

From: "Johnston, Sadhu" <Sadhu.Johnston@vancouver.ca>

To: "Direct to Mayor and Council - DL"

CC: "City Manager's Correspondence Group - DL"

"Kelley, Gil" <Gil.Kelley@vancouver.ca>

Date: 10/29/2018 5:57:04 PM

Subject: Duplex Zoning

Attachments: Memo to Mayor and Council - Duplex Zoning.pdf

Greetings Mayor and Council,

The attached memo from Gil Kelley, GM, Planning, Urban Design & Sustainability, addresses a recent question from a Councillor with regard to Council's action to enact the by-law allowing for the construction of duplexes in the RS Zoning Districts. In short:

- A new Council is free to revisit, rescind, or revise policy actions done by a previous City Council. That would require a new public hearing.
- Certain procedural requirements pertain to the subsequent actions as outlined in the memo.
- The memo also describes procedures for issuing and withholding permits from the time of enactment of one by-law to the adoption of any subsequent change in by-law.

Best,
Sadhu

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MEMORANDUM

October 29, 2018

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Paul Mochrie, Deputy City Manager
Francie Connell, Director of Legal Services and City Solicitor
Katrina Leckovic, City Clerk
Lynda Graves, Administration Services Manager, City Manager's Office
Rena Kendall-Craden, Communications Director
Kevin Quinlan, Chief of Staff, Mayor's Office
Naveen Girn, Community Relations Director, Mayor's Office

FROM: Gil Kelley
General Manager, Planning, Urban Design and Sustainability

SUBJECT: Duplex Zoning

Dear Mayor and Council,

Staff received a question from a member of Council regarding the ability of a new Council to reconsider a decision of the current Council, specifically regarding the zoning amendments to the RS district schedules to enable duplexes in these zoning districts. We have consulted with Law in preparing this response.

Generally, a new Council is free to reconsider previous by-laws and resolutions of its predecessors. There are specific rules about the same Council reconsidering a motion, but those are not relevant here.

Regarding the proposed duplex zoning amendments, if the new Council wanted to take steps to reverse some or all of these amendments, Council would need to hold a public hearing prior to approving an amendment to reverse the amendments that are currently proposed. Council would then need to follow the process for enacting a zoning by-law.

If (as is the case here) the matter being reconsidered is a zoning by-law amendment, then a key issue is what to do with the applicants who have sought to develop their properties in accordance with the impugned amendments. Section 570 of the Vancouver Charter authorizes a method of preventing or withholding such applications. The section is set out at the end of this memo for convenience. Generally, Council must have adopted a resolution directing the drafting of a by-law in order for section 570 of the Vancouver Charter to be in play. Usually Council does this by referring the matter to a public hearing, but it does not have to take the form of a referral to public hearing. It could be a simple resolution directing that the by-law be prepared.

The resolution would have to be specific, because there must be a variance or conflict between what is proposed and the permit that has been applied for. Without a specific resolution directing the preparation of a by-law or plan, then there is no conflict and section 570 cannot be relied on to withhold the permit.

The basic process is this:

1. Council, by resolution, directs the drafting of a by-law or plan;
2. An application is made that conflicts with the proposed by-law or plan;
3. Council, by resolution, directs the permit that was applied for to be withheld for 30 days from the date of application; and,
4. Council may during the 30-day period, by resolution, extend the withholding period for a further 60 days.

The new Council could also be amenable to have the City issue permits for duplexes until it revises the by-laws to forbid them. No resolution would be needed under section 570 if Council was not concerned about the approval of some duplexes. City staff would simply issue the permits in accordance with ordinary practice.

Any applicant must comply with the by-laws that are in effect at the time the development permit is issuable. If a complete permit application has been provided to the City, then the City generally has an obligation to issue the permit. If the by-laws change before a complete application is provided, the applicant will have to adjust its application to meet or comply with the by-law changes.

"Withholding of permit pending adoption of zoning by-law

570. (1) Before the adoption of a zoning by-law, an official development plan or a by-law under section 593 designating a heritage property, or of an amendment to a zoning by-law or an alteration, addition or extension to an official development plan, the Council may cause to be withheld the issuance of any development or building permit for a period of 30 days from the date of application for such permit.

(2) Where any permit is so withheld, the application therefor shall be considered by the Council within the said period of thirty days, and, if in the opinion of the Council, the development proposed in the application would be at variance or in conflict with a development plan in the course of preparation, or with an alteration, addition, or extension to an official development plan in course of preparation, or with a zoning by-law in course of preparation, or with an amendment to a zoning by-law in course of preparation, the Council may withhold the permit for a further sixty days from the expiration of the thirty-day period hereinbefore referred to, or the Council may impose such conditions on the granting of the development permit as may appear to the Council to be in the public interest.

(3) In the event that the Council does not within the said period of sixty days adopt any such plan, alteration, addition, extension, or by-law, the owners of the land in respect of which a development permit was withheld or conditions were imposed pursuant to this section shall be entitled to compensation for damages arising from the withholding of such development permit, or the imposition of such conditions. Such compensation shall be determined by arbitration pursuant to the *Arbitration Act*.

(4) Despite subsection (1), an owner of property for which a permit has been withheld before the adoption of a by-law designating a heritage property may agree that a permit may be withheld for a period longer than the 30 days referred to in subsection (1) and, in that case, subsection (1) continues to apply during that longer period and subsection (2) is deemed to read as if the longer period applies."



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