Juli Halliwell

From: John McEwen
Sent: July-29-21 8:47 AM
To: Juli Halliwell
Subject: Fwd: Submission for Council Meeting Anmore Zoning Amendment Bylaw 650-2021

John McEwen
Mayor
Village of Anmore

Begin forwarded message:

> **From:** Richard Knowles <richardk@customplanfinancial.com>
> **Date:** July 29, 2021 at 12:58:57 AM PDT
> **To:** John McEwen <John.McEwen@anmore.com>
> **Subject: Fw: Submission for Council Meeting Anmore Zoning Amendment Bylaw 650-2021**
>
> **To:** village.hall@anmore.com <village.hall@anmore.com>
> **Cc:** Polly Krier <Polly.Krier@anmore.com>; Paul Weverink <Paul.Weverink@anmore.com>; john.mcewen@anmore.com <john.mcewan@anmore.com>; Tim Laidler <Tim.Laidler@anmore.com>; Kim Trowbridge <Kim.Trowbridge@anmore.com>
> **Subject:** Re: Submission for Council Meeting Anmore Zoning Amendment Bylaw 650-2021
>
> Dear Councilors and Mayor,
>
> The Bylaw being discussed for amendment has a number of moving parts to discuss.
>
> 1) First, that portion of the proposed change that would or could prevent a neighbouring property of a development to ***not*** be able to access a full disclosure in public input and before Council of any future possible changes to an original proposal which, prior to requesting such a change, there had been a requirement for full public input in front of Council for discussion.
>
> ***Comment:*** Clearly and logically, if any development proposal that required the initial public review process before council (by requirement due to CD-6 zoning or any other process which requires initial Council and public discussion), then any and all subsequent change requests to said proposal(s) must and should require the same duty of care and attention. Public input before Council is mandatory by definition.
>
> ***Reasoning:*** If this procedural requirement is removed for this case (this example Bella Terra) then, by definition, it establishes it as precedence for any and all future development considerations. Such action takes away the public input process for neighbouring property owners under current CD-6 requirements who have that right in the CD Zoning in the Village. One would otherwise not be able to legitimately and fairly

contest any new unexpected changes from a developer/landowner later on that would prejudicially do damage to the neighbouring property owners.

By not having such disclosure and input as a continuous requirement, then, by definition, you will allow the ability to circumvent the legal due right of process of CD-6 Zone development requirements - a standard that is to be upheld under RS-1 Acre Rural and CD-6 Zoning bylaws in Anmore.

In such a world, a developer/landowner could purposefully create one CD-6 set of proposals to be approved under public scrutiny before Council only to hold back far more contestable previously planned changes that he/she would knowingly expect would or could be shot down in public discourse then to be done without public scrutiny at a later date (where it would only be looked over by a single Approving Officer without any recourse to contest it in public). Such a situation sets the stage for corrupt proposals and procedures which an Approving Officer could not prevent or defend against.

"Once a CD Zoning requirement to get public and council input , always a CD Zoning requirement to get public and council input" including, but not limited to, any future changes, new requests or any changes that veer from the originally approved proposal that passed before the public input process. "Back door request changes", even to things which appear immaterial to some, should never be allowed.

Finally, should this be a request to amend a bylaw for a single case only and not be used (automatically) for a future case in another development, then I believe that is equally a problematic rights issue legally to the Village. There is a clear indication that a neighbouring property to this Bella Terra development - the Muekels by name - have serious considerations to the requested amendments being proposed. By definition, should a bylaw be passed that prevents future changes from public disclosure, scrutiny and Council review and appropriately required public input especially by immediate neighbours to the property, would have no recourse, or be kept in the dark entirely and thus unable, to contest such new proposed changes. The Muekels concerns versus Bella Terra (Tony Barone) proposals are a case in point.

Such a change in bylaw procedure, if allowed now or in future, would be contradicting the requirement for due process of public input and council review for a CD Zoned development. Such an action would be, in fact, to completely cut out the neighbouring properties from information they are due legally in the process. This then, and by definition, prejudicially goes against the Muekels' civil rights (and indeed any neighbouring property owners' civil rights) and would then be prejudicially acting against any and all neighbouring property owners here and elsewhere in the Village of Anmore. This act could be seen as proof of bias towards a developer/landowner over the rights of neighbouring property owners and citizens of the Village of Anmore to their right to openly discuss and contest the proposed changes with civil rights they maintain now.

Such a potential situation should be of serious concern to the Village Council and the Village citizenry as a whole and should not be allowed as, beyond the clearly unfair advantage given to a developer/landowner, this could land the Village into court cases and financial and legal litigation.

2) The changes proposed in this Bella Terra development may include proposals which, according to some that may be more informed on the specific nuanced outcome of said changes, would then allow the developer/landowner to place private road access onto public land that had already been ensconced and gifted as "park land" in the original long debated public review process for the original contested proposals of the CD-6 zone in question.

Question for public reply: I**s the above statement correct and the case?**

Comment: If so, then such an outcome would fly in the face of logic. After all, the Park Land was a legally committed agreement of property given to the Village specifically to allow the condensed development of land below one acre. Therefore, allowing any said landowner/developer to simply take any part of it back for private purposes would be, for lack of a better word and forgive me, a completely idiotic deal for the Village to entertain and would set a precedence of immense proportions.

3) Question for Council for formal public reply : Please confirm the rumour if any of the requested changes would or could require an additional crossing of Anmore Creek or changes to the existing already approved crossing of Anmore Creek in this proposal.

Comment: The outcome of any changes to Anmore Creek nearer its headwaters is of serious concern. Anmore Creek is an important watershed tributary and an increasingly (and already) overburdened important watershed of Anmore Valley being challenged in remaining a healthy ecological zone/watershed by ever encroaching human development both up above and below this development.

Case in point. My neighbour, a three acre parcel at 3060 Sunnyside Rd, recently subdivided to three 1 acre parcels where only one house existed before. As it is on the other side of the Anmore Creek and flanks the creek as a neighbouring property to the lower end of the Bella Terra development, it covers a major portion of an important Riparian Zone of endangered amphibian species and the creek is home to various separate genetic breeds of river trout which are also becoming ever endangered. These species feed endangered Blue Heron that are found in Anmore Creek weekly hunting for food. This development debatably removed a larger number of trees than the tree management bylaw would otherwise normally allow - mostly massive second growth trees that shook the Valley as they fell - and this plan was approved by the Approving Officer without public input or council requirement as it does not fall under CD-6 Zoning requirement to do so (I presume).

Regardless, the developer spoke to me when I went to ask him a few questions and disclosed that, despite the fact there is a 15 metre setback rule to watersheds (as measured from the top of steep embankments), the developer stated that rule was not a fixed number and, should an environmental survey approve doing it, the amount of setback could be more or less on a case-by-case basis. Such is the duty of the Approving Officer to review and approve or not based on these studies.

However, no neighbour was given such an opportunity to challenge any such environmental study let alone even see it or read it. I know firsthand as a former researcher in areas of biology at a university research level, that an environmental opinion can be contested with other observations and information which could be missed but

caught by another environmental report which would differ in its opinion. These are opinions after all and are not all cut and dried. But the letter detailing the proposed lots sent to neighbours was completely inadequate based on standards set by other muncipalities with only illegible and incomplete details on a small map with the request to ***"..send your comments within ten days from the date of this letter"***.

Ten days? The developer/landowner has taken likely months to devise a presentation to the Approving Officer and a neighbouring property owner is given ten days. Adding insult to injury, if that letter goes out on a Friday late then you lose the Friday (dated on the Friday), a full weekend takes two full days away and getting it later on a Monday then loses 4 days out of that window of opportunity for rebuttal down to only 6 days. That's it. Now THAT is a crime to our citizens. A minimum of 30 days should be given for neighbouring properties to have enough time to review all the documents submitted to the Approving Officer which documents must and should be made public knowledge.

How can a neighbouring property comment on a proposed change of use or lot size when there is absolutely no valuable information given to the neighbours or public? What kind of fair request for rebuttal is that? Definitely one that you'll find in the Village of Anmore it seems.

If that is the process when there is no CD-6 requirements for public input in front of Council, imagine how that will work out if Council approves removing the need for public debate and presentation to Council for future changes of an existing CD-6 Zoned approved agreement when public diclosure is built-in to protect the rights of neghbours.

Case in point. As the neighbouring property to the development of 3060 Sunnyside Rd (a neighbour to Bella Terra) , I can see a barren exposed dirt filled area that is sweeping down over the edge of the creek embankment down over the side of the embankment which will allow runoff and dirt flowing down it with rain water down into Anmore Creek on the other side. This alone will increase silt runoff and murkiness of the Creek over time and add more challenges and damage to a watershed that is a breeding ground for important cadis fly larvae (food for endangered amphibian species in the Riparian Zone that live in this section of the creek part of the year), other needed insects and endangered river trout habitat. I never got a chance to comment to the developer the risks or to prevent it by having enough time to get a second unbiased independent environmental report opinion done at my own cost to present to the Approving Officer. It was , as we say in french, a "faites a complis".

These important and federally protected corridors of nature are not only immensely unique to the Village's Valley both as corridors to allow the far safer crossing of important migratory animal species like bear and deer that use the Valley floor following ancient migratory routes, it is legally protected under both Provincial and Federal Environmental laws which are seriously upheld in courts of law. Ignoring matters of environmental degradation particularly which affects important protected Riparian Zones downstream of such developments (there is one within a stone's throw below these proposed discussions), means a decision at one place higher up affects the whole stream or watershed below it for many kilometres, especially highly sensitive Riparian Zones. As there is a protected Riparian Zone at the bottom of the Bella Terra development which is well known to the Village Council as having protected endangered amphibian species under both the federal and provincial animal protection acts, it is the duty of Council and

the Village of Anmore citizens to prevent any unnecessary and/or otherwise avoidable watershed damage wherever and whenever possible. A new second crossing would needlessly become another major negative impact on Anmore Creek which would create high risk onto its critically protected riparian area and, by definition, the endangered species within it.

Further, it would also be doing irreparable ecological damage closer to its highly important critical headwaters for no other reason than a bit of convenience to a few people, if that. Hardly a valid reason to utterly destroy an important watershed and nature corridor putting endangered species at risk.

4) The increase of setback from property lines have been increased. Bella Terra, in their letter submitted for the proposed changes and rebuttal, has requested that these lots not be required to adhere to the new bylaw's increased property line setback distances (which are greater than those he was working with). He bases this on the fact that some of the properties sold (two I believe) were sold with the original smaller setback distances which, he argues, should be grandfathered for all future lots.

Comment: First, all Village residents have to suffer the same fate when it comes to changes in bylaws for setbacks from property lines which are decided on many factors and reasons which come before Council. In short, like any resident homeowner in Anmore, the lots sold would have the new imposed limits changed for them for any future additions to their property but should the owners of these lots in the subdivision have positioned various outbuildings etc. with the older distances required, these would be grandfathered just as all property owners would receive the same grandfathering.

As to future lots that were sold to another developer and sales ongoing, that is for them to be informed of the new bylaws and the new larger distances should apply just as it would for any citizen and resident and property owner in Anmore. Caveat emptor.

There is no logic or reasoning set in precedence in this Village nor anywhere else in Canada to request special preferential treatment where no one is hurt by the new bylaw property line setback distance changes.

Thank you,

Richard Knowles
Village of Anmore Resident and close neighbouring property owner
Sunnyside Road, Anmore BC