

Public HearingOctober 18, 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, October 18th, 2011.

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

Staff members in attendance were: City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; General Manager, Jim Paterson; Director, Land Use Management, Shelley Gambacort; Planner, Luke Turri; Director, Policy & Planning, Signe Bagh*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Shepherd called the Hearing to order at 6:03 p.m.
2. Mayor Shepherd 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 City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on September 30, 2011 and by being placed in the Kelowna Daily Courier issues of October 11, 2011 and October 12, 2011, and in the Kelowna Capital News issue of October 12, 2011, and by sending out or otherwise delivering 370 letters to the owners and occupiers of surrounding properties between September 30, 2011 and October 7, 2011. For convenience, information regarding this Public Hearing is also available at kelowna.ca.

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 No. 309.

3. INDIVIDUAL BYLAW SUBMISSIONS
- 3.1 Bylaw No. 10568 (OCP11-0006) and Bylaw No. 10594 (TA11-0009) - City of Kelowna - Official Community Plan Bylaw No. 10500 - Text Amendment - Amendments to Chapter 5 - Development Process - THAT OCP Bylaw Text Amendment No. OCP11-0006 to amend Policy 5.5.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by providing further detail relating to building heights in follow-up to the Downtown Plan Charrette process and by adding a new Map (Downtown Building Heights), as outlined in the report of the Policy and Planning Department dated August 3, 2011, be considered by Council;

AND THAT OCP Bylaw Text Amendment No. OCP11-0006 to amend the definition of the Mixed Use (Residential / Commercial) Land Use designation in the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by revising the reference to the need to decrease building height as distance from the core of the Urban Centre increases, as outlined in the report of the Policy and Planning Department dated August 3, 2011, be considered by Council;

AND THAT OCP Bylaw Text Amendment No. OCP11-0006 to include a policy that would encourage ground oriented housing in the Downtown on non-arterial and non-collector streets in the Kelowna 2030 - Official Community Plan Bylaw No.

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10500, as outlined in the report of the Policy and Planning Department dated August 3, 2011, be considered by Council;

AND THAT further to the direction given staff on June 27, 2011, Council direct staff to not initiate an OCP amendment that would amend Map 4.1. Generalized Future Land Use to change the Future Land Use Designation of properties along the western side of Richter Street between the lane north of Bernard Avenue and Clement Avenue from Multiple Unit Residential (Medium Density) to Multiple Unit Residential (Low Density);

AND THAT Council confirm that OCP Bylaw Text Amendment No. OCP11-0006 has been considered in conjunction with the existing Financial Plan;

AND THAT the OCP Bylaw Text Amendment No. OCP11-0006 be forwarded to a Public Hearing for further consideration;

AND THAT Council direct staff to initiate amendments to the Zoning Bylaw No. 8000 to introduce greater side yard set-backs for C7 zone buildings over 22 m in height;

AND THAT Council direct staff to initiate Zoning Bylaw No. 8000 amendments to eliminate vehicle parking requirements for buildings that are four storeys or less in height along Bernard Avenue (between Abbott Street and Ellis Street) and the western side of Water Street (between Bernard Avenue and Lawrence Avenue);

AND FURTHER THAT the OCP amendments and Zoning Bylaw amendments referenced in the August 3, 2011 report from the Policy and Planning Department be advanced concurrently to a Public Hearing.

Staff:

- Displayed the map that is being proposed for inclusion in the Kelowna 2030 Official Community Plan.
- Summarized the proposed amendments to the Kelowna 2030 Official Community Plan.
- Summarized the proposed amendments to City of Kelowna Zoning Bylaw No. 8000.

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

- o Letters of Opposition:
 - Richard Drinnan, 669 Greene Road
 - Robert Cichocki, 1221 Kelglen Crescent
- o Letter of Concern:
 - Keith Funk, 1336 Wilson Avenue

Staff:

- Confirmed that once the Public Hearing was set, staff advised the Downtown Charrette participants of the Public Hearing date.
- Advised that in addition to the statutory requirements, staff placed further ads in the newspaper as well as used social media to advise the public with respect to this Public Hearing.
- Advised that staff will be holding further public consultations on the Downtown Plan in November 2011.
- Confirmed that the number of units allocated to the downtown area are not changing as a result of the proposed amendments.

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

Gallery:Keith Funk, 1336 Wilson Avenue

- Gave a presentation to Council that highlighted the following concerns:
 - o Floorplate Efficiency;
 - o Land Cost Increase;
 - o Further Social Segregation; and
 - o 'Rights' Based Question.
- Advised that unfortunately he did not participate in the Downtown Charrette process.

John Zeger, 1421 Sutherland Avenue

- Opposed to the proposed amendments.
- Believes that the building heights in the downtown should not be increased.
- Believes that a public referendum should be held to determine building heights within the downtown.

Dale Manton, 2275 Aberdeen Street

- Advised that he participated in the Downtown Charrette process.
- Expressed a concern with safety in the downtown.
- Believes that the City needs more residents in the downtown area.
- Expressed a concern that "the feasibility of development" was not considered during the Charrette process.
- Supportive of the outcome of the Charrette.

Mark Thompson, 5150 Cedar Creek Court

- Advised that he is the Vice-Chair of the Advisory Planning Commission.
- Speaking in support of the proposed amendments.
- Believes that Council should consider investigating the "air space" concept.
- Expressed a concern with respect to Bernard Avenue and the incentive of "no parking spaces". Feels that Council should consider a percentage variance vs. a 100% variance with respect to parking and Bernard Avenue developments.

Chris Charron, Business Manager, Kelowna Travelodge

- Believes that there is a fundamental flaw in restricting the development of the Kelowna Travelodge's property to a maximum of 6 storeys.
- Expressed a concern that properties adjacent to City Park, which potentially have a higher market value, are being restricted on how much value they can produce for potential developers.
- Believes that restricting height in the first layer of downtown will sabotage the success of the proposed Downtown Plan.
- Believes that future development of the Travelodge's site will be unlikely as a result of the height restrictions placed on the subject property.
- Requested that Council consider changing the height allowed on Leon Avenue to 26 storeys or more.

Richard Drinnan, 669 Greene Road

- Expressed a concern with the costs and benefits of the proposed land use and zoning.
- Expressed a concern with the cost to taxpayers as a result of the incentives being proposed.
- Believes that the height issue is directly related to the economic cost of development.
- Expressed a concern that the Downtown Plan Charrette did not consider the feasibility of the proposals.

Marty Enns, 737 Leon Avenue

- Opposed to any suggestion of tall or even taller buildings in this area of the downtown.
- Believes that the heights being proposed were not supported by the participants of the 2030 Official Community Plan consultation process.
- Opposed to the proposed increase in building heights in the downtown area and believes that there should only be a maximum of 19 storeys.

Bob Hayworth, 1395 Ellis Street

- Currently lives in a tower in the downtown area.
- Expressed a concern that the setback requirements focus on the front and back of the proposed structures.
- Expressed a concern with view protection as he believes that view protection is important when you live downtown, particularly when you live in a tower. It is his belief that the connection to the neighbourhood is the view.
- In general, the proposed amendments are good, but he does have some concerns.
- Supportive of the separation principles being proposed for the towers.

There were no further comments.

- 3.2 Bylaw No. 10604 (OCP11-0005) and Bylaw No. 10605 (Z11-0047) - 0911176 BC Ltd. (Architecturally Distinct Solutions) - 1170 Brant Avenue - THAT Official Community Plan Bylaw Amendment Application No. OCP11-0005 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500, by changing the Future Land Use designation of Lot 3, Section 30, Township 24, ODYD, Plan 10537, located on 1170 Brant Avenue, Kelowna, BC from the S2RES - Single/Two Unit Residential designation and PARK - Major Park & Open Space, to the MRL - Multiple Unit Residential (low density) and PARK - Major Park & Open Space designation, as shown on Map "A" attached to the report of Land Use Management Department dated September 8, 2011, be considered by Council;

AND THAT Council considers the Advisory Planning Commission 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 August 18, 2011;

AND THAT Rezoning Application No. Z11-0047 to amend City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 3, Section 30, Township 24, ODYD, Plan 10537, located on 1170 Brant Avenue, Kelowna, BC, from the RU1 - Large Lot Housing zone and to the RM3 - Low Density Multiple Housing and P3 - Parks and Open Space zones, as shown on Map "B" attached to the report of the Land Use Management Department, dated September 8, 2011, be considered by Council;

AND THAT Council forward Bylaw No. 10601 authorizing a Housing Agreement between the City of Kelowna and 0911176 BC Ltd., which requires the owners to designate 4 dwelling units for owner occupied affordable housing on Lot 3, Section 30, Township 24, ODYD, Plan 10537, located at 1170 Brant Avenue, Kelowna, B.C., for reading consideration.

AND THAT the Official Community Plan Bylaw Amendment Application No. OCP11-0005, and zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of Official Community Plan Bylaw Amendment Application No. OCP11-0005 and zone amending bylaw be

considered in conjunction with Council's consideration of a Development Permit on the subject property;

AND THAT final adoption of Official Community Plan Bylaw Amendment Application No. OCP11-0005 and zone amending bylaw be considered subsequent to the requirements of the Development Engineering Branch being completed to their satisfaction;

AND THAT final adoption of the Official Community Plan Bylaw Amendment Application No. OCP11-0005 and zone amending bylaw be considered subsequent to the registration of a Section 219 restrictive covenant on the title of the subject property restricting the number of dwellings on the parcel to no more than 18 units.

Staff:

- Addressed the concerns expressed by Council during the initial consideration of this application.

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

- o Letter of Opposition:
 - Ed & Neta Petkau, 1150 Kelview Street
- o Letters of Concern:
 - Richard Wensink, Glenmore Valley Community Association
 - D. Hugo Cookson, Cookson Motors Ltd., 1150 Gordon Drive

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

Matt Johnston, Architecturally Distinct Solutions, Applicant's Representative

- Gave a presentation to Council and provided an overview of the proposed development.
- Advised that the site has already been approved for nine (9) single-family homes.
- Displayed a rendering of the proposed development.
- Advised that the present development proposal is proposing 18 residential units in total and that each unit will have parking for two (2) owner/occupier vehicles and two (2) visitor vehicles.
- Advised that the south-western portion of the property will be dedicated as park and returned to the City.
- Believes this is a better use of existing serviceable land.
- Believes that the proposal will create affordable market housing.
- Believes that the proposal is very complimentary and is sensitively integrated into the existing neighbourhood.

Rob Richardson, Applicant's Representative

- Provided an overview of the natural environmental area that will be protected and preserved.
- Confirmed that a "no disturb" covenant will be registered on title.

Gallery:

Richard Wensink, on behalf of the Glenmore Valley Community Association

- Expressed a concern that the wildlife corridor in the area is not being adequately protected and suggested that a covenant be placed on the property to create a buffer zone.
- Believes that this proposal will result in a significant loss of land around Brandt's Creek that is currently being utilized as a wildlife corridor.

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- Expressed a concern with how the development will affect the fish that spawn in Brandt's Creek.
- Displayed photos of what the current green space in the area looks like.

John Harling, President, Glenmore Valley Community Association

- Advised that any development adjacent to Brandt's Creek it is concern to the Association.

Santé Gasparetto, on behalf of Giovanni Gasparetto

- Advised that he is speaking on behalf of his father who lives at 1075 Wally Court.
- Advised that his father's property is directly adjacent to the subject property.
- Advised that his father likes the proposed development, but expressed a concern with some of the heights of the structures.

Rob Richardson, Applicant's Representative

- Clarified and addressed some of the issues and concerns raised by the members of the public.
- Advised that a portion of Brandt's Creek flows through private property.

Matt Johnston, Architecturally Distinct Solutions, Applicant's Representative

- Clarified and addressed some of the issues and concerns raised by the members of the public with respect to the proposed building heights.

There were no further comments.

- 3.3 Bylaw No. 10606 (OCP09-0017) and Bylaw No. 10607 (Z09-0079) - Natisa Development Corporation (City of Kelowna) - 3471 Lakeshore Road - THAT Development Permit No. DP09-0160 and Development Variance Permit No. DP09-0161 for Lot 3, District Lot 134, ODYD, Plan 38150; Lot 39, District Lot 134, ODYD, Plan 3886 except Plan KAP76671; Lot 38, District Lot 134, ODYD, Plan 3886 except Plan 40525; Lot 37, District Lot 134, ODYD, Plan 3886 except Plan 40525; Lot 36, District Lot 134, ODYD, Plan 3886; located at 3441, 3451, 3461 & 3471 Lakeshore Road, Kelowna, BC be rescinded by Council;

AND THAT Official Community Plan Bylaw Amendment Application No. OCP09-0017 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of Lot 36 District Lot 134 ODYD Plan 3886 located at 3471 Lakeshore Road, Kelowna BC from the Mixed-Use (Residential/Commercial) designation to the Single/Two Unit Residential designation as shown on Map "A" attached to the report of Land Use Management Department, dated September 2, 2011, be considered by Council;

AND THAT Rezoning Application No. Z09-0079 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 36 District Lot 134 ODYD Plan 3886 located at 3471 Lakeshore Road, Kelowna BC, from the C9 - Tourist Commercial zone to the RU6 - Two Dwelling Housing zone, be considered by Council;

AND FURTHER THAT the Official Community Plan Bylaw Amendment Application No. OCP09-0017 bylaw and the zone amending bylaw be forwarded to a Public Hearing for further consideration.

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

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

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Gallery:

Walter Murrell

- Advised that he is the financing agent for the owner of the subject property.
- Advised that the owner of the property is trying to secure financing and requested that Council defer consideration of this application for a period of 30 to 60 days.
- Confirmed that the financial institution requested that the funds held in trust be released, not the owner of the property.

Staff:

- Expressed a concern that the property in question is already zoned and that there is no funding in place for the proposed infrastructure upgrades.
- The proposed application is a direct result of the agreement that was previously entered into with the property owner.
- Confirmed that the developer's lawyer was holding the funds in trust pursuant to a mortgage agreement.

Moved Councillor Blanleil/Seconded by Councillor Craig

R1027/11/10/18 THAT the Public Hearing with respect to Official Community Plan Bylaw Amendment Application No. OCP09-0017 (Bylaw No. 10606) and Rezoning Application No. Z09-0079 (Bylaw No. 10607) be kept open and rescheduled to the November 1, 2011 Public Hearing for further consideration.

Carried

4. TERMINATION:

The Hearing was declared terminated at 10:24 p.m.

Certified Correct:

Mayor

City Clerk

SLH/dld