



Staff Report

DEVELOPMENT SERVICES DEPARTMENT

To: Council
From: Phil Armstrong, MDS/Planner
Subject: Warrington Rezoning

File: 3360-20 - Warrington 2020
Date: April 21st, 2020

RECOMMENDATION

THAT per the Staff Report *Warrington Rezoning*, received April 21st, 2020 from the Manager of Development Services, Council CONSIDER passing First and Second Reading to *Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington*.

AND THAT Council DETERMINE to either waive the public hearing requirement per s.467 of the *Local Government Act* or delay the application until such time as a Public Hearing process is possible.

CAO COMMENTS

I support the recommendation.

BACKGROUND

Neil Warrington has applied for a rezoning in order to allow a secondary suite in the home he is planning to construct this spring at 1422 Deer Ridge Road. The purpose of *Zoning Amendment Bylaw No. 1433, 2020 – Warrington* is to rezone the subject property from R1 - *Single Detached Residential* to R1S - *Single Detached With Secondary Residential*.



DISCUSSION

Rezoning R1 to R1S background:

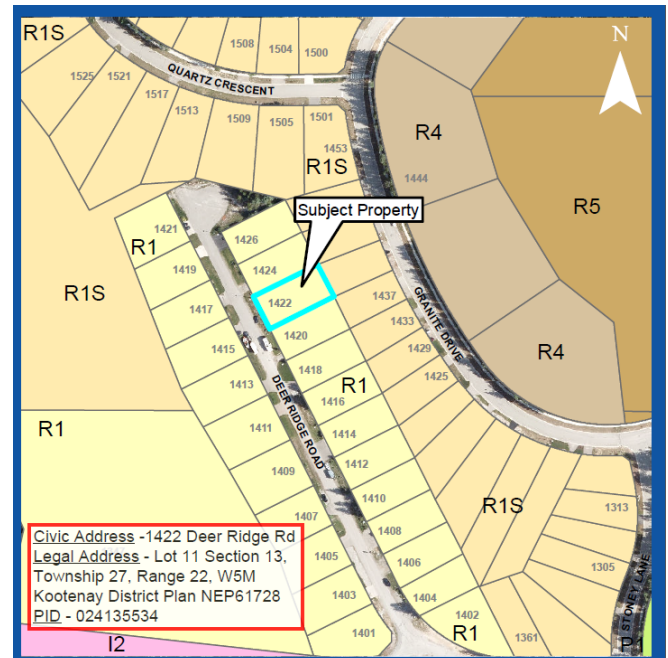
Appended to the Official Community Plan is a record of public input gathered and specifically see snip below which shows that there was more support generally for suites, than against suites.

12) Would you be interested in rezoning all residential areas to include rental suites?						
	Total		Town		Area A	
	#	%	#	%	#	%
Yes	125	45.8	75	44.4	50	48.1
No	88	32.2	59	34.9	29	27.9
Don't know	44	16.1	28	16.6	16	15.4

The lower pine drive area and Deer Ridge Road are zoned R1 - *Single Detached Residential* likely for historical reasons, but the Canyon Ridge subdivision developed in the mid-2000s is zoned R1S - *Single Detached With Secondary Residential*, and included upper Pine Drive, Stoney Lane, Granite Drive, and Quartz Crescent.

There are numerous planning objectives met by allowing suites, such as:

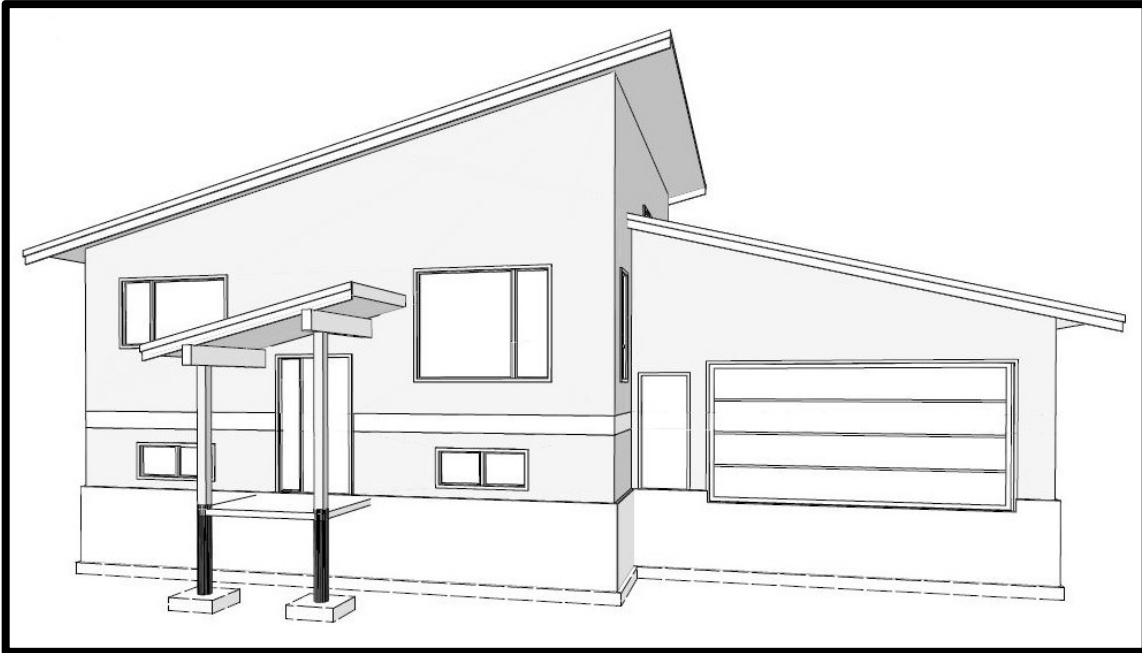
- ✓ Smart growth principles of more dwelling units lead to maximizing the Town's infrastructure and land through low-impact densification;
- ✓ May add long term rental housing to the market and desirable rental units with access to private open space in the yard;
- ✓ May be utilized as a mortgage helper;
- ✓ Aging in place: after the kids have moved out a resident can rent out part of their home or alternatively the grand-parents can live in the suite too (the classic in-law suite);
- ✓ Does not change the visual character of the neighbourhood (as would say perhaps an infill multi-family building);
- ✓ Diversified community with different income levels and age groups living in the same neighbourhood;



Some perceived issues with secondary suites include additional noise, traffic and parking impact on the street. The zoning bylaw does require an additional parking stall for secondary suites.

Site analysis:

Below is the rendering for the proposed home with a basement suite.



The immediate surrounding site context is as follows:

- To the east is R1-S.
- To the west is R1
- To the north is R1;
- To the south are R1;

Should this application be approved, it would represent the first spot rezoning for the Deer Ridge Road portion of the subdivision.

Also, note lots in the R1 zone are permitted to engage in the bed and breakfast use.

This proposal is consistent with the Official Community Plan, please refer to the implications section of this report where OCP excerpts are listed.

Enclosed with this report for Council consideration is *Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington*.

Public Hearing

The *Local Government Act (LGA)* requires municipalities to conduct a public hearing before amending an official community plan (OCP) or zoning bylaw. At the public hearing, *all persons who believe that their interest in property is affected by the proposed bylaw must be afforded a reasonable opportunity to be heard or to present written submissions respecting matters contained in the bylaw that is the subject of the hearing.*¹

However, the LGA also allows for the waiving of a public hearing, if a zoning amendment bylaw is consistent with the official community plan, which is applicable in this case. A waiver of a hearing has been used to process at least three applications in the past.²

¹ Local Government Act 465(2).

² Dance Studio, Frobb, and Personal Services on 9th St N.

Council may wish to consider waiving the public hearing for this application due to OCP consistency, the proposal's small scale, and the significant complications of conducting public hearings during COVID 19. Furthermore, in a time when many businesses cannot continue to operate, keeping jobsites and development occurring may be a consideration.

Staff have heard from two neighbour in opposition to the rezoning and advised that even if the public hearing is waived there is always the ability to contact elected representatives by email³, mail or the town hall mail slot and then an item of correspondence (not a public hearing submission) will appear on a subsequent Council agenda.

With a public hearing waiver, a notice will still be posted, placed in two editions of the newspaper, and mailed/delivered to properties within 100 m of the subject property and then this item would be scheduled to be placed on the May 19 Council agenda for 3rd reading and adoption.

IMPLICATIONS

Strategic

-Official Community Plan Bylaw No. 1222, 2008.

P.52 Residential development Goal: A range of housing types, tenures and densities, which meet the diverse needs of individuals and families of varying needs, income levels and age groups are provided within the Town of Golden.

1. To provide affordable, seasonal and attainable housing opportunities.
2. To provide the most efficient use of land and existing physical infrastructure in terms of infill/densification.
5. To preserve the character of existing neighbourhoods.

P.72 *GOLDEN SMART GROWTH* Golden shall endorse and promote Smart Growth principles/objectives in new development and redevelopment of existing properties. These principles/objectives include the following:

1. Create compact communities.
4. Promote a variety of townhouses, apartments and —secondary suites.
- P. 79 3. 3. Golden will promote and preserve the development of rental accommodations in appropriate areas and secure land and/or redevelopment properties in order to create or preserve affordable housing.

Financial

-Application fees have been paid.

Administrative

-Part of the MDS's work plan.

OPTIONS

1. Council considers passing first and second reading to “*Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington*” and direct staff to wait until a public hearing can occur.
2. Council considers passing first and second reading to “*Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington*” and waive the public hearing.
3. Council selects another course of action.

³ Attention mayor and Council via - viv.thoss@golden.ca

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Phil Armstrong".

Phil Armstrong MCIP, RPP

Manager of Development Services / Planner

Enclosure

✓ Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – *Warrington*



BYLAW RATIONALE STATEMENT

Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington

The purpose of this bylaw is to amend the Zoning Bylaw to rezone the subject property from R1 to R1S.

TOWN OF GOLDEN
BYLAW NUMBER 1433, 2020
ZONING BYLAW AMENDMENT

A Bylaw to amend the “*Town of Golden Zoning Bylaw No. 1294, 2011*”

The Council of the Town of Golden, in open meeting assembled, **HEREBY ENACTS AS FOLLOWS:**

1. CITATION

This Bylaw may be cited for all purposes as the “*Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington*”

2. MAP AMENDMENT

That Schedule A- Zoning Map of *Town of Golden Zoning Bylaw No. 1294, 2011* be amended by changing the designated zoning for the property described below and shown on the attached map from *Single Detached Residential – R1* to *Single Detached With Secondary Residential – R1S*.

Legal Address: LOT 11 SECTION 13 TOWNSHIP 27 RANGE 22 WEST OF
THE 5TH MERIDIAN KOOTENAY DISTRICT PLAN
NEP61728

PID: 024-135-534

Civic Address: 1422 Deer Ridge Road

3. SEVERABILITY

If any portion of this bylaw is found invalid by a court of competent jurisdiction, the invalid portion is severed without effect on the remaining portions of the bylaw.

READ A FIRST TIME THIS 21st DAY OF APRIL, 2020.

READ A SECOND TIME THIS 21st DAY OF APRIL, 2020.

~~RESOLUTION WAIVING PUBLIC – DAY OF – MAY, 2020.~~
~~HEARING ON THIS~~

OR

PUBLIC HEARING ON THIS DAY OF MAY, 2020.

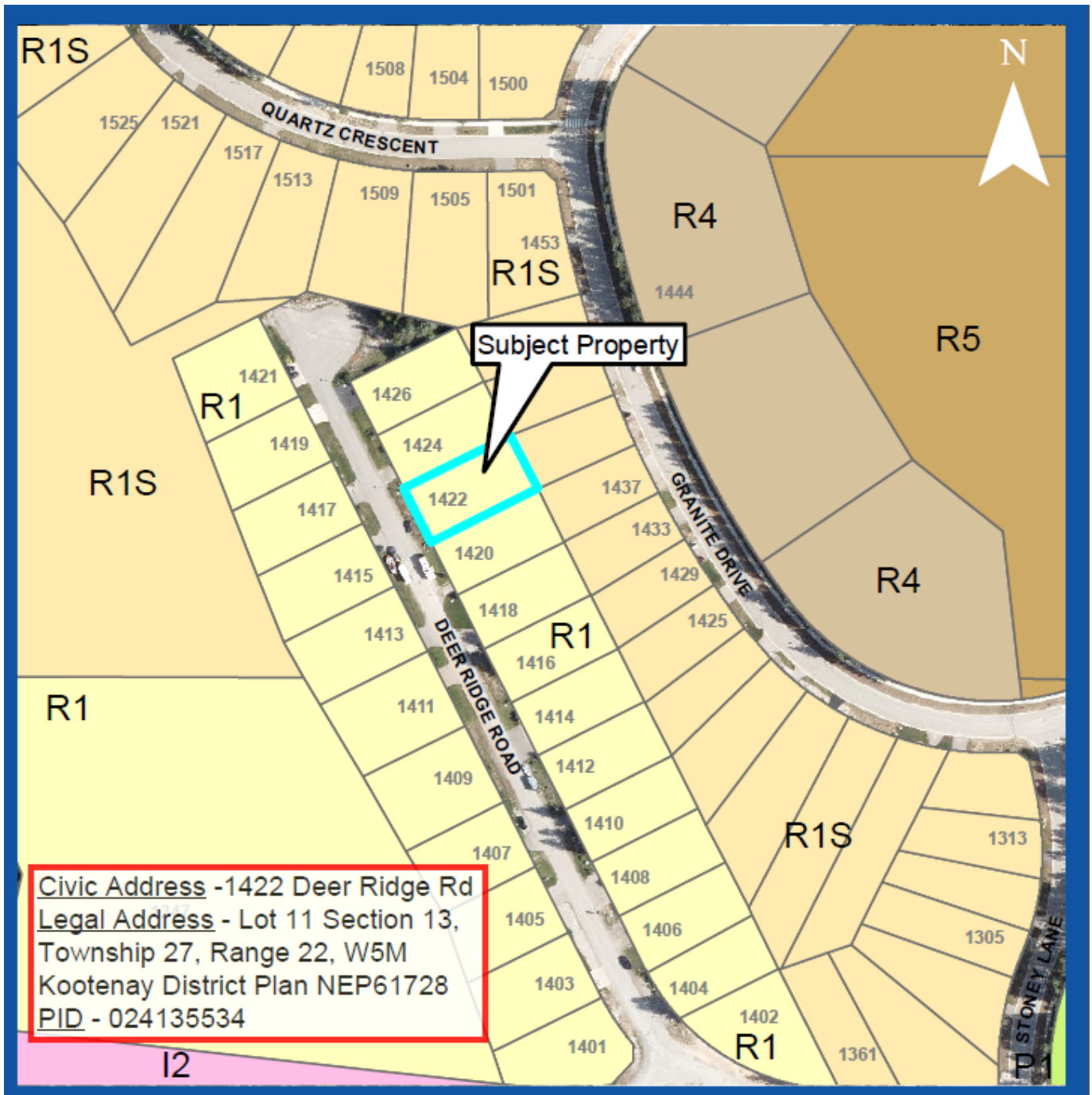
READ A THIRD TIME THIS DAY OF MAY, 2020.

ADOPTED THIS DAY OF MAY, 2020.

MAYOR

CORPORATE OFFICER

Schedule "A" - Town of Golden Zoning Amendment Bylaw No. 1433, 2020 – Warrington





Briefing Note

To: Council (via CAO)
From: Phil Armstrong, MDS / Planner
Date: 2020 05 19
File: 3360-20 - Warrington 2020

RE: Public Hearing Waiver – Warrington Deer Ridge Rezoning

SUMMARY OF ISSUE

Council to consider waiving public hearing for 1422 Deer Ridge - Zoning Amendment Bylaw No. 1433, 2020 – Warrington

BACKGROUND

On April 21, 2020 Council gave Zoning Amendment Bylaw No. 1433, 2020 – Warrington first and second readings and considered waiving the public hearing.

Council, directed staff to bring the topic of waiving the public hearing back to the May 19, 2020 Council meeting.

DISCUSSION

On April 30, 2020 the Town publish a press release titled [Public Hearings During COVID – 19](#),¹ which was shared with the local media and in the Town’s newsletter by email and on social media. Excerpts of the press release include:

Due to physical distancing requirements during COVID-19, Town Council has decided not to hold public hearings until further notice. This decision was made due to legal complications regarding the ability to hold a public hearing that is legal, accessible, reasonable and fair.

Typically, a public hearing is held when the Official Community Plan or the Zoning Bylaw is amended, often associated with a particular development. At a hearing, the public is to be afforded a reasonable opportunity to be heard or to present written submissions. A key part of process is the ability for people to be in the same room together to listen and respond to other positions on a topic. Prevalent legal advice holds that as a result of physical distancing requirements and closed Council meetings, there are no acceptable alternative approaches to hold a public hearing at this time.

“These are unprecedented times,” said Mayor Ron Oszust. “Council is taking this very seriously and we are committed to transparency as well. We have decided as a Council, to hold off on debating or making decisions on very contentious issues until we are able to include the public in the process in a more customary way.”

...

During the provincial state of emergency, Council will continue to follow its existing practice in determining whether to waive certain public hearings for zoning bylaw amendments. A public hearing can only be waived if the amendment aligns with the Official Community Plan. Moreover, when determining whether to waive a public hearing or not, Council will also consider:

- *How controversial the amendment may be viewed as; and*
- *To what extent the amendment application will positively affect our local economy and provide meaningful local employment.*

Otherwise, Council may opt to entirely delay the public hearing process until the provincial state of emergency has ended, weighing this option against the impacts it may pose to a potential development. Council and

¹ <http://www.golden.ca/What-s-New/Public-Hearings-during-COVID-19.aspx>

Town Staff continue to monitor development proposals and the COVID-19 situation and may re-evaluate this approach to the public hearing process at a later time.

Prior to the first reading of any property specific amendment, a sign is posted on a subject property, if a public hearing is waived, prior to third reading and adoption of the zoning amendment bylaw a notice will be placed in the newspaper and mailed/delivered to occupants within 100 m.

Please note that at any time residents can write to Council on any particular issue and it will be accepted as official correspondence and considered by Council through inclusion on a meeting agenda.

-xx-

On May 1, 2020, the Province issued a ministerial order that allows local governments to hold public hearings entirely electronically during the current provincial state of emergency. This decision to expand the authorities given to local governments under the *Emergency Program Act* was enacted by Ministerial Order M139.²

This order does provide the Town of Golden further clarity and authority during the COVID-19 pandemic to be able to hold wholly online public hearings safely and legally prior to making land use decision, but some complication remain. The public participation and input obtained during a public hearing is an important part of land use decision making and the Town of Golden typically chooses to hold public hearings even when they are not legally required.

However, during the current provincial state of emergency, Council has directed meetings be closed to the public for health and safety reasons, but Council has stated they would like their existing practice to continue, of considering waiving public hearings on a case by case basis, where applicable. Council *may* approve waiving a hearing, when a zoning amendment bylaw is aligned with the official community plan (OCP). This was done in recent past with the Dance Studio, Frobb, and Personal Services on 9th St N rezoning applications.

Despite the Province's latest order, challenges with holding a public hearing remain and include:

- Members of the public continue to have the opportunity to make written submissions on the proposed bylaw, but these documents should be promptly published online (normally submissions go in the document book at the front counter).
- Not all residents own or have access to computers, mobile phones or other means of accessing a virtual meeting platform. There may also be barriers related to digital literacy blocking some residents' ability to participate successfully in an online public hearing.
- An in-person oral public hearing could still take place that meets the Provincial guidelines i.e. 2 m social distancing and mass gatherings cap of 50 persons. However, an argument can be made that some members of the public could not, or did not, attend in person because of the provincial health orders and health concerns.
 - Thereby, a recording of an in-person hearing should likely be posted on the Town's website and made available for viewing, with a subsequent opportunity for members of the public to respond to any other comments made.
 - On the other hand, as long as a local government is following the orders of the Provincial Health Officer and other best practices an in person hearing is likely acceptable.
- Public hearings should ideally require stages. The public should have one or more subsequent periods/deadlines to respond to written materials which have already been posted on the Town's website or to respond to comments made at an in person public hearing after the recording is posted online.

The Province's May 1 order does allow for wholly online public hearings, but the standards of reasonableness, access, to be heard, and transparency when it comes to public hearings are high and online

²The previous Ministerial Order M083 pertained to Council meetings etc., but not to public hearings.

public hearings have never occurred before in BC, until recently. If a public hearing is something Council were to consider substantial time and effort would be required to establish procedures and rules. This is likely why the Province's May 1 guide speaks to waiving hearings -- where permitted.

The Warrington rezoning application at 1422 Deer Ridge meets the threshold of OCP alignment and can be waived by Council. Please refer to the previous April 21 report and note, seven pieces of correspondence in opposition to this application have been received and form part of this Council agenda under internal correspondence.

Staff continue to monitor the COVID-19 situation and development proposals that may require a public hearing (OCP amendment or a rezoning not in clear OCP alignment) and may re-evaluate approaches to the public hearing process at a later time.

IMPLICATIONS

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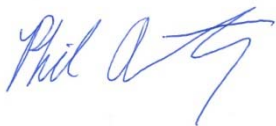
Administrative

-Part of the MDS's work plan.

OPTIONS

1. Waive the public hearing for the Warrington application.
2. Defer a decision on waiving the hearing, or not, until the June 16th meeting.
3. Provide further direction.

Respectfully Submitted,



Phil Armstrong MCIP, RPP

Manager of Development Services / Planner

Enclosed

- April 21 Warrington Report