
MEETING TYPE: Regular Council Meeting
MEETING DATE: March 19, 2024
AUTHOR: Jared Kassel, Director of Planning & Development
DEPARTMENT: Planning and Development
ITEM TITLE: Amendments to Official Community Plan (2018-2038) Bylaw 1065, 2018
DESCRIPTION: Amendments include expansion of DP Area exemptions, consolidate certain DP Areas, and clarification of OCP Terminology

PURPOSE

To update Council on the approval process improvements underway and seek Council's support to amend the Official Community Plan. These amendments would streamline the process by making changes to Definitions (Section 1), Environment and Sustainability (Section 3), Development Permit Areas (Section 21), and Development Approval Information (Section 22).

RECOMMENDATION

THAT OCP Amendment (DP Exemptions) Bylaw 1225, 2024 be read a first and second time;
AND THAT prior to Public Hearing, the required external consultation be conducted, in accordance with Sections 475 of the Local Government Act.

EXECUTIVE SUMMARY

The District of Lake Country has been experiencing a development boom over the past several years. The updating of development application processes has not kept up with the increased needs of the community, and as a result the organization has struggled to adjust to the complexity and volume of new development applications. Administration recognizes there is a need to streamline approvals through changes to the OCP, Zoning Bylaw and Development Approvals Procedures Bylaw.

Currently staff is working on the following tasks to achieve streamlining approvals:

- Working with the City of Kelowna planning staff for assistance in processing the backlog of current applications.
- Making changes to the Development Approvals Procedure Bylaw to delegate minor development variances and DP renewals to staff (subject to Council review and approval).
- Digitizing development processes through the implementation of Tempest/Prospero software program.
- Drafting amendments to the Zoning Bylaw and Development Approval Procedures Bylaw to implement the provincial housing legislation regarding Small-Scale Multi-Unity Housing (SSMUH).

With respect to the OCP and DP exemptions process, at the September 12, 2023 regular meeting Council resolved to no longer accept applications for discretionary site-specific Development Permit (DP) exemptions, as the discretionary nature that exemptions were being granted was deemed as unlawful under the Local Government Act. The Council resolution began the OCP amendment process with the goal of creating explicit (and non-discretionary) criteria in which development proposals could be evaluated to determine whether a DP exemption would be granted.

The current file backlog for planning applications would be affected by the OCP amendments as follows (numbers are as of March 4, 2024):

	Prior to OCP Amendments	After OCP Amendments
Reduction in DP Areas	14	11
Reduction in Number of Development Permits	52	31

Therefore the amendments would eliminate approximately 60% of the DP applications (from 52 current DP applications down to 31) from the current application backlog. Planning staff recognize that there will be indirect impacts of the OCP changes, including the need to provide direction to applicants regarding requirements for Section 219 covenants and staff review of qualified professional reports. However, DP exemptions will free-up staff time in Planning and also throughout the organization, and they are an important piece in streamlining development approvals. The outcome of these changes will allow resources to be dedicated towards better customer service and other meaningful community building projects.

The goal is to not substantially change the intent of the DP guidelines in the OCP, but to align DP exemptions with the legislated requirements of the Local Government Act, to expand the list of DP exemption criteria, and to consolidate 3 DP Areas for the purposes of streamlining DP approvals. These amendments are one piece of the puzzle in the quest to streamline development approvals, and to become more focused on customer service. The process to begin a full rewrite of the OCP is intended for later in 2024, and is anticipated to take a minimum of 2 years. In the interim, Planning staff has been working with internal departments to create a more integrated DP application process, and with legal counsel to ensure legislated legal requirements are being met.

APPLICABLE LEGISLATION, BYLAWS AND POLICIES

Local Government Act: Division 7 – Part 14 – Planning and Land Use Management is the principal legislation used in British Columbia to govern land use and the associated processes in a municipality. A number of “tools” available in the Act are described under separate headings. Sections 488 through 497 provide the authority and guidance for Development Permit Area designation, issuance and exemption. In particular, Section 490(2) states: “The authority under subsection (1) must be exercised only in accordance with the applicable guidelines specified under section 488 in an Official Community Plan or zoning bylaw.”

Community Charter: Section 15(1) provides the authority for a local government to establish a system of licenses, permits and approvals to support the land use planning authorities found mainly in Part 14 of the *Local Government Act*.

Official Community Plan: In the District of Lake Country, Development Permit Areas (DPAs) are designated in the OCP; the plan describes the special conditions and objectives that justify the designation. DPAs identify locations that need special treatment for certain purposes, including the protection of the natural environment, protection of development from hazards, establishing objectives for form and character, revitalization of an area or establishing objectives to promote energy conservation, water conservation or reduction of greenhouse gas emissions. Specifically, Section 21 of the OCP contains guidelines for how development proposed in a DPA can address the special conditions or objectives and situations where development is exempt from those requirements.

Zoning Bylaw: Zoning regulations are the principal tool is used to implement local government land use regulations. *Local Government Act* Section 488(3) provides the opportunity to establish DPA guidelines in a Zoning Bylaw.

Development Application Procedures Bylaw: In the Local Government Act, Section 460 requires that “a local government that has adopted an Official Community Plan bylaw or a Zoning bylaw must, by bylaw, define procedures under which an owner of land may apply” to amend the bylaw or for issuance of a permit in accordance with that plan or bylaw. Furthermore, specific types of information may be required to support the decision-making process, and the authority for requiring this information is located in *Local Government Act*, Part 14, Division 6 (Sections 484 through 487).

BACKGROUND

During the process to improve development applications, Planning staff have had meetings with a variety of external stakeholders from the development and building community over the past 2 years, including:

- three meetings with the Urban Development Institute (UDI).
- Builders Forums in 2022 & 2023 which included members the Canadian Home Builders Association – Central Okanagan (CHBA-CO).
- Planning staff meetings with board members from the CHBA-CO.
- Planning & Development Forums including private industry planners and developers.
- Multiple phone calls with executive members from the CHBA-CO

The agenda for all of these meetings included detailed discussions regarding the District’s development processes. Planning received important feedback on suggested improvements to the District’s regulations, and the amendments to the Development Approval Procedures (DAP) Bylaw that were approved by Council on May 16, 2023 were an outcome of these discussions. The suggestions brought forward in the OCP amending bylaw are also an outcome of these discussions with the development industry. It’s important to note that these OCP amendments primarily focus on Section 21 of the OCP, and do not effectively change the intent of the DP Guidelines in this section. 3 DP Areas have been consolidated into the 11 remaining areas, and all guidelines are effectively captured and maintained. Furthermore, the OCP amendments should be regarded as an interim step in process improvements; a full holistic review and rewrite of the OCP and associated bylaws is necessary to fully transition the District’s development framework into a productive and effective design.

In addition to the DAP amendments in May 2023, Planning staff have continued discussions both internally and externally with a variety of developers and local residents to improve the OCP. The regulatory content of the OCP has been a recurrent discussion item at the weekly Planning department meetings. Planned changes to the OCP began in earnest in September 2024 once Council resolved for staff to no longer accept applications for parcel-specific DP Exemptions.

The process of amending Lake Country’s OCP included reviewing other OCPs from neighboring municipalities for context and best practice. Staff-to-staff discussions with other Planning departments have occurred on several occasions and an opportunity has been identified to reduce the number of applications that need to be considered by Council and to create greater efficiency for assessing development applications DPs, as well as providing greater clarity with respect to permitted exemptions.

Important dates of past Council decisions regarding the OCP exemption project include:

July 2, 2019. Council adoption of Official Community Plan (2018-2038) Bylaw 1065, 2018.

September 12, 2023. It was moved and seconded by Council “THAT staff no longer accept applications for parcel-specific Development Permit Exemptions”.

December 7, 2023. It was moved and seconded by Council “THAT Staff be directed to begin formal consultation on an OCP Amendment Bylaw to expand the exemptions applicable to Development Permit Areas, and consolidate certain DP Areas”.

DISCUSSION/ANALYSIS

The process of expanding the DP exemptions applicable to DP areas, and the consolidation of certain DP areas was undertaken in partnership with legal counsel for the District. The bulk of this work happened over 3 months, and the project scope focused on *Section 21 – DP Areas*, *Section 22 – Development Approval Information Areas*, and the addition of a *Schedule ‘A’* to the bylaw, which identifies universal conditions that describe exemptions from all DP Areas.

Changes to Definitions and Environment and Sustainability Chapters of OCP (Section 1 and 3)

The proposed OCP amendments add a *Farm Use* definition to the OCP. This addition insures clarity in the use of this term, and also consistency with the Agricultural Land Commission Act.

The amendments also propose textual changes to Section 3 of the OCP, by deleting references to the Hillside DP Area, which align with other changes proposed to Section 21 of the OCP.

Changes to General Exemptions of the OCP (Section 21.3)

The OCP provides for general conditions that apply to all parcels of land where DP exemptions may apply. These proposed sub-sections (21.3.1 through to 21.3.4) will be entirely new to the OCP. The current OCP provides for an imprecise (and unlawful) use of DP exemptions that are to be reviewed on a site-specific basis, and for “unique circumstances where a parcel should be considered for an exemption but does not meet the exemption criteria listed”. In contrast, the proposed changes now list overarching circumstances for DP exemptions regarding subdivision, land alteration, construction and some additional general conditions.

The list of overarching DP exemptions for **subdivision** include boundary adjustments, when 3 (or less) additional lots are being created, as well as for the purposes of road widening, air parcel or building stratification.

The list of overarching exemptions for **land alteration** include such activities as:

- landscape maintenance;
- the removal of invasive species or hazardous trees (provided that a report is submitted by a qualified professional);
- land alteration (without construction of an engineered structure) for the restoration of environmental features;
- establishing trails along the foreshore of a lake as long as they are for pedestrians (and not vehicles), have a permeable surface and do not require the construction of retaining walls; and,
- Driveways that have received an Access Permit from the District, and are less than 10 meters long and maximum 4 meters wide will also be exempt from a DP.

The list of overarching exemptions for **construction** include:

- internal alterations to buildings where the parking or landscaping requirements are being increased;
- external alterations (except for the Town Center DPA);
- replacement or repair of buildings that were damaged or destroyed by a natural disaster and where the building envelop is in an identical or similar location (if the building is within the Wildfire DPA a covenant must be registered on title confirming adherence to BC Firesmart Guidelines);
- the addition or alteration of farm buildings in an agricultural zone;
- the construction of swimming pools, sheds, decks, pergolas, utility buildings and accessory structures less than 90 m² (except in the Town Center DPA or 30m of a watercourse in the Natural Environment DPA);
- the placement of temporary structures (except in the Town Center DPA or within 30m of a watercourse in the Natural Environment DPA); and,
- for the replacement of manufactured homes in a manufactured home community.

Additional **general conditions** for DP exemption are also listed in the OCP, including:

- for the construction, repair or maintenance of buildings and works & services by the District or Province of B.C. on highway rights-of-way;
- normal farm practice activities (as defined by the Right to Farm Act) on property in the ALR or zoned for agriculture use;
- emergency activities to mitigate against natural disasters; and,
- the construction or repair of buildings on federal land, or federally-regulated telecommunications towers under 20 meters in height.

Changes to DP Area – Specific Exemptions of the OCP (Sections 21.4 to 21.14)

Textual updates to the OCP include the addition of *Farm Use* (as defined by the Agricultural Land Commission Act) and updating Section 21.2 (Development Permit Requirements) to include provisions for Landscaping Deposits to reflect language that is legally accurate.

Important changes to the **Agricultural DP Area** include exemptions to properties that already have, or will have, a naturally occurring or previously installed Landscape Buffer, and a Section 219 covenant that legally secures ongoing maintenance of that buffer. Furthermore, proposed development that is exclusively agriculture or a protected farm use under the ALC Act, or that doesn't include dwelling units that are within 50 meters of the ALR boundary, are also exempt from a DP.

The main exemption changes to the **Multiple-Unit DP Area, Town Center DP Area and the Industrial DP Area** have been expanded to include the subdivision of land (including lot consolidations), the proposed development is exclusively non-residential or includes less than 4 dwelling units, that external additions/alterations to an existing building are valued at less than \$200,000, and that additions are less than 25% of the floor area to a maximum of 200 sq. meters.

Similar to Multi-Unit and Town Center DPA's, **Commercial DP Area** exemptions include for the subdivision of land (including lot consolidations), the proposed development is exclusively non-residential or includes less than 4 dwelling units, that external additions/alterations to an existing building are valued at less than \$200,000, and that additions are less than 25% of the floor area to a maximum of 200 sq. meters. A Commercial DPA exemptions will apply to development that is exclusively non-commercial.

For the purpose of increasing efficiency in development approvals, these OCP amendments propose to consolidate the Agri-Tourism DP guidelines into the Commercial DP Area so that all of the guidelines can still be maintained on properties that are proposing Agri-tourism development. The **Agri-Tourism DP Area** would subsequently be deleted.

The main exemption changes to the **Natural Environment DP Area** includes that an exemption can be granted if a Conservation Covenant has been registered on a property with restrictions and requirements that accomplish the objectives of the DP Area, as confirmed by a technical report written by a qualified professional, and includes an indemnity to the benefit of the District. A DP exemption would also be granted where there is subdivision of land that either the subdivision is not occurring in the natural environment boundary, or where the natural environment is protected through dedication of a Section 219 covenant.

For the purpose of increasing efficiency in development approvals, the amendments propose to delete the **Hillside DP Area** guidelines in its entirety. The main justification for this change is to recognize that the technical objectives of the regulations are largely included in the Stability, Erosion and Drainage Hazard DP Area guidelines, as well as the Zoning Bylaw and Subdivision and Development Servicing Bylaw, and therefore the guidelines listed in the Hillside DP Area are unnecessary and add an excess of requirements to development applications.

The main exemption changes to the **Stability, Erosion & Drainage DP Area** have been expanded to include additions to buildings that are less than 25% of the existing floor area, lot consolidations and subdivisions that have a valid DP, when all grades within 15 meters of a disturbed area do not exceed 20%, and for construction/addition of a building that is outside of the DP Area (as determined by District staff).

The main exemption changes to the **Wildfire DP Area** includes that an exemption can be granted if removal of trees is in accordance with the Wildland Fire DP Area guidelines and FireSmart BC, if new construction/alteration of buildings has a registered covenant ensuring development aligns with the Wildland Fire DP Area guidelines and FireSmart BC, and includes an indemnity to the benefit of the District.

Changes to Development Approval Information Areas of the OCP (Section 22)

This section designates all DP Areas as development approval information areas, and does so in accordance with the legal requirements of the Local Government Act. These amendments legally enable the municipality to request technical information reports for the purpose of assessing impacts to protect people, property, infrastructure and the environment.

IMPACT ON INFRASTRUCTURE, SERVICES AND STAFF CAPACITY

- **Impact on Infrastructure and Other Municipal Services**

Realignment of application processes is not expected to have any direct impact on infrastructure or other municipal services.

- **Impact on Staff Capacity and Financial Resources (Cost/Benefit Analysis)**

A reduction in the number of DP Areas from 14 to 11, as well as expanding the DP exemption criteria, will eliminate approximately 60 % of the DP applications from the list currently in queue. In real numbers, this is about 31 applications from the current list of 52 (as of the end of February 2024). Planning staff will still need to provide direction to applicants regarding requirements for Section 219 covenants, and staff review of qualified professional reports. However, DP exemptions will free-up considerable staff time in Planning and also throughout the organization, and allow resources to be dedicated towards better customer service and other meaningful community building projects.

FINANCIAL IMPLICATIONS

☐ None ☐ Budget Previously Approved ☐ Other (see below)

Changes to the OCP that affect Development Permit Areas and Development Approval Information is not anticipated to have any direct budgetary implications other than a reduction in the need for staff resources to process associated Development Permit applications.

CONSULTATION (Internal referrals, External Agencies, Committees, Stakeholders)

During the scoping stage of these OCP amendments, Planning staff held various discussions with the Urban Development Institute (UDI), the Canadian Home Builders Association – Central Okanagan (CHBA-CO), individual industry planners and developers. Legal counsel was also consulted during the drafting of the OCP amendments.

Sections 475 and 476 of the Local Government Act describes the required consultation with persons, organizations and authorities that may be affected by the amendments. Prior to holding a Public Hearing, the District will consult with:

- Okanagan Indian Band;
- School District #23;
- Ministry of Transportation and Infrastructure;
- City of Kelowna and City of Vernon;
- Regional District of Central Okanagan;
- Ministry of Environment and Climate Change Strategy.

COMMUNICATIONS (if applicable)

Furthermore prior to holding the Public Hearing, a public Open House will be scheduled at the District of Lake Country Municipal Hall.

ALIGNMENT WITH COUNCIL STRATEGIC PRIORITIES

- ☐ Create and Support Opportunities for a Healthy, Active and Inclusive Community
- ☐ Create Infrastructure That Meets Community Needs
- ☐ Encourage Growth of the Downtown Core
- ☐ Ensure Sustainable Water Service Delivery for the Community
- ☒ Explore Opportunities to Engage With Regional Local Governments for the Betterment of the Community
- ☐ Honour Reconciliation by Strengthening Relationships and Inclusiveness With Our Indigenous Partners
- ☒ Identify and support improvements to the Development Process
- ☐ Implement the Agricultural Plan
- ☐ Preserve, Protect and Enhance Our Natural Environment
- ☐ Secure long term wastewater service delivery for our community

☐ Support Opportunities to Diversify Lake Country's Tax Base

ALIGNMENT WITH MASTER PLANS

- | | |
|--|--|
| <input type="checkbox"/> Agricultural Plan | <input checked="" type="checkbox"/> Official Community Plan |
| <input type="checkbox"/> Climate Action Charter | <input type="checkbox"/> Parks & Recreation Master Plan 2019 |
| <input checked="" type="checkbox"/> Housing Needs Report | <input type="checkbox"/> Sanitary Sewer System Map |
| <input type="checkbox"/> Liquid Waste Management Plan Stage 1/2 Report | <input type="checkbox"/> Transit Future Plan-Central Okanagan Region-DRAFT |
| <input type="checkbox"/> McCoubrey Plateau Area Structure Plan | <input type="checkbox"/> Transportation for Tomorrow |
| <input type="checkbox"/> Mobility Master Plan | <input type="checkbox"/> Water Master Plan |

OPTIONS

The following options are presented for Council's consideration:

- A. THAT Official Community Plan Amendment be read a first and second time;
AND THAT prior to Public Hearing, the required external consultation be conducted, in accordance with Sections 475 of the Local Government Act.
- B. THAT Official Community Plan Amendment not be read a first and second time;
- C. THAT Official Community Plan Amendment be deferred pending additional information as identified by Council.

Collaborators:

Name	Date Reviewed
Matthew Salmon, Director of Engineering	January 2024
Brian Zurek, Manager of Planning	February 2024
Steven Gubbels, Manager of Development	December 2023

Respectfully Submitted,
Jared Kassel, Director of Planning & Development

Report Approval Details

Document Title:	Official Community Plan Amendments - DP Areas.docx
Attachments:	- Attachment A-OCP Amendment (DP Exemptions) Bylaw 1225, 2024.docx
Final Approval Date:	Mar 14, 2024

This report and all of its attachments were approved and signed as outlined below:

Reyna Seabrook, Director of Corporate Services - Mar 11, 2024 - 12:44 PM

Paul Gipps, Chief Administrative Officer - Mar 14, 2024 - 2:55 PM