



COUNCIL REPORT

To: Mayor and Council

Date: December 10, 2024

From: Ron Bowles, Chief Administrative Officer

File No: P 22-08

Subject: **P 22-08, Zoning Bylaw No. 0320 (3rd Reading as amended)**

Report Prepared by: Carla Eaton, Senior Planner

RECOMMENDATION

THAT Council give third reading as amended to “City of West Kelowna Zoning Bylaw No. 0320, 2024”.

BACKGROUND

Council gave 1st and 2nd Reading to the proposed Zoning Bylaw No. 0320 on October 8, 2024, and a Public Hearing was held on November 5, 2024. Notification for the Public Hearing was advertised in accordance with the *Local Government Act and Public Notice Bylaw No. 0303*. Subsequently, the City received a total of 22 written submissions. 2 individuals addressed Council in person at the hearing.

Following the Public Hearing, the proposed Zoning Bylaw No. 0320 is before Council for consideration of third reading as amended with revisions necessary to address a recently adopted CD10 zone, and pending changes to BC Building Code accessibility requirements (*Attachment 1 and 2*).

DISCUSSION

Clarification of Items Raised at Public Hearing

Affordable and Special Needs Housing Reserve Fund

In relation to questions regarding where the money contributed through the Density Bonus program would be allocated or utilized, and how the fund would be managed if it became obsolete or if other factors became a greater priority for Council. A separate report to address the establishment of the fund is scheduled for consideration on the December 10, 2024 following consideration of the Zoning Bylaw. The bylaw proposes an “Affordable and Special Needs Housing Reserve Fund” that aims to provide “funds for purposes of providing, constructing, altering or expanding affordable and special needs housing units

in accordance with *Local Government Act*, Section 482.3(7), and *Community Charter*, Section 188(2)(c.2)”.

The goals outlined in the fund are consistent with direction established in the City’s Housing Strategy, as well as the Official Community Plan, to support the supply of housing across a variety of tenure, type and form and to focus the Density Bonus Program to further these goals. This specific type of reserve fund has requirements outlined in the *Local Government Act (LGA)* and *Community Charter (CC)* that allow the Zoning Bylaw to establish different density rules that require the construction of specific housing units, or a cash contribution in lieu of constructing the unit, in exchange for additional density. Further, the LGA specifies how that money is managed in a reserve fund. As outlined in the *LGA*, Section 482 and the *CC*, Section 188 and 189, the following regulations apply:

- Money received under a Density Bonus Programs for affordable or special needs housing must be held in a specific reserve fund for that purpose.
- Annual reports are required by the Province before June 30th each year regarding the status of the density bonus program (units built or cash received).
- If the reserve fund is greater than required for the purpose for which the fund was established, Council may transfer all or part of the amount to another reserve fund; however, this type of reserve fund transfer would require a bylaw approved by the minister which requires rationale for completion of the funds purpose to provide affordable and special needs housing.

If the City’s housing targets change over time, and this type of funding is no longer needed, the Zoning Bylaw can be amended to either reduce rates, or to eliminate the program.

As noted in the related report to establish the fund, staff are seeking additional direction from Council with respect to future development of a specific policy that will establish priority housing projects and specify the detailed fund allocation process.

In consideration of the items to be addressed by Council as part of separate reports and based on the information noted above, no change has been recommended to the Zoning Bylaw with regard to establishing a Density Bonus Program that may contribute funds to a reserve fund specific to housing needs.

Density Bonus Contribution Rate and Developer Proportion

Prior to first reading, in response to referral feedback some changes were made to Table 3.17 reducing the proposed Bonus Density Rates from \$355/m² to \$71/m². This reduction has been generally described as a reduction from 50% to 10% of the estimated approximate increase in land value with the density bonus.

As noted in the Public Hearing Report, the current economic assessment notes that there may not be much uptake on density bonusing in the near term given that (a) base densities in most cases are likely sufficient to achieve 6-storey projects, and (b) projects in the 7-19 storey range are less likely to be economically viable until such time as market conditions tied to construction costs and interest rates see some downward movement.

However, it does note that depending on specific site conditions, there may be some instances where some additional density can be added to a 6-storey project, and where paying the density bonus rate to access that extra density is worthwhile.

For example, using a sample 7-storey, 65 unit building¹ (see Table 1) which has a proposed 3.25 FAR; if the project were proceeding under the new WUC2 Zone, the Density Bonus calculation at 10% is approximately \$56K (or ~\$860/unit) and at 50% is approximately \$279K (or ~\$4304/unit). The impact of a 10% rate is largely negligible at the per unit rate, where the larger 50% rate is equivalent to approximately 0.5% of the average purchase price of a condo (\$600K). The impact of this rate on project viability is dependent on the specific proforma details for this site, but the example provides some order of magnitude to assign to the 10% rate versus a 50% rate.

Table 1: Sample Density Bonus for Conceptual 7 Storey Building in WUC2 Zone

7 storey Project (downtown) – 65 units	Existing CD Zone	Proposed WUC2 Zone	Density Bonus at 10% (\$71/m²)	Density Bonus at 50% (\$355/m²)
Permitted FAR	3.3	2.6 FAR (without DB) (~3,150 m ²)	\$0	\$0
Proposed FAR	3.25 FAR (3,938 m ²)	3.25(IF for sale)	\$55,948 (~\$806/unit)	\$297,740 (~\$4304/unit)
		3.25 (IF for rental)	\$0	\$0

Base Density and Changes since the OCP

During the development of the Official Community Plan, Council reviewed a number of growth scenarios involving the impact of various building heights, maximum density, and growth locations. One iteration of the draft OCP included maximum densities, but this was eventually replaced with maximum overall height based on two concerns. The first concern was that maximum building height was a more commonly understood element and would give both Council and the public a better fixed point when describing the maximum built form that might be anticipated within the new growth areas. The second concern was that additional study needed to be done to establish a realistic base density and maximum density given the current market conditions, and to allow the development of a density bonus program that would support the provision of housing as per the Housing Strategy objectives.

When the draft OCP was debated, concept drawings showing how a density bonus program might work included drawings that showed buildings over 12 storeys which was the maximum height contemplated at the time. Council feedback supported additional heights up to 12/15/19 storeys, but wanted a more defined density bonus program that would work with established and fixed rates.

¹ For comparative purposes, this example is using the footprint of a 7-storey building with 65 residential units which is currently underway in the downtown under an existing Comprehensive Development Zone which has a proposed 3.25 FAR.

Given the Density Bonus Analysis completed by Urban Systems established 6 storeys as the average minimum height where a multi-unit residential building might be a feasible project, it was determined that this would result in a more realistic density bonusing program. While it is acknowledged that a lower base density might increase the potential density bonus contributions for some projects and sites, the corresponding rate (\$71/sq m) reflects this and current market conditions. There is also the concern that feasibility for other more constrained sites might be affected and result in reduced residential construction overall. Additional consideration was given to the different market conditions associated with tenure (owner versus rental), with density bonus to start above 6 storeys for owner tenure and above 12 storeys for rental tenure. Given the above information, no change has been recommended to the Base Density; however, Alternate Motion No. 2 has been provided which permits an increase in either the Density Bonusing rate, or the applicable base density.

Substantive changes to the bylaw, such as changes to the proposed base density for the new Urban Centre zones may require reconsideration of the amended bylaw for 2nd reading as amended, a possible second public hearing pending Council direction, and potential redo of the financial feasibility analysis given the new Bill 16 requirements for the establishment of density bonus rates.

Regional Comparison of Density Bonusing

It is difficult to provide a direct density bonus rate comparison to other jurisdictions within the Okanagan Valley, as each of the bylaws establishes different rules that the rates apply to and maximum overall building heights are often set at a maximum of 4 or 6 storeys, whereas West Kelowna is contemplating heights up to 19 storeys. The District of Peachland charges a per unit fee of \$1,877 per additional unit up to 3.0 FAR. Vernon does not have a density bonus rate but is reviewing their zoning bylaw, and Summerland just recently rescinded their density bonus rate as they increased their FAR to a rate that will easily permit the anticipated maximum building heights up to 4 storeys without the need for a density bonus. Penticton has a rate of \$15.00/m² for density above 2.0 FAR for their two separate rates. Kelowna, as mentioned in previous reports, does not charge a per square metre of building rate but rather charges a much lower per square metre of lot area rate. However, Kelowna will be reviewing their Density Bonusing Program to ensure consistency with Bill 16 which includes consideration of financial feasibility and have noted that program revisions are likely required. Examples in the lower mainland noted rates as high as \$538/m² on the lower end and up to \$1830/m² on the higher end. The lower mainland examples though would have much higher concentration of amenities and services associated with their density locations.

Given the significant distinction in development conditions (infrastructure and amenities) from the comparative cities, as well as the current financial feasibility assessment, the City's bonusing program is currently recommended at 10% of increase in land value. This gives credit to current market conditions as they relate to construction of buildings greater

than 6 storeys, will allow some room for potential new Amenity Cost Charges if considered in future by the City, and considers the current state of infrastructure/amenities in Westbank / Boucherie Centres. Additionally, the program is recommended to be reviewed on an annual basis which will allow for timely amendments of these rates to respond to any market variability in future years as these factors change. While there may be financial space in some proformas on average to absorb a higher density bonus rate, there is some concern that a higher density bonus rate might negatively affect more constrained sites leading to potential for decreased residential construction overall.

As such, no change has been recommended to the Density Bonus rate to reflect current market constraints that may limit building construction to 6 storey buildings or possibly 7 to 10 storeys in limited cases in the near term. Should Council wish to direct a specific amendment to the Density Bonus rate, Alternate Motion No. 1 has been provided to allow Council to direct staff at their discretion.

Development Cost Charges and Relationship with Zoning Bylaw / Growth

In relation to questions posed about the relationship between the City's anticipated growth and the Development Cost Charges (DCC) Bylaw No. 0190, with concerns related to potential infrastructure deficits in comparison to anticipated growth, impacts to the feasibility of residential construction projects, and the proportional distribution of who pays for growth. While the proposed DBP is focused solely on housing (affordable and special needs), the DCC Bylaw is focused on the capital costs associated with transportation, water, sewer, storm drainage, and parks projects identified in each respective master plan². Funds collected under each program are required to be held in reserve funds, with additional detail regarding how the funds are managed. The last major review of DCCs was completed in 2022³, with inflationary updates being completed annually. The next major review is anticipated in 2026 to follow the anticipated completion of each of the separate infrastructure master plans that are currently underway. In addition, more detailed population forecasting will be available in 2026 based on new Housing Needs Assessments, as well as consideration of any updates to the OCP required in 2025 to ensure consistency with the Provincial Housing initiatives related primarily to infill development.

In conclusion, the City continues to advance DCC projects in accordance with the Master Plans, DCC Bylaw, and 10-year Capital Plan, and will need to ensure that adequate infrastructure is in place to support anticipated growth in the community.

² Each master plan reviews the forecasted population and growth patterns anticipated over a minimum of 20 years to establish the required capital infrastructure projects necessary to support the anticipated growth. The identified capital projects are then included in the DCC Bylaw, where the DCC fees are calculated using estimates of the projected project cost, benefit allocation (distribution between serving existing deficiencies or to serve new growth), the potential for any community assist factor, and finally the distribution between the various categories of land use and the final fee applied for each type of infrastructure DCC fund.

³ While the DCC Bylaw was adopted prior to the adoption of the OCP, the DCC review did include population and growth locations that were being prepared as part of the OCP update. Therefore, anticipated population growth forecasts should be relatively accurate as the basis for the existing DCC Bylaw until updated in 2026.

Proposed Revisions/Amendments to the Zoning Bylaw

Based on previous Council direction and additional review, two revisions to the proposed Zoning Bylaw have been identified. As these changes are related to items previously addressed by Council, address approved updates to Bylaw 0265 and are considered minor administrative changes in nature, it is recommended that Council consider the revised Zoning Bylaw for third reading as amended (*Attachment 1*). These amendments are noted in red text on *Attachment 2*, and are summarized below:

Revision 1 – Multiple Residential Adaptability, Section 3.30.1

Revise the regulation to note the requirement notwithstanding the Provincial BC Building Code changes that will come into effect March 20, 2025, that may impose greater adaptability requirements.

Revision 2 – CD10 – Comprehensive Development Zone, Section 15.12

Insert the new CD10 zone recently adopted to Zoning Bylaw No. 0265 on November 26, 2024.

NEXT STEPS

Pending Council's approval of 3rd Reading, the following outlines the next steps in the adoption process:

- Refer bylaw to Ministry of Transportation and Infrastructure for sign-off; and
- Council to consider adoption of the Zoning Bylaw.

Consequential Amendments and New Related Bylaws

As part of the update to the Zoning Bylaw, eight (8) consequential amendments are proposed to ensure consistency with appropriate related regulations and new regulations are required to enact regulations outside the Zoning Bylaw. A separate report has been prepared to address five (5) of the proposed amendment bylaws or new bylaws to be brought forward for Council's consideration if the proposed Bylaw receives 3rd Reading, which now include:

- Fees and Charges Bylaw 2009, No. 0028
- Bylaw Notice Enforcement Bylaw No. 0093, 2010
- Ticket Information Utilization Bylaw No. 0095, 2009
- Development Application Procedures Bylaw No. 0260, 2018
- Affordable and Special Needs Housing Reserve Fund Bylaw (new bylaw).

Future consideration of the final three bylaws will be addressed with the planned updates to the Development Cost Charges Bylaw, Traffic Bylaw and Works and Services Bylaw that are currently in-process under the lead of the Engineering Department.

FINANCIAL IMPLICATIONS

No additional capital or operational expenditures are anticipated with the implementation of the proposed Zoning Bylaw apart from potential fire services demands as outlined at First and Second Reading.

As required by the *Local Government Act*, an Affordable and Special Needs Housing Reserve Fund must be established to administer funds associated with the proposed Density Bonus Program’s potential contributions to support the provision of affordable housing in the community. A separate report has been prepared for Council’s consideration later in this agenda to establish the fund and its objectives, and to address the financial implications of how this fund is administered. Future Council consideration will be required to establish the detailed internal policies and procedures associated with the distribution of the fund in accordance with the housing goals identified in the City’s Housing Strategy.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
Nov 5, 2024	Public Hearing held.	N/A
Oct 8, 2024	THAT Council give first and second reading to “City of West Kelowna Zoning Bylaw No. 0320, 2024.”	C252/24
Oct 8, 2024	THAT Council direct staff to schedule the bylaw for a Public Hearing.	C253/24

CONCLUSION

The proposed changes to the Zoning Bylaw are intended to enact the vision of the City’s new Official Community Plan, as well as implementing elements from the Housing Strategy that enable housing opportunities across tenure, type, and form with a focus on mixed-use development within the City’s Urban and Neighbourhood Centres. Proposed uses and regulation support development densities and heights that promote economic development in areas that enhance community walkability with access to transit and encourage the advancement of cultural and social opportunities.

Alternate Motions

1. **THAT** Council direct staff to amend the Density Bonus Rate at a specified percent of estimated land value; and

THAT Council give third reading as amended to the “City of West Kelowna Zoning Bylaw 0320, 2024”, including amendments noted in this report.

Should Council consider additional amendments to the density bonus rate, it is requested that Council provide specific direction as to the requested change that should be made to the Bylaw for third reading.

2. **THAT** Council postpone third reading to the “City of West Kelowna Zoning Bylaw 0320, 2024”; and

THAT Council direct staff to amend the Density Bonus Rate at a specified percent of estimated land value; and

THAT Council direct staff to increase the base density in the density bonusing program to apply at greater building heights and bring back to Council for subsequent review.

Should Council consider additional amendments to the density bonus rate and/or base density, it is requested that Council provide specific direction as to the changes that should be made to the Bylaw. Substantive changes to the bylaw, such as changes to the proposed density for the new Urban Centre zones may require reconsideration of the amended bylaw for 2nd reading, a possible second public hearing pending Council direction, and potential redo of the financial feasibility analysis given the new Bill 16 requirements for the establishment of density bonus rates.

3. **THAT** Council postpone consideration of Third Reading to the “City of West Kelowna Zoning Bylaw 0320, 2024”.

Should Council postpone consideration of Third Reading, it is requested that Council provide specific direction as to which changes should be made to the Bylaw prior to reconsideration.

REVIEWED BY

Brittany Nichols, Manager of Long Range Planning

Brent Magnan, Director of Development Approvals

Lisa Siavashi, Manager of Financial Services / Deputy CFO

Rob Hillis, Acting Director of Engineering & Operations

Trevor Seibel, Deputy CAO/Deputy Corporate Officer

APPROVED FOR THE AGENDA BY

Ron Bowles, Chief Administrative Officer

Powerpoint: Yes No

Attachments:

- 1) Zoning Bylaw No. 320, as amended
- 2) Summary of Proposed Zoning Bylaw Revisions Post Public Hearing