
CITY OF KELOWNA
MEMORANDUM

Date: April 23, 2003
File No.: (3360-20) **TA03-0001**

To: City Manager

From: Planning & Development Services Department

Subject:

APPLICATION NO. TA03-0001

APPLICANT: PORTER RAMSAY /
TOM SMITHWICK

PURPOSE: TO AMEND THE **APARTMENT HOTEL** DEFINITION IN ZONING
BYLAW 8000 BY DELETING REFERENCE TO THE MAXIMUM
RESIDENCY PERIOD OF 240 DAYS IN ONE YEAR

REPORT PREPARED BY: PAUL McVEY

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Zoning Bylaw Text Amendment No. TA03-0001 to amend City of Kelowna Zoning Bylaw No. 8000 by;

- a) amending the definition of **Apartment Hotel** by deleting reference to the maximum length of residency period of 240 days in one year,
- b) amending the definition of **Hotel** by deleting the existing definition and replacing with "**Hotel** means a **building** or part thereof with a common entrance lobby and shared corridors, which provides sleeping accommodation for transient visitors and may include public facilities such as restaurants, banquet, beverage, meeting and convention rooms, recreation facilities, and **personal service establishments** for the convenience of guests. The maximum length of stay is no more than 240 days.",
- c) amending the definition of **Motel** by deleting the existing definition and replacing with "**Motel** means a **building** or group of **buildings** divided into self contained sleeping or dwelling units, each with a separate exterior entrance and convenient access to on-site parking. **Motels** may include eating and drinking establishments and **personal service establishments**. The maximum length of stay is no more than 240 days.",
- d) amending **Table 8.1 – Parking Schedule** by changing the required parking for **Apartment Hotels** to 1.0 per sleeping unit,

as outlined in the report of the Planning & Development Services Department dated April 23, 2003 be considered by Council;

AND THAT Zoning Bylaw Text Amendment No. TA03-0001 be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zone amending bylaw be considered following provision of revised policy from the Finance Department to deal with Development Cost Charges for Apartment Hotel units.

2.0 SUMMARY

The applicant wishes to amend the Apartment Hotel definition by deleting reference to the maximum length of stay of 240 days.

2.1 Advisory Planning Commission

The above noted application (TA03-0001) was reviewed by the Advisory Planning Commission at the meeting of March 11, 2003 and the following recommendation was **defeated**:

That the Advisory Planning Commission support Text Amendment Application No. TA03-0001, to Amend Zoning Bylaw 8000, by Porter Ramsay (Tom Smithwick), to amend the apartment hotel definition in Zoning Bylaw 8000 by deleting the maximum residency period of 240 days.

Please refer to **Appendix “A”** attached to this report for additional APC comments and concerns related to this application for Text Amendment to the C9 – Tourist Commercial zone.

3.0 BACKGROUND

3.1 The Proposal

The current definition for **APARTMENT HOTEL** in the City of Kelowna Zoning Bylaw 8000 reads as follows;

“APARTMENT HOTELS means **apartment housing** having a principal common entrance, cooking facilities and furnishings within each **dwelling**. No one individual or family resides for more than 240 days in one year. This does not include any **commercial uses** except when specifically permitted in the **zone**.”

The applicant wishes to amend the definition by deleting the sentence; “No one individual or family resides for more than 240 days in one year” in order that owners or tenants of the apartment hotel units may reside in the units for more than 240 days.

There have been several submittals to the Planning and Development Services Department outlining market demands for the need of developments where both long term and short term occupancies are permitted. Staff had included this proposed text amendment in a package of text amendments and were prepared to support this text amendment to the C9 – Tourist Commercial zone and other zones where **Apartment Hotels** are a permitted use as a City initiated text amendment, but the applicant wanted the amendment specifically considered.

In the past, the Planning and Development Services Department had been concerned that residentially zoned properties should not be used for short term rental opportunities

(less than one month). The Planning and Development Services Department position has been to support the concept where commercially zoned properties could facilitate permanent residents as opposed to residential zoned properties accommodating short term (transient) occupancies.

As part of the changes to permit long term occupancy of “**Apartment Hotel**” units, there is also the need to alter the Development Cost Charge bylaw to apply similar DCC charges to the long term apartment hotel units as there would be applied to multiple unit residential projects. This change in DCC’s would also apply to conversions of existing apartment hotel units into long term occupancy units.

The **Apartment Hotel** definition already controls the form of development of **Apartment Hotel** units, in that the units must be constructed in a multiple dwelling form (must contain full kitchen, and bedrooms must meet building code requirements). As well, staff feel that the required parking for long term stay apartment hotel units must also comply with the parking requirements of one parking stall per unit, the same as the parking requirements for residential units within the Downtown C7 – Central Business Commercial zone.

4.0 TECHNICAL COMMENTS

The application has been circulated to various technical agencies and City departments and the following relevant comments have been submitted:

4.1 Inspection Services Department

No Comment

4.2 Ministry of Transportation

No Comment

4.3 Works and Utilities Department

No comments received.

5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT COMMENTS

The Planning and Development Services Department does not have concerns with this proposed amendment to Zoning Bylaw 8000 to remove reference to the maximum length of stay of 240 days in one year that currently exists within the definition of **Apartment Hotel**. The current market has an apparent demand for a longer residency period for **Apartment Hotel** units. This is not anticipated to have an impact on the current operation of the existing **Apartment Hotel** developments. There may be some potential for user conflict during peak recreational seasons in that there may be a situation where there may be some long term occupancy units that have neighbouring units that are in a rental pool that may have a high rate of turnover of occupants. It is interesting to note that the existing RM6 – High Rise Apartment Housing zone allows for hotel/motel accommodation within residential units as a secondary permitted use.

The APC has submitted supplemental information which is attached to this report as **Appendix “A”**. Staff appreciates the detailed information but does not necessarily share the same concerns as the APC. Staff will be gathering further information from potential stakeholders (such as the Urban Development Institute, Chamber of

Commerce, and the local Hotel/Motel Association) and from other resources to try to address the APC concerns for the Public Hearing.

One concern that has been identified by staff is the potential impact the may occur on the Development Cost Charge program through a Commercial Use rate in the DCC bylaw being applied to what will function as a Multiple Unit Residential occupancy.

Finance Department staff are currently reviewing the program in regard to this issue, and are anticipated to create a policy to deal with this situation. Final adoption of the zone amending bylaw should be withheld until a new Development Cost Charge policy has been approved by Council.

Staff feel that this amendment to the definition of “**Apartment Hotel**” will not adversely impact the supply of hotel room facilities, as there is no incentive to rezone to a commercial zone rather than a multiple unit residential zone. As well, there will be market incentives to use apartment hotel units for transient occupations during peak holiday seasons rather than permanent residences. The proposed approach will ensure that the market demand for a mix of short term occupancies and permanent residency units can be provided in a commercially zoned project. Staff feel this is a positive approach to meet market demand and to help protect the integrity of residentially zoned properties.

Amendments to the existing **Hotel** and **Motel** definitions have also been included with this text amendment to differentiate the maximum length of stay permitted in **Hotels** and **Motels** from the length of stay permitted in **Apartment Hotels**.

In light of the above, the Planning and Development Department supports this proposal, and recommend for positive consideration by Council.

Andrew Bruce
Current Planning Manager

Approved for inclusion

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R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

PMc/pmc
Attach.

FACT SHEET

- | | |
|---|--|
| 1. APPLICATION NO.: | TA03-0001 |
| 2. APPLICATION TYPE: | Text Amendment |
| 3. APPLICANT/CONTACT PERSON: | Porter Ramsay /
Tom Smithwick |
| . ADDRESS | #200 – 1465 Ellis St. |
| . CITY | Kelowna, BC |
| . POSTAL CODE | V1Y 2A3 |
| . TELEPHONE/FAX NO.: | 763-7646/762-9960 |
| 4. APPLICATION PROGRESS: | |
| Date of Application: | Feb. 21, 2003 |
| Date Application Complete: | Feb. 21, 2003 |
| Servicing Agreement Forwarded to Applicant: | N/A |
| Servicing Agreement Concluded: | N/A |
| Staff Report to Council: | April 23, 2003 |
| 5. PURPOSE OF THE APPLICATION: | To Amend The Apartment Hotel
Definition In Zoning Bylaw 8000 By
Deleting Reference To The Maximum
Residency Period Of 240 Days In One
Year |
| 6. MIN. OF TRANS./HIGHWAYS FILES NO.: | 02-081-20183 |
| NOTE: IF LANDS ARE WITHIN 800 m OF A
CONTROLLED ACCESS HIGHWAY | |

APPENDIX “A”

The Advisory Planning Commission have requested that the following background report also be provided to Council for additional background information regarding their concerns with the proposed text amendment;

“At the March 11, 2003 meeting of the Advisory Planning Commission (“APC”) the APC considered the above application which was to amend the definition of “Apartment Hotel” in Zoning Bylaw 8000 by deleting the reference to the maximum residency period of 240 days in one year.

The APC voted unanimously not to support the application and a number of concerns with respect to the potential consequences of such an application were raised.

At the meeting of the APC held on Tuesday, March 25, 2003, the APC considered other amendments to Zoning Bylaw 8000 and passed a resolution supporting those proposed amendments, subject to certain qualifications.

A motion was also passed to have the APC prepare and provide to the Planning & Development Services Department, for inclusion in the package of materials to be provided to City Council, a report setting forth in more detail its concerns in respect to Application TA03-0001, namely the proposed deletion of the maximum residency period of 240 days in the definition of Apartment Hotel. The purpose of this report is to detail those concerns.

In general, the APC is strongly opposed to the proposed application. In particular, the following concerns were raised:

1. The economy of Kelowna requires a significant supply of short-term tourist accommodation. The effect of the proposed amendment would be to allow all apartment hotels to be converted into and used as permanent residences. This may result in a significant depletion of the supply of hotel rooms. At minimum, prior to making this amendment, significant analysis and consultation should be undertaken;
2. The practical effect of the application is to convert the C-9 zone into, at least with respect to the permitted use of apartment hotels, into a residential zone. If it is considered appropriate that this use of C-9 zone be converted into residential use, then such an application should be made and a consideration of the application on its merits would be undertaken at that time. The APC is concerned that the effect of the proposed application is to do indirectly that which is not intended to be done directly, namely to allow residential uses within a commercial zone;
3. The application appears to be designed to accommodate a specific development. The motivation of the developer is to take advantage of market demand for developments containing permanent residences. The Commission is concerned that the issue of the appropriate land use planning, including the permitted uses in a commercial zone, should not be driven by the specific needs of a particular developer, but should be viewed in the context of the objectives for land use planning as set out in the Official Community Plan;

4. To the extent that it is considered that there should be a mixed use within apartment hotels, namely that a portion of an apartment hotel may be used for a permanent residences and a portion may be used for shorter term accommodation, then there is the capacity to create a zone that provides for this. The current RM6 zone is an example of such a zone. Although the staff has indicated that there are concerns about the use of the RM6 zone with respect to the case of the specific development that had given rise to the application, such a zone with modifications would appear to accommodate the needs of both the developer and the objectives of allowing short-term accommodation;
5. The proposed changes and the term “Apartment Hotel” may not be sufficiently clear to lead “interested parties” to attend an APC meeting depending on their understanding of what constitutes an “Apartment Hotel”, be it an Apartment or a Hotel; and
6. Lastly, the material provided to the Commission by way of the report of March 7, 2003 was simply not adequate to consider the potential consequences and significance of an application of this nature.

Although there was extensive discussion at the Advisory Planning Commission with respect to this application, the above summarizes in a relatively brief form the objections and concerns raised by the Commission regarding this proposed amendment. In summary, the Commission is concerned about the wholesale amendment to the definition of “apartment hotel” and the broad consequences within these commercial zones.

We would appreciate if this report could be brought to the attention of City Council when considering this application.”