

## **City of Duncan Public Hearing Minutes**

**A Public Hearing was held in the Council Chambers, City Hall, 200 Craig Street,  
Duncan, BC, on Monday, September 18, 2017 at 5:05 PM.**

**Present** Mayor Phil Kent Councillor Michelle Staples  
Councillor Michelle Bell (5:45 pm) Councillor John Horgan  
Councillor Roger Bruce

**Absent** Councillor Tom Duncan  
Councillor Sharon Jackson

**Also Present** Peter de Verteuil, Chief Administrative Officer  
Paige MacWilliam, Director of Corporate Services  
Michelle Geneau, Manager of Planning  
Lucas Pitts, Director of Public Works and Development Services  
Lynn Ketch, Acting Corporate Services Coordinator

### **Call to Order**

**Call to Order** The Chair called the Public Hearing for "Official Community Plan Amendment Bylaw No. 3172, 2017" and "Zoning Bylaw No. 3166, 2017" to order at 5:05 pm.

### **Public Hearing Process**

**Explanation of  
Public Hearing  
Process**

Mayor Kent provided an explanation of the Public Hearing process. He stated that the Public Hearing is convened pursuant to Section 465 of the Local Government Act to allow the public to make representation to Council respecting matters contained in the proposed "Official Community Plan Amendment Bylaw No. 3172, 2017" and "Zoning Bylaw No. 3166, 2017".

The Director of Corporate Services stated that notification of the Public Hearing was advertised in the Cowichan Valley Citizen newspaper on September 6 and September 13. Notice was also posted at City Hall public notice posting places and on the City's website.

### **Proposed Official Community Plan Amendment Bylaw**

**Staff Introduction of  
Official Community  
Plan Amendment  
Bylaw No. 3172,  
2017**

The Manager of Planning provided an overview of the Official Community Plan Amendment Bylaw.

**Public Comment Period**

Mayor Kent asked three times whether anyone wished to present their views about the proposed Official Community Plan Amendment Bylaw. No members of the public wished to share their views on this bylaw.

**Correspondence**

The Mayor asked the Director of Corporate Services if any written submissions were received regarding the proposed bylaw. The Director of Corporate Services read out the one piece of correspondence received before 4:00 pm on September 18, 2017 from Mr. Grant and Ms. Lynne Clement, which was included in the meeting agenda.

**Proposed Zoning Bylaw**

**Staff Introduction of Zoning Bylaw No. 3166, 2017**

The Manager of Planning provided an overview of the new Zoning Bylaw.

**Correspondence Received Regarding Zoning Bylaw No. 3166, 2017**

The Mayor asked the Director of Corporate Services if any written submissions were received regarding the proposed bylaw. The Director of Corporate Services read out the one piece of correspondence received after the agenda was published, on September 18, 2017, from Mr. Tom Ireland, as follows:

“Dear Mayor and Council

Re: Proposed Zoning Bylaw No. 3166, 2017

With this, I am expressing my views on the proposed new Zoning Bylaw No. 3166, 2017. I am unable to attend the Public Hearing this evening due to family from out of country visiting.

My name is Tom Ireland. I reside at 576 Cedar Place in the City of Duncan. I am the past CAO for the City of Duncan. As well, I have been the past Corporate Administrator for the City of Prince Rupert in charge of, among other things, Bylaws and legal matters, and I was its Director of Planning for 25 years.

I have been a Planner for 38 years. During that time there have never been any successful or unsuccessful legal challenges to my planning advice or to decisions made by Council based on my planning advice; unlike some of our neighbouring jurisdictions, or many others in the province.

Overall I think staff have done a great job of re-doing the City's Zoning Bylaw. I know of at least two persons, myself included,

who have provided unsolicited advice and editing, privately rather than publicly. We were proud to do that because of our commitment to the community.

Many of the matters I had raised have been addressed. Unfortunately, there remains several unresolved issues.

1. I am still concerned about the proposed height of accessory buildings with "detached secondary suites located in the second storey". My concern is with the permitted height in such close proximity to side and rear property lines and their potential impact on adjacent people's rear yards, and gardens in particular, due to shading. The City is encouraging urban gardening, yet at the same time it is taking a situation that currently assures people that no structure more than 4 metres high can be closer to their rear property line than 7.5 metres, and it is now being proposed that structures up to 7.5 metres high (almost twice as high) can now be within 1.2 metres of people's rear property line. This is a reduction of a significant portion of a rear yard to 16% of what it currently is. The potential impact on adjacent people's garden areas can be substantial with that kind of change. I have toured developments in Nanaimo that allow such structures and with such spacing and you could not even really find a place to grow grass within them they are so dense. An effort should be made to calculate the appropriate setback for accessory buildings relative to the proposed height in order to minimize undesirable shading on urban gardening. I am not suggesting that accessory buildings that high should not be permitted, rather their placement needs more careful consideration. The City made the proponent of a proposed development on Brae Road submit sun shading diagrams for his development. Surely City staff can be directed to calculate a minimum setback from side and rear property lines that would minimize the impact of shading from taller accessory buildings. The detached buildings being proposed are not small by any stretch. They could be up to the size of my own existing house. Curiously, as well, such detached dwelling can even be closer to the side property line than the principal building even though they can be essentially the same height as the principal building.
2. I am surprised to see the sudden shift in sentiment regarding "fabric covered structures" (tents). It is proposed to allow such structures, up to 23 m<sup>2</sup> in area (247.6 square feet; or, the equivalent to a single car garage) for "temporary storage

purposes". Temporary is not defined. If you happen to be storing "motor vehicles or recreational vehicles" you can only have such structures on site for the period of November 1st to March 1st, but there is no such time period for the temporary storage of other "things". So what is temporary? Further, there is no limit on the number of such structures permitted on any one lot. There is no height restriction either. The dates permitted for storage of "motor vehicles or recreational vehicles" suggests that if you are only storing "other objects" you can have them on site any times of the year as long as it is "temporary", whatever that is. Currently there is a prohibition against storing RV's over a certain size on residential properties, whereas the proposed Zoning Bylaw provides no such restriction; in fact it enables such storage in tents on the property.

3. I have suggested that the regulations regarding placement of heat pumps also apply to "air conditioners" and "generators". They make the same noise as heat pumps, or in the case of generators, they are even worse. I also think the proposal that they be allowed in front yards is unnecessary and ill-advised. If the front yard is the only potential location available on any particular site, a Variance Permit could be applied for.
4. Strictly a technical bylaw drafting matter, but one which could later be problematic, is that all zones except the Low, Medium, and High Density Residential Zone have "Subdivision Regulations" incorporated. The three zones mentioned instead only have "Conditions of Use" that include some 'implied' subdivision regulations. Why not make it clear in the section title that there are "Conditions of Use and Subdivision Regulations" included in those sections? Otherwise it 'appears' there are no subdivision regulations for those zones.
5. I am left with the impression that there are a lot of things that this bylaw will allow a person to place into the required yard areas. This is because in the Low Density Residential Zone the yard setbacks are only for principal buildings and accessory buildings. In some cases parking and heat pumps have setbacks as well. But there are no setback requirements for any other structures that may be on the property; implying they can be located anywhere, even within the required yard setback areas. The yard setback areas are intended to facilitate passage and access around buildings for firefighting,

maintenance, air, and light. There is no overarching clause in the proposed Bylaw that stipulates that the required yards shall be kept clear of everything except permitted encumbrances.

It is common for Zoning bylaws to stipulate something along the lines that "No building, structure, feature or portion thereof shall be developed, used, occupied, constructed, erected, modified, converted, enlarged, reconstructed, altered, placed, maintained or added to within any required yard except as follows, provided that they meet the provisions of the Building Code". **Or** "YARD - means an open space on a lot unoccupied and unobstructed by any building or structure, except as otherwise provided for in this Bylaw. For the purposes of this definition a fence is not considered a structure".

6. I suggested to staff that they should consider using "Floor Area Ratio" to regulate the density of development in the Low Density Residential Zone for essentially the same reason that they proposed Floor Area Ratio for use in the Medium and High Density Zones as well as the Commercial Zones - "Floor Area Ratio is more flexible with respect to size of unit based on location and market".

Floor area ratio encourages more imaginative housing styles and accommodates different needs. Floor Area ratio, for example, enables a person who has accessibility issues to build a ranch style home with the same amount of floor area as someone who builds a two storey home; otherwise, without it, they are limited to 1/2 the floor area of everyone else. Without using Floor Area Ratio, someone wishing to maximize the size of building on their lot is limited to developing a three (3) storey box. Using floor area ratio they may have a building that is larger on the bottom and smaller on the top because they can build any shape they want provided to do not exceed the maximum coverage permitted by the FAR. They still have to respect the same setbacks as everyone else but better and more flexible designs are encouraged and permitted.

The foregoing are my remaining primary concerns from my original submission to staff. I apologize if there are any grammatical or typographical errors in this letter as I have not had long to prepare the information and I have other obligations to attend to."

**Public Comment  
Period**

Mayor Kent asked for a first time whether anyone wished to present their views about the proposed bylaw.

**Kevin Miller - Cygnet Place, North Cowichan, BC**

Mr. Miller stated that he owned property in the downtown area. He had questions about whether the two meter setback applied to the front and/or the exterior side of the lot. The Manager of Planning clarified that the two meter setback applied to the front or exterior side of the lot.

Mr. Miller requested information on whether all properties in the downtown core will require 50% of the parking requirements to be below grade. The Chief Administrative Officer explained that this is correct, all redevelopment in the area will be required to provide 50% of the required parking below grade. He went on to provide the rationale that currently parking in the downtown area is exempt entirely and the City is trying to transition to the highest best use of the land now that seven years of studying the ground water in this area has determined that underground parking is feasible.

Mr. Miller requested clarification on the restriction for downtown core properties whereby no new driveway access will be permitted on frontages of less than 40 metres, unless shared. The Manager of Planning explained the purpose for this restriction to reduce the number of vehicle sidewalk crossings in the downtown core area to improve pedestrian safety.

Mr. Miller asked whether below grade parking would be required for a single level commercial development in the downtown core. The Manager of Planning explained that in the downtown the ground floor is still exempt from parking requirements, any storeys above the ground floor would require parking, and there is a new minimum height of two storeys.

Mr. Miller stated that communication should have been sent out to business owners in the downtown stating that the zoning bylaw was being considered and to ask for input. The Manager of Planning clarified that information about the zoning bylaw was sent out in the City's newsletter, City website and PlaceSpeak, and that notice of the open houses was distributed through the Downtown Duncan Business Improvement Area Society and the Chamber of Commerce. Mr. Miller asked about the newsletter's distribution. The Director of Corporate Services explained that the newsletter is distributed to addresses within the City and that the

boundaries of the distribution routes are over 90% contiguous with the boundaries of the City.

Mr. Miller expressed support for the work that has been done to reduce the number of zones in the City; however, he felt that the minimum height requirements and the underground parking requirements is cost prohibitive for local business owners. He also asked for confirmation of the fees-in-lieu of parking, which he felt were reasonable until the minimum height requirements were proposed.

Councillor Michelle Bell arrived at the meeting at 5:45 pm.

Mr. Miller questioned why two downtown lots were being rezoned from C3 in the current zoning bylaw to Downtown Commercial in the proposed new zoning bylaw, which he felt would restrict the allowable uses on these lots. The Chief Administrative Officer clarified that C3 allowed uses that are no longer considered appropriate for the downtown core, such as car lots and gas stations, but that Downtown Commercial zoning allows for additional uses that were not previously permitted.

The Chief Administrative Officer made a final overarching comment regarding the intent of the additional restrictions on development in the downtown core included in the zoning bylaw. He said that the intention is to provide for additional density through the floor area ratio and encourage full utilization of the lots. In some cases that will mean that the smaller lots that currently have limited development capabilities will require consolidation or partnerships with neighbouring lots to facilitate developments.

Mr. Miller expressed his disapproval of being forced to consolidate or partner with neighbouring properties to develop any of the lots with 30 ft. of frontage.

The Mayor asked for a second time whether anyone wished to present their view about the proposed bylaw.

**Michael Kelly - Ypres Street, Duncan, BC**

Mr. Kelly is the president of a strata corporation on Ypres Street. He expressed support for the proposed zoning bylaw. He stated that there is a large vacant lot neighbouring the strata corporation property, which they are eager to see developed.

Mr. Kelly pointed out that there is a discrepancy between the number of storeys allowed in this zone as the text of the bylaw indicates a maximum height of five storeys and the zoning map indicates a maximum height of four storeys. Mr. Kelly would like certainty that any development that goes forward on this property will be no higher than six storeys.

The Mayor asked for a third and final time whether anyone wished to present their views on the proposed bylaw. There were no further submissions.

### **Adjournment**

#### **Adjournment**

The Mayor declared the Public Hearing for "Official Community Plan Amendment Bylaw No. 3172, 2017" and "Zoning Bylaw No. 3166, 2017" closed at 5:55 pm.

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Phil Kent, Mayor

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Paige MacWilliam, Director of Corporate Services



**From:** [Grant Clement](#)  
**To:** [Michelle Geneau](#); [Paige MacWilliam](#); [Duncan](#)  
**Subject:** DKIM violationNew Zoning Bylaw  
**Date:** September-13-17 2:56:12 PM

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Attn: City of Duncan

Re: Proposal to amend "Official Community Plan Bylaw No 2030,2007"  
Proposed new "Zoning Bylaw No 3166, 2017.

We feel these changes will better serve the needs of our community and environment. They are reasonable & well drafted. Having lived & worked the last several decades in Duncan we look forward to these amendments being adopted.

All the best  
Grant & Lynne Clement