

To: Her Worship Mayor McKortoff and Members of Council

From: Christopher Garrish, Planner

Date: April 9, 2024

Subject: Proposed OCP Amendments – SSMUH Implementation

Tracker No: AI-613

RECOMMENDATION:

That the Committee of the Whole recommend to Council that the following amendment bylaws be initiated and brought forward for consideration of first reading at a subsequent Council meeting:

- Official Community Plan Amendment Bylaw No. 1375.04;

AND that following amendment bylaws be initiated and brought forward for consideration of first three reading at a subsequent Council meeting:

- Land Use Procedures Amendment Bylaw No. 1235.08; and
- Municipal Ticket Information (MTI) Amendment Bylaw No. 1279.21.

CAO Comments:

Approved for Council consideration.

Executive Summary:

The purpose of this report is to provide Council with options in relation to in relation to a series of proposed amendments to the Town's Official Community Plan (OCP) that relate to Small-Scale Multi-Unit Housing (SSMUH) Implementation.

Background:

On November 30, 2023, the provincial Legislature adopted Bill 44, which introduced a number of substantial amendments to the *Local Government Act*, the intent of which was the delivery of "more small-scale, multi-unit housing for people, including townhomes, triplexes and laneway homes, and fix outdated zoning rules to help build more homes faster."

On December 7, 2023, the provincial government released *Provincial Policy Manual & Site Standards* (Small-Scale, Multi-Unit Housing) as a resource to assist local governments with the implementation of zoning bylaw amendments required to comply with the changes to the Act.

Under a new Section 481.3(7) of the *Local Government Act*, Council "must consider applicable guidelines" made by the Minister (e.g. the SSMUH Policy Manual) when developing or adopting a zoning bylaw to permit the use and density of use required under to be permitted under the Act.

While the SSMUH Policy Manual establishes numerous provincial expectations for local governments in relation to zoning regulations, it also addresses development permit area guidelines.

The Town is required to approve a zoning bylaw(s) that comply with SSMUH requirements by **June 30, 2024**, and notify the Minister of Housing, in writing, that the bylaw(s) have been adopted, the location(s) of any exempted land(s) and the legislative provisions supporting the exemptions.

Council Consideration:

At its meeting of February 13, 2024, the Committee of the Whole (COTW) considered Administration's report regarding proposed amendments to residential policies, development permit (DP) area designations and various map schedules contained within the Town's OCP.

Council subsequently resolved the following:

That the "Low- to Medium-Density Residential" and "Medium- to High-Density Residential" designations in the Town's Official Community Plan be replaced with a new Low Density Residential (LR) and Medium Density Residential (MR) designations and that these draft designations be brought forward for consideration at a forthcoming meeting of the Committee of the Whole

With regard to the proposed changes to the DP Area designations and Map Schedules, Council resolved:

THAT the Southeast Meadowlark and Hillside Development Permit Area designations as well as related policies be repealed from the Official Community Plan (OCP) Bylaw;

AND THAT the Multi-Family, Mixed Use and Commercial Development Permit Area guidelines and mapping be revised in accordance with the Provincial Policy Manual & Site Standards (Small-Scale, Multi-Unit Housing) and be brought forward for consideration at a forthcoming meeting of the Committee of the Whole;

AND THAT Map 20, being the OCP map schedule for the Environmentally Sensitive Development Permit (ESDP) Area and Riparian Development Permit (RDP) be reviewed and separated into two (2) separate map schedules.

Analysis:

Further to the previous direction provided by Council, Administration has prepared draft amendments incorporating proposed changes to the OCP Bylaw and is now bringing these forward for consideration by the Committee of the Whole. Due to the scope of the proposed amendments, each is presented under various sub-section below:

Residential Densities

The Town's current OCP contains two separate residential land use designations, being the:

- "Low- to Medium-Density Residential" (LMR); and
- "Medium- to High-Density Residential" (MHR).

At present, the LMR permits "densities of no more than 35 units per hectare" in the form of single detached dwellings, accessory dwellings, townhouses, triplexes and four-plexes.

Whereas, the MHR designation permits "densities of no more than 75 units per hectare" in the form of "plex developments, stacked townhouses, and low-rise and mid-rise apartment buildings (no greater than 4 storeys)."

In light of the recent changes to the *Local Government Act* resulting from the implementation of Bill 44, the current density provisions in the Town's OCP are no longer seen to be appropriate.

In response, Administration is recommending that the LMR designation be replaced within a new Low Density Residential (LR) designation within which maximum density is set as follows:

Supports the use of lands designated as Low Density Residential (LR) as identified in Map '2' (Land Use Designations) for those housing types listed at Section 7.B.2.2(b) to a maximum density of four (4) units per parcel when connected to municipal water and sewer.

With regard to the MHR designation, Administration is recommending that it be replaced with a new Medium Density Residential (MR) designation within which a maximum density of 75 units per hectare is retained.

In order to support the current policy supporting mid-rise apartment buildings of up to 4 storeys, Administration is recommending that the medium density residential zone in the new Zoning Bylaw permit a maximum building height of 15.0 metres.

Although the OCP speaks to the presence of a High-Density Residential designation, and the Zoning Bylaw currently contains zones whose title includes references to "High Density", the current cap of 75 units/ha is seen to preclude the development of truly "high" density residential forms of housing.

In response, Administration is recommending that the OCP not specify any policies in relation to high density residential zones, although this may need to be revisited in future when Council is required to accommodate a 20-year supply of pre-zoned land by December 31, 2025.

Development Permits

The SSMUH Policy Manual provides a number of examples where common DP area guidelines can negatively impact the viability of small-scale multi-unit housing development and encourages local governments to consider alternate approaches.

In response, and further to the direction previously provided by Council at its COTW meeting of February 13, 2024, staff have prepared revised versions of the Multi-Family, Mixed Use & Commercial, Environmentally Sensitive and Riparian DP Areas:

Form & Character DP Areas:

The Multi-Family DP Area designation has been re-drafted to eliminate problematic guidelines (e.g. landscaping, water & energy conservation, greenhouse gas emission reductions, etc.) and to only be applied to developments comprising of seven (7) or more units.

The Map Schedule designating lands as Multi-Family DP has also been revised in order to only apply to lands designated as Medium Density Residential (MR).

The Mixed Use & Commercial DP and Industrial DP Area guidelines have been simplified and also revised to address some of the same issues identified in relation to the Multi-Family DP Area (e.g. landscaping, water & energy conservation, greenhouse gas emission reductions, etc.).

Environmental Protection DP Areas:

The Environmentally Sensitive Development Permit (ESDP) Area designation and Riparian Development Permit (RDP) Area have been re-drafted so that the current map schedule for these DPs, being Map 20 of the OCP Bylaw, has been separated into a new ESDP Map Schedule and a Riparian Development Permit (RDP) Area Map.

This addresses a concern that the current Map may have incorrectly designated riparian areas as ESDP (e.g. Peanut Pond is designated as ESDP and not RDP). As part of this work, adjustments are being proposed to the extent of the ESDP Area designation, particularly as it applies to lands around the golf course and surrounding residential developments.

Although not discussed at the February 13, 2023, COTW meeting, Administration is proposing the deletion of the Foreshore and Lake DP Area.

This is primarily due to the objectives of the DP being more appropriately addressed through the zoning bylaw. As an aside, Administration will also be seeking direction from Council at a forthcoming COTW meeting about consolidating the Foreshore and Lake Zoning Bylaw into the new Zoning Bylaw.

Alternately, should Council wish to retain this DP Area, Administration recommends that current requirements that attempt to impose conditions on land outside of the designated DP Area be deleted.

For instance and recognizing that this DP applies to water (i.e. parts of Osoyoos Lake), implementation of requirements related to storm water management, recycling facilities, building design, EV charging stations and bike lockers – all of which typically occur on land - is unclear and potentially unachievable.

Application Requirements:

In support of the proposed amendments to the DP Area designations, it is recommended that formal DP application requirements currently contained as the “Guidelines” within the OCP be deleted and transferred to the Town’s Land Use Procedures (LUP) Bylaw.

This is in order to avoid confusion over whether stated DP application requirements are actually required or merely suggested (due to currently being listed as “Guidelines” in the OCP) and also as a matter of consistency as the LUP is generally where all other formal application requirements are listed for rezonings, DVP, subdivisions, etc.

Enforcement:

In support of the DP Area designations, it is being proposed that a new “Offence” section be added at Section 8 of the OCP Bylaw in which undertaking work without a permit or in contravention of a permit condition is subject to a fine under the Town’s Municipal Ticket Information (MTI) Bylaw.

It is further proposed that a new Schedule be introduced to the MTI Bylaw establishing fines of \$1,000 for DP contraventions. This sum is based on the fine generally applied to zoning infractions under the MTI Bylaw.

Given current staffing resource levels and workloads, Administration considers the ability to ticket DP infractions to be preferable to complicated and administratively intensive monitoring and performance security schemes.

By way of example, the ESDP Area guidelines speak to the requirement for an “Environmental Monitoring Plan”, prepared by a qualified environmental professional (QEP) that is to describe

how a QEP will ensure that a development is adhering to the conditions of a permit over a 12-month period. Presumably, monitoring activities will be reported to the Town and tied to the holding of a performance security.

Conversely, ticketing allows the Town to simplify its monitoring process and response to non-compliance on permit conditions. For these reasons, Administration is proposing not to carry forward the requirement for an "Environmental Monitoring Plan" into the LUP Bylaw.

Also, and recognizing that performance securities can sometimes be considered the cost of doing business and abandoned by a developer, Administration is recommending that a security not be required if the cost of landscaping works is less than \$15,000.00.

Next Steps:

Prior to first reading of the OCP Amendment Bylaw, Administration will refer the bylaw to external agencies for comment and also notify the public in the form of a newspaper notice, email notification, posting of information to the Town's website and the scheduling of an online public information meeting (PIM).

Options/discussion:

1. That the Committee of the Whole recommend to Council that the following amendment bylaws be initiated and brought forward for consideration of first reading at a subsequent Council meeting:

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AND that following amendment bylaws be initiated and brought forward for consideration of first three reading at a subsequent Council meeting:

- Land Use Procedures Amendment Bylaw No. 1235.08; and
- Municipal Ticket Information (MTI) Amendment Bylaw No. 1279.21.

2. That the Committee of the Whole recommend to Council to not make amendments to the bylaws at this time.
3. That the Committee of the Whole request more information.

Implications:

a) Community

- Increasing densities will provide additional housing opportunities and ensure the Town is compliant with recent provincial legislative changes. However, it is also likely to increase demand on Town services such as water and sewer and further increase demand for vehicle parking due to the influx of visitors during our peak seasons.

b) Organizational

- Increased infrastructure and vehicle parking demands.

c) Budget

- None at this time.

d) Financial/Risk Implications

Infrastructure such as water and sewer will require upsizing in some areas. The exact number of pipes and associated cost is not known at this time but is estimated to be significant.

e) Significant Dates

- The Town's zoning bylaw must be updated by June 30, 2024, to comply with provincial legislative requirements.

f) Sustainability

- Increasing residential densities is consistent with the Town's designation as a "Primary Growth Area" under the South Okanagan Regional Growth Strategy (RGS).

Others Consulted:

Attachments:

Official Community Plan Amendment Bylaw No. 1375.04, 2024

Draft DPA Amendments – Section 8

Draft Map 1 Urban Containment

Draft Map 2 Future Land Use

Draft Map 15 Multifamily

Draft Map 20 ESDP

Draft Map 21 Riparian

Official Community Plan 1375 – Consolidated Version – with track changes

Land Use Procedures Amendment Bylaw No. 1235.08, 2024

Municipal Ticket Information Amendment Bylaw No. 1279.21, 2024