
CITY OF KELOWNA

MEMORANDUM

Date: January 8, 2003
File No.: 6800-00

To: City Manager

From: Planning and Development Services Department

Subject: Investigating the potential to establish development guidelines for residential buildings within the North End and South Central Neighbourhoods.

Report prepared by Greg Routley, Planner – Long Range

RECOMMENDATION

THAT staff initiate a public review process to consider the establishment, under Section 919.1(1)(e) of the Local Government Act, of an intensive residential development permit area for the North End and South Central neighbourhoods of the City and/or the establishment, under Section 880 of the Local Government Act, of Heritage Conservation Areas within the Bay Avenue area of the North End neighbourhood and the Bernard Avenue and Lawrence Avenue area of the South Central neighbourhood.

BACKGROUND

Over the course of 2002, City staff and Council received input from residents of the North End and South Central neighbourhoods who are interested in pursuing Heritage Conservation Area (HCA) designation. This report outlines how the City could respond to these requests.

PUBLIC INPUT RECEIVED TO DATE

Bernard Avenue and Lawrence Avenue Area

In July 2001, the Kelowna South-Central Association of Neighbourhoods requested that the City of Kelowna initiate a planning process to draft a Heritage Conservation Area bylaw for the 700-1000 blocks of Bernard and Lawrence Avenue. In response, the Planning Department advised KSAN that, upon completion of the Kelowna Heritage Register, such a planning process could commence in early 2002. In January 2002, KSAN further requested that the Planning Department solicit input from the Bernard and Lawrence Avenue area residents regarding their feelings on the potential establishment of a HCA. In March 2002, the Planning Department solicited such input by mailing a questionnaire to area property owners.

The response rate to the questionnaire was low, making it difficult to determine the community's desire. What can be determined is that the majority of those that responded to the questionnaire felt that the City should establish this area as a HCA. However, these respondents only represented 15% of all the property owners.

Following tabulation of the City-initiated questionnaire, KSAN volunteers circulated a petition to solicit their own input on this matter. The petition was submitted to the City on July 19, 2002. It was signed by 30 property owners and 14 tenants who both live in the area and support the idea of establishing the area as a HCA. The petition also identifies six property owners and 2 tenants who live in the area and oppose the idea. In total, the petition was signed by 56 of the 188 property owners (including condominium owners) representing 107 properties. This represents 30% of all the property owners in the area. Of the 56 petitioners that own property in the area, 11 own property along Bernard Avenue and 14 own property along the 700-800 block of Lawrence Avenue. 31 of the 56 respondents own property along the 900-1000 block of Lawrence Avenue, representing 55% of all the petitioners.

KSAN submitted their petition to the Community Heritage Commission at the Commission's Special Meeting of July 19, 2002. After reviewing the results of the City-initiated questionnaire and the community initiated petition, the CHC passed the following resolution:

THAT the Community Heritage Commission recommends that Council direct staff to initiate a bylaw to establish the 700-800 blocks of Bernard Avenue and the 700-1000 blocks of Lawrence Avenue as a Heritage Conservation Area.

North End Area

Last year, Council received input from residents of the North End neighbourhood who were concerned about the impact suites in accessory buildings could have on properties in their neighbourhood. Concerns included the potential loss of privacy, trees and open space and the potential increase in noise, traffic and parking. Several people suggested that they would like an opportunity to provide input when a neighbour proposes to build a suite within an accessory building. Such an opportunity would provide a platform to voice concerns if neighbours feel a project would have a negative impact on their property. In this regard, several people suggested that designating the North End area as a HCA would help provide such a platform. After receiving this input, Council directed staff (not via resolution) to arrange a workshop to further discuss this issue.

NEIGHBOURHOOD AND POLICY CONTEXT

The North End and South Central neighbourhoods were originally established as single-family neighbourhoods over the first half of the last century. The houses and lots themselves range in size from small homes on 32' by 120' lots to large homes on half-acre lots. Many of the homes in these neighbourhoods have been well maintained, including homes with heritage value. Redevelopment activities occurring in these neighbourhoods include the development of new infill housing, secondary suites, townhomes and apartments.

Policy and Future Land Use Plans for the North End and South Central Neighbourhoods

Within the last ten years, neighbourhood plans have been endorsed by Council to provide direction on the future land use of properties in the North End and South Central neighbourhoods. The overall objective of each neighbourhood plan is to promote the orderly planning of new residential development that is compatible with existing buildings and permits the efficient use of existing services. The major policies and land use designations endorsed in each neighbourhood plan have since been adopted into the Kelowna Official Community Plan.

As shown on the attached Map 1, the Future Land Use Designations of properties within these neighbourhoods include a mix of single and two unit residential uses, low and medium density multiple unit residential uses and institutional uses.

Current Zoning Regulations

As shown on the attached Map 2, the properties located within the North End and South Central neighbourhoods are currently zoned to permit a range of uses, including secondary suites, single and two unit homes, townhomes and apartments and institutional uses. With the exception of the Abbott Street Heritage Conservation Area, the majority of properties in these neighbourhoods are currently zoned RU6 – Two Family Unit Housing which permits secondary suites and single and two unit homes. Most of the properties in the Abbott Street HCA are zoned RU1 – Large Lot Housing, which means property owners must rezone their property in order to build suites and two unit houses. Owners of properties zoned RU6 are not required to rezone their property in order to build suites and two unit houses and only require approval of the proper Building Permits to construct such buildings. Including RU6 zoned properties within a HCA would not and could not change the uses permitted under this zone.

Current Development Permit Regulations

With the exception of the Abbott Street and Marshall Street Heritage Conservation Areas, there are currently no provisions regulating the design of new single and two unit homes within the subject areas. However, owners of properties in these areas must obtain a Development Permit in order to construct a new townhome or apartment. Depending on current zoning conditions, the owners may be required to rezone the property to allow for such uses. Development Permits would ensure that the design and scale of newly constructed townhomes and apartments are compatible with the design and scale of nearby buildings.

Kelowna Heritage Register

The location of houses within the North End and South Central neighbourhoods which are listed in the Kelowna Heritage Register are shown in the attached Map 3. The Kelowna Official Community Plan encourages the retention of houses listed in the Kelowna Heritage Register.

1995 Heritage Management Plan (Heritage Conservation Areas)

In 1994, the Local Government Act was amended to permit the establishment of Heritage Conservation Areas. The creation of such areas allows local governments to establish development guidelines that ensure the form and character (design) of newly constructed buildings (including single and two unit residential buildings) is compatible with the design of existing buildings in the area.

In 1995, the City prepared a Heritage Management Plan in order to integrate heritage management into the neighbourhood planning process. The resulting Council adopted 'Work Plan' component of the 1995 Heritage Management Plan recommends that the City of Kelowna consider the establishment of four separate HCAs within parts of the North End and South Central neighbourhoods. To date, the City has established two of these areas, including the Abbott Street and Marshall Street Heritage Conservation Areas (see Map 3). The other two areas, which to date have not been established as HCAs, include the Bernard Avenue and Lawrence Avenue area and the Bay Avenue area.

The Heritage Management Plan is intended to supplement the policies of the above noted neighbourhood plans. The Plan is consistent with the objectives of the neighbourhood plans and does not make any recommendations to amend future land use designations. In other words, the Plan supports the objective of permitting the re-development of properties within each neighbourhood for either single, two or multiple unit residential purposes while at the same time encouraging the retention of each area's significant heritage buildings.

Intensive Residential Development Permit Areas

In 2001, the Local Government Act was amended to permit, for the first time, the establishment of Development Permit (DP) areas for intensive residential development. To date, such areas have not been established in Kelowna, although they have been established in a few other municipalities in B.C. The justification for establishing intensive residential DP areas and HCAs is similar in that both are established to regulate the design of new single and two unit homes within established neighborhoods.

The creation of intensive residential DP areas allows local governments to establish development guidelines that ensure the form and character (design) of newly constructed buildings (including single and two unit residential buildings) is compatible with the design of existing buildings in the area. The intent of establishing intensive residential DP areas is to manage change, not prevent it.

REGULATING DEVELOPMENT THROUGH HERITAGE CONSERVATION AREAS AND INTENSIVE RESIDENTIAL DEVELOPMENT PERMIT AREAS

Once a Heritage Conservation Area or an intensive residential Development Permit area is established, local governments can require that property owners obtain a Heritage Alteration Permit or a Development Permit, in addition to the necessary Building Permits, before adding to a building and/or constructing a new building. Whereas Building Permits ensure that buildings activities simply meet building code standards, Heritage Alteration Permits and Development Permits are intended to ensure that the design of buildings adhere to development guidelines which address things such as the placement and form of buildings, roof lines, window forms and exterior finishes.

The approval process for Heritage Alteration Permits and Development Permits can be structured to allow area residents to provide written and/or verbal input when a property owner proposes to build a new home, to build an addition to an existing home or to build an accessory building. Consideration of such input may help alleviate some concerns regarding the impact of these types of new buildings. However, it should be noted that the approval process can in no way prevent such development where current zoning provisions would otherwise permit the development. In this regard, establishing either a HCA or an intensive residential DP area would not resolve concerns of those who oppose these types of building activities.

The following outlines the process for establishing HCAs and intensive residential DP areas:

1. The City seeks input from residents and property owners;
2. Based on the input received, the City, in consultation with residents and property owners, drafts a bylaw to amend the Official Community Plan. The bylaw must be forwarded to a Public Hearing and must include:
 - justification for establishing the HCA or the intensive residential DP area; the objectives of establishing such areas; and development guidelines to help achieve the objectives.
3. The City would notify affected property owners and the general public of the Public Hearing date. After hearing from the affected property owners and the general public, City Council would either adopt or defeat the bylaw.

The above noted process would require considerable staff time and community input. Furthermore, the resulting administrative requirements of an adopted bylaw would add to the on-going workload of City staff. The degree to which this workload grows would depend on the procedural process put in place for the application review process. For example, applications that must be reviewed by Council and/or a Council appointed committee cost more than those that only have to be reviewed by staff. The difference relates to the costs associated with advertising public meetings and the amount of staff time required to process applications.

DISCUSSION

Recent concerns from residents of the North End and South Central neighbourhoods have focused on the impact of development activities that are currently permitted in the City's single and two unit residential zones, including the development of suites in accessory buildings.

As a first step towards addressing resident concerns, staff recommend that, as previously suggested by Council, a workshop be held in early 2003 to allow staff to hear comments about how secondary suites have been built. After this workshop, it is recommended that consideration be given to how the establishment of HCAs or intensive residential DP areas may or may not address the comments received at the workshop. This would include an evaluation of how potential zoning bylaw amendments could address resident concerns in conjunction with or separately from the establishment of HCAs and/or intensive residential DP areas.

When the establishment of intensive residential DP areas and HCAs is considered as an option for responding to secondary suite issues, it is recommended that these regulatory tools also be considered as an option for responding to some residents' desire for new development in the Bernard and Lawrence Avenue area to be sensitive to the prevailing (heritage) character.

The justification for establishing intensive residential DP areas and HCAs is similar in that both are established to regulate the design of new single and two unit homes within established neighbourhoods. Therefore, combining these review processes allows the public, staff and Council to fully consider all the issues involved in establishing such areas. The establishment of such areas could permit affected properties to be developed in accordance with existing zoning provisions and future land use designations and at the same time, if structured to do so, give residents a platform to voice their concerns if they feel a project would have a negative impact on their property.

Should Council support this direction, it will be important to stress to area residents that the establishment of intensive residential DP areas and HCAs cannot prevent infill development where current zoning provisions would otherwise permit. In this regard, establishing such areas would not resolve concerns of those who oppose suites in accessory buildings in general or of those who oppose the current zoning bylaw regulations for these type of buildings.

SUMMARY

In order to address concerns about the impact of infill development within the North End and South Central neighbourhoods, staff recommend that a public review process be initiated in 2003 to consider the establishment of Heritage Conservation Areas and/or intensive residential Development Permit areas. Regulating the design of infill development through the establishment of such areas may help alleviate concerns of area residents while still allowing for achievement of OCP growth management and housing objectives.

Signe K. Bagh, MCIP
Long Range Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

GDR/
Attach.