

RE: Lot Grading Policy (C-PD17) & Surface Drainage and Lot Grading Bylaw (Bylaw 2023-02)

Responses Drafted Following March 7, 2023, Presentation to Governance and Priorities Committee. The items have been grouped into themes to help follow the discussion.

Responses highlighted in Blue

– responses provided during March 7 GPC meeting.

Responses highlighted in Green

– supplementary information or improved response information following the March 7 GPC meeting.

1. Enforcement:

- a. *(C. Kobasiuk) What authority do we have as far as enforcement? Do the provincial regulatory processes get enforced by Parkland County? What is the bigger picture of Parkland County's role when it comes to enforcement?*
 - i. Parkland County does not enforce Provincial regulations. The County takes measures to comply with regulations through development approvals.
 - ii. For all identified incidents/conflicts/non-compliant activity, Parkland County does flag these and communicates them to Alberta Environment and Parks (AEP) and then tracks them through the Agriculture Services Division – Community and Sustainability team.
 - iii. Authority/responsibility is convoluted. An identified action item in the Storm Water Master Plan is to complete a matrix of task and responsibility with identification of who has the approval/authority to act on the regulatory process. Development of this matrix is expected to be a short-term action item as identified in the Storm Water Master Plan – Section 9.0 Prioritization and Implementation Strategy. The suggested matrix should be discussed and confirmed with AEP to reaffirm support and maintain relationships.
- b. *(C. Kobasiuk) How would the County be able to enforce the regulations?*
 - i. Administration has an obligation to approve plans and development, to protect the public and the environment, to manage our stormwater at the municipal level. We set in place bylaws and policy that are compliant with the regulations and have a responsibility to make decisions that are in alignment.
- c. *(C. Kobasiuk) How do we enforce regulations without authority?*
 - i. We apply conditions as outlined within our development processes, bylaws, and policies, but are limited with any actions outside our responsibility.
 - ii. If there is a Water Act infraction, the County is limited to notification only to AEP and to seek their attention on the matter. As mentioned above, Administration tracks infractions that we are made aware of or become aware of within the Agriculture Services Division – Community and Sustainability team. When an infraction is identified, Administration logs that non-compliant activity and informs/ coordinates with AEP seeking their resolution of the matter within their regulatory authority.
- d. *(C. Kowalski) What happens with existing/established subdivisions/developments where their lot level is not where it was at initial development. Will a permit be required or remediation?*
 - i. The Lot Grading Policy process is not intended nor directed towards the existing developments but for the new applications where a proactive lot grading process will help reduce the number of long-term drainage and grading concerns.

- ii. This was one of the driving impetuses of the Surface Drainage and Lot Grading Bylaw. The Bylaw will help support enforcement and Administration on cases such as this, where there has been non-compliant activity take place within the County that has caused negative impacts to the existing drainage. This Bylaw will support enforcement to request remediation efforts on behalf of the non-compliant/accountable party.
- iii. We will still have historical challenges to develop strategies around but going forward, this bylaw and policy will improve future state and conditions.

2. Grammar/Amendments:

- a. *(C. Wiedeman) CAO or designate, does this need to be addressed throughout?*
 - i. Under the definition as it identifies the designation, our understanding is that implies that anywhere it states CAO, CAO refers to the definition and the definition states CAO or designate.
- b. *(C. Wiedeman) Do we know what constitutes a Development Permit?*
 - i. The Land Use Bylaw defines "Development" as (a) an excavation or stockpile and the creation of them; or (b) a building or an addition to or replacement or repair of a building and the construction or placing of any of them in, on, over or under land; or (c) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or (d) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.
 - ii. That "change of use of land" is identified as the existing drainage of that land being impacted or affected.
- c. *(C. Kowalski) Part 3 of Bylaw, "reasonable notice" can this be defined better (suggestion by Wiedeman to be 24hrs).*
 - i. Section 10 of Bylaw 2023-02, "Reasonable notice has been / will be changed to, "24 hours' notice".
- d. *(C. Kowalski) Section #15, "continuing nature" can this be defined better (is it one day, two days, etc.)*
 - i. After confirming the above grammar with Enforcement Services, Administration has decided to not make any changes. It was felt that the grammar used is in alignment with other County Bylaws and Enforcement procedures. The words continuing nature are recognized as industry terminology and there was no need to define it further.
 - ii. The terms continuing nature allow Enforcement Services to apply violation tickets for any day following the initial issued violation ticket, that the offence is still outstanding.
 - iii. The process that Enforcement Services has adopted, is to seek out and identify alternative corrective means prior to pursuing additional tickets which could ultimately lead to a presence in court. The alternative means are to support fixing the problem instead of issuing tickets. This could be to direct the non-compliant individual to a development permit application and to work with Parkland County Administration in seeking proper permit approvals.

- e. *(C. Kowalski) Section #22, "sole discretion" can we add, and or upon advisement from CAO or Subject Matter Experts?*
- i. Administration will incorporate this recommendation to provide additional context.
 - ii. Enforcement Services has confirmed this is one of their existing mandates /procedures; is to seek expert advice where advice is required. A lot of times these subject matter experts are expected to be expert witnesses if a case goes to court.
 - iii. This grammar is in alignment with other County Bylaws. Enforcement Services has indicated there are frequent times when their services are abused by malicious acts from residents looking to get back at someone. If the complaint is directed to Enforcement Services they are typically first to respond and able to use their judgement if the complainant reasoning is justified or not, thus the term, "sole discretion", as it relates to drainage and lot grading concerns. Where the complainant is justified by their concerns, the Officer has the resources available to them to bring in subject matter experts where applicable.
- f. *(C. Kowalski) Can we incorporate the Jody's presentation preamble about the intention of these legislative documents?*
- i. Administration preamble ahead of primary report: the Bylaw and Policy were created "to provide the means and direction to administration to communicate to our residents consistently and effectively and to take care of our (Parkland County's) interests as well as the public interest. It is not intended to direct and control landowners in how they use their own properties, but rather a means to guide and direct practices during alterations of someone's lands in a meaningful way that does not create disruption to adjacent neighbours or adjacent properties. So, if you are on your lands and someone next to you wants to develop, that they develop in a way or fashion that doesn't disrupt your piece of property".
 - ii. As the formatting and layout of the template Bylaw does not allow for a preamble section, Administration has not included it, but will look to reinforce/reiterate this understanding for all public consultations and communications moving forward and has been included in the Public Engagement Plan.

3. Process:

- a. *(C. Wiedeman) How restrictive is the Bylaw going to be with regards to development (in some circumstances Administration will not require a Lot Grading Plan)? Do we allow hand drawn sketches for grading plan (instead of using Engineer)?*
- i. We do not want hand drawn sketches that have not been verified (authenticated) by an Engineer (with a permit to Practice in the Province of Alberta) or Alberta Land Surveyor (ALS). An authenticated plan provides the level of professionalism that is necessary to ensure the grades provided and established can be trusted. The alternative is to have the County go out and verify with our own survey team. This would create additional delays and expenses and currently, Administration does not have adequate resources to comply with this follow up activity for all Development Permits.

- b. *(C. Birnie) These Grading Plans are for "Development", what if someone wants to do some landscaping?*
 - i. We will require a Lot Grading Plan as it applies to Development as outlined in the Land Use Bylaw (anything that is going through the Subdivision or Development Permit process).
 - ii. As per the Land Use Bylaw, Section 16(4), specific landscaping activities are exempt from the Development Permit process, thus not requiring a Development Permit (i.e. Lot Grading Plan).
- c. *(C. Kobasiuk) Have you had this difficulty outside of multi-parcel subdivisions, is it unique to specific areas?*
 - i. "The short answer is yes", we have had this in all types of areas.
 - ii. Administration is attempting to put forward a proactive approach with the development processes. We are trying to set people up for success with their development to ensure adjacent landowners are not impacted by drainage impacts that they did not create or have prior to development activity.
- d. *(C. Hoefsloot) I don't think this should apply to farmers and Agriculture producers. Can we have two separate Bylaws or can we just exclude the farmers? The farmer who wants to build a machine shed is not going to build it so that water is running into their machine shed. Concerned about more regulation for farmers.*
 - i. As per Land Use Bylaw - Section 16.2, agricultural users are exempt from submitting Development Permits for agricultural purposes. In an indirect manner, the Lot Grading and Drainage Bylaw will not apply as they do not need a Development Permit.
- e. *(C. Hoefsloot) I don't feel quarter sections should have to submit grading plans.*
 - i. If the quarter section is classified as agricultural then based on the Land Use Bylaw, Section 16, there are a number of exemptions that would allow a full quarter section to complete work granted they meet the criteria outlined in the Land Use Bylaw.
 - ii. As we cannot predict where significant development (i.e., Trestle Creek, Trans Alta, etc.) are going to develop in the future, there is the need to ensure drainage and grading is completed in a regulated and coordinated manner so as not to negatively impact the existing drainage but also to properly review and accept future opportunities.
 - iii. Agricultural lands have historically not been in the majority of the concerns received by the County and that is why the Land Use Bylaw has captured agricultural development exceptions (LUB, Section 16.2).
 - iv. Administration's drainage staff have confirmed that a majority of their concerned calls come from the Country residential subdivisions, as farmers tend to understand the historical fluctuations with storm water and are typically more resourceful and responsive in managing drainage.
 - v. All subdivisions are to be in place for centuries to come and so having that baseline snapshot of the existing drainage (lot grading plan or plot plan) and how drainage currently works and operates is prudent information for dealing with future subdivisions, developments and drainage issues related to changing climate or non-compliant activities.

- f. *(M. Gamble) Can the proposed Bylaw and Policy be structured in a way that it only captures, "major or significant development"? I'm not sold on everything.*
 - i. Administration discussed impacts that small subdivisions can have on long term future development when drainage is not appropriately accounted for. This is a greater impact in areas where the land is flat or drainage outlets are less accessible. In addition, development in lower areas of a quarter section can lead to significant drainage challenges in future stages – even if many years away.

4. Fees:

- a. *(C. Weideman) the penalties for the violation ticket section should be renamed as such (not "fees").*
 - i. As per the documents submitted to GPC, Schedule 'A is titled as, "Schedule of Penalty Amounts".
- b. *(C. Weideman) Are there new application fees for the Lot Grading process and what are they?*
 - i. There are no new Parkland County Administration fees being applied to the Development Permit - Lot Grading process (as defined and outlined in the Fees and Charges Bylaw). Administration is looking to absorb the additional time required in completing the lot grading process as part of the overall effort to complete the review of standard applications in the current environment.
 - ii. Administration did state that this will be reviewed, and this may become a question in the future. Council will have the opportunity to revisit the Bylaw process and determine if we scale back the effort required by Administration or if we provide the fees and charges to appropriately account for the added effort.
- c. *(C. Kucher-Johnson) I want to see the services reflected in our fees and see the breakdown of the additional services and what they cost. Want to show accountability within the fees we charge, is there a breakdown of the charges to be transparent?*
 - i. Administration identified there would be no increase to fees and that the added process would be absorbed into the current activities, with the caveat that Administration may revisit this with Council once there is greater understanding of the level of effort required to comply with the Bylaw and Policy requirements as outlined.
 - ii. Perhaps a more robust breakdown of fees and charges for development based activities could be requested during the Fees and Charges Bylaw that will be presented to Council June 27, 2023.

5. Moving Forward:

- a. *(C. Kowalski/ C. Birnie) How will we educate people and bring awareness to this new legislation?*
 - i. Administration requested Council input to the direction they would want the Bylaw to be communicated.
 - ii. Following the meeting and above comment, it is more appropriate for Administration to align fully with the approved Public Engagement Policy. As such, a Public Engagement Plan has been developed and will be implemented

through this process. This will include an outline as to how the public and interested developers would be engaged and informed.

- b. *(C. Birnie) Do the Peace Officers receive extra training? Mrs. Domijan, as we have one Development Officer, do you foresee this to create more calls more work?*
 - i. That the Bylaw, if approved, would be enforced through the County's Enforcement team. Peace Officer's will reach out to the subject matter expert prior to making a decision on any areas of ambiguity.
 - ii. Peace Officers have the current skill, ability, and training to align with the Bylaw as approved. Some refreshment and current knowledge sharing would be required but that is not considered to be an extensive effort.
- c. *(C. Kobasiuk) Do we need a hydrologist on staff for a subject matter expert source for Enforcement.*
 - i. The realm that drainage and lot grading is involved in, is under the civil engineering discipline and can be supported through the current Engineering Administration.
 - ii. Should an area of concern come up, which is not likely or would be very uncommon, that would require outside external expertise, they would be brought in to guide and assist as needed. This would not be unlike many other practices that Administration would be faced with throughout the year.