

Public HearingJuly 13, 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, July 13th, 2010.

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

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

(*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 Deputy City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on June 25, 2010, and by being placed in the Kelowna Daily Courier issues of July 5, 2010 and July 6, 2010, and in the Kelowna Capital News issue of July 4, 2010, and by sending out or otherwise delivering 522 letters to the owners and occupiers of surrounding properties between June 25, 2010 and July 2, 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. 10294 (Z10-0004) - 0765777 BC Ltd./Gail Temple - 1690-1698 Powick Road - THAT Rezoning Application No. Z10-0004 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A District Lot 125 ODYD Plan 31632 Except Plan KAP72889, located at 1690-1698 Powick Rd, Kelowna, B.C. from the C10 - Service Commercial zone to the C3 - Community Commercial zone be considered by Council;

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

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Urban Forestry Branch being completed to their satisfaction.

The Deputy 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.

Gail Temple, Applicant's Representative

- Displayed a site plan of the subject property and noted where the different buildings were situated. (i.e. Tim Horton's, Roger's Cellular, BCBC)
- A Development Permit was previously applied for in 2007 with respect to the Tim Horton's on the site.
- Displayed a picture of what the site looks like today and noted the various sidewalk and landscaping improvements along Powick Road and Highway 33.
- Advised that three (3) more trees will be added to the City boulevard as a condition of the rezoning application.
- Advised that the owner of the property has built bike locker storage in the BCBC building which also includes men's and women's washroom facilities.
- Advised that the bicycle storage on the site has been improved.
- Confirmed that there will not be any change with respect to the use of the buildings currently on the site as long-term leases have been signed by the Tenants.

There were no further comments.

- 3.2 Bylaw No. 10367 (Z10-0025) - Martin Cleveland, Gregory Allen and Carol Cleveland/Martin Cleveland - 1336 Mountainview Street - THAT Rezoning Application No. Z10-0025 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 20, Section 29, Township 26, ODYD Plan 5070, located at 1336 Mountainview Street, Kelowna, BC, from the RU1 - Large Lot Housing zone to the RU1s 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;

AND THAT a building permit for the suite be applied for prior to final adoption of the zone;

AND FURTHER THAT the applicant be required to sign a Third Party Work Order for the cost of installing the (IC), prior to issuance of a Development Permit.

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

- o Letter of Opposition:
 - Mary Wozny, 1285 Mountainview Street (2)

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

Martin Cleveland, Applicant

- Confirmed that he has read the letter of opposition that was submitted by Mary Wozny.
- Advised that the actual suite entrance will be off of the laneway.
- As the laneway is a dead end, the addition of the suite should not create any further vehicle traffic for the area.
- Advised that the entire house will be given a facelift and substantial landscaping will be completed.

Gallery:

Daniel Turner, 1796 Glenella Place

- Advised that the application, on it's own merits, is okay, however, he is opposed to the application as there are already several dwellings in the area that operate illegal suites, which has created an increase in foot traffic and vehicle traffic within the area. He has contacted the City of Kelowna and was advised that there have not been any business licenses issued in area as a result of the existing suites.
- Expressed a concern that a pedestrian right-of-way is not being considered for the area as a result of the increase in density.
- Expressed a concern with respect to on-street parking in the area and the impacts of on-street parking on pedestrian traffic.

Bob Purdy, 1360 Glenmore Drive

- It was his understanding that the subject property was before Council previously for a rezoning to the "S" designation, and that application was subsequently turned down by Council.
- He believes that this will set a precedent and will change the look and character of the neighbourhood as he believes that the RU1s zonings already in the area have changed the neighbourhood.
- As a long-time resident of the area, he does not want to loose the single-family residential look and feel of the neighbourhood.
- Does not object to the look of the proposed façade of the residence.

Cray Harris, 1793 Glenella Place

- Believes that there is a civic duty to protect the integrity of the neighbourhood and keep the RU1 zoning in place.
- Moved to this neighbourhood because he wanted to live in a single-family residential area.
- Concerned about the domino effect. Once one property is rezoned, then the rest will follow.

Karin Turner, 1796 Glenella Place

- Expressed a concern that her neighbourhood has changed.
- Does not believe that the neighbourhood should police illegal suites as it is the City's duty to enforce the City's Bylaws.
- Before allowing more rezoning applications to the "S" designation, the City should determine the actual need for secondary suites.

City Clerk:

- Clarified the process for dealing with illegal suites that have been reported to Bylaw Enforcement.

Martin Cleveland, Applicant

- Advised that the laneway is currently used by the occupants of 1330 Mountainview Road to park their vehicles.

There were no further comments.

- 3.3 Bylaw No. 10269 (TA09-0006) - City of Kelowna - THAT Bylaw No. 10269 be amended at first reading, for a second time;

AND THAT Bylaw No. 10269 be returned to public hearing on July 13, 2010 for further consideration;

AND THAT Council direct staff to bring forward an amendment to the Business Licence and Regulation Bylaw 7878 to amend the Agri-Tourist Business Licence section, as described in the report of the City Clerk dated June 22, 2010.

Public HearingJuly 13, 2010

Councillor James declared a conflict of interest as he has a direct pecuniary interest in this matter as the owner of an agri-tourism business and left the meeting at 6:48 p.m.

Staff:

- Provided an overview of the previous Council Meetings in which the proposed Text Amendment was considered.
- Provided a summary of the various amendments that Council directed staff to incorporate.

City Clerk:

- Once the Public Hearing has been closed, and the Bylaw given 2nd & 3rd readings, staff will be looking for some direction from Council as to the scope of the grandfathering test (strictly and narrowly, or loosely and broadly).
- Staff will report back to Council at a Monday afternoon Council Meeting with respect to the different grandfathering options.
- Confirmed that "farm status" is a requirement of the Agricultural Land Commission and must be adhered to.

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

- o Letters of Support:
 - Paula Morrison, 760 Cornish Road
 - Robert Mason, 4027 Gallaghers Terrace
 - Ray Gagnon, Rifle Road Cherries, 575 Rifle Road
- o Letter of Opposition:
 - Robert Schneider, Acres R.V. Sites, 1896 Morrison Road
- o Letters of Inquiry:
 - Reg Tomiye, Apple Orchard RV Park, 4410 Wallace Hill Road (3)
 - Catalina Dudka, 2105 Morrison Road

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

Gallery:

Paula Morrison, 760 Cornish Road

- Expressed a concern about the possibility of further adjusting the "seasonal" definition from April 15th to March 1st based on one individual's request.
- Is supportive of making changes to the Bylaw that encompasses agri-tourism accommodation.
- Expressed a concern with grandfathering certain sites as it gives the operators of the site the impression that the Bylaw infraction is not a big deal and that you can break the rules.
- Believes that the City should be able to pull Business Licenses when staff know that the operator is operating contrary to the City's Bylaws.
- Believes that the sites should have to meet the same criteria as operators of commercial RV sites.
- Expressed a concern with respect to sanitary sewer systems being in agricultural lands as she feels that the systems could affect food production.
- Believes that farming should be the primary use of agricultural lands, not agri-tourism accommodations.

Nicholas Swart, 4621 Stewart Road East

- Advised that he currently lives on an agricultural property that is within the Agricultural Land Reserve.

Public HearingJuly 13, 2010

- Does not understand why the City would allow agri-tourism accommodations on a site that is only 4 hectares in size. Believes that the minimum lot size that should be permitted is 8 hectares.
- Does not see anything in the Bylaw amendments that addresses the need for additional income.
- Expressed a concern with the anticipated buffering requirements (10 meters) as he feels that the buffering distance should be greater (at least 40 - 50 meters).
- Confirmed that he owns 8 acres and currently farms raspberries.
- Feels that the amendments to the Bylaw are not restrictive enough.

Staff:

- Confirmed that the setback is calculated from the actual agri-tourism accommodation, and not the surrounding outdoor living space.
- Confirmed that staff would work with each individual applicant in order to determine the siting of the accommodation as it relates to the setback requirement.
- Advised that the 10m setback is the minimum and is consistent with the rear yard setback for the A1 zone as it exists today.
- Advised that a rezoning to a "T" designation would follow the same process as a rezoning to an "S" designation.

City Clerk:

- Advised that one of the requirements of the Business License will be that the operator will have to enter into a Good Neighbour Agreement in order to compel the operator to advise the RV owners that there are active agricultural lands adjacent to the site.
- If a current operator does not have a current Business License then the City has the ability to require the operator to cease operating the business.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 7:37 p.m.

Certified Correct:

Mayor

Deputy City Clerk

SLH/dld