



COUNCIL REPORT

To: Paul Gipps, CAO

Date: July 27, 2021

From: Chris Pedersen, Development Engineering Technologist; Carla Eaton, Planner III

File No: P 21-19

Subject: **P 21-19; Works and Services Bylaw No. 0249.01 (1st, 2nd, and 3rd); Local Government Act Section 512(1)(a) Delegation**

RECOMMENDATION

THAT Council give first, second and third reading to “City of West Kelowna Works and Services Amendment Bylaw No. 0249.01, 2021” to exempt parcels from statutory minimum parcel frontages as outlined in Section 512 (1)(a) of the *Local Government Act*.

STRATEGIC AREA(S) OF FOCUS

- Economic Growth and Prosperity – Promote efforts to develop a diverse range of housing options throughout the community (Council’s 2021-2022 Strategic Priorities)

BACKGROUND

The *Local Government Act* (LGA) applies to all municipalities and regional districts within the province of British Columbia. The LGA provides minimum highway frontage standards for all subdivisions in Section 512:

Minimum parcel frontage on highway

- 512** (1) *If a parcel being created by a subdivision fronts on a highway, the minimum frontage on the highway must be the greater of*
- (a) 10% of the perimeter of the lot that fronts on the highway, and*
 - (b) the minimum frontage that the local government may, by bylaw, provide.*
- (2) *A local government may exempt a parcel from the statutory or bylaw minimum frontage provided for in subsection (1).*
- (3) *As a limitation on section 229 [delegation of board authority] of this Act or section 154 [delegation of council authority] of the Community Charter, a local*

government may delegate its powers under subsection (2) only to an approving officer.¹

The City of West Kelowna's Zoning Bylaw 0154 provides standards on minimum highway frontages for subdivisions that are dependent on the parcel zone. The prescribed minimum highway frontage is intended to provide adequate access, regular shaped parcels, and regulate density.

PURPOSE

As per Section 512 (2) of the LGA, this bylaw amendment (*Attachment 1*) proposes to delegate the minimum highway frontage exemption described in Section 512(1)(a) of the LGA to the Approving Officer. This proposal will continue to allow subdivision layouts that meet Zoning Bylaw 0154 shapes and sizes and will continue to require Council to review all subdivision layouts that do not meet Zoning Bylaw 0154, while providing efficiencies for subdivisions that meet Zoning Bylaw 0154 frontage but do not meet LGA Section 512(1)(a) frontage.

Discussion

Section 512(1) of the LGA identifies that all subdivisions fronting highways require minimum 10% of the perimeter as frontage per section 512(1)(a), even if the zoning bylaw identifies a minimum measured frontage that is less than 10% of the perimeter.

Section 512(2) identifies that a local government can exempt a parcel from both the minimum 10% perimeter frontage and the minimum bylaw frontage. The City of West Kelowna accepts Development Variance Permits (DVPs) for frontage exemptions that proceed to Council, in effect varying both the LGA and the Zoning frontages simultaneously.

Section 512(3) identifies that the local government can delegate both the LGA exemption and the Zoning variance power to an Approving Officer. The City of West Kelowna currently delegates partial exemption powers to the Approving Officer, as identified in the Works & Services Bylaw 0249:

1.9.2 The Council delegates to the Approving Officer the authority to exempt a parcel from the applicable minimum parcel frontage on a highway specified in s. 512 of the Local Government Act, provided that the minimum frontage is not reduced by more than 10 percent. In the case of a panhandle Parcel, the Approving Officer may permit a parcel frontage exemption of more than 10 percent if the panhandle is at least 6.0 m wide.

Subdivision Frontage Requirements

Subdivision lot layout is typically designed to create the highest number of lots within a parent parcel while meeting Zoning Bylaw 0154. Most parcels are able to fit within existing regulations and City policies, though some parcels are unable to meet both Bylaw and LGA requirements. In particular, the LGA frontage requirement is often unrealistic for use

¹ *Local Government Act*, RSBC 2015, s. 512

in urban developments and is more practical in rural areas with large parcels and low density.

The City's Park Land Acceptance Policy has formalized the types of park land dedication and the acceptance of remnant lands as park land. This policy identifies that remnant lands are typically not to be accepted as park land. Therefore, the remnant lands are expected to be absorbed to an adjacent private lot. This results in lots that have large perimeters from including the remnant lands, leading to greater frontage requirements under the LGA than the minimum Zoning frontage.

To accommodate City regulations such as the Zoning Bylaw 0154 and the Parkland Acceptance Policy, irregular parcel sizes can be proposed. Irregular parcel sizes can meet the Zoning Bylaw standards, but do not always meet the LGA requirements.

Subdivision Layout Examples

There are cases of where the Zoning frontage is met while the LGA frontage is not met. Three examples of these cases are shown below, in both rural and urban settings.

Example 1: Urban Subdivision

This example in Figure 1 shows where the Zoning frontage is sufficient in an urban area, but the LGA frontage is not sufficient and an LGA frontage exemption is required.

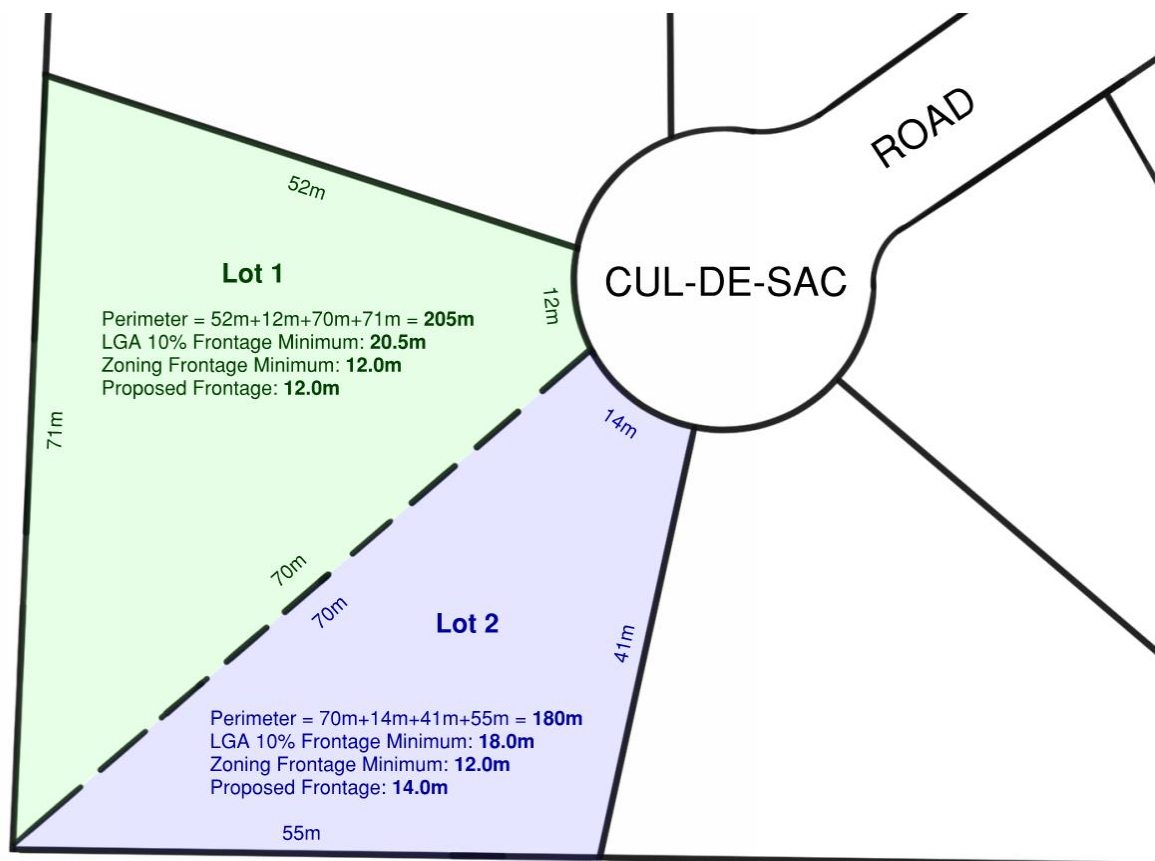


Figure 1: Example of Urban Subdivision with LGA Frontage Exemption

Both Lot 1 and Lot 2 meet the Zoning frontage requirement of 12.0m on the cul-de-sac. However, the pie-shaped lots have large perimeters and LGA frontage of 20.5m on Lot 1 and 18.0m on Lot 2 which has not met by the proposed frontages of 12.0m and 14.0m, respectively.

Example 2: Rural Subdivision

This example in Figure 2 shows where the Zoning frontage is sufficient in a rural area. Similar to the previous example, the LGA frontage is not sufficient and an LGA frontage exemption is required.

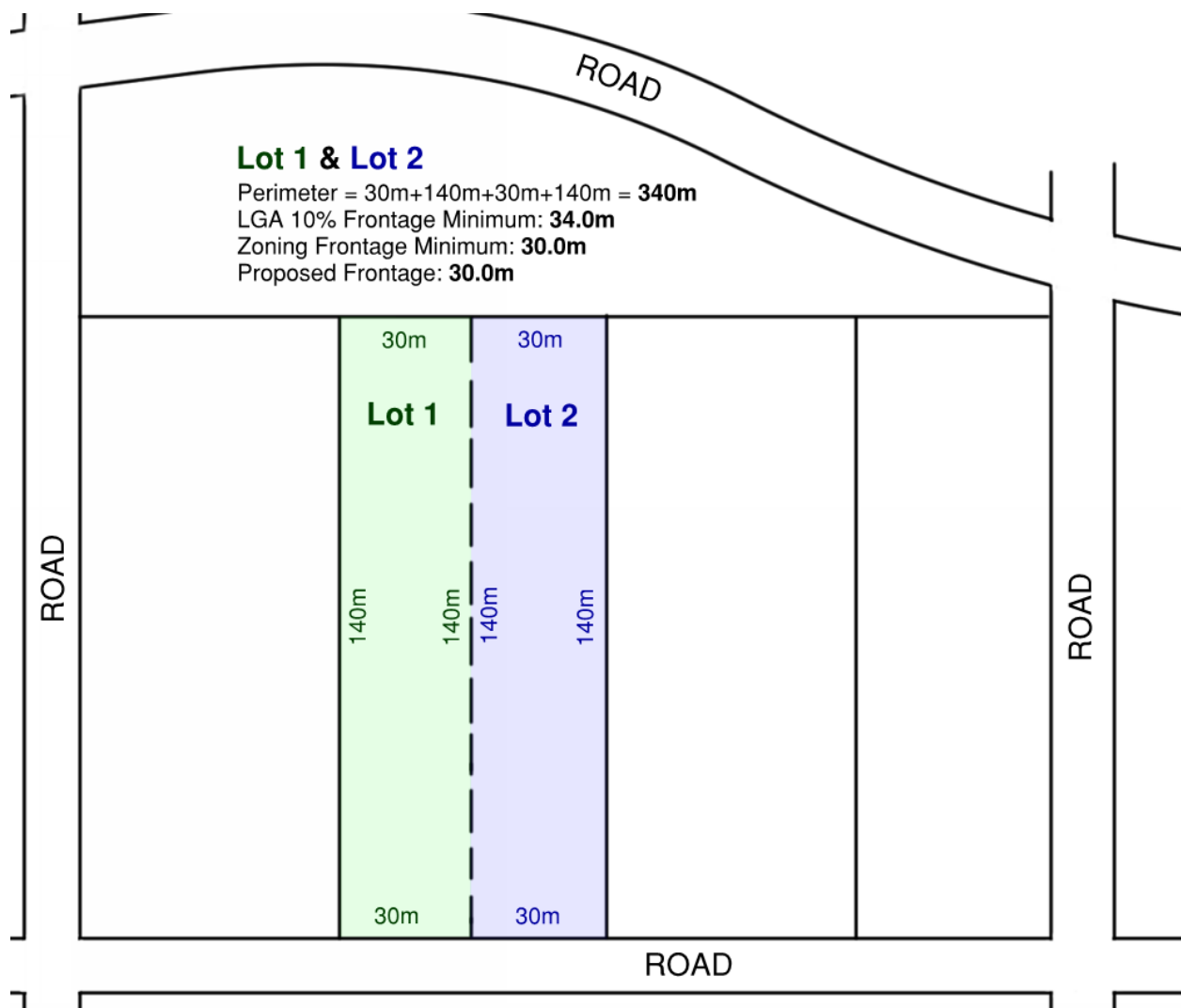


Figure 2: Example of LGA Frontage Exemption Only

Both Lot 1 and Lot 2 meet the Zoning frontage requirements of 30m on the road. However, the narrow shape of the lots have large perimeters and LGA frontages of 34.0m on both lots, which has not been met by the proposed frontages of 30m.

Example 3: Parkland Acceptance Policy Subdivision

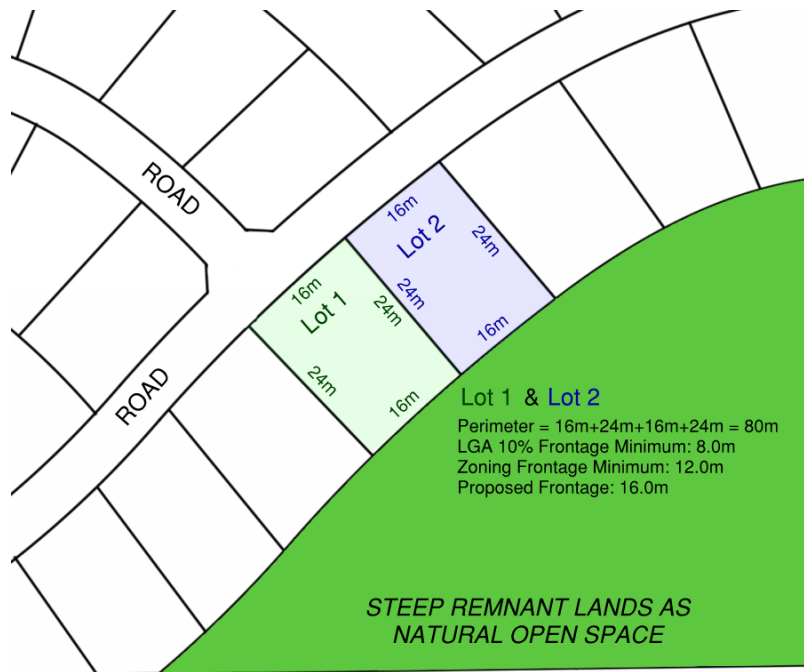


Figure 3: Example of Proposed Natural Open Space

Figure 3 shows where both the LGA and Zoning frontage is sufficient in an urban area. The steep remnant lands shown in green would be a proposed natural open space. As this proposed natural open space dedication shown in Figure 3 does not meet the Parkland Acceptance Policy for use as parkland, the land needs to be amalgamated with neighbouring residential lots as shown in Figure 4.

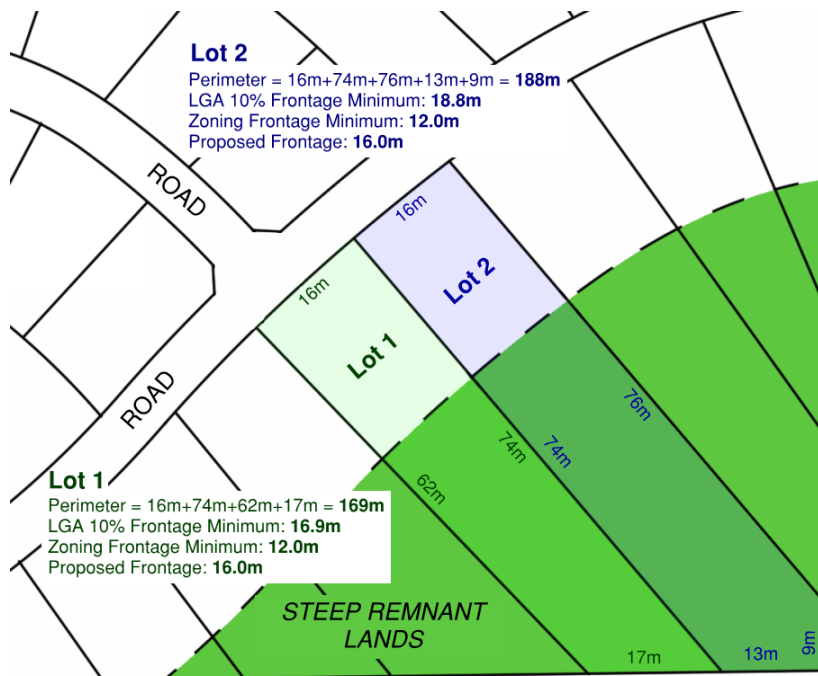


Figure 4: Example of Residential Lots with Amalgamated Natural Open Space

While the amalgamation of the natural open space into the neighboring residential lots does meet the Parkland Acceptance Policy, it increases the perimeter of the lots. This results in the LGA frontage requirements not being met as each lot's frontage would be less than 10% of its perimeter. This is shown in Figure 4 where both Lot 1 and Lot 2 meet the Zoning frontage requirements of 12.0m on the road, but the LGA frontage requirements are not met.

CONCLUSION

Section 512(1) of the LGA requires parcels to meet the greater of LGA frontage and Zoning frontage. While the LGA frontage requirement of 10% of the perimeter of a parcel is effective in rural areas with large parcels, it is not effective in urban areas and where parcel size & shape is governed by policies such as the City's Zoning Bylaw.

Delegation of LGA Section 512(1)(a) to the Approving Officer will allow subdivisions to have parcel sizes and shapes that meet Zoning Bylaw 0154 requirements, as well as City policies. Council will still be required to review all exemptions for frontage that do not meet Zoning Bylaw 0154 requirements.

It is recommended that Council give first, second, and third reading to the proposed Works and Services Bylaw Amendment (P 21-19).

REVIEWED BY

Bob Dargatz, Development Engineering Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Works and Services Amendment Bylaw No. 0249.01, 2021.