

Report

Date September 12, 2023
Subject Zoning Bylaw Rewrite Process

File: SPP00082

PURPOSE

To introduce a proposed program and schedule for comprehensively updating Zoning Bylaw 2950.

BACKGROUND

The Municipality's Zoning Bylaw dates from 1997. It has undergone several amendments since then and is outdated in many respects. An attempt was made to replace the bylaw with a new zoning bylaw in 2018, but this ultimately did not progress. Instead, direction was given for an Official Community Plan (OCP) update to precede any wholesale zoning change.

The Municipality adopted its new OCP in August 2022, intending that the zoning bylaw would be subsequently rewritten to modernize, update and align specifically with the new land use policy directions articulated in the OCP.

DISCUSSION

A complete rewrite of a zoning bylaw is a momentous undertaking and potentially affects all properties. To keep the process manageable for Council, staff, and citizens alike, it is proposed to approach the bylaw update in a modular fashion, starting with the most "urgent" changes and working through a series of separate bylaw amendments, culminating in a "repeal and replace" with a new bylaw that incorporates all of the preceding amendments.

What is a Zoning Bylaw?

A zoning bylaw is the primary tool through which a local government enacts its land use policy. Zoning permits landowners certain development rights while preventing land use for other purposes that the Municipality may consider undesirable in that particular location (such as noxious industrial uses in residential areas).

Unlike OCPs, which are policy-based and contain nuanced language, zoning bylaws are regulatory bylaws that must be unambiguous. A fundamental principle of a zoning bylaw is that any property owner should be able to ascertain from the bylaw exactly what uses and development are (and are not) permitted on their parcel and under what conditions.

In law, a municipality can change the zoning of any parcel at any time. No owner is entitled to a particular zoning of their land or immune from zoning change, and this is an inherent risk associated with land ownership in B.C. However, there are certain statutory and negotiated protections for owners to be able to continue a former permitted use, which a subsequent zoning amendment has removed. No zoning bylaw can compel an owner to cease a use of land that was lawfully established or alter/remove a structure that was lawfully constructed under the terms of a previous zoning.

Why is Zoning Bylaw 2950 so outdated, and what might change?

The Zoning Bylaw is outdated in three primary ways:

- 1) The spatial zones applied on the zoning map reflect earlier OCPs and different land use policies. This creates problems when zoning either:
 - a. Permits uses and development in areas where such uses are no longer desirable (e.g., housing developments in rural unserved areas); or
 - b. Stifles development in areas where the Municipality wants to encourage more of a particular type of development (e.g., carriage houses, duplexes, etc. within neighbourhood areas)
- 2) Contains use definitions and general regulations that are vague or do not align with modern business models, technology or best practices.
- 3) Has been subject to so many amendments (approximately 280) that it is increasingly unwieldy and confusing to navigate.

The rewrite process will seek to address all the above issues in turn by presenting Council with options for zoning changes throughout a program of incremental amendments that:

- A. Remove inappropriate permitted uses and minimum lot sizes where uptake would be problematic (e.g., industrially zoned parcel in a residential area or comprehensive development zones in a rural area);
- B. Allow greater flexibility and intensity for uptake of small accessory dwelling units (both inside and outside of the Urban Containment Boundary);
- C. "Pre-zone" certain areas subject to density bonusing mechanisms or amenity contribution triggers and provide for a greater range of business/commercial activities;
- D. Update uses, definitions and other zoning provisions such as setbacks and height limitations to reflect modern-day reality and reduce arbitrary regulations that no longer have a strong purpose;
- E. Review and improve general provisions such as parking standards, home-based business provisions and yard setbacks, particularly where innovation and development may be being unnecessarily stifled or numerous uncontentious variance processes are being triggered;
- F. Update the Development Permit Guidelines for greater effectiveness, clarity and efficiency; and,
- G. Improve clarity, interpretation and formatting throughout.

Proposed Modular Approach

The table below sets out ten modules, each subject to its own amendment bylaw providing a package of changes. While intended to be sequential, these may overlap, and more than one amendment bylaw may be the subject of a public hearing. A suggested timeline for the progression of these modules, along with further details on each, is provided in Attachment 1.

| # | Module Name | Description |
|----|--|---|
| 1 | Legacy Zonings | <ul style="list-style-type: none"> Rezone individual sites where the current permitted <u>uses</u> are clearly contrary to OCP land use designations |
| 2 | Agriculture, Rural Commercial & Large Residential | <ul style="list-style-type: none"> Review agricultural permissions and uses Reorganization of agricultural/large lot residential zones and rezoning parcels as appropriate Creation of Rural Commercial zone(s) and application Expand accessory dwelling unit permissions |
| 3 | Limiting Rural Subdivisions | <ul style="list-style-type: none"> Increase minimum lot size of residentially zoned parcels outside UCB Rezone certain larger parcels to new rural zones, if appropriate Expand accessory dwelling unit permissions |
| 4 | Neighbourhood Zoning | <ul style="list-style-type: none"> Review of all parcels within "Neighbourhood" LUD and establishment of lower-density residential zones Review and update CD-zones Options for "pre-zoning" for ADUs, -plexes, rowhouses |
| 5 | Growth Centres, Commercial & Industrial sites | <ul style="list-style-type: none"> Review/create zones for higher density, mixed-use and growth centre commercial development, including pre-zoning and density bonusing provisions Review and update CD-zones Review zones/uses within other commercial and industrial areas (including outside of UCB) |
| 6 | Water Lots, Civic Sites & Miscellaneous Sites Clean-up | <ul style="list-style-type: none"> Align water lot zoning with OCP water use designations Review all civic sites and adjust zones if needed Address anomalies and oddities, including Crown Land, Railway parcels, misalignments, and indeterminately zoned sites |
| 7 | General Regulations | <ul style="list-style-type: none"> Review general provisions, e.g., Home Based Businesses, Parking Standards, Animal-Keeping, etc. Add, delete, and amend definitions as appropriate |
| 8 | DP Guidelines | <ul style="list-style-type: none"> Replace Schedule J with a new set of DP guidelines |
| 9 | Formatting, Repeal-and-Replace | <ul style="list-style-type: none"> Reformat the entire bylaw, add explanatory diagrams/illustrations OCP amendment to adjust LUDs + other changes Adjustments for any issues arising from earlier modules Repeal and replace with new zoning bylaw |
| 10 | Six-month review | <ul style="list-style-type: none"> Address any issues arising from the operation of the new bylaw |

Each module will be represented by a draft zoning amendment bylaw for Council's consideration. At this stage, Council is being asked only to endorse the proposed sequencing and schedule of work without prejudice to its eventual decisions on any of the contents of future amendment bylaws. Each amendment bylaw brought forward to Council will also be subject to legal review.

It is important to note that the OCP has already established the policy direction, whereas the zoning amendments give effect to that direction. The zoning bylaw review does not incorporate significant public engagement as it will not relitigate the pros and cons of the OCP's designations. Any desire to

revisit the OCP policy framework prompting the zoning amendments must be a separate OCP amendment process instigated by Council and involving more fulsome public input. However, there may be instances where competing options for zoning change implementing OCP direction would benefit from public input to help Council decide on a direction.

OPTIONS

- (1) **(Recommended Option)** THAT Committee of the Whole recommend that Council endorses in broad terms the proposed program, sequencing and timing of zoning amendment modules for staff to bring forward for consideration, as set out in Attachment 1 to the Planning Manager's September 12, 2023 report.
 - The resolution would provide some flexibility for staff to depart from the proposed program if other considerations, such as operational alignments or new provincial regulations, merit repackaging some amendments or bringing forward certain amendments in a different order. Any substantial departure from, or changes to, the program would be subject to a further Council report as necessary.
- (2) THAT Committee of the Whole direct staff to provide additional information and/or prepare an amended program for Council's consideration at a future meeting, incorporating ... *[changes or additional information to be identified by Council]*
 - Should Council identify alternative preferences or sequencing, staff would need an opportunity to consider all implications and prepare a revised work plan accordingly.

IMPLICATIONS

The potential implications for property owners from proposed zoning changes during the process will be explored fully within each component as it is brought forward. Endorsing the proposed schedule as per Attachment 1 will allow staff to bring forward draft amendment bylaws in the approximate order indicated, along with appropriate analyses and rationale.

This process may also include presenting Council with options for alternative approaches before committing to a particular direction in a bylaw. As with any bylaw, Council will be able to debate and elect either to proceed, to direct changes, or not to proceed with any of the zoning amendment bylaws or parts thereof. Council may also choose to provide further opportunities for input from the public or other groups on a particular amendment bylaw or issue additional to the statutory public hearing. Inserting additional steps may, however, extend the timeline of the process.

No significant financial implications are identified for the Municipality given that sufficient funds for this process have already been allocated, although there will be a considerable commitment of staff time in bringing forward options and bylaws as per the proposed schedule.

RECOMMENDATION


THAT Committee of the Whole recommend that Council endorses in broad terms the proposed program, sequencing and timing of zoning amendment modules for staff to bring forward for consideration, as set out in Attachment 1 to the Planning Manager's September 12, 2023 report.

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Attachments: Proposed Schedule of Zoning Amendment Modules