



## COUNCIL REPORT

To: Mayor and Council

Date: May 9, 2023

From: Paul Gipps, CAO

File No: P 22-03

Subject: **P22-03; Development Application Process Review Streamlining – Bill 26 Phase 2 (Rescind 3rd Reading and 3rd Reading as Amended)**

Report Prepared By: Yvonne Mitchell, Planner II

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**RECOMMENDATION** to Consider and Resolve:

**THAT** Council rescind third reading of City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023; and

**THAT** Council give third reading as amended to City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023.

### **STRATEGIC AREA(S) OF FOCUS**

**Economic Growth and Prosperity**

**Strengthen our Community**

### **BACKGROUND**

On February 28, 2023, Development Applications Procedures Amendment Bylaw No. 0260.02, 2023 and Public Notice Bylaw No. 0303, 2023 was given 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading.

On March 14, 2023, Development Applications Procedures Amendment Bylaw No. 0260.02, 2023 and Public Notice Bylaw No. 0303, 2023 went to Council for adoption.

Adoption of both bylaws was deferred until a trigger mechanism for requiring a public hearing for a zoning bylaw consistent with the Official Community Plan could be determined, as per the following motion:

“THAT Council defer making a decision and directed staff to bring back possible trigger mechanism recommendations, to the next appropriate Council meeting.”

This report outlines potential options for Council to consider as an appropriate trigger, while maintaining Council's ability to hold public hearings for zoning amendments, regardless of adherence to the OCP.

## DISCUSSION

Since Bill 26 became law in late 2021, local governments have not been required to hold public hearings for zoning bylaws consistent with an Official Community Plan pursuant to the *Local Government Act*. The City of West Kelowna currently holds public hearings for all zoning bylaws, including those consistent with the Official Community Plan (OCP). Most public hearings for zoning bylaws consistent with the OCP in 2022 received no public input at the meetings themselves, but most of these applications received written submissions (See Figure 1). As such, written submissions are recommended as a trigger mechanism for when a public hearing is required to be held in West Kelowna, despite no requirement under the *Local Government Act*.

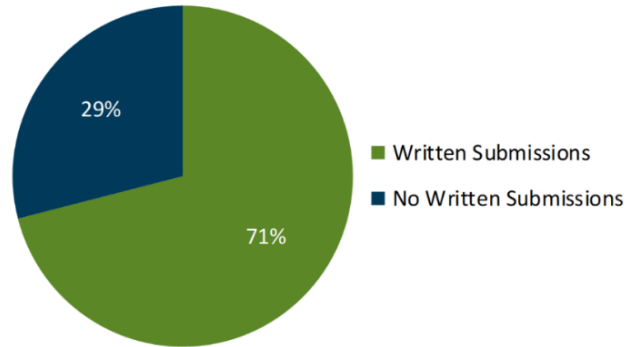


Figure 1: 5 out of 7 zoning bylaws consistent with the OCP received written submissions in 2022.

To determine the number of written submissions that would trigger a public hearing, staff analyzed the written submissions received in 2022 (shown in Figure 1), and in 2021 and 2020 in detail. It was found that the average number of written submissions received for zoning bylaws consistent with the Official Community Plan was seven (See Attachment 3 for full analysis).

Based on these results, staff recommend implementing a trigger of eight written submissions, which is one submission above average (7.4 submissions). This means that when the number of written submissions received is more than average, a public hearing is required to be held, even though the proposed zoning bylaw is consistent with the OCP.

### *Procedure Note*

As is done for public hearings, and as per s.467 of the *Local Government Act*, notice would be published once in the newspaper and once on the City of West Kelowna website (if the proposed Public Notice Bylaw is adopted) and mailed to owners and occupants within 100 meters of the subject property. The notice would advise of first reading of the bylaw and provide information on how to submit a written submission.

Written submissions received in response to the notice of first reading would be used to determine if the trigger mechanism of eight written submissions has been met. As is the case with written submissions for public hearings, written submissions are to be submitted in accordance with the requirements in the notice (ex: include name and address). Petitions, or multiple submissions from one address, will be counted as one submission.

## Proposed Amendments

To accommodate the trigger mechanism, the Development Applications Procedures Bylaw is proposed to be further amended as follows:

3.14.1. A public hearing will not be held for a Zoning Bylaw Amendment application which is consistent with the Official Community Plan pursuant to the *Local Government Act*.

3.14.2. Notwithstanding the above, Council may at their discretion choose to hold a public hearing for a Zoning Bylaw Amendment application which is consistent with the Official Community Plan, unless eight or more written submissions have been received, in which case a public hearing is required. A written submission is a submission received in response to notice of first reading, and in accordance with the submission requirements set out in the notice. Petitions, or multiple submissions from one address, will be counted as one submission.

As per s. 137 of the *Community Charter*, once Council adopts a bylaw, the power to amend or repeal must be exercised by bylaw and is subject to the same approval and other requirements, if any, as the power to adopt a new bylaw. Therefore, if Council, or future Councils, wish to change or remove the trigger, they can only do so by amending or replacing the Development Applications Procedures Bylaw.

The proposed amendments are summarized in Figure 2 below:

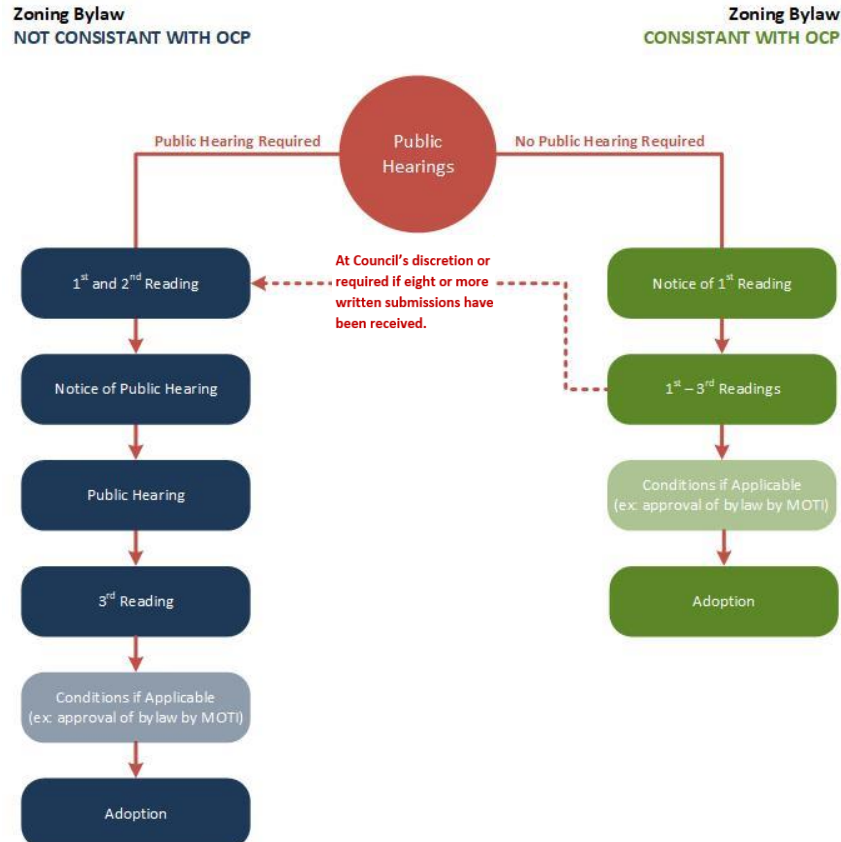


Figure 2: Proposed public hearing process for zoning bylaws consistent with the Official Community Plan.

## COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
February 28, 2023	<b>THAT</b> Council resolve to give first, second, and third reading to City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023; and,  <b>THAT</b> Council resolve to give first, second and third reading to City of West Kelowna Public Notice Bylaw No. 0303, 2023.	<b>C136/23</b>
March 14, 2023	<b>THAT</b> Council defer making a decision and directed staff to bring back possible trigger mechanism recommendations, to the next appropriate Council meeting.	<b>C148/23</b>

### FINANCIAL IMPLICATIONS

Not holding public hearings where not required will allow for more efficient use of staff resources, improve application processing times and increase the housing supply.

The proposed Public Notice Bylaw would mean only one newspaper notice is required. This would reduce the City's notice publication costs. The Public Notice Bylaw would also require one notice on the City's website. This means of publication would not have any additional costs.

### NEXT STEPS

If the proposed amendments to the Development Application Procedures Bylaw is given third reading as amended the bylaws will be brought back to Council at a later date for adoption.

#### **Alternate Recommendation** to Consider and Resolve:

1. **THAT** Council rescind third reading of City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023;

**THAT** Council make amendments as needed to City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023; and

**THAT** Council give third reading as amended to City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023.

2. **THAT** Council postpone third reading as amended of City of West Kelowna Development Applications Procedures Amendment Bylaw No. 0260.02, 2023.

Should Council postpone consideration of the proposed amendment bylaw, further direction to staff on how to proceed is requested.

**REVIEWED BY**

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals.

Corinne Boback, Legislative Services Manager / Corporate Officer

**APPROVED FOR THE AGENDA BY**

Paul Gipps, CAO

Powerpoint: Yes  No

**Attachments:**

1. Development Applications Procedures Amendment Bylaw No. 0260.02, 2023
2. Redline Development Applications Procedures Amendment Bylaw No. 0260, 2018
3. Written Submissions 2020-2022 Analysis