant:
 - Additional information submitted by the Applicant including 20 pages of input from surrounding property owners/occupiers and 2 pages of photos of the neighbouring properties.

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

Suki Bhullar, Applicant

- Moved here from Vancouver approximately 5 years ago and currently resides in the property.
- Showed pictures of the subject property and the adjacent subject properties so that Council could get a better understanding of the site and its proximity to adjoining neighbours.
- Believes that the adjacent property owners' privacy would be not affected by the proposed rezoning and subdivision.
- Advised that the proposed new lot will be adjacent to the garage located at 1505 Collison Road and not the actual residence.
- Advised that the subject property does not have a back deck as stated by some of the letters submitted in opposition to this proposal.

Gallery:Fred McRae, 1470 Collison Road

- Is opposed to the subdivision.
- Believes that the proposed structure will not fit into the neighbourhood.
- Feels that this will cause traffic and congestion problems in the area due to the location of the proposed new lot and its proposed access.

Suki Bhullar, Applicant

- Advised that the existing house is located on the corner of the lot and the proposed lot will be located one house in, with access off of Ziprick Road.

Staff:

- Advised that there will be a lot depth variance required for the new lot.
- Confirmed that the garage is configured in such a way that the vehicles will have to back onto Ziprick Road when leaving the property.
- Advised that it will be up to the Development Engineering Department to impose any access restrictions to the site.
- Confirmed that the majority of the driveway accesses on Ziprick Road are similar in configuration.

There were no further comments.

- 3.2 Bylaw No. 10214 (Z09-0025) – Nicholas and Julie Kellet – 382 Braeloch Road - THAT Rezoning Application No. Z09-0025 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B Section 23 Township 28 SDYD Plan 26731, located at 382 Braeloch Road, Kelowna, B.C. from the RR2 – Rural Residential 2 zone to the RU6 – Two Dwelling Housing zone be considered by Council;

Public HearingJuly 28, 2009

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 Development Engineering and Environment & Land Use being completed to their satisfaction.

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

- Letters of Opposition:
 - William Lingard, 369 Braeloch Road (2)
 - Leslee Lingard, 369 Braeloch Road (2)
 - Marilyn McNamara, 363 Braeloch Road (2)
 - Mark Wempe, 363 Braeloch Road (2)
 - Barbara Viggiani, 357 Braeloch Road
 - Lawrence & Pat Rychjohn, 370 Braeloch Road
 - Susan & Peter Schultz, 396 Braeloch Road
- Letter of Support:
 - Susan Tanton, 5130 Luckett Court
- Additional Information submitted by the Applicant:
 - Additional information submitted by the Applicant including a map showing which properties have no objection to the application and 18 form letters of no objection from the surrounding property owners/occupiers.
- Additional Information submitted by the Land Use Management Department:
 - Additional information submitted by Andrew Browne of the Land Use Management Department including 16 form letters of no objection and one letter of opposition that were originally submitted prior to the Advisory Planning Commission meeting.

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

Julie Kellet, Applicant

- Purchased the subject property in 2003 just before the Okanagan Mountain Park Fire.
- Has spent approximately \$150,000 trying to renovate the subject property. She now realizes that it is cost prohibitive to continue with the renovations.
- Would like to reduce the footprint of the house the current home by 50%.
- Would like to build 2 side-by-side lakefront properties.
- Had originally obtained her neighbours support; however until the Advisory Planning Commission meeting, she was not aware that her neighbours had changed their minds and now have concerns about the proposal.
- Advised that the current house on the property is the largest on the street.
- Advised that the proposal does not require any variances and will not negatively affect any of her neighbours' views.
- Advised that privacy should not be an issue as there are a lot of mature trees in the area and she plans on keeping the majority of the mature trees that are currently located on the subject property.
- Confirmed that the majority of the driveways in the area are configured so that the vehicles have to back onto Braeloch Road.

Andrew Bruce, Applicant's Representative

- Confirmed that the Applicants retained his services back in February 2009.
- Advised that the Applicants originally received 15 letters of non-opposition from the neighbouring property owners prior to the Advisory Planning Commission meeting; however since the Advisory Planning Commission meeting, the Applicants canvassed the neighbourhood again and received additional letters of non-opposition, for a total of 33.
- The Applicants contacted the property owners who voiced their objection at the Advisory Planning Commission meeting; however those property owners are still opposed to the application.
- The Applicants chose the option to rezone to RU6 as it was the preferred option by City staff.
- Advised that the Environmental Report has been finalized and will be submitted to City staff should Council choose to rezone the property.
- Advised that the majority of the properties in the area are zoned RR2; however based on their lot size, they are considered legal, non-conforming RR1 properties.
- The subject property is the 4th largest lot in the area and the structure size is about average.
- Advised that the plans for the 2 dwellings still need to be finalized; however the intention has always been to have one driveway access off of Braeloch Road, with the driveway splitting into two. The Applicants also intend to allow for sufficient space so that vehicles are able to turn around and access Braeloch Road in a forward motion.
- Advised that the Applicants intend on living in one of the dwellings. They intend on strata titling the property so that the second dwelling can then be sold.
- Confirmed that the dock has 2 boat accesses and therefore a variance will not be required.

Nicholas Kellet, Applicant

- Confirmed that 374 Braeloch Road originally submitted a letter of opposition; however, he has not spoken with the property owner and believes that based on that discussion, the property owner is no longer opposed to the application.

Gallery:

Bill Lingard, 369 Braeloch Road

- Lives across the street from the subject property and advised that his property is within the site line of the subject property.
- Concerned about public safety in the neighbourhood because Braeloch Road is a very narrow road.
- Concerned about the safety of the children in the area and the people using the public beach access.
- Most of the homeowners have bought and renovated their homes in the area based on the RR2 zoning.
- Does not want 2 dwellings located on any property in the area.
- Feels that the RU6 zoning would be out of character with the RR2 neighbourhood zoning.
- Is strongly opposed to the RU6 zoning.

Mark Wempe, 363 Braeloch Road

- Is opposed to the rezoning.
- Braeloch Road is a unique, narrow and steep road.
- Concerned about the "knock downs" that already exist in the area. If Council allows the Applicants to rezone to RU6, it will set a precedent in the area and other property owners will be apply for a RU6 zoning.
- Believes that the Applicants can rebuild their residence with a single dwelling on the property. They do not have to construct 2 dwellings on the site.
- Believes that this is not an RU6 friendly neighbourhood.
- Believes that this will devalue the existing properties in the area.
- Believes that there will not be sufficient parking on the site.

Dan Obedkoff, 392 Braeloch Road

- Has lived on Braeloch Road for the past 10 years and during those 10 years, a lot a change has happened in the neighbourhood.
- Would like to see more stability in the neighbourhood.
- Advised that the Applicants had requested input from the neighbouring property owners prior to completing any of the renovations.
- Believes that the impact on safety in the area would be minimal.
- Believes that the Applicants have followed due process to the extreme.
- Is not opposed to the rezoning.

Duncan MacPherson, 5147 Cedar Creek Court

- Is in support of the rezoning.
- Advised that the properties located on either side of the public beach access are currently listed for sale; however the dwellings on the site would be considered "knock downs".
- Impressed by the degree of thought that the Applicants put into planning their property.
- Believes that the rezoning would be great for the neighbourhood.

Marilyn McNamara, 363 Braeloch Road

- Is opposed to the rezoning.
- Likes the idea of the "green" technology, but does not understand why 2 dwellings need to be constructed on the site.
- Believes that the RU6 zoning will adversely affect the neighbourhood.
- Concerned about the fact the RU6 zone would allow for the construction of duplexes.

Scott Martin, 5138 Lockett Court

- Agrees with the Applicants that change is inevitable.
- Believes that the Applicant's current dwelling would be considered a "knock down".
- Believes that the proposal is in keeping with the City's OCP.
- Is very much in support of the rezoning and proposal to construct 2 dwellings on the property.
- Believes that the vast majority of the community is supportive of the Applicants.

David Gainey, 390 Braeloch Road

- Advised that the Applicants are great neighbours and excellent members of the community.
- Believes that the proposal will not detract from the community at all and is in full agreement with the rezoning.
- Is not concerned about the possibility of a strata lot being introduced into the neighbourhood.
- Is not concerned with the RU6 zoning setting a precedent as he believes that Council will consider each application on its merits.

Leslee Lingard, 369 Braeloch Road

- Is opposed to the rezoning.
- Believes that Braeloch Road is the wrong area to allow strata titled lots.
- Is opposed to 2 dwellings being constructed on the property as she believes that having 2 dwellings on the same lot will change the look of the area.

Staff:

- Confirmed that the RR2 zone allows for one single-family principle home.
- Confirmed that an "S" zone application would allow the Applicants to put a suite in the dwelling or construct a carriage house on the site.
- Advised that the Applicants could voluntarily request that a restrictive covenant be registered on title to the subject property which would restrict/limit the form and character of the structures of the RU6 zone to 2 independent, single-family structures, as per the proposed building envelopes.

Public Hearing

July 28, 2009

Andrew Bruce, Applicant's Representative

- Confirmed that he had initiated the discussion with the Land Use Management Department with respect to a restrictive covenant to restrict the use of the RU6 zoning.
- Confirmed that the Applicants are more than willing to enter into a restrictive covenant; however City staff were not in favour of it.
- Advised that the frontage to the property will have to be upgraded should Council grant this rezoning.
- Confirmed that strata titles are another form of ownership under the *Land Title Act* and/or *Strata Property Act*.
- Advised that there is more than enough land on the site to support 2 dwellings.

Nicholas Kellet, Applicant

- Believes that every application is reviewed on a case-by-case basis and therefore the requested rezoning will not set a precedent in the area.
- Confirmed that he is willing to enter into a restrictive covenant in order to restrict the form and character of the structures of the RU6 zone to be limited to 2 independent, single-family structures, as per the proposed building envelopes.

Staff:

- Advised that the Applicants could not apply to stratify the land until such time as the 2 proposed dwellings on the site have been constructed.

Marilyn McNamara, 363 Braeloch Road

- Advised that the voluntary restrictive covenant would be acceptable to her.

William Lingard, 369 Braeloch Road

- Advised that the restrictive covenant would alleviate some of his concerns with respect to the 2 dwellings; however he is still opposed to the rezoning.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 8:27 p.m.

Certified Correct:

Mayor

SLH/dld

City Clerk