



BOARD REPORT

TO: Chair and Directors

File No: BL851-16
PL20190107

SUBJECT: Electoral Area B: Electoral Area B Zoning Amendment (Gagnon et al) Bylaw No. 851-16

DESCRIPTION: Report from Erica Hartling, Planner I, dated July 31, 2019. Strata Plan NES3881, Lots 1 – 7 Mt McPherson Drive

RECOMMENDATION: THAT: "Electoral Area B Zoning Amendment (Gagnon et al) Bylaw No. 851-16" be read a first time this 15th day of August, 2019;
AND THAT: the Board utilize the simple consultation process for Bylaw No. 851-16, and it be referred to the following agencies and First Nations:

- Area B Advisory Planning Commission;
- Interior Health;
- FrontCounter BC;
- Archaeology Branch;
- Ministry of Transportation and Infrastructure;
- CSRD Operations Management;
- City of Revelstoke; and,
- All relevant First Nations Bands and Councils.

SHORT SUMMARY:

The seven properties that are subject to this bylaw amendment application are part of Strata Plan NES3881, located off Mt Begbie Road and accessed from the strata’s common road Mt McPherson Drive, in Electoral Area B. The subject properties are zoned CDB1 - Comprehensive Development B1 and within Development Area 1 of the Electoral Area B Zoning Bylaw No. 851 (Bylaw No. 851).

The property owners of the seven residential strata lots propose to add bed and breakfast (maximum 3 bedrooms) as a permitted secondary use to the CDB1 Development Area 1 zone; this would apply to all seven strata lots. Bed and breakfast is currently a permitted secondary use in almost all of the rural/residential zones in Bylaw No. 851 and the proposal is consistent with the surrounding rural residential zoned properties.

For strata lot 6 only, it is proposed by the property owners (i.e. applicant) that a vacation rental (maximum 5 bedrooms) be a permitted use for the subject property. The proposal for lot 6 also restricts the vacation rental to be operated by the permanent resident of the single family dwelling with which it relates, and this regulation is supported by the owners of the other six strata lots.

VOTING: Unweighted LGA Part 14 Weighted Stakeholder
 Corporate (Unweighted) Corporate (*Weighted*)

BACKGROUND:

PROPERTY OWNERS:

Francis Gagnon et al (7 strata lots, 10 registered owners)

APPLICANT:

Francis Gagnon

ELECTORAL AREA:

B

LEGAL DESCRIPTION:

Strata Lots 1 – 7, Section 21, Township 23, Range 2, West of the 6 Meridian, Kootenay District, Strata Plan NES3881, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on form v

PID:

- Lot 1 – 028-626-371
- Lot 2 – 028-626-389
- Lot 3 – 028-626-397
- Lot 4 – 028-626-401
- Lot 5 – 028-626-419
- Lot 6 – 028-626-427
- Lot 7 – 028-626-435

CIVIC ADDRESS:

- Lot 1 – 1909 Mt McPherson Drive
- Lot 2 – 1933 Mt McPherson Drive
- Lot 3 – 1941 Mt McPherson Drive
- Lot 4 – 1920 Mt McPherson Drive
- Lot 5 – 1923 Mt McPherson Drive
- Lot 6 – 1917 Mt McPherson Drive
- Lot 7 – 1912 Mt McPherson Drive

SURROUNDING LAND USE PATTERN:

North = treed Crown land, utility tenure

South = rural residential private properties (TUP850-03 issued for a vacation rental in a detached secondary dwelling unit on the property directly south, 1630 Mt. Begbie Road)

East = treed crown land

West = Mt. Begbie Road, strata's common property, rural residential private properties

CURRENT USE: 5 residential lots, 2 vacant lots

PROPOSED USE: all seven strata lots to continue residential uses with the option to operate a bed and breakfast (maximum 3 bedrooms) as a secondary use. For lot 6 only, the proposed secondary use would also allow a vacation rental (maximum 5 bedrooms) to be operated by the subject property owner residing in the single family dwelling with which it relates.

PARCEL SIZE:

- Lot 1 – 1.72 ha
- Lot 2 – 1.88 ha

- Lot 3 – 1.28 ha
- Lot 4 – 1.47 ha
- Lot 5 – 1.89 ha
- Lot 6 – 1.96 ha
- Lot 7 – 1.34 ha

DESIGNATION:

Electoral Area B Official Community Plan Bylaw No. 850
CD - Comprehensive Residential Development

ZONE:

Electoral Area B Zoning Bylaw No. 851
CDB1 - Comprehensive Development B1 (Mt McPherson Rd.)

AGRICULTURAL LAND RESERVE:

0%

SITE COMMENTS:

See "Maps_Plans_Photos_BL851-16.pdf" attached.

A site visit was not conducted for this bylaw amendment application. The site information provided in this report is based on orthophoto interpretation and details and photos provided by the applicant. The properties subject to this application are strata lots 1- 7 located east of Mt Begbie Road and accessed from the strata's common road Mt McPherson Drive. The subject properties are mainly treed with cleared areas for the existing/future single family dwellings and detached garages. All seven of the strata lots have a building scheme registered on their titles that maintains a standard of development, which is enforced by the Strata and not the CSRD. A 20 m firebreak has been established on the eastern boundaries of lots 2, 5, and 6 that border Crown land. The firebreak is intended to provide protection for the current/proposed residences and Crown land. Current/proposed uses of the strata lots are as follows:

East of Mt. Begbie Road - CDB1 – Development Area 1

- Lot 1 – single family dwelling
- Lot 2 – single family dwelling with attached secondary dwelling unit (basement suite)
- Lot 3 – vacant, owner plans to build a home in the near future
- Lot 4 – vacant, no plans to build in the near future
- Lot 5 – single family dwelling
- Lot 6 – applicant's property with a single family dwelling and attached secondary dwelling unit. The owners plan to operate an on-site vacation rental, see photos in Maps_Plans_Photos_BL851-16.pdf.
- Lot 7 – currently building a single family dwelling (Building Permit File: 3840 18 13)

West of Mt. Begbie Road – CDB1 – Development Area 2

- Strata's common property - 2.93 ha of treed land that is dedicated to passive recreation and open space. Not included as part of the subject bylaw amendment application.

POLICY:

See staff discussion of the applicable policies and land use regulations in the Key Issues/Concepts section of this report. See excerpts of the relevant policies and land use regulations in the attached "BL850_BL851_Excerpts_BL851-16.pdf".

Electoral Area B Official Community Plan Bylaw No. 850

(Adopted August 21, 2014)

- Growth Patterns - West Revelstoke – Begbie Bench
- Residential
 - Community Context
 - Objectives
 - Land Use & Density Policies
 - Residential Cluster Development
 - Bed & Breakfast
 - Vacation Rental
 - Community Specific Policies - Begbie Bench
- Temporary Use Permits

Electoral Area B Zoning Bylaw No. 851

(Adopted October 16, 2008)

- Definitions
- General Regulations
 - Bed and Breakfast
 - Secondary Dwelling Unit
 - Vacation Rental
- CDB1 - Comprehensive Development B1 zone

FINANCIAL:

There are no financial implications to the CSRD as a result of this application.

KEY ISSUES/CONCEPTS:

Previous Bylaw Amendment / Subdivision

At the November 19, 2009 Board meeting Rural Revelstoke Land Use Amendment (Basin Construction Co. Ltd.) Bylaw No. 2222 (Bylaw No. 2222) was adopted. The bylaw amendment rezoned the subject property from SH – Small Holdings (minimum parcel size 4 ha) to CD1-Comprehensive Development 1 (minimum parcel size 1.29 ha) in order to be able to apply to subdivide. In the proposed CD1 zone the maximum number of parcels created through subdivision was 7 with separate common property. Staff had proposed the CD1 zone to provide a zone that was consistent with the OCP policies and to provide for residential cluster development while protecting the 2.93 ha of open space as common property.

Since the adoption of Bylaw No. 2222 the owner subdivided the property in 2011, into the 2.93 ha common property and the seven strata lots (current subject properties) that range from 1.32 ha to 1.95 ha in size.

Historic Land Use Regulations

Rural Revelstoke Land Use Bylaw No. 2200 (Bylaw No. 2200)

(Repealed and replaced with Bylaw No. 851 August 21, 2014)

Bylaw No. 2200, which was the previous land use bylaw that regulated parts of rural Revelstoke including the subject properties, did not define bed and breakfast or list bed and breakfast as a separate use in any zone. A bed and breakfast would have been permitted in zones that listed a home occupation as a permitted use. Under Bylaw No. 2200 the subject CD1 zone permitted: single family dwelling, home occupation, secondary suite, and, accessory use. As such, the subject properties would have been permitted a bed and breakfast use up until the adoption of Electoral Area B Zoning Bylaw No. 851 (Bylaw No. 851). However, a vacation rental as currently defined and regulated under Bylaw No. 851 would not have been a permitted use under the CD1 zone or home occupation use of Bylaw No. 2200.

Proposal 1: (Bed and Breakfast)

The proposal is to rezone the CDB1 zone to include bed and breakfast as a permitted secondary use in Development Area 1. The strata council and owners support each lot to operate a bed and breakfast. The strata owners would like each of their properties to be permitted the proposed secondary use but currently have no plans to run a bed and breakfast at this time.

Staff propose the following amendment to the CDB1 Development Area 1 zone:

by deleting (a) to (c) in their entirety from subsection (2):

- (a) *accessory use*
- (b) *home occupation*
- (c) *secondary dwelling unit*

and replacing them with the following:

- (a) *accessory use*
- (b) *bed and breakfast***
- (c) *home occupation*
- (d) *secondary dwelling unit*

Bed and Breakfast Policies and Land Use Regulations

The subject properties are designated CD - Comprehensive Residential Development in the Electoral Area B Official Community Plan Bylaw No. 850 (OCP), which is considered a Residential Cluster Development. The OCP supports bed and breakfast operations in residential areas and considers them as home occupations. The OCP policies for bed and breakfast residential operations include:

- limited to a maximum of 3 let rooms accommodating up to 2 persons per room per single family dwelling;
- the residential character of the site is maintained;
- subject to the local health authority requirements;
- located in the principal structure only;
- when located within the Agricultural Land Reserve shall comply within all applicable regulations of the Provincial Agricultural Land Commission; and
- advertised by only one small 0.5 m² on-site sign.

The Electoral Area B Zoning Bylaw No. 851 (Bylaw No. 851) permits a home occupation as a secondary use in the CDB1 zone; however, the general regulations in the bylaw specifically outline that a home occupation does not include a bed and breakfast or any kind of accommodation to the public. At the time of the adoption of Bylaw No. 851, bed and breakfast was defined and included in the bylaw as a separate permitted use and not considered a home occupation use. The new bed and breakfast use was added as a permitted secondary use to several rural and residential zones, including:

- Rural Holdings (minimum parcel size 60 ha);
- Small Holdings (minimum parcel size 4 ha);
- Rural Residential 2 (minimum parcel size 2 ha); and,
- Rural Residential 1 (minimum parcel size 1 ha).

Bed and breakfast was not added as a permitted use for the subject properties as staff did not amend any of the uses in the CDB1 zone as part of the adoption of the new bylaw. Nevertheless, the proposed use over the subject properties is consistent with the surrounding land use patterns and rural residential land use zones. The proposed use in the CDB1 zone (minimum parcel size 1.29 ha) is also consistent with the size of properties zoned Rural Residential 2 and Rural Residential 1, which both permit a bed and breakfast as a secondary use.

Bylaw No. 851 definition - Bed and breakfast is the use of not more than three (3) bedrooms within a principal single family dwelling to provide temporary accommodation to the traveling public, and includes food service to guests.

Bylaw No. 851 General Regulation - A bed and breakfast must comply with the following regulations:

- (a) there may be a maximum of one (1) bed and breakfast on a parcel;
- (b) a bed and breakfast shall not be operated in conjunction with a vacation rental;
- (c) a maximum of three (3) bedrooms in a single family dwelling may be used for a bed and breakfast and no more than six (6) guests are permitted in a bed and breakfast at any one time;
- (d) a bed and breakfast must be operated by a permanent resident of the single family dwelling with which it relates;
- (e) a maximum of one (1) person who is not a resident of the single family dwelling may be on the parcel at any one time to assist a resident in the operation of a bed and breakfast;
- (f) a bed and breakfast shall not produce a nuisance for surrounding residents, including but not limited to noise, light or traffic that is disruptive to surrounding residents quiet and enjoyment of their property;
- (g) meet all provincial and Interior Health requirements regarding water and sewer servicing; and
- (h) total signage (excluding framing) used for the purpose of advertising the bed and breakfast on each parcel shall not exceed 0.5 m² in area. Signs shall have a minimum setback of 1 m from parcel lines.

Proposal 2: (Vacation Rental)

The applicant had initially proposed a 3-4 bedroom bed and breakfast but since part of the dwelling to be used as the bed and breakfast is an attached secondary dwelling unit, it did not meet two key zoning regulations for a bed and breakfast use. Bylaw No. 851 restricts a bed and breakfast to a maximum of 3 bedrooms and it must be within the principal single family dwelling (does not include secondary dwelling units). However, the applicant's proposed maximum of 4 bedrooms to provide temporary accommodation to the traveling public within the principal dwelling and attached secondary dwelling unit, currently meets the general regulations for a vacation rental use (maximum 5 bedrooms).

The applicant, who is the owner of strata lot 6, proposes to rezone their property to allow a vacation rental to be permitted as a secondary use. Part of the applicant's proposal is that they wish to restrict the vacation rental to be an owner operated-owner on site vacation rental.

The strata council and owners have written in support of lot 6 (or any other strata lot) to apply for and to operate either a bed and breakfast or a vacation rental but stress that the vacation rental must be

operated by the property owner residing in the dwelling unit with which it relates and the property owner must be on the parcel during a guest's stay. Currently, only the owners of lot 6 (applicant) have future plans to run an owner operated-owner on site vacation rental. If any of the other strata owners wish to run a vacation rental, they would need to apply for a Temporary Use Permit or rezone the lot(s) to allow for such use.

Staff propose to add a site specific permitted use to the CDB1 regulation table, to permit a vacation rental for lot 6 only in the CDB1 zone, which must be operated by permanent resident of the property, similar to regulations of a bed and breakfast. Staff propose the following site specific permitted use for lot 6 only (See "BL851-16_first.pdf" attached:

Site specific permitted uses (subject to section 3.21 Bylaw No. 851):

- Strata Lot 6, Section 21, Township 23, Range 2, West of the 6 Meridian, Kootenay District, Strata Plan NES3881, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on form v, a *vacation rental* operated by a permanent resident of the *single family dwelling* with which it relates is a permitted *use*. {Gagnon}

Vacation Rental Policies and Land Use Regulations

The proposed vacation rental use for lot 6 only, allows for a higher number of permitted bedrooms (5) and guests (10) than a bed and breakfast (3 bedrooms, 6 guests) and can be operated within a secondary dwelling unit.

The OCP policies state that a proposed vacation rental shall:

- first be considered on a three year trial basis by the use of a temporary use permit ;
- not create an unacceptable level of negative impact on surrounding residential uses;
- comply with all applicable regulations of the Provincial Agricultural Land Commission when located within the Agricultural Land Reserve; and
- be subject to local health authority requirements;
- be subject to all Ministry of Transportation and Infrastructure Access Permit requirements.

Although the OCP policy states that a vacation rental shall first be considered on a trial basis by way of temporary use permit, staff support this proposal as a rezoning application, as:

- The CDB1 zone is unique and specific to Strata Plan NES3881 and the strata council and owners (surrounding property owners) have written in support of the current proposal as outlined;
- The applicant's property is under 2 ha (all 6 other strata lots are as well), meaning a vacation rental is not permitted in a detached secondary dwelling unit and the vacation rental must be within the primary dwelling and attached secondary dwelling unit only (visually similar to a bed and breakfast); and,
- The proposed bylaw amendment requires the vacation rental to be operated by the permanent resident of the single family dwelling with which it relates, therefore the added vacation rental use to the CDB1 zone should not create an unacceptable level of negative impact on surrounding residential uses and would be comparable to the operation of a residential bed and breakfast use.

Bylaw No. 851 definition - Vacation Rental is the use of a residential dwelling unit or secondary dwelling unit for temporary accommodation on a commercial basis.

Bylaw No. 851 General Regulation - A vacation rental must comply with the following regulations:

- (1) A vacation rental may be permitted in both the single family dwelling and the secondary dwelling unit. Residential campsites, camping units, and park models shall not be used for vacation rental unless otherwise permitted in this Bylaw;
- (2) Where a vacation rental is permitted, a maximum of five (5) bedrooms per parcel may be used for a vacation rental and no more than ten (10) guests are permitted in a vacation rental at any one time;
- (3) A vacation rental located in a detached secondary dwelling unit is only permitted on a parcel 2 ha in size or larger;
- (4) A vacation rental shall not be operated in conjunction with a bed and breakfast;
- (5) A vacation rental shall not include ancillary uses typical of a hotel, motel, lodge or inn. These uses include, but are not limited to: meeting rooms, restaurant, concierge, and retail sales;
- (6) A vacation rental shall not produce a nuisance for surrounding residents, including but not limited to noise, light or traffic that is disruptive to surrounding residents quiet and enjoyment of their property;
- (7) A vacation rental must not alter the residential character of the dwelling unit or property in which it is operated;
- (8) One (1) on-site parking space shall be provided for each bedroom used for vacation rental;
- (9) Total signage (excluding framing) used for the purpose of advertising the vacation rental on each parcel shall not exceed 0.5 m² in area and 2 m in height if free standing. Signs shall have a minimum setback of 1 m from parcel lines; and
- (10) A vacation rental must be sited in accordance with setback regulations and meet all provincial and Interior Health requirements regarding water and sewer servicing.

The two proposals will remain consistent with the OCP land use & density policies and Residential Cluster Development. As the 7 strata lots and the common property were designed to integrate the OCP policies that encourage land use compatibility and open space. The strata has incorporated this by developing a clustered development, buffers, setbacks, and designated open space. The rural nature of the area will continue to be maintained by the registered building scheme and the designated open space west of Mt. Begbie Road. The local Begbie Bench area consists of dispersed homes on large rural properties; and, the strata's proposed addition of a bed and breakfast use and site specific vacation rental use (for lot 6 only) to the CDB1 zone should not change the appearance of the neighbourhood.

Servicing

Water supply for the strata lots is provided by individual wells on each parcel. Sewage disposal on each individual lot is accommodated by a conventional system and disposal field. Point One Engineering prepared a report dated April 23, 2009. In the report Dick Bartel, P. Eng., stated that "the proposed lots can easily accommodate individual wells and On-Site Wastewater Treatment and Dispersal Systems, consistent with all of the current regulations."

- Lot 6 owners currently have plans to run a 3-4 bedroom vacation rental in their 5 bedroom house, which includes the secondary dwelling unit above the attached garage. The property has a well with potable water analysed by Caro Analytical Services and a Type 1 septic system designed by Franklin Engineering Ltd.

If the bylaw is given first reading by the Board, the bylaw amendment application will be referred to Interior Health for comments.

Access

The subject properties have access to Mt. Begbie Rd from a strata road that has been built to Ministry of Transportation and Infrastructure standards.

SUMMARY:

The applicant has applied to amend Bylaw No. 851 to add bed and breakfast as a permitted secondary use to the CDB1 zone and permit a vacation rental use for lot 6 only, which must be operated by a permanent resident of the single family dwelling with which it relates.

As the rezoning is in compliance with the OCP Residential Cluster Development, Bed and Breakfast, and Vacation Rental land use policies, staff recommends Bylaw No. 851-16 be given first reading and sent to the recommended referral agencies.

IMPLEMENTATION:**Consultation Process**

CSRD Policy P-18 regarding Consultation Processes – Bylaws, staff recommends the simple consultation process. Neighbouring property owners will first become aware of the application when a notice of application sign is posted on the subject property.

Referral Process

The following list of referral agencies is recommended:

- Electoral Area B Advisory Planning Commission;
- Interior Health;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – FrontCounter BC;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Branch;
- Ministry of Transportation and Infrastructure;
- CSRD Operations Management;
- City of Revelstoke;
- Adams Lake Indian Band;
- Akisqnuq First Nation;
- Ktunaxa Nation Council;
- Little Shuswap Indian Band;
- Lower Kootenay Band;
- Lower Similkameen Indian Band;
- Neskonlith Indian Band;
- Okanagan Indian Band;
- Okanagan Nation Alliance;
- Penticton Indian Band;
- Shuswap Indian Band;
- Simpcw First Nation;
- Splots'in First Nation;
- St. Mary's Indian Band; and,
- Tobacco Plains Indian Band.

COMMUNICATIONS:

If the Board gives Bylaw No. 851-16 first reading, the bylaw will be sent out to referral agencies. Referral responses will be provided to the Board with a future Board report, prior to delegation of a public hearing.

DESIRED OUTCOMES:

That the Board endorse staff recommendation.

BOARD'S OPTIONS:

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Electoral Area B Official Community Plan Bylaw No. 850
2. Electoral Area B Zoning Bylaw No. 851
3. Rural Revelstoke Land Use Bylaw No. 2200

Report Approval Details

Document Title:	2019-08-15_Board_DS_BL851-16_first_Gagnon-et-al.docx
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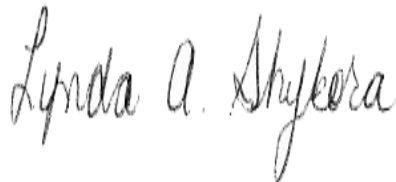
This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Corey Paiement was completed by workflow administrator IT Portal Admin

Corey Paiement - Aug 1, 2019 - 3:43 PM



Gerald Christie - Aug 1, 2019 - 3:55 PM



Lynda Shykora - Aug 2, 2019 - 12:02 PM

No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora

Charles Hamilton - Aug 2, 2019 - 12:03 PM