

Public HearingOctober 3, 2006

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, October 3, 2006.

Council members in attendance: Mayor Sharon Shepherd, Councillors A.F. Blanleil, B.A. Clark, C.B. Day, B.D. Given, R.D. Hobson, N.J. Letnick and M.J. Rule.

Council members absent: Councillor C.M. Gran.

Staff members in attendance were: City Manager, R.L. Mattiussi; City Clerk, A.M. Flack; Director of Planning & Development Services, M. Pynenburg; Acting Manager of Development Services, S. Gambacort; Development Planner, R. Smith; and Council Recording Secretary, B.L. Harder.

1. Mayor Shepherd called the Hearing to order at 6:01 p.m.
2. Mayor Shepherd 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 City Clerk advised the Notice of this Public Hearing was advertised by being posted on the Notice Board at City Hall on September 15, 2006, and by being placed in the Kelowna Daily Courier issues of September 25 & 26, 2006 and September 28 & 29, 2006, and in the Kelowna Capital News issue of September 24, 2006, and by sending out or otherwise delivering 591 letters to the owners and occupiers of surrounding properties between September 15-20, 2006.

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 **200-210 Bernard Avenue, 220 Mill Street, 222 Queensway Avenue and 1414 Water Street**
 - 3.1 Bylaw No. 9668 (Z06-0037) – City of Kelowna – Bernard Avenue, Mill Street, Queensway Avenue and Water Street – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of water lots D.L. 4004, D.L.5118, D.L. 5203 and the portion of Block G, D.L.1527 below the north edge of Block F, D.L. 1527 (as shown on Map "A", attached to the bylaw), Kelowna, B.C. from the P3 – Parks and Open Space zone to the W2 – Intensive Water Use zone.

Moved by Councillor Given/Seconded by Councillor Letnick

P948/06/10/03 THAT Rezoning Application No. Z06-0037 (Bylaw No. 9668 – City of Kelowna) be withdrawn from the October 3, 2006 Public Hearing agenda and rescheduled to the Public Hearing of October 17, 2006.

Carried

3.2(a) 2040 Springfield Road

3.2(a) Bylaw No. 9669 (OCP06-0009) – Kelowna Elks Lodge No. 52 of the Benevolent and Protective Order of Elks Canada (Herman Design Group) – Springfield Road – THAT Map 19.1 of Kelowna 2020 - Official Community Plan Bylaw No. 7600 be amended by changing the Future Land Use designation of Lot A, District Lot 129, ODYD Plan 30261, located on Springfield Road, Kelowna, B.C., from the Education/Major Institutional designation to the Commercial designation.

Staff:

- The property is on the north side of Springfield between Cooper and Barlee Roads.
- Surrounding land uses include Transitional Low Density Housing to the north, Urban Centre Commercial to the east, Service Commercial to the west, and to the east is vacant ALR land.
- The OCP amendment and rezoning are requested to accommodate a proposed 12-storey mixed use development with retail/commercial at-grade and office uses and space for the Elks Lodge on the second floor. The 75-unit residential tower would be stepped back. The majority of the parking would be in an underground parkade.
- The landscape plan shows surface parking around the perimeter of the site and allows for pedestrian links into the development from Springfield Road. The surface parking triggers the need for setback variances.
- The proposed land use is consistent with other development in the neighbourhood.
- The developer has indicated willingness to consider including affordable housing in the development if he can have an additional storey. The City's policy to offer affordable housing when an incremental density increase is being requested does not apply to this development because they would be adding the additional storey in order to provide the affordable units. The policy would apply if they were providing the units within the existing building footprint and height.
- Staff do not really support adding an extra storey to the building. The C4 Urban Centre Zone has a density provision and as the application now stands they are taking full advantage of that. Staff would prefer they achieve the extra density within the same building envelope.
- The applicant could provide another 4-6 units of affordable housing and still meet parking requirements.

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

- Letter of concern from the Ukrainian Orthodox Church of the Sts. Peter and Paul, 1935 Barlee Road

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

Jim Herman, Herman Design Group, applicant:

- PowerPoint presentation expanding on the application.
- Clarified that some smaller units have been added so the total number of residential units has been increased from 75 to 82 units.
- Amenities for the complex would be on the rooftop.
- The building design is modern with the majority of parking underground. Surface parking would be for the commercial tenants.
- Landscaping provides pedestrian links from Springfield and Barlee.
- The proposal would complement the neighbourhood.

- The Advisory Planning Commission supported the application provided that all variances were removed. Eliminating the variances is not possible due to the high water table on one side. The proposed landscaping mitigates the relaxation of setback requirements.
- Is working with a consultant on a shadow study.
- Based on the developer's calculations bumping up the maximum floor area ratio from 1.3 to 1.4 would trigger a 3.1 m height variance and make it economically feasible to provide four affordable housing units.

Pat Kerns, Past-President of Elks Lodge:

- Urged Council to approve the project.

There were no further comments.

3.2(b) 2040 Springfield Road

- 3.2(b) Bylaw No. 9670 (Z06-0031) - Kelowna Elks Lodge No. 52 of the Benevolent and Protective Order of Elks Canada (Herman Design Group) – Springfield Road – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, District Lot 129, ODYD Plan 30261, located on Springfield Road, Kelowna, B.C. from the P2 – Education and Minor Institutional zone to the C4 – Urban Centre Commercial zone.

See discussion under agenda item No. 3.2(a).

3.3 578 Cawston Avenue

- 3.3 Bylaw No. 9671 (Z06-0035) – Anita D'Angelo – Cawston Avenue – THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 28, D.L. 139, ODYD, Plan 1037, located on Cawston Avenue, Kelowna, B.C. from the RU2 – Medium Lot Housing zone to the RU2s – Medium Lot Housing with Secondary Suite zone.

Staff:

- The property is located between Richter and St. Paul Streets.
- The applicant is proposing to add an accessory building in the rear of the property that would include the suite and a single car garage.
- Design issues would be dealt with through the Direct Development Permit process.
- Staff have no concerns and recommend support.

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

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

Anita D'Angelo, applicant:

- Indicated she had nothing to add at this time.

There were no further comments.

3.4(a) 429 Park Avenue

- 3.4(a) Bylaw No. 9673 (HRA06-0001) – Valerie Hallford – Park Avenue – THAT the City of Kelowna to enter into a Heritage Revitalization Agreement for the property at 429 Park Avenue, Kelowna, B.C., Lot 8, Block 6, District Lot 14, ODYD Plan 431, in the form of such Agreement attached to and forming part of the bylaw as Schedule “A”, to vary the provisions of the RU1 – Large Lot Housing zone of the City of Kelowna Zoning Bylaw No. 8000 to allow the heritage property to be subdivided to create two lots each of which will be permitted a maximum of one single detached house, including the existing heritage building; and to require that the new house on the vacant lot be constructed in accordance with the plans and design attached to the agreement; and to allow for registration of an easement over the newly created lot for a wheelchair ramp to access the heritage building; and to allow a building addition to the heritage building for a secondary suite to be rented at an affordable rate protected for a period of 10 years by a Housing Agreement registered on title.

Staff:

- The property is within the Abbott Street Heritage Conservation Area and the Reekie House is listed on the Kelowna Heritage Register.
- Through the Heritage Revitalization Agreement (HRA), the applicant is proposing relaxation of the eastern side yard and the rear yard setback requirements of the RU1 – Large Lot Housing zone to allow for creation of a new lot and a new single family dwelling at the rear of that lot, and a small addition to the rear of the existing heritage house. The HRA would also relax the lot width and lot area requirements. The applicant has committed that the suite would be rented at an affordable rate and the affordable housing in the suite would be protected by a Housing Agreement for a period of 10 years.
- The reduced rear yard setback would allow the existing mature landscaping on the site (two large Maple trees) to be retained. One of the trees is on the Kelowna Heritage Tree register.
- Described how the buildings would be finished and showed building elevations.

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

Opposition:

- Letter - Kelowna South-Central Association of Neighbourhoods (KSAN)
- Letter - Doug, Brian and Carol Mayzes and Katharina Kotulla, no address
- Letter - David Foster, 437 Park Avenue and Karen Sperling, 439 Park Avenue
- Letter & Petition - Victor Ehmann and Helen Terhjan, 409 Park Avenue (petition previously submitted at the APC stage).
- Petition bearing 26 signatures (previously submitted at the APC stage)

Support (letters):

- Richard Drinnan, 669 Greene Road
- Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS)
- Mr. & Mrs. Peter Loyd, 450 Cadder Avenue and Mr. & Mrs. D. Loyd, 2185 Abbott Street
- Ron & Jill Schoch, 2040-2042 Doryan Street
- Carole Bridges, 1866 Riverside Avenue
- 1000 Friends of Kelowna

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- Paul and Melanie Filiatrault, 366 Park Avenue
- Jeannette Mergens, 1922 Abbott Street
- Steve & Brenda Thomson, 344 Beach Avenue
- Frances Kirkpatrick, Park Avenue
- Deborah Sures, 281 Atwood Place
- Rita Whitehall, 236 Beach Avenue
- Mervin Watson, 730 Kingsway Street
- Rondeau Brown, 2030 Doryan Street
- Margot Sentes, 2166 Abbott Street
- Package of letters submitted to APC, re-submitted by Valerie Hallford, applicant

Support (petition)

- 68 signatures (some of which was previously submitted and circulated to APC)

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

Jack Redenbach, architect:

- Submitted his presentation notes.
- Subdivision of the property would provide the additional funding required for revitalization of the Reekie House.
- The HRA applies to the new lot too and cannot be changed without a formal source of review.
- With the HRA applied to both lots, sufficient controls are instituted and the controls will carry forward to ensure the limitations continue to apply. Designating the Reekie House will further ensure the retention of the historical significance of the house.
- Showed photos of the neighbouring properties and views from the Reekie House to show the current landscaping/screening for the properties to the west and south, and of the mature trees that would be retained.
- The HRA is specific to the particular property and ensures what is being achieved is in the public interest. It is like a CD spot zoning.
- The new house would be about an 18 ft. high structure at the rear of the lot.
- Showed the colour scheme that is proposed.
- The applicant wants to provide a seniors unit on the rear side of the existing residence. The unit would have access into the existing residence and would be subsidized and controlled through registration with CHMC for 15 years.

Carol Mayzes, 2031 Long Street:

- Is the adjacent neighbour to the south and is here to express outrage about this proposal.
- The photo the architect displayed does not show the suite her son built for her and her husband to live in.
- They had wanted to build a one storey rancher with no variances and with wheelchair access at the rear of their property but the proposal was shot down because of neighbourhood opposition. The applicant should not be allowed to do what they were not allowed to do.
- The house on the new lot would be within 2 m of the fence where she resides. To allow a home to be built at the extreme rear of the property is not fair. It is not an improvement in the neighbourhood, it just financially benefits the applicant. The applicant could do what they were forced to do right where her present patio is. Creating the small lot opens Pandora's Box.
- Concerned that the hedging between her property and the proposed new house is old and could die or be compromised by the excavation work.
- Concerned about the positioning of the proposed new home; the windows looking over their back yard are unnecessary.

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- Has viewed the plans and been in the applicant's home.
- In her opinion, the proposal has great merit.
- Most homes have windows from neighbouring properties looking at them. Neighbours should work together for some screening.
- She and her husband support this application.

Patricia Munroe, Secretary, Kelowna South-Central Association of Neighbourhoods (KSAN):

- Directors of KSAN attended the Community Heritage Commission and the Advisory Planning Commission meetings when this application was considered. Each time the application was not supported. Tonight, the Heritage Designation of the Reekie Home is new and KSAN supports that.
- KSAN does not feel this application for subdivision is the right use of an HRA. An HRA is not the appropriate tool for increasing the density; rezoning would be more appropriate.
- The proposal is not in keeping with the character of the heritage conservation area or the design guidelines for the area.
- The location of the proposed new dwelling is too close to the property line with the relaxation of the rear yard and side yard setbacks.
- The proposed design is fine but three skylights are not in character with the neighbourhood, nor is an exposed balcony.
- Would rather see the new house located closer to the street and no parking in front of the residence, even if that means losing the trees.
- Adequate parking is not being provided; a variance on parking is not acceptable.

Staff:

- There would be two stalls for the new dwelling and a small car stall and a driveway with ability for two tandem parking stalls on the existing lot so the application meets parking requirements.
- The applicant currently has a boarder in a common living situation in the existing dwelling.

Anne Laurie, 2620 Abbott Street:

- Her property is just south of the Abbott Street Heritage Conservation Area.
- In her opinion, this is a sensitive subdivision proposal that preserves the architecture and the setting of the heritage house, keeps the heritage nature of the neighbourhood by building a secondary house that fits in, keeps the heritage trees, and preserves the streetscape of the neighbourhood by setting the proposed new house back on the site. This is the best proposal possible for a property this size and should be supported by Council.
- The subsidized housing that would be attached to the main house would meet a dire need in the community and be protected for 15 years.
- Concerned about what could alternatively be approved for the subject property if this application was denied and the property sold.

Walley Lightbody, President, Friends & Residents of the Abbott Street Heritage Conservation Area Society (FRAHCAS):

- FRAHCAS submitted a letter of support; a unanimous decision of the board of directors. They support subdividing instead of rezoning the property and preserving the two large Maple trees.
- The new lot would be sold.
- At the applicant's request, the City inspected the existing dwelling and confirmed there is no illegal usage and no suite. The applicant has a valid business license for bed & breakfast.
- Questioned the credibility of the petitions.
- Displayed a map showing the properties that have indicated support.

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- Noted that the three properties immediately adjacent are not shown on the map as being in support of the application.

Victor Ehmann, 409 Park Avenue:

- Is the adjacent neighbour to the west. The proposed new house would only be a few feet from the common fence and the proposed 1.5 storey residence has windows that would overlook their yard. The requested variances would infringe on his rights as an adjacent neighbour and diminish the value of his property.
- An HRA is not appropriate in this case. The applicant is confusing renovations with heritage revitalization. HRA's must have demonstrable benefits to the citizens of Kelowna.
- The proposed HRA is not about heritage revitalization rather it is a business plan in which the property would be subdivided to create a lot that the applicant would sell in order to renovate and stay in her present home and the proposed suite would provide continuing cash flow. The HRA would only benefit the applicant.
- The proposal was rejected by both the CHC and the APC and does not have support of KSAN or of the immediate neighbours. The plan does not meet the design guidelines for construction in the conservation area or meet the bylaws and there is no heritage benefit.
- Supports designation of the existing house as a heritage property.

Jim Langley, 2053 Long Street:

- Does not understand heritage revitalization but supports infill in the heritage area. Council needs to allow more infill development within the heritage area.
- Would support an addition to make the existing home larger. To add a second home on the lot with the minimum setbacks as proposed is a bit of a stretch; he is not saying he is against it but it is a bit of a stretch.

Jennifer Mulherin, 429 Park Avenue:

- She is the boarder in the applicant's house. She was going to be house sitting the house when the applicant goes to Europe anyway and the applicant allowed her to move in two weeks early.
- Does not have a car and does not drive.

Michael Griffin, 2021 Abbott Street:

- Signed a petition of support having seen this as creative and interesting approach to densification in the neighbourhood.
- Reminded Council that there was an HRA on the Hughes-Games property and the result was moving the house on the lot, creating a new lot, and in effect destroying the heritage quality of the house. The proposal for the subject property protects the heritage quality of the house.
- Asked how the setback requirements would compare for a suite in a carriage house versus what is proposed.

Staff:

- If this was an application for rezoning to the 's' zone and the suite was in a carriage house, side and rear yard setbacks could be met. However, the proposed building would be too large to qualify as a carriage house.

John Gorges, 1989 Knox Crescent:

- Supports the application. He likes looking at the subject property from his driveway and does not think what the applicant is proposing would not destroy that.
- Would not want to see a developer ruin the property.

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- Supports the HRA. What is proposed in his opinion is sensitive, follows the heritage procedures and guidelines and is in the public interest.

Marietta Lightbody, 2302 Abbott Street:

- Miss Reekie recently passed away at the age of 102. The applicant intends to restore the house and keep the garden the same as what Miss Reekie had.

Helen Terhjan, 409 Park Avenue:

- Concerned that the roots of the trees along the common property boundary could be compromised by the construction activities.

Jack Redenbach, architect:

- Can accommodate the construction activities without impacting the trees.
- KSAN's comments are based on earlier plans that were abandoned and are out of date.
- There are several properties along Park Avenue that have front yard parking. All three adjacent properties have driveways accessed directly off the street.
- The front yard area that is visible to the public would basically stay the same.
- This is a restoration not a renovation. A lot of work goes into replacing deteriorated materials.
- Could enhance the vegetation on the south and west sides.
- Whoever builds on the proposed new lot would be tied to the terms of the HRA.

Valerie Hallford, applicant:

- She showed the plans to the past president of KSAN initially and then on the weekend she spoke to a director of KSAN who was going to be taking all the (current) plans, the HRA and the bylaw to a KSAN meeting last night.
- The Mayzes' building addition was extremely invasive to her property but she did not say a word in opposition.
- Advised which homes she went to in the immediate neighbourhood to discuss her plans.

Staff:

- Clarified for Council that if the newly created lot was sold, the design of the new house and the design of the proposed addition to the Reekie House would have to be in accordance with the HRA which applies to both properties, or be subject to penalty under the Community Charter. Any alteration to the HRA would require a public process.

There were no further comments.

3.4(b) 429 Park Avenue

- 3.4(b) Bylaw No. 9674 (Heritage Designation) – Valerie Hallford – Park Avenue – THAT the building known as the “Reekie House” situated on lands legally described as Lot 8, Block 6, District Lot 14, ODYD Plan 431, located at 429 Park Avenue, Kelowna, B.C., be designated a Municipal Heritage Site pursuant to Section 967 of the Local Government Act.

See discussion under 3.4(a).

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4. TERMINATION:

The Hearing was declared terminated at 8:43 p.m.

Certified Correct:

Mayor

City Clerk

BLH/am