



Information Only Report

To: Peter de Verteuil, CAO
Date: January 9, 2017
From: Dave Pady, Manager of Planning
Re: Zoning Bylaw Rewrite

RECOMMENDATION:

That Council receive the Zoning Bylaw Rewrite project report by the Manager of Planning for information only.

BACKGROUND:

The Official Community Plan was adopted August 13, 2007. The plan sets the trajectory for the future of the City of Duncan by establishing a broad range of goals and policies to determine and guide land use and development. While this document is established as a bylaw it does not contain any regulatory components. A Zoning Bylaw is the regulatory tool used to implement the OCP in order to realize goals and objectives.

The current Zoning Bylaw was first adopted in 1989 and to date, has been amended 73 times. This bylaw, however; was not an entirely new document when adopted but was a revised version of the previous bylaw. As such, the current Zoning Bylaw is discordant with the OCP and a completely new Zoning Bylaw, which implements the goals of the OCP, is necessary to help propel Duncan forward. Having said this, Officially Community Plans are generally updated every 10 years and, ideally, a review and update of the current OCP would occur prior to the development and implementation of a new Zoning Bylaw.

Goals of the Zoning Bylaw

A Zoning Bylaw is somewhat different than other bylaws in that they should not be designed for use by staff since they are typically and most frequently used by people within the community looking to understand the regulations regarding the use and development of their property. Because of this, zoning bylaw should be logically organized to intuitively find information and should be easy to understand and use colloquial terms and definitions. In addition, definitions should be succinct and be able to permit or prohibit specifically what it is they are intended to. Unlike other bylaws, the proposed bylaw will have definitions at the end of the document and not at the front so that it is similar to textbooks, cookbooks, or other information-based source documents. Most bylaws have the definitions section at the front so the information most people are looking for is embedded somewhere in the middle which is why staff copies are carefully tabbed to make it easier. Instead of this approach, having definitions at the back puts the salient information closer to the front and is simply easier.

The OCP Land Use Map 1 provides a basic framework from which to create zones. Residential zones are divided into three categories: Low Density, Medium Density, and High Density Multi-Family

Residential. Commercial zones may also be divided into three categories: Downtown, Neighbourhood Commercial and Highway Corridor Commercial. The Downtown zone provides opportunity for overlap with the residential zones by allowing/promoting mixed-use buildings with commercial uses on the ground floor and residential uses above in buildings up to 5 stories. Two public institution zones are proposed, one of which is specific to parks in order to create a higher level of perceived protection for public parks and better define the uses within them.

The proposed bylaw significantly reduces the overall number of zones. Currently, there are 8 residential zones, 7 commercial zones and two public use zones. The proposed bylaw will have 3 residential zones, 3 commercial zones, and 2 public use zones but each of the zones will provide for far greater flexibility that is currently possible. All zones will be named in accordance with the OCP and with logical acronyms that are easy to understand. For instance, Low Density Residential zone should carry the acronym LDR and not R1 as currently stated.

In addition, the Zoning Bylaw should create development opportunities, economic diversity, and lead to wealth creation for both the City of Duncan and its citizens.

Floor Area Ratio (FAR)

The proposed bylaw will calculate density by FAR rather than units per hectare. FAR is the total gross floor area of a building divided by the total lot area. For instance; if you have a 1000m² lot and a specified FAR of 1:1 and 100% lot coverage then you would have a single story 1000m². If the max lot coverage is 50% then you would have a two storey 1000m² building. With respect to number or units, FAR creates flexibility for the market to determine the most appropriate size, fit and finish, and number of units. For instance, a building with 2000m² of gross floor area could contain 10 200m² units or 20 100m² units but site and building design are predicated on what the market will support and how many parking spaces are required and can be provided on site. Lots within the same zone but blocks apart may build out very differently based on real estate values and market forces. Ultimately, the final design of the site and number of units possible on the site will need to consider other limiting factors like parking, landscaping, amenities, etc. Architects designing projects will need to carefully consider the goals of the development, limits of regulations, and design a feasible project.

The downtown parking exemption bylaw should be reconsidered with respect to residential parking. Without having to consider parking with respect to FAR and residential mixed use buildings a much higher number of units would likely be proposed and contribute significantly to parking issues. A strategy which may be considered is requiring cash-in-lieu of parking for all commercial buildings in the downtown which will alleviate the need for developers to construct parking on site and contribute to the City's development funds for creating more public parking. Further to this, any proposed bylaw in support of this approach should also include regulation that commercial parking cannot be varied in order to circumvent cash-in-lieu requirements. It should be noted that despite Duncan being low elevation and within a flood plain the geology of the downtown is actually ideal for underground parking.

Row-Houses

Row-houses (think San Francisco) are essentially linearly arranged townhouses which are separated by, and share a party wall and party wall agreement. Party Wall agreement legislation came into effect in 2012 for the first time in BC. Prior to this, the only way to achieve a row-house was by strata. A true row-house is subdivided down the adjoining party wall into fee-simple parcels which creates individual unit/yard ownership without strata bylaws, fees, and councils. Since each of the units, once subdivided, becomes a single family dwelling property owners also have the flexibility to individually

alter the exterior of the building which gives people a greater sense of control over their own self-expression – generally a good thing as evidenced by row houses in many parts of the world. Design can be controlled by covenant if architectural integrity of the overall building is deemed particularly important. In the proposed bylaw, row-houses can be as few as two units which will likely discourage strata-titled duplexes in the future.

Carriage Houses (Detached secondary suites)

The proposed bylaw will permit carriage houses on all single family residential lots but with respect to size, the same ratio of 40% up to 90m² will apply whether attached or detached. Currently, carriage houses are limited to 40% of the principle dwelling or 60m² whichever is less. The rationale for the difference can only be that the goal is to clearly define the subordinate use through scale but the 40% limitation is adequate to define scale.

Subdivision – variable sized lots

Many residential parcels within the city are large and underdeveloped but current configurations provide few options for further development. By permitting variable lot sizes with up to 30% reduction in both frontage and area it is possible to create not only more smaller parcels but a greater mix of parcel sizes. This results in much higher economic and social diversity within existing neighbourhoods which makes neighbourhoods more resilient.

Highway Corridor

The highway corridor is arguable some of the most valuable commercial real estate in the City of Duncan. Currently there is approximately 6.25 hectares (15 acres) of land being used for commercial purposes on both sides of the highway. On the west side the total area of land utilized for Coronation Mall, the car dealerships, and a smattering of smaller pad buildings is 4.4 hectares (10.9 acres), of which 2.55 hectares (6.3 acres) is currently being used for parking or display of vehicles. The vast majority of buildings along the corridor are single storey and on the west side cover approximately 10,900 m² of land which is approximately 24.7% lot coverage. Ideally, this corridor would not permit uses which grossly underdevelop these prime lands, deflate real estate values, and maintain the existing negative experience of the highway corridor. Over time, land values should be high enough that some uses are not economically possible and higher utilization of land results in greatly realizing land taxes back to the City of Duncan. In its current state, it is questionable whether or not the City of Duncan can afford to support some of the current uses normally found on larger parcels of low-value land in the periphery of a city or region.

The proposed Highway Corridor Zone will permit a broad range of commercial uses, some of which are vehicular oriented such as restaurant drive-through, but will eliminate auto dealership from the list of permitted uses. While this might raise concerns, it should be noted that current Provincial regulation regarding non-conforming use protects landowners from changes to bylaws and the current dealerships could continue to operate (discussed later in this report).

The new zone will contain maximum setbacks which will result in street-oriented buildings (as supported by the OCP) which will place parking to the rear of the site and accesses from secondary roads. This will help to improve the pedestrian realm, create a better gateway to the Downtown (via Trunk Road and Coronation) and create better through-traffic along the Highway corridor.

In addition, the minimum number of stories along the highway corridor will be two, so as to reduce the long-lasting impact of single-storey (and single use) type commercial pad buildings.

Food Carts

The proposed bylaw includes food carts as a permitted use on any property which permits restaurant. Not only do food carts provide for a greater variety in food options but they provide an easy upstart opportunity for people wishing to get into the food industry (similar to Home Based Business). In addition, the Cowichan Valley is well known as cultural food hub on Vancouver Island and food carts help to diversify the market and make the city more economically resilient. It's common for local restaurant owners to oppose food carts and many municipalities have struggled with this issue. Many municipalities have moved forward with food cart policies (Nanaimo most recently) having found that the benefits are greater than potential impacts which are largely perceived and unfounded or confirmed by evidence. Further to this, it should be noted that there are no restrictions on restaurants filling every commercial space in the downtown and the City would not get involved in an impact assessment if Starbucks chose to open directly next door to The Twisted Mug.

Day Care

Currently, Daycare is not a permitted use within the downtown. The proposed bylaw will allow commercial daycare facilities in all commercial zones.

Urban Farming

Agriculture is a key cultural signature of our history and region and yet there are virtually no cultural markers of this throughout the city. Urban Farming is proposed on vacant parcels within all zones. This will bring underutilized/undeveloped parcels into vibrant community use until such time that the property is developed.

Pawn Shops

Pawn Shops will be separately defined and permitted within the Downtown and Highway Commercial zones only. A condition of use will be implemented which requires a minimum separation distance between shops so as to prevent proliferation in any specific area.

Check Cashing Operations

These operations will be excluded from the definition of Financial Institution and specifically defined and prohibited in all commercial zones.

Marijuana Operations

Currently, marijuana operations are prohibited throughout the City of Duncan, however, with recent legislation tabled by the Federal government with respect to legalization, some regulation within the proposed bylaw is anticipated but is unclear at this point what direction it will take.

Metric

Most recently developed Zoning Bylaws are expressing dimensions and measurements in Standard Interpretation Units (metric) and the proposed draft bylaw has been drafted in metric only for consistency with other local governments and ease of reading.

Non-conforming uses and siting

It is anticipated that the proposed bylaw will result in some current uses or siting of buildings becoming non-conforming. Generally, the proposed bylaw will create far greater flexibility for land owners so the non-conforming uses and siting should be minimized, however; it should be noted that the Local Government Act Section 528 provides protection for landowners. It should also be noted that even if a use become non-conforming the use can continue to be performed on the property so long as it's not discontinuous for a period greater than six months. There are examples throughout the province where non-conforming uses continue for many decades.

Timeline

Once staff have a completed draft copy of the bylaw (anticipated by end of February, 2017 based on current scope of the bylaw) the following timeline is proposed:

- Provide draft bylaw to internal staff for review by middle of February with the goal of having comments received and a complete draft for Committee of the Whole for their meeting to be held March 6, 2017.
- If supported by COW, the draft bylaw will be submitted for legal review.
- Present the proposed bylaw to Council for 1st/2nd reading in April, 2017.
- Public Consultation open house in first two weeks in May, 2017. Utilize PlaceSpeak and Facebook during the same period to facilitate opportunities for public input and engagement.
- Public Hearing/3rd reading on June 15th, 2017.

It should be noted that the adoption of a Zoning Bylaw requires review by Ministry of Transportation and Infrastructure. This process *can* take up to 6 months to complete but, given the relatively small size and complexity of the document it's likely to take considerably less time. Based on this, it may be possible to present the completed bylaw to Council for adoption on November 20, 2017 or early in 2018.

Respectfully submitted,

Dave Pady, Manager of Planning

Reviewed by CAO