

July 23rd, 2019

Notice of the Decision of the Regional Subdivision and Development Appeal Board

**RE: Appeal of Development Permit Application DP19-055 – Koi Pond Mural Project
on Lot 3 Block A Plan 5062JK located at 5107 50th Ave, Olds, AB**

SUMMARY OF APPEAL

Cody & Company Law Office, representing the Applicant (Uptowne Olds Association) is appealing the rejection of Development Permit DP19-055 on the basis that the decision does not take all relevant information into account. The appeal describes the Koi Pond Mural Project (“the Project”) and the reasons the Project was refused and states their disagreements to this refusal.

Notice of the appeal was provided to interested parties on June 26th, 2019. Notice was advertised in the Olds Albertan on July 2nd, 2019 and July 9th, 2019. A hearing was held on July 17th, 2019 at 4512 46th Street Olds, Alberta.

BACKGROUND OF THE APPLICATION

DP19-055 involves a proposed mural of a Koi Pond to be painted on the side of a business located at 5107 50th Ave, Olds, AB (Uptowne Olds). The business owner signed an Owner Authorization Form and this was included with the application. The business is located in Land Use District Central Commercial C1. A brief interpretation of the concept of the Project was provided with the application, along with a conceptual image.

The Town of Olds Land Use Bylaw lists signs as discretionary uses in the Central Commercial (C1) District. The Town of Olds Development Officer was the Development Authority for this application.

The Project was refused as per Town of Olds Land Use Bylaw 01-23, Schedule D: Signs, 5.0 (l) General Provisions, “No person shall erect or maintain any sign that is in contravention to this or any other Town Bylaw.” The Uptowne Olds Area Redevelopment Plan is Bylaw 2013-08. In Section 4.6 Heritage Preservation, the goal is stated as to preserve and enhance the heritage resources in the Uptowne Community. This section also notes the following applicable policy: 4.6.2 Identify opportunities to incorporate heritage style streetlights, street furniture and signage.

PRELIMINARY MATTERS

At the start of the hearing on July 17th, 2019 the Appellant/Applicant and the Development Authority were given the opportunity to raise objections to the Panel Members assigned to the hearing. No objections were raised. The hearing proceedings were outlined to the Appellant/Applicant and the Development Authority and no objections were raised to the proposed proceedings.

SUMMARY OF EVIDENCE AND ARGUMENT

The Appellant/Applicant

Terrance Cody of Cody & Company Law Office presented on behalf of the Uptowne Olds Association. A conceptual colour rendition of the Project was shown to the Panel Members. The responsibilities and the intention of the Uptowne Olds Association were outlined. The Purpose & Objectives of the Uptowne Olds Area Redevelopment Plan (Page 1) were read. One of the primary responsibilities of the Association and main visions of the Redevelopment Plan is to ensure that the image of Uptowne Olds is maintained. The belief of the Appellant/Applicant is this Project is inline with this responsibility and vision.

The current challenges of the Uptowne Olds area (downtown) were outlined. The Uptowne Olds Association is attempting to overcome these challenges in many ways, one being to keep the area innovative and relevant. The common rural Alberta mural themes were explored and an opinion given that restricting mural styles and themes to what is common in other communities is mundane and boring, the opposite of the goal of being innovative and relevant.

The list of 22 sites of historical interest that are identified on page 23 of the Uptowne Olds Area Redevelopment Plan was presented and it was noted that the proposed building to be used for this Project is not on this list. The opinion was given that the contrast of this mural with the historical buildings will not detract but enhance them. The idea that heritage only viewed through a European lens is not an accurate depiction of the entire history of Olds. When interpreting 'heritage' more broadly it is clear the Project represents Chinese heritage and the natural wetlands heritage of Olds as well.

General community support for the proposed project was presented and a brief description of the local artist and his style of art was also introduced.

In conclusion, the opinion of the Appellant/Applicant is that the Project does have heritage and historical significance, it is not proposed to be painted on a building listed as a site of historical interest, it is innovative, welcoming, will attract visitors and enhances the image of Uptowne Olds.

The Development Authority

The Development Authority stated that the Development Permit Application was received at the Planning and Development counter on May 13th, 2019. It was initially determined based on Land Use Bylaw 01-23 – Schedule D: Sign Regulations, 3.0 Definitions ‘supergraphics’ means a graphic design painted on a building, which does not convey a defined advertising message or logo and includes a mural. By definition of the Land Use Bylaw a mural is a sign.

The building the Project is proposed to be painted on is located in the Central Commercial C1 Land Use District. Signs are listed as a Discretionary Use for District C1, but do not have to go before the Municipal Planning Commission. The decision can be made by the Development Authority; Land Use Bylaw 01-23, Part Two, Section 2.3, 3 (f) “The Development Officer shall: consider and decide upon applications for a development permit of all forms of signs where the proposed sign meets all standards of the Land Use Bylaw; [2011-01]”

The Project was reviewed against The Uptowne Olds Area Redevelopment Plan, in particular section 4.6 Heritage Preservation. The Development Authority noted that under section 4.6 the goal is stated as to preserve and enhance heritage resources in the Uptowne Community.

The Development Authority can contact any other agency to collect information to help make a decision – Land Use Bylaw 01-23, Part Two, Section 2.3, 3 (i) refer any application to Mountain View County or any other agency or person which in his opinion may provide relevant comments or advice respecting the application.

The Town of Olds is in the process of establishing a Public Art Advisory Committee, in the absence of this committee The Development Authority consulted the Community Services Department regarding this application.

A letter was provided by the Community Services Department indicating that the application was unacceptable, referring to the Uptowne Olds Area Redevelopment Plan. The Development Authority is bound to make decisions based on their interpretation of the legislative tools at hand, based on this duty and the opinion provided by the Town of Olds Community Services Department the Development Permit DP19-055 was refused.

Other Parties

Representatives from; The Olds Chamber of Commerce, The Uptowne Olds Association and businesses located in Uptowne Olds all spoke in support of this project.

The Project artist spoke to his background and the intention of the project.

Director of the Town of Olds Community Services Department spoke to the intent of his letter and to the character of Uptowne Olds and how this was established.

DECISION

The appeal filed by Uptowne Olds Association is allowed, the decision of the Development Authority is modified to read:

Development Permit DP19-055 for a ‘supergraphic’ (mural) to be painted on the north side of the commercial building located at 5107 – 50 Avenue, Olds, AB is approved.

FINDINGS AND REASONS

When a discretionary use is before the Board, it may reconsider the discretionary powers of the Development Authority.

The Project was refused because in the opinion of the Development Authority, it was in contravention of the Town of Olds Bylaw 2013-08, Uptowne Olds Area Redevelopment Plan; the Project did not align to the objectives and strategies to maintain the historical nature of the Uptowne core.

The Board considered it appropriate to review the Town of Olds Bylaw 2013-08 in light of all of the submissions put before the Board at the hearing. The Development Authority refused the Project based on its interpretation of section 4.6 of the Town of Olds Bylaw 2013-08. The Applicant/Appellant made submissions in favour of a broader view and interpretation of the Town of Olds Bylaw 2013-08.

Uptowne Olds Area Redevelopment Plan – Bylaw 2013-08 provides a framework for future growth and redevelopment of the Uptowne area in Olds, while promoting the historic character of the area and development of a pedestrian friendly environment.

The Board acknowledges that the Town of Olds commercial development design for Uptowne Olds has been purposefully designed to have a traditional feel to reflect and retain the historical nature of the district. However, the Board agrees with the Appellant/Applicant that the historic nature of Olds is broader than that depicted by the Development Authority. The Board finds that a broader interpretation of the historical nature of the town is supported by the Uptowne Olds Area Redevelopment Plan.

1. Part 3 – Vision and Development Concept

The Project supports the ‘vision’ of the Area Redevelopment Plan. The vision specifically refers to a “diverse historical area”. The Board accepts the Appellant/Applicant’s contextual description of the Project as a recognition of the Chinese communities’

involvement in the development of the Town of Olds and as being a recognition of the Town's wetlands. These concepts of the Project support the diverse historical area vision.

The Project would not detract from the historical buildings in the location. The Project supports the urban design vision reflecting the Town's diverse history.

The Project supports the guiding principles and statements of the Area Redevelopment Plan including the desire to make the Uptowne core more attractive and visually appealing.

2. Part 4 – Policies and Key Actions

The preservation of the historical character of Uptowne Olds is a paramount objective of the Uptowne Olds Area Redevelopment Plan. The Board considers that an historical context is a recording of events that occurred in the Town of Olds in the past, much of which does indeed revolve around agricultural, war and train themes. However, and as already noted, the Town's history is broader and there is room in the traditional feel of the design of Uptowne Olds for the Project. The Project supports pedestrian-orientated uses, and social interaction. The Board recognizes the volume of interest already generated in the community by the Project.

The Project supports the creation of an attractive and inviting streetscape at a pedestrian friendly scale. The Project has the potential to provide for a passive recreational experience for individuals. The project supports the location of public art in prominent locations in the district.

The Board finds that the Project will not affect the heritage resources in the Uptowne community. 'Heritage Resources' were described to the board as being buildings designated as a Municipal Historic Resource. The Project has no effect on the objective set out under section 4.6 that being "Promote and celebrate the preservation of historic and architecturally significant buildings and sites in the Uptowne area." The Project's proposed location is not on an historic or architecturally significant building; but it does reflect another piece of the Town of Olds history.

The Board determines that the Project does align with the goals and objectives of the Uptowne Olds Redevelopment Plan (Bylaw 2013-08) The Board finds that Project is in compliance with this document.

Compliance with the Uptown Olds Area Redevelopment Plan (Bylaw 2013-08) puts the Project in compliance with the Land Use Bylaw 01-23

REGIONAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

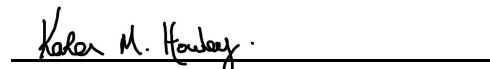
UNIT B 4730 ROSS STREET
RED DEER AB T4N 1X2
403-343-3394

CLOSING

For the reasons stated above the Permit is approved.

The decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in section 688 of the Municipal Government Act which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at Red Deer, in the Province of Alberta this 30 day of July, 2019 and signed by the Chair on behalf of all three panel members who agree that the content of this document adequately reflects the hearing, deliberations and decision of the Board.



Karen Howley, Chair
Regional Subdivision and Development Appeal Board