

Public HearingJuly 24, 2012

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 24th, 2012.

Council members in attendance: Mayor Walter Gray, Councillors Colin Basran, Andre Blanleil, Maxine DeHart, Gail Given, Robert Hobson, Mohini Singh, Luke Stack and Gerry Zimmermann.

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

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 6:01 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "*Kelowna 2030* - Official Community Plan Bylaw No. 10500" 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 July 6, 2012 and by being placed in the Kelowna Capital News issues of July 13, 2012 and July 17, 2012, and by sending out or otherwise delivering 1,399 letters to the owners and occupiers of surrounding properties between July 6, 2012 and July 13, 2012.

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. Z11-0006 - Domenic & Susanne Panucci (Domenic Panucci) - 3380 Neid Road - THAT Council receives, for information, the Supplemental Report of the Land Use Management Department dated June 19, 2012 with respect to Rezoning Application No. Z11-0006;

AND THAT Bylaw No. 10675 be forwarded to the July 24, 2012 Public Hearing.

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

- Letters of Opposition:
 - Chad Sinclair, 2589 Packers Road
 - Nora Solinsky, 2581 Packers Road

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

Domenic Panucci, Applicant

- Confirmed that he would be more than willing to relocate the structure in order to minimize the impact on the surrounding neighbours.

Gallery:Chad Sinclair, 2589 Packers Road

- Read the speaking notes that he submitted to the Office of the City Clerk.
- Opposed to the rezoning.
- Believes that the Applicant does not have the right to drastically change the land of Lot 1 owned by Ken & Heather Ingram.
- Expressed a concern that the Geotechnical Consideration Report was based on wrong information and should be disregarded as the Report was based on a "proposed shop", not a "proposed secondary suite".
- Expressed a concern that the Applicant has clear cut the trees on the subject property.
- Displayed a photo of the subject property which was taken from his neighbour's backyard.
- Advised that if the proposed structure was being used as a shop, it would not impact the access road as much as if it was a secondary suite. A secondary suite would entail the use of the access road on a more regular basis.
- Responded to questions from Council.

Steve Parr, 2573 Packers Road

- Advised that his backyard is directly behind and below the property in question.
- Expressed a concern with the siting of the proposed secondary suite.
- Expressed a concern that the Applicant has not had any discussion or dialogue with the adjacent property owners since the first Public Hearing when this matter was considered.
- Expressed a concern with respect to the privacy impacts on the adjoining properties.
- Opposed to the rezoning.
- Confirmed that he submitted a Petition in opposition at the last Public Hearing which was signed by all six (6) adjoining property owners.
- Responded to questions from Council.

Bob Mack, 2565 Packers Road

- Advised that his property is directly adjacent to the subject property.
- Opposed to the rezoning.
- Expressed a concern with the stability of the steep slope on the subject property.
- Expressed a concern that the work done on the subject property has seriously compromised the integrity of the steep slope.
- Expressed a concern that the Access Easement is not much more than a path and will have to be reconstructed to allow for vehicular traffic.
- Expressed a concern that the retaining walls of the adjoining properties could be compromised by the activity on the site.
- Advised that the properties in the area are all on septic tanks.
- Displayed a photo of the slope of the subject property.
- Displayed a photo of the subject property from his backyard.
- Advised that the soil on the subject property is quite "sandy".
- Confirmed that the Applicant has not spoken to him regarding the rezoning or the activity on the subject property.
- Advised that there is a history of water issues, as there is a aquifer in the area.
- Responded to questions from Council.

Ken Ingram, 2655 Bewlay Road

- Advised that he was unaware, until the original Public Hearing, that there was an Access Easement Agreement between his property and the subject property.
- Expressed a concern with the integrity of steep slope on the subject property.
- Expressed a concern that he may be liable if something goes wrong with the property along the Easement Area, as the Easement is essentially on his property.

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- Expressed a concern that there are large pine trees on his property that could be compromised by the activities on the subject property.
- Advised that he obtained a legal opinion that the Applicant has the right to use the Access Easement Area to access the subject property, but not to disturb the soil in the Easement Area or disturb the Easement Area in any manner.
- Opposed to the use of the Easement Area as proposed by the Applicant.
- Advised that he was approached by the Applicant a number of years ago requesting the use of the Easement Area for farm vehicles, which access was granted at the time.
- Confirmed that the Applicant did not have any discussions with him regarding the proposed rezoning application and the use of the Access Easement Area.
- Responded to questions from Council.

Domenic Panucci, Applicant

- Advised that he has been living on the property since 1991 and has never had any complaints.
- Can't understand why the neighbours are upset.
- Advised that he attempted to speak with Mr. Sinclair a couple of years ago when the property was resurveyed, but has not spoken to Mr. Sinclair since then.
- Believes that he has met all of the requirements of the rezoning.
- Advised that he would be willing to do whatever is necessary to make the neighbours happy.
- Advised that there is a possibility that the driveway to the secondary suite could be situated next to his residence, but it was indicated by City staff that he should use the access easement on the site.
- Advised that he originally wanted to place the secondary suite structure at the top of the subject property, but the Agricultural Land Commission did not support that location.
- Confirmed that the proposed location of the structure was suggested by the Agricultural Land Commission.
- Believes that the Access Easement Area is large enough to be used by farm vehicles as well as motor vehicles.
- Confirmed that the proposed secondary suite would have a garage underneath and a living area above.
- Confirmed that he is actively farming the top of the property.
- Responded to questions from Council.

Deputy City Clerk:

- Advised that the City Solicitor has reviewed the Easement document and provided legal advice. Any work done on the Access Easement Area would have to follow the regular permitting process for development. Issues or concerns with the Easement Agreement would have to be resolved between the property owners to which the Agreement applies.

There were no further comments.

- 3.2 Text Amendment Application No. TA12-0005 and Rezoning Application No. Z12-0035 - Secondary Suite Zone and Bylaw No. 10706 (Business Licence Bylaw Amendment) - Various owners/City of Kelowna - Secondary Suite Zone - THAT Council receives, for information, the report from the Land Use Management Department dated June 12, 2012 with regards to a proposed text amendment that would permit secondary suites within single family dwellings throughout the City of Kelowna and to change the secondary suite zoning classifications;

AND THAT Text Amendment No. TA12-0005 to amend City of Kelowna Zoning Bylaw No. 8000, as outlined in "Schedule A" and "Schedule B" attached to the Report of the Land Use Management Department dated June 12, 2012 be considered by Council;

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AND THAT Rezoning Application No. Z12-0035 to amend City of Kelowna Zoning Bylaw No. 8000 to change the zoning classifications for all properties with the 's' zone designation with a detached accessory building containing a secondary suite (carriage house) to the 'c' zone; and to remove the 's' zone designation from the properties with a secondary suite contained within a single family dwelling, as identified in Appendix 'A' and Appendix 'B' attached to the report of the Land Use Management Department dated June 12, 2012, be considered by Council;

AND THAT Council give reading consideration to Bylaw No. 10712 being Amendment #12 to City of Kelowna Bylaw No. 7245;

AND THAT Council give reading consideration to Bylaw No. 10665 being Amendment No. 1 to Development Fees Application Bylaw No. 10560;

AND THAT Council give reading consideration to Bylaw No. 10711 being Amendment No. 6 to Animal and Poultry Regulation and Animal Pound Bylaw No. 5421-82;

AND FURTHER THAT final adoption of the Text Amendment bylaw and corresponding zone amending bylaw be considered concurrently with final adoption of Bylaw Nos. 10655, 10706, 10711 and 10712;

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

- Letters of Support:
 - Marianne Hill, 260 Lake Avenue
 - Mark Stevens, 3478 Hall Road
 - Ruth Mellor on behalf of the Canadian Federation of University Women (CFUW) Kelowna
- Letter of Opposition:
 - Randy Christian, 1018 Long Ridge Drive

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

Gallery:

Brenda Sbrozzi, 4352 Turner Road

- Opposed to the proposed text amendments.
- Expressed a concern that the changes will negatively impact property values.
- Expressed a concern that City Council is removing itself from the responsibility of looking after the well-being of the City.
- Expressed a concern that by doing this, City Council will put up a barrier with respect to soliciting public input.
- Expressed a concern that the School District was not consulted.
- Expressed a concern with respect to the timing of the Public Hearing for these amendments as she believes that July is not the appropriate time to hold a Public Hearing as a lot of people are on holidays during the summer months.
- Expressed a concern with the amount of vehicles that could potentially be located on properties with secondary suites.
- Responded to questions from Council.

Staff:

- Confirmed that it is the City's practice to circulate these types of applications to the School District for comment.

Deputy City Clerk:

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- Provided clarification with respect to the Public Hearing scheduling process.

Mark Thompson, President, Okanagan Mission Residents Association

- Distributed a copy of his speaking notes.
- Confirmed that the Association is opposed to the proposed text amendments.
- Believes that public participation in the secondary suite process will be removed if the text amendments are approved.
- Believes that the Public Hearing process is an opportunity for the public to be heard.
- Expressed a concern that the City has not effectively communicated its intentions to the general public.
- Responded to questions from Council.

Len McFarlane, 419 Providence Avenue

- Opposed to the proposed text amendments.
- Believes that the proposed text amendments will encourage more tenancies which will be detrimental to the surrounding neighbourhood.
- Expressed a concern with respect to the removal of public input process on secondary suite applications.
- Believes that Council should streamline the secondary suite process, rather than eliminate it.
- Responded to questions from Council.

Gab, 1886 Parkview Crescent

- Currently owns a RU6 lot and believes that by approving the proposed text amendments for secondary suites, Council is making a single-family home into a duplex.
- Supports an affordable process for affordable housing.
- Inquired why RU6 lots are not included in the proposed text amendments.

Staff:

- Clarified the definition of a RU6 zone and what can occur on a RU6 lot.

City Manager:

- Further clarified the definition of a RU6 zone and what can be constructed on a RU6 lot.
- Advised that the majority of the RU6 lots in the City are too small to accommodate secondary suites within both residences and that is why the RU6 lots are not included in the proposed text amendments.

Rob Seger, 200 Ambridgefield Road

- Inquired if there be a "Secondary Suite" Sign requirement included in the proposed new process.
- Inquired if only homeowners can apply for a secondary suite, or if investors would be allowed to as well.

Staff:

- Advised that there is no "Secondary Suite" Sign requirement in the proposed new process.
- Advised that there is no restriction on who can apply for a suite, it can be a homeowner or an investor.

Edith Gesch, 760-768 Burne Avenue

- Advised that she currently owns a RU6 lot.
- Inquired why the RU6 zone is not included in the proposed text amendments, particularly if the RU6 lot is stratified.
- In favour of the proposed text amendments.
- Would like Council to consider including the RU6 zone in the new secondary suite process.

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- Believes that by not legalizing suites, you end up with more tenants and more vehicles on the property because they are not been regulated.

Brenda Sbrozzi, 4352 Turner Road

- Suggested that Council keep the public process component for secondary suite rezoning applications by requiring signatures of support from surrounding neighbours prior to approval.

There were no further comments.

- 3.3 Rezoning Application No. Z12-0050 - City of Kelowna - 645 Dodd Road - THAT Rezoning Application No. Z12-0050 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 1 Section 26 Township 26 ODYD Plan KAP91112, located at 645 Dodd Road, Kelowna, BC, from the P5 - Municipal District Park to the P5 - Municipal District Park (Liquor Primary) zone be considered by Council;

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

The Deputy City Clerk advised that no correspondence and/or petitions had been received.

Mayor Gray 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.

- 3.4 Rezoning Application No. Z11-0081 - Regional District of Central Okanagan, Central Okanagan Land Trust and Crown (Regional District of Central Okanagan) - 1456 KLO Road - THAT Council receives, for information, the Supplemental Report of the Land Use Management Department dated June 28, 2012 with respect to a proposed amendment to Rezoning Application No. Z11-0081;

AND THAT Rezoning Application No. Z11-0081 (Bylaw No. 10724) be amended at first reading to remove Lot 2, District Lot 131, ODYD, Plan KAP53338, located at 1456 KLO Road, Kelowna, BC as shown on Map "B" attached to the Report of the Land Use Management Department dated June 28, 2012 be considered by Council;

AND THAT the Zone Amending Bylaw, as amended, be forwarded to the July 24, 2012 Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Zone Amending Bylaw, as amended, 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:

- o Letter of Concern:
 - Leo Gebert, 5225 Lakeshore Road

Mayor Gray 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.

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4. TERMINATION:

The Hearing was declared terminated at 8:37 p.m.

Certified Correct:

Mayor

SLH/dld

Deputy City Clerk