



THE CORPORATION OF THE DISTRICT OF SUMMERLAND **COUNCIL REPORT**

DATE: October 11, 2016
TO: Linda Tynan, Chief Administrative Officer
FROM: Ian McIntosh, Director of Development Services
SUBJECT: Delegation of Authority to Issue Environmentally Sensitive Development Permits and High Hazard Development Permits

STAFF RECOMMENDATION:

That Council pass the following resolution:

THAT "Official Community Plan Amendment (Environmentally Sensitive Development Permits, and High Hazard Development Permits) Bylaw No. 2016-036" be introduced and given first and second reading by title only;

AND THAT a Public Hearing be held on October 24, 2016 to receive public feedback on Bylaw No. 2016-036.

PURPOSE:

To consider delegating the authority for issuing Environmentally Sensitive Development Permits and High Hazard Development Permits to staff.

BACKGROUND and DISCUSSION:

The District has nine different development permit areas to guide development in a number of areas. These include:

- The Downtown Development Permit Area
 - This is a "form and character" development permit (DP) area to provide guidelines that help guide architectural design.
- Lower Town Development Permit Area
 - This is also a "form and character" DP area that provides guidelines more specific to a water front neighbourhood. It is intended to help guide architectural design, and inform waterfront appropriate design.
- Trout Creek Development Permit Area
 - This is a "form and character" DP area specific to commercial development along Highway 97 in the Trout Creek neighbourhood.
- Multiple Family Development Permit Area
 - This is a "form and character" DP for with guidelines to guide architectural design including parking and landscaping.
- Watercourse Development Permit Area
 - This area is designated to protect the natural environment adjacent to lakes and streams.

- Applications must include riparian assessment report from a qualified environmental professional.
 - Guidelines include satisfying the provincial riparian area regulations in the Local Government Act.
- Environmentally Sensitive Development Permit Area
 - This area is designated to protect the natural environment apart from areas adjacent to lakes and streams
 - Applications must include an environmental assessment from a registered professional biologist.
 - Guidelines include measures to protect environmental values
- High Hazard Development Permit Area
 - This area is designated to protect development from hazardous conditions. In Summerland this is to protect development from landslip hazards associated with the steep silt bluffs.
 - Applications must include a report from a Geotechnical Engineer
- Wildfire Hazard Development Permit Area
 - This area is designated to protect development from hazardous conditions. This DP area is specific to hazards associated with wildfire.
 - Applications generally include an assessment from a professional forester.
- Bentley Road Industrial Development Permit Area
 - This is a “form and character” DP including guidelines to guide architectural design including parking and landscaping.

Council can delegate authority to issue development permits to staff. DP's must satisfy the design guidelines described in the OCP for each development permit area. Some councils prefer to issue development permits for significant projects where “form and character” is an issue as these can be somewhat subjective. Some councils delegate authority for the more technical development permits where professional reports are required that certify a project's compliance with regulation.

In Summerland's case, authority has been delegated to staff to issue the following development permits:

- Downtown DP area provided the construction value is less than \$50,000.
 - This allows Council the authority to approve significant developments but allows staff to issue minor permits for colour changes, signage or other minor projects.
- Watercourse DP area
 - This allows staff to issue the DP once the project complies with the riparian regulations as certified by the qualified environmental professional (QEP)
- Wildfire Hazard DP area
 - This allows staff to issue the DP once the District's Fire Chief is satisfied the fire safety guidelines have been satisfied.

Council retains the authority to issue DP's in the

- Downtown DP area (>\$50,000)
- Lower Town DP area
- Trout Creek DP area
- Multiple Family DP area

- Environmentally Sensitive DP area
- High Hazard DP Area, and
- Bentley Road Industrial DP area

Council is an appeal body in situations where staff have been delegated the authority to issue development permits but will not issue a permit as they believe the guidelines have not been satisfied. Should this situation occur, an applicant can bring their DP application to Council for consideration.

There is value in having council the approving authority for “form and character” DP’s that include the Downtown DP area, Lower Town DP area, Trout Creek DP area and Bentley Road Industrial DP area. These guidelines are more subjective as they deal with architectural design elements and may affect neighbourhood character. Significant development projects must still come to council for approval before building permits are issued.

Council may wish to delegate the authority to issue more technical DP’s. These include the Watercourse DP area, High Hazard DP area, Environmentally Sensitive DP area and Wildfire Hazard DP area. Two of these approval areas have already been delegated to staff. In order to speed up the approval process, it may be warranted to delegate the authority to issue DP’s in the Environmentally Sensitive areas and/or High Hazard DP areas to staff as well.

Environmentally Sensitive DP areas

The design guidelines for the Environmentally Sensitive DP area require an Environmental Assessment (EA) from a Registered Professional Biologist. The EA must follow the Districts terms of reference. The guidelines essentially require that highly sensitive lands remain free of development, be protected during construction and that monitoring take place.

Recent Environmental DP’s that have been issued include:

- Woodbridge Subdivision on Nixon Rd
- Hunters Hill Subdivision on Bentley Rd
- Crush Pad restoration project on Garnet Valley Rd
- 17818 Matsu Dr subdivision

Pro’s

- Permits can be issued immediately upon receipt of the professional report that satisfies the design guidelines.
- Council can still provide an appeal function if staff do not believe the guidelines have been met and a permit should not be issued.
- The approval process moves more quickly as applicants do not have to wait for a council agenda.

Con’s

- Council will not see DP applications and may not be as aware of development activity.
- Council will not have the ability to determine whether the guidelines have been met unless staff refuse to issue a permit.

High Hazard DP areas

The design guidelines for the High Hazard DP area require a report from a qualified geotechnical engineer that includes a comprehensive review of the site and description of any soil stability hazard. Hazardous conditions must be mitigated and proposed developments must be deemed to be “safe”.

Recent High Hazard DP’s that have been issued include:

- 10001 Walters Rd subdivision
- 19273 Lakeshore Dr building permit
- 14409 Latimer Ave building permit

Pro’s

- Permits can be issued immediately upon receipt of the professional report that satisfies the design guidelines.
- Council can still provide an appeal function if staff do not believe the guidelines have been met and a permit should not be issued.
- Permits will be issued more quickly as applicants do not have to wait for a council agenda.

Con’s

- Council will not see DP applications and may not be as aware of development activity.
- Council will not have the ability to determine whether the guidelines have been met or not unless staff refuse to issue the permit.
- Issuance of these development permits may incur some liability, so Council may wish to retain approval authority.

This application has not been reviewed by Council’s Advisory Planning Commission. The amendment is not associated with a change in land use and is more to determine Council’s wish on internal approval processes.

Section 475 of the Local Government Act requires council to consider whether consultation on this OCP amendment is required with the RDOS, adjacent municipalities, first nations or other Provincial agencies or Federal agencies. Staff are suggesting the nature of this bylaw does not require consultation with these agencies. District staff are therefore satisfied that all appropriate consultation has taken place. The requirements of Section 475 - Consultation during OCP development of the Local Government Act have therefore been fulfilled.

The proposed bylaw amendment has been forwarded to the Okanagan Skaha School District 67 for consultation. The requirements of Section 476 – Planning of School Facilities have therefore been fulfilled.

The proposed bylaw amendment has been considered in conjunction with the District of Summerland’s financial plan and waste management plan. The requirements of Section 477 – Adoption procedures have therefore been fulfilled.

LEGISLATION and POLICY:

OCP Development Permit Sections

- 18.0 Downtown Development Permit Area (<\$50,000 delegated to staff)
- 19.0 Lower Town Development Permit Area
- 20.0 Trout Creek Development Permit Area
- 21.0 Multiple Family Development Permit Area

- 22.0 Watercourse Development Permit Areas (delegated to staff)
- 23.0 Environmentally Sensitive Development Permit Area
 - Policy 300.9 Environmental Assessment Reports – Terms of Reference
- 24.0 High Hazard Development Permit Area
- 25.0 Wildfire Hazard Development Permit Area (delegated to staff)
- 26.0 Bentley Road Industrial Development Permit Area

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this OCP amendment delegating DP approval authority.

CONCLUSION:

Issuance of development permits has limited discretion. Design guidelines noting criteria for permit issuance are described in the Official Community Plan. Approval authority for Watercourse DP's and Wildfire Hazard DP's have previously been delegated to staff. The guidelines for form and character development permit areas have greater discretion. Issuance approval for these permit areas may be appropriate to leave with Council.

Design guidelines for the High Hazard Development Permit areas and the Environmentally Sensitive Development Permit areas require assessments from qualified professionals. The guidelines for these permit areas specifically dictate the requirements that must be included in the professional reports. As the guidelines for these two DP areas are very prescriptive and include very little discretion, it is recommended that approval authority be delegated to staff. This will speed up the approval process in these two cases.

OPTIONS:

1. Move the motion as recommended by staff.
2. Refer back to staff for other options.

Respectfully Submitted,



Ian McIntosh
Director of Development Services

Approved for Agenda


Linda Tyrnan, CAO