



## PUBLIC HEARING COUNCIL REPORT

To: Mayor and Council

Date: December 11, 2023

From: Paul Gipps, CAO

File No: Z 22-08

Subject: **Z 22-08 - Zoning Bylaw Amendment (2741 Auburn Road)**

Report Prepared by: Yvonne Mitchell, Planner III

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### BACKGROUND

The subject property is located at 2741 Auburn Road in the Shannon Lake neighbourhood, it is currently vacant and 12.4 ha in area.

The subject property was rezoned in 2007 (File #: Z 07-12) from the RU2 Zone to the R3A Zone to accommodate a 220-unit development in the form of three apartment buildings, including a private recreational amenity facility. As a condition of rezoning, the City required the owner to 1) register a covenant restricting the density of the property to 220 units and 2) register a covenant to require the donation of 7.6 ha portion of the site to the City as parkland at time of building permit.

The density covenant was intended to better align the proposal with the densities proposed under Shannon Lake Neighbourhood Plan (SLNP) (Appendix B-3 of the Westside Official Community Plan), which has since been repealed. It should also be noted that the Auburn Road / Shannon Ridge Drive Road Connection was not constructed at the time the SNLP was adopted.

The density and parkland covenants are still registered on the property. The 401 units proposed under this current zoning amendment application would require Council to discharge the density covenant prior to adoption.

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### PROPERTY DETAILS

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<b>Address</b>	2741 Auburn Road		
<b>PID</b>	026-159-601		
<b>Folio</b>	36414135.233		
<b>Lot Size</b>	30.887 acres (124,995 sqm)		
<b>Owner</b>	0761681 BC LTD.	<b>Agent</b>	David Eaton Architecture
<b>Current Zoning</b>	Low Density Multiple Residential (R3)	<b>Proposed Zoning</b>	Comprehensive Development (CD 10); Parks and Open Space (P1)
<b>Current OCP</b>	Medium Density Residential, Natural	<b>Proposed OCP</b>	N/A

	Areas and Public Parks	
<b>Current Use</b>	Vacant	<b>Proposed Use</b> Apartment/Condo
<b>Development Permit Areas</b>		Hillside, Sensitive Terrestrial
<b>Hazards</b>		Hillside, Sensitive Terrestrial, Traffic

### Proposal

The applicant is requesting a Zoning Bylaw amendment for the subject property, from the Low Density Multiple Residential Zone (R3) to the Parks and Open Space Zone (P1) and a Comprehensive Development Zone (CD 10). The proposed P1 Zone area would be approx. 7.6 ha in size and would be dedicated as parkland. The CD Zone area would permit a maximum of 401 units in 5 four storey apartment buildings (See Figure 1 and CD Zone in Attachment 1).



Figure 1 – Proposed Zoning Bylaw Amendment from R3 Zone to P1 and CD Zones.

The Zoning Amendment Bylaw received first reading on February 14, 2023. At that meeting, Council directed staff to schedule the bylaw for second reading subject to further traffic analysis to determine necessary off-site improvements to mitigate intersection failure and safety concerns near the surrounding site and the steps required to initiate those improvements. The results of the traffic analysis were presented at the time of second reading on July 25, 2023, where Council postponed second reading pending additional information on a proposed cost sharing proposal related to the off-site traffic improvements. A cost sharing proposal, which proposed a 50% cost share between the city and the developer for approximately \$1.7 million of off-site improvements based on a preliminary estimate, was then brought to Council on September 26, 2023, and second reading was given. Second reading was then rescinded and reread on November 28, 2023, to address several corrections that were identified. These corrections did not change the proposal. Previous reports are attached as Attachments 2-5.

## **Policy & Bylaw Review**

### Official Community Plan Bylaw No. 0300

The City adopted a new Official Community Plan in September 2023. Under the Official Community Plan No. 0300, the subject property contains Natural Areas and Public Parks and Medium Density Residential Land Use Designations.

The Natural Areas and Public Parks Land Use Designation permits publicly accessible greenspace/parks, protected natural areas and privately held greenspace, and low-impact recreation. Density is to be low density, and low rise (structures only within government-owned parks) up to 3 storeys.

The Medium Density Residential Land Use Designation permits townhouses, duplexes, multi-unit housing, parks and open space, and pedestrian connections. Density is to be medium density, and maximum building height is up to 3 storeys for townhouse/duplex or up to four stories for multi-unit housing.

The applicant is proposing a public park and four storey multi-unit housing (apartments). No amendments to the Official Community Plan are proposed with this application.

### *Development Permit Areas*

The property is subject to multiple Development Permit Areas, including Hillside, Sensitive Terrestrial Ecosystem, and Form and Character (Multiple Family and Intensive Residential). Submitted with the application includes a geotechnical report and environmental assessment. These reports are intended to provide information on general feasibility of the proposed CD zone. Subject to rezoning, more detailed reporting will be required at time of Development Permit.

### Zoning Bylaw No. 0265

The subject property is currently zoned Low Density Multiple Residential (R3). This zone permits care facility, duplex, group home, and townhouse use up to three storeys. The purpose of this zone is to accommodate multiple residential in low density housing form. Apartment is not a permitted use in the R3 zone. The proposed CD 10 zone is intended to accommodate 401 apartment units within five buildings. The CD zone criteria is intended to be specific to this proposal.

## **Technical Review**

### Servicing

A Functional Servicing Report was submitted with the application that outlines the existing and proposed services required to accommodate the proposal. The following is a summary of the servicing conditions:

- **Water** – The site is not currently serviced. There is an existing looped 400 mm water main on Auburn Road which will provide a new 250 mm water service to the

property. New off-site hydrants will be required along the property frontage spaced 90 m apart.

- **Sewer** – The site is not currently serviced. There is an existing 200 mm sewer main that runs through 2575 Auburn Road within a Statutory Right of Way. It is proposed to be extended across Auburn Road to the property line of the subject property. In anticipation of future development, a sanitary main is to be constructed on Auburn Road up to the north property line of this development.
- **Stormwater** – The site is not currently serviced. There is an existing 250 mm storm main located on Auburn Road. It is expected that this storm main will be extended along the full frontage of the subject property to provide a connection to the development site and to provide storm drainage to the catch basins required for the frontage improvements. A new storm service off this main will be provided to the proposed development.
- **Roads** – Auburn Road is an Urban Collector. The owner is responsible for any frontage improvements to meet Bylaw No. 0249 CWK Standard Detail Dwg 203, including streetlighting. The frontage improvements will also include road widening to allow on-street parking, see below transportation section for more information. The property is proposing two regular accesses from Auburn Road plus an emergency access road to 2780 Auburn Rd.

### Geotechnical Investigation

A geotechnical report was conducted by Geopacific Consultants, dated November 8, 2021. The intention of the report was to confirm general feasibility of the proposed development via assessment of site conditions, and to provide general recommendations for future consideration. Subject to rezoning, more detailed geotechnical report information related to site grading would be provided at time of Development Permit.

The report notes that a significant amount of rock removal and a series of retaining walls will be required to achieve final design grades on site, including excavation of several metres of bedrock, blasting, rock cuts and rock fall catchment ditches. Rock cuts are noted to potentially leave unstable rock masses which require additional work to stabilize, such as heavy scaling, meshing, or rock bolting. In conclusion, the report notes that from a geotechnical perspective the site is generally well-suited for the proposed development.

### Environmental Assessment Report

The Environmental Assessment Report submitted with the application identifies ESA1 (high sensitivity) and ESA 2 (moderate) areas located within the proposed Parks and Open Space (P1) area of the site, northwest of the proposed development / CD area. The development area is determined to contain primarily ESA 3 (low sensitivity). A small portion of ESA 2 (moderate) is anticipated to be impacted by the proposed development;

however, these impacts are generally aligned with the City's retention objectives of 40-80%, subject to the ecology of the surrounding ESA 1 areas not being impacted.

The report concludes with general recommendations for mitigation measures, habitat restoration, and environmental monitoring. Further information would be required at time of development permit, following rezoning.

## Transportation

### *Off-Site Improvements*

The applicant provided a traffic impact assessment (TIA) as part of the application. The TIA noted that the Byland Road and Old Okanagan Highway intersection is expected to perform poorly for all scenarios along the stop-controlled approaches with and without site-generated traffic. The report states that future improvement options, including roundabouts or signalization at Daimler Drive, may be desirable in conjunction with improvements to the Highway 97 / Daimler Drive intersection.

Highway 97 is identified to be near capacity by Opening Day (2024) and is expected to exceed capacity by 2034. Without capacity improvements along the Highway 97 corridor (e.g., six highway through-lanes), poor intersection performance at the Highway 97 / Daimler Drive intersection is expected.

Given the noted intersection performance issues, the City retained Align Engineering to consider options to address operational and safety concerns in the immediate area. The traffic analysis by Align Engineering included assessment of the intersections of Old Okanagan Highway / Byland Road / Daimler Drive, Daimler Drive / Auburn Road, and Daimler Drive / Hwy 97.

The traffic analysis compared traffic conditions amongst three options with different offsite traffic improvements. Each option included the proposed dual left turn lane at Daimler Drive and Highway 97, as recommended by the original traffic impact assessment completed by the applicant.

The traffic analysis completed by Align Engineering concluded that restricting Old Okanagan Highway – Byland Road 'through' traffic and 'left turn' movement from Daimler Drive to Byland Road and allowing Byland Road traffic to circulate at a new roundabout at Daimler Drive / Auburn Road could provide an opportunity to resolve noted safety conflicts at the Old Okanagan /Daimler Drive / Byland Road intersection (See Figure 2). It is noted that the proposed improvements increase traffic fronting Constable Neil Bruce Middle School.





Figure 2 – Recommended Off-Site Improvements from the traffic analysis. Subject property outlined in yellow.

*Ministry of Transportation and Infrastructure Approval*

The recommended off-site improvements include works that would be located within Ministry of Transportation and Infrastructure (MoTI) jurisdiction, specifically those at the intersection of Old Okanagan / Daimler Drive / Byland Road. MoTI has provided support in principle for the off-site improvements, although a standard permitting process would apply. MoTI has also noted that consultation with WFN will be required.

*Additional Auburn Road Frontage Improvements*

Staff have noted existing challenges with Auburn Road caused by vehicles parking on the shoulder of the road during events occurring on the adjacent school grounds. Staff will be recommending this be addressed through additional frontage works in the form of road widening to allow on-street parking along the frontage of the subject property and that this be secured via covenant as a condition of zoning. This is intended to help reduce conflict between heavy industrial land uses and the institutional/park land uses.

*Cost Sharing*

The applicant has submitted a cost sharing proposal for the transportation improvements. The proposal includes a phased approach with a proposed 50% cost share between the City and the developer for approximately \$1.7 million of off-site improvements, based on a preliminary estimate – see Table 1.

Table 1: Applicant's Cost Sharing Proposal

Phase	Item	Building Phase	Cost Share
1	• Extra Parking & Frontage works Auburn Road	Building Permit for 1 <sup>st</sup> unit	100% LandVision
	• Daimler Dual Left Turn Hwy 97		50% Landvision 50% West Kelowna
2	OOR/Byland/Daimler Intersection & Auburn Roundabout	Building Permit for 236 <sup>th</sup> unit	50% Landvision 50% West Kelowna

The applicant's rationale for cost sharing is that the development site is located adjacent to a road network already experiencing pressures from traffic and parking demands.

There are concerns with the cost sharing proposal as a portion of the works are located outside of the City's jurisdiction, where improvements are not generally funded by the City. Further, the proposed improvements are not currently identified as part of the City's Capital Works Plan and are not eligible for Development Cost Charge credits. As such final determination of the cost sharing proposal will require additional consideration at third reading following public input.

### Referral Responses

#### Advisory Planning Commission

The Advisory Planning Commission considered the zoning bylaw amendment application on July 20, 2022. The following motion was made and was defeated.

#### It was moved and seconded

**THAT** the Advisory Planning Commission recommend support for file Z 22-08, Zoning Amendment, 2741 Auburn Road.

**DEFEATED**; Members N. Richard, A. Smith and M. Smith opposed.

#### School District

The Central Okanagan Public Schools Operations Department noted the proximity of the subject property to the Constable Neil Bruce Middle School, which has a current enrollment of 961 students. Enrollment at the school is anticipated to peak at 1031 in 2025 and maintain over 900 students through to 2027. Concerns were noted in relation to traffic, given increased residential development in the area together with enrollment, particularly on Daimler Drive, and the safety and convenience for students, staff, and visitors to the school. Improvements in 2018 to Daimler Drive are described to have improved traffic flows and pedestrian safety. Also, to help improve drop-off / pick-up for the school, the School District has entered into an agreement with the Westside Alliance Church to utilize the church's parking lot. The School District suggests that the recent improvements may need to be considered again due to the anticipated increase of traffic volumes and access to the school site with the proposed development.

## Public Notification

In accordance with the *Local Government Act* and the Development Applications Procedures Bylaw No. 0260, notice of the public hearing was sent to all property owners and their tenants within 100 m of the subject property, was posted in the newspaper, and on the City's website. A Notice of Application sign was also installed on the property in accordance with the Development Application Procedures Bylaw No. 0260.

## ADDITIONAL INFORMATION FOR PUBLIC HEARING

### Traffic Improvements

As part of the Zoning Bylaw amendment application the applicant is proposing to cost share with the City. It is pertinent to highlight that as per s.3.1.7 of the City's Works and Services Bylaw No. 0249, 2018 the following should be considered:

“where the intended use of a proposed subdivision or development places a demand on off-site municipal works or services that in the opinion of the General Manager cannot be accommodated without improvements, the Owner shall provide appropriately designed and implemented improvements to mitigate these impacts in their entirety. These services shall include, but are not limited to... highways or highway intersections...”.

Given this section in the Works and Services Bylaw, there may be an opportunity to require all improvements as part of a future Building Permit application. This option has not been reviewed at this time.

### Emergency Access

The development proposes an emergency access road to 2780 Auburn Rd. The applicant maintains that there is an existing private easement over 2780 Auburn Road that permits this access. The information provided by the applicant states this easement is for a roadway to enable passage from public highways known as Golf Course Drive, Daimler Road and Auburn Road to 2741 Auburn Road. Detailed designs for the proposed emergency access to the neighbouring property have not been provided at this time, and will be provided at time of Development Permit.

## COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
February 14, 2023	<b>THAT</b> Council resolve to give first reading to City of West Kelowna Zoning Amendment Bylaw No. 0265.12, 2023; and  <b>THAT</b> Council resolve to direct staff to schedule the	C125/23



	bylaw for second reading pending further traffic review and analysis to determine necessary off-site improvements to mitigate intersections failures near the surrounding stie and the steps required to initiate those improvements.	
July 25, 2023	<b>THAT</b> Council postpone second reading to the City of West Kelowna Bylaw No. 0265.12, 2023 (File Z 22-08).	C289/23
September 26, 2023	<b>THAT</b> Council give second reading to Zoning Amendment Bylaw No.0265.12, 2023; and  <b>THAT</b> Council direct staff to schedule a public hearing regarding the proposed amendment bylaw.	C331/23
November 28, 2023	<b>THAT</b> Council rescind second reading of City of West Kelowna Zoning Amendment Bylaw No. 0265.12, 2023.  <b>AND THAT</b> Council give second reading as amended to City of West Kelowna Zoning Amendment Bylaw No. 0265.12, 2023.	C389/23

#### REVIEWED BY

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager/Corporate Officer

Trevor Seibel, Deputy CAO

#### APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

#### Attachments:

1. Zoning Amendment Bylaw No. 0265.12, 2023
2. First Reading Report, February 14, 2023 (File Z 22-08)
3. Second Reading Report, July 25, 2023 (File Z 22-08)
4. Second Reading Report, September 26, 2023 (File Z 22-08)
5. Second Reading Report, November 28, 2023 (File Z 22-08)
6. Submissions up to 4:30 p.m., December 6, 2023