

**TO:** Planning & Development Committee

**FROM:** J. Zaffino, Chief Administrative Officer

**DATE:** February 22, 2024

**RE:** Land Use Bylaw Amendments — DP Area Designations (X2024.001-ZONE)

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## Administrative Recommendation:

**THAT the Multiple Family Development Permit Area designation and Protection of Farming Development Permit Area designation as well as related policies be repealed from the applicable electoral area official community plan (OCP) bylaws; and**

**THAT the Okanagan Falls Town Centre Development Permit Area and Naramata Village Centre Development Permit Area guidelines be revised in accordance with the *Provincial Policy Manual & Site Standards (Small-Scale, Multi-Unit Housing)* and be brought forward for consideration at a forthcoming meeting of the Planning and Development (P&D) Committee**

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## Proposal:

The purpose of this report is to provide options to the Board in relation to development permit area designations and guidance from the province regarding compliance with recent changes to the *Local Government Act* (e.g. *Housing Statutes (Residential Development) Amendment Act, 2023*).

## Background:

On November 30, 2023, the provincial Legislature adopted Bill 44, which introduced a number of substantial amendments to the *Local Government Act*, the intent of which was the delivery of “more small-scale, multi-unit housing for people, including townhomes, triplexes and laneway homes, and fix outdated zoning rules to help build more homes faster.”

On December 7, 2023, the provincial government released *Provincial Policy Manual & Site Standards (Small-Scale, Multi-Unit Housing)* as a resource to assist local governments with the implementation of zoning bylaw amendments required to comply with the changes to the Act.

Under a new Section 481.3(7) of the *Local Government Act*, the Regional District “must consider applicable guidelines” made by the Minister (e.g. the SSMUH Policy Manual) when developing or adopting a zoning bylaw to permit the use and density of use required under to be permitted under the Act.

While the SSMUH Policy Manual establishes numerous provincial expectations for local governments in relation to zoning regulations, it also addresses development permit area guidelines.

The Regional District is required to approve a zoning bylaw(s) that comply with SSMUH requirements by **June 30, 2024**, and notify the Minister of Housing, in writing, that the bylaw(s) have been adopted, the location(s) of any exempted land(s) and the legislative provisions supporting the exemptions.

## Development Permits:

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At present, the Regional District has implemented ten (10) different development permit area designations, six (6) of which are related to residential development, specifically:

- OK Falls Multiple Family;
- Naramata Village Centre;
- Environmentally Sensitive;
- OK Falls Town Centre;
- Protection of Farming;
- Watercourse.

**Analysis:**

In reviewing the SSMUH Policy Manual, Administration notes that it states “local governments in BC commonly use DPAs to achieve objectives that are outside the purposes prescribed in the LGA, and which can be regulated in other more appropriate ways.”

Accordingly, when implementing SSMUH requirements “local governments should ... ensure they are using the most appropriate tool or bylaw for the task and desired outcome” [emphasis added].

In support of this, the SSMUH Policy Manual provides a number of examples where common DP area guidelines can negatively impact the viability of small-scale multi-unit housing development (see Attachment No. 1) and encourages local governments to consider alternate approaches.

In light of the number of DPs potentially affected by the legislative changes, consideration of each will be addressed in the following sub-sections:

**Multiple Family DP Area:**

According to the Provincial SSMUH Policy Manual, “of the all the types of DPAs allowed under the LGA, those established ... for the purpose of managing the form and character of SSMUH development have the greatest potential to negatively impact the creation of new housing units.”

Of equal importance, “DPAs and the development guidelines through which they are typically exercised, can introduce significant time, costs, delays, and uncertainty into projects. In the context of SSMUH housing, these factors can easily undermine the viability of projects.”

In reviewing the Regional District’s Multiple Family DP Area against this provincial direction (see Attachment No. 2), Administration is concerned that the current guidelines contain many of the elements the province warns can negatively impact the creation of new housing units.

Given the extent of these within the Multiple Family DP guidelines as well as a recognition that a DP represents an additional regulatory burden and that it is not clear that the benefits of this particular DP outweigh the potential costs to a developer, Administration is recommending that it be repealed.

Conversely, the option of retaining the Multiple Family Development Permit Area designation but modifying it so that it is triggered by developments comprising six (6) or more dwelling units and problematic guidelines are revised and/or removed is available to the Board.

Administration is not supportive of modifying the DP on the basis that it creates an incentive to limit new developments to 5 units or less to avoid triggering a permit. Also, as this is a “form and character” DP, selective application based on density would seem to undermine the intent of the DP by allowing a “patch-work quilt” effect to occur on the built form of an area.

Similarly, the status quo remains an option, but is also not recommended.

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#### Town & Village Centre DP Area:

The Okanagan Falls Town Centre (OFTC) DP and Naramata Village Centre (NVC) DP Areas are also concerned with “form and character” but have been applied to mixed-use development areas that are also “Growth” areas under the Regional Growth Strategy (RGS) Bylaw.

As they relate to residential development, both of these DPs contain guidelines that are now considered to be reflective of a regressive approach that has contributed to the current “housing crisis” (see Attachment No. 2).

By way of example, both DPs contain guidelines that place an emphasis on ensuring new development is compatible with existing development (e.g. “urban village” feel). Other concerning guidelines related to the location of entrances, building height, massing, landscaping and vehicle parking, etc.

As the province is indicating that a new emphasis on encouraging higher density residential developments needs to be embraced, Administration is recommending that the OFTC and NVC DP Areas be reviewed and problematic guidelines be either revised or removed.

If the Board is supportive of this approach, Administration would undertake this process and return to a future Committee meeting to seek direction regarding possible amendments to these DP Areas.

Conversely, the option of retaining the status quo is available, but is not recommended.

#### Protection of Farming DP:

While the Protection of Farming DP is only triggered by subdivision applications, an important guideline is the implementation of a 15.0 metre buffer on any new parcel that adjoins the Agricultural Land Reserve (ALR).

Administration considers this to be a significant restriction on residential development and inconsistent with the requirements of the SSMUH Policy Manual. It is also not clear that the implementation of buffers adjacent to agricultural lands meaningfully limit or otherwise ameliorates the potential for conflict from adjacent uses (e.g. residential). Accordingly, it is recommended that this DP Area be repealed.

As an aside, since its implementation in 2012, the Regional District has never issued a permit related to this DP Area designation.

Conversely, the option of retaining the PFDP Area is available to the Board.

#### Environmentally Sensitive DP Area:

Administration is not making any recommendations in relation to the ESDP Area designation as this is currently the subject of a separate review.

It is noted, however, that the SSMUH Policy Manual indicates that an important principle for effective use of a development permit is to provide clear direction and to be specific in terms of intent and desired outcomes.

#### Watercourse DP Area:

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Administration is also not making any recommendations in relation to the WDP Area designation as the Regional District is a named local government under Section 2 of the *Riparian Area Protection Regulation* and, consequently, is legislatively required to implement riparian protection measures through its land use bylaws.

At present, the Regional District requires the receipt of an assessment report reviewed and confirmed by the province as meeting the requirements of the Regulation. Accordingly, there is seen to be little to no scope for modification of the current DP guidelines.

**Alternative:**

1. THAT the following amendments be applied to the applicable electoral area official community plan (OCP) and zoning bylaws:
  - i) *TBD*

**Respectfully submitted:**



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C. Garrish, Senior Manager of Planning

Attachments:

- No. 1 – SSMUH Policy Manual Guidance (“Form & Character” DP Guidelines)
- No. 2 – Comparison of SSMUH Policy Manual Recommendations vs. Selected DP Guidelines

### **Common DPA requirements that can negatively impact the viability of SSMUH**

#### *Neighbourhood Character/Neighbourhood Fit (often considered ‘General DPAs’)*

DPA guidelines predicated on an evaluation of how a project may impact neighbouring properties prioritizes the interests of existing single-detached dwellings and detracts from the intention of the SSMUH legislation, which is to stimulate the creation of new SSMUH homes. Examples of these types of guidelines include requiring transitions through massing, height, or setbacks, as well as attempts to mitigate impacts on immediate surroundings via shadow, solar impact, views, and privacy.

#### *Location of Entrances*

Some form and character DPA guidelines require buildings to have primary entrances to each residential unit that face, or are visible from, the street. Adherence to such guidelines may limit creative building design or be open to administrative misinterpretation. Guidelines that limit the number of entrances to a building are also not appropriate for SSMUH.

#### *Building Height*

Guidelines that attempt to manage building height through a development permit to reduce impact on adjacent buildings or address shadow or privacy are not best practice for buildings of three storeys or less. Maximum building height is more appropriately regulated through the zoning bylaw.

#### *Building Massing*

Form and character guidelines that attempt to show how a building should be massed such as step-backs from street frontage or requiring upper storeys to have less mass than lower storeys put more constraints on already-constrained sites and can be eliminated in respect of buildings three storeys or less.

#### *Parking and Waste Management*

Policies that require parking areas to be completely enclosed or screened may result in more space being allocated for vehicles that could be dedicated for living. The same is true for solid waste management infrastructure.

#### *Landscaping*

Policies that require landscaping plans by a qualified landscape architect or irrigation installation are discouraged. For SSMUH there may be little landscaped area and these requirements may not be necessary. Also, there are some policies that require each unit to have exterior space at-grade adjacent to each housing unit. This hinders creativity in providing amenity space on the parcel. Reasonable compromises must be considered to stimulate development of desired housing forms.

Attachment No. 2 – Comparison of SSMUH Policy Manual Recommendations vs. Selected DP Guidelines

SSMUH Policy Manual	Multiple Family DP Guidelines	OK Falls Town Centre DP Guidelines
<p>Guidelines requiring transitions through massing, height, or setbacks, as well as attempts to mitigate impacts on immediate surroundings via shadow, solar impact, views, and privacy prioritizes the interests of existing development.</p>	<ul style="list-style-type: none"> <li>• The design and introduction of new building types to a residential neighbourhood should provide harmony and lend continuity to the neighbourhood and should not create excessive disruption of the visual character of the neighbourhood.</li> <li>• Multiple Family development is encouraged to be sensitive to the existing neighbourhood. The use of building character elements which are typically found on single family homes ... are required.</li> <li>• The mass and façade of buildings should be articulated with variations in materials and detailing to emulate the scale of the existing neighbourhood.</li> <li>• In areas where there is an OCP land designation change, abrupt transition between well-established areas of single family buildings and higher proposed multi-family development is undesirable.</li> </ul>	<ul style="list-style-type: none"> <li>• Buildings should be designed to an appropriate scale to support and retain the ‘urban village’ feel of Okanagan Falls Town Centre.</li> <li>• Buildings should generally be sited ... and massed to ... optimize sunlight penetration and optimize views and access towards the lake front.</li> <li>• Buildings should generally terrace down in height towards the north (Skaha lakefront) to optimize views towards the lake and sunlight penetration.</li> <li>• The use of residential design elements ... are encouraged, to provide interest and a finer scale while blending into the existing area.</li> <li>• Medium density developments should be sensitive to the existing residential context.</li> </ul>
<p>Guidelines that limit the number of entrances to a building or require buildings to have primary entrances to each residential unit that face, or are visible from, the street are also not appropriate for SSMUH.</p>	<ul style="list-style-type: none"> <li>• All units facing a street should have a street orientation, including picture windows and pedestrian entrances to the street.</li> <li>• Front entrances should be well defined and provide a focal point to the building.</li> </ul>	<ul style="list-style-type: none"> <li>• All ground-oriented residential units facing a street should have a street orientation, including individual unit entrances facing the street.</li> </ul>
<p>Guidelines that attempt to manage building height through a development permit to reduce impact on adjacent buildings or</p>	<ul style="list-style-type: none"> <li>• New development should not be greater than one storey higher than adjacent development. Subsequent storeys should</li> </ul>	<ul style="list-style-type: none"> <li>• Medium density residential buildings greater than three storeys in height should have the fourth and any higher floors</li> </ul>

SSMUH Policy Manual	Multiple Family DP Guidelines	OK Falls Town Centre DP Guidelines
<p>address shadow or privacy are not best practice for buildings of three storeys or less. Maximum building height is more appropriately regulated through the zoning bylaw</p>	<p>be terraced back a minimum of 3.0 metres.</p> <ul style="list-style-type: none"> <li>[see also Landscape requirements below]</li> </ul>	<p>stepped back a minimum of 2.1 metres to reduce the apparent building height and bulk.</p>
<p>Form and character guidelines that attempt to show how a building should be massed such as step-backs from street frontage or requiring upper storeys to have less mass than lower storeys put more constraints on already-constrained sites and can be eliminated in respect of buildings three storeys or less</p>	<ul style="list-style-type: none"> <li>[see also Building Height requirements above]</li> <li>[see also Landscape requirements below]</li> </ul>	<ul style="list-style-type: none"> <li>The building form and façades of medium density residential buildings should be articulated with variations in massing, materials and detailing to reduce the impacts of building scale on the surrounding area.</li> </ul>
<p>Policies that require landscaping plans by a qualified landscape architect or irrigation installation are discouraged.</p> <p>For SSMUH there may be little landscaped area and landscaping requirements may not be necessary.</p>	<ul style="list-style-type: none"> <li>Landscaping design plans prepared by a landscape professional will be required with landscaping densities designed to industry standards.</li> <li>While locating multiple family residential development next to land designated as Agriculture is generally discouraged, in such situations ... the following steps be taken to improve compatibility: <ul style="list-style-type: none"> <li>b) A 30 metre setback for multi-family buildings, and a 2 metre high trespass proof, chain or solid wood fence be required between a multi-family development and the adjoining Agricultural Land Reserve parcel; and</li> <li>c) the multiple family building should be designed to step back away from Agriculture as the building increases in height.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Landscaping plans prepared by a landscape professional will be required, with landscaping densities as provided in the current Zoning Bylaw.</li> </ul>