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CITY OF KELOWNA

MEMORANDUM

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**Date:** November 19, 2008  
**File No.:** 6441-20  
**To:** City Manager  
**From:** Community Planning Manager  
**Subject:** Report from Land Economist

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**RECOMMENDATION:**

**THAT** the report of the Community Planning Manager dated November 19, 2008 be received;

**AND THAT** Council adopt the draft Council policy attached to the staff report of November 19, 2008 which sets out provision of amenities, affordable housing or cash-in-lieu thereof in return for the existing density bonus provisions of the Zoning By-law and for amendments to the OCP which increase density.

**BACKGROUND:**

On November 10<sup>th</sup>, 2008 the Urban Development Institute (UDI) submitted a letter to Council to express concerns about the interim affordable housing policy that was on the agenda for discussion that day. Staff were asked to review UDI's suggestions and report back to Council.

**DISCUSSION:**

The attached Council policy has been revised to respond to many of UDI's suggestions.

Staff and UDI were able to arrive at a compromise solution on the value of cash-in-lieu contributions. It is proposed that any cash-in-lieu contributions be set at 75% of the land value of the bonused floor area. The attached draft Council policy reflects this amount.

The attached draft Council policy does not address UDI's desire to have the option of calculating an OCP amendment's value on the basis of how much more the land is worth after an OCP amendment, as compared to how much the developer paid for the land in advance of the amendment. Staff is concerned that making this form of valuation an option would reduce the incentive to ensure that the price being paid for land is reasonable (in line with current OCP designations) in the long term. Also, the difference between the amount paid and the value of the land with the increase in density would be insufficient in some cases to provide a contribution to amenities or affordable housing.

It is suggested that the attached draft policy is a reasonable response to UDI's feedback. It is noted that the attached would be an interim policy that would be reviewed as an outcome of the OCP update currently underway and expected to be completed early in 2010.



**INTERNAL CIRCULATION TO:**

Planning & Development Services Department

**LEGAL/STATUTORY AUTHORITY:**

Local Government Act  
Section 904 - Zoning for amenities and affordable housing

**FINANCIAL/BUDGETARY CONSIDERATIONS:**

Density bonusing assists in achieving community needs for amenities and affordable housing by contributions made through development.

**EXTERNAL AGENCY/PUBLIC COMMENTS:**

Two meetings of City Council that were open to the public and two additional meetings with development stakeholders were held prior to consideration of the consultant's recommendations of June, 2008.

**Considerations not applicable to this report:**

**PERSONNEL IMPLICATIONS:**

**TECHNICAL REQUIREMENTS:**

**EXTERNAL AGENCY/PUBLIC COMMENTS:**

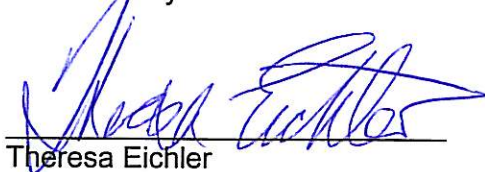
**ALTERNATE RECOMMENDATION:-**

**LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:**

**EXISTING POLICY:**

**COMMUNICATIONS CONSIDERATIONS:**

Submitted by:



Theresa Eichler  
Community Planning Manager

Approved for Inclusion:

John Vos, Director of Corporate Services

cc: Planning & Development Services Department  
City Clerk

Attachment:

Proposed Council Policy

Recommendations from Coriolis Report

Table of existing density bonuses

## **Appendix 1: Coriolis Recommendations**

1. The City should immediately adopt a policy allowing a cash-in-lieu option under the existing density bonus for affordable housing. The City can leave the current approach in place (i.e. 50% of the bonus is market housing and 50% is affordable housing), but the City should provide a cash-in-lieu alternative for developers, along these lines:

The value of the bonus density should be determined on a project-by-project basis.  
The cash-in-lieu contribution should be equal to 100% of the market value of the additional density.

The payment should be made at time of building permit issuance or (at the developer's option) deferred to substantial completion if the developer provides acceptable security such as an irrevocable letter of credit.

2. The City should amend some of the multifamily zoning districts to increase the amount of the density bonus. At present, the bonus districts allow increase in FAR of only 0.05 or 0.1. These are very small increases, on top of base densities that are already low. In our view, the City should consider increasing the allowable density in its townhouse, low-rise apartment, and high-rise zones up to the limits that are achievable in attractive, livable projects with urban character. These density increases should all be structured as density bonuses achievable in exchange for making the required amenity contribution. Developers (and land sellers) must understand that these increases are only achievable by making the amenity contribution, so the added value should not be capitalized into land purchase price.

Increasing the allowable densities in selected zones does not necessarily have to wait for a full review of the OCP. The City could consider these rezonings on a neighbourhood basis, looking for locations in which marginal increases in density are appropriate in community planning and urban design terms and can readily be achieved. When changing the allowable density, the City should assume that the structure type must stay the same (i.e. low-rise apartment sites are still low-rise apartment sites, but at a slightly higher density) and should make all of the consequential changes in the bylaw that are necessary to allow the increased zoning to be achieved. This may mean revising maximum height (e.g. increasing low-rise apartment sites from 3 storeys to 4), reducing setback requirements, and reducing parking requirements. *The table below includes some of the bonus increases that were recommended in the report from Coriolis:*

Zoning District	Existing Base FAR	Existing Bonus FAR	Proposed Bonus FAR	Maximum FAR	Comments
RM-3	0.7	0.05	0.3	1.0	FAR 1.0 is a reasonable density for urban townhouse projects with enclosed parking.
RM-5	1.3	0.1	0.4	1.7	Density of 1.7 and higher (up to about 1.9) is achievable in 4 storey frame apartments with urban character.
RM-6	1.9	0.1	0.6	2.5	High rise residential can easily achieve density of 2.5+, depending on allowable height.

3. The City should seek voluntary amenity contributions for all rezonings that involve a significant change in land use or density not already contemplated in the OCP. The City should adopt an approach that involves estimating the net lift in land value (after allowing for all land development costs) associated with the rezoning and then setting a general target that the amenity contribution (including on-site amenities, off-site amenities, and any cash-in-lieu portion) has a total value equal to about 75% of the lift. This 75% level is somewhat arbitrary, but it acknowledges that a portion of the land lift should be available to provide incentive to the land seller and incentive to the developer to undertake the rezoning. The 75% target is consistent with the expectation of a variety of urban communities in BC.
4. The City is planning to review and update its OCP. As part of this process, the City should look for appropriate locations for additional density (beyond that already contemplated in the existing OCP), based on location, neighbourhood character, transit service, and other factors. Where there are sound opportunities for additional density (i.e. that make sense in terms of community planning, infrastructure, urban design, sustainability, and market trends), the new OCP should make it very clear that the City's policy will be to rezone to match new OCP designations if there is an appropriate voluntary amenity contribution. In this way, the City can avoid continuation of the current situation in which OCP policy has become (in the land market) the basis for land price. In effect, the City should acknowledge that the land market has already captured the value associated with existing OCP policies, but the City should ensure that the new plan makes it clear that new density will be viewed as an opportunity to achieve public benefits.

Zone	FAR	FAR with HA bonus	Other Bonuses
RM2- Low Density Row Housing	0.5	0.55	For screened <b>parking spaces</b> under habitable or common amenity areas, the <b>FAR</b> may be increased by 0.08 x the ratio of such <b>parking spaces</b> to the total required up to a max. of 0.08
RM3- Low Density Multiple Housing	0.5	0.55	For screened <b>parking spaces</b> under habitable or common amenity areas, the <b>FAR</b> may be increased by 0.2 x the ratio of such <b>parking spaces</b> to the total required up to a max. of 0.2
RM4 – Transitional Low Density Housing	0.65	0.75	For screened <b>parking spaces</b> under habitable or common amenity areas, the <b>FAR</b> may be increased by 0.2 x the ratio of such <b>parking spaces</b> to the total required up to a max. of 0.2
RM5 – Medium Density Multiple Housing	1.1	1.2	For screened <b>parking spaces</b> under habitable or common amenity areas, the <b>FAR</b> may be increased by 0.2 x the ratio of such <b>parking spaces</b> to the total required up to a max. of 0.2
RM6 – High Rise Apartment Housing	1.5	1.6	<ul style="list-style-type: none"> <li>• 0.1 for each additional 10% increment of <b>open space</b> above 50% of <b>open space</b></li> <li>• For screened <b>parking spaces</b> under habitable or common amenity areas, the <b>FAR</b> may be increased by 0.2 x the ratio of such <b>parking spaces</b> to the total required up to a max. of 0.2</li> </ul>
C4 – Urban Centre Commercial	1.3	1.4	For screened <b>parking spaces</b> under habitable or common amenity areas, the <b>FAR</b> may be increased by 0.2 x the ratio of such <b>parking spaces</b> to the total required, up to a max. of 0.2
C5 – Transitional Commercial	0.4		For residential space an additional FAR of .2 is permitted for a total FAR of 0.6
C6 – Regional Commercial	0.4		FAR increase to 1.0 for hotels
C7 – Central Business Commercial	9.0		No bonuses, but increases in height in certain situations
C8- Convention Hotel Commercial	1.5		
C9 – Tourism Commercial	0.5		1.5 for hotels





# CITY OF KELOWNA

## COUNCIL POLICY MANUAL

POLICY: @  
PAGE: 1 of 2

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 priority (over and above a cash payment) will be to require 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, for developments of 10 units or less; as follows:
  - 3.1. the contribution will be determined based on 75% of the market land value of the increased net floor area where value is confirmed by a professional appraiser paid for by the applicant and meeting the approval of the City;
  - 3.2. The payment will be made at building permit or (at the developer's option) deferred to occupancy permit if the developer provides acceptable security such as an irrevocable letter of credit.
4. For developments of more than 10 dwellings, the following will be required in order to consider a cash-in-lieu payment to the Housing Opportunities Reserve Fund:
  - 4.1. a report from a qualified professional providing compelling reasons why the provision of affordable housing on site is not feasible;
  - 4.2. the contribution will be determined based on 75% of the market land value of the increased net floor area where value is confirmed by a professional appraiser paid for by the applicant and meeting the approval of the City;
  - 4.3. The payment will be made at building permit or (at the developer's option) deferred to occupancy permit if the developer provides acceptable security such as an irrevocable letter of credit.



# CITY OF KELOWNA

POLICY: @  
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### **B. DENSITY BONUS - BEYOND THE OCP**

5. In cases where an amendment to the Official Community Plan (OCP) is required in order to permit an increase in density the City will require a contribution to affordable housing and / or public amenities, to be defined in negotiation between the City and the developer (amenities should be defined in the OCP), with a total value equivalent to 75% of the net lift in land value (after allowing for all land development costs) associated with the rezoning) as determined by a professional analyst paid for by the applicant and meeting the approval of the City;
  - 5.1. For density increases that require amendment to the OCP, the City's priority will be to require that the contribution outlined in clause 5 would be in the form of affordable housing or public amenities provided on site representing the equivalent of 75% of the net lift in land value.
  - 5.2. Acceptance of cash-in-lieu of affordable housing or other amenities will be based on a report from a qualified professional providing compelling reasons why the provision of affordable housing or amenities on site is not feasible.
  - 5.3. The payment will be made at building permit or (at the developer's option) deferred to occupancy permit if the developer provides acceptable security such as an irrevocable letter of credit.
6. Any funds collected as cash-in-lieu of affordable housing will be directed to the Housing Opportunities Reserve Fund governed by By-law 8593.
7. Any funds collected as cash-in-lieu of any other amenities be placed in a reserve fund governed by a By-law that defines the amenities and guides the use of the funds.
8. This policy is **an interim policy** to be applied until such time as Council has completed its review of the Official Community Plan.

**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 or other amenities, or cash-in-lieu thereof provided when density is increased is presently under review as part of the review of the Official Community Plan.

**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.



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Monday, November 10, 2008

Her Worship Mayor Sharon Shepherd  
City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

Dear Mayor and Council:

**Re: Affordable Housing Policy: Cash-In-Lieu and Interim Policy for Increased Density**

The Urban Development Institute (UDI) recognizes the concern regarding lack of affordable housing in Kelowna, and as partners in community building, we, along with the City of Kelowna, wish to be part of the solution.

Over the last number of months, City staff has been working on policy direction that might assist in providing affordable housing units, and as part of the exercise, engaged the help of the Coriolis Consulting Corporation. (UDI's feedback to the Coriolis Report, in a letter dated April 14<sup>th</sup>, 2008, is attached to the Staff Report.) The policy being presented to Council today is largely based on recommendations from the Coriolis Report, and UDI would like to provide specific feedback that may assist in the policy's success.

Cash-in-lieu option for the existing density bonus provided in the City's bylaw:

1. When units are to be provided in exchange for a bonus in density, the requirement is based on 50% of the net bonus area. We recommend that cash-in-lieu be consistent with this percentage. The requirement of 100% of the market land value of the additional density is too high and will likely result in no uptake of the bonus density option from the industry. At the very least, to be economically viable, it needs to be less than 75%.
2. For developments of 10 units or less, the proposed policy (Section 3.1, page 7 of the staff Report) says the minimum building area land value is \$40/SF. UDI supports the market land value of the additional density being determined by a professional appraiser in ALL cases, regardless of the size of project. There should be no set minimums or maximums established in policy, and land value should be established by an appraiser because this ensures fairness to both the City and the developer.  
As noted in the Coriolis Report: "The fairest and most accurate method is to obtain appraisal input for each project rather than adopting a fixed number for all projects. Developers are supportive of the idea of determining the market value of additional density on a project-by-project basis, taking into account the location and housing form of the project." Page 28.
3. There needs to be policy as to when cash-in-lieu is payable. UDI believes that payment to the City should come at the end of the project, paid out of proceeds of sales, secured by an agreement with the City. If it is paid at



DP/Rezoning, the developer must source cash for this before the project is financed. Since financing doesn't happen until well after the DP is obtained, (when presales are achieved), required payment at time of DP or Rezoning will likely kill many cash-in-lieu deals.

As noted in the Coriolis Report: "The payment should be made at time of building permit issuance or (at the developer's option) deferred to substantial completion if the developer provides acceptable security such as an irrevocable letter of credit." Page 31.

4. In the absence of a clear policy on how funds in the Housing Opportunities Reserve Fund will be used, the developer should have the option of paying the cash-in-lieu funds to a Not-For-Profit Housing provider to ensure the timely use of monies toward the creation of affordable housing.

#### Housing Contributions from OCP Amendments:

1. With the OCP up for review, and with some areas likely to be modified because they can and should accommodate more density, (the Landmark Towers neighbourhood being one good example), we recommend this policy be delayed until after the OCP Review is complete. While we have acknowledged previously (in our letter of April 14<sup>th</sup>) that we are somewhat supportive of this policy, we have always maintained that it should wait until after the OCP Review is concluded. If it is council's wish to have this policy in place prior to then, we recommend it only be applicable to OCP amendment applications proposing densities greater than one increment. This recognizes the reality that in the last few years many properties have sold above the outdated OCP values.
2. The requirement of 75% of the net lift of the land value (Section 5.1 of the proposed policy, page 8 of the staff Report) is too high. It should be reduced to 50% to be consistent with current policy for density bonus, and at a minimum needs to be less than 75% in order to be economically viable. If, however, the objective is to put a policy in place that assures no further OCP amendments, then the policy, as written, will be successful in that objective.
3. The net land lift value should be based on the lesser value of two calculation methods: Method 1 subtracts the appraised land value according to the OCP from the new up-zoned land value. Method 2 subtracts the actual cost of the land from the new up-zoned land value. This recognizes that, due to an out-of-date OCP, some properties have been acquired for higher values than the OCP would suggest. Method 2 provides a "phase-in period" of sorts, something likely needed for properties purchased since 2005.
4. In the absence of a clear policy on how funds in the Housing Opportunities Reserve Fund will be used, the developer should have the option of paying the cash-in-lieu funds to a Not-For-Profit Housing provider to ensure the timely use of monies toward the creation of affordable housing.

UDI is aware that this policy is only an interim measure until such time as the OCP Review is complete. We are concerned that the next step in the evolution of the affordable housing or amenity contribution policy is to make contributions a requirement of any rezoning to match the new OCP designations. While in principle, according to the Coriolis Report, this sounds like a reasonable approach to fund housing, we believe there will be considerable resistance by Kelowna landowners to the capping of land values at the present OCP values----with some very negative consequences. In many cases, the developer will likely have no economic choice

but to build to the old OCP density. This does not follow good planning principles, and is contrary to the objectives of the OCP and our city's desire to become more sustainable. In cases where the developer tries to achieve the new OCP density, this new "extraction" will essentially be an additional cost, and the selling price of the new units will have to increase to make the project economically viable. This is completely contrary to the objective of trying to make housing more affordable in Kelowna since not only are these new units more expensive than they should have been, their market values "reset" - and in this case, increase - the values of all the rest of the housing stock in the city.

UDI has consistently advocated for incentive based policy such as density bonus within zones. According to the Coriolis Report, "Increasing the allowable densities in selected zones does not necessarily have to wait for a full review of the OCP," (Page 32) and we agree. While we appreciate that much thought and review has to go into a full scale rewriting of the density bonus structure, prior to that time, we believe that higher bonus densities can be considered on a case-by-case basis, especially in light of the marked slow-down in development applications. If City staff and a developer can agree on how a higher density bonus might work in a given situation (with regard to design, variances, etc), it should be encouraged, not delayed. Interim policy should allow for this kind of creativity.

The City of Kelowna is to be congratulated for becoming a partner in a number of affordable housing projects over the last year, and UDI believes that much progress can be made when partnerships are pursued. Policies, however, that add to the cost of housing should be approached with caution, especially at a time when no one can forecast what is coming in the marketplace over the next couple of years.

We hope that you find our comments constructive and helpful as we all seek to have policy that works, and we look forward to much further consultation as we proceed through the OCP Review.

Yours truly,  
UDI Kelowna President

Gail Temple

Cc: Ron Mattiussi, Jim Paterson, Theresa Eichler, Shelley Gambacort, Doug Gilchrist