



CITY OF WEST KELOWNA
MINUTES OF THE ADVISORY PLANNING COMMISSION MEETING

Wednesday, January 20, 2021
COUNCIL CHAMBERS
2760 CAMERON ROAD, WEST KELOWNA, BC

MEMBERS PRESENT: Wayne Kubasek, Chair
Anthony Bastiaanssen, Vice Chair
Julian Davis
Joe Gluska
Bea Kline
Nicole Richard

MEMBER ABSENT: Katalin Zsufa

Staff Present: Carla Eaton, Planner III
Jayden Riley, Planner II
Hailey Rilkoff, Planner II
Mike Cain, Bylaw Manager
Natasha Patricelli, Recording Secretary
Brandon Mayne, Service Desk Technician

1. CALL THE ADVISORY PLANNING COMMISSION MEETING TO ORDER

The meeting was called to order at 9:30 a.m.

In accordance with the most recent Provincial Health Officer Order regarding gatherings and events, the public was not permitted to attend Council meetings in-person. The meeting was however, available to the public via a live webcast and archived on the City's website.

1.1 Appointment of Chair and Vice Chair

It was moved and seconded

THAT Wayne Kubasek act as Chair for 2021.

CARRIED UNANIMOUSLY

It was moved and seconded

THAT Anthony Bastiaanssen act as Vice Chair for 2021.

CARRIED UNANIMOUSLY

2. INTRODUCTION OF LATE ITEMS

2.1 Decision Letters (See Items 9.1 and 9.2)

3. ADOPTION OF AGENDA

It was moved and seconded

THAT the agenda be adopted as amended.

CARRIED UNANIMOUSLY

4. ADOPTION OF MINUTES

4.1 Minutes of the Advisory Planning Commission meeting held December 16, 2020 in the City of West Kelowna Council Chambers

It was moved and seconded

THAT the minutes of the Advisory Planning Commission meeting held December 16, 2020 in the City of West Kelowna Council Chambers be adopted.

CARRIED UNANIMOUSLY

5. PRESENTATIONS

5.1 Mike Cain, Bylaw Manager - Bylaw Compliance & Enforcement Overview

Highlights of the presentation include:

- City of West Kelowna Bylaw enforcement works on a complaint basis;
- Tools available if unsuccessful with voluntary compliance;
- Graduated system of enforcement (warning letter, ticketing, long form information, injunction);
- Provincial Government regulates municipalities on ticketing fines;
- 2 ticketing systems:
 - Bylaw offence notices - restricted by provincial legislation at \$500 per ticket; Civil Burden of Proof - balance of probabilities. Disputes are held at the City of Kelowna's municipal office;
 - Municipal ticket information - cannot exceed \$1000; Burden of proof is beyond a reasonable doubt;

- City of West Kelowna mostly uses bylaw offence notices because it doesn't have to be served personally (ex. out of town owners can be served by mail);
- New tool: In house legal council to assist with court applications;
- Bylaw department has been dealing with enforcement of Short Term Rentals on a complaint basis. With Council's recommendation we tried to deal with it proactively and realized we didn't have the capacity. Proposed model going forward is a 3rd party contractor to use a proactive enforcement approach.
- Regulatory scheme for Short Term Rentals provides the ability to suspend or revoke a business licence, as per the Business Licensing Bylaw.

Questions on the presentation:

- How often would an issue go to an injunction process? A last resort use because it is an expensive process and filed through Supreme Court.
- Mechanism available when Courts assign City a win, could those sums be put on the taxes like ICBC on renewals? No - ticket offences are not put on taxes. Provincial tickets such as speeding can go through insurance but not municipal bylaw tickets.
- Has small debts court been used to collect for Short Term Rentals? Yes.
- Can you clarify Civil Burden of Proof? Criminal proof is beyond a reasonable doubt. In civil court it is a lower level of proof - balance of probabilities and is much easier for a conviction (ex. neighbour notices loud parties next door, the neighbour has to come and give the evidence). At Bylaw Offence hearings it is acceptable for the Bylaw officer to use hearsay to what the neighbour has said or use written statement or by calling in.
- Proactive enforcement - identify unlicensed properties instead of enforcement of a noisy party? We will still receive and respond to complaints however the number of complaints should significantly reduce. With a regulatory scheme in place, the City of Kelowna noticed a significant reduction in number of complaints for nuisance activities. Regulatory scheme has helped with reducing enforcement on a complaint basis. We are hoping to see the same reaction at the City of West Kelowna.
- Is there less Short Term Rental activity based on regulation? Much better chance people will buy in to the system instead of operating illegally and the number of complaints should drop significantly.
- Are complaints predominantly noise/nuisance complaints or because it's a Short Term Rental? Mostly nuisance activity - parking, garbage, noise.
- Why significant drop in issues after regulating Short Term Rentals? Entering a regulatory scheme, having a good neighbour agreement and a

responsibility to protect the integrity of the residential neighbourhood. There's a greater chance that the rental property will be properly managed compared to when it was illegal.

- Is the 3rd party able to track suspended business licences on their ads or identification? 3rd party contractor would have a webpage for public complaints. All Short Term Rental ads must show licence information. It is to be determined if the ads will show suspended licences.
- Most complaints are noise infractions. If they happen at night, Bylaw department cannot respond, would it then be the police? Yes, that is correct for any bylaw infraction. RCMP has the authority to enforce our bylaws and write tickets.
- Are bylaw officers not allowed to enter the premises? That is correct for any infraction. They will ask for entry but we cannot force the issue without a warrant. Entry warrant can be obtained if required.
- Would it be possible in the application process to have a person pre authorize access? Haven't seen that requirement on other municipal Short Term Rental application policies.
- Are licences to be displayed inside or outside the building? Business Licencing Bylaw states all business licences to be displayed in the premises. If a neighbour has a concern they can call the Bylaw department to determined if it is licenced or not.

6. DELEGATIONS

7. UNFINISHED BUSINESS

8. REFERRALS

8.1 P 20-16, Short Term Rental Regulations

Highlights of the presentation include:

Guiding Principles:

- 1. Mitigate Negative Neighbourhood Impacts;
- 2. Protect Long Term Rentals;
- 3. Recognize Importance of Short Term Rentals for Tourism;
- 4. Comprehensive Licensing, Compliance and Enforcement;

Short Term Rentals vs Bed & Breakfast

- Short Term Rentals:
 - Operator may be away;

- May only have one booking;
- Maximum occupancy of up to 3 guest rooms;
- Bed and Breakfast:
 - Expected to be hosted;
 - May have multiple bookings;
 - Maximum occupancy up to 4 guest rooms;

Proposed Short Term Rental Zoning Regulations

- Only permitted within a Single Detached Dwelling;
- Not permitted within a Secondary Suite or Carriage house;
- Maximum occupancy of up to 3 guest rooms or the entire dwelling while the owner is away (no more than 6 guests);
- Operator must be the occupant of the Single Detached Dwelling;
- Require On-Site Parking (in addition to required parking spaces for Single Detached Dwelling);
 - +1 Parking Space for 1-2 Bedrooms rented or;
 - +2 Parking Spaces for 4 bedrooms rented;
- Only permitted in Rural Residential Zones (RU1 - RU5) and Residential Zones (R1, R1L) where Bed and Breakfasts are also permitted;

Proposed Short Term Rental Business Licencing Regulations

- Valid Business Licence Required;
- Operator must provide:
 - Proof of principal residence;
 - Alternate local contact;
 - Required plans: Floor Plan Fire Safety Plan; Safety Audit; Parking Plan;
 - Confirmation of required owner or strata authorizations to operate a Short Term Rental;
- Operator must include Business Licence number on any marketing or listings;
- Operator must respond within 2 hours of being requested by the City;

- Operator must not rent out rooms not approved by the licence or provide accommodation within a secondary suite, carriage house, vehicle, recreational vehicle, tent or accessory building;

Proposed Compliance and Enforcement Program

- Additional staff requested - casual and full time;
- Enhanced enforcement measures;
- Identification of Short Term Rental properties;
- Proactive enforcement;

Community Engagement

- Online questionnaire generated over 700 responses between November 30th and January 3rd;
- Summary of results will be provided to Council at their January 26th Council meeting;
- Staff are reviewing feedback from questionnaire responses, stakeholder correspondence, Council Committees and comparative research prior to drafting Bylaw Amendments for Council's Consideration;

Next Steps

- Bylaw Amendments - starting February 2021:
 - 1st and 2nd reading;
 - Public Hearing;
 - 3rd reading;
 - Adoption;
- Implementation of approved Regulations by Business Licencing Department - Goal to accept Short Term Rental Licence Applications prior to Summer 2021.

Highlights of the discussion include:

- Clarification for house with Carriage house and trailer? Proposed Short Term Rental regulations are only permitted within a Single Detached residential dwelling - not within a carriage house or a Recreational Vehicle;
- Can an occupant be a person or a corporation? Occupant in proposed regulations is a person and not a corporation. Operator needs to prove that it is their principle residence;

- Property with secondary suite can't use main accommodations as a Short Term Rental or can't use secondary suite for a Short Term Rental? Both are not permitted. If the property has a secondary suite then the property could not be used for Short Term Rentals. Councils goals are to protect long term rentals and mitigate neighbourhood impacts;
- To have a property as a Short Term Rental instead of a Secondary Suite some items would have to be removed/changed? That is not the intent of the restriction, it is to protect long term rentals in Secondary Suites. Currently looking at how to address this unintended consequence;
- Restrictions on how many Short Term Rentals can be in a neighbourhood? Current regulations do not propose any neighbourhood limits or licence caps. It was asked to the community through the questionnaire, and it wasn't something that was identified as a high priority for the community. It is not common across the province in other municipalities;
- What happens if it becomes common? For example some areas on waterfront in West Kelowna, what if 30 homes in one area apply for permits? Currently no restrictions on any business licences within an area except for Cannabis retail stores. It is not currently proposed in the draft regulations;
- Not restricted to only waterfront - could be expanded to homes with swimming pools;
- Believe that Short Term Rentals should exist in zones and not mixed up in residential neighbourhoods;
- If Secondary Suites are unlawful as Short Term Rentals, we may lose tourism to neighbouring municipalities;
- Short Term Rentals give people the opportunity to come here as tourists;
- Secondary Suites would need to decommission the secondary suite and get a business licence for a short term rental. Possibility to lose long term rental capacity;
- Points of clarification:
 - Proposed regulations may be the entire home while the operator would be away or rooms within the home. The current proposed regulations would not allow the guests to have their own separate kitchen, while the operator is on site. It would be the operators personal kitchen;
 - Short Term Rentals in Kelowna do not permit Short Term Rentals in secondary suites or carriage houses. City of Kelowna had a number of properties pre zoned to allow the use of Short Term Rentals prior to the regulations coming into place which were grandfathered in;

- City of West Kelowna has separate regulations for single detached and resort townhouse/apartment ex. Barona Beach or the Cove. New developments could apply to rezone to permit these resort accommodation uses;
- Party homes completely detract from neighbourhoods and having regulations in place to protect the neighbourhood;
- Short Term Rentals that are in a self contained space with cooking facilities is why people travel with short term rentals (not just to stay in a room);
- It shouldn't be the responsibility of the home owner to protect long term rentals. It is the homeowners choice - if they want a long term renter or maybe the preference is Short Term Rentals;
- Any extra space the homeowner wants to Short Term Rental out, should be considered;
- Don't think there is a conflict between the two - either a owner wants a long term rental or short term rental;
- Not our job to determine how many people can have business licence or apply in a regional area;
- Some houses can generate more income from renting Short Term Rentals in a few months than renting long term;
- People choose to reside in a residential neighbourhood and have quite enjoyment of the premises not live in a commercial zoned area;
- Trying to govern dramatically different properties (ex. \$5 million dollar home vs. Glenrosa neighbourhood home with a secondary suite) under the same guidelines. Can a one size fits all policy govern this?;
- No greater or lesser impacts on homes with Short Term Rentals in the basement vs. a secondary suite - easier managed having home owner on site;
- Short Term Rental operators would be happy to have a business licence. Those that are operating without caring what the neighbours think are the exceptions;
- Disruptive rentals will disappear eventually with enforcement of regulations;
- Owner being the primary occupant will eliminate the issue of people having multiple rental properties;
- One of the items of evidence is a hydro bill for proof of occupancy;

- Point of clarification: Operator would have to provide proof of principal residence - specific requirements are not yet determined. In other municipalities the home owner grant, drivers licences, government records and utility bills have been used;
- Concern for wine trail if secondary suites can't be used for Short Term Rentals;
- Classification and user friendly for all neighbours within the City of West Kelowna;
- Possibility that before issuance of a licence, neighbours within a certain area give approval for the licence;
- Long term rental homes can have parties when the landlords are away from home too - have to go through the same process for compliance;
- Process has bylaws and legality to go along with it. Eventually will curtail that disregard in the neighbourhood around us;
- 3rd party contractor is not where bylaw needs help (identification of short term rentals) need more help with enforcement of bylaw infractions;
- additional 3rd party operating into the evening would be helpful.

It was moved and seconded

THAT the Advisory Planning Commission recommend support for the adoption of Short Term Rental regulations subject to reconsideration of the following:

1. Council consider permitting the use of secondary suites and accessory homes for Short Term Rentals; and
2. Council consider providing more bylaw enforcement resources to address nuisance complaints in relation to Short Term Rentals.

CARRIED UNANIMOUSLY

Recessed at 11:27 a.m.

Reconvened at 11:32 a.m.

8.2 Z 20-13, Rezoning for Secondary Suite, 2500 Tallus Heights Lane

Highlights of the presentation include:

Applicants Agent, Jamie Mullen, joined the meeting via. Teams

- 2500 Tallus Heights Lane;
- 535 sq. m parcel area;

- Shannon Lake neighbourhood;
- Zoning: Compact Single Detached Residential (RC3);
- OCP: Single Family Residential;
- Vacant:
 - Recent (2018) 20-lot subdivision;
- Surrounding land uses:
 - West: Parks and Open Space (P1);
 - North, East, South: Compact Single Detached Residential (RC3);
- Site-specific text amendment to permit a secondary suite on a parcel under 550 sq. m. within the RC3 Zone;

Legislative Requirements

Local Government Act

- Council has the authority under S. 479 of the *Local Government Act* to amend its Zoning Bylaw;
- S. 489(2) a development variance permit may not vary the use or density of land from that specified in the bylaw;

Policy and Bylaw Review

Official Community Plan No. 0100

- Land Use Designation of Single Family Residential, intended to support traditional single family housing opportunities and encourage more land efficient compact forms for families;
- No amendment to the Land Use Designation is required;

Zoning Bylaw No. 0154

- Property is zoned Compact Single Detached Residential (RC3);
- Permitted secondary uses of the RC3 Zone include "secondary suite on parcels 550 sq. m. or greater";

Technical Review

- Parcel was registered in 2018 as part of a 20-lot subdivision (Tallus Heights Lane and Tallus Heights Drive);
 - All lots minimum 550 sq. m. and intended to support secondary suite use;

- Subject property is the sole lot under 550 sq. m. (required for secondary suite);
- Configuration of parcel is to accommodate vehicular sightlines and turning radius on Tallus Heights Lane;
- Existing covenant restricts access to parcel from Tallus Heights Drive;
 - Access proposed from Tallus Heights Lane;
 - Parking for the suite proposed to be in tandem with garage (one off-street space for one-bedroom suite);
 - No variances to zoning bylaw anticipated;

Referrals

- Referred to various external agencies and internal departments;
- Development Review Committee meeting scheduled for January 27, 2021;
- No issues with proposal have been identified at present;

Key Considerations for APC

- In providing recommendations to City staff and Council, the APC may want to consider the following:
 - a site-specific text amendment is a form of rezoning in which as specific use may be permitted in conjunction with the permitted uses of the existing zone;
 - Should Council give first and second reading to the proposed amendment, a public hearing will be scheduled and residents will be notified of the public hearing date and how to submit feedback;
- Specific comments would be appreciated should the APC have any concerns with the proposal so that they may be further investigated prior to staff presenting the application for Council's consideration.

Highlights of the discussion include:

- Proposed layout of the basement suite - could easily be a 2 bedroom instead of a 1 bedroom. What is to prevent the homeowner from renting it out as a 2 bedroom suite? There are no restrictions other than providing adequate parking. This site specific text amendment would allow secondary suite but not limiting the number of bedrooms.
- Sounds like the neighbourhood was developed with secondary suites in mind so this is a one off for the size of the property.

It was moved and seconded

THAT the Advisory Planning Commission recommend support for file Z 20-13 as presented.

CARRIED UNANIMOUSLY

9. CORRESPONDENCE AND INFORMATION ITEMS

9.1 File: Z 20-06, Decision Letter, Unaddressed Canyon Crest Drive

9.2 File: Z 19-01, Decision Letter, 3060 Seclusion Bay Road

10. OTHER BUSINESS

10.1 Standing Item: Community Discussion Topic

Streetscaping - Tabled from October 21, 2020

Highlights of the discussion include:

- Continuation of discussion from October;
- Received presentation from Economic Development in December;
- Public art as a program to endorse publicly and incentives for developers to add to it;
- Younger generation talks about what we are lacking - colour and theme;
- What will put West Kelowna on a map?;
- Westbank First Nation has done a great job commissioning artwork;
- We could do something collaboratively like partner with Westbank First Nation and have a consistent theme or look throughout the West side.

It was moved and seconded

THAT the APC provide the following advisory comments regarding community planning issues (streetscaping) for Council to consider in any applicable future master planning or budgetary processes:

- Along with themes that may result through the Visioning and OCP update process, consider creating a brand that will put West Kelowna on the map like Kimberley, Winthrop/Leavenworth, WA and Oliver (Wine capital of the Okanagan) and advertise/support it with street signage and streetscaping such as landscaping and artwork.
- Consider developing enhanced planning and development policy to beautify the aesthetics of the Hwy 97 corridor with a focus on landscaping, screening and building facades facing Hwy 97 to create a common theme or aesthetic standard by:

- Encouraging development of a theme or standard and voluntary compliance through business development organizations or neighbourhood level associations, or
- Through enhanced development permit guidelines along the Hwy 97 corridor specifically applied when properties are re-developed (rezoning or building permit).
- Consider increased use of attractive signage and kiosks to influence visitors and drive through traffic to experience our strengths, such as our regional and municipal parks, hiking trails, wineries, breweries, orchards, waterfront and water related tourist commercial establishments.
- Consider support for Public Art Policy to encourage public art installations along key corridors and perhaps in collaboration with Westbank First Nation.

CARRIED UNANIMOUSLY

10.2 Staffing Changes

This was Carla Eaton's last meeting as Advisory Planning Commission Staff Liaison.

Jaydon Riley will be the new Advisory Planning Commission Staff Liaison.

11. ADJOURNMENT OF THE MEETING

The meeting adjourned at 11:58 a.m.

CHAIR

RECORDING SECRETARY