

Public HearingAugust 24, 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, August 24th, 2010.

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

Council members absent: Councillor Michele Rule.

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Manager, Urban Land Use, Danielle Noble; 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 City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on August 11, 2010, and by being placed in the Kelowna Daily Courier issues of August 16, 2010 and August 17, 2010, and in the Kelowna Capital News issue of August 15, 2010, and by sending out or otherwise delivering 1255 letters to the owners and occupiers of surrounding properties between August 6, 2010 and August 13, 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. 10232 (Z10-0049) - Nancy and Stephen Moretti - 1422 Alta Vista Road - THAT Rezoning Application No. Z10-0049 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 15, District Lot 137, ODYD, Plan 13998 located at Alta Vista Road, 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 THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering branch being completed to their satisfaction.

Mayor Shepherd advised that the development sign was not posted on the subject property, and therefore, the Applicants did not meet the requirements of Development Application Procedure Bylaw No. 8140 with respect to signage. Council will be deferring consideration of this Bylaw to the September 7, 2010 Public Hearing.

- 3.2 Bylaw No. 10385 (Z10-0041) - Harjit and Sukhwinder Randhawa - 1321 Tanemura Crescent - THAT Rezoning Application No. Z10-0041 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 5, Section 13, Township 26, ODYD Plan KAP 85143 , located at Tanemura Road, 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.

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

- Letters of Opposition:
 - Mr. & Mrs. R. Barter, 1293 Roth Avenue (2)
 - Wayne & Anna-Marie Baumgartner, 1310 Tanemura Crescent
- Letters of Concern:
 - Natalie & Dave Walden, 1309 Tanemura Crescent
 - Shelley & Rick Chernoff, 1317 Roth Avenue

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

Sukhwinder Randhawa, Applicant

- Confirmed that there is room for two (2) vehicles to be parked in the driveway. A Survey Certificate has been provided to the Building Department, which confirms that there is sufficient room in the driveway to park two (2) vehicles.

Councillor Craig joined the meeting at 6:18 p.m.

Sukhwinder Randhawa, Applicant

- Confirmed that the side of the property along the garage area will be converted to green space.
- Confirmed that the suite only has two (2) bedrooms.
- Will encourage the tenants of the suite to park their vehicle in the driveway rather than on Roth Avenue.
- There are many homes in the area under construction which he believes is contributing to the amount of vehicles parked on the street in the area.
- Advised that he has not spoken to the surrounding neighbours regarding this rezoning application.
- Confirmed that City staff suggested that the house be moved in order to accommodate parking on the site; however the house was not moved as the Applicant preferred a 6m setback from the curb.

Gallery:

Raymond Barter, 1293 Roth Avenue

- Is opposed to the rezoning.
- Expressed a concern with the lack of parking in the area, and in particular with the subject property as he believes that there will be vehicles parked on the street, which is a safety hazard.
- Expressed a concern with the access to the suite as he believes that the tenants will not park in the driveway and walk around the property to enter the suite, but rather park on Roth Avenue directly in front of the entrance.
- Advised that the driveway on the subject property is very short and very steep and he believes that as a result it will be difficult to park two (2) vehicles in the driveway.

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- Concerned about the safety of his children if access to the property is off of Loseth Drive.
- He believes that parking in the area is an issue as a result of the other suites in the neighbourhood.

Sukhwinder Randhawa, Applicant

- Believes that he has accommodated every request that City staff have made of the application.
- Believes that the subject property is considered one of the more functional lots in the area as it has good access.
- Advised that it is too late to change the location of the entrance to the suite as the foundation walls have already been constructed.
- Would be willing to restrict parking in front of the residence and at the corner in order to alleviate the concerns with respect to on-street parking.
- Would be willing to construct some sort of pathway so that the tenants have a more direct path to the suite entrance rather than having to walk around the entire property.
- Advised that City staff did not encourage the relocation of the entrance of the suite. If staff had requested it earlier in the process, the request could have been accommodated.
- Would be willing to fence the property that borders Roth Avenue, which fence would not have a gate and therefore the tenants would not be able to easily access the suite off of Roth Avenue. This would hopefully discourage the tenants from parking on Roth Avenue.

Council:

- Would like to leave the Public Hearing with respect to this matter open so that staff and the Applicant can address Council's concerns with respect to parking and the location of the suite entrance.

- 3.3 Bylaw No. 10387 (Z10-0059) - Wanda and Michael Murinko - 533 Harrop Avenue - THAT Rezoning Application No. Z10-0059 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 64, Section 23, Township 26, ODYD, Plan KAP62497, located at 533 Harrop Avenue, Kelowna, BC, from the RU2 - Medium Lot Housing zone to the RU2(s) Medium 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 be issued for the suite prior to final adoption of the zone;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of BMID being completed to their satisfaction.

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

- o Letter of Opposition:
 - Dean & Penny Le Blanc, 543 Milton Road
- o Letter of Support:
 - Ron Badlik, 490 Harrop Avenue
- o Petition of No Opposition:
 - A petition of no opposition signed by 8 owners/occupiers of the surrounding properties as submitted by the applicant.

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

Wanda & Michael Murinko, Applicants

- There is more than adequate on-site parking. There is room for two (2) vehicles to park in the garage and two (2) vehicles to park in the driveway.

There were no further comments.

- 3.4 Bylaw No. 10389 (OCP08-0011) and Bylaw No. 10390 (Z07-0079) - Kathleen Mooney/Kimble Mooney - 5007 Chute Lake Road - THAT OCP Bylaw Amendment No. OCP08-0011 to amend Map 19.1 of the Kelowna 2020 - Official Community Plan Bylaw No. 7600 by changing the Future Land Use designation for a portion of Lot 2, Sec. 24, Twp. 28, SDYD, Plan 33972, Except Plan 35765, located at 5007 Chute Lake Road from the Major Park & Open Space to the Single / Two Unit Residential, as shown on Map "A" attached to the report of the Land Use Management, dated July 9th, 2010, be considered by Council;

THAT Rezoning Application No. Z07-0079 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for a portion of Lot 2, Sec. 24, Twp. 28, SDYD, Plan 33972, Except Plan 35765, located at 5007 Chute Lake Road, Kelowna, B.C. from the RR1 - Rural Residential 1 to the RU1hs - Large Lot Housing (Hillside Area) with Secondary Suite and RU2h Medium Lot Housing (Hillside Area) zone, as shown on Map "B" attached to the report of the Land Use Management, dated July 9th, 2010, 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 Land Use Management Department dated July 9th, 2010; THAT the OCP amending 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 requirements of the Development Engineering Department being completed to their satisfaction;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the submission of a plan to subdivide in registerable form.

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

- o Letter of Opposition:
 - Jason Beaumont, 522 Gowan Court

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

Kimble Mooney, Applicant

- Purchased the home with the intent of subdividing the property.
- Have worked with City staff to ensure that the property is developed with City staff support.
- Previously approached the neighbours and was given the impression that there was no opposition to the proposed subdivision.
- Frost Road has already been planned by the City to go across the subject property so that it will join up with Chute Lake Road and therefore create a lighted intersection at Frost and Chute Lake.
- City staff have advised that a condition of the subdivision will be that the access to the neighbouring properties will have to be relocated.

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- Believes that he is fulfilling an infill subdivision that should be considered a huge benefit to the City and the surrounding areas.
- The proposed subdivision of the property, including roadway access, was laid out prior to him purchasing the subject property.
- When he sits in his house and looks out toward the lake, he cannot see the roof of 522 Gowan Court and therefore he does not feel that privacy will be an issue.
- Many decades ago there was a 120 foot setback dedicated prior to the creation of Gowan Court, which setback requirements resulted in a previous legal action.
- Advised that he has spoken with the letter writer, Jason Beaumont, regarding this application and he never mentioned his concern with respect to drainage. A Development Permit has been applied for and it is his understanding that that process will deal with any drainage issues.

Staff:

- Confirmed that a road dedication will be required at the time of subdivision.
- Confirmed that the Frost Road intersection is a critical linkage for the area.

Gallery:

Tim Olenczuk, Owner of 527 Gowan Court & 5001 Chute Lake Road

- Provided background information regarding the area and the 120 foot setback requirement, which is setback requirement is set out in a Restrictive Covenant. The Restrictive Covenant runs with the land and if the property is subdivided, it will be carried over to the subdivided properties.
- Feels that eleven (11) lots would be tight fit on the subject property.
- Expressed a concern with parking if the property is subdivided and secondary suites are allowed.

Staff:

- Advised that there would have to be some sort of resolve, or discharge, of the Restrictive Covenant prior to the property being subdivided. This issue is between the respective property owners and is not something that the City is involved in.

Karen Martin, 455 Hardie Road

- Expressed a concern about this setting a precedent in allowing the park space to be removed from the proposal.

Staff:

- Advised that Parks Planning staff have agreed that the previously proposed parkland area is not needed to realize the park planning objective and therefore that portion of the property is no longer required for park purposes.

Ted Olenczuk, Owner of 5001 Chute Lake Road

- Concerned that the subdivision will create more than four (4) lots as the property does not lend itself to create eleven (11) lots.
- Not in favour of the rezoning application.

Kimble Mooney, Applicant

- Believes that the huge lots that were created in the area as a result of the Restrictive Covenant.
- Advised that the Restrictive Covenant is not registered on the subject property, but rather on the Olenchuk's property as was intended to benefit the subject property.
- The proposed RU1 lots comply with all of the City's regulations and are 50% larger than what is required.
- There is no access from the proposed subdivision to Gowan Place so traffic will not be an issue for Gowan Place residents.
- Advised that a Restrictive Covenant will be required on the subdivided lots which will restrict access to the area via the current laneway on the property.

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Staff:

- If a secondary suite in the proposed subdivision meets the setback requirements, it could be created as a detached suite, similar to a carriage house.
- A Building Permit would not be issued until the parking requirements are met on the RU1hs lots.
- As there are ground water concerns in the vicinity, a Hydro-Geotechnical Report will be required at the subdivision approval stage.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 8:12 p.m.

Certified Correct:

Mayor

SLH/dld

City Clerk