
**CITY OF KELOWNA
MEMORANDUM**

Date: May 11, 2005
File No.: HAP05-0010

To: CITY MANAGER

From: PLANNING AND CORPORATE SERVICES DEPARTMENT

Subject:

APPLICATION NO. HAP05-0010

OWNER: KANE RESOURCES

AT: 780 Rutland Road N

APPLICANT: Protech Consultants Ltd.

PURPOSE: TO OBTAIN A HERITAGE ALTERATION PERMIT TO AMEND THE CONDITIONS OF HERITAGE REVITALIZATION AGREEMENT (HRA04-0003) TO ALLOW THE SUBDIVISION OF THE PROPERTY PRIOR TO THE RESTORATION OF THE HERITAGE BUILDING.

EXISTING ZONE: RM3 – LOW DENSITY MULTIPLE HOUSING
RM5 – MEDIUM DENSITY MULTIPLE HOUSING

REPORT PREPARED BY: KEIKO NITTEL

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Council authorize the issuance of Heritage Alteration Permit No. HAP05-0010 to amend Heritage Revitalization Agreement HRA04-003 as outlined in Schedule "A" attached to the report of the Planning & Corporate Services Department dated May 12, 2005.

2.0 SUMMARY

The applicant previously rezoned the subject property to RM3- Low Density Multiple Housing and RM5- Medium Density Multiple Housing designations, and obtained a development permit to allow for the construction of 16 townhouse units and 1 apartment building on the northern portion of the site. As the old brick schoolhouse on site is a heritage building, a Heritage Revitalization Agreement (HRA) was also entered into in order to ensure its preservation and restoration. The HRA was to facilitate the future subdivision of the property by allowing variances to the rear and side yard setbacks to the heritage building.

3.0 COMMUNITY HERITAGE COMMISSION

The above-noted application was reviewed by the Community Heritage Commission at the meeting of May 3, 2005 and the following recommendation was passed:

THAT the Community Heritage Commission support Heritage Alteration Permit Application No. HAP05-0010 to amend the phasing plan of HRA04-0003 to allow for the subdivision of the subject property prior to development of the Phase I portion of the development, subject to the registration of a no-build covenant preventing Phase 2 development prior to the restoration of the heritage brick school building.

4.0 BACKGROUND

The applicant previously obtained approvals to redevelop the old Rutland Elementary School site. An amendment to the Official Community Plan future land use designations, allowed the property to be rezoned to the RM3- Low Density Multiple Housing and RM5- Medium Density Multiple Housing designations. A development permit further allows for the construction of 16 townhouse units and 1 apartment building on the northern portion of the site.

As the old brick schoolhouse is a heritage building, a Heritage Revitalization Agreement (HRA) was required to ensure its preservation and restoration. The HRA therefore stipulates that the subdivision of the southern portion of the lot, and approval of a Heritage Alteration Permit for further development, will not be permitted until such time that the heritage building is restored. The provisions of the HRA will facilitate the future subdivision of the property by allowing variances to the rear and side yard setbacks.

4.1 The Proposal

The applicant is now seeking to amend the conditions of the approved Heritage Revitalization Agreement to allow the subdivision of the southern lot prior to the restoration of the heritage building. The applicant has indicated that the subdivision is required at this time in order to facilitate the stratification of Phase I of the development. In order to continue to ensure the preservation of the heritage building, a restrictive covenant is proposed. The covenant would stipulate that no construction is permitted on the lot until such time that the heritage building has been restored. In addition, to ensure that the existing developer remain responsible for the restoration of the building, the covenant will also stipulate that ownership of the property may be transferred until such time that the restoration is complete.

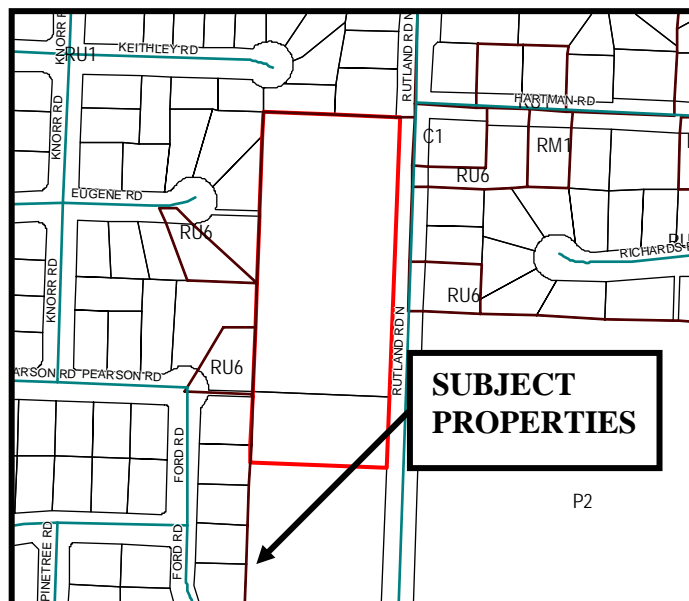
4.2 Site Context

The subject property is located on Rutland Road between McCurdy Road and Leathead Road.

Adjacent zones and uses are:

- North - RU1 - Large Lot Housing
- East - RU1 - Large Lot Housing, C1 - Local Commercial, RU6 - Two Dwelling Housing
- South - P2- Education & Minor Institutional
- West - RU1 - Large Lot Housing, RU6 – Two Dwelling Housing

Site Location Map



4.3 Existing Development Potential

The purpose of the RM3- Low Density Multiple Housing zone is to provide a zone for low density multiple housing on urban services. Permitted uses include apartment housing, congregate housing, group home (major), row housing, semi-detached housing, stacked row housing. Secondary uses include care centres (major) and home based businesses (minor). The purpose of the RM5 – Medium Density Multiple Housing zone is to provide a zone primarily for medium density apartments. The principal uses in this zone are apartment housing, congregate housing, group homes (major), and stacked row housing. Secondary uses include care centres (major), and home based businesses (minor).

4.4 Current Development Policy

4.4.1 Kelowna Official Community Plan

One of the goals for Kelowna as specified in the Official Community Plan is to respect our heritage and preserve special features of our past for the benefit of present and future generations. The OCP includes a number of tools that allow the City to encourage and support the preservation of properties with heritage value, one being to enter into Heritage Revitalization Agreements (HRA). An HRA allows the City to consider on a site-specific basis the adaptive re-use and continuing protection of heritage properties.

5.0 TECHNICAL COMMENTS

The technical comments and requirements were identified and addressed under Z04-0053.

6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

The intent of the Heritage Revitalization Agreement is to ensure the preservation and restoration of the Rutland Elementary School Heritage Building. By requiring the registration of a restrictive covenant on the title of the new lot, the preservation and restoration of the heritage building prior to the development of the new property would be ensured. The timing of the development of the southern portion of the lot, with the restoration of the heritage building preceding any new development, will thus not change. Staff, however, acknowledge that the existing provisions of the HRA ensure that the existing developer is responsible for the restoration of the building. By allowing the applicant to proceed with the subdivision prior to the restoration of the heritage building, the developer has the potential to sell the property thus deferring the restoration costs to the new owner. The restrictive covenant will therefore also be required to include a no transfer clause stipulating that ownership of the heritage building property may not be transferred until such time that the restoration works are completed.

Andrew Bruce
Development Services Manager

Approved for inclusion
R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Corporate Services

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Attach

ATTACHMENTS

(not attached to the electronic version of the report)

- **Location Map**
- **Phasing Plan**
- **Schedule “A”**
- **HRA04-0003**

SCHEDULE "A"

Existing Section 3.1:

- 3.1 The Owner agrees to restore and rehabilitate the brick heritage building for residential use prior to the subdivision and development phasing plan outlined in Schedule "B".

Replace the existing Section 9.5.1 with the following:

- 3.1 The Owner agrees to register a Section 219 covenant stating that no development will be permitted on the Lands, identified as "Phase II" in Schedule "B", until such time that the heritage building is restored and rehabilitated for residential use.