



COUNCIL REPORT
Development Services
For the April 7, 2020 Council Meeting

DATE: March 30, 2020

TO: Paul Gipps, CAO

FROM: Chris Oliver

RE: Z 18-08; Official Community Plan Amendment Bylaw No. 0100.55 and Zoning Amendment Bylaw No. 0154.74; 2377 Thacker Drive
Legal: LOT 108 DL 1118 ODYD PLAN 5381 EXCEPT PLAN 43347
Owner: Lunelli Enterprises LTD., INC. No. BC022466
Agent: Protech Consulting 2012 (Grant Maddock)

This file is being brought forward with the intention of furthering the proposed land use approval process. As the public hearing has concluded, there is no opportunity for additional public comment or input into the process, and this report will provide further direction to the applicant on zoning approval requirements.

RECOMMENDED MOTION:

THAT Council rescind first and second reading of Official Community Plan Amendment Bylaw No. 0100.55, 2019;

THAT Council rescind second reading of City of West Kelowna Zoning Amendment Bylaw No. 0154.74, 2019 and re-read a second reading as amended; and

THAT Council direct staff to waive the Public Hearing for the proposed Zoning Amendment Bylaw.

RATIONALE:

The recommended motion would allow for the development of the upper, flat portion of the property that is accessible from Lakeview Heights and not allow for development of the single lower lot accessed from Casa Loma. The application would be brought back for 3rd reading of the bylaws and would include all requirements prior to adoption.

The recommended motion is based on the following considerations:

- The proposed use of the **upper** portion of the property (outside the OCP amendment area):
 - is consistent with the existing Single Family Residential land use designation included in the OCP;
 - can be supported from a servicing perspective with required improvements; and

- is consistent with the neighbourhood character which is predominately single family dwellings and has the ability to complement the type, form, scale, and character of adjacent buildings.
- The motion to rescind the OCP Amendment Bylaw and alter the rezoning of the **lower** portion:
 - it is an extremely steep area with significant technical challenges;
 - the anticipated area of disturbance is ~0.82ha(2ac) for only one single family dwelling;
 - the area has moderate ecological value (ESA-2); and
 - it is unlikely the lot can be developed in accordance with Development Permit guidelines.

LEGISLATIVE REQUIREMENTS:

Council has the authority under Part 14, s. 472 of the *Local Government Act (LGA)* to amend the Official Community Plan and s. 479 to create and amend the Zoning Bylaw.

Waiving of Public Hearing

The recommended motion includes rescinding and closing the OCP Amendment and rescinding and re-reading the Zoning Amendment Bylaw. With this recommended motion, the Zoning Bylaw will be changing after the Public Hearing. As required by the *LGA*, a Public Hearing must be held unless otherwise waived in accordance with the *LGA*.

The *Local Government Act* (s.464(2)) permits local governments to waive the holding of a public hearing on a proposed zoning bylaw amendment if there is an official community plan in effect for the area that is subject to the bylaw and the bylaw is consistent with the plan.

With the recommended motion, the proposal to rezone to Parks and Open Space as well as the upper portion to Single Family Residential would be consistent with the underlying OCP land use designations.

If Council chooses to follow the recommend motion, Council can waive the public hearing requirement and direct staff to schedule the proposed zoning bylaw amendment for third reading. Should Council choose to waive the public hearing, in accordance with section 467 of the *LGA*, the City will be required to give notice that it is waiving the public hearing and providing opportunity for the public to review the bylaw.

BACKGROUND:

Proposal

The applicant is seeking to rezone the entire parcel and amend the land use designation for a portion of the subject property to accommodate a 15 lot single family residential subdivision. The relatively large parcel features an existing single family home and an accessory home (permitted as an agricultural worker dwelling under Zoning Bylaw No. 871).

Location and Surrounding Uses

The 6.5 ha (16.085 acres) subject property is centrally located in the Lakeview Heights neighbourhood; approximately 1km north of the intersection of Thacker Drive and Anders Road (Attachments 1 and 2). The property is currently zoned Rural Residential Large Parcel Zone (RU4) and is split designated as both Single Family Residential and Resource Lands. The property fronts both Thacker Drive and Casa Grande Drive in the Casa Loma Neighbourhood.

Policy and Bylaw Review

Official Community Plan (OCP) No. 0100

Lower Portion

The applicant has applied for an OCP amendment and rezoning for the lower portion of the property. There are significant challenges with developing the lower portion. The proposed works to accommodate development in the lower portion (proposed Lot 7) are challenged by the following objectives and guidelines of the Hillside Development Permit area included in the OCP:

- Protect people and property from hazardous conditions in the natural environment.
- Prevent the creation of hazardous conditions resulting from development on hillsides.
- Protect the natural environment, its ecosystems and biological diversity on hillsides.
- Hillside development should be designed to fit the site, rather than alter the site to fit the development. This requires site planning that:
 - Minimizes the alteration of natural grades and the removal and/or disturbance of natural vegetation; and
 - Gives priority to limiting site disturbance over achieving maximum parcel yields.

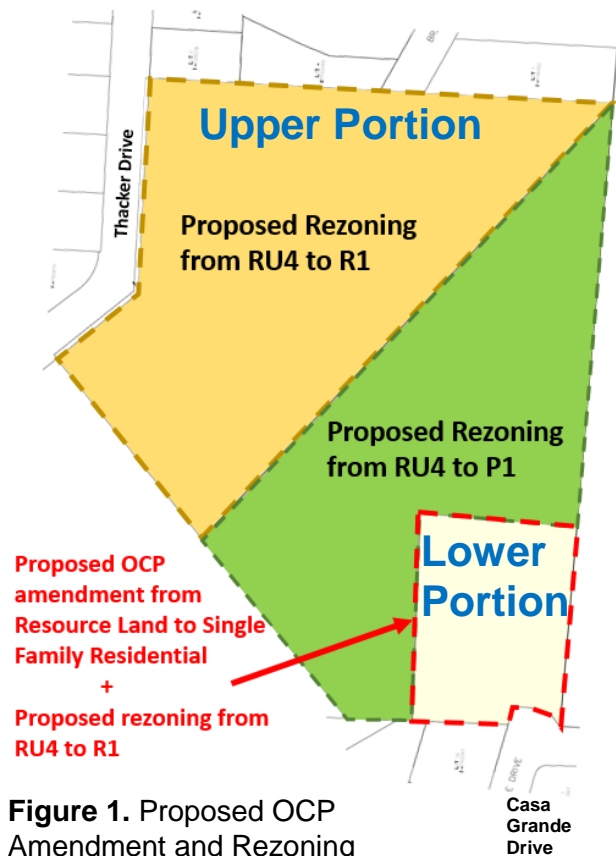


Figure 1. Proposed OCP Amendment and Rezoning

The applicant has proven that this proposed lot can be serviced and has proven out a building platform and driveway that requires a large area of disturbance ~0.82ha (2.0ac), and multiple retaining walls (Figure 2).

As additional detailed rockfall review has taken place, it has been identified that the level of disturbance required to accommodate the development of the lower portion is larger than the proposed rezoning boundary. It is not typical that the required level of disturbance to an ESA 2 area for one single-family lot be permitted. It is therefore recommended to move forward with the upper development site only.



Figure 2. Disturbance Area and Size Comparison

PUBLIC HEARING:

Overview of Public Hearing

At the public hearing, which was held on January 28, 2020, the discussion was primarily focused on the rezoning of the lower portion and technical concerns (geotechnical, rockfall, NFPA, stormwater, and wildfire). Multiple members of the public that addressed Council at the Public Hearing spoke in opposition to the development of the lower area citing various concerns including:

- NFPA Standards for access out of Casa Loma;
- Preservation of ESA areas and protection of steep slopes;
- Active use of the wildlife corridor;
- Steep topography of the parcel and concern regarding the amount of disturbance for the hillside;
- Inconsistency with the City's Hillside Guidelines;
- Complete disregards for the loss of habitat, Development Permit Guidelines, City Bylaws through the unlawful removal of 250+ year old trees; and
- Concern regarding the level of disturbance required to complete wildfire mitigation works and a suggestion that an alternate method of access be considered (through the adjacent property).

Other more technical questions that were raised as part of the Public Hearing were related to a through road connection to Thacker Drive. Staff did consult with the City's traffic consultant and due to the characteristics of the fronting corner on Thacker Drive, a through access to Bridgeview is not recommended due to traffic safety concerns (i.e. sight lines).

Additional concerns were also raised by the public regarding stormwater management and drainage. As part of the development of the upper portion stormwater management infrastructure will be implemented as required by and in accordance with the Works and Services Bylaw. The applicant has prepared a preliminary plan that shows a mechanical detention system using drywells and perforated pipes, which will ensure storm water is captured rather than conveyed down the hillside.

Wildfire Mitigation

Following the comments made by the applicant at the Public Hearing, the wildfire mitigation professional provided additional comments regarding the wildfire interface and treatment (Attachment 5). Generally, the wildfire mitigation professional indicated it is beneficial to have immediate access to reduce costs and create a more effective, safer post-treatment access. The professional also commented, that in general this area is a challenging area to treat and would be costly in a scenario with or without access.

If necessary, as part of the wildfire hazard mitigation works at subdivision, staff would work with the applicant to determine if a development permit is required for the proposed disturbance including an access. If the proposed works are not in accordance with the Hillside or Terrestrial Development Permit Guidelines, staff would bring the application for Council consideration. In an instance where the Guidelines are not being met, Council could require the applicant to apply less equipment intensive treatment methods or methods that create less of a disturbance prior to subdivision. The wildfire mitigation professional has indicated these types of treatment methods would be more costly.

COUNCIL REPORT/RESOLUTION HISTORY:

Date	Report Topic/Resolution	Resolution No.
March 12, 2019	THAT Council <u>give</u> first and second readings to City of West Kelowna Zoning Amendment Bylaw No. 0154.74, 2019; and THAT Council <u>give</u> first and second readings to City of West Kelowna Official Community Plan Amendment Bylaw No. 0100.55, 2019.	C123/19
January 28, 2020	Public Hearing Held	N/A

ALTERNATE MOTION:

THAT Council give third reading of Official Community Plan Amendment Bylaw No. 0100.55, 2019 and Zoning Amendment Bylaw No. 0154.74, 2019;

THAT Council direct staff to schedule the bylaws for consideration of adoption following registration of a covenant under s. 219 of the Land Title Act that requires the following items to be undertaken at subdivision:

- road dedication of approximately 392m² to bring the ROW width to 20m for the portion of the property fronting Thacker Drive;
- wildfire hazard mitigation works and covenant registration;
- registration of a no-build, no-disturb covenant for the remaining P1-zoned land based on geotechnical and environmental reporting recommendations;
- off-site improvements including:
 - an asphalt path connecting the frontage works to the Thacker – Crestview Pedestrian Connection

- a pedestrian crossing and streetlight across Thacker Drive;
- improvements to the Thacker – Crestview Pedestrian Connection; and
- a separate density restricting covenant limiting the lower Single Detached Residential zoned area to one dwelling.

THAT Council direct staff to schedule the bylaws for consideration of adoption following demolition of the existing agricultural worker dwelling located on the property (2377 Thacker Drive);

The alternate motion would allow the development of the lower portion of the property access from Casa Loma as well as the upper portion. The applicant has provided a rationale letter for the alternate motion (Attachment 6). Should Council choose the alternate motion, the applicant would be required to meet the conditions noted above prior to the application being brought forward for adoption.

REVIEWED AND APPROVED BY:

Brent Magnan, Planning Manager
 Mark Koch, Director of Development Services
 Tracey Batten, Deputy CAO/Corporate Officer
 Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Zoning Amendment Bylaw No. 0154.74 (Re-read)
2. Official Community Plan Amendment Bylaw No. 0100.55 and Zoning Amendment Bylaw No. 0154.74 (Original)
3. Context Map
4. Subject Property Map
5. Updated Wildfire Hazard Comments
6. Applicant's Rationale Letter