

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, September 17, 2002.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil, R.D. Cannan, B.A. Clark, C.B. Day, B.D. Given, R.D. Hobson, J.D. Nelson and S.A. Shepherd.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, D.L. Shipclark; Director of Planning & Development Services, R.L. Mattiussi; Current Planning Manager, A.V. Bruce; Special Projects Planning Manager, H.M. Christy; and Council Recording Secretary, B.L. Harder.

1. Mayor Gray called the Hearing to order at 7:00 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "Kelowna Official Community Plan (1994-2013) 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 August 30, 2002, and by being placed in the Kelowna Daily Courier issues of September 9 and 10, 2002, and in the Kelowna Capital News issue of September 8, 2002, and by sending out or otherwise delivering 487 letters to the owners and occupiers of surrounding properties between August 30, 2002 and September 4, 2002.

3. INDIVIDUAL BYLAW SUBMISSIONS
 - 3.1 **AI Stober Construction Ltd.; Emar Estates Ltd.; E & I Developments Ltd.; and Jabs Construction Ltd. (Emil Anderson Construction Ltd./Mike Jacobs)**
 - 3.1(a) Bylaw No. 8892 (OCP02-0006) - AI Stober Construction Ltd.; Emar Estates Ltd.; E & I Developments Ltd.; and Jabs Construction Ltd. (Emil Anderson Construction Ltd./Mike Jacobs) – 2060 Summit Drive – THAT the City of Kelowna Official Community Plan (1994 - 2013) Bylaw No. 7600 be amended by changing the Generalized Future Land Use Map 15.1 designation of part of Lot 2, Sec. 28 & 29, Twp. 26, ODYD, Plan KAP71444 located on Summit Drive, from Rural/Agricultural to Single/Two Unit Residential.

See discussion under agenda item 3.1(b).

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- 3.1(b) Bylaw No. 8893 (Z02-1029) - Al Stober Construction Ltd.; Emar Estates Ltd.; E & I Developments Ltd.; and Jabs Construction Ltd. (Emil Anderson Construction Ltd./Mike Jacobs) – 2060 Summit Drive - THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of part of Lot 2, Secs. 28 & 29, Twp. 26, ODYD, Plan KAP71444, as shown on Map "A" attached to the report of the Planning & Development Services Department dated August 6, 2002, located on Summit Drive, Kelowna, B.C., from the A1 – Agriculture 1 zone to the RU1h – Large Lot Housing (Hillside Area) zone.

Staff:

- The application is to rezone the eastern portion of the property in order to proceed with a 12-lot single family residential subdivision.
- The portion of the property not under application for rezoning is within the Agricultural Land Reserve.
- A concurrent Preliminary Layout Review application is being processed that will address the technical and design issues for the proposed subdivision including the provision of a buffer along the ALR lands.

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

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Mike Jacobs, applicant:

- Indicated he had nothing to add at this time but was available to answer questions.

There were no further comments.

3.2 Barry & Sandra-Lee Domes

- 3.2 Bylaw No. 8897 (Z02-1029) – Barry & Sandra-Lee Domes – 1907 Abbott Street – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 28, Blk. 5, District Lot 14, ODYD, Plan 348 except Sublot 1 on Plan B967, Sublot 2 on Plan B1037, and Parts outlined in red on Plans B3957 and B4788, located on Abbott Street, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone.

Staff:

- A Heritage Alteration Permit (HAP) application will also be considered by Council tonight on the Regular Meeting agenda. The HAP deals with the form and character of the proposal as well as a variance to the flanking side yard setback.
- The rezoning would facilitate a secondary suite on the second storey of a proposed accessory building that would include a double garage with a 1-bedroom suite above.
- The log exterior siding is not being carried forward from the house to the accessory building but the gable ends have been replicated.
- The application was reviewed and supported by the Community Heritage Commission subject to retention of the log siding on the existing house and the design of the gables and colour of the accessory building to match the design of the house and the applicant has agreed to address those requests through the HAP.
- The application is consistent with the Abbott Street Heritage Conservation Area guidelines.

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The City Clerk advised that the following correspondence had been received:

- Letter from David Lovell, President, Kelowna South-Central Association of Neighbourhoods (KSAN), generally supporting the application but expressing concern over the height of carriage homes over garages.
- Late letter from Shirley Clarke, 1936 McDougall Street, expressing concern about the definition of a "garage".

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Barry Domes, applicant:

- Indicated he had nothing to add at this time.

Jim Langley, 1930 Abbott Street:

- Lives in the neighbourhood and totally supports this application.

Jeanette Mergens, 1922 Abbott Street:

- Has a suite in her home and thinks it has added to the neighbourhood.
- Supports more suites such as this.

There were no further comments.

3.3 Jo-Anna Long (Marlin & Shanny Toews)

- 3.3 Bylaw No. 8898 (Z02-1030) – Jo-Anna Long (Marlin & Shanny Toews) – 255 Mail Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Section 3, Township 23, Osoyoos Division Yale District Plan 21032, located on 255 Mail Road, Kelowna, B.C., from the A1 – Agriculture zone to the A1s – Agriculture 1 with Secondary Suite zone.

Staff:

- The subject property is a legally non-conforming lot due to the lot size.
- The accessory building with the suite would be attached to the main dwelling by a garage.
- The existing mobile home would have to be removed prior to Occupancy Permits being issued for the new structure in order to ensure no more than 2 dwelling units on the property in the final layout.

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

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Marlin Toews, applicant:

- The suite would be used by his parents and is not intended for rental purposes.

There were no further comments.

3.4 Robert and Benigna Cummings

- 3.4 Bylaw No. 8899 (Z02-1032) – Robert and Benigna Cummings – 1907 Abbott Street – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of that part Lot 27, Blk. 5 shown on Plan B597; District Lot 14, ODYD, Plan 348, located on Abbott Street, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone.

Staff:

- The applicant is proposing to demolish an existing garage on the site in order to make room for a new 2-storey accessory building containing a suite over a double garage.
- The property is in the Abbott Street Heritage Conservation Area and a Heritage Alteration Permit (HAP) would be required but the HAP would be dealt with the Director of Planning rather than Council because no variances are required.
- It is the rezoning that is topic of this Public Hearing.
- Showed photos of the property.
- The application was reviewed and supported by the Community Heritage Commission subject to all of the parking being provided in the rear yard and the window designs being proportionate to the window designs in the house. Both issues would be dealt with by staff through the HAP if the rezoning were approved.
- There is adequate room to provide the required number of parking stall (3) in the rear yard.

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

- Letter from David Lovell, President, Kelowna South-Central Association of Neighbourhoods (KSAN), generally in support but expressing concerns over the height of carriage homes.
- Late letter from Shirley Clarke, 1936 McDougall Street, questioning what is allowed in garages and how garages are defined.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Jim Langley, 1930 Abbott Street:

- Lives right across the street and totally supports this application.

Jeanette Murgins, 1922 Abbott Street:

- Very much supports suites such as this. The homes in the area are expensive to maintain and rental suites help.

Robert Cummings, applicant:

- As long as people follow the heritage guidelines the suites add character to the street.

There were no further comments.

3.5 Donald & Sharifah Luttmmer

- 3.5 Bylaw No. 8901 (Z02-1025) – Donald and Sharifah Luttmmer – 926 Lawrence Avenue – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of the west 70.55 feet of Lot 6, Block 55, D.L. 138, ODYD, Plan 262 except Plan B7988, located on Lawrence Avenue, Kelowna, B.C., from the RU6 – Large Lot Housing zone to the RM1 – Four-Plex Housing zone.

Staff:

- The Official Community Plan designates the subject property as Medium Density Multiple Unit Residential which is a designation that allows for higher densities than achieved with a four-plex.
- The staff recommendation is for non-support because the proposed rezoning would yield densities lower than those anticipated in the Official Community Plan, and because development of the subject property would isolate two properties to the west that would also not likely achieve the densities anticipated in the OCP.
- A previous application, also for lower density, was turned down by the Council of the day in an effort to preserve the option for future higher density development in this neighbourhood.
- The application was reviewed and supported by the Advisory Planning Commission.
- The design drawings provided by the applicant indicate that all parking would be off the lane and each unit would have individual ground level access.
- The proposed design is favourable and meets a lot of the City's low density, multi-family design guidelines but staff still do not support the application because it would be taking away from future density for this area.

The City Clerk advised that the following correspondence had been received:

- Letter from David Lovell, President, Kelowna South-Central Association of Neighbourhoods (KSAN) in support of the proposed development.
- Letter from Dr. T.K. Salloum, 975 Lawrence Avenue, in support of the proposed development.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Tom Smithwick, agent for the applicant:

- The street has some good heritage buildings in it, some buildings with no heritage quality, and some buildings that should be replaced.
- Since the apartment application being turned down, some of the properties were sold. The property on the corner (2070) will be rented until the owner moves there for his retirement. The same owner owns 3 lots on the other side and they are proposed for a row of high end townhomes. It appears that the City's 'apartment' wish is not happening.
- The subject proposal fits in with the heritage character of the neighbourhood.

There were no further comments.

3.6 City of Kelowna

- 3.6 Bylaw No. 8888 (Zoning Bylaw Text Amendment TA02-0004) – To amend City of Kelowna Zoning Bylaw No. 8000 to reduce the maximum permitted height of an accessory building from 6.0 metres to 4.5 metres in the RR3 - Rural Residential 3, RU1 - Large Lot Housing, RU2 - Medium Lot Housing and RU6 - Two Dwelling Housing; and require that when an accessory building contains a secondary suite the building must also contain a garage or carport for a minimum of one vehicle.

Staff:

- The text amendment is staff initiated to reduce the maximum permitted height of an accessory building with a suite in it and to add a provision to require that when an accessory building contains a secondary suite the building must also contain a garage or carport for a minimum of one vehicle.
- In the 1980s secondary suites in the City of Kelowna were allowed in the principal dwelling in the R-2, R10 and R11 zones. After an extensive review, in 1993 the Zoning Bylaw was changed to only permit suites in the R-2 two-family zone but to allow the suite to be within either the principal dwelling or an accessory building. Then in 1997, the “s” zone was introduced to permit secondary suites in the other zones on a site specific basis. The maximum height of an accessory building was 4.5 m measured to the mid-point of the sloping roof until 1998 when the height was increased to maximum 6.0 m for an accessory building containing a suite.
- The proposed text amendment would reduce the maximum height for accessory buildings containing a suite back to maximum 4.5 m in order to respond to recent concerns expressed by residents in the North End of the city about the size of accessory buildings being introduced into their neighbourhood. The proposed 4.5 m maximum height for an accessory building containing a suite reduces the size of the building, reduces the available area for the suite so it remains secondary accommodation, and fits into the character of the neighbourhood because it allows less mass.
- The requirement for the accessory building to contain a garage for a vehicle ensures that the suite remains subordinate to the dwelling, the accessory building function is maintained, and parking, an expressed concern, is addressed.

Staff in response to questions of Council:

- Explained the calculation for determining the maximum permitted size of a suite.
- Clarified that the requirement to provide 3 on-site parking stalls when there is a secondary suite remains unchanged but if the proposed text amendment is approved, at least one of the parking spaces would have to be in a garage or carport.
- Imposing a minimum lot width and depth for carriage houses, or making the change proposed by the subject text amendment applicable to only the RU6 zone as a starting point, or stating that the height of the accessory building cannot exceed the height of the principal residence are all options that have not been pursued by staff but that could be considered.

The City Clerk advised that the following correspondence had been received:

- Letter from David Lovell, President, Kelowna South-Central Association of Neighbourhoods (KSAN) generally supporting the bylaw but concerned about interpretation of height and mass and front setback limits and suggesting that a workshop be held to work out the parameters for carriage homes.
- Package of 70 form letters that got misplaced and so were not circulated with Council's agenda package, but that have been circulated late. The form letters, signed by various residents of the North End, came with two covering letters signed by Ray Lewis on behalf of the Knox Mountain Neighbourhood and Sarah Norrlund-Lewis, 575 Okanagan Boulevard, and express various concerns about the carriage houses in the North End of the city.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward or any comments from Council.

Tony Lisne, 555 Broadway Avenue:

- A carriage house has been built behind his property. It has taken away his privacy and negatively impacted his property value. The reduction of the maximum height for accessory buildings containing a suite from 6.0 m to 4.5 m would not have changed the impact of the carriage house on the 5 adjacent properties.
- There are already problems with parking in the area.
- A proliferation of carriage houses with tenancies would make a slum out of a good neighbourhood that has been slowly updating over the years and liveability in the neighbourhood would be lost.
- It is time to stop ruining some of the only neighbourhoods in the city that are affordable for working people.
- Would not want his parents to have to walk up to a suite above a garage.
- Remodelled his current home in 1980 and before that lived on Okanagan Boulevard but was not aware at any time that the area was going to be rezoned to RU6.

Staff:

- Explained that the area was not rezoned. The area has always been zoned for two-family development the zone was just renamed to RU6 with the adoption of Zoning Bylaw 8000.
- Under current zoning regulations, the owner of the property Mr. Lisne is referring to could have torn down what was on the site and built a new 2-storey house with a 2-storey carriage house.

Ray Lewis, 575 Okanagan Boulevard:

- Not prepared to accept higher density at the detriment of the neighbourhood.
- Residents of the North End have chosen to live in small homes on smaller lots and would like to preserve their lifestyle.
- Supports the proposed text amendment but as a first step only.
- Supports the workshop suggestion.

Sam Neufeld, Vice President, North End Neighbourhood Association:

- Lives in the Fuller/Wilson/Cawston area. Talked to the owners of 10 homes in the area and 8 out of 10 said absolutely no to carriage housing, one indicated that if access had to be from the street instead of the rear lane they might support carriage housing, and one had just lost his job and thought he might be able to keep his property with a carriage house. Most of the people said they would prefer to see a larger house built with the suite inside the house rather than with the suite in an accessory building.
- Suggested surveying the neighbourhood about the type of housing people would like to see and in particular about carriage housing.

Scott Landry, resident of the North End:

- This is our neighbourhood and these are our homes where we are raising our families. Want some privacy at the end of the workday to be with our families without people looking down on us.
- Carriage homes are an opportunity to make money and result in devaluation of the homes on all sides. Making money at the expense of others is not ethical.
- The garage requirement is a good idea but it would be difficult to prevent the garage area from being drywalled and used as another suite and if each suite had a car and now no garage in which to park, parking could be a problem.
- Would support restricting carriage homes to lots that meet the requirements for a duplex.
- Supports the proposed text amendment as a first step toward a solution.

Barry Domes, 1907 Abbott Street:

- Has an application to rezone and build a suite on his property on tonight's agenda.
- The City should look at applications for secondary suites in accessory buildings on a site-specific basis. In his neighbourhood the houses are already tall with mature landscaping and so the impact of accessory buildings would be minimal.
- There is nothing wrong with making a profit; that is generally the idea behind any home improvements.
- Urged Council to be open minded and not over react and thereby hinder a good thing for others.

Ray Cameron, 513 Central Avenue:

- Not opposed to suites in main dwellings but opposed to carriage homes because the main residence would have a front and back yard but the carriage home would have neither. Most likely the tenants of carriage homes would have children and they would have no play area outside.
- The front yard of the main house would not really be accessible for the children in the carriage houses and the so alley would become their playground and guests of the carriage house tenants would likely park in the alley which is a fire lane.

Doug Hutchinson, 585 Okanagan Boulevard:

- RU6 zoning is too broad and not scaled to the neighbourhood.
- Would prefer the secondary suites be contained in the primary house or in a single storey accessory building and would like an opportunity for input before the actual construction work starts.

Pat Rosinski, 730 Walrod Street:

- There is a carriage house on her street and the owner rents out the main dwelling as well as the top and bottom of the carriage house, the property is not being looked after, and there is not enough on-site parking.

Jim Langley, 1930 Abbott Street:

- The proposed text amendment is too broad. Would like to be more site specific to accommodate taller and shorter homes. Some areas are designed for carriage houses and some are not.

Angus Leslie, 906 Manhattan Drive:

- His neighbourhood is zoned R2 and most of the houses are large with suites attached. The neighbourhood has changed with the introduction of carriage homes. The carriage home in some instances is taller and larger than the main residence and in some cases the carriage home became the main residence. The area did change. Not a lot of complaints but the houses are bigger.
- The desired densification can be achieved through infill in other areas of the North End before having to be in this neighbourhood where it is obviously having a huge impact.
- The workshop idea would be good.

Wayne Lydyniuk, 628 Roanoke Avenue:

- Carriage homes are overpowering and are devaluing the area.
- Developers are building them and then both the main dwelling and the carriage home are being rented.
- The carriage home on Cambridge Avenue looks like the main dwelling and the old house is the suite – there is no yard and it looks like there is no on-site parking. Anticipate that there would be a high tenancy turnaround as the tenants find a more desirable place to live.
- His lot is 40 ft. x 120 ft. in size and most houses on his street are of a similar size.

David Marshall, 1953 Knox Crescent:

- Speaking as a director of Friends and Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS).
- Support the maximum 4.5 m mid-point maximum height for accessory buildings.
- Concerned that this is creating another house in the back yard of every lot in the North End which would end up with wall to wall housing and become a different neighbourhood.
- Dormers on a second storey accessory building create a much larger living space over the garage; there should be some kind of relationship between the size of the dormer and the size of the garage.

Jeanette Mergens, 1922 Abbott Street:

- The size of an accessory building should be based on the particular site.
- Neighbourhood planning workshops are very positive.

Cherie Hanson, 557 Okanagan Boulevard:

- On July 18th she put out a letter of personal concern about the impact of carriage houses in the North End and received 74 signatures of others in the area with the same concerns.
- Need to limit the height and scope and limit the number of free standing suites in the area and any structure built on the small, narrow properties in the North end needs to be in keeping with the look and feel of the neighbourhood.
- Some residents in the area do not want any detached structures to be built with or without suites. Their concerns include use of the alley as a roadway with no signage, lighting or lane delineation, impeding emergency access to the suites.
- Theoretically, the tenant and guests of the suites would use the on-site parking that is provided; however, need to keep in mind that may not actually be realistic.
- Want to maintain the character of the existing neighbourhood.
- Air quality is a big issue in Kelowna yet large mature trees that act as a filter are being taken out to accommodate carriage homes.
- Do not see the proposed text amendment as a long term solution.
- Need to protect the residents' rights to retain their property value and privacy.
- Would like the opportunity to communicate further in the short term and to work more on this together in the future.

Marnie Perrier, 548 Okanagan Boulevard:

- Not all renters are bad.
- Prefer to leave the RU6 zone as is with the 6 m maximum height and the lot coverage unchanged. If the zoning regulations are changed, property owners could bulldoze the front home and build a higher main dwelling and then build the larger accessory building. The existing regulations allow the character of the neighbourhood to be maintained while allowing a good solution to providing high density in Kelowna.
- This type of secondary housing offers opportunities for rental properties that are in high demand.
- She and her husband currently reside at 548 Okanagan Boulevard and rent out the suite. They just sold their home and the people who bought will have their parents in the main home and the family in the back suite. The purchasers searched them out because that was what they wanted and they paid top dollar for the property. The suite enhanced the value. Restrictions in height could decrease the value.
- They also own 558 Cambridge Avenue and take pride in the fact that they are following all the bylaw requirements.
- Since building the carriage house on their Okanagan Boulevard property, they have been harassed, sworn at, etc. Nobody in the neighbourhood ever talked to them about what they were doing. Instead they went to Council and to the media.

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- There is a great deal of support in the community for carriage homes; hopefully Council will see that side of things as well.
- Encouraged requiring a covenant to ensure that when trees are removed to accommodate an accessory building, the new or transplanted landscaping survives.

Chris Thompson, 548 Okanagan Boulevard:

- They were harassed by bylaw enforcement staff about parking on the street throughout construction of the carriage house on their property.
- Their business is to buy run-down properties, renovate, construct a carriage house and then sell. A fence is erected between the front and back so each unit has a separate yard area.
- Carriage houses allow for densification of the downtown area without highrises.
- They do heavy screening of whom they sell or rent to.
- Would not recommend requiring a public process for building carriage houses.
- Dormers can run the entire side of a garage.
- Does not support the proposed text amendment.

Ruth Wilson, 599 Central Avenue:

- Need time to think about the ideas put forward. Urged Council to proceed with this text amendment and have staff report back in future.
- Retention of trees should be a priority.
- The area residents are passionate about keeping the character and affordability of their neighbourhood.

Annie Pope, 587 Oxford Avenue:

- Need to have better restrictions on the size of dormers. 50% of the roof space seems like a lot of window.
- Asked that Council help the area residents retain the existing character of their neighbourhood.

Grant Spanner, 529 Okanagan Boulevard:

- Does not agree with Ms. Perrier that what she and her husband are doing is enhancing the neighbourhood.

Staff in response to questions from Council:

- Clarified that the resolution previously adopted by Council directed staff to delay processing of any application that would be affected by the proposed change for 30 days, and allowed for an extension of that delay in processing for a further 60 days but then the property owner could claim damages under the rules of expropriation. No applications have been received since that resolution was adopted.

Council:

- Debated whether to keep the Public Hearing open on the proposed text amendment in order to be able to participate in a workshop to further discuss the proposed changes.
- Recognizing that the subject bylaw is only a first step and if the workshop leads to a change in thinking the process can still be changed, agreed to close the Public Hearing.

There were no further comments.

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4. TERMINATION:

The Hearing was declared terminated at 10:01 p.m.

Certified Correct:

Mayor

City Clerk

BLH/