



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: April 23, 2024

From: Ron Mattiussi, Interim CAO

File No: P 24-05

Subject: **P 24-05; Bill 44 Amendments - SSMUH**

Report Prepared By: Brent Magnan, Director of Development Approvals

RECOMMENDATION to Consider and Resolve:

THAT Zoning Amendment Bylaw No.0265.27, 2024 be given first, second, and third reading;

AND THAT Council direct staff to schedule Zoning Amendment Bylaw No. 0265.27, 2024 for adoption following approval of the bylaw by the Ministry of Transportation and Infrastructure.

BACKGROUND

On November 30, 2023, Bill 44, being the *Housing Statutes (Residential Development) Amendment Act, 2023* was given Royal Assent. Bill 44 made amendments to the *Local Government Act* including the following:

1. Removed public hearings for housing projects that are consistent with OCPs;
2. Requires local governments to update zoning bylaws to allow more small-scale multi-unit housing (SSMUH); and
3. Requires local governments to more directly link and regularly update housing needs reports, OCPs, and zoning bylaws.

These changes are part of the Province's Homes for People Action Plan which aims to deliver more homes for people faster and follows the Province's Development Approvals Process Review completed in 2019 that was undertaken to increase the efficiency and effectiveness of local government development approvals processes.

This report focuses on item 2. Item 1 was presented to Council on February 27 and March 12, 2024. Item 3 will be brought forward to Council at a later date. The aim of the SSMUH legislation is to "increase housing supply, create more diverse housing choices, and over time, contribute to more affordable housing across BC". As stated by the Province, historical zoning has limited diversity in BC's housing supply, with zoning that exclusively permits single detached homes often covering 70-85% of private residential land in communities. Multi-unit housing is less expensive to rent and buy, but not permitted, and

often approvals processes take more time, cost more money, and are more uncertain, than those for single family development.

SMALL-SCALE MULTI-UNIT HOUSING (SSMUH)

As per s.481.3 of the *Local Government Act* local governments must now permit SSMUH on land within “Restricted Zones”, which includes the following (but does not include a manufactured home zone):

1. Secondary suites and/or accessory dwelling units in all zones where the permitted residential use would be restricted to single detached dwellings.
2. Subject to certain requirements and exemptions¹, minimum 3 units (on parcels 280m² and smaller) and minimum 4 units (on parcels larger than 280m²) in zones that are restricted to the following:
 - (a) detached single-family dwellings,
 - (b) detached single-family dwellings with one additional housing unit located within the detached single-family dwelling or on the same parcel or parcels of land on which the detached single-family dwelling is located,
 - (c) duplexes, or
 - (d) duplexes with one additional housing unit located within each dwelling comprising the duplex or no more than 2 additional housing units on the same parcel or parcels of land on which the duplex is located,
3. Subject to certain requirements and exemptions, minimum 6 units near frequent bus service. **This requirement does not currently apply to the City of West Kelowna given the lack of frequent transit service in the municipality.*

¹ As per s.481.3(4) of the *Local Government Act* 3-4 units must be permitted on the following land within a restricted zone:

- (a) Wholly or partly within an urban containment boundary established by a regional growth strategy;
- (b) If (a) does not apply, within a municipality with a population greater than 5,000 and is wholly or partly within an urban containment boundary established by an official community plan;
- (c) If both (a) and (b) do not apply, each parcel of land in a municipality with a population greater than 5,000.

As per s.481.4(1) the 3 – 6 unit requirements do not apply to the following:

- (a) land that is protected under section 12.1 (2) of the *Heritage Conservation Act*;
- (b) land that is, on the date this section comes into force, designated as protected under a bylaw made under section 611 [*heritage designation protection*] of this Act;
- (c) land that is not connected to a water or sewer system provided as a service by a municipality or regional district;
- (d) land within a zone in respect of which the minimum lot size that may be created by subdivision is 4,050 m²;
- (e) a parcel of land that is larger than 4,050 m².

Section 481.3 (3), (4) and (5) of the *Local Government Act* do not apply if land is subject to a hazardous condition that the threat or risk of which cannot practically be mitigated provided the local government has obtained a report in which a qualified professional certifies:

- the land is subject to a hazardous condition; and
- increasing the density would significantly increase the threat or risk from the hazardous condition.

Deadline

Local governments must amend their zoning bylaws to accommodate SSMUH development by June 30, 2024. Local governments that do not comply by the deadline may be subject to a ministerial order that overrides their zoning bylaw to permit SSMUH.

As soon as practicable after amending the zoning bylaw, a local government must give the minister written notice identifying lands where an exemption applies and what exemption applies.

Provincial Policy Manual

As per s.481.3(7) of the *Local Government Act*, local governments “must consider applicable guidelines” made by the Minister in developing and adopting the required amendments to their zoning bylaws. This includes the [Provincial Policy Manual](#) and Site Standards (Attachment 1). As per s.457.1 of the *Local Government Act*, local governments must not use their authorities to unreasonably prohibit or restrict SSMUH development.

Other Provincial Legislation

Other provincial legislation, such as the *Agricultural Land Commission Act*, *Environmental Management Act*, Riparian Areas Protection Regulation, *Building Act*, and *Public Health Act*, continue to apply to SSMUH development.

DISCUSSION

To permit required SSMUH development, the RC2, RC3, R1, R1L, I6, CD1(C), CD1(E), and CD3(A) Zones are proposed to be amended, a Residential Plex Zone (RP1) created, and RC4 and R2 Zones deleted² (Attachment 2).

SSMUH requirements apply to approx. 10,700 parcels in West Kelowna (subject to certain requirements and exemptions). The Provincial Policy Manual notes many factors will impact the creation of SSMUH. For example, interest rates, availability of skilled trades, and the condition and age of existing homes (“demolitions of homes built after 1980 are less likely, as are homes from the 1960’s – 70’s that have been recently renovated”). For more information on the redevelopment potential of land in West Kelowna see Attachment 3 - DRAFT Likelihood of Redevelopment Map. Data used includes age of existing buildings, assessed land value per m² of parcel area, and other metrics. This map is conceptual, subject to further changes and to be used to inform development of the City’s Infill Strategy only.

The City of West Kelowna underwent similar changes in 2014 with the introduction of the RC1 and RC2 Zones. The RC1 Zone allowed smaller lot sizes and setbacks and added

² The RC4 Zone did not permit secondary suites and the R2 Zone permitted duplexes. These zones are now redundant given provincial secondary suites and/or ADUs and 3–4 unit minimum density requirements.

duplex and townhouse as permitted uses in a single detached residential area in Westbank Urban Centre. The RC2 Zone allowed smaller lot sizes and setbacks and added duplex as a permitted use to a single detached residential area in Boucherie Urban Centre.

Secondary Suites And/Or Accessory Dwelling Units

Local governments may choose any of the following options where required to permit a minimum of 1 secondary suite and/or 1 accessory dwelling unit:

1. permit only one secondary suite,
2. permit only one ADU,
3. allow landowners to choose either a secondary suite or an ADU, or
4. permit the construction of both a secondary suite and an ADU.

In the City of West Kelowna most zones that permit single detached dwellings follow option 3 and permit either a secondary suite or a carriage house as an accessory use.

The RC3, I6, CD1(C), CD1(E), and CD3(A) Zones do not meet provincial requirements of permitting a minimum of 1 secondary suite and/or 1 accessory dwelling unit and must be amended accordingly. These restricted zones have been amended to also follow option 3 (permit a secondary suite or a carriage house) to match existing regulations in the bylaw.

Amendments to Accommodate 3 – 4 Units

Building Type

SSMUH building types “typically offer more family-oriented units than larger-scale multi-family housing and more affordable options than single-family dwellings.” Examples of SSMUH building types are secondary suites, carriage houses, duplexes, triplexes, townhomes, and houseplexes³.

RC3, R1, R1L, CD1(C), CD1(E), and CD3(A) Zones

Staff recommend single detached dwellings, duplexes, secondary suites, and carriage house building types be added (if not already permitted) to the RC3, R1, R1L, CD1(C), CD1(E), and CD3(A) Zones. These building types match those permitted in the Low Density Residential Land Use Designation in the Official Community Plan. This Land Use Designation is commonly found in neighbourhoods with these zones. The inclusion of duplexes follows Low Density Residential policies in the OCP, and helps provide more affordable options for home ownership, which is often limited to single detached dwellings in these neighbourhoods.

RC2 and New RP1 Zone

Staff recommend townhome building types be added to the Boucherie Centre Compact Residential Zone (RC2). The RC2 Zone already permits single detached dwellings,

³ Houseplex: multi-family housing built to the scale and in the form of a single detached dwelling.

duplexes, secondary suites, and carriage houses. The intent of this change is to match the building types permitted in the Westbank Centre Compact Residential Zone (RC1).

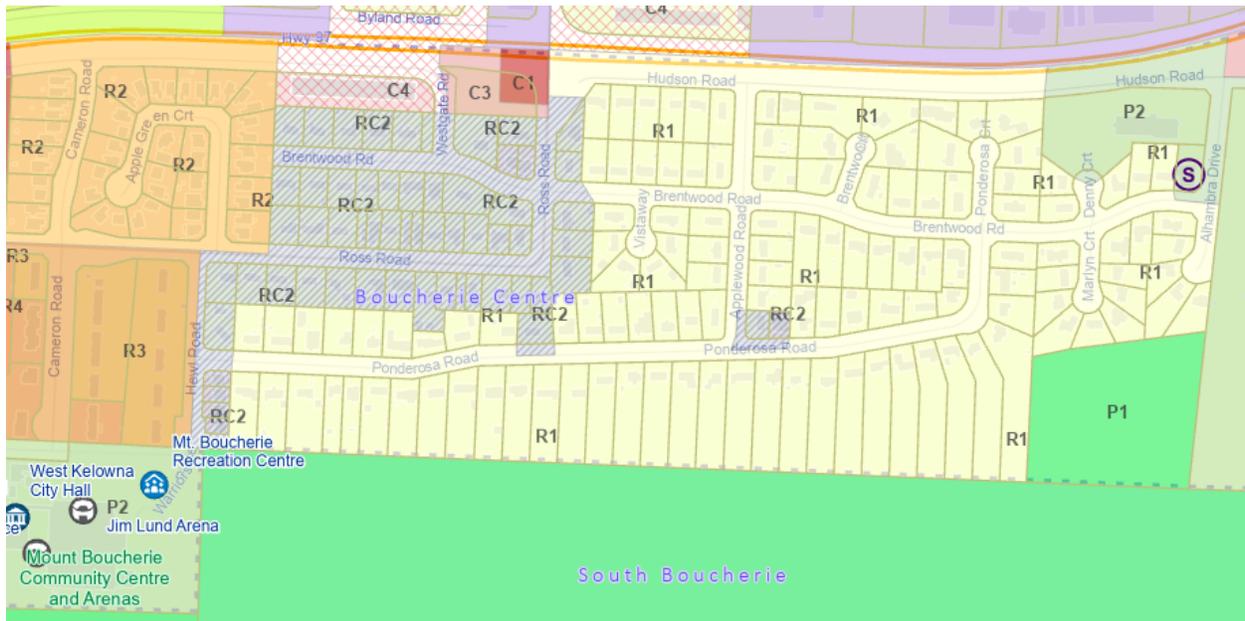


Figure 1 – RC2 zoned properties where adding townhouse as a permitted use would apply. Only 3-4 units would be permitted depending on parcel size.

Staff also recommend a new Residential Plex Zone (RP1) be created. The RP1 Zone would also allow single detached dwellings, duplexes, secondary suites, carriage houses, and townhomes. The RP1 Zone would apply to select neighbourhoods such as Westbank Centre North, Witt/Wetton/Carrall Rd (where servicing is available), Boucherie Centre East, and west of Lakeview Village Centre (See Zoning Amendment Bylaw Schedule H in Attachment 2). These select neighbourhoods have been chosen for RP1 given their proximity to transit (Westbank Exchange and Boucherie Exchange) amenities (Westbank Urban Centre, Boucherie Urban Centre, Lakeview Heights Neighbourhood Centre), servicing capacity for townhomes (90 Lps)⁴, and to provide a transition in form between the centres and surrounding neighbourhoods. The intent of this change is to follow the provincial recommendation of allowing a greater diversity of building types to meet 3–4 unit density requirements, while considering local neighbourhood context. Given the similarities between RP1 and the existing RC1 and RC2 Zones, staff would review collapsing RC1 and RC2 into the RP1 Zone as part of future amendments. Combining RC1, RC2, and new RP1 has not been done at this time as RC1 is not a restricted zone and is therefore beyond the scope of SSMUH required amendments.

⁴ Not all parcels in the Witt/Wetton/Carrall Road neighbourhood have been selected for RP1 given a lack of servicing capacity in this area. Refer to the Zoning Amendment Bylaw Schedule H in Attachment 2.

Building Combinations and Configurations

As per the Provincial Policy Manual, “local governments implementing SSMUH zoning bylaw updates should be flexible in terms of permitting the full range of combinations and configurations for SSMUH buildings” (two duplexes, triplex + carriage house, four single detached dwellings, duplex with carriage houses etc.).

To maintain consistency with existing neighbourhoods, staff recommend the below combinations and configurations be permitted:

3 Dwelling Units

- 1 Single detached dwelling with 1 secondary suite and 1 carriage house⁵;
- 1 Duplex with 1 secondary suite⁶; or
- 3 Townhomes (Triplex)*

4 Dwelling Units

- 1 Single detached dwelling with 1 secondary suite, and 1 carriage house with 1 secondary suite;
- 1 Duplex with 2 secondary suites (1 per unit); or
- 4 Townhomes (Quadplex)*

*As per the previous section, townhomes are only proposed in the existing RC2 Zone and new RP1 Zone. Townhomes will trigger works and services requirements and form and character development permits under current OCP criteria.

Council may wish to consider other combinations and configurations as part of future zoning bylaw updates, such as through the City’s Infill Strategy. As per the Provincial Policy Manual, “enabling more diversity in housing types will help improve housing affordability over time and better respond to the needs of changing demographics in communities”.

Provincial Policy Manual

The Provincial Policy Manual includes Site Standards that set provincial expectations for setbacks, height, lot coverage, and parking requirements, and must be considered (Attachment 1). Four Site Standard Packages are provided:

- Package A: 1-2 units only;
- Package B: 3-4 units where parcels < 1,215m²;
- Package C: 3-4 units where parcels > 1,215m²; and
- Package D: 6 units.

⁵ Minimum parcel area for carriage houses has been removed for restricted zones to ensure the listed combinations with this dwelling type can be achieved.

⁶ The BC Building Code was updated in 2019 to allow secondary suites in more building types, such as side by side duplexes and townhomes, to help create more affordable housing. Size restrictions for secondary suites were also removed from the Code.

The Site Standard Packages aim to create a flexible regulatory environment that improves the viability of SSMUH in restricted zones. While local governments only need to consider the Manual, as per s.457.1 of the *Local Government Act*, alternative regulations cannot be used that unreasonably prohibit or restrict SSMUH development. Where the staff recommendation has diverged from the Provincial Policy Manual a rationale is provided. Should Council wish to otherwise diverge from the Manual, a rationale should also be provided.

1. Lot Line Setbacks

As per the Provincial Policy Manual, “local governments should adopt modest lot line setbacks.”

I6 Zone

Site Standards Package A applies to the I6 Zone. The I6 Zone front setback (8.0 m) has been reduced to match the Manual (6.0 m). The rear and sides setbacks (6.0 – 10.0 m; 6.0 m) do not match the Manual (6.0 m with 1.5 m for ADUs; 1.2 m) and have been reduced to instead match the A1 Zone (3.0 m; 3.0 m). Rationale: There is only one I6 zoned property in West Kelowna (3440 Glencoe Road). The A1 Zone surrounds the property and matching setback regulations helps to maintain consistency in this neighbourhood. Setbacks have only changed for residential uses in I6, and setbacks for non-residential uses (ex: machine shop) remain the same.

RC2, RC3, RP1, R1, CD1(C), CD1(E), and CD3(A) Zones

Site Standards Package B applies to the RC2, RC3, RP1, R1, CD1(C), CD1(E), and CD3(A) Zones.

Setbacks in the traditionally residential zones (RC3, R1, CD1(C), CD1(E), and CD3(A)) have not been amended to match the Manual. Rationale: These Zones include lands outside of core areas, some outside of fire department 10-minute response times. Reducing setbacks in these areas will increase fire exposure risk between dwellings and place added pressure on the City’s Fire Department.

RC2 and RP1

Rear (3.0 m) and interior side (1.5 m) setbacks in the core areas (RC2 and RP1) have been amended to match the Manual (1.5 m; 1.2 m). Front and exterior side setbacks remain at 3.5 and 2.5 m respectively, instead of the Manual recommendation of 2.0 m. Rationale: The City does not have sight triangle regulations for corner parcels. Until such regulations are implemented larger setbacks are required to ensure sightlines are maintained at intersections. Reductions have been made to the front and exterior side setbacks where feasible – the 6.0m garage/carport setback has been removed. As noted in the Manual “builders and developers will often use larger setbacks depending on the building type (e.g., combustibility), parking requirements (particularly for rear-yard parking and drive aisles), and the location of doors and windows”. The 6.0m front setback would continue to be maintained if a builder or developer chooses to provide parking in a driveway in front of a home. The West Kelowna Fire Department has confirmed they have

no concerns with these setbacks provided the buildings are constructed and maintained in conformance with the BC Building code. These neighbourhoods are within the 10-minute response time.

R1L Zone

Site Standards Package C applies to the R1L Zone. Setbacks in the R1L Zone are not proposed to change to match the Manual. Rationale: existing setbacks are not expected to have an impact on the viability of SSMUH development given the minimum 2,500m² (0.6 acre) lot size in the R1L Zone.

2. Building Height/Storeys

As per the Provincial Policy Manual, “overly restrictive height limits could reduce the number of units that can be established on the site and consequently increase the costs to build, buy and/or rent each unit.”

In all restricted zones (RC2, RP1, RC3, R1, R1L, I6, CD1(C), CD1(E), and CD3(A) Zones) heights have been increased by 1.0 m (3.2 ft) to match the Manual - from 10.0-12.0 m, 2.5-3 storeys to 11.0 m, 3 storeys for principal buildings, and from 7.0 m to 8.0 m for carriage houses. Height remains at 12.0m in I6 to avoid creating non-conforming buildings (as there is only 1 I6 zoned property within the City).

3. Lot Coverage

As per the Provincial Policy Manual, “lot coverage limitations can be an impediment to SSMUH housing forms if they do not allow a sufficiently large building footprint.”

I6 Zone

In the I6 Zone no change is required as the maximum lot coverage permitted (35%) matches the Manual (25-40%).

RC2, RC3, RP1, R1, CD1(C), CD1(E), and CD3(A) Zones

In the RC2, RC3, RP1, R1, CD1(C), CD1(E), and CD3(A) Zones, maximum lot coverage has been increased from 30-40% to 50% to match the Manual.

R1L Zone

In the R1L Zone maximum lot coverage remains at 20% despite the recommendation of 40% in the Manual. Rationale: the minimum lot size for subdivision in the R1L zone is 2,500m². On a lot this size 20% coverage already allows for a sufficiently large building footprint for SSMUH of 500m² (5,382 ft²).

The Provincial Policy Manual notes, “onsite parking requirements will contribute significantly to impervious surface coverage on lots. Impervious coverages exceeding 60% may require on-site stormwater retention and/or treatment”. If Council wishes to manage the amount of impervious surface onsite as well as building coverage, an impermeable surface regulation can be implemented as per s.523 of the *Local Government Act*. This land use tool is used by other local governments, such as the City

of Vernon and the City of Kelowna and can be implemented as part of future zoning bylaw amendments.

4. Parking Requirements

As per the Provincial Policy Manual, “of all bylaw regulations, on-site vehicular parking requirements often have the greatest influence on the viability of SSMUH housing forms”.

The Manual recommends a maximum of 1 space per dwelling unit, but “higher maximum parking requirements (e.g., 1.5 spaces/unit) may be appropriate in smaller communities with no or limited public transportation, or for example, where on-street parking is impractical due to snow removal requirements.”

In the City of West Kelowna parking requirements are currently 2.0 spaces/unit with a reduced rate of 1.0 space/unit for 1 bedroom carriage houses or secondary suites. The City of West Kelowna has limited public transportation and no frequent transit service. There are also neighbourhoods in the City where on-street parking is impractical due to snow removal requirements and the reduced width of the constructed road standard (ex., Hillside Road standards are difficult for fire trucks to navigate with vehicles parked on the street).

Given these constraints, staff recommend the 1.5 spaces/unit requirement instead of the recommended 1 space per unit in the Manual (Refer to Table 1 below). However, in the RC3, R1, R1L, I6, CD1(C), CD1(E), CD3(A) Zones the 1.5/dwelling requirement is only proposed for 2-bedroom secondary suites and carriage houses at this time. Rationale: Comparing 2021 census data and ICBC ownership data, West Kelowna households own an average of 1.9 vehicles. While lands within RC2 and RP1 Zones are suitable for the 1.5 space/unit requirement given proximity to transit and amenities, land within RC3, R1, R1L, CD1(C), CD1(E), and CD3(A) is often further away making modal shifts difficult and the existing 2.0 spaces/unit more appropriate.

Dwelling Type	Existing Regulation	Proposed Regulation (RC3, R1, R1L, I6, CD1(C), CD1(E), CD3(A) Zones)	Proposed Regulation (RC2 & RP1 Zones)	Provincial Policy Manual
Single Detached	2.0 spaces/unit	2.0 spaces/unit	1.5 spaces/unit	1 space/unit Maximum
Duplex	2.0 spaces/unit	2.0 spaces/unit	1.5 spaces/unit	
Secondary Suite	1.0 space/1 bedroom	1.0 space/1 bedroom	1.0 space/ 1 bedroom	
	2.0 spaces/ 2+ bedroom or 91 m ² (979.5 ft ²)+ of GFA	1.5 spaces/unit	1.5 spaces/unit	

Carriage House	1.0 space/1 bedroom	1.0 space/1 bedroom	1.0 space/1 bedroom	
	2.0 spaces/2+ bedroom	1.5 spaces/unit	1.5 spaces/unit	
Townhouse	2.0 spaces/unit	N/A (dwelling type not permitted)	1.5 spaces/unit	

Table 1 – Parking Requirement Comparison. Proposed parking requirement changes marked in bold.

The Zoning Bylaw requires parking calculations be rounded to the nearest whole number. Given this, the parking reduction to 1.5 spaces/unit will not be of benefit unless a property is developed with 2+ units. For example, a single detached would still require 2 stalls (1.5 rounded up = 2), but a quadplex (only permitted in RC2 and RP1) that would typically require 8 stalls (2.0 x 4 dwellings = 8) would instead require 6 (1.5 x 4 = 6).

This reduced parking requirement is important for the viability of SSMUH development in the RC1 and RC2 Zones given the smaller minimum lot size of 325m². For example, the current parking requirement for a quadplex (2.0/dwelling = 8 spaces) would require 132m² or 40% of the parcel area not including necessary driveways and maneuvering aisles.

Other Parking Regulations

SSMUH development would not require visitor parking spaces. Requiring such additional parking would impact the viability of this small-scale housing.

The City’s existing tandem parking regulations also help ensure the viability of SSMUH development by addressing Provincial concerns of the cost and space required for parking. Tandem parking requires less space on a parcel (stalls share a single driveway/maneuvering aisle) and lower construction costs (less pavement). Tandem parking also means more space on a parcel can be left for tree retention/planting, and open space for residents.

Changes to parking requirements are only for SSMUH development that the City is required to permit in restricted zones. Other zones, uses, and regulations will be reviewed as part of the City’s ongoing parking study. It is noted however, that through that review, permitting tandem parking is a regionally consistent practice.

PUBLIC NOTIFICATION

As per s.464(4) of the *Local Government Act*, a public hearing must not be held on a zoning bylaw proposed for the sole purpose of complying with SSMUH. Notice of first reading is required. In accordance with the Public Notice Bylaw No. 0303, notice has been provided on the City’s website and in the local newspaper.

NEXT STEPS

Official Community Plan

As per s.788 of the *Local Government Act*, a zoning bylaw adopted to permit SSMUH does not need to be consistent with the Official Community Plan until December 31, 2025. OCP amendments will be brought forward to Council at a later date.

Development Permits

As per the Provincial Policy Manual, “since SSMUH forms are sufficiently close in size to single-detached dwellings and recognizing the other factors that can impact their viability, local governments are discouraged from using DPAs to control the form and character of SSMUH developments up to six units in all but exceptional circumstances”. If despite this DPAs are required, the Province recommends approval be delegated to staff. The Province also recommends, and provides guidance, for local governments to review their Development Permit Areas to ensure guidelines used do not unreasonably prohibit or restrict SSMUH development. Consideration as to whether SSMUH developments should require form and character development permits (currently required for a triplex or quadplex and delegated to staff if ≤ 3 storeys in height and floor area $\leq 1400\text{m}^2$), and review of DP guidelines, will be brought forward to Council at a later date.

In Summer 2024, the Province is set to release standardized designs for SSMUH, which if adopted by Council, will also influence the City’s approach to development permits.

Infill Strategy

The City is currently undertaking a Complete Communities assessment, utilizing grant funding from the Union of BC Municipalities (UBCM) to inform the development of an Infill Strategy. The Strategy will build on the infill groundwork legislated under Bill 44. The Infill Strategy and Complete Communities assessment is anticipated to be presented to Council in the coming months. It is noted that the scope of the infill strategy has been refined based on the legislated changes under SSMUH.

CONCLUSION

It is recommended that Council give first, second, and third reading to the proposed zoning amendment bylaw. Amendments are to meet new provincial legislation SSMUH requirements and consider the Province’s expectations for setbacks, height, lot coverage, and parking found in the Provincial Policy Manual (Attachment 1). As per provincial legislation, Council must permit the use and density of use required and must not use its powers to unreasonably restrict or prohibit SSMUH development. Required amendments have considered the local context of the City of West Kelowna and policies in the Official Community Plan where possible.

Alternate Recommendation to Consider and Resolve:

1. **THAT** Council postpone first, second, and third reading to Zoning Amendment Bylaw No. 0265.27, 2024;

Should Council postpone consideration of the proposed amendments, 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

Trevor Seibel, Deputy CAO

APPROVED FOR THE AGENDA BY

Ron Mattiussi, Interim CAO

Powerpoint: Yes No

Attachments:

1. Provincial Site Standards Packages
2. Zoning Amendment Bylaw No. 0265.27, 2024
3. DRAFT Likelihood of Redevelopment Map