



COUNCIL REPORT

To: Paul Gipps, CAO

Date: April 19, 2022

From: Stirling Scory, Planner II

File No: P 20-07

Subject: **P20-07; Zoning Bylaw No. 0265 (First and Second Reading)**

RECOMMENDATION

THAT Council give First and Second Reading to the “City of West Kelowna Zoning Bylaw No. 0265, 2022”.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity: We support initiatives that promote the community’s livability, local business recovery and growth, agriculture, wineries, natural beauty, rich culture, and other attributes that position West Kelowna as a place to live, invest, work and play.

Strengthen Our Community: Council supports efforts to engage residents of all ages and backgrounds in community programs and long-term community planning.

BACKGROUND

West Kelowna’s current Zoning Bylaw No. 0154 was adopted in 2014, since then the City has undergone significant social and economic change, evidenced by a growing population, increasing housing demand, and tourism growth. These changes have provided both opportunities and challenges in the community and have led to various amendments and stand alone reviews to our existing Bylaw (e.g., suites and carriage homes, cannabis production, temporary farm worker housing, etc).

As part of Council strategic priorities, it was identified in 2017 that the Zoning Bylaw required a comprehensive review to address the entire Bylaw in order to provide more clarity, help with the ease of use, and create opportunities for consistency. During the ongoing review of the Zoning Bylaw, the scale and number of the updates has continued to grow based on feedback from staff, stakeholder and the development community. The proposed Zoning Bylaw No. 0265 represents the culmination of this significant review period and presents an opportunity to address chronic challenges in advance of future amendments following the adoption of the City’s new Official Community Plan (Attachment 1).

DISCUSSION

The intent of the proposed changes is to be administrative in nature, while also addressing key updates based on feedback from staff, Council and the development community. The updates have been highlighted in two key categories that represent the major and minor changes. While these have been categorized for convenience, many of the minor changes pose frequent challenges to builders, designers and the development community and present a significant opportunity for applicants and staff to save time during application processing.

In addition to the general summary below, a redline version of the proposed Zoning Bylaw highlighting the changes from the existing Bylaw has been included with this report (Attachment 2).

Major Changes

Housing

- Secondary Suites
 - Increased the maximum size from 90 m² to 100 m², to address conflicts with suite conversions and allow for greater flexibility in design for homeowners.
 - Moved the minimum parcel area requirement for RC3 lots to General Regulations to allow for variance applications instead of rezonings.
- Carriage House
 - Increased maximum size from 90m² to 100m² for RC1, RC2, R1L, and RU1 Zones to provide greater flexibility and allow for additional living space (e.g., three bedrooms).
 - Removed regulations that were intended to influence the design and scale of carriage houses (e.g., peak height over principal, dormer restrictions, 1.5 storey limitation, etc.).
- Driveway Parking/ Garage Setbacks
 - Added regulations that allow for reduced front parcel setbacks and a portion of a required parking space to be located in the road right-of-way, where there is a curb or edge of a sidewalk. The intent is to create more opportunities for suite and carriage house parking and reduce the impacts and grading associated with hillside development.

Building Height Measurement

- Updated the 'height' definition so the measurement is taken from 1.5m from the base of the wall (grade) to the highest point for a flat roof, or the midpoint for a sloping roof.
 - This change will eliminate the single wall face measurement which has created significant challenges for designers and Building Department staff.
 - In order to accommodate the new measurement, reduce variances, and allow for the industry transition to higher ceilings in residential zones, most of the maximum dwelling heights have been increased by 1.0 m.

- New definition for 'localized depression' to prevent the manipulation of grade (e.g., sinking an entire building footprint below grade to circumvent height regulations).
- Updated 'storey' definition to clarify rooftop access, non-surface parking areas, and crawlspaces are not considered a storey.

Parking

Some minor changes to the parking section have been proposed. Staff recognize that additional review is necessary moving forward and as part of the 2022 Budget process, a parking study has been budgeted and staff will be completing a detailed review of parking requirements as a future project. The scope of the project will include a thorough review of the City's parking requirements and identify recommendations that will address existing challenges in the community (e.g., multi-residential parking, suite parking, etc.) as well as new opportunities that are presented through the new Official Community Plan.

Minor Changes

Interpretation:

- Updated 'split zoned parcels' section to clarify that split zoned properties are not intended to be treated as separate parcels for purposes of development.
- Updated 'dwelling' definition to clarify that a single wet bar is permitted within a dwelling, and that a second kitchen is not permitted unless it is part of a secondary suite.
- Added 'wet bar' definition to clarify that a second kitchen is not permitted within a dwelling.
- Changed 'winery or cidery' and 'brewery, distillery or meadery' to 'alcohol production facility'
- Added accommodation for people requiring immediate shelter for a short period of time as an accessory use to the Community or Assembly Hall use.
- Updated 'gross floor area' definition, to improve clarity that crawl spaces and roof top patios are not included.
- Updated 'boundary' definitions to clarify that pathways, walkways, and park access are not to be considered in determining a front or exterior parcel boundary, to avoid situations where a pathway or park access may be used for frontage for the purposes of subdivision/development.
- New definition for 'parcel width' to help in new regulations to determine parcel width for a property on a cul-de-sac, that may not be able to meet minimum frontage requirements if the parcel is a reverse-pie.
- Updated 'storey' definition to not include projections (including a rooftop access), crawlspaces, and non-surface parking to align with the BCBC.

General Regulations:

- Added 'civic uses' as a permitted use in all zones.

- Added 'temporary processing of on-site aggregates' as a permitted use in all zones when part of a development application, to expedite subdivision and development processes.
- Revised regulations regarding the temporary use of a dwelling or recreational vehicle during construction (previously in the Building Bylaw).
- Added 'municipal facilities' to height regulation and siting exemptions to provide greater opportunity for the use and the provision of City owned lands.
- Included the use of 'shipping containers' in Rural Zones.
- Updated 'landscape buffer requirements' to provide greater design flexibility, and allow staff to work with applicants to provide site-specific design considerations.
- Updated 'floodplain designation' to align with regional standards.
- Revised setback requirements for pools on parcels with two front parcel boundaries.

Parking:

- Added clarity for home based business parking, which requires parking be provided where the employee does not reside on the premise where the home based business takes place.
- Reduced the provision that cash-in-lieu for apartments can provide from 50% to 10% to reduce the potential impact of on-street parking in advance of a more comprehensive parking review.
- Revised loading space requirements for apartments, and townhomes within a strata development to be regionally consistent and to reduce variances.

Agricultural Zone:

- Added Cannabis Production Facility on ALR parcels (ALC has determined this is a farm use that cannot be prohibited).
- Clarified that carriage homes are permitted as secondary uses, subject to regulations of ALC.
- Parcel frontage - deleted 'or 10% of the perimeter of the parcel, whichever is less', because of inconsistency with the LGA (authority delegated to SAO).
- Included driveways and parking areas as part of the maximum permitted parcel coverage.
- Removed 'barn' from development regulations and changed it to 'Buildings used as part of a farm operation as defined in the Farm Practices Protection Act', and reduced height from 20m to 15m to keep consistent with provincial regulations.
- Added a maximum size for single detached dwelling: 500m² to be consistent with ALC regulations.
- Increased siting regulations for alcohol production facility from 3.0m to 6.0m for rear and interior side yards to eliminate conflict between properties.

Rural Zones:

- Added alcohol production facility and cannabis production facility as principal uses (within ALR only).
- Clarified that carriage houses are permitted, subject to ALC regulations in the ALR.
- Removed 'barn' from development regulations and changed it to 'Buildings used as part of a farm operation as defined in the Farm Practices Protection Act', and reduced height from 20m to 15m to keep consistent with provincial regulations.
- Increased siting regulations for alcohol production facilities.
- Moved siting regulations for cannabis production facilities.

Residential Zones:

- Deleted the 'single wall face height' regulation based on revised height measurements.
- Updated siting regulations in each zone to reference appropriate agricultural setback requirements.
- Removed outdoor amenity space requirements for multi-residential zones in anticipation of managing amenity space through Official Community Plan - Development Permit processes¹.

Commercial Zones:

- Updated the section reference for agricultural setback regulations.
- Clarified that those proposing to utilize density bonusing are still able to use the optional parking provisions for Westbank Centre, if all parking is provided in the form of non-surface parking (C1 Zone).
- Removed Temporary Shelter Service based on the revised definition for Community or Assembly Halls.

Industrial Zones:

- Added 'Alcohol production facility' as a permitted use in the I1-Light Industrial Zone.
- Added "High Technology Industry" as a permitted use in the I1 – Light Industrial Zone (previously only permitted in the C4 – Service Commercial Zone).
- Moved the siting regulations for cannabis production facilities from General Regulations to I1 Zone.

Mapping Changes:

As part of the referral process, the Regional District of Central Okanagan requested that the City rezone some recent park land acquisitions to the P1 – Parks and Open Space Zone. Where consistent with the existing OCP, staff have revised the Zoning Bylaw map to reflect these changes. It is anticipated that following the adoption of the new OCP,

¹ As part of ongoing DCC bylaw update, parks DCC's for multi-residential units is proposed to increase.

there may be subsequent mapping changes that will be required. A Summary of the mapping changes is included below (Table 1):

Table 1. Mapping Changes Summary

Park Name	Legal Description	Existing Zone	Proposed Zone	Update in the Zoning Bylaw
Goats Peak Regional Park	Lot 1, Plan EPP31107, DL 4494, ODYD (2990 Seclusion Bay Rd)	RU5	P1	Yes
Goats Peak Regional Park	Plan EPP114519 (Whitworth Rd)	A1	P1	Yes
Glen Canyon Regional Park	Parcel A, DL 3187, ODYD, DD132357 (2605 Hebert Rd)	A1	P1	No

The subject parcel (2605 Herbert Road) identified by the RDCO is not being updated as part of the proposed changes to Zoning Bylaw 0265. The identified parcel must first be updated through the Official Community Plan's Land Use Bylaw.

REFERRAL COMMENTS

The proposed changes have been considered through an internal and external review process. As part of the referral to external agencies (City of Kelowna, Interior Health, Ministry of Agriculture, SD 23, Westbank First Nation, CHBA, and UDI) input was received. The following is a summary of the feedback provided:

Urban Development Institute

The Urban Development Institute (UDI) Okanagan Chapter provided a letter with feedback and recommendations for consideration as part of the referral process (Attachment 3). Overall, UDI's focus was on affordable and attainable housing, wherein they saw challenges with the processing time for applications, cost of development, and existing constraints in the Zoning Bylaw that limit building opportunity, including building heights, parking requirements, and amenity space demands. Staff have included changes to the draft Bylaw that address a number of these concerns and will continue to evaluate additional opportunities with UDI as part of subsequent amendments to the Zoning Bylaw and upcoming OCP.

Interior Health

Interior Health commented on a single section of the Bylaw; parcel coverage exemptions for swimming pools. The concern raised was that by excluding pools this may take away from the space required for sewage disposal fields.

Ministry of Agriculture

The Ministry of Agriculture provided suggestions to improve clarity in the Bylaw and ensure that it is aligned with Provincial legislation. Changes have been included in the Bylaw to address issues with consistency and staff will continue to work with the Ministry on other areas of concern such as Agricultural Work Housing and buffering requirements.

School District 23

The SD 23 provided specific comments regarding the parking requirements for institutional uses. Concerns were raised regarding regional consistency and staff anticipate that a detailed review of parking requirements will be complete as part of the future parking study.

Advisory Planning Commission

The Advisory Planning Commission passed a motion recommending support for the proposed Bylaw at the February 16th, 2022 meeting. The members of the Commission had a number of questions regarding reduced driveway setbacks and inquired about future changes regarding electric vehicle charging infrastructure and the minimum lot size of the RC3 Zone.

Agricultural Advisory Committee

The Agricultural Advisory Committee passed a motion recommending support for the proposed Bylaw at the March 2nd, 2022 meeting. The members of the Committee had questions and comments regarding the following:

- General comment that there is concern that more buildings will increase speculation and the value of farmland.
- Can the City prohibit carriage homes? *Yes, the City can prohibit Carriage Homes in all zones and the ALR (not proposed).*
- Are there impacts from the ALC's comments for vertical farming? *No, there are no impacts to the proposed regulations that would limit vertical farming as a farm use.*
- What is the difference between general and intensive agriculture? *Both of these uses are defined in the Bylaw and are not proposed to change.*

NEXT STEPS

Concurrent Amendments

As part of the update to the Zoning Bylaw, concurrent amendments are proposed for the Building Regulations Bylaw No. 0086. The proposed changes are to ensure there is consistency with the proposed changes in the Zoning Bylaw, with the addition of regulations for:

- Section 3.3: Temporary Use of a Dwelling During Construction
- Section 3.4: Temporary Use of a Recreational Vehicle During Construction

The proposed amendments to the Building Regulations Bylaw, will be brought forward for Council's consideration if the proposed Bylaw receives 3rd Reading.

Public Hearing

A Public Hearing will be scheduled following First and Second Readings, as required by the *Local Government Act*. Following Public Hearing Council will consider giving the Bylaw Third Reading. Should Third Reading pass, the Bylaw is required to be referred to the Ministry of Transportation Infrastructure (MOTI) for sign-off prior to consideration of adoption.

Future Consideration

Official Community Plan – Land Use Designations and new zones/heights

The Official Community Plan is currently being updated and is expected to be completed by the summer of 2022. Staff are working closely with our consultant to develop revised policies and development permit guidelines following extensive consultation with the public and development community. Based on the City's Growth Concept and related feedback, revisions to the proposed Zoning Bylaw will be required following the adoption of the new OCP. Anticipated changes included the establishment of new multi-residential and mixed-use zones that will establish a clear direction for how new development will meet the objectives of the City's vibrant urban centres and complete neighbourhoods model.

CONCLUSION

The proposed changes to the Zoning Bylaw come after nearly eight years since its adoption in 2014. Since then, the community has undergone significant change without a comprehensive review of the Bylaw. The intent of the proposed changes is to create efficiencies in application processes and provide clarity for residents and the development community.

ALTERNATE MOTIONS:

1. **THAT** Council give First Reading to the "City of West Kelowna Zoning Bylaw 0265, 2022".

Council has the opportunity to consider giving First Reading to the Bylaw should there be changes or direction that Council would like staff to address prior to Second Reading.

2. **THAT** Council postpone consideration of First Reading and Second Reading to the "City of West Kelowna Zoning Bylaw 0265, 2022".

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

REVIEWED BY

Chris Oliver, Planning Supervisor

Brent Magnan, Director of Development Approvals

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Zoning Bylaw No.0265
2. Zoning Bylaw No.0265 (Redline)
3. Urban Development Institute Letter