

Public HearingFebruary 8, 2011

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, February 8<sup>th</sup>, 2011.

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

Council members absent: Councillors Andre Blanleil, Angela Reid and Michele Rule.

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

(\* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:07 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 January 21, 2011, and by being placed in the Kelowna Daily Courier issues of January 31, 2011 and February 1, 2011, and in the Kelowna Capital News issue of January 30, 2011, and by sending out or otherwise delivering 1763 letters to the owners and occupiers of surrounding properties between January 21, 2011 and January 28, 2011.

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 Rezoning Application No. Z10-0098 - Mary J. Bell and Jennifer L. Bell (Mary J. Bell) - 900 Hickory Road - THAT Rezoning Application No. Z10-0098 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 51, Section 22, Township 26, O.D.Y.D., Plan 25984, located on Hickory Road, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1s - 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 a building permit for the suite be applied for prior to final adoption of the zone.

Staff:

- Advised that there was a Bylaw complaint registered against the subject property that was received prior to the current owners' taking possession of the premises.

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

Public HearingFebruary 8, 2011

- Letter of Concern:
  - Don & Gwyn Laybourne, 975 Hickory Road
- Letters of Opposition:
  - Judy & Tremain Frantze, 915 Hickory Road
  - Gregg Tukington, 935 Hickory Road
  - Patricia Richter, 925 Hickory Road
- Petition of Opposition:
  - A Petition of Opposition signed by 38 owners/occupiers of the surrounding area as submitted by Judy Frantze of 915 Hickory Road.

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

Mary Bell and Jennifer Bell, Applicants

- Advised that Jennifer Bell currently resides on the property.
- Advised that there is sufficient on-site parking.
- Advised that they did not approach any of the neighbours regarding the proposed rezoning.
- Were unaware that the suite was illegal when they purchased the property.
- Advised that since purchasing the property, the suite has been unoccupied.
- When they applied for to the City for a Building Permit for upgrades in the house, they were advised of the City's zoning requirements for a legal suite.

There were no further comments.

- 3.2 Rezoning Application No. Z10-0099 - Jade D. and Erin A. Hollenbeck - 645 Fraser Road - THAT Rezoning Application No. Z10-0099 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 5, Section 26, Township 26, ODYD Plan 12434, located on Fraser Road, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1s - Large Lot Housing with Secondary Suite zone, be considered by Council;

AND THAT Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption be considered subsequent to the discharge of the restrictive covenant;

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

AND THAT final adoption of Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering Branch and Black Mountain Irrigation District being completed to their satisfaction.

Staff:

- Confirmed that the Restrictive Covenant on title relates to a second kitchen and will need to be discharged.

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.

Public Hearing

February 8, 2011

Jade Hollenbeck, Applicant

- Nothing further to add, but will to answer any questions.

There were no further comments.

- 3.3 Rezoning Application No. Z10-0070 - Neil Staerkle & Chantal Staerkle - 42-760 Highpointe Drive - THAT Rezoning Application No. Z10-0070 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of "Strata Lot 4 Section 30 Township 26 ODYD Strata Plan KAS3162 together with an interest in the Common Property in proportion to the unit entitlement of the Strata Lot as shown on Form V," located at 42 - 760 Highpointe Dr, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1s - 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 FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Building & Permitting Branch being completed to their satisfaction.

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

- o Letters of Opposition:
  - Lana & Tim Evans, 63-760 Highpointe Drive
  - Tara Sullivan-Woll (Highpointe Strata Council), #1-1441 St. Paul Street

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

Chantal Staerkle, Applicant

- Advised that her parents currently reside in the residence with her and she would like to have a second kitchen installed for their use.
- Advised that there is room for three (3) vehicles in the garage and that there is also ample parking in the driveway.
- Advised that her parents do not currently own a vehicle.

There were no further comments.

- 3.4 Rezoning Application No. Z10-0029 - Jackie B. Scherle (Lynn Welder Consulting Ltd.) - 1096 Quesnel Road - THAT Rezoning Application No. Z10-0029 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 1, District Lot 135, ODYD plan 17194, located on Quesnel 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 Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of Zone Amending Bylaw be considered in conjunction with Council's consideration of a Development Variance Permit on the subject property;

AND THAT the suite be eligible for final occupancy prior to final adoption of the zone;

Public Hearing

February 8, 2011

AND FURTHER THAT final adoption of Zone Amending Bylaw be considered subsequent to the requirements of the Environmental Land Use Branch being completed to their satisfaction and the registration of a 219 no-disturb covenant along the creek.

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.

Lynn Welder Lalonde, Applicant's Representative

- Advised that the house was purchased by the Applicant's mother back in 1991 and at that time a second kitchen was constructed in the garage for use as a "canning" kitchen.
- Advised that in 1997, the garage was expanded.
- Advised that in 1998, the Applicant's mother passed away and left the property to the Applicant, who resides there.
- Advised that the Applicant's sister requires assisted-living care and is residing in the secondary suite.
- Confirmed that there is sufficient on-site parking.

There were no further comments.

- 3.5 Rezoning Application No. Z09-0062 - 0775362 BC Ltd. - (W of) South Perimeter Way - THAT Rezoning Application No. Z09-0062 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of part of Lot A Section 23 Township 28 SDYD Plan KAP89051, located at (W OF) South Perimeter Way, Kelowna, BC, from the A1 - Agriculture 1 zone to the RU1 - Large Lot Housing and P3 - Parks and Open Space zones as shown on Map "A" attached to the report of the Land Use Management Department report, dated January 4, 2011, 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 issuance of a Preliminary Layout Review Letter by the Approving Officer;

AND FURTHER THAT final adoption of the Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction.

Staff:

- Provided details regarding what was presented during the Advisory Planning Commission meeting with respect to this application.
- Provided details on how the application has changed since being presented to the Advisory Planning Commission.
- Advised that the Advisory Planning Commission suggested that the Applicant hold an open house prior to having this application considered by Council and confirmed that an open house was held by the Applicants.
- Confirmed that there have been ongoing discussions for several years with respect to the development of the subject property.
- Advised that a Geo-Technical Report will be required through the subdivision process.
- Advised that the 10m setback can be designated through a covenant or right-of-way and does not have to be part of the park dedication area.

Public HearingFebruary 8, 2011

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

- Letter of Clarification:
  - Gary Tebbutt (Keystone of Kettle Valley), 1574 Harvey Avenue
- Letters of Concern:
  - Leo Gebert, St. Hubertus Vineyard, 5225 Lakeshore Road
  - Steve Harris, 349 Tanager Drive
  - Carl Basher, 313 Tanager Drive
- Letter of Inquiry:
  - John Link, 5392 Tanager Court
- Letters of Opposition:
  - Georg Rieder, 5397 Tanager Court
  - Grant Hodgkinson, 341 Tanager Drive
  - Cindy Moore-Mulcahy, 333 Tanager Drive
  - Robert W. Jones & Janice A. Jones, 312 Raven Drive
  - Elizabeth Alexander, 325 Tanager Drive
  - Ken Ewert, 329 Tanager Drive
  - Mark & Maria Hasek, 331 Phoebe Court
  - Chris & Kim Butt, 5422 Tanager Court
  - John Link, 5392 Tanager Court
  - Steve & Denise Harris, 349 Tanager Drive

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

Gary Tebbutt, Applicant's Representative

- Advised that the subject property was purchased many years ago and that there have been ongoing discussions with City staff regarding the development of the property.
- Based on discussions with City staff, it was decided that a 15-lot subdivision be brought forward for consideration.
- Does not believe that the A1 lands can be developed without very significant dialogue with the surrounding property owners.
- Acknowledged and apologised for the short notice given for the public open house.
- During the public open house, there were many great suggestions given to the Applicants' Representatives regarding the development of the area and the surrounding A1 lands.
- It is the Applicant's hope that the 15-lot development will be approved by Council. Once approved, the Applicant intends to commence some sort of public consultation regarding the potential development of the A1 lands.
- Advised that the Applicant understands the concerns of the neighbourhood with respect to the proposed development and is trying to address any concerns.
- Advised that the 15 lots were already serviced when the Applicant purchased the property and that is why it was determined that the site could accommodate a 15-lot subdivision.
- Advised that the amount of fill, if any, that will be required in the Lot 14 area will be minimal.

Gallery:Steve Harris, 349 Tanager Drive (Lot 7)

- Advised that, when he purchased his property, he spoke with City staff regarding the potential development of the surrounding area.
- Displayed a photo of the area behind his property which was taken in November 2010.

Public HearingFebruary 8, 2011

- Expressed a concern regarding the lack of information with respect to the future development of the A1 lands.
- Advised that prior to the open house that was requested by the Advisory Planning Commission, there hadn't been any discussions with the neighbourhood since May of 2010.
- Advised that he is opposed to the proposed rezoning and subdivision.

Grant Hodgkinson, 341 Tanager Drive (Lot 5)

- Advised that he has assembled a package with respect to his concerns with the proposed development.
- When he purchased his property, he was advised by City staff that it was unlikely that the property behind him could, or would, be developed.
- Displayed a City Memo dated January 22, 1997 which expressed concerns with respect to the development of the subject property.
- Believes that the Applicant does have specific plans for the A1 lands and displayed a map that illustrates an option for the development of the area.
- Advised that he cannot support the development of the subject property until the A1 lands are dealt with.
- Believes that the P3 lands would not make a good park as he feels that the topography of the area is not suitable for park purposes.

Jonathan Wingham, 305 Tanager Drive

- Advised that he attended the Advisory Planning Commission when this application was discussed.
- Expressed a concern regarding the lack of information with respect to the future development of the A1 lands.
- Advised that he is opposed to the application as he would like to see the A1 lands developed in conjunction with the subject property.

Cindy Moore-Mulcahy, 333 Tanager Drive

- Believes that the P3 lands would not make a good park as she feels that the topography of the area is not suitable for park purposes.
- Expressed a concern with Lot 14 and the considerable amount of fill that would be required.
- Believes that the A1 lands should be rezoned to P3.
- Advised that she attended the Advisory Planning Commission meeting when this application was considered.
- Advised that she had not had any dialogue with the Applicant since May of 2010 until receiving notice of the public open house to be held in 24 hours.

John Link, 5392 Tanager Court

- Expressed a concern with the 10m setback area and suggested that setback be included within the P3 lands.
- Would like to see something registered on title to ensure that the 10m setback area will be protected.
- Believes that the P3 lands do not make a good park as he feels that the area is not very accessible.
- Confirmed that he attended the public open house hosted by the Applicant.
- Displayed photos of the subject property from his residence.

Barbara Smith-Murray, 289 Raven Drive

- Advised that she just moved to the area and is not very familiar with the subject property, but was aware that the property would eventually be developed.
- Displayed a map of the area that was provided to her when she purchased her property, which indicates that the entire A1 lands would eventually become parkland.
- Expressed a concern that there may be environmental impacts related to the A1 lands.

Public HearingFebruary 8, 2011Ken Ewert, 329 Tanager Drive

- Opposes the development.
- Would like the A1 lands designated as parkland as he believes that the area is meant to be used by people, not houses.

Heather McInnes, 337 Tanager Drive (Lot 4)

- Opposed to the application.

Jonathan Wingham, 305 Tanager Drive

- Commented on the Official Community Plan map that was shown to him by the City which he feels contemplates a different development of the area than what is being proposed by the Applicant.

Gary Tebbutt, Applicant's Representative

- Advised that the development maps that the public are referring to were completed by Cascade Geotechnical Ltd. and were contained in the Geo-Technical Report that was conducted during the planning stages of the development. It was not the intent of the Applicant to develop the property in the manner indicated by the maps contained in the Geo-Technical Report.
- Displayed a map of the proposed trail access for the area.
- Believes that the 10m setback will be protected by way of a covenant registered on title and confirmed that the Applicant understands that the 10m setback area is a "no-disturb" area.
- Displayed a map of the parks in the area.
- Advised that access to the parkland through the A1 lands needs to be determined and should be done by way of a dedicated access area.
- Does not believe that this application removes the neighbourhoods' rights to enjoy the surrounding area.
- Clarified that all but one of the 15 lots included in the development proposal are serviced.
- Displayed a map from the Area 1 Concept Plan which indicates that the subject property could be subdivided into 31 lots.

Staff:

- Advised that the 10m setback area can be protected by way of a Restrictive Covenant, however, staff is not pursuing the Restrictive Covenant at this time as it will be dealt with through the subdivision approval process.
- Confirmed that the A1 lands are private lands and that fencing could be erected by the property owner to prevent the neighbourhood from accessing the parklands.

Deputy City Clerk:

- Provided options with respect to how Council can proceed with this application.

There were no further comments.

Moved by Councillor Hobson/Seconded by Councillor Hodge

R130/11/02/08 THAT the Public Hearing with respect to Rezoning Application No. Z09-0062 be kept open;

AND THAT Council directs staff to meet with the Applicant to discuss:

- including the 10m riparian setback area within the P3 lands as part of the public domain;
- how to ensure that there will be reasonable public trail access within the P3 lands; and
- the future development potential for the A1 lands;

Public Hearing

February 8, 2011

AND FURTHER THAT staff report back to Council regarding the outcome of the meeting with the Applicant.

Carried

4. TERMINATION:

The Hearing was declared terminated at 8:29 p.m.

Certified Correct:

---

Mayor

SLH/dld

---

Deputy City Clerk