



Committee of the Whole Report

For the Meeting of June 28, 2018

To: Committee of the Whole **Date:** June 13, 2018
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Revised Zoning Bylaw 2018

RECOMMENDATION

That Council give first and second reading of Zoning Bylaw 2018 (Bylaw No. 18-072) and schedule a public hearing.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with the draft Zoning Bylaw 2018 which has been updated and revised in response to feedback received through recent consultation with the Downtown Victoria Residents Association (DRA), as directed by Council. This latest consultation process resulted in the identification of mutually agreed solutions to most of the DRA's concerns, which are addressed through a few amendments to the draft Zoning Bylaw 2018, as well as, through the advancement of the review and update of the *Old Town Design Guidelines*.

The amendments are primarily focused on refining the off-street parking regulations to ensure that larger developments within Old Town provide off-street motor vehicle parking, and encouraging the provision of slightly larger and more liveable residential units through reduced off-street parking requirements. Other amendments seek to address potential design and building-bulk impacts of exterior hallways and staircases. Zoning Bylaw 2018 has also been amended to incorporate a range of minor administrative corrections and a series of Home Occupation regulations similar to those that Council recently approved for the *Zoning Regulation Bylaw* that further restrict the use of Short-term Rentals.

This report seeks to advance Zoning Bylaw 2018 by recommending that Council give first and second reading for Zoning Bylaw 2018 prior to a public hearing.

PURPOSE

The purpose of this report is to present Council with the draft Zoning Bylaw 2018 which includes a series of amendments that were made in response to feedback received through recent consultation with the Downtown Victoria Residents Association (DRA).

BACKGROUND

At the meeting of February 1, 2018, Council directed staff to undertake further consultation with the DRA which had raised concerns with the proposed zoning regulations and other development-related processes. City staff met with the DRA's Land Use Committee on April 5, April 10 and May 23, 2018 to review and address all concerns that had been identified to date. These meetings resulted in the identification of mutually-agreed potential solutions that considered the DRA's desired objectives for each concern, as well as the legal limitations of zoning and other planning tools as outlined in the Local Government Act. The resulting solutions include a few minor amendments to the draft Zoning Bylaw 2018; as well as, a commitment to develop more prescriptive and detailed design guidelines through the current process to review and update the *Old Town Design Guidelines*, which includes collaboration with the DRA and other key stakeholders.

For reference, a full compilation of all the proposed amendments that have been made to Zoning Bylaw 2017 (shown in red font) since it received first and second readings are included in Attachment A. This version highlights the extensive range of amendments that have been made in response to on-going consultation with project stakeholders. A clean copy of the updated draft Zoning Bylaw 2018 is included as Attachment B, and a map showing the distribution of proposed zones is included as Attachment C.

ISSUES & ANALYSIS

The key changes that have been made to Zoning Bylaw 2018, as well as proposed changes to the *Old Town Design Guidelines* based on recent consultation, are summarized as follows:

1. Exterior Hallways and Staircases (Zoning Bylaw 2018)

The definition of Floor Area has been amended to include exterior hallways and exterior staircases in the calculation of Floor Area (for the purpose of density) for new buildings developed after the adoption of Zoning Bylaw 2018. This will remove a perceived incentive for locating staircases and hallways on the exterior of buildings, which can sometimes result in bulkier buildings and can also create liveability impacts for adjacent residential properties. The amended regulation will not apply to existing buildings; therefore, it will not result in any non-conformity issues.

Staff have also identified that the location and design of exterior hallways and staircases will also be considered as part of the review and update of the *Old Town Design Guidelines*, as well as the review and update of the *Downtown Core Area Plan* commencing later this year.

2. Home Occupations (Zoning Bylaw 2018)

Zoning Bylaw 2018 has been amended to include additional general regulations and definitions related to Home Occupations which are similar to those approved by Council earlier this year and contained in the current *Zoning Regulation Bylaw*. These regulations generally serve to prohibit an entire dwelling unit from being used as a Short-term Rental except when the operator is temporarily away.

3. Off-Street Parking (Zoning Bylaw 2018)

The Old Town District-1 Zone has been amended to require off-street motor vehicle parking for lots that are 1,100m² or greater, while lots that are less than 1,100m² will not require off-street motor vehicle parking. This change is in response to an earlier regulation which proposed no off-street motor vehicle parking for all Old Town properties in recognition of the existing small lot

pattern and as a means to better support the retention and conservation of heritage buildings. Based on the recent consultation process with the DRA, it was mutually agreed that off-street motor vehicle parking should be required on larger lots. Although this new regulation has been introduced, there are some existing properties in Old Town that exceed 1100m² and that currently do not require motor vehicle parking based on their current zoning. Therefore, these properties have been recognized through site-specific regulations in the spirit of maintaining current development rights. However, in the event that these properties become the subject of a rezoning process, staff and Council would be able to apply the new requirements for the provision of off-street motor vehicle parking.

The off-street parking regulations contained in Part 5 have also been amended to increase the threshold for reduced motor vehicle and bicycle parking requirements within residential development from 40m² to 45m². This change has been made in response to the DRA's and UDI's comments, that a 40m² threshold may not be desirable or conducive to improving overall liveability conditions within the downtown. Therefore, the increased threshold means that reduced parking requirements will apply to slightly larger dwelling units within condominiums (strata), apartments (rental) and purpose-built affordable housing.

4. Review and Update of Old Town Design Guidelines

Based on recent direction from Council, Staff have commenced a process to review and update the *Old Town Design Guidelines*, which includes involvement of a working group composed of 14 individuals representing the local heritage, design, development, residential (DRA), and the business community. The primary focus of this process is to build upon the existing document with the addition of more detailed design guidelines that will apply to new buildings and additions to both heritage and non-heritage buildings. Some of the desired outcomes, which will address many of the DRA's concerns, include design guidelines that limit the overall building mass and scale and clearly address the important relationship and interface between buildings, the adjacent street and the surrounding context. Detailed design guidelines may address this relationship through a focus on façade articulation, fenestration, building elements, materials and finishing details. It is anticipated that staff will be reporting back to Council with the updated *Old Town Design Guidelines* later this year in Quarter 4.

5. Transition of Development Applications

The regulations contained in Part 1, subsection 23, of the draft Zoning Bylaw 2018 have been revised to provide an improved process for transitioning and processing a variety of development applications that may overlap with the current *Zoning Regulation Bylaw* and the introduction of Zoning Bylaw 2018. For example, if a development permit was previously approved under the current *Zoning Regulation Bylaw*, then the transition regulations identify specific conditions for allowing the related building permit to be processed using the regulations that existed when the development permit was approved, rather than the regulations of the new Zoning Bylaw 2018. This approach provides improved certainty for land owners and reduces the need for potential variances to account for differences between the *Zoning Regulation Bylaw* and Zoning Bylaw 2018. Similarly, the new transition provisions also allow a previously approved variance (issued within two years prior to adoption of Zoning Bylaw 2018) to continue to apply.

Other Issues

Outlined below are a few development concerns that were identified by the DRA but which are not within the scope for amending Zoning Bylaw 2018 or the *Old Town Design Guidelines*. Any subsequent response to these matters requires direction from Council.

Minimum Residential Unit Size

The DRA would like Council to consider requiring a minimum residential dwelling unit size of 33m², similar to other multi-unit residential zones outside of Downtown. In September 2016, Council considered a staff report which recommended removing the minimum unit size regulations for multi-unit residential developments throughout the city to improve the diversity of housing options. Council ultimately declined to remove minimum unit sizes, and instead directed staff to create a standard unit size of 33m² in multi-unit residential zones outside the Downtown. This work has now been completed, therefore the subsequent inclusion of a minimum dwelling unit size for the Downtown as part of Zoning Bylaw 2018 would require direction from Council, and would also need to consider any potential risks related to legal non-conformity for existing multi-unit residential buildings.

Cash in lieu for parking

The DRA has identified that there have been several development applications in the Downtown that have received parking variances without some form of amenity contribution such as a cash in lieu of parking approach. The Local Government Act (LGA) is very prescriptive in terms of the requirements and structure for creating a cash in lieu system, and the LGA also prohibits cash in lieu from being applied to a development permit with a variance. A cash in lieu approach was identified for Council in February 2018 as part of a staff report related to the proposed Schedule C project. The staff report and Council motion both recommended that cash in lieu should be explored as a future initiative as it requires the development of a detailed policy framework to guide the rationale for the system and to outline objectives for establishing a related reserve fund. Further, the City has recently commenced the development of a Sustainable Mobility Strategy which will explore a range of potential funding and strategic opportunities which may include cash in lieu. The development of this strategy will include public engagement with key stakeholders such as community associations including the DRA.

Improved notification of Development Permit Applications

The DRA has previously expressed a concern regarding the lack of a more robust process for notifying the public about development permit applications that are received by the City. Council recently directed staff to consider amending the *Land Use Procedures Bylaw* to improve transparency by providing notice of development permit applications to adjoining property owners and CALUCs at the beginning of the process. Staff are currently exploring this matter and a report to Council is expected later this year in Quarter 3.

Public input on Development Permit Applications and interpretation of Design Guidelines

The DRA has also expressed a desire for CALUCs to be able to provide formal comments and input on development permit applications prior to a final decision by Council, as well as to be able to provide input on the interpretation of related design guidelines. Council has previously discussed this matter and staff will be reporting back to Council later this year with options that consider legal implications as well as potential impacts on resources and processing times.

Enforcement of building design as outlined in development permit

The DRA has identified that the final design and finishing of completed buildings is sometimes inconsistent with the approved design outlined in the approved development permit. In response to this concern, the DRA has suggested that enforcement measures could include withholding an

occupancy permit, issuing stop work orders or requiring a security bond. Staff have explained that any variation from the approved design is generally addressed through a Delegated Development Permit, or in some instances, a regular Development Permit that is submitted to Council for their consideration. Staff also explained that occupancy permits are regulated by the *BC Building Code*; therefore, the City cannot legally withhold occupancy for matters related to building design or finishing materials. Stop work orders are typically issued for work that does not have a valid permit or where there is a contravention of the *BC Building Code* on matters related to life, health and safety. Lastly, the Local Government Act only allows security deposits (bonds) to be required by a municipality as a condition for landscaping, an unsafe condition resulting from contravention of permit, and damage to the natural environment. Therefore, a security deposit or bond cannot be used to enforce building design or finishing materials.

OPTIONS AND IMPACTS

Option 1 (Recommended):

Council may rescind Zoning Bylaw 2017 and direct staff to advance Zoning Bylaw 2018 to a meeting of Council for consideration of first and second reading.

This option will allow Council to consider Zoning Bylaw 2018 which has been revised based on consultation with the Downtown Residents Association. The updated Zoning Bylaw 2018 is now ready to proceed to a Public Hearing.

Option 2:

Direct staff to further refine Zoning Bylaw 2018 prior to advancing it to first and second reading and a Public Hearing.

Accessibility Impact Statement

The revisions reflected in Zoning Bylaw 2018 detailed in this report do not have any impacts on accessibility.

2015 – 2018 Strategic Plan

This project supports Objective 3: Strive for Excellence in Planning and Land Use, as the proposed Zoning Bylaw 2018 is anticipated to contribute to streamlining application processes by reducing the need for site-specific zones. This project also supports Objective 5: Create Prosperity through Economic Development, as the new zoning regulations serve to facilitate increased investment and development within the Downtown Core Area.

Impacts to Financial Plan

Implementation of the new Zoning Bylaw 2018 will not have any impacts to the *Financial Plan*.

Official Community Plan Consistency Statement

This project is consistent with the *Official Community Plan* which supports the role of the Zoning Bylaw to help implement plan objectives, land uses, built forms and densities (policy 6.3).

CONCLUSIONS

Zoning Bylaw 2018 has been recently reviewed and updated in response to recent consultation with the DRA. The revised bylaw now fully embodies the intended approach of maintaining current development entitlements while simplifying the regulations into a more user-friendly approach.

Respectfully submitted,



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Alt.



Jonathan Tinney, Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager:



Date:

June 21, 2018

List of Attachments:

- Attachment A: Zoning Bylaw 2017
- Attachment B: Zoning Bylaw 2018
- Attachment C: Distribution of proposed zones in Central Business District and Old Town.