

MINUTES of a PUBLIC HEARING of the MUNICIPAL COUNCIL of the Corporation of the District of Oak Bay, held in the Council Chambers, Oak Bay Municipal Hall, 2167 Oak Bay Avenue, Victoria, B.C., on Monday September 9, 2019 at 6:00 PM.

We acknowledge that the land on which we gather is the traditional territory of the Coast and Straits Salish Peoples. Specifically we recognize the Lekwungen-speaking peoples, known today as the Songhees and Esquimalt Nations, and that their historical connections to these lands continue to this day.

PRESENT: Mayor K. Murdoch, Chair  
Councillor A Appleton  
Councillor H. Braithwaite  
Councillor C. Green  
Councillor T. Ney  
Councillor E Paterson  
Councillor E.W. Zhelka

STAFF: Chief Administrative Officer, L. Varela  
Director of Corporate Services, D. Hopkins  
Director of Building and Planning, B. Anderson  
Director of Engineering, D. Horan  
Manager of Planning, D. Jensen  
Planner, G. Buffett  
Recorder, A. Nurvo

CALL TO ORDER:

The Mayor called the meeting to order at 6:02 pm and provided opening remarks with respect to the conduct of a Public Hearing.

BYLAW TO BE CONSIDERED:

1. **2031 Runnymede Avenue Heritage Revitalization Agreement**  
The Manager of Planning provided an overview of Bylaw No. 4696. The purpose of the Bylaw is to facilitate residential development of a heritage designated property through a Heritage Revitalization Agreement (HRA) at Lot E, Section 47, Victoria District, Plan 9191 (2031 Runnymede Avenue). The applicants intend to create a two lot subdivision and construct a new single family home on the new lot. The primary intent of this Bylaw is to preserve the heritage designated property so long as the provisions of the HRA are agreed to. The heritage designation of this property was adopted by Council in 1980. The Statement of Significance was updated in 2015. Last year Council considered first and second reading of the Bylaw and since then the applicants have made some modifications. Variances have been removed, the detached garage has been removed and modified plans have been submitted, and the rear lot line is staying in its original position. There had been an error in the previous document at clause 18.4. The modified plans do not change the layout. The development would be subject to all requirements of new the zone.
2. **Written Submissions for Bylaw No. 4696 Received and Distributed Prior to Public Hearing**
  - Notice of Public Hearing (2031 Runnymede Avenue)
  - 2031 Runnymede Avenue Heritage Revitalization Agreement Bylaw 2018, No. 4696

- Report by the Manager of Planning dated July 4, 2019
- Plans dated July 4, 2019
- Report by the Manager of Planning dated July 9, 2018
- Plans dated July 11, 2018
- Excerpt of Minutes from September 18, 2017 Committee of the Whole
- Excerpt – Council Meeting July 16, 2018
- Minutes from September 17, 2018 Public Hearing
- Excerpt of Minutes from July 8, 2019 Council meeting
- Report by the Acting Director of Building and Planning dated September 1, 2017
- Site Plan
- Heritage Home and Elevations
- Statement of Significance dated May, 2015
- Additional Statement of Significance (2031 Runnymede)
- Conservation Plan dated May, 2015
- Applicant Tree Management Plan dated May, 2017
- Heritage Building and Land Designation bylaw, 1980, No. 3343
- 2031 Runnymede – Presentation
- Correspondence Received by September 4, 2019
- Additional Correspondence – Received from Sept 5 – Sept 9, 2019

MOVED and seconded: That the written submissions received and distributed prior to the Public Hearing as attached to Agenda Item 2 be received.

**CARRIED**

**3. Reading of Additional Written Correspondence Not Included on the Agenda**

The Director of Corporate Services read additional correspondence received that was not included on the Agenda, for inclusion in the public record:

Pam Copley, Oak Bay resident, wrote that she was highly impressed and strongly encouraged Mayor and Council to support the application. The HRA is the most effective tool to achieve a positive outcome. The applicants' work on the property is a source of pride within the community and is enhancing the streetscape. This is not a publicly owned or operated facility, but is a negotiated agreement between the owners and the municipality. The letter quoted from page 44, the section on HRAs and their intended use and benefit.

Marc Belanger and David Ellingsen, currently residents of Saanich, previously residents at the property. They stated they are thrilled about the possibility of living in this area. A year later, Bruce & Ann had created something wonderful that impacted the surrounding neighbourhood. During their 4 year stay, they witnessed continuous improvements to the property. The HRA will ensure it will continue to be enjoyed into the future. They strongly support the proposal.

Alanne Gibson, Oak Bay resident, wrote in opposition to the development at this property and asked Mayor and Council not to approve the subdivision. This is just an attempt to develop the property for profit with no benefit to the community and simply build another monster house.

Susan Ramsey, Oak Bay resident, stated she was in support of this subdivision. This is a historic and iconic house requiring renovations. Without this restoration, the building would

have been lost. The HRA will protect the property into the future. The subdivision will help with the burden to ensure it can be preserved for the future. It is adding value to the community.

Jan Mears, Oak Bay resident, wrote that she supports this application. The home had been in dilapidated condition in 2013. The current owners saved it. It has been beautifully restored and the house renovations are almost complete. The pool and pool house are in extremely poor condition. Approving this application will add much needed housing to the housing stock. She urged Council to support the application.

James and Diana Black, Oak Bay residents, are writing in support. She has known Bruce for many years. Today this property is a testament to care and has revitalized the neighbourhood. The HRA will protect the property into the future. She strongly supports this development.

Michael Cameron, wrote in support. Six years ago he attended to rewire the property, and saw that it had been transformed into a beautiful home. The owners had gone to great lengths to preserve the original character. Based on the care and professionalism he had witnessed, he has confidence that the full restoration of the entire property will be completed to the same standard.

Brianne and Joshua Budlovsky, wrote in support. They enjoyed watching the care being given, with the house and property being returned to its previous splendor. Heritage designation ensures it will be protected and adds value to neighbourhood. The application upholds the single family character of the neighbourhood and allows for growth.

MOVED and seconded: That the additional written correspondence not included on the Agenda and read into the record be received.

**CARRIED**

#### 4. **Applicant Presentation**

The applicant, Bruce Wilkins, appeared before Council. He stated the application is for a HRA and they are proposing to subdivide the property into two lots, a 12,809 sq. ft. new lot and the remaining lot including the existing house is 41,979 sq. ft., which includes the use of the renovated suite on the lower level. He provided a background and gave a brief history of the property. The property is now in the RS4 zone and the proposed new lot will also be RS4, which allows for minimum 10,400 sq. ft. He reviewed photographs and what they have done to the property, including restoration of the extensive rock gardens, landscaping and pond. When they took possession the house was in an incredibly dilapidated state. Work included replacing wiring, plumbing, removal of walls, bathroom restored, original floors have been refinished, stripped all moldings and railings, mahogany stairs refinished, new handrails, new crown moulding, tile work in entrance hall, and 8 fireplaces replaced with gas for greater energy efficiency. All radiators were stripped, refurbished and reinstalled, and converted to gas. Beams were added in the living room ceiling. The kitchen was pretty dilapidated. Cabinets were removed, the walls were resurfaced and the original cabinets were put back. A small closet turned into elegant powder room. The basement suite, probably maids' quarters originally, was renovated and a gas fireplace added. The pool house and pool has been vandalized over the years. They put some fill into the pool so people don't fall in. The holly tree was removed, the boulevard was restored and a hedgerow was planted. Pool house area is where the new lot is proposed. They want to

tear it down and build a proposed new house on the new lot. Donald Luxton, heritage consultant, has prepared a report that recommends the 1926 pool and pool house be removed to accommodate the new lot.

Anne Hillier, applicant, also addressed Council. She gave a background of the purchase of the property. She stated that each time they appeared before Council, the application moved ahead. In 2013 they purchased the property without any conditions and started worked on renovations and moved into portions in 2014. The house is now largely completed. Their extensive gardening work and restoration has included Invasive plants removal, rehabilitation of big significant trees, planting of 50 trees on the property including Garry Oaks, a significant improvement to the gardens and an increase to the tree canopy since they bought the property. The suite existed at the time they bought the house, but since it is an unregulated suite, part of the application is to register it so it is available as rental accommodation, to contribute to the stock of housing while still maintaining its character. She stated the suite was built to code. It was a struggle for the previous owners to maintain. The house is now much more comfortable, energy efficient, and has been protected to keep it from further deterioration. It is a benefit to the community and has contributed to the heritage of the community. She asked for Council's support of the HRA.

#### 5. **Council Requests for Clarification**

Council inquired if whether the owner of the house is proposing to be the developer/contractor for the new house to be constructed or will sever for sale and construction by new owner.

Mr. Wilkins responded that the proposal is to subdivide, and make it available for sale as an RS4 zoned lot.

Council requested information from staff on how the new lot would be serviced, any issues related to road and driveway into the proposed new lot, and whether a shared driveway is being considered.

Staff responded that there is plenty of room to have two driveways with a separate driveway to the new lot and that the elevation is quite a bit lower than the heritage house. The lot would be serviced with water and sewer and storm sewer. Staff intend to apply the full measures of our Bylaws to require the developer to service the lot as per our requirements and the *Local Government Act*.

Council inquired if the new lot will have RS4 zoning, which permits a larger lot area, and whether a variance for setback on north side was required and what, if any, limitations that will impose on the dimensions of the new house.

Staff advised that no variances are required and that the lot meets all the conditions of the Zoning Bylaw.

Council asked what covenants or authority does Council have to ensure that the massing and sight lines as approved will be maintained, considering Luxton's report.

Staff advised that the applicants have to comply with the RS4 setbacks and all other requirements.

Council asked what oversight does the District put into place to follow up on heritage homes and their maintenance?

Staff advised that they are in the process of setting up a database with periodic updates on where we need to carry out inspections.

Council identified that the new lot has lots of rocky outcropping and asked the applicant if they anticipate any blasting.

Ms. Hillier advised that there would be some to put new house in; however, it would be low impact, done in small bursts.

Council stated that the September 1, 2017 report from staff states that Council review would be forthcoming for siting and design on new lot, Council requested confirmation and clarification.

Staff confirmed that when dealing with heritage properties, there will be a siting and design covenant prepared to be reviewed and approved by Council.

Council stated that the Luxton report refers to the pool being McLure designed, but there is very little reference made to the pool and pool house due to the state of disrepair and requested further clarification as to why the consultant felt it shouldn't be retained.

Mr. Wilkins's stated the pool was not part of McLure's original plan. There had been a gazebo, the old foundation of the tea house was removed when the pool was put in in the 1950s.

Council asked if the outbuildings are not included in original heritage designation.

Staff confirmed that just the existing home is included and not the accessory buildings or pool structure.

Council requested an explanation on how the owners were able to complete the suite with permits when suites are not legal in Oak Bay.

Staff advised that the records were not clear; some seemed to indicate there has been a suite there for some considerable length of time. From what staff have reviewed, it appears they legally did have a suite.

Council asked if the subdivision were to proceed if there would be concession for the larger lot to be subdivided again.

Staff advised any further subdivision would have to come back to Council for approval.

Council asked if there is any ability to limit the size of the house to be built on this new lot.

Staff stated a clause could be added in the HRA to limit the new house to a smaller building.

Council identified that a permeable surface was used where the holly tree was removed and asked if the District would be able to encourage permeable surfaces at the street level. A Council member was concerned about the amount of pavement going on in Oak Bay generally.

Staff confirmed that when using the siting and design covenant, staff always encourage the use of green technology, and this also pertains to the driveway on the property.

Council noted that with the housing framework for the District to consider housing stock they assume if secondary suites are considered in the District that the new building can be considered for a suite.

Staff responded that it is difficult to forecast that at this time.

Council requested confirmation that there is no parking provided for original home, only surface parking.

Staff confirmed that both the existing home and the new home will be required to provide adequate parking on site in accordance with the District's bylaw, being two parking spaces, one of which has to be covered.

Council asked how many Garry Oaks might be within the potential footprint of the new building, assuming the rear lot setback would protect the Garry Oak meadow.

Staff advised with the siting and design covenant, the District has the ability to have discussions regarding siting so the District can anticipate there would not be any impact other than two Garry Oaks at the centre of the lot.

## 6. **Call for Submissions from the Public**

Mayor Murdoch asked if any members of the public would like to come forward to speak on the matter of Bylaw No. 4696.

Patrick Fry, Oak Bay resident, stated he is currently Vice Chair of APC, and has had extensive involvement with the OCP and in his professional background as a manager of heritage legislation including approval of HRAs. He stated that he is strongly in favour. He has watched the property decline over the years until the new owners have made a substantial investment and commitment in the property. He also stated if there are no further changes, Council can approve third reading tonight and then approve it in the regular Council meeting.

D. Naysmith, Oak Bay resident, stated he has lived two doors north of the property since 1983. He stated this application is regarding a subdivision of property, yet we have spent 90% of the time looking at the wonderful job the applicants have done on the house. Runnymede is basically just a lane one car wide. The only access to the new lot would be to that lane at the narrowest blind corner. He said it was offensive if someone buys a property knowing it is heritage designated with a long term view of subdividing it. This would send a very strong message to developers that heritage designation means nothing.

T. Williams, Oak Bay resident, has lived adjacent to the property since 1975, and asked whether the 1980 Bylaw No. 3393 is still in place. Staff responded that it was. Ms. Williams

asked whether the changes that were made in 2015 takes away the heritage designation of the land. Staff responded that there were no changes to the bylaw. Ms. Williams stated she is not in support and this would be setting a precedent in our municipality about the impact of heritage designation.

M. McGhie, Oak Bay resident, stated that he lives three doors down, and read his letter that he had previously provided. He stated this should be sent back to the Heritage Commission for review. It has a significant impact on the neighbourhood and streetscape. Their previous review was being relied on again but that was for a different application and a smaller lot. New housing should integrate with the existing neighbourhood. He requested Council to reject to relax our zoning bylaw and deny this application to subdivide and not set this precedent.

B. Berry, Oak Bay resident, stated that a 5,000 sq. ft. building up on a rock has to come close to the heritage home itself, obscuring the beauty of the building itself, and will change the streetscape. The gardens behind the pool house have been left to deteriorate intentionally. He stated the community is not in support, and he has sent in a petition. This decision is irreversible, and a precedent will be set. Then a subdivision will be attempted on the south side of the lot. He requested Council to deny the subdivision.

G. Deshon, Oak Bay resident, stated he has lived on Runnymede for a decade and is opposed to the subdivision. There is a blind corner where the driveway is proposed to go. He stated he does not agree that the only effect will be of a two lot subdivision development, since there is no restriction on a suite in the new building. The house and garden are heritage listed, the driveway is unsafe, and the HRA is unnecessary since the house has been restored. The logical next step would be a subdivision on the south side.

H. Sweeney, Oak Bay resident, stated she lives across the lane from the property. While she appreciates the work done on the heritage property, she stated she is not in favour of the subdivision, and neither is her husband. The land itself is designated, and there are very few of them, and it should be preserved. The house was substantially restored years ago, but not much focus has been given to the lot. Clause 7.2 of the proposed HRA states "notwithstanding... future development is exempt" which means they can build 5,000 sq. ft. house excluding basement, sitting on top of rock. This would be like a three storey building right next to you. This should have been sent to the Heritage Commission for review and input not just for information. This is a narrow street; she is concerned about the blind corner, and this development would add additional congestion.

E. Lupin, Oak Bay resident, stated that she lives to the south of the property. Since 2010 numerous letters and emails of protest have been sent to the municipality, which were not answered or acknowledged. In 2011 there was a demonstration at Municipal Hall. There is no guarantee that there won't be another subdivision application on the south side if this one is approved. It will create a precedent, that we are putting the interests of speculating developers above the interests of the community.

The Mayor requested clarification from staff regarding modifications to the back of the property line. Staff responded that the applicant has removed the previous variance so they will maintain the existing lot line in that area.

A. Kenning, Oak Bay resident, stated she has lived in the area for 40 years, and is opposed because of the heritage designation of the property. She congratulated the owners for doing

a wonderful job, but they purchased without anything in place, on speculation, and that is not what heritage designation is for. Perhaps they can be permitted to have a few suites or carriage house to help support ongoing restorations on the property. Permitting one more lot is not increasing housing density, it just allows one additional wealthy person to have a home.

G. MacDougall, Oak Bay resident, a resident of the area, stated he is opposed to the subdivision. He is very pleased with what the owners have done to the house in the last nine years. Imagine a house towering over the neighbours. He requested Council to protect the specialness of our street and deny the application.

R. Collins, Oak Bay resident, spoke in support of the application. This is an iconic home, which for many years sat in disrepair, and despite being under heritage designation during this time it kept getting worse. Heritage designation is meaningless unless someone comes forward with a vision to fix it. HRA in fact can ensure the house will be maintained. It allows a heritage home to remain on a large property, with an almost unheard of lot size in Oak Bay. It is the key to keeping our heritage buildings around for future residents to enjoy.

N. Wilkin, Oak Bay resident, spoke in support and stated that that this is what heritage agreements are intended for. By having this covenant, the property is protected forever. Restoration has required millions of dollars, and the small rent from the suite would not cover much of that cost. The new lot is almost an acre, which in Victoria would be two or three lots. She stated that she fully supports this application, there is siting and design control over the development, and it is to our mutual benefit to approve.

G. Williams, Oak Bay resident, stated he has lived in the neighbourhood since 1975. He asked the question: if you approve this what happens to the property that was supposed to be kept as is? That's going to become another house with another house behind it. He stated he was not in support of the application.

H. Mears, Oak Bay resident, stated she supports the comments made by R. Collins. An HRA agreement is the only way we can preserve these wonderful larger homes that would otherwise disappear from our community. We would see four or five new homes on this property and would lose the type of house that is on this property. Preservation of this home is to the neighbours' benefit as well. We have to accept that change is going to happen and can't expect restorations to occur without some help. We owe them a great deal of support. This is the only way forward for us if we want to preserve these old homes.

A. Lupin, Oak Bay resident, stated he has lived adjacent to the property for 30 years. He stated that approval might be justified if development did not damage the area and all neighbours were agreeable, but here all neighbours disagree with this heritage land being divided. The difference is between private people and developers doing this. He stated that he is against this development.

R. Long, Oak Bay resident, stated that he is interested in heritage and supports both sides. Designation has to be taken very seriously. The need for densification is not a sufficient reason to revoke a trust. The owners deserve a lot of credit. HRAs are more powerful than designation. What's missing is HRA control of the new property so it's not offensive to the community.

M. Cumming, Oak Bay resident, stated she is on the board of the Heritage Commission. This is a magnificent restoration, but at the same time she stated she shares concerns about the subdivision of the land. She supports a lot on the north side but there needs to be a condition that the south side remain as part of property.

Staff confirmed that within the covenant, Council has the ability to uphold, remove, and amend, and that the heritage designation of the property ensures that any future subdivision proposal would have to come back before Council for decision.

The Mayor called for public input a second, third and final time, however no additional comments were provided.

The Mayor advised that this is the final opportunity to provide Council with comments, and that any written submissions must be provided to the Corporate Officer now before the close of the Public Hearing.

ADJOURNMENT:

7. **Adjournment of the Public Hearing**

MOVED and seconded: That the Public Hearing for Bylaw No. 4696 be adjourned.

**CARRIED**

The meeting adjourned at 8:12 pm.

Certified Fair and Accurate

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Chair

\_\_\_\_\_  
Director of Corporate Services

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Recorder