

# REPORT TO COUNCIL

## HERITAGE REVITALIZATION AGREEMENT

**Date:** October 16, 2023  
**To:** Council  
**From:** City Manager  
**Address:** 1175-1177 Ellis St.  
**File No:** HRA22-0001  
**OCP Future Land Use:** UC – Urban Centre  
**Zone:** UC1 – Downtown Urban Centre



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### 1.0 Recommendation

THAT Council consider Bylaw No. 12588 which would authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for the property legally known as Lot A, District Lot 139, Osoyoos Division, Yale District, Plan KAP68238, located at 1175-1177 Ellis St, Kelowna, BC in the form attached as Schedule "A" to the Report from the Development Planning Department dated October 16, 2023;

AND THAT the Heritage Revitalization Agreement Authorization Bylaw No. 12588 be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Heritage Revitalization Agreement Authorization Bylaw be considered subsequent to the outstanding conditions of approval as set out in Attachment "D" attached to the Report from the Development Planning Department dated October 16, 2023.

AND FURTHER THAT final adoption of the Heritage Revitalization Agreement Authorization Bylaw be considered subsequent to the registration on the subject property of a Section 219 Tree Protection Covenant to ensure the ongoing preservation and protection of the Ginkgo Tree located on the subject property.

### 2.0 Purpose

To enter into a Heritage Revitalization Agreement for the subject property.

### 3.0 Development Planning

Staff support the proposed Heritage Revitalization Agreement (HRA) for the subject property. An HRA is a powerful and unique tool that is afforded to municipalities under the Local Government Act (LGA) to suit unique properties and situations. It is a voluntary, formal, and written agreement negotiated between the City and the owner of a heritage property regarding the property's land use regulations. The terms of the agreement will supersede the Zoning Bylaw and propose specific use, density, and siting regulations (e.g. landscaping and parking) for mutual benefit between the property owner and the City. In exchange for the supplemental provisions, the property owner agrees to steps that will protect and/or enhance a heritage register property.

The Official Community Plan (OCP) encourages use of HRAs to conserve and protect historic sites. The OCP further encourages the use of HRAs to provide greater flexibility for redevelopment proposals of historic buildings in the Downtown for projects that protect and conserve heritage value of buildings in a manner that is consistent with the National Standards and Guidelines for Historic Conservation. The applicant is

proposing the long-term maintenance and protection of the CN Station, the Heritage Garden and Plaza, along with the preservation and protection of an existing mature Gingko tree.

Additionally, the OCP supports large office developments in the Urban Centres with emphasis on Downtown as a preferred destination. It further promotes a sensitive transition between Urban Centres and adjacent industrial or service commercial uses to reduce the impacts of nuisances from those lands, such as offices, retail, and professional and personal services. The applicant is proposing a new 5-storey mixed use building with retail uses at the ground floor and office use located above. This building has an important role in the transition of height from the existing single-story buildings on the site to the nearby high-rise developments in the neighbourhood.

The land use and development regulations for the HRA were developed by Staff in collaboration with the applicant. The applicant engaged and closely collaborated with a Registered Heritage Consultant to create a site proposal and design that positively contributes to the continued growth and development of the site while preserving and enhancing the character and quality both of the site and its surrounding area.

#### 4.0 Background

Constructed in 1926, the property is the site of the CN Train Station (heritage asset). The building is of high historic and architectural value. Historically, it represents the final stage in the transformation of Kelowna's economy from water-based to land-based access, connecting the City directly to the national rail system with the arrival of the CN Railway. Architecturally, it represents an example of the CN Railway Architectural Division's modest interwar station designs. The property is listed on the Kelowna Heritage Register, and in 2009, the heritage asset and the land received municipal heritage designation bylaw (BL10268), which will ensure long-term protection of the heritage asset and the heritage land. Prior to receiving the heritage designation, the CN Station building had already been identified by the Historic Sites and Monuments Board of Canada in the early 1990's as one of over 100 Heritage Railway Station across Canada, protected through the Federal Heritage Railway Stations Protection Act CN Station.

As part of the rehabilitation process of the heritage asset, in 2010, the property owner and the City entered into an HRA agreement (HRA10-0001 – "the original HRA"). The following was the development scope and agreement under the original HRA:

1. Rehabilitate, restore, and convert the heritage asset into a pub and restaurant (*completed in 2012*);
2. Construct a Heritage Railway Garden and Plaza at the corner of Ellis St and Clement Ave (*completed in 2012*); and,
3. Construct three new commercial buildings located along the northern and eastern perimeters of the property (*partially completed*).

Since 2010, only one of the proposed buildings was constructed – a single storey liquor store building (currently Metro Liquor). As the original HRA is over 12 years old, the originally proposed new constructions' form and character, land use provisions and the content of the agreement are deemed to be outdated. To address the gaps and deficiencies of the original agreement (HRA10-0001), staff recommend a new agreement (HRA22-0001) replaces it. As a note, since the heritage asset is protected by designation, the owner must obtain a Heritage Alteration Permit (HAP) to make any exterior alterations in the future to the existing buildings and/or the proposed new buildings. This is to acknowledge that some changes to the protected heritage site will be inevitable over time as heritage buildings must be maintained and upkeep.

## 5.0 Project Description

The subject property is bound by three streets - Ellis St to the west, Clement Ave to the south and St. Paul St to the east. A parking lot and an indoor sporting facility are located to the north. The property fronts on to a Mixed Street, as per the OCP's UC1 – Downtown Urban Centre Street Character map.

The applicant provided a letter of rational outlining how the proposed development integrates with the existing heritage asset and site. Under the new HRA agreement (HRA22-0001) the applicant proposes the following project objectives:

1. Conservation and maintenance of the existing heritage asset, the CN Station (Schedule A);
2. Conservation and maintenance of the existing heritage garden and plaza (Schedule A);
3. Preservation and protection of an existing mature Ginkgo tree (Schedule A);
4. Expansion of the existing liquor store building (Schedule B - Building A);
5. Development of a 5-storey mixed use building (Schedule B - Building B), and;
6. Development of a single-storey commercial building (Schedule C - Building C).

In exchange for the long-term maintenance and protection of the heritage asset, the heritage garden and plaza, as well the preservation and protection of the mature Ginkgo tree, the applicant is proposing an HRA, a formal written agreement with the City regarding the subject property's land use regulations and development of two new infill buildings (Building A and B) and an addition to Building A.

### *Building A - Existing Liquor Store*

The applicant is proposing a 197 m<sup>2</sup> addition to Building A to expand the existing liquor store.

### *Building B – A 5-Storey Mixed Use Building*

The project proposes a new 5-storey mixed use development with at-grade retail units and office on floors 2-5. The uppermost level is setback from the lower floors which helps to mitigate the mass of the building. Building B's western edge (Ellis St) has been setback from the curb to allow for a public sidewalk with planting and potential bistro seating for the ground floor commercial unit.

### *Building C – A Single-Storey Commercial Building*

A proposed new single-storey commercial building, approximately 220 m<sup>2</sup>, is located at the north-east corner of the subject property.

Both Buildings B and C are designed with their front doors facing towards the heritage asset and both flank the Ginkgo tree, as a result, the proposed site design supports pedestrian connectivity between buildings, the heritage garden and plaza, the Ginkgo tree courtyard as well as to the surrounding streets. As part of the new HRA, the applicant has agreed to preserve the mature Ginkgo tree through a tree preservation plan prior, during and post construction, as well to register a Section 219 Tree Protection Covenant to protect the tree for the long-term.

The applicant retained the services of and collaborated with a Registered Heritage Consultant to review and develop the form and character of the new buildings (Attachment B). The Consultant identified that the proposal meets several key Heritage Conservation Area Guidelines and is generally in keeping with the Standards and Guidelines for the Conservation of Historic Places in Canada.

According to the Consultant, Buildings A and C are compatible with the CN Station in height, scale and the use of stucco and brick cladding. Building B pays homage to the heritage asset through "a design emphasis

on the ground floor with references to the CN Station design and composition including a similar ground floor height, vertical brick columns, and southwest canopy cables that emulate the angle of the CN Station hip roof." Additionally, with their simpler exterior finishing, new buildings leave the "heritage asset as the central, most intricate feature on site." Finally, as the heritage garden and the Ginkgo tree also contribute to the heritage value of the site, "the developments' retention and highlighting of these two assets as focal points, and the development's overall pedestrian-focused approach, help to improve public engagement and animation of this important historic place."

In summary, Staff agree with the Heritage Consultant's professional opinion, that the proposal represents a "good model of conservation and evolution for a historic site. The protected building is not being altered in any way, and ample space is being left between it and the infill buildings. This proposed cohesive development of the site completes a revitalization intent initiated in 2010 and represents thoughtful, sensitive change at a high visibility intersection in Kelowna with high heritage value. The proposal as a whole respect and reflects the heritage values of the property, follows the national Standards for additions to historic places, and meets the objectives articulated in Kelowna's OCP Chapter 11 - Heritage."

Lot Area	Proposed (m <sup>2</sup> )
Gross Site Area	5,220 m <sup>2</sup>
Road Dedication	N/A
Undevelopable Area	N/A
Net Site Area	Approx 2,245 m <sup>2</sup>

**6.0 Site Context**

Orientation	Zoning	Land Use
North	UC1 – Downtown Urban Centre	UC - Urban Centre
East	P1 – Major Institutional I2 – General Industrial UC1 – Downtown Urban Centre	EDINST - Education / Institutional IND – Industrial UC - Urban Centre
South	UC1 – Downtown Urban Centre	UC - Urban Centre
West	UC1 – Downtown Urban Centre	UC - Urban Centre

**Subject Property Map: 1175-1177 Ellis St.**



## 7.0 Current Development Policies

### 7.1 Kelowna Official Community Plan (OCP)

<b>Objective 4.1 Strengthen the Urban Centre as Kelowna's primary hubs of activity.</b>	
Policy 4.1.4 Office Development	<p>Direct large office developments to Urban Centres first, with emphasis on Downtown as a preferred destination. Within Urban Centres, encourage office development near the Frequent Transit Network, transit stations and exchanges or as guided by an Urban Centre Plan.</p> <p><i>Proposed new Building B is 5-stories with retail uses at the ground floor and office use located above.</i></p>
<b>Objective 4.4 Reinforce Downtown as the Urban Centre with the greatest diversity and intensity of uses in the City.</b>	
Policy 4.4.6 Downtown Heritage Revitalization Agreements	<p>Consider the use of Heritage Revitalization Agreements to provide greater flexibility for redevelopment proposals of historic buildings in the Downtown for projects that protect and conserve heritage value of buildings in a manner that is consistent with the National Standards and Guidelines for Historic Conservation, as amended.</p> <p><i>The long-term maintenance and protection of the CN Station (heritage asset), the Heritage Garden and Plaza, as well the preservation and protection of an existing mature Gingko tree.</i></p>
<b>Objective 4.9 Transition sensitively to adjacent neighbourhoods and public spaces</b>	
Policy 4.9.1 Transitioning to Industrial and Service Commercial Uses	<p>Provide transitions between Urban Centres and adjacent industrial or service commercial uses to reduce the impacts of nuisances from those lands and to protect them from speculation for residential and commercial development. Transition approaches may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Introducing transitional uses that reduce compatibility concerns, such as offices, and professional and personal services;</li> <li>• Strategically orienting residential and retail commercial uses on the site away from the adjacent industrial and service commercial uses; and</li> <li>• Transitioning to lower densities and heights towards the edge of Urban Centres.</li> </ul> <p><i>Proposed new 5-storey building plays a role in the transition of height from the other single-story buildings on the site to the nearby high-rise developments in the neighbourhood.</i></p>

<b>Objective 11.2 Identify, conserve and protect historic places</b>	
Policy 11.2.5 Protection of Historic Places	<p>Prioritize the legal protection of historic places using the tools identified in the Local Government Act:</p> <ul style="list-style-type: none"> <li>• Heritage Designation Bylaws;</li> <li>• Heritage Revitalization Agreements; and</li> <li>• Heritage Covenants</li> </ul> <p><i>An HRA is a tool that is afforded to municipalities under the Local Government Act to suit unique properties and situations. Through an HRA the heritage asset, heritage garden and plaza, the mature Gingko tree and the future exterior alterations are protected for long-term.</i></p>

## 8.o Application Chronology

Application Accepted: October 21, 2022  
Additional Reports Received January 10, 2023, February 24, 2023, and September 25, 2023  
Neighbourhood Notification Received: August 11, 2023

**Report prepared by:** Barbara B. Crawford, Planner II  
**Reviewed by:** Lydia Korolchuk, Acting Planning Supervisor  
**Reviewed by:** Jocelyn Black, Urban Planning Manager  
**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services

### Attachments:

Schedule A: Draft Heritage Revitalization Agreement  
Schedule B: Rationale Letter and Architectural Drawing Set  
Schedule C: Landscape Drawing Set and Cost Estimate Letter  
Schedule D: Heritage Building (CN Station) Original Intent HRA10-0001  
Schedule E: Heritage Garden Original Intent HRA10-0001  
Attachment A: Heritage Building (CN Station) Assessment Report  
Attachment B: Heritage Garden Assessment Report  
Attachment C: Tree Preservation Plan  
Attachment D: Development Engineering Memorandum  
Attachment E: Heritage Consultant Review

For additional information, please visit our Current Developments online at [www.kelowna.ca/currentdevelopments](http://www.kelowna.ca/currentdevelopments)