
CITY OF KELOWNA

MEMORANDUM

Date: February 25, 2008

File No.: 0920-20-008
0550-01

To: City Manager

From: Community Planning Manager
& Manager, Community Development & Real Estate

Subject: Interim Policy for Requiring Affordable Housing, or Cash-in-Lieu Thereof, for Increased Density

RECOMMENDATION:

THAT Kelowna City Council adopt the draft Council Policy attached to the report dated February 20th, 2008 by the Community Planning Manager as an interim policy to define affordable housing requirements, or cash-in-lieu thereof, in response to existing bonuses provided in the Zoning By-law, in return for affordable housing; and in situations where an amendment to the Official Community Plan is required to increase density.

BACKGROUND:

The City has now achieved in the order of 50 dwellings registered by housing agreements to meet the City's requirements for affordable housing as a condition of increased density. The conventional way to obtain housing in this manner is through the existing bonuses that are written into the Zoning By-law to provide some increased density in return for the provision of affordable housing that meets the City's criteria. Affordability is defined in the OCP under policy 8.1.16. Although there is no written policy indicating how much affordable housing is required in return for increased density, the practice adopted by staff has been to recommend that half of the increased floor area achieved by the density bonus in the zone be returned in the form of affordable housing. This is the manner in which most of the affordable housing under housing agreements has been secured.

Matters are less clear on how to administer the requirement for the provision of affordable housing as a condition of considering a development proposal that requires a rezoning and OCP amendment to increase density. The need for clarity around this issue and what direction the City should be following in the future to secure more affordable housing gave rise to one of the recommendations of the 2006 Affordable and Special Needs Housing Task Force, as follows:

2. *THAT Council authorize staff to hire a land economist, at an estimated cost of \$30,000 from Council Contingency to assist the Task Force in analyzing the practical application, effectiveness, and cost to the city and development of the following potential OCP policy changes:*

2.1. *Where development applications increase density over the existing zoning, either by increasing height and/or rezoning, or under current density bonuses:*

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- 2.1.1. *50% of the increase in floor area resulting from the change be provided as affordable housing, registered by a housing agreement with the City; OR*
- 2.1.2. *20% of all the proposed development's floor area must meet the City's definition of affordable housing, secured by a housing agreement registered on title; OR*
- 2.1.3. *A cash in lieu equivalent to the floor area in affordable housing of option 1, or 2, above (calculated as the difference between the average building permit value for that zone and average market value of the subject floor area).*
- 2.1.4. *The above requirements would apply to residential, commercial zones or any other zone that permits residential development.*
- 2.1.5. *A further alternative in the form of a levy on all density increases as is being proposed for Penticton.*

The Land Economist was hired in 2007 and work is reaching the recommendation stage in this exercise. It will take some time for the report recommendations to be brought forward and undergo a public review process prior to changes in procedure being adopted by City Council.

Early findings of the research and discussions with members of UDI- Kelowna have confirmed that the Kelowna land market bases land sale price on the maximum allowable density in the OCP, not on current zoning. This means that the ability to apply a "land lift" approach to conventional rezonings that conform to the OCP has limited application in the present market. The "land lift" approach assumes that part of the increase in land value resulting from a rezoning should come back to the City in the form of community benefit, such as affordable housing. At this stage, it is recognized that there will need to be marketplace adjustments to land value before Kelowna is able to embark on "inclusionary" zoning or policy that effectively requires the provision of affordable housing or other amenities for all new development. Room for increased and/or clearer application of affordable housing requirements exists primarily within the existing bonuses in the zoning by-law and in situations where the OCP must be amended to increase density. UDI is of the opinion that density in the OCP is not high enough in some parts of the City, ***but this is a separate matter that needs to be reviewed as part of the overall OCP review and will not be resolved by affordable housing requirements.***

While this work has been underway, Council has been dealing with several developments that feature increased density and has experienced a need for a clear manner to apply to existing policy requirements for the provision of affordable housing, including the existing bonuses in the zoning by-law. Present findings indicate requiring the provision of affordable housing in rezonings that conform to OCP designations would be self-defeating as the land costs have already been set at the higher densities based on the OCP. However in applying policy 8.1.31 of the OCP that requires provision of affordable housing when the OCP density is to be increased, clearer direction is needed on how to administer this requirement.

Council has directed staff to develop an interim Council policy. This policy would conform to the OCP and the Zoning By-law. The purpose is to provide clear direction until the results of the Land Economist's work are realized. Amounts of affordable housing to be required as well as cash-in-lieu options have been requested. Staff has now prepared such a policy and presents it for Council consideration as part of this report. A meeting with representatives of UDI was held and staff has acknowledged and incorporated their concerns around Kelowna's present land market and the need to move forward with "baby steps" as opposed to significant new conditions that would jeopardize otherwise viable development proposals.

The following logic has been applied in developing the attached policy:

- All references to floor area are net floor area, as defined in the Zoning By-law.
- The current practice of requiring half the density bonus available in the Zoning By-law to be returned as affordable housing secured by a housing agreement is now in writing.
- A cash-in-lieu option for the existing bonuses is provided for use at Council's discretion. This option is based on the information obtained through work from the Land Economist to date that assumes a net value of \$40 per square foot for increased floor area resulting from an increase in density (roughly equivalent to land value). Since the provision of cash enables the developer to realize 100% of market value for the additional floor area in the density bonus, the cash donation is based on 75% of the increase in floor area, instead of the 50% of bonused floor area that would otherwise have been affordable housing. The provision of housing would still be preferred. The funds would be directed to the City's Housing Opportunities Reserve Fund.
- No affordable housing requirement is recommended in situations where a rezoning would conform to the OCP.
- In a development that necessitates an OCP as well as a zoning amendment to increase density, a proportion of the total floor area to be returned as affordable housing has been put forward, based on the discussions with UDI, and on achieving a comparable proportion of building space to what would be returned with 50% of the area resulting from the present bonuses in the Zoning By-law. The proportion of total floor area represented by half the existing bonuses ranged from 3.3% to 7.7%, averaging out at 5%. On this basis, it is being proposed that OCP amendment situations should return 5% of total residential building area as affordable housing.
- A cash-in-lieu option is offered at Council's discretion using the same approach as described above, such that a contribution equal to 7.5% of the total square footage of residential building area multiplied by \$40 / sq. ft. be directed to the City's Housing Opportunities Reserve Fund.

The draft policy conforms to the OCP and does not represent any change to the Zoning By-law. It is recommended Council adopt the policy and that it be used as an interim measure until such time as recommendations from the Land Economist, hired by the City in 2007 have been adopted and put in practice.

INTERNAL CIRCULATION TO:

Director of Works & Utilities
Director of Corporate Services
City Clerk
Director of Financial Services
Director of Planning & Development Services
Manager of Community Development & Real Estate

EXISTING POLICY:

Strategic Plan:

Goal #3 - To foster the social and physical well-being of residents and visitors.

Objective #4 – Realize construction of housing forms and prices that meet the needs of Kelowna residents.

3.4.1

3.4.2

Official Community Plan:

- 8.1.4 Partnerships for Affordable Housing.
- 8.1.15 Zoning Bylaw.
- 8.1.16 Affordability Benchmarks.
- 8.1.19 Housing Reserve Fund.
- 8.1.20 Use of Housing Opportunities Reserve Fund.
- 8.1.31 Rezoning to Higher Densities.
- 8.1.32 Higher Density for Affordable Housing.

FINANCIAL/BUDGETARY CONSIDERATIONS:

The proposed policy will provide an additional source of funding for the Housing Opportunities Reserve Fund which is to be used primarily for acquisition of land to be used for affordable housing.

LEGAL/STATUTORY AUTHORITY:

Council Resolution: Local Government Act S. 904; Community Charter S. 188, 189

EXTERNAL AGENCY/PUBLIC COMMENTS:

Staff met with representatives of the Urban Development Institute of Kelowna to discuss the proposed interim policy. Issues identified by the group were acknowledged and changes have been incorporated as a result of these discussions.

Considerations that were not applicable to this report:

COMMUNICATIONS CONSIDERATIONS:

LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:

PERSONNEL IMPLICATIONS:

TECHNICAL REQUIREMENTS:

ALTERNATE RECOMMENDATION:

Submitted by:



T. Eichler, Community Planning Manager

Approved for Inclusion:



John Vos, Director of Corporate Services

cc: Director of Works & Utilities
Director of Corporate Services
City Clerk
Director of Financial Services
Manager of Community Development & Real Estate



CITY OF KELOWNA

POLICY: @
PAGE: 1 of 2

COUNCIL POLICY MANUAL

APPROVAL DATE:
RESOLUTION #:
REPLACING #:
DATE OF LAST REVIEW:

SUBJECT: Affordable Housing or Cash-in-Lieu of Affordable Housing – Interim Policy for Increased Density

A. DENSITY BONUS - WITHIN THE ZONE

1. The provisions outlined in this section will be applied only in situations where bonuses defined in the zoning by-law are available within the following zones:
 - RM2- Low Density Row Housing
 - RM3- Low Density Multiple Housing
 - RM4 – Transitional Low Density Housing
 - RM5 – Medium Density Multiple Housing
 - RM6 – High Rise Apartment Housing
 - C4 – Urban Centre Commercial
2. In cases where a site is to be developed for housing with the increase in FAR defined in the Zoning By-law as being available in return for affordable housing registered by a housing agreement, the preferred option is that 50% of the increase in net floor area resulting from the bonus must be returned in the form of affordable housing units, meeting the City's definition of affordability set out in the OCP, and secured by a housing agreement;
3. The City may accept a cash-in-lieu donation to the Housing Opportunities Reserve Fund, at Council's discretion, as an alternative to the construction of the affordable units.

3.1. The cash compensation payable is, *at minimum*, equivalent to the following:

The additional net floor area of building in square feet resulting from the density bonus for a housing agreement defined in the zoning by-law; multiplied by 75%; multiplied by \$40 per square foot.

For example, an additional 1,000 sq. ft. of net building area achieved through an increase in FAR, as set out in the zoning by-law would require a minimum cash compensation payable as follows:

$$1,000 \text{ sq. ft} \times 75\% \times \$40 \text{ per sq. ft.} = \$30,000;$$

B. DENSITY BONUS - BEYOND THE OCP

4. In cases where an amendment to the Official Community Plan (OCP) is required in order to permit the proposed density, the preferred option is that 5% of the total net residential floor area must be returned in the form of affordable housing units, meeting the City's definition of affordability set out in the OCP, and secured by a housing agreement;
 - 4.1. For example, a residential building of 100,000 sq. ft. net floor area (approximately 100 dwellings), would require 5,000 sq. ft. of area devoted to affordable housing, as set out in 4, above. This is roughly equivalent to between 5 and 10 dwellings, depending on the size of the units that are provided.



CITY OF KELOWNA

POLICY: @
PAGE: 2 of 2

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5. The City may accept a cash-in-lieu donation to the Housing Opportunities Reserve Fund, at Council's discretion, as an alternative to the construction of the affordable units.

5.1. The cash-in-lieu compensation payable, *at minimum*, shall be calculated as follows:

The total net residential floor area of building in square feet, multiplied by 7.5%; multiplied by \$40 per square foot.

For example, 100,000 sq. ft of total residential net building area (approximately 100 dwellings) achieved as a result of an OCP and Zoning amendment, would require a minimum donation as follows:

$$100,000 \text{ sq. ft} \times 7.5\% \times \$40 \text{ per sq. ft.} = \$300,000$$

6. This policy is an **interim policy** to be applied until such time as Council has implemented changes resulting from the work of a land economist consultant hired in 2007,.

REASON FOR POLICY: Council is frequently faced with development proposals for housing whereby there is an increase in density and the developer does not wish to provide affordable housing on the same site in return for the density bonus. There is a need for a clear policy to guide the amount of cash that should be contributed in lieu of providing affordable housing on site. The issue of affordable housing provided when density is increased is presently under review with the assistance of a consultant reporting to the City.

LEGISLATIVE AUTHORITY: Council Resolution: Local Government Act S. 904; Community Charter S. 188, 189

PROCEDURE FOR IMPLEMENTATION: Implementing density bonus provisions in the Zoning By-law :for new development.