



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 October 17, 2019.
Strata Plan NES3881, Lots 1 – 7 Mt McPherson Drive

RECOMMENDATION #1: THAT: "Electoral Area B Zoning Amendment (Gagnon et al) Bylaw No. 851-16" be given second reading this 17th day of October 2019.

RECOMMENDATION #2: THAT: a public hearing to hear representations on "Electoral Area B Zoning Amendment (Gagnon et al) Bylaw No. 851-16" be held;

AND THAT: notice of the public hearing be given by staff of the Regional District on behalf of the Board in accordance with Section 466 of the Local Government Act;

AND FURTHER THAT: the holding of the public hearing be delegated to Director Brooks-Hill, Electoral Area B, being that in which the land concerned is located, or Alternate Director Parkin if the Director is absent, and the Director or Alternate Director, as the case may be, give a report of the public hearing to the Board.

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 bylaw proposes to add bed and breakfast as a permitted secondary use to the CDB1 Development Area 1 zone; this would apply to all seven strata lots. For strata lot 6 only, it is proposed by the property owners (i.e. applicant) that a vacation rental 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.

The bylaw was given first reading and the Board directed staff to refer the bylaw to applicable agencies and First Nations for comment. Comments have been received and are summarized in this report. It is now appropriate for the Board to consider the bylaw for second reading and referral to a public hearing.

VOTING:	Unweighted Corporate	<input type="checkbox"/>	LGA Part 14 (Unweighted)	<input checked="" type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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BACKGROUND:

See Board Report first reading and maps, plans, and photos in the attached "2019-08-15_Board_DS_BL851-16_first_Gagnon-et-al.pdf" and "Maps_Plans_Photos_BL851-16.pdf".

POLICY:

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:

See staff discussion of the applicable policies and land use regulations in the Key Issues/Concepts section of the attached report "2019-08-15_Board_DS_BL851-16_first_Gagnon-et-al.pdf".

Update

The Board gave first reading of Bylaw No. 851-16 at its August 15, 2019 Board meeting and directed staff to follow the simple consultation process and refer the bylaw amendment to applicable agencies and First Nations for comment. Referral comments have now been received and are all summarized in the Communications section of this report. See copies of the complete referral responses "Agency_Referral_Responses_BL851-16.pdf" attached.

The Electoral Area B Advisory Planning Commission (APC) reviewed the application at their September 11, 2019 meeting. The APC carried the three following motions:

1. Recommend to the Board to support dissolution of the strata from current status to another zoning such as RR2.
2. Recommend to the Board to approve addition of the secondary use of a bed and breakfast to the CDB1 zoning, with testing of well and wastewater by registered practitioner required.
3. Recommend to the Board to approve a zoning variance be allowed on lot 6 to allow a 3 bedroom bed and breakfast in the existing building.

Staff have sought clarification from the APC B Secretary about the three motions:

1. The discussion surrounding the dissolution of the strata was brought to the attention of the APC from two strata owners who attended the meeting and not the applicant. Development Services staff have not received an enquiry or notification about the strata's plans to dissolve and this is the first time hearing of the proposal. The discussions and communication at the APC meeting over internal strata issues was not an appropriate means of proposing to dissolve the strata. This is a separate issue, which does not impact the proposed uses within the bylaw amendment.

The two other strata owners spoke in support of the proposed vacation rental and that the strata wants the vacation rental to be operated only with the owner on-site. Currently, this is how the bylaw amendment is proposed and it will restrict the vacation rental to be operated by the permanent resident of the single family dwelling with which it relates.

2. The APC recommended approval of adding bed and breakfast as a permitted secondary use to the CDB1 zone and that the well and wastewater of each strata lot be tested by a registered practitioner.

Staff understand that the second part of the recommendation arose from the discussion questioning whether the permitting of the bed and breakfast use was intentionally not applied to the CDB1 zone (i.e. cluster development) due to well and/or septic issues with increasing density in the area. Staff are not recommending that a professional test the well and wastewater of the developed strata lots, as during the rezoning and subdivision of the subject strata lots, Interior Health confirmed that each proposed lot can accommodate a Type 1 sewerage discharge area plus a 100% back up area. This is based on the Point One Engineering Assessment of the water and sewerage disposal for each lot. Interior Health has also notified Development Services staff that the use of a bed and breakfast and a vacation rental does not require a drinking water operating permit from Interior Health.

The CD1 zone that the subject property(s) was rezoned to in 2009, permitted the use of a bed and breakfast from 2009 to 2014 (within Bylaw No. 2200), specifically permitted under a home occupation use and also supported in the OCP adopted in 2008. The new CD1 zone also permitted a secondary suite in the 2009 rezoning. As discussed in the attached first reading Board Report, during the adoption of Bylaw No. 851, the CD1 zone (now referenced as CDB1) was not updated with changes that were made to the other residential zones that had home occupation as a permitted use in Bylaw No. 2200. During the creation of Bylaw No. 851, bed and breakfast was pulled from the home occupation permitted use and staff created a separate definition and general regulation over the use of bed and breakfast. This omission was not related to well and/or septic issues, as the water and sewerage disposal had been satisfied through the historic rezoning (2009) and the subdivision (2011) requirements before Bylaw No. 851 was adopted (2014).

3. The APC did not vote on the second proposal within the bylaw amendment (i.e. vacation rental) but replaced it with the motion to approve a 3 bedroom bed and breakfast to be permitted for lot 6 only, within the existing building (i.e. Single family dwelling and attached secondary dwelling unit).

The main difference between the APC motion and the second proposal within the bylaw amendment, is that the lot 6 property owners' (i.e. applicant) would be restricted to operate a bed and breakfast with a maximum of 3 bedrooms and 6 guests, instead of the owners' proposal for 4 bedrooms and 8-10 guests that they wish to operate as a vacation rental out of their existing 5 bedroom home.

The property owners of Lot 6 have provided to staff the water quality testing report and the sewage system design and maintenance plans, which are adequate for the existing 5 bedroom house, to be used as a 4 bedroom vacation rental operated by the permanent resident of the dwelling.

Staff have discussed the referral comments with the applicant and the APC's concerns over the level of servicing. The applicant has proposed to register a restrictive covenant on their title with regard to the proposed vacation rental use (maximum 5 bedrooms) and the existing septic system (flow of 2,045 LPD based on the existing 5 bedroom home). The covenant document would outline, that subject to Bylaw No. 851-16, the existing 5 bedroom home must have at least 1 room utilized by the permanent resident of the home and no more than 4 bedrooms to be utilized for the vacation rental use. The covenant would also note that the septic system must be upgraded if the subject property owner proposes to create additional bedrooms or if they propose to use a fifth bedroom for the vacation rental use. The subject property's Maintenance Plan and Septic Design created by Franklin Engineering Ltd. would be attached to the covenant. The restrictive covenant would need be registered on the title of the subject property prior to the adoption of the bylaw.

Both Adams Lake Indian Band (ALIB) and the Little Shuswap Indian Band (LSIB) recommended having an archaeological impact assessment completed and to have a local Band complete a site visit on the subject properties.

As the Archaeology Branch has notified staff and the applicant that there are no known archaeological sites recorded on any of the subject properties, the applicant has not contacted the ALIB or LSLIB to perform a field study. All of the strata lots but two have been developed and when one of the vacant strata lots applies to build they will require a Building Permit from the CSRD and staff will provide them with the Archaeology Branch procedures. If an archaeological site is encountered during development, the owner will be required to halt activities and contact the Archaeology Branch for direction.

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.

Staff continue to support Bylaw No. 851-16 and is recommending that the bylaw be considered for second reading and referral to a public hearing in order to hear the views of the public on this matter, for the following reasons:

- In the CD1 zone of the repealed Bylaw No. 2200, the strata lots were all permitted to operate a bed and breakfast and the OCP supports bed and breakfast operations in residential areas and considers them as home occupations;
- The CDB1 zone is unique and specific to Strata Plan NES3881 and the strata council and owners (surrounding property owners) passed a resolution to amend their strata plan to allow any lot owner of the strata to operate a bed and breakfast or an owner operated-owner on site vacation rental;

- The applicant's subject property (Lot 6) is under 2 ha and the proposed vacation rental must be within the primary dwelling and attached secondary dwelling unit only, which is visually similar to a residential bed and breakfast operation; 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, which is similar to the operation of a residential bed and breakfast use and should not create an unacceptable level of negative impact on surrounding residential uses.

IMPLEMENTATION:

Consultation Process

Neighbouring property owners first became aware of the application when a notice of application sign was posted on the strata facing Mt Begbie Road. As of the date of this report, no written submissions from the public have been received. If the Board approves the staff recommendation, a public hearing will be scheduled to receive input from the public.

COMMUNICATIONS:

If the Board supports second reading of Bylaw No. 851-16 and delegates a Public Hearing, staff will proceed with notification of property owners within 100 metres and publication of notices as required by the Local Government Act.

Bylaw No. 851-16 was referred to the following agencies and First Nations for comments, which are summarized below and further discussed in the Key Issues/Concepts section of this report. See "Agency_Referral_Responses_BL851-16.pdf" attached.

- Electoral Area B Advisory Planning Commission: At their meeting held September 11, 2019, the APC carried the following motions (see staff discussion in the Key Issues/Concepts section of this report):
 - Recommend to the Board to support dissolution of the strata from current status to another zoning such as RR2.
 - Recommend to the Board to approve addition of the secondary use of maximum three bedroom bed and breakfast to the CDB1 zoning, with testing of well and wastewater by registered practitioner required.
 - Recommend to the Board to approve a zoning variance be allowed on lot 6 to allow a 3 bedroom bed and breakfast in the existing building.
- Interior Health: No Objections. Recommend that the owners confirm the designs of their existing systems and that they are appropriate for the proposed new use and the parcels maintain a back-up area of land suitable for onsite sewerage.
- Archaeology Branch: No known archaeological sites recorded on any of the subject properties.
- Ministry of Transportation and Infrastructure: Interests Unaffected by Bylaw.
- CSRD Operations Management: No concerns.

- Adams Lake Indian Band (ALIB): defers comments to the Spallumcheen Indian Band. The ALIB has some concern that there is potentially an archaeological site within the area and they suggest an archaeological impact assessment in partnership with the local band (see staff discussion in the Key Issues/Concepts section of this report).
- Little Shuswap Indian Band (LSIB): The project area has LSIB cultural heritage values (CHR); is within 100 m of HIGH potential for archaeology; is within 1 km of multiple archaeological sites; LSIB asks that any Environmental Assessment or CHR related reports for this area be shared; LSIB requires a site visit to determine if a Preliminary Field Reconnaissance is required (see staff discussion in the Key Issues/Concepts section of this report).
- Neskonlith Indian Band: Requested a Referral Processing Application Fee in order to provide comments.
 - Pursuant to Policy P-21, which was adopted by the CSRD Board, the CSRD does not compensate any non-CSRD party or agency for providing referral comments or consultation in regard to the processing or development of policies, bylaws or permits. A copy of the Policy was provided to the Neskonlith Indian Band.

The following agencies and First Nations did not respond to the request for comments:

- Ministry of Forests, Lands, Natural Resource Operations and Rural Development – FrontCounter BC
- City of Revelstoke
- Akisqnuq First Nation
- Ktunaxa Nation Council
- Lower Kootenay Band
- Lower Similkameen Indian Band
- Okanagan Indian Band
- Okanagan Nation Alliance
- Penticton Indian Band
- Shuswap Indian Band
- Simpcw First Nation
- Splat'sin First Nation
- St. Mary's Indian Band
- Tobacco Plains Indian Band.

DESIRED OUTCOMES:

That the Board endorse staff recommendations.

BOARD'S OPTIONS:

1. *Endorse the Recommendation(s).*
2. *Deny the Recommendation(s).*
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:	2019-10-17_Board_DS_BL851-16_second_Gagnon-et-al.docx
Attachments:	<ul style="list-style-type: none">- BL851-16_second.pdf- 2019-08-15_Board_DS_BL851-16_first_Gagnon-et-al.pdf- BL851-16_first.pdf- BL850_BL851_Excerpts_BL851-16.pdf- Agency_Referral_Responses_BL851-16.pdf- Maps_Plans_Photos_BL851-16.pdf
Final Approval Date:	Oct 10, 2019

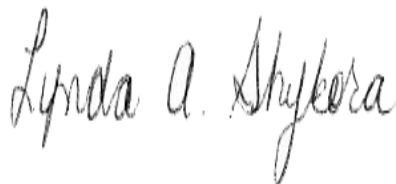
This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Corey Paiement was completed by assistant Jennifer Sham

Corey Paiement



Gerald Christie



Lynda Shykora



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