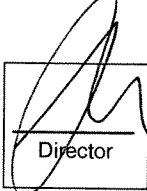
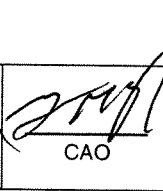


COUNCIL AGENDA/INFORMATION		
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Director	CAO

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DISTRICT OF WEST VANCOUVER  
750 – 17<sup>TH</sup> STREET, WEST VANCOUVER, BC V7V 3T3

**COUNCIL REPORT**

Date: October 15, 2008 File: 2515-24  
 From: Steve Nicholls, Associate Director Major Projects  
 Subject: **Zoning Bylaw Rewrite – Creating a Contemporary Bylaw**

**RECOMMENDED THAT:**

1. the recommended process for undertaking a comprehensive update of the Zoning Bylaw as described in the October 15, 2008 report of the Director of Major Projects be endorsed.

**Executive Summary**

The West Vancouver Zoning Bylaw is the principal means by which the community regulates permitted land use and development patterns and characteristics. The existing Zoning Bylaw 2200, 1968 was introduced 40 years ago and has been continually updated with both major and minor amendments. As a result, it has become increasingly complex, with antiquated formatting and wording, regulations that are sometimes hard to understand or interpret, and others without current legal authority.

The 2004 Development Process Review (Stantec Report) recommended the creation of a contemporary bylaw. The intent of the comprehensive and primarily technical rewrite is to improve the clarity and usability of the Bylaw, to standardize and update wording, to minimize redundancy, eliminate “ultra vires” sections and to reduce the potential for ambiguity. Many suggestions for improvements have been made by members of the community and building and design industry and by staff. These suggestions are being incorporated where considered feasible and consistent with apparent community values.

The comprehensive rewrite focuses on creating a contemporary document and intentionally avoids amendments having major “policy” implications (e.g. changes in use, major changes in form and character or environmental regulations). In addition to the comprehensive rewrite, staff is recommending a series of discussion reports on zoning “policy” amendments which will go forward on separate, but parallel tracks (see Section 3.1D of this report). This approach will allow the community to focus its attention on the particular issues being addressed (e.g. the contemporary bylaw, the environmental regulations, the housing bulk proposals), and hopefully allow Council to deal with them more expeditiously, and with greater clarity of discussion. The intent is to allow Council to act on those measures it feels comfortable proceeding with, and

avoid a situation where all issues have to be agreed upon and brought to completion before any can be acted upon.

The process proposed involves various opportunities for members of the community and building industry to be involved in the discussions and bylaw creation.

## **Purpose**

To obtain Council endorsement for a process to create a contemporary Zoning Bylaw.

## **1.0 Background**

### 1.1 Prior Resolutions

March 22, 2004 – Council adopted recommendations of Municipal Manager and its Select Committee re: the Development Review Process (Stantec Report), one of which was to “prepare a new Zoning Bylaw through a comprehensive consultative process” with a target completion date of an initial new bylaw of January 2005. (staffing and Council work program priorities have delayed this task)

Related Council motions:

In accordance with a December 10, 2007 Council motion, certain policy issues were reported to Council in September 2008, and are the subject of an October 20 Public Hearing, including building height, floor area exemptions and blasting in single family areas.

The Working Group on Housing and Neighbourhood Character submitted policy recommendations in September 2008 that involve the Zoning Bylaw, and Council requested a staff report on recommendations as to priorities and timelines. Staff will make this report to the new Council as it is a key component of the Planning Department’s 2009 work plan.

### 1.2 History

A community’s main implementing bylaw for land use is the Zoning Bylaw, and the current bylaw was initially adopted in 1968. Since then, there have been approximately 200 amendments, some related to specific sites or proposals, and others involving broader updates or changing policies. There were also a series of amendments in the 1980’s and 1990’s, collectively called the “Bulk Housing” amendments, intended to address the size and visual bulk of houses and site works. The latest bulk housing amendments were adopted by Council in late 1996. In 2007-2008, additional reviews were commenced but not yet acted upon (Clovelly/Caulfeild, Housing and Neighbourhood Character Working Group).

The scope of this comprehensive rewrite bylaw is extensive, but the intent and focus is primarily technical. It is to create a contemporary legal document and the primary principles or objectives are described below.

## **2.0 Policy**

### 2.1 Policy

The Official Community Plan sets out the broad policy umbrella for the District, a major element of which is land use. The Zoning Bylaw helps to implement those policies.

## **3.0 Analysis**

### 3.1 Discussion

#### **A) Differentiation of Technical Rewrite and Substantive Policy Changes**

In 2001 and 2002, intensive review of the current Zoning Bylaw was done by staff and our solicitors as a first step toward the drafting of a new bylaw. In addition, reviews were undertaken of the bylaws in various other municipalities, both Canadian and American, with regards to structure, style and provisions. Work was postponed due to staff changes and various competing work priorities.

The comprehensive Development Process Review (Stantec Report) undertaken in 2003 to 2004 included the recommendation for a new bylaw.

The creation of a contemporary Zoning Bylaw can be classified as a “technical” review and revision. Over 40 years and 200 amendments, the Zoning Bylaw has become cumbersome in style and wording, with outdated references to various regulated matters (e.g. child care), provisions that no longer have legal authority, and extensive redundancy. It has become increasingly complex or unwieldy for users – both in the community and on staff.

The overall purpose is to create a Zoning Bylaw that is “state of the art” in terms of readability, legal authority and enforceability, that reflects the current policies of the Municipality and from which a user could quickly and accurately comprehend regulations that apply to particular lands.

To allow the creation of a contemporary bylaw to be undertaken without confusion, it is critical that major policy changes not be inserted unless related to that purpose. Otherwise, the discussion could be diverted onto the more controversial (and undoubtedly more interesting) policy issues. The work on specific policy issues would move forward on parallel, but different tracks and it is possible that some of these policy initiatives could be acted upon in advance of the comprehensive rewrite.

## **B) Principles/Objectives of Technical Rewrite**

1. **Plain language** – eliminate planning and legal jargon, improve consistency in terminology
2. **Simplified and graphic** – where feasible format will include diagrams (for reference only, to back up text) and tables, and be formatted for ease of reading
3. **Reduce redundant clauses**
4. **Eliminate Inconsistencies** (from multiple past amendments)
5. **Legal regulations** – avoid “illegal” regulations that are unenforceable
6. **Robust “template”** – anticipate future amendments and ease of integration
7. **Contemporary** terminology and references
8. **Comprehensive info in zones** where feasible – reduce cross referencing but provide centralized detailed explanations and calculations to avoid repetition
9. **Designations of areas or regulations substantively unchanged**– each parcel would be subject to same regulations as current bylaw – don’t mix major policy changes with bylaw update – could be some simplification and consideration of a park zone for current parks may be put forward in a separate bylaw report.
10. **Purpose driven** – if no purpose known, eliminate regulation
11. Local **topographic conditions** reflected
12. **Community values** reflected

## **Other considerations included in the review**

1. “Interpretation” issues - a limited number of policy issues that produce unclear or ambiguous regulations in the current bylaw will be dealt with
2. New substantive policies should be introduced in separate bylaws. During the review, record controversial regulations
3. Consider eventual integration or compatibility with new Subdivision and other bylaws
4. Anticipate use and readability on Internet
5. Visually show “defined” terms (and hyperlink)
6. Eliminate unneeded and common language words from definition section and move “regulation” language to regulations sections
7. Update general regulations section, reorganize, consolidate (e.g. parking and landscaping regs)
8. Update maps, possibly show mandatory development permit areas
9. Generalize (simplify and generic) uses – particularly in commercial areas
10. Look at zones – numbers of zones and reduce apparent complexity by consolidating “single site” zones to a Comprehensive Development (CD) zone section

### **C) New Bylaw currently under construction with revisions arising from initial staff/legal review**

While public discussion and industry comment is proposed to identify and consider additional modifications, staff believes such discussion would be assisted by the creation of an "initial" draft. Work to date on a new bylaw has incorporated initial proposals by the municipal solicitors respecting content and legal matters and recommendations from both staff and the public (as recorded in letters submitted and file notes) on potential changes.

It would appear that in spite of the incorporation of graphics, increased typeface size and fewer words per page, with simplified wording and the elimination of numerous redundancies, the revised document under construction would be approximately 125 pages shorter than the current 355 pages. The public review draft will be ready in November 2008.

### **D) Additional policy area reviews identified to date for separate discussion papers or reports**

In the current review, and other Council Working Group initiatives, the following topics have been identified for consideration in separate reports and community reviews. Others are expected to be added as this review is discussed in the community.

- Environmental regulations
- Housing bulk and site development
- Housing variety and affordability
- Secondary suites
- Controls on construction activity and disturbance
- Introduction of voluntary Development Permits to address unique sites, environmental constraints and neighbourhood impact
- Heritage promotion
- Zoning of Parks
- Child care provisions

### **E) Proposed Process for Technical Zoning Bylaw Rewrite**

The intent of this rewrite is to create a contemporary bylaw to replace that introduced 40 years ago, and to address the many issues of interpretation, redundancy, legality and legislative context. In order to accomplish this task, the proposed overall emphasis is on a focused review led by staff, focusing on technical rather than policy issues. The initial "working" draft would be a public document that any member of the community would be able to view on-line or in the covering Council report.

The recommended means for providing community input include the following.

a) Focus Group(s)

Staff recommends that a focus group of residents, design and building interests be used to review the proposed bylaw revisions and to advise on additional changes. This provides for wider community involvement as well as focused comment from actual bylaw users, with each being able to provide differing perspectives.

Use of a focus group allows the members to comment on their selected portions of what is primarily a technical exercise with important technical implications in the details. For example, design experts can comment on unanticipated design issues, staff on administrative or interpretation issues and residents on what may be unique to the community values. Staff will report in November on the proposed membership for Council consideration and endorsement. It may be that more than one group would be proposed.

b) Advisors' Review

Staff also recommends that Council's Design Review Committee be requested to comment on the bylaw as it progresses and on the final draft prior to more formal Council consideration. This appointed committee is primarily residents of West Vancouver and is intended to provide professional, expert advice on such bylaws.

c) Municipal Solicitor

The Municipal Solicitor has provided preliminary comments on the current bylaw (incorporated into the draft). A more thorough review of the draft Bylaw should take place following review by the Design Review Group.

Eventually, the draft would go forward to a Public Hearing.

Timing

It is anticipated that an initial draft to use in the community review will be completed in November and that the draft, together with a report recommending details of structure and composition of the proposed focus group would be submitted in the same month. The review would take place over the winter, with full opportunity for community comment, and a final draft of a new bylaw would be considered by the new Council in 2009.

3.2 Environmental Implications – no direct implication

3.3 Social Implications – no direct implication

3.4 Financial Implications – Study is intended to be undertaken in house with review by volunteers and a minor legal cost in review by the Municipal Solicitor and public information meetings. Costs of administering the focus group review would be minor.

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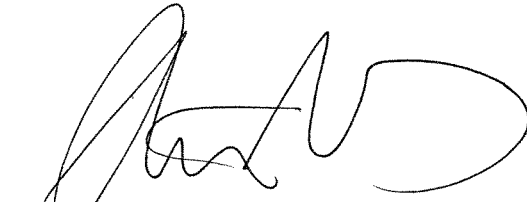
3.5 Sustainability – The Zoning Bylaw is the Municipality's primary land use regulation document.

3.6 Consultation – as in 3.1 E above.

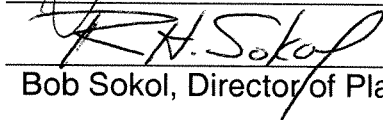
#### **4.0 Options**

4.1 Council can receive this report and endorse the process described, ask for further information or direct staff to take alternative action.

Author:



Concurrence



Bob Sokol, Director of Planning, Lands and Permits

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