

Public HearingApril 17, 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, April 17th, 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; Director, Land Use Management, Shelley Gambacort*; and Council Recording Secretary, Sandi Horning.

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 6:04 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 March 30, 2012 and by being placed in the Kelowna Capital News issues of April 5, 2012 and April 10, 2012, and by sending out or otherwise delivering 292 letters to the owners and occupiers of surrounding properties between March 30, 2012 and April 5, 2012. 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 309.

3. INDIVIDUAL BYLAW SUBMISSIONS
 - 3.1 Rezoning Application No. Z11-0006 -Domenic & Susanne Panucci - (IHS Designs Ltd.) - 3380 Neid Road - THAT Rezoning Application No. Z11-0006 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 2, Section 16, Township 26, ODYD, Plan 8853, located at 3380 Neid Road, Kelowna, B.C. from the A1 - Agriculture 1 zone to the A1s - Agriculture 1 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 final adoption of the zone amending bylaw be considered subject to the requirements of the Fortis BC, Interior Health Authority & South East Kelowna Irrigation District being completed to their satisfaction.

Staff:

- Advised that the Applicant has now indicated that the adjacent property owner is not willing to grant an access easement.
- Advised the siting of the proposed accessory building will have to be revisited as access to the proposed site is not attainable.
- Confirmed that the location of the accessory building will have to be determined prior to the issuance of the Development Permit for the accessory building.

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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.

Domenic Panucci, Applicant

- Has been working with the City to ensure that all of the City's Bylaws and regulations are adhered to.
- Advised that the intended purpose of the accessory building is to house his farm equipment/vehicles and to potentially construct an in-law suite in the future.
- Advised that the Agricultural Land Commission dictated the location of the proposed accessory building. He would have preferred the structure to be sited on the upper level of the property rather than in the area as directed by the Commission.
- Advised that the accessory building will include three (3) garages on the bottom level with the potential for an in-law suite on the upper level.
- Confirmed that the subject property is currently for sale and advised that he is currently just "testing the market".
- Advised that he has owned the property for the past 23 years and that he has always wanted to construct an accessory building on the site.

Gallery:Chad Sinclair, 2589 Packers Road

- Advised that his property is located below and to the north of the subject property and that his family has lived there for the past 32 years.
- Expressed a concern that back in 2006, the Applicant removed trees from the subject property and subsequently re-contoured the property with no development permits or authorization from the City.
- Expressed safety concerns with the changes to the slope of the subject property as a result of the work that has been done by the Applicant.
- Advised that he visited the neighbour at 2655 Bewlay Road and asked if they had granted any right-of-way or easement to 3380 Neid Road for access to the lower property and was advised that they had not granted any access rights to the Applicant.
- Believes that the steep slope that would be affected by the proposed rezoning is subject to a Natural Environment Development Permit and a Hazardous Condition Development Permit.
- Very concerned about the stability of the slope above his residence.
- Opposed to the rezoning, particularly if it involves any disturbance to the slopes above his residence.
- Submitted his speaking notes for the public record.

Staff:

- Confirmed that the subject property is within a Hazardous Condition Development Permit Area, and therefore, a Hazardous Condition Development Permit would be required prior to any work being conducted on the site.
- Confirmed that even though the land is within the Agricultural Land Reserve, a Hazardous Condition Development Permit will still be required.
- Advised that the proposed location of the accessory building was considered the most suitable on the property.
- Confirmed that as a result of the loss of an access easement, the location of the accessory building will have to be re-established and re-considered by the Agricultural Land Commission.
- Advised that Land Use Management staff were only made aware of the loss of the access easement a few days ago.
- Advised that the location of the proposed accessory building will be dealt with through a staff-directed Development Permit.

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- Explained the process that will need to be followed by the Applicant with respect to the Agricultural Land Commission's reconsideration of the location of the accessory building.

Steve Parr, 2573 Packers Road

- Opposed to the proposed rezoning.
- Expressed a concern with the slope as a result of development in the area.
- Believes that the land was disturbed by the Applicant in 2009 by removing all of the trees and some vegetation.
- Opposed to any development of an access road to the accessory building site.
- Expressed a concern with privacy as the accessory building looks directly into his bedroom.
- Advised that he canvassed the neighbourhood and obtained signatures on a Petition of Opposition,
- Advised that he was not approached by the Applicant with respect to the proposed rezoning.
- Submitted the Petition of Opposition for the public record.

Steve Parr, on behalf of Bob & Linda Mack, 2565 Packers Road

- Read a letter from Bob & Linda Mack in opposition to the proposed rezoning.
- Submitted the letter from Mr. & Mrs. Mack for the public record.

Trent Kitsch, 3370 Neid Road

- Believes that staff and Council do not have all of the information required to make an informed decision.
- Opposed to the rezoning.
- Expressed concerns with information contained the Report to Council and the Agricultural Land Commission's Report.
- It is his understanding that the neighbour to the north has not, and will not, be granting an access easement to the subject property.
- Advised that the property was originally cleared to grow grapes and therefore, should be considered agriculturally viable.
- Believes that rezoning the property to the "s" designation will set a precedent.
- Advised that he was not approached by the Applicant with respect to the proposed rezoning.
- Submitted his speaking notes for the public record.

Ken Ingram, 2655 Bewlay Road

- Advised that he is the owner of the property with the proposed easement.
- Advised that the only easement on his property is for utilities purposes.
- Advised that the Applicant approached him a few years ago regarding an access easement and that the request was denied.
- Advised that he was recently approached by the Applicant regarding an access easement and that the request was denied.

Domenic Panucci, Applicant

- Confirmed that the upper area is where he wanted the accessory building to be located on as the area has never been used for agricultural purposes, however the Agricultural Land Commission did not agree to his proposal.
- Confirmed that he has planted some grapes on the slope of the subject portion of the property and is working towards planting more of the property.
- Advised that he has just located paperwork that indicates he has access to the subject property. The paperwork regarding the legal access was included in the documents provided by the previous owner of the subject property.
- Advised that he will provide staff with a copy of the paperwork that indicates that access to the property has been achieved.
- Advised that he will conduct research to determine whether or not the access easement is legal and binding.

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There were no further comments.

Moved by Councillor Given/Seconded by Councillor Blanleil

R338/12/04/17 THAT the Public Hearing with respect to Rezoning Application No. Z11-0006 (Bylaw No. 10675), for the property located at 3380 Neid Road, be kept open pending receipt of further information from staff.

Carried

- 3.2 Rezoning Application No. Z12-0008 - City of Kelowna & Interior Health Authority (Interior Health Authority) - 310 Strathcona Avenue & 313-323 Royal Avenue - THAT Rezoning Application No. Z12-0008 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot 22, DL 14, ODYD, Plan 535 Except Plan KAP81038, located at 310 Strathcona Avenue and Lot A, DL 14, ODYD, Plan EPP11418, located at 313-323 Royal Avenue, Kelowna, BC, from the RU1 - Large Lot Housing zone to the HD1 - Kelowna General Hospital 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 Zone Amending Bylaw be considered subsequent to the requirements of Fortis BC and the Development Engineering Branch being completed to their satisfaction;

AND THAT final adoption of the Zone Amending Bylaw be considered subsequent to completion of a Purchase / Sale Agreement with the City for the property located at 310 Strathcona Avenue;

AND THAT prior to final adoption of the Zone Amending Bylaw a plan of subdivision must be registered at the Land Titles Office to consolidate and hook the subject properties to the parent KGH property;

AND FURTHER THAT Council waive Section 2.2.1 b) ii) of the Development Application Procedures Bylaw to allow final adoption of the Zone Amending Bylaw without consideration of a Development Permit.

Staff:

- Advised that the Applicant has requested that this Application be amended to exclude the property located at 310 Strathcona Avenue as it no longer wishes to purchase the property from the City.

Deputy City Clerk:

- Advised as to the process for removing the reference to 310 Strathcona Avenue.

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

- o Letters of Opposition:
 - Gord & Karen Lovegrove, 2195 Abbott Street
 - Derek & Willemien Brown, 320 Strathcona Avenue
- o Letter of Concern:
 - Heather Martin, 320 Strathcona Avenue

Mayor Gray 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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Doug Levell, Interior Health Authority, Applicant's Representative

- Displayed a PowerPoint Presentation regarding the proposed rezoning of the subject properties in order to incorporate additional lands into the HD1 Zone at the Kelowna General Hospital site.
- Confirmed that the subject properties have now been consolidated into one parcel.
- Confirmed that Interior Health will not be pursuing the purchase of 310 Strathcona Avenue.
- Confirmed that Interior Health is prepared to come forward with a Development Permit Application for Council's consideration prior to adoption of the rezoning bylaw.

Gallery:

Wade Dods, 420 Christleton Avenue

- Advised that he is member of the executive of Kelowna South-Central Association of Neighbourhoods (KSAN).
- Advised that KSAN supports the rezoning application in order to create more parking in the hospital area.
- KSAN would like to see the parking lot available for use as soon as possible.

Derek Brown, 320 Strathcona Avenue

- Expressed a concern with the back lane behind the subject properties as well as the property located at 320 Strathcona Avenue.
- Expressed a concern with the possibility of closing the back lane in the area as this may affect emergency vehicle access.
- Inquired why the existing driveway ramps are not being used to access the proposed parking lot.
- Inquired as to the plan for access to the parking lot; Will the access be from the back lane or from Royal Avenue?

Heather Martin, 320 Strathcona Avenue

- Advised that she is the soon-to-be owner of 320 Strathcona Avenue.
- Would like the back laneway maintained as that is the access she will be using for the rear of her property.

Staff:

- Confirmed that the back laneway will remain accessible and not closed off.

Doug Levell, Interior Health Authority, Applicant's Representative

- Confirmed that the City is requiring access to the parking lot via the back laneway.
- Believes that any access off of Royal Avenue may be too close to the existing intersection to be used as access to the proposed parking lot.

There were no further comments.

- 3.3 Rezoning Application No. Z12-0005 - Lloyd & Yukari Balabanov (Troy Fehr) - 345 Snowsell Street - THAT Rezoning Application No. Z12-0005 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 4, Sections 4 and 9, Township 23, ODYD, Plan 22405, located on 345 Snowsell Street, Kelowna, BC from the A1 - Agriculture 1 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 a building permit for the suite be applied for prior to final adoption of the zone.

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

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Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council. The Applicant was present, but did not have anything further to add to staff's comments. No one came forward.

4. TERMINATION:

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

Certified Correct:

Mayor

Deputy City Clerk

SLH/dld