

Subject: Bylaw No. 18/007 - Land Use Bylaw and Highway 69/Clearwater River Valley Area Structure Plan - Redistricting, General Text and Map Amendment

APPROVALS:

Annette Antoniak

Director

Deputy Chief Administrative Officer

Chief Administrative Officer

Recommended Motion:

1. THAT Bylaw No. 18/007, being a Land Use Bylaw - Redistricting, General Text, and Map Amendment and Highway 69/Clearwater River Valley Area Structure Plan – General Text and Map Amendment, be read a second time.
2. THAT Bylaw No. 18/007 be read a third and final time.

Summary:

On April 11, 2017 the Planning and Development department received an application for a Land Use Bylaw Amendment (2017-LU-00003) and Area Structure Plan Amendment (2017-LU-00004) to redistrict two properties from SH - Small Holdings District (SH) to DC - VC Direct Control Village Commercial District (DC-VC). The amendments refer to the Subject Area (Attachment 1) which consists of two parcels in the Draper community (Table 1). The applicant is Brad Friesen, who has submitted the amendments on behalf of the property owners.

Table 1: Subject Area Properties

| Civic Address | Legal Address | Property Owner |
|-----------------|-------------------------|---------------------------------------|
| 128 Garden Lane | Lot 6, Plan 992 0950 | Dunvegan Gardens (Fort McMurray) Ltd. |
| <i>none</i> | Lot 5, Plan 992 0950 | Grandma's Attic Ltd. |

The Subject Area falls within the SH under Land Use Bylaw 99/059 (LUB) and is within the scope of the Highway 69/Clearwater River Valley Area Structure Plan (ASP) passed by Bylaw 99/058. Given the extensive development history of the Subject Area, a *Supplemental Document* (Attachment 2) has been prepared, which includes additional information and analysis pertaining to the application.

Background:

On September 23, 2016 a Stop Order (Attachment 3) was issued by the Municipality for contraventions of the Land Use Bylaw (LUB) 99/059 within the Subject Area. The Stop Order included contraventions such as: Unauthorized Commercial Landscaping, Unauthorized Sale of Goods, and Unauthorized Farm Animals. The Stop Order was appealed by Mr. Friesen and was heard by the Subdivision and Development Appeal Board (SDAB) on February 16, 2017. The SDAB decision (Attachment 4) upheld the Stop Order in relation to the sale of goods, but the SDAB varied the order to provide the appellant one (1) year, until March 16, 2018, to obtain the required development permits for the retail sale of goods.

To obtain a development permit, the SDAB acknowledged that amendments to the Land Use Bylaw 99/059 are required. The proposed amendment to the Land Use Bylaw conflicts with the policies and vision of the Highway 69/Clearwater River Valley Area Structure Plan, therefore amendments to the ASP have also been proposed. The LUB Amendment (Attachment 5) includes the following:

1. Redistricting 128 Garden Lane (Lot 6, Plan 992 0950 and Lot 5, Plan 992 0950) from SH Small Holdings District to DC Direct Control District;
2. The proposed DC Direct Control District includes Permitted Uses, Discretionary Uses - Development Authority, and site provisions; and,
3. Text amendments to “Part 5 General Regulations” of the Land Use Bylaw.

The Highway 69/Clearwater River Valley Area Structure Plan (ASP) amendment (Attachment 6) includes:

1. Text amendments that add two new policies;
2. Text amendment to one existing policy; and,
3. An amendment to an exhibit that revises Map 6 - Development Concept.

The amendment application was submitted on April 11, 2017. Following the first submission, a detailed review process and discussions with the applicant took place. On January 9, 2018 Administration received the second submission. Comments were

provided to the applicant on January 15, 2018 and a third submission was received on January 22, 2018. After review, comments were provided to the applicant on February 5, 2018. The applicant then submitted their fourth submission, which they identified as their final submission, on February 9, 2018. The applicant hosted a public open house on February 27, 2018 and comments summarizing feedback of the event were provided to the RMWB on March 2, 2018. The Municipality has since undertaken a substantial analysis of all information submitted by the applicant and community.

Rationale for Recommendation:

A function of an Area Structure Plan (ASP), which is a statutory document, is to establish a vision for a neighbourhood. The Land Use Bylaw (LUB) implements that vision by regulating where and how development takes place. When a Municipality reviews an application to amend either of those documents, it must endeavor to ensure the proposed changes do not unduly interfere with the amenities of an area or, materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land. Further, an important principle of land use planning is to achieve safe and orderly development where complimentary uses are located in such ways that potential land use conflicts are minimized. Taking the above into consideration, the Municipality recommends refusal of Land Use Bylaw Amendment (2017-LU-00003) and Area Structure Plan Amendment (2017-LU-00004) specific to Lot 6, Plan 992 0950 and Lot 5, Plan 992 0950. The reasons for refusal have been briefly outlined below and are explored in more detail in the appropriate sections of Attachment 2.

1. Direct Control Districts are intended to provide Council with maximum flexibility and high level of control over proposed development on a site. The applicant's proposed Direct Control District is more accurately described as a site-specific land use district, limiting Council's degree of control and taking development decisions out of a transparent, public hearing process. *Section 4.3.1 of Attachment 2*
2. Administration has the following concerns regarding the permitted and discretionary uses within the applicant's proposed DC Direct Control District:
 - 2.1. A total of **twelve** new Uses within the applicant's Direct Control District have been proposed which are not within the Small Holdings District. There is an absence of supporting documentation and rationale indicating why those uses are proposed and whether those uses were supported by the Draper neighbourhood. *Section 4.3.2 of Attachment 2*
 - 2.2. A total of **three** uses in the proposed Direct Control District currently do not exist in the Land Use Bylaw. The amendment does not include definitions of the uses and only one of those uses includes provisions for the "General Regulations". Provisions under "Part 5 General Regulations" are essential to provide guidance to the Development Authority when reviewing development permit applications *Section 4.3.2.4 of Attachment 2*

- 2.3. Several proposed permitted land uses do not currently have provisions under “Part 5 General Regulations”. These provisions guide the Development Authority when reviewing development permit applications to determine whether any negative impacts of the development are properly mitigated and to reduce potential land use conflicts with the surrounding neighbourhood. *Section 4.3.4.1 of Attachment 2*
- 2.4. The applicant’s proposed Direct Control District does not specify whether the proposed Permitted Uses are for Council or the Development Authority to approve. *Section 4.3.2.5 of Attachment 2*
- 2.5. The applicant has proposed **11** new commercial uses in their Direct Control District. These uses are not currently contemplated in the Small Holdings District, which has an existing rural residential character. The applicant has provided insufficient documentation and feedback from Draper residents supporting the addition of commercial land uses in a rural residential area. *Section 4.3.2 of Attachment 2*
3. The applicant is proposing “Additional Provisions” in Section (5)(c) of their Land Use Bylaw amendment, which allows neighbouring parcels of land under the same ownership the ability to transfer development potential from one lot to the next. The applicant has not provided any supporting documentation regarding whether this will have an impact on the surrounding neighbourhood and the extent of the lands this provision would apply to. The Municipality does not support additional intensification of land beyond the current provision of the Land Use Bylaw without proper justification. *Section 4.3.3 of Attachment 2*
4. The applicant’s submission proposes additional regulations to “Part 5 General Regulations” of the Land Use Bylaw. The Municipality was not provided with any supporting documentation to determine if the proposed provisions represent best practice or whether the proposed regulations are appropriate to control, limit, and mitigate potential land use conflicts. *Section 4.3.4 of Attachment 2*
5. The applicant has proposed text amendments to “Part 5 General Regulations” Section 76.7 and 76.8 of the Land Use Bylaw to allow livestock, fowl, or furbearing animals for all lots in Draper that meet the current Land Use Bylaw provisions. The applicant has not provided supporting feedback from the residents agreeing with this activity that could create potential land use conflicts. *Section 4.3.4.2 of Attachment 2*
6. The proposed Area Structure Plan (ASP) amendment does not provide proper guidance for the wide array of proposed activities, many of which are new and may conflict with surrounding properties. *Section 5 of Attachment 2*
7. The proposed Area Structure Plan (ASP) amendment does not adequately mitigate negative impacts on surrounding properties. *Section 5 of Attachment 2*

8. The proposed Area Structure Plan (ASP) amendment does not adequately demonstrate how a key Municipal Development Plan (MDP) objective C.2.1 and ASP policy 5.2 is being met: that the rural residential character of Draper will be preserved. *Section 5 of Attachment 2*
9. The proposed Area Structure Plan (ASP) amendment does not adequately demonstrate how a key Municipal Development Plan (MDP) objective 4.4.1 is being met: that the Municipality's limited supply of agricultural land will be preserved. *Section 5 of Attachment 2*
10. The Municipality conducted a survey of Draper residents from July 26, 2017 to August 18, 2017, asking individuals to provide feedback on the applicants proposed uses. Of the 61 responses received from Draper residents, a majority did not support commercial activities included in the amendment proposal. *Figure 2 of Attachment 2*

Based on the above, the Municipality recommends refusal of Land Use Bylaw Amendment (2017-LU-00003) and Area Structure Plan Amendment (2017-LU-00004) specific to Lot 6, Plan 992 0950 and Lot 5, Plan 992 0950.

Strategic Priorities:

Pillar 1 - Building Responsible Government
Pillar 4 - Building an Effective Land Strategy
Responsible Government

Attachments:

- 1. Bylaw No 18007**
- 2. Map 6 - Attachment 1 to Bylaw**
- 3. Subject Area Map**
- 4. Supplemental Document**
- 5. Stop Order September 23, 2016**
- 6. Subdivision and Development Appeal Board Decision 2016-005**
- 7. Land Use Bylaw Amendment Application**
- 8. Highway 69 Clearwater River Valley Area Structure Plan Amendment**