



THE MUNICIPALITY OF THE VILLAGE OF LIONS BAY

**COUNCIL STRATEGY COMMITTEE
OF THE VILLAGE OF LIONS BAY
HELD ON TUESDAY, DECEMBER 20, 2016 at 3:00 PM
COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY**

AGENDA

- 1. Call to Order**
- 2. Approval of Agenda**
- 3. Public Participation**
- 4. Minutes**
 - A. Council Strategy Committee Meeting – November 15, 2016 (Page 3)
THAT the Council Strategy Committee Meeting minutes of November 15, 2016 be approved as circulated.
- 5. Business Arising from the Minutes**
- 6. Unfinished Business**
 - A. Lions Bay Zoning Bylaw Review Report #2 (Page 7)
THAT the information report “Lions Bay Zoning Bylaw Review Report #2 – Specific use regulations and creation of a Water Zone” be received and the recommendations in the report be endorsed.
- 7. Reports**
- 8. New Business**
- 9. Public Questions & Comments**
- 10. Adjournment**

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COUNCIL STRATEGY COMMITTEE

OF THE VILLAGE OF LIONS BAY

HELD ON TUESDAY, NOVEMBER 15, 2016 at 3:00 PM

COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY

MINUTES

In Attendance:

Council: Mayor Karl Buhr
Councillor Fred Bain
Councillor Jim Hughes
Councillor Ron McLaughlin

Staff: Chief Administrative Officer Peter DeJong
Chief Financial Officer Pamela Rooke
Office Coordinator Shawna Gilroy (Recorder)

Guests: Steven Olmstead, Planning Consultant

Public: 0

1. Call to Order
Mayor Buhr called the meeting to order at 3:00 p.m.

2. Approval of Agenda
Moved/Seconded
THAT the agenda be approved as submitted.

CARRIED

3. Public Participation
None

4. Minutes
A. Council Strategy Committee Meeting – August 2, 2016
Item 6A: remove the template text and change to “None”.

Moved/Seconded

THAT the Council Strategy Committee Meeting Minutes of August 2, 2016 be approved as amended.

CARRIED

5. Business Arising from the Minutes

Mayor Buhr reminded the Committee that the Parking Plan would be brought back in December.

6. Unfinished Business

None

7. Reports

None

Audio: 00:04

8. New Business

A. Lions Bay Zoning Bylaw Review Report #1 – Zoning Definitions, Secondary Suites, Density and Development Permits

Mr. Steven Olmstead presented his report and lengthy discussion was had with the Committee and staff regarding the issues covered in the report and some of the options for moving forward. Mr. Olmstead will return on December 20th with Report #2 covering additional items in the Terms of Reference for this project.

Moved/Seconded

THAT the Information Report “Lions Bay Zoning Bylaw Review Report #1 – Zoning Definitions, Secondary Suites, Density and Development Permits” be received.

CARRIED

Mr. Olmstead left the meeting at 5:02 p.m.

Audio: 02:03

Moved/Seconded

THAT item 8C be discussed before item 8B.

CARRIED

C. Proposed Amendments to Fees Bylaw No. 497

Council reviewed the Fees Bylaw and provided comments in order to go to third reading in December.

Moved/Seconded

THAT the report, Proposed Amendments to Fees Bylaw No. 497 be received, and that staff bring the amended bylaw back to Council on December 6th for consideration of 3rd reading.

CARRIED

Audio: 02:46

B. Village of Lions Bay Development Application Procedures and Fees Bylaw No. 431, 2011, Amendment Bylaw No. 509, 2016 – On Table

Moved/Seconded

THAT the Committee recommend to Council that Village of Lions Bay Development Application Procedures and Fees Bylaw No. 431, 2011, Amendment Bylaw No. 509, 2016 be introduced and given 3 readings.

CARRIED

9. Public Questions & Comments

None

10. Adjournment

Moved/Seconded

THAT the meeting be adjourned.

CARRIED

The meeting was adjourned at 5:53 p.m.

Mayor

Corporate Officer

| | |
|--------------------------|--|
| Date Adopted by Council: | |
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|-------------------|---|---------------------|--------------------------|
| Type | Information Report | | |
| Title | Lions Bay Zoning Bylaw Review Report #2 – Short term rentals, marijuana dispensaries, commercial/industrial storage and Water zoning | | |
| Author | Steven Olmstead, Planning Consultant | Reviewed By: | Peter DeJong, CAO |
| Date | December 14, 2016 | Version | |
| Issued for | December 20, 2016 | | |

Recommendation:

THAT the Information Report, “Lions Bay Zoning Bylaw Review Report #2 – Specific use regulations and creation of a Water Zone” be received and the recommendations in the report be endorsed.

Attachments: none

Background:

The zoning bylaw review terms of reference indicates the need for regulation or prohibition of several uses including short term (tourist accommodation) rentals, marijuana dispensaries, blasting material storage, and commercial/industrial equipment/material parking/storage. The terms of reference also outline the need to accommodate municipal service type uses as broadly as possible, to zone the surface of the ocean, and to retain the two acre minimum parcel area for subdivision in the residential zones.

Short term rentals

For many years, short term rentals of residential units such as cottages and secondary suites have been offered as nightly or weekly accommodation to travelers through ads placed in the classified sections of newspapers. In most localities, few properties were involved and there was little impact on neighbourhoods. However, with the advent of online booking services the number of short term rental accommodations on the market began increasing substantially about 4 or 5 years ago; and exponentially in the past year or two. In resort areas (e.g. Whistler) and communities where there are numerous seasonal residences (e.g. Sunshine Coast), or significant absentee ownership (e.g. parts of Vancouver), the opportunity to rent dwelling units out as short term rentals when unoccupied is seen as potentially lucrative.

The income potential for the property owner from short term rentals is far greater than income from renting to residential tenants. Superficially at least, the economic benefits seem quite obvious. However, there has been increasing concern expressed about the impact of short term rentals on neighbourhood character (noise, parking, loss of a sense of community) and the



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decreasing supply of affordable rental housing by removing secondary suites from the housing market.

In Lions Bay at present there is a relatively small number of short term rental listings. With respect to the zoning of any of these properties, all are considered to be non-compliant with zoning as uses such as “vacation rental”, “short term rental” or “bed and breakfast” are neither defined nor listed as permitted uses in Zoning Bylaws 362 or 785. They are therefore prohibited.

Often, zoning bylaws permit “bed and breakfast” use of two or three bedrooms. The key parameters that differentiate a B&B from a nightly rental is that the B&B provides breakfast to guests and is operated by a resident manager while a nightly rental often provides neither.

OPTIONS FOR CONSIDERATION

1. Allow short term rentals
2. Prohibit short term rentals (*status quo*)
3. Permit short term rental of principal residences and prohibit STRs in secondary suites
4. Create site specific zoning and zone existing operations.
5. Consider temporary use permits on a site specific basis

ANALYSIS OF OPTIONS

1. Allow short term rental of single detached dwellings and secondary suites

Option 1 would involve including in the new zoning bylaw a definition of short term rentals and express permission for this use in all residential zones except the apartment and townhouse zones. Some communities (e.g. Sechelt) have adopted this approach. Option 1 would be the most business friendly approach to zoning. But how business friendly should a residential zoning be? Secondary suite zoning was recently adopted in Lions Bay presumably to recognize there can be a “win-win” situation - property owners get authorized mortgage helper suites and the community additional affordable housing options. If community wide conversion of secondary suites to short term rentals (whether limited to the suite or in conjunction with the house) is authorized through new zoning provisions, the purpose of the recent zoning initiative to allow for “legal” secondary suites in the RS-1 zone may ultimately be defeated.

2. Prohibit short term rental of single detached dwellings and secondary suites



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Option 2 would be the opposite of Option 1. Under Option 2, the language of the zoning bylaw would be strengthened by:

- a. including a definition and general prohibition of short term rentals; and
- b. clarifying that the use of secondary suites shall be for residential use “consistent with the provisions of the *Residential Tenancy Act*”.

Option 2 would work towards ensuring that zoning intended to accommodate residential use would also protect the supply of residential rental properties. Option 2 does not, however, recognize the positive aspects of short term rentals to the community. Some short term rentals may have been advertised and operated for years in many communities without complaint. And in a small community like Lions Bay, there are no hotels or other accommodation alternatives. This suggests that the existing prohibition against vacation rentals may not be the right one. That, however, does not imply that there should be no regulation.

3. Permit short term rental of principal residences and prohibit STRs in secondary suites

Option 3 is essentially the City of Vancouver approach, where Vancouver is considering a regulatory framework for STRs that involves prohibiting use of secondary suites and laneway housing as short term rentals, while allowing a principal residence to be used as a STR. This is believed to be an option that provides balance while protecting rental housing from conversion to short term rental use.

4. Site Specific Rezoning to allow for short term rentals on a case by case basis

Under this option a new “sub-zone” for short term rental businesses would be created and existing businesses included in the zone. This option would recognize that most short term rental businesses operate without incident. Existing businesses that have been problematic need not be included in the zone. Future businesses would require site specific rezoning, a process which provides for community input and review to ensure technical considerations (parking, sewage disposal, etc.) can be adequately addressed. One significant drawback to zoning for STRs is that zoning runs with the land, leading often to concerns that future owners may not be as community oriented as the initial applicants. Non-conforming status also comes into play if there are issues with an operation and the municipality decides to remove the short term rental zoning.



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5. Temporary Use Permits

An alternative to site specific rezoning is the use of temporary use permits (TUPs) to regulate short term rentals. Under Option 5, temporary use permit areas (the entire Village or specified zones) would be designated in the zoning bylaw as an area where TUPs can be considered. Applications for TUPs for short term rentals would then be made and considered on a case by case basis.

Under the *Local Government Act* a temporary use permit for any use can be issued for up to three years and can be renewed once. Unlike a rezoning, a TUP only grants a property owner use rights for the period defined in the permit and upon expiry the use must be ceased (or the permit renewed). The community is thus provided with an assurance that use of the site for a short term rental does not become permanent. In addition to having the discretion to allow a TUP to lapse upon expiry it should be noted that, in practice, temporary use permits can be issued and renewed indefinitely by application for a new TUP prior to the expiration of the initial permit. An advantage to implementing a system of TUP renewals and re-applications is that the TUP can address operational aspects of the business that are difficult to regulate through zoning. For example, Council could consider regulating in a TUP matters such as the following on a case by case basis:

- consider only principal residences and not secondary suites for short term rental TUPs;
- require a local manager if the short term rental is not managed by a resident of the property;
- maximum number of days in a year the business could operate;
- the hours when “quiet times” would be in effect;
- suitability of vehicle access, circulation and parking;
- proximity of a proposed short-term vacation rental to schools, daycares, seniors’ homes and other approved short-term vacation rentals;
- availability of water and septic disposal systems to handle the anticipated uses;
- proximity to and impacts on identified sensitive ecosystems;
- proximity to and impact on public rights-of-way, beach accesses and other public use areas;
- size of lot and location of the dwelling on the lot and in relation to neighbours;
- size of the dwelling unit;
- number of TUPs already issued for short-term vacation rentals in Lions Bay;
- prohibit short-term rental of houseboats;



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- other activities that are of concern to the community, such as the use of hot tubs or equipment such as seadoos.

The municipality could, at the time of issuing a temporary use permit, require the posting of security to guarantee adherence to permit conditions (such as ceasing operations at expiry of the permit), and the form of security and the amount of security that will forfeit to the municipality if there is a failure to conform with the conditions. An initial term of one year with a one year renewal would provide an opportunity to assess the operation over the first two years before considering a second TUP for a further two or three year term with renewal.

RECOMMENDATIONS:

1. It is recommended that the new zoning bylaw:
 - a. Designate the entire municipality under section 492 of the *Local Government Act* as an area where temporary uses will be allowed and delegate the issuing of TUPs to the CAO.
 - b. Include definitions of residential use and short term rental, as follows:
 - residential use* means:
 - i. the occupancy or use of a dwelling unit for the permanent domicile of a person or persons and this use includes rental use other than short term rentals; or
 - ii. the occasional or seasonal occupancy of a dwelling unit as a dwelling by an owner who has a permanent domicile elsewhere, or by non-paying guests of such an owner, and this use does not include short term rentals.
 - short term rental* means use of a residential dwelling unit for the temporary accommodation of paying guests for a period of less than one month.
 - c. Prohibit short term rentals except where permitted under a temporary use permit.
 - d. Prohibit short term rental of secondary suites.
2. Adopt by resolution, as policy, the list of considerations in Option 5 (as may be amended) as the municipality's criteria for evaluating short term rental TUP applications.

Marijuana (Cannabis) Dispensaries

Under Federal law, neither the Marijuana Medical Access Regulations (MMARs) nor Marijuana for Medical Purposes Regulations (MMPRs) permit the retail sale of marijuana. A dispensary business which sells marijuana from a store front is operating contrary to the Controlled Drugs and Substances Act and is unlawful. The new Access to Cannabis for Medical Purposes Regulations



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(ACMPRs) basically combine the MMPRs and MMARs: Part 1 relates to production and sale by licenced producers to authorized users via secure shipping only and Part 2 deals with personal production by registered persons and production by designated persons for registered persons (authorized users). Again, there is no provision for retail sale under the ACMPRs. Therefore, the municipality has authority to prohibit marijuana dispensaries, at least until federal law regarding marijuana changes again.

RECOMMENDATIONS:

2. It is recommended that the new zoning bylaw:
 - a. Include a definition of cannabis , as follows:

cannabis means cannabis as defined in the Controlled Drugs and Substances Act and includes any products containing cannabis;

storefront cannabis retailer means premises where cannabis is sold or otherwise provided to a person who attends at the premises.
 - b. Include a provision to the effect that storefront cannabis retailer, whether as a principal or accessory use, is prohibited in all zones.

Storage of Industrial equipment and materials

Lions Bay is a residential community with very limited commercial and no industrial activity. The word industrial is not even used in the official community plan. Any industrial type activity in residential zones is considered incompatible with the residential character of the community. A desire to prohibit parking and storage of industrial or commercial equipment or materials on residentially zoned parcels has been expressed. There is also a desire to prohibit the storage of blasting materials anywhere in the municipality.

RECOMMENDATIONS:

1. It is recommended that the new zoning bylaw:
 - a. Include general regulations regarding parking and storage of commercial/industrial equipment and materials as follows:



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- i. The parking of vehicles with a primary function other than the transportation of passengers, including but not limited to dump trucks, forklifts, backhoes, tractors and similar types of construction equipment is prohibited in all Residential zones.
- ii. Outdoor storage or parking of any commercial trailer, construction equipment or materials, or any other industrial or commercial materials, equipment, vehicle, conveyance or craft is prohibited in all Residential zones.
- iii. Despite clause i, one licensed commercial vehicle per parcel may be parked on a lot in a residential zone provided that the vehicle, including any attached trailer, is not more than 4600 kilograms gross vehicle weight and is operated by a resident of the parcel;
- iv. Despite clauses i and ii, construction vehicles, materials, and equipment may be stored on a parcel for which the construction of a building or structure has been authorized by the Village through a site alteration permit or a building permit, provided all such vehicles, materials and equipment can be demonstrated to the satisfaction of the Public Works Manager to be directly related to and strictly necessary for the fulfillment of the construction so authorized by the Village and are removed within 20 days of final inspection related to the site alteration permit or the building permit, or such earlier date as the Public Works Manager determines such construction vehicles, materials and equipment are no longer needed to fulfill the scope of the applicable permit.
- v. An appeal of a decision of the Public Works Manager under subsection iv shall be heard by Council at the next regular meeting, subject to any requirements under Procedure Bylaw No. 476, 2015, as amended.

Various federal and provincial regulations govern aspects of explosives manufacturing, transportation, and storage. The Canadian federal government has guidelines and regulations such as the Explosive Act, Explosives Regulations, and Transportation of Dangerous Goods Regulations that are directly related to the safety and security of manufacturing explosives, their storage, import, and transportation into and within the country. Section 5(j) of the federal *Explosives Act* states that the federal government may make regulations “governing the establishment, location and maintenance of factories and magazines and the making, manufacture and **storage of explosives**. Under Part 11 of the federal Explosives Regulation, section 221 states: “a user may



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acquire and store industrial explosives if they hold a licence or a manufacturing certificate or are authorized by a competent provincial or territorial authority to store such explosives at a mine site or quarry. A user who acquires industrial explosives must comply with this Part.” Section 223 of the regulations state: “a user who holds a licence must store their industrial explosives in the magazine specified in their licence.”

At the provincial level, a relevant factor to note with respect to Lions Bay is that, under the *Community Charter*, the definition of land “does not include ... (ii) mines or minerals belonging to the Crown, or (iii) mines or minerals for which title in fee simple has been registered in the land title office”. The *Mines Act* defines mine to include “a place where mechanical disturbance of the ground or any excavation is made to explore for or to produce... sand or gravel”. Any bylaw that the Village passed with respect to blasting or storage of explosives would therefore not apply to the Ministry of Transportation and Infrastructure gravel pit within municipal boundaries.

It would appear that federal and provincial legislation allow little if any scope for local government to regulate the storage of blasting materials. This conclusion would seem to be borne out by the fact that, while there are a few municipalities that have blasting bylaws; none of them have regulations relating to storage of explosives.

Zoning of the Foreshore

Concerns have been expressed regarding a houseboat that has moored for months at a time in front of Kelvin Grove beach as well as a more general concern that foreshore uses could be approved that are not considered to be in the community’s interest. Questions have been raised about what can be done to address these situations.

While “land” is defined in the Community Charter to include the surface of water, there are limits to the Village’s zoning authority over the ocean as senior governments have primary jurisdiction. The federal government has exclusive jurisdiction over navigation and shipping, beacons, and mooring buoys in navigable waters (s. 91, Constitution Act) and the province has jurisdiction over the foreshore. However, overlapping jurisdiction does not prevent the Village from regulating the activities that fall within its boundaries and within its powers. Long-term moorage of vessels has a dual jurisdictional aspect that is subject to both federal and provincial/local government regulation.

Apart from the commercial marina, the recommended approach to foreshore zoning is to allow for temporary moorage in foreshore areas. *Temporary* moorage actually must be permitted per Transport Canada regulations, as a “core area” of federal jurisdiction. Also, based on discussions with staff, wharfs are not considered appropriate due to the destructive Squamish winds. If an



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upland property owner wishes to construct a private wharf a rezoning application could be considered.

RECOMMENDATIONS:

5. It is recommended that the new zoning bylaw:

Include general regulations regarding foreshore use as follows:

- (a) maintain existing foreshore zoning for the commercial marina;
- (b) include definitions of floating dock, houseboat and mooring system:

Floating dock means a structure used as a swimming raft or for the purpose of mooring one boat, excluding a houseboat, but which does not include permanent physical links to shore or the bed of the ocean, except cables;

houseboat means a special type of vessel that has been designed or modified for recreational residential use;

mooring system means a system of works that is used to secure a vessel and that consists of an anchor that is set in or on the bed of a navigable water, a single anchor line, a single buoy and a mooring line to attach to a vessel.

- (c) include a new Water – Marine Foreshore (W-1) zone based on the existing M-3 (Marine – Residential) zone in Bylaw 362 that permits only:
 - i. long-term moorage of vessels under 12 meters in length, excluding houseboats, to mooring systems or floating docks for periods in excess of 72 hours;
 - ii. short-term moorage of vessels, including houseboats, to mooring systems or floating docks for periods of up to 72 hours;
 - iii. public boat launching ramp.
- (d) in addition to regulations already within Lions Bay M-3 zoning, regulate within the new W-1 zone as follows:
 - i. the owner of a mooring system or floating dock shall not moor, or permit the mooring of a houseboat, or a vessel that is more than 12 meters in length, to a mooring system or floating dock for periods longer than 72 hours in a 30 day period;



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- ii. all mooring systems shall meet all requirements, standards and guidelines of the Private Buoy Regulations, the Canadian Aids to Navigation System or Transport Canada directives as applicable;
- iii. private floating docks shall be located within the boundaries of a water lease or license of occupation granted or approved by the Province;
- iv. no portion of a floating dock or swimming raft shall exceed 3 meters in width, 3 meters in length or 1 meter above sea level, except for hand railings;
- v. no houseboat or motorized boat or vessel may moor to a public floating dock or swimming raft other than in cases of emergency or distress.