

Public HearingMay 3, 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, May 3rd, 2011.

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

Council members absent: Councillor Luke Stack.

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

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:03 p.m.

Mayor Shepherd advised that Agenda Item No. 3.3 will not be considered by Council during the Public Hearing as the Applicant did not meet the requirements of Development Application Procedure Bylaw with respect to signage and will be deferred by Council during the Regular Meeting portion.

Mayor Shepherd advised that Agenda Item No. 3.4 will not be considered by Council during the Public Hearing as the Applicant has requested that the Public Hearing be deferred until further notice.

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 April 15, 2011 and by being placed in the Kelowna Daily Courier issues of April 25, 2011 and April 26, 2011, and in the Kelowna Capital News issue of April 24, 2011, and by sending out or otherwise delivering 7,052 letters to the owners and occupiers of surrounding properties between April 13, 2011 and April 21, 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 Hobson joined the meeting at 6:07 p.m.

3. INDIVIDUAL BYLAW SUBMISSIONS

- 3.1 Bylaw No. 10514 (Z11-0007) - Kyla Jackson - 1794 Glenella Place - THAT Rezoning Application No. Z11-0007 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 17, Section 29, Township 26, O.D.Y.D., Plan 10724, located on Glenella Place, 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 the suite be eligible for final occupancy prior to final adoption of the zone.

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

- Letters of Opposition:
 - Mary Wozny, Pushor Mitchell LLP, 301-1665 Ellis Street
 - Janet Taylor, 1792 Glenella Place
 - Cray Harris, 1793 Glenella Place
- Letters of Concern:
 - Susan Darnbrough, 1798 Glenella Place
 - Brian & Shirley Fears, 1795 Glenella Place
- Petition of Opposition:
 - A Petition of Opposition signed by 22 owners/occupiers of the surrounding properties as submitted by Daniel Turner, 1796 Glenella Place

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

Kyla Jackson, Applicant

- Advised that she currently lives in the large house and feels that a secondary suite would benefit her financially.
- Wants to upgrade the suite in order to attract a better type of tenant.
- Understands her neighbours concerns regarding her past tenants and advised that she is doing her best to ensure that the rental of the suite is managed properly.
- Advised that she purchased the subject property in 2005 and that there have been several tenants who have occupied the premises since 2005.
- Advised that she spoke to her neighbours about the rezoning application when the Development Sign was posted.
- Advised that she spoke with a Bylaw Enforcement Officer back in 2006 with respect to the tenant activity on the premises.
- Advised that she did not fully understand what was required to legalize the suite in the subject property as it was originally used as a second kitchen for boarders.
- Confirmed that there is ample on-site parking for 3 or 4 additional vehicles and that she currently parks her vehicle in the carport.
- Advised that she has spoken with City staff at length while she was having the suite renovated and acknowledged that she was taking a risk by renovating the suite prior to having the zoning approved.

Staff:

- Clarified the difference between a legal second kitchen for boarders and a legal secondary suite.

Gallery:

Karin Turner, 1796 Glenella Place

- Opposed to the rezoning application.
- Believes that the Applicant has not demonstrated good management of her tenants.
- Confirmed that she has made complaints regarding the tenant activity to both the City's Bylaw Enforcement Office and the RCMP.
- Believes that there are a number of illegal suites in the area.

Public HearingMay 3, 2011Daniel Turner, 1796 Glenella Place

- Believes that the subject property has had approximately 25-30 different tenants in the last 2 years.
- Opposed to the rezoning application.

Brian Fears, 1795 Glenella Place

- Advised that he has lived at 1795 Glenella Place for the past 24 years.
- Believes that the Applicant's tenants and their friends often park on the street.
- Advised that it is very difficult to establish exactly how many tenants have occupied the suite over the past few years as there appears to be a lot of different people coming and going from the residence.
- Opposed to the rezoning application.

Cray Harris, 1793 Glenella Place

- Believes that the majority of the residents in the area are opposed to the rezoning.
- Opposed to the rezoning application.

Brent Bachmann, 1231 Mountainview Street

- Opposed to the rezoning application.

Kyla Jackson, Applicant

- Advised that she understand the concerns expressed by her neighbours.
- Advised that she has done everything within her rights as a landlord in order to deal with the complaints by the neighbours regarding her tenants.
- Advised that the only neighbours who have spoken to her about their concerns are Mr. and Mrs. Turner.

There were no further comments.

- 3.2 Bylaw No. 10516 (Z11-0013) - David and Dellmari Richardson (Architecturally Distinct Solutions Inc.) - 1441 Appleridge Road - THAT Rezoning Application No. Z11-0013 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 25, Section 29, Township 29, SDYD, Plan 32500, located on 1441 Appleridge Road, Kelowna, BC from the RR3 - Rural Residential 3 zone to the RR3s - Rural Residential 3 with Secondary Suite zone, be considered by Council.

AND THAT 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 final adoption of Zone Amending Bylaw be considered subsequent to the requirements of the Interior Health Authority being completed to their satisfaction.

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

- o Letter of Concern:
 - Sandra & Peter Fearon, 1411 Appleridge Road
- o Letter of Inquiry:
 - Angie Lenardon, 1435 Appleridge Road

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

Public HearingMay 3, 2011David Richardson, Applicant

- Advised that he has nothing further to add to staff's comments, but would be willing to answer any questions Council may have.
- Advised that the addition is being constructed specifically for his father-in-law. The requested rezoning to the "s" designation will allow his father-in-law to have his own private living space with his own kitchen.

Gallery:

Angie Lenardon, 1435 Appleridge Road

- Expressed a concern with parking as it would appear that the current driveway is not adequate.
- Expressed a concern that the subject property is on a septic system and inquired if a proper inspection was conducted in order to ensure that the septic tank will support the additional living space.
- Expressed a concern with the draining of the Applicant's above-ground pool. When the pool is being drained, it flows onto her property and floods her shed.

Staff:

- Advised that the inspection of the septic system would be conducted by Interior Health and that the inspection of the septic system would have been a condition of the Building Permit.

David Richardson, Applicant

- Advised that there is room for 5 vehicles to park on the property and that the residents only require space for 3 vehicles.
- Advised that he was made aware of the pool drainage issue last year and will ensure that he drains the pool in the area that will not flood his neighbour's property.
- Confirmed that the building permit process included a septic system inspection and that as a result of the inspection, he was required to construct a new septic field at a cost of \$30,000.00.
- Advised that he canvassed the neighbourhood and received positive feedback from a number of his neighbours.

There were no further comments.

- 3.3 Bylaw No. 10522 (Z10-0100) - Balwinder and Harbax Khunkhun (Balwinder Khunkhun) - 445 Pearson Road - THAT Rezoning Application No. Z10-0100 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 67, Section 26, Township 26, O.D.Y.D., Plan 22239, located on Pearson Road, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU6 - Two Dwelling Housing 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 Black Mountain Irrigation District and the Development Engineering Branch being completed to their satisfaction.

The Public Hearing with respect to Bylaw No. 10522 will be deferred by Council during the Regular Meeting of May 3, 2011 as the Applicant did not meet the requirements of Development Application Procedure Bylaw No. 8140 with respect to signage.

- 3.4 Bylaw No. 10523 (Z11-0003) - Mark Fipke (Felix Westerkamp) - 5064 Lakeshore Road - THAT Application No. LUC11-0001 to discharge the Land Use Contract 77-1012 for Lot A Section 23 Township 28 SDYD Plan 30063, located at 5064 Lakeshore Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z11-0003 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot A Section 23 Township 28 SDYD Plan 30063, located at 5064 Lakeshore Road, Kelowna, BC from the A1 - Agriculture 1 zone to the RU1s - Large Lot Housing with Secondary Suite zone, be considered by Council;

AND THAT application No. LUC11-0001 and the 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 Resolution to discharge Land Use Contract 77-1012 and a Development Variance Permit for the subject property;

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

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

The Public Hearing with respect to Bylaw No. 10523 was deferred by the Applicant.

3.5 Bylaw No. 10524 (Z11-0014) - Kelowna Smarthomes Ltd. - 477 Swan Drive - THAT Rezoning Application No. Z11-0014 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 6 Section 24 Township 28 SDYD Plan KAP88425, located at 477 Swan Drive, Kelowna, BC from the RU1h - Large Lot Housing (Hillside Area) zone to the RU1hs - Large Lot Housing (Hillside Area) 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 prior to final adoption of the zone amending bylaw the applicant must submit revised drawings in compliance with applicable Zoning Bylaw height regulations;

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

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

- Letters of Opposition:
 - Dale Erickson, ATR Developments Inc., 5340 Signet Crescent
 - Edward & Mae Michielsen, 369 Trumpeter Court
 - Nada Grujic, 473 Swan Drive
 - Lee & Terry Keller, 479 Swan Drive
 - Pat & Jerry Desjarlais, 5332 Signet Crescent
 - Michael & Beverley Wood, 475 Swan Drive
- Letter of Concern:
 - Lawrence Richardson, 468 Trumpeter Road

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

Mike Brown, Applicant's Representative

- Advised he is building a "spec home" on the subject property and wishes to include a secondary suite.
- Believes that the location, as well as the neighbourhood, is well suited for a secondary suite.
- Advised that the subject property is a short walking distance to the new elementary school in the Kettle Valley area.
- Advised that the suite will have ground-level access to the backyard and will be accessed through the side of the residence.
- Advised that the plans for the property include a 3-car garage with ample on-site parking along the side yards.

There were no further comments.

- 3.6 Bylaw No. 10520 (OCP10-0014), Bylaw No. 10462 (TA10-0011) and Bylaw No. 10521 (Z10-0078) - City of Kelowna - 575-599 & 653 Harvey Avenue - THAT OCP Bylaw Amendment No. OCP10-0014 to amend Map 19.1 of the Kelowna 2020 - Official Community Plan Bylaw No. 7600 by changing the Future Land Use designations of Lot A, D.L. 139, ODYD, Plan 20381 Except Plan KAP81041 located at 653 Harvey Avenue and Lot A, District Lots 14 and 139, ODYD, Plan KAP52333 Except Plan KAP81471 from Commercial, Education & Minor Institutional and Major Park & Open Space to Commercial, Multiple Unit Residential - Medium Density and Major Parks and Open Space as shown on Map 'A' attached to the report of the Land Use Management Department, dated April 1, 2011, be considered by Council;

AND THAT OCP Amendment No. OCP10-0014 to amend Section 19 of the Official Community Plan to change the definition of Multiple Unit Residential - Medium Density designation to read: "Townhouses, garden apartments, and apartment buildings. Complementary uses (i.e. care centres, minor public services/utilities, and neighbourhood parks) which are integral components of urban neighbourhoods would also be permitted. Building densities would be generally consistent with the provisions of the RM4 - Transitional Low Density Housing and RM5 - Medium Density Multiple Housing zones of the Zoning Bylaw and may include CD Comprehensive Development zoning for similar densities or land uses. This designation provides potential for increased density specific to four (4) buildings that meet the RM5 Zone height regulations as per the Central Green CD 22 Zone. The maximum of Floor Area Ratio (FAR) for sub-area D is 1.5; for sub-areas C & G it is 1.6 and for sub-area H it is 1.7.", be considered by Council;

AND THAT OCP Amendment No. OCP10-0014 to amend Section 19 of the Official Community Plan to change the definition of Commercial designation to read: "Developments for the sale of goods and services. Integration of residential uses into commercial developments as mixed-use projects is encouraged in Urban Centres. Building heights of up to four storeys in the South Pandosy Urban Centre and up to twelve or fourteen storeys at selected locations in the Rutland Urban Centre are encouraged. In the City and Highway Urban Centres buildings up to twelve or sixteen storeys will be encouraged, depending on site specific conditions. Existing Commercial zoning along Highway 97 North is acknowledged. This designation may also include CD Comprehensive Development zoning that includes commercial uses. In the case of CD22, building height will be as per applicable zoning. Exclusively residential projects will be permitted under the commercial land use designation only where such use is supported by the C7 zone in the Downtown and Rutland", 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 April 1, 2011;

AND THAT Text Amendment No. TA10-0011 to amend City of Kelowna Zoning Bylaw No. 8000 and Sign Bylaw No. 8235 as outlined in Schedule "A" of the report of the Land Use Management Department dated April 1, 2011 be considered by Council;

AND THAT Rezoning Application No. Z10-0078 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classifications of Lot A, D.L. 139, ODYD, Plan 20381 Except Plan KAP81041 located at 653 Harvey Avenue from C4 - Urban Centre Commercial zone to CD22 - Central Green Comprehensive Development zone and Lot A, District Lots 14 and 139, ODYD, Plan KAP52333 Except Plan KAP81471 from P2 - Education and Minor Institutional zone to CD22 - Central Green Comprehensive Development zone, be considered by Council;

AND THAT the OCP Bylaw Amendment No. OCP10-0014, Text Amendment No. TA10-0011 and the 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 Permit on the subject properties;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch and the Ministry of Transportation 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;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the registration of Public Access Easements over Sub Areas A, B, C & G;

AND THAT Council direct Staff to secure an affordable housing agreement for purpose built affordable rental housing on Sub Areas E & H as part of the land purchase and sale agreement;

AND FURTHER THAT final adoption of the zone amending bylaw be considered subsequent to the registration of a Section 219 Covenant outlining the LEED requirements.

Derek Edstrom, Manager, Strategic Land Development, City of Kelowna and Stephen Bugbee, Consultant, BKDI Architects:

- Gave a presentation with respect to the proposed "Central Green" development.
- Advised that 40% of the 13 acre redevelopment will be designed as park.
- Advised that the following criteria will make "Central Green" a sustainable development:
 - o Comprehensive Development Zone;
 - o Detailed Design Guidelines;
 - o All buildings will be LEED Certified minimum;
 - o Demonstration of a LEED Platinum building;
 - o District Energy;
 - o 15% Affordable Housing Units; and
 - o LEED Gold Neighbourhood Development.

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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. No one came forward.

4. TERMINATION:

The Hearing was declared terminated at 7:43 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk