

MISCELLANEOUS	ITEM NO: 05	
	FILE NO:	M-2013-016
	CPC DATE:	2013 October 10
	COUNCIL DATE:	2013 December 02
	BYLAW NO:	44P2013

CITY WIDE

RECOMMENDATION:

CALGARY PLANNING COMMISSION RECOMMENDATION TO COUNCIL:

That Council:

1. **ADOPT** the proposed Textual Amendments to Land Use Bylaw 1P2007, and addition of a new Part 3 – Division 7 (Infrastructure Servicing), in accordance with the Development and Building Approvals; and
2. Give one reading to the proposed Bylaw.
3. **AMEND** the “Proposed Amended Bylaw Wording” by eliminating sections (b) and (uu) and renumber the sections accordingly.
4. Give second and third readings to the proposed Bylaw, as amended.

Moved by: M. Tita**Carried: 7 – 0**

Reasons for Support from Mr. Wright:

- The two items that are suggested to be removed continue to limit the discretion of the approving authority if they are enacted. Instead, a policy procedure that is not part of the bylaw could provide non legal direction and help reduce Red Tape.
5. **REFER** the following Motion to the Growth Management Committee for consideration:
 - That in any future studies for redevelopment resulting in the intensification of use and an increase in density, that Administration include an analysis that demonstrates the capacity of the infrastructure is adequate to accommodate the intensification of use and increase in density, for the subject area, or alternatively demonstrate a solution to any capacity issue including, but not limited to, financing and staging.

Moved by: R. Honsberger**Carried: 7 – 0**

PROPOSAL:

Minor textual amendments to Land Use Bylaw 1P2007, and addition of a new Part 3 – Division 7 (Infrastructure Servicing).

Introduction

This report proposes minor textual amendments to the Land Use Bylaw (LUB) 1P2007 to clarify items such as: servicing capacity requirements for development; the required side setback for subdivisions on corner sites; the definition of Accessory Residential Building and Main Residential Building; the rules for large vehicles; and the minimum parking requirement for Hotels.

A description and summary of the amendments are found in APPENDIX I. The text of the proposed amending bylaw may be found in APPENDIX II.

Background

The LUB Sustainment team was formed when the LUB came into effect on 2008 June 01. One of the purposes of the team is to ensure that the LUB is clear and consistent as possible. The team meets regularly with internal and external stakeholders to address concerns surrounding clarity or accuracy of language, and as such bring forward regular revisions to the LUB to ensure that it remains accurate.

Previous Council Direction

At the 2013 July 29 Regular Meeting of Council a report entitled “West Memorial Sanitary Trunk Capacity” was received for information. As part of that report it was recommended and approved by Council that Administration would return by 2013 December, to Council, with proposed amendments to the LUB to require all development to have access to available servicing. In response Administration has prepared LUB amendments to ensure the adequate capacity of services necessary for each development.

At the 2013 March 04 Regular Meeting of Council a Motion Arising brought forward by Alderman Chabot, Seconded by Alderman Keating, directed that Administration to bring forward textual amendments to the C-COR land use designation to clarify the wording for the maximum reduction to minimum parking stall requirements. This report includes the suggested changes and further proposes that these changes be incorporated in the General Rules for Centre City Commercial and General Rules for Centre City Multi-Residential High Rise Districts which had similar, ambiguous wording.

Description of Amendments

APPENDIX I contains a description of the proposed amendments and a summary outlining the purpose of the change.

The changes include:

- Clarifying adequate servicing capacity for developments;
- Adding phasing as a condition for Permitted Use Developments;
- Clarifying wording for parking stall reductions in a variety of Districts;
- Aligning the definitions of Accessory Residential Building and Main Residential Building;

- Re-inserting the rule that Home Occupations – Class 2 are not allowed to directly sell goods from the premises;
- Changing the minimum required parking rates of Hotels in blended parking rate Districts to be more reflective of Hotel parking requirements; and
- Clarification to the setback for corner sites in the R-C1 and R-C2 Districts.

Industry and Community Consultation

The proposed changes to LUB primarily clarify and correct minor issues in the LUB, whereas amendments which affect the substance of LUB and have the potential for real impacts on stakeholders are handled under separate amendments. The LUB Sustainment team meets regularly with internal and external stakeholders, representing industry, communities and engaged citizens, in order to ensure transparency in all amendments. Through this group, Administration is able to confirm that concerns with LUB concepts and wording are adequately addressed, and that LUB is continually updated. The amendments in this report have been discussed with our Stakeholder group.

Recommendation

DEVELOPMENT AND BUILDING APPROVALS RECOMMENDATION:

APPROVAL

Recommend that Council **ADOPT**, by bylaw, amendments to Land Use Bylaw 1P2007, and addition of a new Part 3 – Division 7 (Infrastructure Servicing) (APPENDIX II).

Matt Zabloski
Oct/2013

PROPOSED AMENDMENTS TO LAND USE BYLAW 1P2007

SUMMARY OF PROPOSED AMENDMENTS

Amendment Reference	Description
(a), (c), (l), (n), (o), (q), (r), (s), (t), (u), (v), (dd), (nn), (rr), (ss), (ddd), (eee), (fff), (ggg)	Amendments relating to spelling, punctuation, omissions and formatting.
(uu)	Clarifies maximum parking reductions. The proposed wording clarifies the practice of allowing reductions in parking stall requirements to a set maximum reduction and creates greater consistency with related sections throughout the LUB. This amendment specifically addresses a motion arising from Alderman Chabot to clarify the wording surrounding maximum parking reductions.
(ee), (ff)	Clarify the rules limiting a Home Occupation – Class 2. Prior amendments to the LUB had mistakenly removed a rule from the definition of Home Occupation – Class 2 which prohibited the direct selling of goods from a residence that are not incidental to the services being provided. The proposed amendment would re-insert this rule into the Home Occupation – Class 2 definition.
(x)	Eliminates a discrepancy which existed between the definitions of Accessory Residential Building and <i>main residential building</i>. The definition of an Accessory Residential Building indicated that it could not be attached to a Dwelling Unit except where the connection was entirely below grade or below a patio. This amendment clarifies that an Accessory Residential Building can be attached to a Dwelling Unit above grade, so long as the Dwelling Unit takes the form of a Secondary Suite – Detached Garage, or a Secondary Suite – Detached Garden.
(m), (p)	Clarifies the rules restricting the viewing of signs from roadways. The original rules restrict the placement of Signs when the copy is legible from various roadways. This definition has lead to confusion regarding what is defined as being legible. The original wording of this rule is a carry-over from Land Use Bylaw 2P80 and the original intent of the rule was to limit the placement of Signs such that they would not provide a distraction for drivers on these roadways. The restriction that the Signs could not be legible from one of the listed roadways was meant to allow those signs which faced away from the roadways but restrict any Signs which were meant to attract the attention of motorists on the restricted roads. The proposed amendment achieves the same results, and eliminates confusion by restricting signs whose copy is visible from the listed roads.

- (ccc) **Makes clear the requirement for a Third Party Advertising Sign to have been legally existing at the time of the enactment of this Bylaw, and to be legally existing at the time of re-application.** The wording for this section was not clear, leaving confusion as to whether Third Party Advertising Signs in the S-CRI district which have expired or lapsed can be renewed. The amendment affirms that once a Third Party Advertising Sign has expired the use ceases to continue on the parcel.
- (g) **Adds the ability of the Development Authority to add phasing as a condition of a Permitted Use Development Permit.** The Development Authority is currently limited in its ability to place conditions on Permitted Use Development Permits to require public improvements, environmental site assessments, and to ensure compliance with the rules surrounding floodway, flood fringe and overland flow areas. The amendment would grant the Development Authority the ability to place phasing as a condition on a Permitted Use Development Permit, prior a second Development Permit would need to be processed to accommodate phasing.
- (y), (z), (aa), (bb), (cc), (gg), (hh), (ii), (jj), (kk), (ll), (mm) **Remove the references to 4500kg vehicles and instead reference large vehicles.** Amending Bylaw 5P2013 altered the definition of large vehicle to include a variety of features beyond gross vehicle weight to identify large vehicles. This amendment removes references which identify a vehicle based solely on its weight and instead references large vehicles and their expanded definition.
- (tt), (ww), (xx), (yy), (zz), (aaa), (bbb) **Add Hotel to the list of Uses which are not calculated at a blended rate in those commercial districts which utilize a blended rate requirement for motor vehicle parking stalls.** Previously when a Hotel in the C-C2, C-R2 or C-R3 was proposed the parking rate would be calculated on the district's blended rate of 4.5 stalls per 100 square metres. This would result in the development requiring three to four times the number of stalls needed for this use, based on previous parking studies. The intent of this amendment is to align the parking requirement for Hotels in these areas more closely with the accepted parking rate for Hotels under the LUB.
- (oo), (pp), (qq) **Serve to clarify a rule regarding side yard setbacks on a corner parcel which has carried over from Land Use Bylaw 2P80.** Under 2P80 there was a rule which recognized that in subdivisions that were created prior to 2P80 planners did not lay out communities with the same regard for corner parcels. Similar to Land Use Bylaw 1P2007, 2P80 required larger side setbacks on corner parcels than previous bylaws, however a rule was included which allowed for parcels created on subdivisions that were approved by the Calgary Planning Commission prior to 2P80 to adhere to the previous less restrictive setbacks. The intent of the rule was not to restrict the development potential on these lots, and this amendment serves to include this same rule in 1P2007.
- (vv) **Adds the Uses of Parking Lot – Grade and Parking Lot – Structure to the C-R1 District.** These uses were mistakenly left out of the Discretionary uses when 2P80 transitioned to 1P2007 and this amendment serves to correct that omission.

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(d), (e), (f), (h), (i), (j), (k), (w) **Respond to the direction given by report C2013-0540 titled *West Memorial Sanitary Trunk Capacity*, accepted at the July 29, 2013 Regular Meeting of Council.** These amendments grant the Development Authority the ability to condition or refuse a development if the development does not have adequate servicing capacity.

(b) **Addresses the issue of what buildings should be taken into account when determining the contextual adjacent buildings to a residential development.** These amendments give clarity to what types of building should be considered when determining the contextual setbacks for a residential development. Current wording in LUB 1P2007 does not indicate if commercial or industrial properties should be taken into consideration when determining the contextual setbacks for a residential development. These amendments confirm that only residentially designated properties should be taken into account.

PROPOSED AMENDING BYLAW WORDING

1. The City of Calgary Land Use Bylaw, being Bylaw 1P2007 of the City of Calgary, as amended, is hereby further amended as follows:
 - (a) Delete and replace the term in subsection 554(1) “Street Oriented” with “Street-Oriented”.
 - (b) Delete and replace subsection 13(36) with:

“(36) “contextual adjacent buildings” means the two closest buildings to a parcel:

 - (a) located on the same block face not separated by a **street**;
 - (b) in the case of **low density residential district** where the **building** is on a **parcel** designated as a **residential district**; and
 - (c) where the **building** is not an **Accessory Residential Building**.”
 - (c) Delete and replace the term in subsections 13(135), 554(1), 554(2), 592(2), 592(5), 602(2), 602(5), 612(2), 612(5), 622(2), 622(5), 632(2), 632(5), 642(2), 653(2), 664(2), 674(2), 674(5), 685(2), 685(5) “**street oriented multi-residential building**” with “**street-oriented multi-residential building**”.
 - (d) Delete the word “and” from the end of subsection 24(c).
 - (e) Delete and replace the “.” at the end of subsection 24(d) with “; and”
 - (f) Insert a new subsection 24(e) as follows:

“(e) has adequate sewage collection, treatment and disposal, water supply, treatment and distribution, storm water collection and storage and road infrastructure capacity necessary to serve the **development**.”
 - (g) Delete and replace subsection 28(3) with:

“The **Development Authority** may, as a condition of issuing a **development permit** for a **permitted use**, impose conditions in respect of the following matters:

 - (a) an environmental site assessment; and
 - (b) phasing of the **development**.”
 - (h) Delete and replace the “.” at the end of subsection 40(d) with a “;”.
 - (i) Delete the word “or” from the end of subsection 40(e).

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- (j) Delete and replace the “.” at the end of subsection 40(f) with “; or”.
- (k) Insert a new subsection 40(g) as follows:
“(g) is not adequately serviced by infrastructure referenced in Section 129.1.”
- (l) Delete and replace the word “Kensington” in subsection 89(2)(d) with “Kensington”.
- (m) Delete and replace the word “legible” in subsections 89 (1), 111(3), 111(7), 111(8), 115.2(2) with “visible”.
- (n) Delete the word “and” from the end of subsection 89(2)(g) and add the word “and” to the end of Section 89(2)(h).
- (o) Add a “,” after “CC-MH” in subsection 104(2).
- (p) Delete and replace the wording in subsection 104(5) with:
“(5) A **Digital Message Sign** must not be located on a *parcel adjacent* to Deerfoot Trail when the *copy* on the *sign* is visible from Deerfoot Trail.”
- (q) Delete and replace the term “**digital copy**” in Section 104(8) with “digital **copy**”.
- (r) Delete and replace the word “reference” in subsection 111(12) with “referenced”, and add a “.” to the end of the subsection.
- (s) Delete and replace the term “**Freestanding Identification Sign**” in subsections 112 (1), 112 (2), 115.3(1) and 115.3(2) with “**Freestanding Sign**”.
- (t) Delete and replace the words in subsections 113(2.1), 113(6), 114(11)(d) “pedestrian oriented” with “pedestrian-oriented”
- (u) Delete and replace the words “sign” and “parcel” in subsection 115.3(3)(d)(i) with “**sign**” and “**parcel**”.
- (v) Delete and replace the term “**Dwelling Unit**” in subsection 115.5(10)(d) with “**Dwelling Unit**”.
- (w) Insert a new Part 3 – Division 7 as follows:

Division 7: Requirements for Infrastructure Servicing

Infrastructure Requirements

129.1 The **Development Authority** must confirm there is adequate sewage collection, treatment and disposal, water supply, treatment and distribution, storm water collection and storage and road infrastructure capacity necessary to serve the **development**.

- (x) Delete and replace the wording in subsection 138 (a)(ii) with:
- “(ii) that is not attached to the **main residential building** except where the attachment is entirely below **grade** or directly below a **patio**.”
- (y) Delete and replace the wording in subsection 150(a)(i) with:
- “(i) where motor vehicles are serviced and repaired in a **building** provided they are not **large vehicles** or **recreational vehicles**; and”
- (z) Delete and replace the wording in subsection 151(a)(i) with:
- “(i) where motor vehicles are serviced and repaired in a **building** provided they are not **large vehicles** or **recreational vehicles**; and”
- (aa) Delete and replace the wording in subsection 159(a)(ii) with:
- “(ii) where the motor vehicles receiving fuel are **large vehicles**,”
- (bb) Delete and replace the wording in subsection 161(a)(i) with:
- “(i) where motor vehicles are washed, provided they are not **large vehicles** or **recreational vehicles**; and”
- (cc) Delete and replace the wording in subsection 162(a)(i) with:
- “(i) where motor vehicles are washed, provided they are not **large vehicles** or **recreational vehicles**; and”
- (dd) Delete and replace the word “were” in subsections 207(d), 208(d) with “where”.
- (ee) Delete and replace the subsections 208 (n) and (o) with:
- “(n) must not directly sell any goods at the premises, unless they are incidental and related to the services provided by the **use**;
- (o) requires a minimum of 1.0 **motor vehicle parking stalls** in addition to the **motor vehicle parking stalls** required for the **Dwelling Unit** the **use** is located in, where the number of business associated vehicle visits per week exceeds three (3); and”
- (ff) Insert a new subsection 208 (p) as follows:
- “(p) does not require **bicycle parking stalls – class 1 or class 2**.”
- (gg) Delete the wording in subsection 222(a) and replace with:
- “(a) means a **use** where **large vehicles** undergo maintenance and repair;”

- (hh) Delete the wording in subsection 223(a) and replace with:
- “(a) means a **use** where **large vehicles** are washed;”
- (ii) Delete the wording in subsection 324(a)(ii) and replace with:
- “(ii) where the motor vehicles rented are not **large vehicles** or **recreational vehicles**; and”
- (jj) Delete the wording in subsection 325(a)(ii) and replace with:
- “(ii) where six (6) or more vehicles, that are not **large vehicles** or **recreational vehicles**, are available for sale or lease; and”
- (kk) Delete the wording in subsection 326(a)(ii) and replace with:
- “(ii) where no more than five (5) motor vehicles, that are not **large vehicles** or **recreational vehicles**, are available for sale or lease;”
- (ll) Delete the wording in subsection 327(a)(i) and replace with:
- “(i) where **large vehicles** are stored;”
- (mm) Delete the wording in subsection 328(a)(i) and replace with:
- “(i) where motor vehicles are stored, provided they are not **large vehicles** or **recreational vehicles**;
- (nn) Delete and replace the term in subsection 347.1(1)(e) “**contextually adjacent building**” with “**contextual adjacent building**”.
- (oo) Delete and replace the text in subsection 397(3) with:
- “(3) Unless otherwise referenced in subsection (4), for a **corner parcel** the minimum **building setback** from a **side property line** shared with a **street** is 1.2 metres, provided there is no portion of a **building**, except for a projection allowed in 337(3), located within 3.0 metres of:
- (a) the back of the public sidewalk; or
- (b) the curb, where there is no public sidewalk.”
- (pp) Insert a new subsection 397(4) as follows, and re-number the existing subsections accordingly:
- “(4) Where a **corner parcel** shares a **side property line** with a **street** and the **parcel** forms part of a **plan of subdivision** approved by the Calgary Planning Commission prior to March 31, 1980, the minimum **building setback** from that **side property line** is 1.2 metres.”

- (qq) Delete and replace the text in subsection 436(5) with:
- “(5) Where a **corner parcel** shares a **side property line** with a **street** and the **parcel** forms part of a **plan of subdivision** approved by the Calgary Planning Commission prior to March 31, 1980, the minimum **building setback** from that **side property line** is 1.2 metres.”
- (rr) Delete and replace the term in the section title for Section 554 “**Street Oriented**” with “**Street-Oriented**”.
- (ss) Delete the wording in subsection 598(d) and replace with:
- “(d) the applicable rules for the Special Purpose – Community Service District for those **uses** referenced in sections 596(2) and 597(2) and (3).”
- (tt) Delete and replace subsection 770(a) with:
- “(a) is the requirement referenced in Part 4 for the following **uses**:
- (i) **Cinema**;
- (ii) **Hotel**;
- (iii) **Library**;
- (iv) **Medical Clinic**, when located above the ground floor;
- (v) **Office**, when located above the ground floor; and
- (vi) **Post-secondary Learning Institution**.”
- (uu) Add the word “reduction” after the word “maximum” in subsections 791(1)(f)(iii), 791(2)(d)(iii), 1107(6)(c), 1157(2)(d)(iii), and 1157(3)(c)(iii)
- (vv) Insert new subsections 845(q.1) and (q.2) as follows:
- “(q.1) **Parking Lot – Grade**;
- (q.2) **Parking Lot – Structure**.”
- (ww) Delete and replace subsection 874(a) with:
- “(a) is the requirement referenced in Part 4 for the following **uses**:
- (i) **Cinema**;
- (ii) **Hotel**;
- (iii) **Medical Clinic**, when located above the ground floor;
- (iv) **Office**, when located above the ground floor;
- (v) **Performing Arts Centre**; and
- (vi) **Post-secondary Learning Institution**.”
- (xx) Delete and replace subsection 875(1)(b) with:
- “(b) the number of stalls required was determined by using the provisions referenced in subsections 874(a)(iv) and 874(d).”
- (yy) Delete and replace subsection 875(2) with:

- “(2) The minimum number of **motor vehicle parking stalls** for an **Office or Information and Service Provider** is reduced by 5.0 per cent where:
- (a) a **building** is located within 150.0 metres of a **street** where a **frequent bus service** operates,
 - (b) the number of stalls required was determined by using the provisions referenced in subsections 874(a)(iv) or 874(d); and
 - (c) the reduction for stalls referenced in subsection (1) was not applied.”

(zz) Delete and replace subsection 892(a) with:

- “(a) is the requirement referenced in Part 4 for the following **uses**:
- (i) **Cinema**;
 - (ii) **Hotel**;
 - (iii) **Medical Clinic**, when located above the ground floor;
 - (iv) **Office**, when located above the ground floor;
 - (v) **Performing Arts Centre**; and
 - (vi) **Post-secondary Learning Institution**; and”

(aaa) Delete and replace subsection 893(1)(b) with:

- “(b) the number of stalls required was determined by using the provisions referenced in subsections 892(a)(iv) and 892(b).”

(bbb) Delete and replace subsection 893(2)(b) with:

- “(b) the number of stalls required was determined by using the provisions referenced in subsections 892(a)(iv) or 892(b); and”

(ccc) Delete the wording in subsection 1068(2)(b) and replace it with:

- “(b) is currently approved by a **development permit** issued by the **City**.”

(ddd) Delete and replace the term “**Outdoor Recreation Facility**” in subsection 1134(5)(d) with “**Outdoor Recreation Area**”.

(eee) Delete and replace the term “East Village – High Rise Building” in subsection 1261(2) with “**East Village – High Rise Building**”.

(fff) Delete and replace the term “**Accessory Liquor Store**” in subsection 1281(2)(b) with “**Accessory Liquor Service**”.

(ggg) Delete subsection 1287(1) in its entirety.