

Public HearingFebruary 9, 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, February 9th, 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: Acting City Manager, Jim Paterson; City Clerk, Stephen Fleming; Director, Land Use Management, Shelley Gambacort; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:05 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 January 22, 2010, and by being placed in the Kelowna Daily Courier issues of February 1, 2010 and February 2, 2010, and in the Kelowna Capital News issue of January 31, 2020, and by sending out or otherwise delivering 605 letters to the owners and occupiers of surrounding properties between January 22, 2010 and January 27, 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
- 3.01 Bylaw No. 10269 (TA09-0006) - City of Kelowna - THAT Council receives for information the Supplemental Report of the Community Sustainability Division dated December 18, 2009 with respect to the information requested from Staff for TA09-0006;

AND THAT Bylaw No. 10269 (TA09-0006) receives initial consideration;

AND FURTHER THAT Bylaw No. 10269 (TA09-0006) be forwarded to a Public Hearing for further consideration.

Councillor James declared a conflict of interest as he has a direct pecuniary interest in this matter as he is the owner of an agri-tourism business and left the meeting at 6:08 p.m.

Staff:

- Advised that there are currently thirteen (13) sites that exist that would be considering non-conforming as they do not currently meet the criteria set out by the Agricultural Land Commission ("ALC") regulations.
- If farm status is removed from the subject properties, then the ALC will no longer permit agri-tourism accommodation on the sites.

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- If the land use is legitimate and continues, then the property can keep the non-conforming status.

Councillor Blanleil joined the meeting at 6:16 p.m.

Staff:

- Will ensure that the ALC's criteria is met prior to allowing agri-tourism accommodations.
- Provided details regarding the ALC's regulations and the City's Bylaw regulations with respect to agri-tourism accommodation.
- Confirmed that farm worker accommodation is an independent process and will not affect the agri-tourism accommodation criteria.

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

- o Letters of Concern:
 - Robert & Barbara Hanington, 2379 Rojem Road
 - Taylor Sebastian, 2160 Scenic Road

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

Gallery:

Robert Hanington, 2379 Rojem Road

- Is greatly impacted by the RV parks surrounding his property and displayed a photo of the area and detailed his concerns.
- Expressed a concern about the traffic generated by the RV parks in the area as the roadway infrastructure was not designed to handle that many vehicles.
- Concerned about public liability and spraying of the orchards in the vicinity of RV parks.
- Has owned his property for 19 years.
- Has contacted the ALC with respect to his concerns and was advised that there was nothing that could be done.
- Advised that the RV parks in the area operate year-round.
- The Ministry of Agriculture is aware of his concerns and attended the property to take photos; however nothing has been done.

City Clerk:

- The City's Bylaw Enforcement Division will enforce issues on a case-by-case basis dependent on the site.

Gallery:

Sam DeMaria, Longhill Road

- Has been farming in the area since 1961 and expressed a concern with respect to the urban/rural conflict.
- Believes that things have evolved since the ALC has allowed agri-tourism accommodation on agricultural lands.
- Believes that the land in the area is no longer being farmed and that the owners are looking to agri-tourism accommodation for income.
- Believes that this policy will not help the farmer.
- Advised that it is very hard to avoid the spray drift onto adjacent properties that have agri-tourism accommodation.
- Feels that water service is being diverted to the RV parks and not being supplied to the farmer who really needs it.
- Believes that there is a lot of infrastructure that needs to be established for agri-tourism accommodation.
- Believes that if the land is required in the future for food production, the agri-tourism areas will never be converted back for agricultural purposes.

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- Has made an attempt to get a hold of the ALC, but has not been successful.
- Confirmed that all of his income comes from farming.
- Advised that he is consistently dealing with public traffic and trespassing on his property as a result of the agri-tourism accommodation in the area.

Staff:

- Advised that Council has the authority to not allow agri-tourism accommodations within the City's boundaries.

Gallery:

Steven Cipes, 4870 Chute Lake Road

- Read, and submitted, a letter to Council expressing his concern with this application.
- Advised that he is shocked by the restrictions that may be imposed.
- He is the owner of Summerhill Winery and he is going to be proposing similar accommodations and is looking for flexibility with respect to the design and construction of his units.

Barbara Hanington, 2379 Rojem Road

- Concerned about agri-tourism accommodation in the area as she feels that agri-tourism accommodation does not allow for the proper enjoyment of her property.
- Concerned about trespassing on her property and the over spraying that occurs when she is spraying her crops.
- Concerned about the inadequate road access in the area and the amount of traffic on a road that was designed for farm purposes only.
- Has lived on the property for 19 years.
- Advised that the RV Park to the west of her property was established approximately 2 years ago and the RV Park to the east of her property was established last year.
- She contacted the ALC in Vancouver and did not get a reasonable response to her concerns.
- Concerned about the lack of buffering along agricultural land and agri-tourism parcels.
- Will be making sure the Ministry of Agriculture is aware of her concerns regarding agri-tourism accommodation.

City Clerk:

- Provided details with respect how Council can regulate agri-tourism accommodations.

Staff:

- Confirmed that Council passed a previous resolution to directing staff to withhold support for agri-tourism accommodation pending adoption of the subject Bylaw.

There were no further comments.

- 3.02 Bylaw No. 10277 (TA09-0008) - City of Kelowna - THAT Text Amendment No. TA09-0008, to amend City of Kelowna Zoning Bylaw No. 8000, by including the RU1h(s) Large Lot Housing (Hillside Area) with a secondary suite zone, as outlined in Schedule "A" of the report of the Land Use Management Department, dated December 16, 2009, be considered by Council;

AND FURTHER THAT the necessary amending bylaws be forwarded to a Public Hearing for further consideration.

Councillor James returned to the meeting at 7:27 p.m.

The 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.

3.03 Bylaw No. 10276 (Z09-0058) - Various Owners/0722955 BC Ltd. - 5127 Chute Lake Road & 5268-5348 Upper Mission Drive - THAT Rezoning Application No. Z09-0058 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of:

- i. Lots 1-9 Section 24 Township 28 SDYD Plan KAP87908, located at 5268, 5278, 5288, 5298, 5308, 5318, 5328, 5338, and 5348 Upper Mission Dr, Kelowna, B.C. from the RR2 - Rural Residential zone to the RR2s - Rural Residential 2 with Secondary Suite zone;
- ii. A portion of Lot 1 Section 24 Township 28 SDYD Plan 5485 Except Plans 18646, KAP49406, KAP50989, KAP64523 and KAP87908, located on 5127 Chute Lake Rd, Kelowna, B.C., from the RU1h - Large Lot Residential (Hillside Area) zone to the RU1hs - Large Lot Residential with Secondary Suite (Hillside Area) zone;
- iii. A portion of Lot 1 Section 24 Township 28 SDYD Plan 5485 Except Plans 18646, KAP49406, KAP50989, KAP64523 and KAP87908, located on 5127 Chute Lake Rd, Kelowna, B.C., from the RR3 - Rural Residential 3 zone to the RR3s - Rural Residential 3 with Secondary Suite zone
- iv. A portion of Lot 1 Section 24 Township 28 SDYD Plan 5485 Except Plans 18646, KAP49406, KAP50989, KAP64523 and KAP87908, located on 5127 Chute Lake Rd, Kelowna, B.C., from the RR2 - Rural Residential 2 zone to the RR2s - Rural Residential 2 with Secondary Suite zone;

all as shown on Map "A" attached to the report of the Community Sustainability Division, dated November 30, 2009, 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 amendment of the covenants (of the affected properties) that serve to restrict second kitchens.

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

- o Letter of Concern:
 - Don & Tracy Sharpe, 5120 Chute Lake Road

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.

3.04 Bylaw No. 10278 (Z09-0065) - Mike A. Buchner & Sandra C. Buchner/Mike Buchner - 835 Quigley Road - THAT Rezoning Application No. Z09-0065 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 20, Section 22, Township 26, ODYD, Plan 19576, located at Quigley Road, Kelowna, BC, from the RU1 - Large Lot Housing zone to the RU1(s) 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 final adoption of the zone amending bylaw be considered subsequent to the discharge of the covenants on the state of title.

The 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.

- 3.05 Bylaw No. 10279 (Z09-0070) - Mathew & Donna Isabelle/Mathew & Donna Isabelle - 1199 Loseth Drive - THAT Rezoning Application No. Z09-0070 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 3, Section 13, Township 26, ODYD, Plan KAP87484, located at Loseth Drive, Kelowna, BC, from the RU1h - Large Lot Housing (Hillside Area) zone to the RU1h(s) Large Lot Housing (Hillside Area) 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 final adoption of the zone amending bylaw be considered subsequent to the requirements of Black Mountain Irrigation District being completed to their satisfaction.

The 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.

- 3.06 Bylaw No. 10280 (Z09-0066) - T231 Enterprises Ltd., Inc. No. 658931/T231 Enterprises Ltd., dba Braemar Group - THAT Rezoning Application No. Z09-0066 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 1, District Lot 125, ODYD, Plan 3522, located at 2636 Highway 97 North, Lot 2, District Lot 125, ODYD, Plan 35785 except Plan KAP83939, located at 2598 Highway 97 North, Lot 1, District Lot 125, ODYD, Plan 35785 Except Plan KAP83940 located at 2620 Highway 97 North, Kelowna, B.C. from A1 - Agriculture 1 to the C10 - Service Commercial (Liquor Primary/Retail Liquor Sales) 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 registration of a plan of subdivision to consolidate the properties into one title;

AND THAT final adoption of the zone amending bylaw be considered subsequent to the registration of access easements for access to the adjoining hotel property;

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 FURTHER 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.

The 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.

- 3.07 Bylaw No. 10282 (Z09-0074) - Satinderpal Ghuman & Rajandeep Ghuman/Axel Hilmer - 1305 Roth Avenue - THAT Rezoning Application No. Z09-0074 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 15, Section 13, Township 26, ODYD, Plan KAP85143, located at Roth 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 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 Black Mountain Irrigation District being completed to their satisfaction.

The 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.

- 3.08 Bylaw No. 10283 (Z09-0075) - Cody and Andrea Klassen/Cody and Andrea Klassen - 1299 Nishi Court - THAT Rezoning Application No. Z09-0075 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 24, Section 13, Township 26, ODYD, Plan KAP87484, located at Nishi Court, Kelowna, BC, from the RU1h - Large Lot Housing (Hillside Area) zone to the RU1hs Large Lot Housing (Hillside Area) 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 Black Mountain Irrigation District being completed to their satisfaction.

The 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.

- 3.09 Bylaw No. 10284 (Z09-0072) - Ryan Twordik, Joseph and Delores Twordik/Ryan Twordik - 1495 Kloppenburg Road - THAT Rezoning Application No. Z09-0072 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 12, Section 13, Township 26, ODYD, Plan KAP80103, located at Kloppenburg Road, Kelowna, BC, from the RU1h - Large Lot Housing

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(Hillside Area) zone to the RU1hs Large Lot Housing (Hillside Area) 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 Black Mountain Irrigation District being completed to their satisfaction.

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

- Letter of Opposition:
 - Peter & Dianna Bihun, 1620 Sunrise Road

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

Ryan Twordik, Applicant

- Advised that there are already 5 legal suites in the area.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 7:39 p.m.

Certified Correct:

Mayor

SLH/dld

City Clerk