

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: November 2, 2017

RE: Zoning Bylaw Amendments - Electoral Areas "A", "C", "D", "E", "F" & "H"
Retaining Walls and Building Height Review

Administrative Recommendation:

THAT Bylaw No. 2773, 2017, Regional District of Okanagan-Similkameen Retaining Wall and Building Height Update Amendment Bylaw be read a first and second time and proceed to a public hearing;

AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of December 7, 2017;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Purpose:

The purpose of Amendment Bylaw No. 2773 is generally to address consistency issues currently existing within the various Electoral Area zoning bylaws as they relate to the calculation of height and regulation of retaining walls, but to also address:

- new definitions related to "height" "retaining wall", "structure", "parcel", "parcel coverage", "parcel area, useable" and "panhandle";
- updated general regulations pertaining to Projections and Fence Heights and new regulations pertaining to Retaining Walls;
- a re-ordering of bylaw sections related to "Administration", "Basic Provisions", "Creation of Zones" and "Subdivision Regulations" in order to improve and clarify the intent of these sections across Electoral Areas.

Background:

At its meeting of October 17, 2013, the Planning and Development (P&D) Committee considered an administrative report related to "[Retaining Walls and Height](#)" which recommended in favour of introducing standard definitions and regulations related to retaining walls and height (i.e. that it be measured from average finished grade) into the "Okanagan Electoral Areas Zoning Bylaws update".

The Committee resolved to defer consideration of a motion "to a future meeting", and the item remained outstanding.

At its meeting of May 4, 2017, the P&D Committee considered an updated administrative report related to retaining wall and building height definitions and resolved to direct staff to initiate Draft Amendment Bylaw No. 2773.

In that report, Administration advised that due to the technical nature of the proposed amendments, referral to external agencies as well as a select group of local firms familiar with development

requiring the use of retaining walls (i.e. Ecora and McElhanney) instead of public open houses or consideration by the Electoral Area Advisory Planning Commissions (APCs) was recommended.

To date, agency comments have been received from Ecora Engineering & Resource Group Limited, McElhanney Consulting Services Limited, Interior Health Authority (IHA), Penticton Indian Band (PIB), Osoyoos Indian Band (OIB), Fortis BC (Electric) and the Agricultural Land Commission (ALC) and these are included as a separate item on the Board Agenda.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) will be required prior to adoption as the proposed amendments affect land situated within 800 metres of a controlled area.

Analysis:

The absence of a consistent approach to the calculation of height and regulation of retaining walls in the various Electoral Area zoning bylaws is creating significant challenges for staff when interpreting and applying the bylaws (i.e. advising the public, completing zone checks of building permit applications, etc.) and for the public when attempting to understand and comply with the bylaws (i.e. undertaking projects in different Electoral Areas).

For this reasons, Administration strongly supports the proposed amendments contained within Amendment Bylaw No. 2773 as these will simplify the calculation of height and provide greater clarify on the regulations governing the development of retaining walls.

In response to the comments received on the proposed amendment bylaw, Administration has modified the proposed retaining wall regulations to accommodate the placement of retaining walls within a prescribed setback and site triangle at a road intersection where the subject parcel is lower than the abutting parcel or highway.

As the Board was previously advised, these changes require ancillary amendments to the maximum building height permitted in the Electoral Area “F” Zoning Bylaw to reflect the new definition and that this also has a cascading effect on setbacks for accessory structures in the Small Holdings Five Zone (which are proposed to be made consistent with the setbacks found in the SH5 zones in other Electoral Area zoning bylaws).

Administration is also supportive of the other amendments contained within the bylaw that will address further consistency issues in the Electoral Area zoning bylaws, such as:

- the layout of sections (i.e. “Administration”, “Basic Provisions”, “Creation of Zones” and “Subdivision Regulations”);
- the inclusion of a standardised list of height exemptions (i.e. antennas, belfries, chimney stacks, flagpoles, rooftop mechanical equipment, etc.) under general regulations;
- clarifying that decks constitute a form of development that may project into a setback under general regulations; and
- new and updated subdivision regulations related to panhandles, hooked parcels and useable parcel area.

Alternatives:

1. Status Quo

2. THAT the Board of Directors defer consideration of Amendment Bylaw No. 2773, 2017, pending the presentation of additional information.

Respectfully submitted:



C. Garrish, Planning Supervisor

Endorsed by:



B. Dollevoet, Development Services Manager