

Public HearingMay 27, 2003

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, May 27, 2003, 2003.

Council members in attendance were: Deputy Mayor S.A. Shepherd, Councillors A.F. Blangleil, R.D. Cannan, C.B. Day and B.D. Given.

Council members absent: Mayor Walter Gray and Councillors B.A. Clark, R.D. Hobson and E.A. Horning.

Staff members in attendance were: City Manager, R.A. Born; City Clerk, A.M. Flack; Director of Planning & Corporate Services, R.L. Mattiussi; Manager of Development Services, A.V. Bruce; Council Services Supervisor, S. Fleming; and Council Recording Secretary, B.L. Harder.

1. Deputy Mayor Shepherd called the Hearing to order at 7:00 p.m.
2. Deputy Mayor Shepherd advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "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 May 9, 2003, and by being placed in the Kelowna Daily Courier issues of May 20 & 21, and in the Kelowna Capital News issue of May 19, and by sending out or otherwise delivering 112 letters to the owners and occupiers of surrounding properties between May 9 & 13, 2003.

The City Clerk also advised that 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 Bylaw No. 9038 (Z01-1050) – Dale Draper (Pauline Draper) – 2034 Pandosy Street – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 16, Blk. 6, D.L. 14, O.D.Y.D., Plan 348, located on Pandosy Street, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU6 – Two Dwelling Housing zone.

Staff:

- The applicant intends to rezone the property to RU6 in order to construct a second dwelling at the rear of the property. There is currently a single detached housing unit at the front of the site near Pandosy Street and a large undeveloped rear yard. All requirements of the RU6 zone can be met.
- Because the property is within the Abbott Street Heritage Conservation Area a Heritage Alteration Permit will be required to approve the new construction should the zoning be approved.
- The Advisory Planning Commission recommends non-support of the rezoning, suggesting that the applicant work with the Community Heritage Commission toward Heritage Designation of the Shepherd House and on a design for the new building that better conforms with the heritage style of other buildings in the area.
- Displayed photos of the property as it exists, and of the views from the property.
- Showed a coloured rendering of the revised plans for the proposed new dwelling.
- The addition at the rear of the existing house would be retained and the exterior of that building would also be improved.

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- Rezoning to RU6 with a Heritage Alteration Permit (HAP) would provide for better control of the development than proceeding under the current zoning with a Heritage Revitalization Agreement. HRA's are more of an incentive tool.
- The HAP would be reviewed by the Community Heritage Commission before being approved by staff.

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

Opposition:

- letter from the Central Okanagan Heritage Society advising that a vote by 8 of the 12 Directors on their Board resulted in unanimous opposition to the rezoning with an HAP, and indicated that they would support the rezoning with an HRA.
- letter from Robert Cichocki, owner of 2030 & 2032 Doryan Street, opposed because RU6 would encourage harmful densification of the entire heritage conservation area and would destroy rather than enhance heritage.
- late letter from Carey Lewandoski, 356 Park Avenue, submitting that the application is contrary to the spirit and intent of the Abbott Street Heritage Conservation Area.
- late letter from Paul & Melanie Filiatrault, 366 Park Avenue, opposing any rezoning to higher than RU1s in the area and submitting that the applicant is trying to manoeuvre around current bylaws.
- late letter from Ron & Jill Schoch, 2042 Doryan Street, opposed on the basis that the rezoning would be precedent setting, would not benefit the heritage conservation area, and would result in lost yards and gardens which are integral to the heritage character of the area.
- late letter from Norma & Fred Popp, 369 Park Avenue, asking for changes in the zoning bylaw so that this type of application would be impossible.
- 22 form letters signed by residents of the area submitting that the rezoning is contrary to the spirit and intent of the Abbott Street Heritage Conservation Area.

Support:

- letter from Alan & Joyce Broome, 486 Cadder Avenue.

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

Pauline Draper, applicant:

- Development of the property has been controversial since it was purchased in 1992.
- It has been a challenge to keep it rented because it is on a busy street, which is why the homes on Pandosy Street are not included in the Heritage Conservation Area, and the house is located very close to the sidewalk. Offers from potential purchasers have all been subject to rezoning to a higher density or RU6 zoning. Building a home in the rear of the property appears to be the only viable way to proceed.
- RU6 zoning is not new to the neighbourhood.
- The site provides ample greenspace and the height of the proposed home would be lower than the existing home and so would not be visible from the street.
- The existing house would remain a rental; the new house would be owner-occupied.
- The two homes, as proposed, would improve the aesthetics of the area.
- Houses immediately surrounding are bungalows built in the 1960s.

Carol Mayzes, 134 Lake Avenue:

- Concerned about the zoning being changed to RU6. Likes the area the way it is and does not want to see it changed.
- The City has a poor record of enforcing permits. Concerned that what is shown in the rendering is not what will get developed on the site.
- Sent a letter dated February 6, 2003 to the City and has never received a response. Efforts to meet with City Planning staff and the City Manager have been unsuccessful.

Shirley Clarke, 1935 McDougall Street:

- Opposed to the requested RU6 zoning.
- Concerned that RU6 zoning would set a precedent and destroy the heritage character of the area.
- Having declared the area a Heritage Conservation Area, Council has a responsibility to the people who have since been restoring, painting, cleaning up the yards, building new fences, etc. This is a unique area and a tourist attraction and it should stay single family.
- Would prefer to see the property developed under a Heritage Revitalization Agreement. HRAs allow carriage houses; there at least 7 of them in the area and they have been done beautifully. Is not opposed to the secondary suites or bed & breakfasts. Her concern is the RU6 densification and the additional cars, noise, etc. that would ruin the area.

Jillian Stamp and James Williams, 2083 Abbott Street:

- The other RU6 properties in the area were zoned before the Heritage Conservation Area was established.
- The argument about HAPs versus HRAs and enforcement is the City's problem. An HRA would facilitate the goal of building a second home, without rezoning and would secure the future of the existing heritage home.
- Read her letter urging Council to reject the rezoning because could it set a precedent, the advice of the advisory bodies (CHC and APC) should carry more weight, and the City needs to more stringently adhere to the guidelines that are in place for the Abbott Street Heritage Conservation Area.

David Marshall, 1953 Knox Crescent:

- His house was a mess when he bought and restored it years ago. It is now in a beautiful block; all of the houses have been fixed up.
- The trees and green space are as much a part of the heritage of the area as are the buildings and it is important they be preserved. Putting a carriage home or any other second home on these properties takes away from the trees and green space.
- An HRA would ensure preservation of the Shepherd heritage house.
- This would be the first property to be rezoned to RU6 since the conservation area was established.

David Lovell, Kelowna South-Central Association of Neighbourhoods (KSAN):

- The Abbott Street Conservation Area falls into the geographic boundaries of KSAN.
- KSAN has an 8 person board that meets monthly to discuss issues and there are currently 61 members in the Association. The board has always opposed the RU6 rezoning on the basis that it would lead to more applications in the future because there are many houses with large lots in the area.
- RU6 zoning does not guarantee preservation of the Shepherd House. An HRA would best resolve the needs of the applicant and the concerns of the neighbourhood.

Virginia Anthony, 1915 McDougall Street:

- Was totally opposed when the area was declared a Heritage Conservation Area because she thought it infringed on her personal rights as a home owner. Since then, however, the area has become much more beautiful and the City owes it to the residents to keep it that way. That will not happen with RU6 zoning.
- The residents in the area have accepted carriage houses even though they did not exist 50 years ago.

Milan Djordjevich, 2024 Pandosy Street (Dunn House):

- Concerned about the lack of ability to control what happens after the RU6 zoning is adopted. Time could pass and the economy could change and something different could end up on the site.
- Prefer that the property be developed under an HRA.
- The lots are too big for one house and have potential for increased density that is compatible with the conservation area.

Marietta Lightbody, 2302 Abbott Street:

- Does not live in the heritage area but has a great interest in heritage. Conducts heritage tours of the area and in February this year there were well over 100 people on one of the tours and that was with very little advertising – shows great interest in heritage and is great for tourism.
- The people who live in the Abbott Street Conservation Area love the area and have made it what it is.
- Opposed to the RU6 zoning for reasons already mentioned by previous speakers.

Lisa Broughton, 2063 Doryan Street:

- Bought her home to be in an area where old growth trees would stay and greenspace would not become new housing. Need to preserve the landscape as well as the buildings.
- Heritage Conservation Areas are established to preserve our history; new things are not part of history. The area should remain the way it is.
- Opposed to RU6 and the HAP/HRA opportunity.

Raymond Gilmurray, 2043 Doryan Street:

- Opposed to RU6 zoning and a second dwelling but would not oppose a carriage house on the subject property.
- His property would be negatively impacted by the proposed house in the rear yard.
- His lot is zoned RU6 and he has a secondary suite in his home.
- Would not care if they bulldozed the Shepherd House and built something new on the property.

Valerie Hallford, 429 Park Avenue and President of FRAHCAS:

- Friends and Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS) now has close to 200 members with 9 members on the Board of Directors. A survey of the houses in the area revealed overwhelming support of FRAHCAS's position of opposition to anything higher than RU1s zoning which allows for secondary suites, bed & breakfasts, and carriage houses. Displayed a slide showing the support and opposition of people in the area.
- Contrary to what the applicant has said, the homes on Pandosy Street are included in the Abbott Street Heritage Conservation Area.
- Planning staff are supporting an HRA for development of the heritage property at 2094 Abbott Street; enforcement seems not to be an issue there.
- The appropriate way to build a second house is with an HRA and not by rezoning to RU6. Both advisory committees, APC and CHC, voted to reject RU6 and recommended an HRA instead.
- Once the property is rezoned to RU6, the applicants are under no obligation to build what they said they would and could build anything that is allowed under the RU6 zoning. An HRA would ensure the Shepherd house is protected.
- Submitted a written submission from FRAHCAS along with a folder of petitions and form letters opposing any rezoning higher than RU1s.

Pauline Draper, applicant:

- Sounds like the area residents would prefer to see bed & breakfasts and carriage houses with renters who come and go instead of the two homes that are proposed with rental in the front and owner-occupied with only two people in the rear. Maybe will consider building a carriage house.
- Asked for RU6 zoning because that is what City staff said to apply for.

Staff:

- Clarified that the applicant could do what she is proposing through an HRA but staff feel that is not the appropriate tool for this particular proposal. What is proposed here absolutely conforms to the RU6 zone. The same level of protection can be achieved through the Heritage Conservation Area guidelines.
- The HRA on Abbott/Cadder is supported by staff because the proposed subdivision for that development does not fit into any of the City's standard zones.

There were no further comments.

- 3.2 Bylaw No. 9041 (TA03-0001) – Porter Ramsay (Tom Smithwick) – To amend the City of Kelowna Zoning Bylaw No. 8000 by removing the provisions for the maximum length of stay in Apartment Hotels and adding a provision to limit the maximum length of stay to 240 days in Hotels and Motels.

Staff:

- The text amendment would remove the 240 day maximum length of stay in Apartment Hotels and add a 240 day maximum length of stay in Hotels and Motels. It also includes increasing the parking requirements for Apartment Hotels to 1 stall per sleeping unit.
- The proposed text amendment was included in a package of text amendments that has yet to come forward to Council but has come forward separately at the request of an applicant proceeding with an apartment hotel proposal and requiring the option of year round occupancy as part of his marketing strategy.
- Adoption of the subject bylaw would be withheld pending a policy coming forward from the City Finance Department to increase the Development Cost Charges for Apartment Hotel units.
- Apartment Hotels are permitted as a principal use in the C4, C7 and C9 Commercial zones, and as a secondary use in the C3 and RM6 zone. The Planning Department position is that it is better to allow short term stays in Commercial areas than opening up residential areas to short term stays.
- The applicant has provided a written submission that is included in Council's agenda package in rebuttal to issues raised by the Advisory Planning Commission.
- A copy of the proposed text amendment was forwarded to the Urban Development Institute, Hotel/Motel Association and Chamber of Commerce as well as all the business licence holders for Commercial and only one response was received, from the Hotel Motel Association. Their concern was that Apartment Hotels would be taxed at residential rates giving them an unfair advantage over hotel and motel operators who pay significantly higher tax rates than residential buildings. Staff in the City's Finance Department advise that the proposed text amendment would not make it any easier or difficult to claim the residential tax rate.

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

- letter of support from TransAct Realty Advisors out of Calgary, Alberta with an attached discussion paper responding to the concerns raised by the APC.
- letter from the Hotel/Motel Association supporting the text amendment provided that the changes in taxation of Apartment Hotels do not create an uneven playing field.
- late letter from the Urban Development Institute expressing no concerns with the proposed changes.

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

Tom Smithwick, applicant:

- This was an amendment that City staff were planning on bringing forward to Council in any event because if the proposed changes have been working in other communities and are viewed to be an appropriate new tool given the current market place. The amendment is coming forward in advance of the other text amendments because the a developer needs it now in order to make his proposed development viable. The developer is proposing a 215-unit, high end resort style Apartment Hotel on a property that is zoned C9 but does not front onto the lake.
- Potential for year-round occupancy provides quality of control because of owner occupants' concerns about the type of use of the facility.
- The APC has been given a copy of the rebuttal to their concerns that the text amendment would wipe out a lot of existing hotels.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 8:45 p.m.

Certified Correct:

Deputy Mayor Shepherd

City Clerk

BLH/am