

Report

Date	August 17, 2022	File: 3360-20 20.11
Subject	Zoning Amendment Bylaw No. 3867 (Paddle Road) for second reading & add Public Hearing date	

PURPOSE

To consider amending Zoning Amendment Bylaw No. 3867, 2022 for Paddle Road to align the regulations within the proposed bylaw with Council's July 20, 2022 resolution regarding secured non-market housing units.

BACKGROUND

On July 20, 2022, Council gave second reading to Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), as amended (Attachment 1). The amendments included changes to maximum density (from 1.6 to 2.0 floor area ratio), maximum storeys (from 4 to 5), and maximum height (from 17m to 21.5m) in Area 5, and increased the number of dwelling units having residential rental tenure from 35 to 37.

Council subsequently resolved that:

1. no less than 50% of the total number of secured non-market housing units, (i.e. 50% of a total of 37 secured non-market units, which was itself based on 10% of the total estimated number of units (366) of the rezoning proposal), be provided within the first three phases of development (which requires further amendment to the bylaw); and,
2. no unit within the development be less than 350 square feet (32.5 square metres).

DISCUSSION

In response to Council's July 20, 2022 resolution, the following are provided:

1. Proponent's revised offer of Community Amenity Contributions (Attachment 2); and
2. Zoning Amendment Bylaw No. 3867 as further amended shown in red-line (Attachment 3).

An adjustment is required in the 'Conditions of Use' section of the draft CD22 Zone of Zoning Amendment Bylaw No. 3867 to align with Council's resolution. The draft CD22 Zone currently references the minimum required 37 dwelling units for 'residential rental tenancy' be provided in Areas 1 and 5, which is inconsistent with Council's resolution for 50% of the secured non-market rental units be provided *within the first three phases of development*. [Emphasis added].

For explanation, 80.22 9 (f) [Conditions of Use] as it is currently written prescribes:

"In Area 1 and/or Area 5, a minimum of 20% of all dwelling units (or 37 dwelling units, whichever is greater) shall have a form of tenure that is "residential rental tenancy".

The proposed development is not subject to a phased development agreement under Division 12 of the *Local Government Act*, and as such, the Municipality's ability to regulate *phasing* is limited. While the order of development on the site may be the same as the numerical sequence of the "Areas" of Schedule I-3 (proposed Bylaw No. 3867; Attachment 1), there is no guarantee that this is so. The *actual* sequence of development, that is, which Areas would constitute being "the first three phases" to be developed may equally well not necessarily conform to the numbering of Areas.

To achieve 'residential rental tenancy' units in "the first three phases", (i.e. at a point in time) as opposed to being confined spatially to Areas 1 and 5, it is necessary to remove the reference to "Areas 1 & 5". However, it is not legally possible to specify tenancy in this manner within the zone, absent of defined spatial areas or buildings in which to apply rental tenancy requirements as permitted by section 481.1 of the *Local Government Act*. Instead, the Housing Agreement yet to be drafted will need (to the extent that it is lawfully able) to respond to Council's direction regarding "phasing". A consequence of this is that the Housing Agreement is time-limited; therefore the rental housing component can no longer be secured in perpetuity as it would be if was contained within the zoning as per *Local Government Act* s.481.1.

Therefore, in the absence of a reasonable alternative, to realign the CD22 Zone with Council's July 20, 2022 resolution, staff recommend removing section 80.22 (9)(f) [Conditions of Use], including 'residential rental tenancy', from the Zone. This is represented by the following text deletion:

~~"In Area 1 and/or Area 5, a minimum of 20% of all dwelling units (or 37 dwelling units, whichever is greater) shall have a form of tenure that is "residential rental tenancy".~~

To realize Council's July 20, 2022 resolution with regards to a minimum residential unit floor area of 350 square feet (32.5 square metres), the following insertion is made following 80.22 (9)(e) [Conditions of Use]:

(f) No residential dwelling unit shall have a floor area less than 32.5 m².

Zoning Amendment Bylaw No. 3867 as further amended is shown in red-line in Attachment 3.

Housing Agreement & S.219 Covenant Agreement

In lieu of utilizing the proposed Zone to align with Council's July 20, 2022 resolution to manage the provision of non-market rental units within a phasing context, the Housing Agreement would be used to secure this together with details related to how and at which rates the minimum number of the non-market rental units would be provided.

Process

To effect amendments to the draft bylaw, Council is required to rescind second reading previously given to the bylaw, and re-read the bylaw following amendments incorporated by resolution. Additionally, staff request that Council authorize a Public Hearing on September 7, 2022.

Holding the public hearing on this additional date instead of the next regularly-scheduled public hearing date of September 21 at which the similar 'Drinkwater/Ford' rezoning proposal with associated bylaw (No. 3868) will appear would ensure these two similar proposals are

considered on different occasions. Holding separate Public Hearings on different dates for these two applications would reduce the potential for confusion between them and ensure that any land use concerns raised at the hearings are associated with the correct application.

OPTIONS

1. **(Recommended Option)** Amend Bylaw to align with July 20th resolution and schedule public hearing prior to the next regular public hearing date.
 1. THAT Council rescinds second reading of "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022";
 2. THAT Council amends "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" by removing:
 - a. section 2; and
 - b. subsection 80.22(9)(f) from section 4 and inserting "*No residential dwelling unit shall have a floor area less than 32.5 m²*" immediately following subsection 80.22(9)(e);
 3. THAT Council gives second reading of "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" as amended,
 4. THAT Council schedules a Public Hearing for "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" on September 7, 2022 and notification be issued in accordance with the *Local Government Act*.
2. Rescind July 20th resolutions and direct staff to proceed with public hearing on the next regular scheduled date.

THAT Council:

1. Rescinds its July 20, 2022 resolution "*that no less than half the non-market housing units be included in phases 1 to 3 for Zoning Amendment Bylaw No. 3867*";
2. Directs staff to proceed with providing notice that a public hearing be scheduled for "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" at the next regular scheduled public hearing date in accordance with the *Local Government Act*.

IMPLICATIONS

Should Council give second reading to Zoning Amendment Bylaw 3867 as amended to align with Council's resolution on July 20, 2022, notifications for Public Hearing in accordance of the *Local Government Act* would be issued.

Alternatively, if Council chooses to rescind its July 20, 2022 resolution having noted the consequences of proceeding with seeking a phased approach to the delivery of rental units, the proposed CD22 Zone (Bylaw No. 3867) would remain as given at the original second reading (or as amended by imposing a minimum floor area for residential units, should Council choose to retain this requirement). Specifically, the condition of use of 37 'residential rental tenure' units would apply to Areas 1 & 5 as indicated in the amendment bylaw in Attachment 1 together with the proponent's previously offered Community Amenity Contribution letter dated July 7, 2022 as presented at the original second reading, which stated:

"3. Minimum of 10% (37 units) to be rental units, with the following affordability breakdown: 7.5% below market (10% below market rates, 27 units, located in Building D); and 2.5% affordable per CMHC definition (9 units, located in Building A *[insertion by staff: using Housing Income Limits, BC Housing]*)" (July 7, 2022 Community Amenity Contributions Commitment LTR, author: B. Jury; Staff Report to Council July 20, 2022, Attachment 4).

Should Council authorize a Public Hearing for the 'Paddle Road' proposal (Bylaw No. 3867) on September 7, 2022, the 'Drinkwater/Ford' proposal (Bylaw No. 3868) would be considered on the regularly scheduled Public Hearing date of September 21, 2022. Scheduling separate Public Hearing dates would facilitate clarity such that residents could express any land use concerns they may have for each respective application on separate dates.

If Council does not authorize a Public Hearing on September 7, 2022, both rezoning proposals with associated bylaws (i.e., Bylaw 3867 'Paddle Road' & Bylaw 6868 'Drinkwater/Ford') would be held on September 21, 2022.

RECOMMENDATION

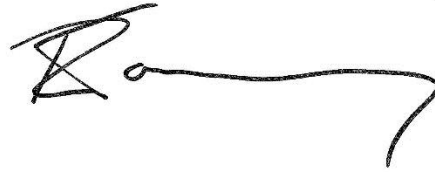
1. THAT Council rescinds second reading of "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022";
2. THAT Council amends "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" by removing:
 - a. section 2; and
 - b. subsection 80.22(9)(f) from section 4 and inserting "*No residential dwelling unit shall have a floor area less than 32.5 m²*" immediately following subsection 80.22(9)(e);
3. THAT Council gives second reading of "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" as amended,
4. THAT Council schedules a Public Hearing for "Zoning Amendment Bylaw No. 3867 (6478, 6494, 6493, 6489 Paddle Road from R1 & 6495 Paddle Road from CD10, to CD22), 2022" on September 7, 2022 and notification be issued in accordance with the *Local Government Act*.

Report prepared by:

Caroline von Schilling

Caroline von Schilling
Development Planner

Report reviewed by:



Rob Conway, MCIP, RPP
Director, Planning and Building

Approved to be forwarded to Council:



Ted Swabey
Chief Administrative Officer

Attachments:

- (1) Bylaw No. 3867 as at second reading
- (2) Proponent's revised Community Amenity Contributions, July 27, 2022
- (3) Bylaw No. 3867 with proposed amendments in redline