

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, March 9, 2004.

Council members in attendance were: Mayor Walter Gray, Councillors A.F. Blanleil, R.D. Cannan*, B.A. Clark, B.D. Given, R.D. Hobson, E.A. Horning and S.A. Shepherd.

Council members absent: Councillor C.B. Day.

Staff members in attendance were: Acting-City Manager/Director of Planning & Corporate Services, R.L. Mattiussi; Deputy City Clerk, S.C. Fleming; Manager of Development Services, A.V. Bruce; Planner-Long Range, G. Routley; and Council Recording Secretary, B.L. Harder.

(* denotes partial attendance)

1. Mayor Gray called the Hearing to order at 5:05 p.m.
2. Mayor Gray advised that the purpose of the Hearing is to consider certain bylaws which, if adopted, will amend "*Kelowna 2020 - Official Community Plan 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 Deputy City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on February 20, 2004, and by being placed in the Kelowna Daily Courier issues of March 1 and 2, 2004, and in the Kelowna Capital News issue of February 29, 2004, and by sending out or otherwise delivering 797 letters to the owners and occupiers of surrounding properties between February 20 and 24, 2004.

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 **245 Glenmore Road**

- 3.1 Bylaw No. 9176 (Z03-0055) – Maxwell House Developments Ltd. (Ken Gulenchyn) – Glenmore Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot B, Sec. 4, Twp. 23, O.D.Y.D. Plan 23927, located on Glenmore Road, Kelowna, B.C. from the A1 – Agriculture 1 zone to the RM3 – Low Density Multiple Housing and P3 – Parks and Open Space zones as shown on Map "A" attached to the report of Planning & Corporate Services Department dated February 2, 2004.

Staff:

- There is a single detached dwelling on the site.
- The applicant is proposing to rezone in order to develop the site with a total of 24 units comprised of two rows of duplex and four-plex buildings.
- A development permit application would be considered concurrent with adoption of the zone amending bylaw.
- Before second and third reading consideration at tonight's Regular Meeting, Council will be asked to amend the Map attached to the subject bylaw to more accurately reflect the P3 zoning boundary.
- The application is consistent with relevant planning documents.

The Deputy 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, followed by comments of Council.

Ken Gulenchyn, applicant:

- The market target for the project is entry level housing.

There were no further comments.

3.2 415 Glenmore Road

3.2 Bylaw No. 9177 (Z03-0070) – 653332 BC Ltd. (George Barnes) – Glenmore Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 1, Sec. 32, Twp. 26, O.D.Y.D., Plan 10842, located on Glenmore Road, Kelowna, B.C. from the RR3 – Rural Residential 3 zone to the C3 – Community Commercial zone.

Councillor Cannan declared a conflict of interest as a resident in the neighbourhood and left the meeting at 5:13 p.m.

Staff:

- The site is designated in the OCP and Sector Plan for commercial development.
- The applicant is proposing to develop the property with a 2storey commercial building. A credit union would occupy the main floor and the upper floor would be for office use.
- The site would be accessed from Kane Road and includes a double width drive isle to accommodate an automated bank machine.
- City Works & Utilities staff would have preferred a cross-access between the subject property and the commercial property to the south; however, a cross-connection for vehicles would force redesign of the parking lot as proposed and neither property owner was interested in volunteering a reciprocal access.
- The applicant intends to install a chain link fence along the southern boundary with a gate for pedestrians.
- A Development Permit and Development Variance Permit would be considered concurrent with adoption of the subject bylaw.

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

- letter of support from a tenant of the professional building at 1940 Kane Road.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

George Barnes, applicant:

- Indicated he had nothing to add at this time.

There were no further comments.

3.3(a) Discharge of Land Use Contract from 2131 Scenic Road

3.3(a) Bylaw No. 9186 (LUC78-1009) – Vince and Giovannina Magaldi (Barb Danielsen/R469 Enterprises Ltd.) – 2131 Scenic Road – THAT Land Use Contract No. 78-1009 (Bylaw No. 4663-78) be quit claimed from Lot A, Secs. 4 & 9, Twp. 23, O.D.Y.D., Plan KAP61644.

Staff:

- The Land Use Contract has no further benefit to the property owner.
- The property is currently vacant and is designated in the OCP for low density multiple housing. The future bypass road will be adjacent.
- The applicant is proposing to develop 16 units of townhouses, in two buildings each with three units and a 10 unit building.
- Since initial consideration, the design of the project has been improved so that now the garage and front door are relatively close together to better accentuate the front door of the dwelling unit.
- A Development Permit application would be considered concurrent with adoption consideration of the subject bylaw.
- The application is consistent with relevant planning documents.

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

- petition of opposition bearing 20 signatures concerned generally on the basis that vandalism, traffic, trespassing and taxes would increase, and therefore decrease their property values.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Barb Danielsen, applicant:

- The overall design of the project has been revised to meet the requirements of the City.
- The intent is to provide a starter-home strata titled development with family orientation. The units would be 2-storey with full basements.
- Has no objection to disclosing the issues that come with living near ALR land to potential purchasers.

Councillor Cannan returned to the Council Chamber at 5:30 p.m. and took his place at the Council Table.

Gay Clark, 2161 Scenic Road:

- Is a resident of the adjacent 8plex which is owner-occupied. The owners have chosen not to fence their property and are concerned that if the subject application is approved, there would be a problem with trespassing and possibly more vandalism.

There were no further comments.

3.3(b) 2131 Scenic Road

3.3(b) Bylaw No. 9187 (Z03-0063) – Vince and Giovannina Magaldi (R469 Enterprises Ltd.) – Scenic Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Sec. 4 & 9, Twp. 23, O.D.Y.D., Plan KAP61644, located on Scenic Road, Kelowna, B.C., from the A1 – Agriculture 1 (LUC78-1009) zone to the RM3 – Low Density Multiple Housing zone.

Dealt with concurrently with 3.3(a) above.

3.4 2034 Pandosy Street

- 3.4 Bylaw No. 9183 (HRA03-0002) – Robert and Benigna Cummings – Pandosy Street – THAT the City of Kelowna enter into a Heritage Revitalization Agreement for the property at 2034 Pandosy Street, being Lot 16, Blk. 6, D.L. 14, O.D.Y.D. Plan 348, in the form of such Agreement attached to and forming part of this bylaw as Schedule “A”, to vary the provisions of the RU1 – Large Lot Housing zone of City of Kelowna Zoning Bylaw No. 8000 to allow the heritage property to be developed with two single unit residences in separate dwellings, as if the property was zoned RU6 – Two Dwelling Housing, and through the HRA govern all aspects of development and land use on the subject property and require the land owner to preserve, maintain and protect the character of the former Dr. J.W.N. Shepherd heritage building.

Staff:

- The property is within the Abbott Street Heritage Conservation Area.
- There have been a number of unsuccessful applications for this property. The most recent was an application by the previous owner to rezone the property to the RU6 – Two Dwelling Housing zone in order to construct a second dwelling on the property. The application was defeated by Council with direction for staff to deal with the proposed development via a Heritage Revitalization Agreement (HRA) rather than through rezoning.
- The new owners of the property wish to complete the process for the HRA that was started by the former owner. Since the proposal is the same as was being pursued via rezoning, the subject application was not referred back to the Community Heritage Commission or the Advisory Planning Commission.
- The applicant intends to restore and preserve the heritage house, which is listed in the Heritage Register as the ‘Dr. J.W.N. Shepherd’ residence, in exchange for the ability to build a second house at the rear of the property.
- The site is almost 80 m deep. The existing driveway would be extended to provide vehicle access to the new dwelling and to two new parking stalls that would be located in the rear. The two existing parking stalls in front of the heritage home would be decommissioned.
- The deck at the rear of the heritage house would be removed. The exterior of the new dwelling would complement the exterior of the heritage home.
- After initial consideration of this application, the wording in the HRA was refined at Council’s request to include more detail regarding the exterior finish of the Shepherd house.
- The applicant is not interested in pursuing a heritage designation of the land.

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

- Letter of opposition from Robert Cichocki, 1221 Kelglen Crescent
- Letter of opposition from David Lovell, Kelowna South-Central Association of Neighbourhoods

Both opposed generally on the basis that there would be a lack of greenspace in the neighbourhood and huge landscape alterations to the subject property, the lack of protection of heritage designations, and an increase in density.

Mayor Gray invited the applicant or anyone in the public gallery who deem themselves affected to come forward, followed by comments of Council.

Rob & Benigna Cummings, applicants:

- The property was a mess when they took possession; it took six loads to the landfill to get rid of all the garbage and other debris in the back yard. They also planted six new trees as soon as they took possession (4 on one side and 2 on the other).
- Have done a lot of work restoring the inside of the heritage home. No intent to alter the exterior of the building.
- Went around to all the neighbours and showed them plans of what was proposed and they all agreed. The three adjacent neighbours provided letters of support for the proposed new the rancher style home.
- Intend to live in the new home and continue renting out the heritage home.

Staff:

- Displayed before and after photos of the interior of the heritage house and showing the garbage that was on the site before the applicant purchased the property.

The Deputy City Clerk advised that a letter of opposition was also received from Christian de Coper, 467 Park Avenue (handed in just prior to him leaving tonight's meeting) opposing adding the second dwelling at the rear of the site. The Deputy City Clerk further advised that the 3 letters that the applicants referred to were from 479 Park Avenue, 2043 Dorian Street, and 2053 Dorian Street.

Valerie Hallford, Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS):

- FRAHCAS has opposed all of the applications for this property and is concerned about the subject application as well.
- The Shepherd house should be restored in accordance with the recommendations of the advisory committees and designated a municipal heritage building. Concerned that the recommendations of the Community Heritage Commission and the Advisory Planning Commission have been ignored.
- The terms of the HRA are so vague that existing windows could be replaced with aluminium windows at great consequence to the heritage value of the Shepherd house.
- Concerned about the on-site parking. FRAHCAS would like the on-site parking to be spelled out in the HRA and enforced.
- The deck that is to be removed from the rear of the building was just recently replaced.
- Read and submitted a petition bearing 11 signatures suggesting that the HRA does not adequately address the form and character of the new house.
- Asked that the HRA not be approved until it properly addresses the restoration of the Shepherd house and the plans for the new house.
- Would prefer that the new house be more arts and crafts revival. The proposed 2 car attached garage is not consistent with a heritage house.

Rob & Benigna Cummings, applicants:

- When they took possession of the home in August, 2003, their insurance company told them to replace the roof, replace the illegal wood burning stove, and replace the deck which was rotting and full of holes.
- Do not intend to do anything to the windows outside of replacing the pane glass.
- The driveway will remain a gravel surface.
- Would agree to designating the Shepherd House a municipal heritage building.

There were no further comments.

3.5 2124 Pandosy Street

- 3.5 Bylaw No. 9184 (HRA03-0003) – Oak Lodge Centre Ltd. (Wayne Ross) – Pandosy Street – THAT the City of Kelowna to enter into a Heritage Revitalization Agreement for the property at 2124 Pandosy Street, being Lot 3, District Lot 14, ODYD Plan 4551, in the form of such agreement attached to and forming part of this bylaw as “Schedule A”, to vary the provisions of the RU1 – Large Lot Housing zone of City of Kelowna Zoning Bylaw No. 8000 to allow the heritage building on the property to be converted into four apartment units and to allow the accessory building on the property to be renovated into a fifth dwelling unit on the property, and through the HRA govern all aspects of development and land use on the subject property and require the land owner to preserve, maintain and protect the character of the “Cadder House” heritage building.

Staff:

- The subject property is within the Abbott Street Heritage Conservation Area and the ‘Cadder House’ heritage building is on listed on the Kelowna Heritage Register.
- The Heritage Revitalization Agreement (HRA) would allow the applicant to convert the building into 4 apartment units; two units on the main floor and two on the second floor. There is also an existing carriage house on the property and it will be moved to a location that conforms to current setback requirements and renovated for a fifth dwelling unit on the property.
- Outlined what is proposed for restoration of the exterior of the Cadder House.
- The HRA was supported by the Community Heritage Commission, and the Advisory Planning Commission recommended support subject to issues that have been addressed by the applicant.
- Staff view this as a good example of adaptive re-use of a heritage building.

The Deputy 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, followed by comments of Council.

Michael Lightbody, drafts person for the applicant:

- Confirmed that the application is for 4 units within the main house and 1 in the accessory building. The basement would remain undeveloped and continue to be used as common space for now. If in future the 4 units are not viable, then will reconsider the potential for developing 2 additional units in the basement.

A resident of Glenwood Avenue:

- Expressed concern that a letter from the Kelowna South-Central Association of Neighbourhoods indicates there could be 2 additional units in the basement. Would not want the neighbourhood to turn into a hotel type of area.

Staff:

- That issue has been dropped by the applicant. The HRA is for 5 units in total; the 4 units in the Cadder House and 1 unit in the accessory building.

Valerie Hallford, Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS):

- FRAHCAS supports the application as a prime example of appropriate adaptive re-use of a heritage building. The applicant proposes to provide ample on-site parking and intends to restore the landscaping.
- Concerned that only the house is being designated. Would like to see the land designated a heritage site as well.

Wayne Ross, applicant:

- Would be willing to designate the land for heritage along with the buildings.

There were no further comments.

3.6 2094 Abbott Street

- 3.6 Bylaw No. 9182 (Heritage Designation) – THAT the building known as the 'Hughes-Games House' situated on lands legally described as Lot A, District Lot 14, ODYD, Plan KAP47142, located at 2094 Abbott Street, Kelowna B.C., be designated a Municipal Heritage Site pursuant to Section 967 of the *Local Government Act* in order to protect the heritage value of the building.

Staff:

- The property is within the Abbott Street Heritage Conservation Area and is the subject of a Heritage Revitalization Agreement (HRA). The heritage house has been relocated from a central location on the site to one side to facilitate a subdivision and construction of a new house on the balance of the property.
- A condition of the HRA was designation of the heritage house as a municipal heritage building.
- At initial consideration Council was concerned about whether the building was still worthy of a heritage designation. Staff asked the Community Heritage Commission (CHC) and they did not support the recommendation for the heritage designation. The CHC felt that the remaining heritage value of the site would be adequately protected by the HRA and that designation was not necessary.
- Showed photos post-relocation of the heritage house which is now on a slab on-grade foundation, noting the HRA never referenced the height of the building after relocation and it was always known that the building would not be on a full basement. Renderings of the pre-located building indicated six steps up to the front door; the relocated building has 4 or 5 steps up to the front door.
- Designating the building for heritage gives the applicant potential to apply for grants that may be available in future for maintenance issues, and in the event that there is a breach of the HRA and the City quit claimed the agreement, then the City could rely on the policies for heritage conservation.
- Designating a building as a heritage building is the highest level of protection under the Local Government Act. However, whether or not the house is designated as a heritage building, it would still be protected under the HRA and any changes would have to be through a Heritage Alteration Permit.
- The heritage value has diminished through moving the building from its original foundation but much of the building has been preserved and the core of the building is still in tact. Staff recommend in support of the designation on the basis that it is still a significant heritage resource in the community.

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

- Letter of opposition from Shirley Clarke, 1935 McDougall Street.
- Letter of opposition from David Lovell, Kelowna South-Central Association of Neighbourhoods

Both opposed generally on the basis that the heritage integrity has been lost as the home does not resemble any of its original characteristics.

Mayor Gray invited the applicant or anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

The applicant was not in attendance, nor was an agent.

Peter Chataway, Central Okanagan Heritage Society:

- The Society was saddened that the original house, lot and gardens were not preserved and that the lot was subdivided. However they supported the HRA in order to save the building from demolition.
- Kelowna has only 13 designated sites. The Society believes that more designations are better than less and that adaptive re-use is good to preserve our heritage.
- The Society supports the designation of the Hughes-Games House because of qualities that still exist and give it heritage value.

Paul Currie-Johnson, Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS):

- Read a letter from Art Hughes-Games, son of the man who had the house built, saying the property has been totally destroyed and opposing designating the remaining building.

Valerie Hallford, Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS):

- FRAHCAS is opposed to the designation. They believe it will set a precedent for devaluing the whole purpose and intent of heritage designations. The pond and rose garden are now in the adjoining panhandled lot. The house has lost its ground floor and is on a lower elevation of land. The lake frontage for the lot with the heritage house is now 40% of what it was. The integrity of the house could be further compromised by the new house when it gets built on the adjoining lot.
- The heritage designation should have been applied before the house was moved.
- This afternoon, the Community Heritage Commission passed a unanimous motion to not support the heritage designation and to remove the designation requirement from the HRA.
- When asked if FRAHCAS would support demolition of the house, responded with a comment that they would have a hard time supporting its retention.

There were no further comments.

3.7 2135 Leckie Road

- 3.7 Bylaw No. 9185 (Heritage Designation) – THAT the lands and buildings known as the 'Brent's Mill Buildings' situated on lands legally described as DL 531 Except Plan B1589, 25187, 30395 & M14878, Except Part Red on PL attached to DD1952D & Part Lying to the North of the Railway shown on PL attached to DD1952D located at 2135 Leckie Road, Kelowna B.C. to be known in the future as "Brent's Mill Heritage Park" be designated a Municipal Heritage Site pursuant to Section 967 of the *Local Government Act* for the conservation of the lands and buildings.

Staff:

- Showed photos of the buildings, now relocated to the City-owned property being designated as a heritage site. The buildings were used in 1908 as a dairy farm so the name of the park could be changed to something more in keeping with that style which is what exists now.
- Looking to establish an agreement with the Central Okanagan Heritage Society whereby the Society would lease the property and operate the buildings, similar to Guisachan House.
- The Local Government Act requires that Council consider the heritage value and character of the buildings, compatibility of conservation with the OCP objectives, compatibility with lawful uses of the property, condition and economic viability of the property, and possible need for future financial support.
- There will be need for revenue generating opportunities through partnerships to help maintain the buildings for the future.

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

Mayor Gray invited anyone in the public gallery who deemed themselves affected to come forward, followed by comments of Council.

Larry Foster, representing the Central Okanagan Heritage Society:

- Here to lend support to the initiative to designate the buildings. The Brent's Mill Heritage Park will be Kelowna's next major heritage restoration project.
- The buildings reach back to the 1870s when the mill was in operation.
- Working toward a new partnership agreement with the Society and the City for operation of the facility.
- Designation gives the site the kind of stature that it deserves now and is a commitment for how it will be preserved for the future.

There were no further comments.

4. TERMINATION:

The Hearing was declared terminated at 8:00 p.m.

Certified Correct:

Mayor

BLH/am

Deputy City Clerk