

Public HearingMarch 22, 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, March 22, 2011.

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

Council members absent: Councillor Andre Blanleil.

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

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:00 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 March 4, 2011 and by being placed in the Kelowna Daily Courier issues of March 14, 2011 and March 15, 2011, and in the Kelowna Capital News issue of March 13, 2011, and by sending out or otherwise delivering 2,648 letters to the owners and occupiers of surrounding properties between March 4, 2011 and March 11, 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.

Councillor Reid-Nagy joined the meeting at 6:02 p.m.

3. INDIVIDUAL BYLAW SUBMISSIONS

- 3.1 Bylaw No. 10488 (Z11-0005) - Kevin Lavigne and Amanda Telfer (Kevin Lavigne) - 1483 Ayre Avenue - THAT Rezoning Application No. Z11-0005 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 7, Section 30, Township 26 ODYD Plan 11261, located on Ayre Avenue, 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 the suite be eligible for final occupancy 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 being completed to their satisfaction.

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

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- Letter of No Opposition:
 - Cheryl & Fred Osachoff, 1470 Ayre Avenue

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

Kevin Lavigne and Amanda Telfer, Applicants

- Confirmed that they reside at 1483 Ayre Avenue.
- Believe that staff has provided Council with all of the relevant information with respect to the rezoning application.
- Advised that they have spoken to the surrounding neighbours and that they are all in support of the rezoning.
- Advised that all of the trades have been contacted to ensure that the work will be completed in accordance with the City's Bylaws and the BC Building Code.

Gallery:Cheryl Osachoff, 1470 Ayre Avenue

- Has no object to the Applicants having a rental suite.

Lorna O'Connor, 1471 Ayre Avenue

- Not opposed to the application.

There were no further comments.

- 3.2 Bylaw No. 10489 (Z11-0001) - Peter and Marie Baigent (Manzanita Homes Inc.) - 433 West Avenue - THAT Rezoning Application No. Z11-0001 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 8 Block 1 District Lot 14 ODYD Plan 4743, located at 433 West Avenue, 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 final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction;

AND FURTHER THAT a building permit application for the secondary suite be received prior to final adoption of the zone.

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

- Letters of No Objection:
 - A package of 3 letters of no objection 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.

Bryan Reece, Manzanita Homes Inc., Applicant

- Believes that this is a straight-forward rezoning application and is willing to answer any questions.

There were no further comments.

- 3.3 Bylaw No. 10491 (Z11-0002) - Kenneth Chung (Ken Chung) - 2055 Golfview Road
 - THAT Rezoning Application No. Z11-0002 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 10, Section 29, Township 26, ODYD Plan 17315 located on Golfview 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 of the 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;

AND THAT bylaw services confirm that only one suite exists on the subject property;

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

Staff:

- Advised that a variance application is being processed with the rezoning application. The variance will be considered by Council at a later date.

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

- Letters of Opposition:
 - Gordon & Helen Caldwell, 2020 Golfview Road
 - Victor Leong, 964 Walker Drive (2)
 - Bob & Gloria Hands, 927 Nassau Crescent
 - Jilda & Gordon Hotchkiss, 970 Walker Drive
- Letter of Concern:
 - Anne Leong, 964 Walker Drive
- Additional Information:
 - A package of additional information including a Petition of Opposition signed by 44 owners/occupants of the surrounding properties as submitted by Victor Leong of 964 Walker Drive
 - A Petition of Opposition regarding the proposed variance signed by 11 owners/occupants of the surrounding properties;
 - Additional correspondence between Victor Leong and the City of Kelowna.

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

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Ken Chung, Applicant

- Advised that he is only aware of one complaint from a surrounding neighbour and that he was unaware of the correspondence that was submitted in opposition to his application.
- Advised that the subject property is his main residence and that he uses a portion of the existing garage as office space.
- Confirmed that the suite was constructed without any of the necessary permits or with the required zoning in place.

Mayor Shepherd advised that Council would move onto consideration of Agenda Item 3.4 in order to give the Applicant, Ken Chung, time to review the correspondence that was submitted in response to his rezoning application.

- 3.4 Bylaw No. 10492 (OCP09-0018) and Bylaw No. 10493 (Z09-0069) - Watermark Developments Ltd. and Academy Apartments Ltd. (Watermark Developments Ltd.) - 899 Academy Way and 285 and (N of) Arab Road - THAT OCP Bylaw Amendment No. OCP09-0018 to amend Map 19.1 of the Kelowna 2020 - Official Community Plan Bylaw No. 7600 by changing the Future Land Use designations of: Lot 2, Section 10, Twp. 23, ODYD, Plan KAP86356, located at 899 Academy Way from Multiple Unit Residential - Medium Density, Commercial and Major Park & Open Space to Multiple Unit Residential - Medium Density, Commercial and Major Park & Open Space; the North East ¼ of Section 3, Twp. 23, ODYD, located at the (N OF) Arab Road from Multiple Unit Residential - Medium Density, Multiple Unit Residential - Low Density, Single / Two Unit Residential, Major Park & Open Space, and Education & Minor Institutional to Multiple Unit Residential - Medium Density, Multiple Unit Residential - Low Density, Single / Two Unit Residential, Major Park & Open Space, Education & Minor Institutional and Commercial; and the North ½ of the South East ¼ of Section 3, Twp. 23, ODYD, Except Plan KAP88257, located at 285 Arab Road from Multiple Unit Residential - Low Density, Single / Two Unit Residential and Major Park & Open Space to Multiple Unit Residential - Low Density, Single / Two Unit Residential, Major Park & Open Space and Education & Minor Institutional as shown on 'Map' A attached to the report of the Land Use Management Department, dated February 18, 2011, be considered by Council;

AND 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 February 18, 2011;

AND THAT Rezoning Application No. Z09-0069 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classifications of: Lot 2, Section 10, Twp. 23, ODYD, Plan KAP86356, located at 899 Academy Way from A1 - Agricultural 1 to C3 - Community Commercial, RM5 - Medium Density Multiple Housing and RM4 - Transitional Low Density Housing; a portion of the North East ¼ of Section 3, Twp. 23, ODYD, located at the (N OF) Arab Road from A1 - Agriculture 1 to C3 - Community Commercial, RM5 - Medium Density Multiple Housing, RM4 - Transitional Low Density Housing, RM3 - Low Density Multiple Housing, P2 - Education and Minor Institutional and P3 - Parks and Open Space; a portion of the North ½ of the South East ¼ of Section 3, Twp. 23, ODYD, Except Plan KAP88257, located at 285 Arab Road from A1 - Agricultural - 1 to RM3 - Low Density Multiple Housing, P2 - Education and Minor Institutional and P3 - Parks and Open Space as shown on Map "B" attached to the report of the Land Use Management, dated February 18, 2011, be considered by Council;

AND THAT the OCP Bylaw Amendment No. OCP09-0018 bylaw and the zone amending bylaw be forwarded to a Public Hearing for further consideration;

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AND THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Permit on the subject properties;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the issuance of a Natural Environment Development Permit on the subject properties;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the approval of an appropriate drainage plan;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch, the Fire Department and Glenmore Ellison Improvement District being completed to their satisfaction;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the issuance of a Preliminary Layout Review (PLR) from the City's Subdivision Approving Officer.

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.

Ed Grifone, CTQ Consultants, Applicant's Representative

- Gave a presentation with respect to the University South/University Village OCP Amendment and Rezoning Application.
- Displayed the Concept Plan for the development.
- Advised that following criteria made up the Planning/Design Principles of the development:
 - o Village Character;
 - o Housing;
 - o Sustainable Neighbourhood;
 - o Retail/Office;
 - o Roads/Mobility;
 - o Plazas/Courtyards;
 - o Parks/Trails/Open Space; and
 - o Urban Design.
- Advised that the following public input and City dialogue was undertaken:
 - o Open Houses;
 - o UBC-O communication;
 - o City of Kelowna staff input and involvement;
 - o Studies and reports;
 - o Terasen Gas communication; and
 - o Discussions with School District #23.
- Advised that the sustainability features of the development include:
 - o Planning and Design Process;
 - o Land Use;
 - o Transportation;
 - o Water;
 - o Energy;
 - o Materials;
 - o Site Landscaping;
 - o Food;
 - o Parks, Trails and Open Space;
 - o Attainable Housing;

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- Built Form; and
- Economic Development.
- Advised that there is a lot of interest to provide multi-family and affordable housing in the area, and therefore, the development has been laid out to promote multi-family development in the area.
- The Applicant is prepared to have no-build covenants registered on title in order to preserve the natural open space and landscaping being proposed.
- Confirmed that the green space area is being turned over to the City for development of the park, trail and open space system.
- Advised that Academy Way is a developer-built road and is not part of the DCC Roads Program.

John Hertay, Watermark Developments Ltd., Applicant

- Confirmed that the completion of Academy Way will be developer-driven
- Advised that the 2nd phase of the development already has construction-approved drawings and if all goes well, it is possible that Phase 2 will be started within the next 12 to 18 months.
- It is anticipated that Academy Way will not connect through to Sexsmith Road until 2014.

Gallery:Kathy Lafontaine, 1079 Curtis Road

- In support of this application.
- Believes that cyclists and pedestrians will benefit from the development.
- Urges the developer and the City to move forward on the pathways and trails as soon as possible.

There were no further comments.

Mayor Shepherd advised that Council would now go back to consideration of Agenda Item 3.3.

- 3.3 Bylaw No. 10491 (Z11-0002) - Kenneth Chung (Ken Chung) - 2055 Golfview Road
 - THAT Rezoning Application No. Z11-0002 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 10, Section 29, Township 26, ODYD Plan 17315 located on Golfview 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 of the 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;

AND THAT bylaw services confirm that only one suite exists on the subject property;

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

Ken Chung, Applicant

- Confirmed that he has now reviewed the correspondence that was submitted in opposition to this rezoning application.

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- Confirmed that there is plumbing in the downstairs area of the garage so that he does not have to go to his residence in order to use the bathroom.
- Does not believe that traffic or headlights are an issue for the neighbours.
- Advised that he has no intention of adding additional suites to the garage and confirmed that he only intends on having one (1) secondary suite.
- Believes that some of the people who signed the Petitions in Opposition don't even live in the neighbourhood.
- Confirmed that he did not canvass the neighbourhood prior to making the rezoning application as he believed that some of his neighbours would not be willing to support the rezoning.
- Confirmed that the rezoning application was a result of a bylaw complaint and that there is presently a tenant occupying the suite.
- Confirmed that the suite has been occupied since late 2008, but that the current tenant has only occupied the suite since July 2010.
- Believes that there is more than adequate on-site parking.

Shirley Goebel, 2045 Golfview Road

- Moved into the neighbourhood in October 2003.
- Expressed a concern that the garage could easily be made into a four-plex.
- Believes that there are several tenants that live in the basement of the principle residence.
- Expressed a concern with traffic as a result of the number of people living on the subject property.
- Advised that the tenants do not park on-site as there is often not enough parking in the designated area to accommodate all of the vehicles coming and going from the property.

Glen Leslie, 960 Walker Drive

- Believes that his residence is the most affected by the carriage house.
- Advised that the Applicant has not spoken with him about his rezoning application.
- Believes that the garage could easily be converted into a four-plex.
- Advised that when the garage was originally constructed, the Applicant assured the neighbourhood that it would only be used an office and not converted into a suite.

Dr. Mike Penney, 2065 Golfview Road

- Advised that he was present at the Advisory Planning Commission meeting and confirmed that the Applicant indicated that the garage would only be used as an office and not converted into a suite.
- Expressed a concern with the number of people and vehicles coming and going from the property.

Anne Leong, 964 Walker Drive

- Advised that she lives directed behind the accessory structure.
- Advised that there have been a number of complaints filed with the City's Bylaw Enforcement Department regarding the illegal suite within the accessory building.
- Believes that there has been an increase in activity on the second floor of the garage and expressed a concern that the plans submitted to the City indicate that there are three (3) areas in the garage sited for plumbing.
- Expressed a concern with the number of people who come and go from the residence and garage area.
- Feels that the subject property is always in an unsightly state.

Brian Chamberlain, 2015 St. Andrews Drive

- Advised that he lives across the street from another of Mr. Chung's properties and advised that the noise from the occupants is very loud and there is a lot of traffic concerns.
- Expressed a concern that if this rezoning is allowed, it will set a precedent for future rezonings in the area.

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- Advised that his property is not directly affected by the rezoning application, however he does feel that it is affected by the concept.
- Objects to the concept of building carriage houses and accessory buildings first and then applying to the City to have them rezoned for secondary suites.
- Expressed a concern that the Applicant previously indicated that the garage would only be used as office space and not converted into a secondary suite.

Victor Leong, 964 Walker Drive

- Provided a synopsis of what transpired during the Advisory Planning Commission meeting when the development of the garage was considered.
- Confirmed that he submitted the Petition in Opposition to the proposed variance.
- Expressed a concern that the Applicant constructed an illegal suite and is now asking for forgiveness.
- Advised that, for over a 2 year period, he complained to various City staff regarding the illegal suite in the garage and that it took the City approximately 8 months to gain entry to the garage as Mr. Chung refused the City entry.
- Advised that it has taken approximately 16 months, since the time of the original Bylaw complaint, for Mr. Chung to make this rezoning application.

Shirley Goebel, 2045 Golfview Road

- Believes that there is a second kitchen in the basement of the principle residence.
- Expressed a concern that there is a lot of tenant traffic coming and going from the subject property.

Ken Chung, Applicant

- Advised that he participates in OUC's home-stay program and has students who reside in the principle residence.
- Confirmed that the basement of the principle residence had a second kitchen, which does not have a stove, when he purchased the property.
- Believes that there is enough on-site parking to accommodate the people living on the subject property.
- Believes that his property is not the only property that generates traffic in the area.
- Advised that the accessory building already existed when he purchased the property, but that he simply renovated the structure to include the garage as well as his office space.
- Does not believe that the premises should be considered unsightly.
- Advised that at the time of the Advisory Planning Commission meeting, he had no intention of adding a secondary suite to the garage structure.
- Believes that the floor plan of the structure is too small to accommodate multi-suites.
- Confirmed that there is currently one (1) tenant residing in the garage structure and three (3) home-stays residing in the principal residence.
- If Council does not support the rezoning, then he is prepared to ask the tenant in the garage structure to vacate the premises so that the kitchen area can be removed.
- Confirmed that the height of the present structure is higher than the original structure.

Staff:

- Clarified the "boarding and lodging" definition in the City's Zoning Bylaw.
- Advised that the appropriate zoning for "boarding and lodging" is the RU6 zone and that a business license would be required.

There were no further comments.

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4. TERMINATION:

The Hearing was declared terminated at 8:03 p.m.

Certified Correct:

Mayor

/slh

Deputy City Clerk