

## **SUPPLEMENTARY REPORT FOR BYLAWS 15P2013 AND 44D2013 (MISSION)**

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### **EXECUTIVE SUMMARY**

On 2015 May 25 Council referred second and third readings of Bylaws 15D2013 and 44D2013 back to Administration to return to Council with a concurrent development permit (DP). During the preparation of this report, the applicant submitted a DP application on 2016 January 28. It is expected that during a concurrent DP process the Community Association, other interested stakeholders and the Calgary Planning Commission would have the opportunity to comment and consider the DP application prior to returning to Council with second and third reading of the subject Bylaws. As this has not occurred, Administration is recommending that Council file and abandon the Bylaws. Administration can continue to review the DP application however; a new land use application will need to be filed in the future, following the mandatory 6 month waiting period, prior to rendering a decision on the DP. Under section 188 of the *Municipal Government Act (MGA)*, first reading of a bylaw will be rescinded if it does not receive third reading within two years of first reading. As a result, first reading of the subject bylaws will be rescinded on 2016 February 10 if Council does not give third reading.

### **ADMINISTRATION RECOMMENDATION(S)**

1. That Council Abandon Bylaws 15P2013 and 44D2013;
2. That Council direct Administration to continue review of the development permit (DP) application, but withhold any decision until a new land use application is submitted;
3. That Council direct Administration to refer the DP application to Calgary Planning Commission for decision in conjunction with a new land use application; and
4. That Council direct Administration to continue working on developing a Terms of Reference to develop a public realm enhancement fund within the communities of Cliff Bungalow and Mission in conjunction with the concurrent land use and DP applications.

### **PREVIOUS COUNCIL DIRECTION/POLICY**

On 2015 May 25 Council REFER, Moved by Councillor Farrell, Seconded by Councillor Woolley, that with respect to Administration Recommendations 1 and 2 contained in Report C2015-0414, Second and Third Readings of Bylaws 15P2013 and 44D2013 be referred to Administration, to return to Council concurrent with a DP Application.

On 2014 December 08 Council, Moved by Councillor Woolley, Seconded by Stevenson, that Administration Recommendation contained in Report C2014-0881 be adopted, as follows: That Council, further table Bylaws 15P2013 and 44D2013 to the 2015 March Council Public Hearing date.

MOTION ARISING, Moved by Councillor Woolley, Seconded by Councillor Magliocca, that with respect to Report C2014-0881, that Council direct Administration to work with the applicant to share some preliminary design concepts for the development with the community, in order to investigate on-site community benefits, prior to returning to Council.

On 2014 September 08 Council, Moved by Councillor Keating, Seconded by Councillor Farrell, that Report C2014-0667, and Second and Third Readings of Bylaws 15P2013 and 44D2013, be referred to Administration, to discuss:

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- a. With stakeholders, including the Community, alternative density bonusing mechanisms and to return directly to Council no later than the end of 2014; and further, that the in camera discussions remain confidential under Sections 24(1)(c) and 27(1)(b)(ii) of the Freedom of Information and Protection of Privacy Act. Refer, Moved by Councillor Keating, Seconded by Councillor Farrell, that Report C2014-0667, and Second and Third Readings of Bylaws 15P2013 and 44D2013, be referred to Administration, to discuss:
- b. A comprehensive bonusing system which includes, but is not limited to, Mission or parts thereof, and to return directly to Council no later than the end of 2014.

#### **BACKGROUND**

Calgary Planning Commission and the Corporate Planning Applications Group recommended refusal of the application. Following the Public Hearing, Council gave first reading to the related bylaws to allow for the increased height and density.

#### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

On 2015 May 25 Council deferred second and third readings of Bylaws 15D2013 and 44D2013 and recommended that the applicant bring forward a DP concurrently with the land use application. Following this decision Administration clarified with the applicant and made them aware that a DP had to be applied for prior to the bylaw rescinding date and that community input was needed prior to submitting the application.

First reading of Bylaws 15D2013 and 44D2013 was given by Council on 2014 February 10. Under section 188 of the *Municipal Government Act (MGA)*, first reading of a bylaw will be rescinded if it does not receive third reading within two years of first reading. As a result, first reading of the subject bylaws will be rescinded on 2016 February 10 if Council does not give third reading. There is no flexibility within the MGA to allow for an extension or additional time to consider these bylaws after that date.

During the writing of this report, a DP application was submitted to The City on 2016 January 28. This has not allowed enough time to undertake a concurrent DP and land use process prior to the third reading deadline.

There are three potential scenarios Council may consider for these bylaws:

1. Consider giving second and third Reading of Bylaws 15D2013 and 44D2013 as is with no further information;
2. File and abandon Bylaws 15D2013 and 44D2013; and
3. Take no action and allow the bylaws to be rescinded on 2016 February 10.

The applicant has the following two options:

1. Cease work on this proposal
2. Work with administration and the community association on the recently submitted DP and then submit a new land use application in six months after the mandatory waiting period, should Council not give third reading prior to 2016 February 10.

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Council had also directed Administration work on developing a Terms of Reference to develop a public realm enhancement fund within the communities of Cliff Bungalow and Mission. This was on the understanding that proposed bylaws would establish a density bonus system that could result in the requirement for cash contributions at the time of a DP approval. If Council does not give third reading to the subject bylaws, then Administration would ask that Council direct that any work toward the establishment of a Terms of Reference be ceased until a new concurrent DP and land use process can be established and to report back in conjunction with that process.

### **Stakeholder Engagement, Research and Communication**

Since 2015 May 25, the applicant had not initiated any discussion with The City or the community regarding the submission of a DP application or any consultation process to discuss a formal development proposal. The applicant contacted Administration in 2015 December to discuss the process of how to meet Council's direction regarding the referral of the bylaw and the expectations regarding a concurrent DP. Administration advised that the process of a concurrent land use and DP application typically involves taking a DP application through the review process up to an approval stage prior to giving three readings of a land use amendment bylaw. With the applicant just submitting a DP application on 2016 January 28, there is no time to actually review and consult the community on the proposed development. This does not meet the intent and spirit of a concurrent land use and DP process as being implemented by Administration in many other cases.

The applicant was informed of an opportunity to present a DP proposal for discussion to the Cliff Bungalow/Mission Community Association's Planning and Development Committee at a scheduled meeting to be held on 2016 January 13. The applicant contacted the Planning and Development Committee on 2016 January 14, following the meeting, and advised that a DP application would be made in the next month. This timing did not allow for the community to comment on the potential application.

### **Strategic Alignment**

Not applicable.

### **Social, Environmental, Economic (External)**

#### **Social**

Negotiating density and public benefits on a site-by-site basis can cause uncertainty within the community that could negatively impact social cohesion and erode trust between stakeholders. The Community Association was not engaged on the end form or design on this site.

#### **Environmental**

The additional density that was being proposed takes advantage of an existing complete community, bringing more people into an area that has a full range of services in walking distance and the potential to reduce vehicle trips and related emissions. Further increasing density in exchange for public benefits has the potential to provide for public realm improvements or private developments that contribute to better environmental performance on both a site and community-wide basis.

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**Economic**

Increasing densities and providing for better community amenities can improve the economic vibrancy of established neighbourhoods. However, increasing densities on a site-by-site basis where a comprehensive plan and related land use districts currently exist can introduce land speculation into the area.

**Financial Capacity**

**Current and Future Operating Budget:**

None

**Current and Future Capital Budget:**

None

**Risk Assessment**

There are no significant risks associated with this report.

**REASON(S) FOR RECOMMENDATION(S):**

The applicant was required to consult with the community and return with a concurrent DP. During the writing of this report, a DP application was submitted on 2016 January 28. As a result, Administration does not believe that the applicant has fulfilled the Council direction in the timeline set by Council and is therefore recommending that Council file and abandon the subject bylaws and request the applicant submit a new land use application after the mandatory 6 month waiting period in order to re-establish a concurrent DP and land use application process. Administration is also recommending that the DP be referred to Calgary Planning Commission for decision to be heard in conjunction with the new land use application.

**ATTACHMENT(S)**

1. Report C2015-0414
2. Bylaw 15P2013
3. Bylaw 44D2013