



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: July 23, 2024

From: Ron Mattiussi, Interim CAO

File No: Z 22-08

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

Report Prepared By: Brad Clifton, Senior Planner

RECOMMENDATION to Consider and Resolve:

THAT Council give third reading to Zoning Amendment Bylaw No. 0265.12, 2023;

THAT Council direct staff to schedule Zoning Amendment Bylaw No. 0265.12, 2023 for adoption following:

- Approval of the bylaw by the Ministry of Transportation and Infrastructure;
- Discharge of covenant (LB138594) which restricts the development of the lands to 220 dwelling units
- Registration of a no build covenant that requires:
 - Preliminary design and cost estimates to secure the construction of the following Off-Site improvements prior to building construction (no phasing of improvements permitted):
 - Roundabout (Auburn Road/ Daimler Drive)
 - Restrict through traffic and left turns onto Byland Road / Old Okanagan Highway
 - Dual left turn lanes (Daimler Drive to Highway 97)
 - Road widening and on-street parking along the frontage of the subject property (Auburn Road).
 - Submission of a construction traffic plan at the time of Development Permit that minimizes impacts to school and industrial traffic, to the satisfaction of the Director of Engineering

AND THAT the Off-Site works to be provided solely by the developer at 100% their cost.

STRATEGIC AREA(S) OF FOCUS

Pursue Economic Growth and Prosperity – We will work with stakeholders throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

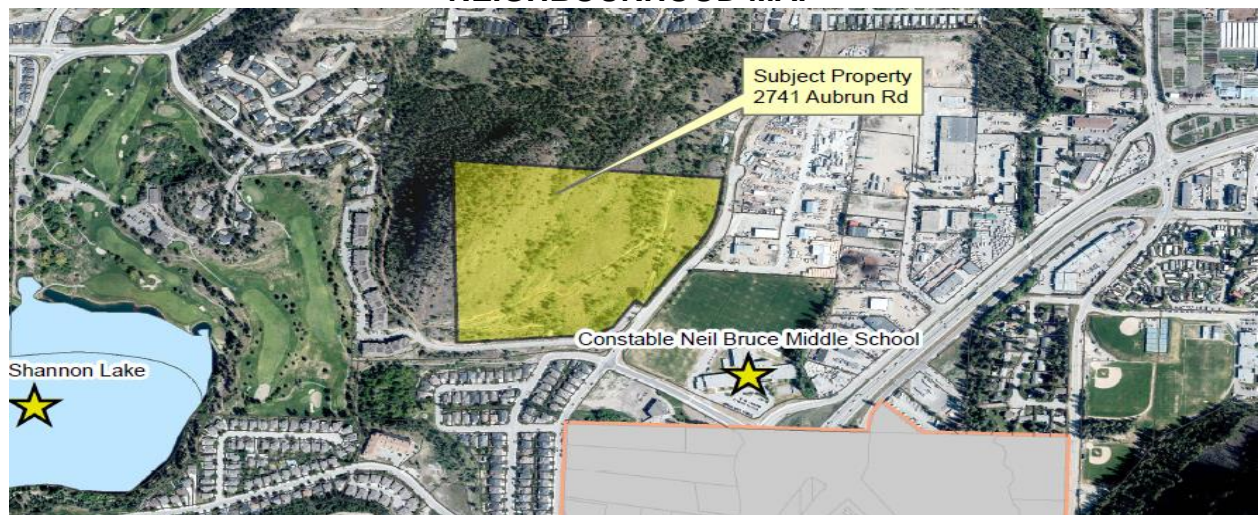
PROPERTY DETAILS

Address	2741 Auburn Road		
PID	026-159-601		
Folio	36414135.233		
Lot Size	12.4 ha		
Owner	0761681 BC LTD.	Agent	David Eaton Architecture
Current Zoning	Low Density Multiple Residential (R3)	Proposed Zoning	Comprehensive Development (CD 10); Parks and Open Space (P1)
Current OCP	Low Density Multiple Family, Parks and Natural Areas	Proposed OCP	N/A
Current Use	Vacant	Proposed Use	Apartment / Condo
Development Permit Areas	Hillside, Sensitive Terrestrial		
Hazards	Hillside, Sensitive Terrestrial, Traffic		
Agricultural Land Reserve	None		

ADJACENT ZONING & LAND USES

North	^	Rural Residential Large Parcel (RU4)
East	>	Compact Single Detached Residential (RC3) Light Industrial (I1), Heavy Industrial (I2), Gravel Extraction (I4)
West	<	Low Density Multiple Residential (R3)
South	v	Institutional and Assembly (P2)

NEIGHBOURHOOD MAP



BACKGROUND

The applicant is requesting a Zoning Bylaw Amendment to the CD10 zone to facilitate up to 401 units in 5 four storey apartment buildings. The application 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 intent of proposal.

Public Hearing Overview

A public hearing was held on December 11, 2023. In accordance with the Development Applications Procedures Bylaw No. 0260, 230 notices were sent to property owners and occupants within 100m of the subject property in advance of the public hearing. The applicant's agent and 17 members of the public addressed Council at the public hearing. 15 written submissions and 6 late submissions, including 3 petitions (271, 36, and 100 signatures) were also received prior to the meeting. Clarification regarding questions at the public hearing have been included in the discussion section below.

DISCUSSION

Geotechnical Considerations

The applicant has provided a preliminary geotechnical report to confirm general feasibility of the proposed development. A Zoning Bylaw Amendment application considers the suitability of the proposed use of land, density, height, siting, setbacks, and consistency of the amendment with the OCP. More detailed geotechnical considerations are considered at time of Development Permit.

As per s.488(1)(b) of the *Local Government Act* a city may designate a development permit area for the protection of property from hazardous conditions. The subject property is within the City's Hillside Development Permit Area and a Hillside Development Permit will be required at time of future development. The Hillside Development Permit process includes more rigorous geotechnical reporting requirements and includes review of the application against applicable development permit guidelines.

Environmental Considerations

The applicant has provided a preliminary environmental report. The environmental report submitted with the application identifies ESA 1 (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.

As per s.488(1)(a) of the *Local Government Act* a city may establish a development permit area for the protection of the natural environment. The City of West Kelowna has established a Sensitive Terrestrial Ecosystem Development Permit Area for this purpose. The subject property is within this area and as such a Sensitive Terrestrial Ecosystem Development Permit is required at time of future development. At that time, more detailed environmental reporting will be required. Such environmental reporting must speak in detail to sensitive environmental features on the property, how they are to be protected (ex: required buffering), site restoration, and provide bonding to ensure work is completed in accordance with this report. A qualified environmental professional is also required to monitor construction and submit regular reports to the City of West Kelowna to ensure the environment continues to be protected. The applicant is also required to follow provincial environmental legislation such as the *Migratory Bird Convention Act*, *BC Wildlife Act*, and *Species at Risk Act*. Council has the authority to approve development permits based on if the proposal is in accordance with the guidelines.

Auburn Rd Future Road Connectivity

The City's Transportation Master Plan (2014) and forthcoming 2024 updated Transportation Master Plan identify the extension of Auburn Road to Bartley Road as a potential road connection (Figure 1). It should be noted that this road connection would require land acquisition, feasibility and functional design studies etc. A corridor study of the proposed road connection is identified in the 2024 – 2028 Capital Plan.

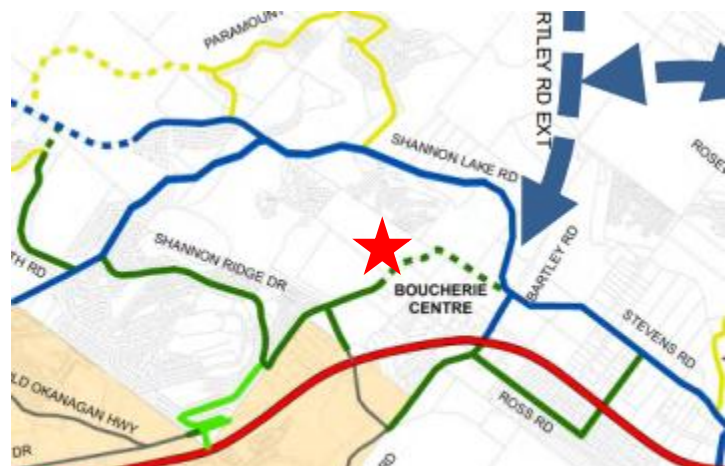


Figure 1: Excerpt of Appendix B Detailed Road Classification Map, City of West Kelowna Transportation Master Plan 2014. Subject property shown with red star.

Emergency Egress

Given the proposed number of units, a second emergency egress is recommended. There is a private access easement between the subject property (Lot 1 - 2741 Auburn Road) and Terravita Estates (Lot 2 - 2780, 2770, 2760, and 2750 Auburn Road). The agreement permits construction of a roadway from Lot 1 (subject property) to provide egress and regress through Lot 2 (Terravita) to Golf Course Drive. The City is not a named party in this agreement and details surrounding the proposed access have not been provided. Matters such as location, construction and road maintenance would be brought forward in detail at future Development Permit.

Any proposed access road would require the necessary permits from the City, such as a Hillside Development Permit.

Required Off-Street Parking

The applicant's proposed development plans would not be approved as part of this Zoning Bylaw Amendment application. Review of the proposed development plans for compliance with the City's Zoning Bylaw, including parking requirements, would be completed at time of Development Permit.

The applicant states they intend to meet the City's parking requirements. If at the Development Permit stage parking was proposed that did not meet the requirements in the City's Zoning Bylaw, a Development Variance Permit would be required. The Development Variance Permit would require consideration by Council, and notices to all owners and occupants within 100m of the subject property advising of the proposed variance. Council is not required to approve a Development Variance Permit.

Walkway

As part of the development of neighbouring Terravita Estates (File Z 06-01 & DP 07-16) a walkway was secured by Statutory Right of Way on 2780, 2770, 2760, and 2750 Auburn Road. This walkway connects Golf Course Drive to Shannon Springs Park. The statutory right of way for the walkway terminates at the border of the subject property. There is no requirement to continue this walkway (covenant, easement etc.) registered on title for 2741 Auburn Road.

Traffic Considerations

ICBC Collision Data

ICBC collision data was reviewed by the City's Traffic Consultant for the 2016-2021 five-year period and summarized as follows:

- Daimler Drive / Bentley Road & Auburn Road: 1 collision
- Daimler Drive & Old Okanagan Highway / Byland Road: 19 collisions
- Daimler Drive & Highway 97: 64 collisions

Total: 84 collisions.

These statistics are for total collisions (both property damage only and casualty).

Off-Site Improvement Funding

At the public hearing the applicant proposed a new cost sharing proposal of a 55/45 (%) split for the required transportation improvements (See Figure 2). The applicant has provided an updated detailed estimate prepared by and Engineer that totals \$1,812,261 for these improvements (Attachment 2). Under this estimate the 45% proposed to be paid by the City would equate to \$815,517.45.

There is no funding allocated for these improvements in the City’s 2024 Budget and they are not identified in the City’s 10-year Capital Financial Plan or Transportation Master Plan. Council would need to explore the City’s other limited financial resources for funding opportunities. Given these concerns, staff are not recommending the applicant’s cost sharing proposal, and propose the applicant pay the full cost of the required transportation improvements.

Improvements Commencement Date

The City’s Traffic Consultant has reviewed the applicant’s phasing approach (Figure 2) and stated to ensure the road safety improvements are addressed, both Phase 1 and Phase 2 improvements should occur together. As a result, staff propose a covenant be placed on the subject property that the lands are not to be built on or subdivided until the required traffic improvements have been completed. The applicant is agreeable to removing the phasing approach for the project.

Phase	Item	Building Phase	Cost Share
1	• Extra Parking & Frontage works Auburn Road	Building Permit for 1 st unit	100% LandVision
	• Daimler Dual Left Turn Hwy 97		55% Landvision 45% West Kelowna
2	OOR/Byland/Daimler Intersection & Auburn Roundabout	Building Permit for 236 th unit	55% Landvision 45% West Kelowna

Figure 2 – Applicant’s Previous Phasing and Cost Sharing Proposal. Applicant is now in support of not phasing the project.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
February 14, 2023	THAT Council resolve to give first reading to City of West Kelowna Zoning Amendment Bylaw No.	C125/23

	0265.12, 2023; and THAT Council resolve to direct staff to schedule the 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	THAT Council postpone second reading to the City of West Kelowna Bylaw No. 0265.12, 2023 (File Z 22-08).	C289/23
September 26, 2023	THAT Council give second reading to Zoning Amendment Bylaw No.0265.12, 2023; and THAT Council direct staff to schedule a public hearing regarding the proposed amendment bylaw.	C331/23
November 28, 2023	THAT Council rescind second reading of City of West Kelowna Zoning Amendment Bylaw No. 0265.12, 2023. AND THAT Council give second reading as amended to City of West Kelowna Zoning Amendment Bylaw No. 0265.12, 2023.	C389/23
December 11, 2023	Public Hearing	N/A

ALTERNATE RECOMMENDATION(S) to Consider and Resolve:

1. Applicant’s Preference (Includes cost sharing)

THAT Council give third reading of Zoning Amendment Bylaw No. 0265.12, 2023;

THAT Council direct Staff to schedule Zoning Amendment Bylaw No. 0265.12, 2023 for consideration of adoption following:

- Approval of the bylaw by the Ministry of Transportation and Infrastructure;
- Discharge of covenant (LB138594) which restricts the development of the lands to 220 dwelling units
- Registration of a no build covenant that requires:
 - Preliminary design and cost estimates to secure the construction of the following off-site improvements (“Off-site Works”) prior to building construction (no phasing of improvements permitted):
 - Roundabout (Auburn Road/ Daimler Drive)
 - Restrict through traffic and left turns onto Byland Road / Old Okanagan Highway
 - Dual left turn lanes (Daimler Drive to Highway 97)
 - Road widening and on-street parking along the frontage of the subject property (Auburn Road).

- Submission of a construction traffic plan at the time of Development Permit that minimizes impacts to school and industrial traffic, to the satisfaction of the Director of Engineering

AND THAT Council agree to a cost share of 45% of the project cost of the Off-site Works to an upset maximum of \$815,517.45, and direct staff to include this project in the 2025 10-year Capital Financial Plan.

Under this option, the developer completes all improvements, with cost sharing provided by the City for a portion of the Off-site Works, prior to any building being constructed on the lands (no phasing of improvements permitted).

If Council does not wish to choose this motion, the applicant asks that Council follows Staff's recommendation.

2. Postpone Application

THAT Council postpone third reading of Zoning Amendment Bylaw No. 0265.12, 2023;

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

3. Deny Application

THAT Council deny Zoning Amendment Bylaw No. 0265.12, 2023;

AND THAT Council direct staff to close the file.

Should Council deny the proposed amendment bylaw, the applicant may not apply for a similar application for a period of six (6) months in accordance with Development Applications Procedures Bylaw No. 0260, 2018.

REVIEWED BY

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

Allen Fillion, Director of Engineering & Operations

Lisa Siavashi, Financial Services Manager / Deputy CFO

APPROVED FOR THE AGENDA BY

Ron Mattiussi, Interim CAO

Powerpoint: Yes No

Attachments:

1. Zoning Amendment Bylaw No. 0265.12, 2023
2. Applicant's Cost Estimate