

Proposed Bylaw 2014-18 amendment to Land Use Bylaw 20-2009

Introduction:

Proposed Bylaw 2014-18 is a Land Use Bylaw amendment to amend Sec. 9 Direct Control by adding Section 9.7 Osprey Bay Direct Control District to allow for the accommodation, maintenance, alteration, replacement and repair of the existing eight (8) dwelling units on these two (2) properties.

Facts (Background Information):

Pt. NW-16-53-5-W5M (The Westerly Parcel) 2.84ha (7.03ac):

In 1989 the Land Use Bylaw districted these lands as part of a recreation district. A development permit application for a recreation park requesting three (3) dwelling units on the subject land was submitted to the County. Development permit 80-D-89 was issued by the County approving a maximum of three (3) dwelling units only.

The previous zoning on the property allowed the residents to acquire permits for the three (3) existing dwellings on the property. The current land use bylaw has zoning this property at CR-County Residential District that allows only a single dwelling unit on a parcel in accordance with Land use Bylaw 20-2009 section 11.4 Dwelling units on a parcel. Therefore the additional dwellings on the property are currently deemed as legal non-conforming.

A development permit for the replacement of an existing dwelling on this property was approved in 2007 under development permit 07-D-302. The land use bylaw at the time of this application districted that land as County residential core district. The development officer on file was of the opinion that the original development permit 80-D-89 allowed for the replacement of a dwelling unit. Administrations opinion on this matter no longer reflects or supports this previous decision.

Plan 9022292 Lot 1 (The Easterly Parcel) 1.09ha (2.69ac):

In 1989 the Land Use Bylaw districted these lands as part of a recreation district. A development permit application for a recreation park requesting seven (7) dwelling units on the subject land was submitted to the County. Development permit 77-D-89 was issued approving a maximum of five (5) dwelling units only.

The previous zoning on the property allowed the residents to acquire permits for the five (5) existing dwellings on the property. The current land use bylaw has zoning this property at CR-County Residential District that allows only a single dwelling unit on a parcel in accordance with Land use Bylaw 20-2009 section 11.4 Dwelling units on a parcel. Therefore the additional dwellings on the property are currently deemed as legal non-conforming.

There is an existing two (2) story garage, which contains a secondary suite, on the eastern side of the parcel that was constructed in 2009 without the required building permits. The owner of the building is currently in the process of acquiring Building and Safety Code approval for the “as-built” structure.

A development permit application was received in May, 2013 for an addition to an existing cabin. This application was not accepted as the development (and specifically the subject home) is currently deemed legal non-conforming.

Access:

This development is accessed from a private CN crossing and private road off of Range Road 202. The crossing agreement from CN rail was entered into in July of 1988 with the two (2) property.

Wabamun Floodplain:

The majority of the subject lands and the existing buildings fall within the 1:100 year Wabamun Floodplain. Any new development approved by Parkland County in the future will be required to be constructed with a finished floor elevation equal to or exceeding 726.17m ASL (above sea level).

Outline Plan:

As this application is limited to the consideration of existing development on two properties Administration is of the opinion that an Outline Plan is not necessary as part of this rezoning application. Should the property owners choose to prepare a subdivision application at a later date an Outline Plan would be required in conjunction with such an application.

Administration recommends the following amendment to allow for the accommodation, maintenance, alteration, replacement and repair of the existing eight (8) dwelling units location on the subject lands:

-
1. That Map 5 of Bylaw No. 20-2009, and amendments thereto, being the Parkland County Land Use Bylaw No. 20-2009 is amended by:
 - (a) Redistricting approximately 3.93 ha (9.72 ac) of land within W5-05-53-16-NW (Linc Numbers 0010 392 272 and 0014 768 303) from the CR - County Residential District to DC - Direct Control District 6 as shown on Schedule "A", attached to and forming part of this Bylaw;
 - (b) Adding Schedule 7 Osprey Bay Direct Control District Map to Land Use Bylaw No. 20-2009 as shown on Schedule "B", attached to and forming part of this Bylaw; and
 - (c) Adding the following Direct Control District Regulations to Section 9 DIRECT CONTROL::

9.7 Osprey Bay Direct Control District Regulations (DC Area 6)

1. All land uses south of the railroad within the Pt. W5-05-53-16-NW Direct Control District, as shown as DC Area 6 on the Land Use Bylaw Map are deemed to be Discretionary Uses and will only be allowed by the Development Authority or the Council after it is determined that the proposed use is suitable and meets the following guidelines for development.
 - a) Residential
 - (i) The purpose of this district is to allow for the accommodation, maintenance, alteration, replacement and repair of the existing eight (8) dwelling units.
 - (1) Three (3) dwelling units on Roll No 2840000; and
 - (2) Five (5) dwelling units on Roll No 2840004.
 - (ii) Single detached dwellings may be considered by Council on a discretionary basis subject to the following:
 - (1) The subject development is confirmed, to the satisfaction of Council, to be located outside of the Wabamun flood plain area as per section 10.2 of this Bylaw.

- (2) The subject development is replacing a demolished structure or adding over 10% of the building footprint to an existing structure.
 - (3) Developments which are not replacing a demolished structure or adding to an existing structure will be subject to the parcel density requirement of one (1) dwelling unit per parcel.
- (iii) Accessory buildings and additions may be considered by the Development Authority on a discretionary basis subject to the following:
 - (1) The accessory building is less than 54m² (581ft²).
 - (2) The subject development is an addition to an existing dwelling that is less than 10% of the building footprint of the structure.
- (iv) Developments may be required to provide the following mitigative measures to render them suitable to the satisfaction of the Development Authority or Council:
 - (1) setbacks from steep slopes should be adequate to ensure avoidance of subsidence;
 - (2) tree cover should be maintained, although “view windows” may be cut at strategic locations to afford views of Lake Wabamun.
 - (3) geotechnical reports and other data to ensure that any proposed development can be adequately serviced.

2. Subdivision

Notwithstanding 1.a)(i) of this district, subdivision may be considered by Council on a discretionary basis subject to the following:

- a) Initial subdivision within this district will be allowed only when there is a district wide application. Subdivision for this district will consist of Condominium lots to accommodate single detached dwellings, private access thereto, and public or common areas.
- b) Parcel Area Requirement (for purposes of new parcel creation only)
 - (i) For all uses, the minimum and maximum parcel area requirements shall be determined by Council.
- c) Parcel Density Requirement (for purposes of new parcel creation only)
 - (i) The maximum parcel density requirements shall be one (1) dwelling unit per Condominium parcel.

3. Development

- a) Each application will be assessed on its individual merits recognizing that the integrity of the entire area must be protected, and that all uses are discretionary.
- b) Setbacks for Parcels
 - (i) For all uses the minimum building setback requirement shall be determined by the Development Authority or Council.
- c) Safety Codes
 - (i) Due to the proximity of buildings within the Pt. NW 16-53-5-W5M District additional safety codes requirements may be necessary in order to meet the intent of the Alberta Safety Codes Act.
- d) Parcel Coverage

- (i) Building(s) shall not cover more than 65% of any subdivided Condominium unit.

4. Other Development Regulations

- a) Accessory buildings shall have a building footprint that is less than 175m² (1884ft²).
- b) A minimum of 10% of the gross Condominium parcel area shall be set aside for common space recreation area and no portion of any Individual Condominium unit shall be included in this common space dedication.
- c) Development of land within a Condominium parcel shall be considered the same as the development of land within a fee simple subdivision, with each unit of land treated as an individual parcel.
- d) Development within a Condominium shall be subject to all of the provisions of this district unless otherwise determined through a negotiated Development Agreement with the County.
- e) As this district is located within an area defined as environmentally significant in the *Environmental Conservation Plan* a biophysical assessment shall be required for any proposed subdivision.
 - (i) The biophysical assessment shall identify and evaluate the environmental significance and sensitivity of existing vegetation, wetlands, other water features, wildlife habitat and unique physical features, and shall recommend appropriate measures for protecting significant features.
- f) All new uses, and/or redevelopment, shall be subject to the appropriate provisions and requirements contained within PART 3 – DEVELOPMENT REGULATIONS.

Without the proposed amendment – property owners within the subject properties will not be able to make applications for intensification, or redevelopment, of any of the eight homes situated on the two subject properties.

Alternatives:

- 1) Council could table Bylaw No. 2014-18 and request additional information from Administration, the Applicants; or
- 2) Upon closing the Public Hearing, Council could defeat Bylaw No. 2014-18 at second reading; or
- 3) Council could close the Public Hearing and give second reading, but defer third reading to a later date; or
- 4) Council could close the Public Hearing and give second and third reading.

Conclusion/Summary:

Administration supports the proposed amendment to Land Use Bylaw 20-2009.

AUTHOR: _____ Deanna Cambridge **Department:** _____ Planning and Development

Date written: _____ April 24, 2014