

**LAND USE BYLAW AMENDMENT – DEVELOPMENT
COMPLIANCE FOLLOWING CITY LAND ACQUISITIONS
CITY WIDE
BYLAW 50P2017**

EXECUTIVE SUMMARY

The acquisition of portions of private parcels of land by The City for municipal infrastructure projects, such as roads or transit, can have the unintended consequence of making existing developments non-compliant with the requirements of the Land Use Bylaw or existing development permits for that parcel. This typically occurs when a portion of a parcel is all that is needed to facilitate an infrastructure project. Removal of a portion of a parcel alters approved development permit plans and can result in the removal of elements that are required by the Land Use Bylaw or the development permit, such as parking stalls or landscaping. Currently the only way to rectify these matters is through the application and approval of a new development permit, subject to relaxations, which takes time and unnecessarily complicates land acquisition negotiations for critical municipal infrastructure.

This report proposes amendments to Land Use Bylaw 1P2007 to allow existing developments on parcels affected by City land acquisitions to continue to exist and operate as compliant developments following acquisition of a portion of the parcel for a municipal infrastructure purpose. This will allow for land acquisition negotiations to be completed more efficiently and provide greater fairness and certainty for land owners, as well as reduce low value-added work for land owners and The City.

PREVIOUS COUNCIL DIRECTION

No previous Council direction.

ADMINISTRATION RECOMMENDATION

2017 June 29

That Calgary Planning Commission recommends **APPROVAL** of the proposed amendments to the Land Use Bylaw 1P2007.

RECOMMENDATION(S) OF THE CALGARY PLANNING COMMISSION

That Council hold a Public Hearing on Bylaw 50P2017; and

1. **ADOPT** the proposed amendments to Land Use Bylaw 1P2007, in accordance with Administration's recommendation; and
2. Give three readings to the proposed Bylaw50P2017.

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REASON(S) FOR RECOMMENDATION:

Administration recommends approval of the proposed amendments to the Land Use Bylaw because they ensure that existing developments that are affected by a partial land acquisition for a municipal infrastructure project will continue to be allowed to operate after the land has been acquired. This helps to maintain existing developments and streamlines municipal infrastructure projects beneficial to all Calgarians.

ATTACHMENT

1. Proposed Bylaw 50P2017

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ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION

Recommend that Council **ADOPT**, by bylaw, the proposed amendments to the Land Use Bylaw 1P2007 (APPENDIX I).

Moved by: A. Palmiere

Carried: 8 – 0

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PLANNING EVALUATION

Background

Municipal infrastructure projects are undertaken by The City to provide for the growing and changing needs of the municipality. The acquisition of private lands for these projects may impact individual landowners for the broader benefit of all Calgarians. Removal of a portion of a parcel can result in the removal of elements that are required by an approved development permit or the Land Use Bylaw, such as parking stalls or landscaping. The removal of required elements renders the development non-compliant with the Land Use Bylaw or approved development permit (DP).

Currently, to remedy this non-compliance, relaxations or changes to the existing development permit (DP) are required. These relaxations and changes must be considered through a new DP application and review process. The DP process involves a thorough review requiring time and resources and without certainty of approval. With the potential volume of applications resulting from a significant infrastructure project, such as the Green Line, these processes could hold up purchase agreements for years, increasing municipal project costs and adding uncertainty for landowners, tenants and The City.

Proposed Amendments

The proposed amendments to Land Use Bylaw 1P2007 would clearly state that developments made non-compliant by the partial acquisition of land required to build municipal infrastructure will continue to be legally approved in spite of non-compliance with an existing approved development permit or other Land Use Bylaw requirements. This will allow existing developments to continue to exist and operate as legal developments regardless of non-compliances that are the result of the partial acquisition.

This amendment would essentially “grandfather” existing development affected by land acquisition until new development is proposed. The existing development would continue to be considered legally approved until a new DP is required. At such time, relaxations for existing non-conformities may be considered in the new DP.

Risks

There is a risk that changes to existing developments resulting from land acquisition will cause impacts on adjacent parcels without individual consultation. This risk is considered low since affected parties are informed of the land acquisition process by The City and the impact of the partial land acquisition on the existing development must be considered by The City in the acquisition process.

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Conclusion

The proposed amendments will ensure that existing developments that are subject to a partial land acquisition for a municipal infrastructure project will continue to be allowed to operate after the land has been acquired. This helps to maintain existing developments and streamlines municipal infrastructure projects, which is beneficial to all Calgarians.

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APPENDIX I

AMENDMENTS TO BYLAW 1P2007

1. The City of Calgary Land Use Bylaw, being Bylaw 1P2007 of the City of Calgary, as amended, is hereby further amended:
 - a) Add a new section 27.1 as follows:

“Exemption for Acquisition of Land by The City
27.1 (1) Except as otherwise referenced in subsection (2), where a portion of a **parcel** is, or has been, acquired on or after January 1, 2017 by the **City** for a municipal purpose, the **development** or **use** legally existing or approved on that **parcel** on the date that the land is, or was, acquired by the **City** is deemed to conform with the requirements of this Bylaw and to comply with the approved **development permit**.

(2) Subsection (1) does not deem a **non-conforming use** to conform with the **uses** listed in the governing land use district or restrictions in the definition of the **use**.”
 - b) Delete subsection 40(c) and replace it with the following:

“(c) exceeds any of the following requirements where they are specified on a Land Use District Map except where a **development** exceeds the following requirements because a portion of the **parcel** was acquired by the **City** for a municipal purpose in accordance with section 27.1:

 - (i) maximum **floor area ratio**; and
 - (ii) maximum **units** per hectare;”
2. This Bylaw comes into force on 2017 September 25.