

# REPORT TO COUNCIL



**Date:** April 26, 2012  
**File:** 6800-20  
**To:** City Manager  
**From:** Planner, Policy and Planning  
**Subject:** Heritage Revitalization Agreements Review  
Report Prepared by: L. Sanbrooks, Planner

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## **Recommendation:**

THAT Council receives, for information, the report from the Planner, Policy and Planning dated April 26, 2012, with respect to the Heritage Revitalization Agreements;

AND THAT Council directs staff to bring forward for rescindment consideration the Heritage Revitalization Agreement for 865 Bernard Avenue;

AND THAT Council directs staff to submit an application to rezone the property located at 865 Bernard Avenue from the RU6 - Two Dwelling Housing zone to the P3 - Parks and Open Space zone;

AND FURTHER THAT Council directs staff to revise the Heritage Revitalization Agreement template and add a clause to section 1.0 of the Agreement to reflect the required residential component in residential land use designations.

## **Purpose:**

To address the July 19, 2011 directive from Council that staff continue to work with owners of properties protected by Heritage Revitalization Agreements to achieve compliance with the applicable Heritage Revitalization Agreement Bylaws.

## **Background:**

A Heritage Revitalization Agreement (HRA) is a voluntary written agreement negotiated by the City of Kelowna and the owner of a heritage building. The agreement outlines the duties, obligations and benefits negotiated by both parties. An HRA may vary or supplement provisions related to zoning, DCC's, subdivision and development requirements. In exchange for the variances or supplemental provisions, the property owner agrees to steps that will protect and/or enhance a heritage register property. Applications for HRAs are reviewed by the Community Heritage Commission prior to Council consideration. If approved by Council, the HRA is registered in the Land Titles Office and carries forward with the land.

Following a presentation regarding the OCP to the Kelowna South-Central Association of Neighbourhoods (KSAN) in 2010, staff heard concerns about the amount of commercial uses in the neighbourhood. Staff brought forward this concern to Council, at which time Council directed staff to: "review the Heritage Revitalization Agreement program in its entirety to ensure that

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the program is protecting the residential character of neighbourhoods while preserving heritage properties, and; investigate compliance with existing Heritage Revitalization Agreements.”

Beginning in April, 2011, staff from the Policy and Planning Department and Bylaw Services conducted site visits to the thirteen properties protected by HRAs in Kelowna. Since the initial Heritage Revitalization Agreement was adopted by Council on March 26, 1996, this was the first comprehensive site visit exercise to all properties with HRAs completed by staff. It was evident from the site visits that approximately half of the properties were not in compliance to the HRA; primarily those properties that required a residential component.

At the May 5<sup>th</sup> and the July 7<sup>th</sup> Community Heritage Commission (CHC) meeting, the Commission recommended that the residential component (secondary suite, principal dwelling, etc.) of the HRA be strongly enforced when in conjunction with a non-residential use. However, the Commission members also want to ensure the HRA process is not viewed as onerous but rather encourages property owners to consider options for adaptive reuse.

On July 25<sup>th</sup>, 2011 staff brought forward the findings from sites visits and provided recommendations to Council. At which time Council directed staff to:

“use the revised Heritage Revitalization Agreement Guidelines when drafting Heritage Revitalization Agreements, to continue to work with owners of properties protected by Heritage Revitalization Agreements to achieve compliance with the applicable Heritage Revitalization Agreement Bylaws, to report back to Council within three (3) months on the extent to which compliance has been achieved and with recommendations regarding potential next steps where compliance has not been achieved, and to conduct site visits to existing Heritage Revitalization Agreements every second year in conjunction with Bylaw Enforcement staff, to ensure the agreement is working as effectively as possible for both the City and the property owner.”

On August 26<sup>th</sup>, 2011, staff sent out two types of letters to property owners with Heritage Revitalization Agreements. One letter was sent out to those who were in compliance to the agreement. The letter informed the property owner of the site visits that would occur on a regular basis to ensure the agreement is working as effectively as possible for both the City and the property owner. The second letter was sent out to those property owners who were not in compliance to the agreement. The letter highlighted the issues that were not in compliance with the intent of the Heritage Revitalization Agreement and advised the property owner to respond in writing within 30 days of receipt of the letter as to the specific steps that have been or will be taken to correct the noted issues. This letter also informed property owners that site visits would occur every second year.

Soon after the letters were sent, staff received four response letters from the homeowners who had compliance issues with their Heritage Revitalization Agreements. Given that each agreement is unique to the property and taking into account the response letters and staff's findings from the site visits, staff dealt with each HRA separately, seeking to achieve long-term voluntary compliance.

Long-term voluntary compliance with the Heritage Revitalization Agreements has been achieved for the following 12 properties:

Address	Zoning	Primary Use	Heritage Recognition
2094 Abbott Street (Hughes-Games House)	RU1	One residential dwelling	-Heritage Designated building -Heritage Register - Abbott Street Conservation Area
763 Bernard Avenue (Muirhead House)	RU6	Gift shop	-Kelowna Heritage Register
770 Bernard Avenue (W.D. Harvey House)	RU6	Medical office	-Kelowna Heritage Register
830 Bernard Avenue (J.W. Jones House)	RU6	Law office	-Kelowna Heritage Register
911 Borden Avenue (H.D. Riggs House)	RM4	Office space	-Kelowna Heritage Register
486 Cadder Avenue (Foster House)	RU1	Medical office	-Heritage Designated building - Kelowna Heritage Register -First property with an HRA in BC
1177 Ellis Street (CN Station)	I4	Restaurant/pub	- Kelowna Heritage Register
1869 Marshall Street (W.J. Marshall House)	RM5	Five residential dwellings	- Kelowna Heritage Register - Marshall Street Conservation Area
2034 Pandosy Street (Dr. Shepherd House)	RU1	One residential dwelling	-Kelowna Heritage Register
2056 Pandosy Street	RU1	Leased by IHA	
2124 Pandosy Street (Cadder House)	RU1	Five residential dwellings	-Heritage Designated building -Kelowna Heritage Register
2178 Pandosy Street (Annie Sterling House)	RU1	Medical office	-Kelowna Heritage Register

It is important to note that some property owners are in the process of achieving compliance to the Heritage Revitalization Agreement. Staff will review the Heritage Revitalization Agreements at the next site visit. If the compliance issue is not addressed by the next site visit staff may suggest amending or canceling the agreement.

Staff recommend the following Heritage Revitalization Agreements be cancelled:

- 865 Bernard Avenue (Knowles House) - This City owned property is zoned RU6 and is currently being leased by the Alzheimer Society. The proposed use of the Heritage Revitalization Agreement was to restore the building and use it for a meeting/office space with a caretaker suite. The residential component of the house is an addition onto the

original construction and has issues with the foundation, roof, electrical etc. The Department of Real Estate and Building Services has confirmed that the City will not be proceeding with fixing that portion of the house. In the future, the City will consider tearing down the addition and restoring the house to the original footprint.

It is recommended that Council direct staff to bring forward for rescindment consideration the Heritage Revitalization Agreement for 865 Bernard Avenue. By canceling the agreement, the use and occupation of the Heritage Lands would return to the RU6 zoning. In order for the property to be in compliance to the zoning bylaw, rezoning would be required. Staff recommend that the zoning be changed from RU6 - Two Dwelling Housing to P3 - Parks and Open Space in order to accommodate the principal use of a public park space and a secondary use of a community recreation service. The P3 zoning does not include a principal residential use.

Staff spoke with the Property Management manager, the Urban Land Use manager as well as the Development Engineering manager who all recommend that 865 Bernard Avenue be rezoned from RU6 to P3.

This building will continue to be recognized as having heritage value as it is on the Kelowna Heritage Register. The City retains control over the future of the structure, as the building is owned by the City.

Policy and Planning staff, in conjunction with Bylaw Enforcement staff will conduct the next site visits to properties with existing Heritage Revitalization Agreements in May, 2013 to ensure each agreement is working as effectively as possible for both the City and the property owner.

In a residential neighbourhood, the requirement for the residential component helps minimize the impact of non-residential uses on the character of a neighbourhood as well as provides security along a particular block where a high concentration of adaptive re-use occurs. While some of the properties are not in residential areas, the majority of the properties with HRAs are located in or in close proximity to residential areas.

In order to ensure the residential character of neighbourhoods and the long-term viability of future HRAs as a local heritage preservation tool, it is recommended that Council authorize the following clause be added under section 1.0 Heritage Revitalization Agreement for properties located in residential designations in the OCP:

The parties agree that at least one residential dwelling such as a principal dwelling or a secondary suite is provided in conjunction with a non-residential use in order to minimize impacts on the residential character of the neighbourhood.

The parties agree that the non-residential use be easily converted back to the original residential use should the Heritage Revitalization Agreement be cancelled.

**Internal Circulation:**

Deputy City Clerk  
Director, Land Use Management  
Director, Real Estate & Building Services  
Director, Development Services

**Legal/Statutory Authority:**

Local Government Act, sections 956, 957 and 966

**Existing Policy:**

*Official Community Plan 2030*, policy 5.7.3 **Heritage Revitalization Agreements**. Consider the adaptive reuse of heritage buildings appropriate within any future land use designation, provided that a Heritage Revitalization Agreement is negotiated with the City and provided that the project meets the criteria established for sensitive neighbourhood integration.

*Official Community Plan 2030*, policy 9.2.3 **Financial Support**. Continue to support the conservation, rehabilitation, interpretation, operation and maintenance of heritage assets through grants, incentives and other means.

**Communications Comments:**

Staff sent out letters advising property owners of the Heritage Revitalization Agreement compliance issues. Once compliance was achieved, staff sent out letters advising property owners that compliance was attained and that the next site visit would occur in the spring of 2013.

**Considerations not applicable to this report:**

External Agency/Public Comments:

Legal/statutory Procedural Requirements:

Alternate Recommendation:

Financial/Budgetary Considerations:

Personnel Implications:

Submitted by:



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Reviewed by:



Theresa Eichler, Manager, Community Planning

Approved for inclusion:



Signe Bagh, Director, Policy and Planning

cc: Deputy City Clerk  
Director, Land Use Management  
Director, Real Estate & Building Services  
Director, Development Services