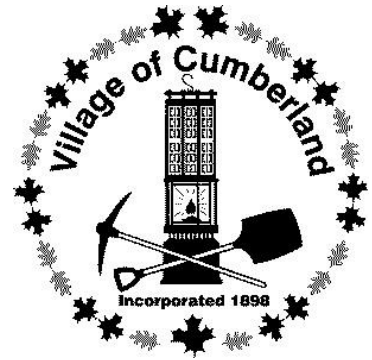


COUNCIL REPORT



REPORT DATE: 8/1/2022
MEETING DATE: 8/8/2022

File No. 3010

TO: Mayor and Councillors
FROM: Courtney Simpson, Manager of Development Services
SUBJECT: Streamlining Accessory Dwelling Unit Approval Process

RECOMMENDATION

- i. THAT Council receive the Streamlining Accessory Dwelling Unit Approval Process report;
- ii. THAT Council give first and second reading to Official Community Plan Amendment Bylaw No. 1174, 2022;
- iii. THAT Council give first and second reading to Zoning Amendment Bylaw No. 1175, 2022;
- iv. THAT Council refer the Streamlining Accessory Dwelling Unit Approval Process report, draft amending bylaws, and draft application guide to the Advisory Planning Commission, Accessibility and Inclusion Committee, and the Homelessness and Affordable Housing Committee; and
- v. THAT Council direct staff to schedule a Public Hearing.

PURPOSE

The purpose of this report is to present draft bylaw amendments for first and second reading aimed at streamlining the Accessory Dwelling Unit (ADU) approval process as recommended in the Development Approvals Process Modernization Summary Report, May 25, 2022.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
July 11, 2022	THAT Council refer the Streamlining Accessory Dwelling Unit Approval Process report to the Advisory Planning Commission, the Homelessness and Affordable Housing Committee, and the Accessibility and Inclusion Committee. THAT Council direct staff to draft bylaws to amend development approval procedures to streamline the approval process for Accessory Dwelling Units.
May 22, 2021	THAT Council direct staff to submit an application to the Union of BC Municipalities Local Government Development Approvals Program, for funding to review and update the Village of Cumberland's development approvals processes including information technology to support it, and that the Village of Cumberland provide overall grant management.

BACKGROUND

Project Background

The ADU approval process has been reviewed as a part of the Development Approvals Process Modernization project. Several recommendations were identified to streamline, provide clarity in communication, and reduce the need for amendments and variances in the future. The summary report identified that the Village's approval process for ADUs is more onerous than the recommended best practices by BC Housing and other municipal jurisdictions. This has created in a lengthy development approval process and consumes more staff time that could be better utilized on improving the level of service on more significant development applications, policy development and other priority projects.

The OCP contains a growth management strategy that prioritizes development that makes efficient use of existing infrastructure, increases access to affordable housing, promotes walkable neighbourhoods, and reinforces the Village core. The OCP identifies ADUs as a preferred approach to achieving these goals.

It is expected that continued ADU uptake will contribute to supporting the 415 existing rental households, and especially the 41% of households that spend more than 30% of their income on rental shelter costs.

Following direction from Council, bylaws have been drafted to further streamline the process as follows:

- An Official Community Plan amendment to exempt ADUs from the development permit process (Attachment 1 – Draft OCP Amendment No. 1174).
- A Zoning Bylaw amendment to add specific requirements for ADUs (Attachment 2 – Draft Zoning Bylaw Amendment No. 1175)

ANALYSIS

The draft bylaw amendments convert most development permit area guidelines to regulations in Zoning Bylaw 1027, 2016, that then become requirements before a building permit for an ADU can be issued.

No changes are proposed to the gross floor area, parking requirements, height (other than on uphill sloping lots) or setbacks that are already specified in the Zoning Bylaw. Any proposed changes to these requirements will continue to require a development variance permit.

Below is a discussion of several key elements of ADU approvals and how they are addressed.

Landscaping, Screening and Privacy

Zoning Bylaw requirements are proposed for privacy screening, irrigation, and the inclusion of an outdoor amenity area for the ADU. A requirement for a tree to be planted is also proposed to reflect the Village's Urban Forestry goals.

Based on concerns about maintaining privacy and overlook onto adjacent properties, ADUs may not include any balconies, roof top decks, or above ground patios (over 60 cm above grade) facing the rear or side yard immediately adjacent to a neighbouring property. Additionally, transparent

surfaces on external second storey ADU walls are limited to 20% of the total wall area where the setback from the interior and rear lot lines is less than 2.0 metres.

Lighting

Outdoor lighting for the pathway connection and ADU shall meet current dark skies guidelines and be located and arranged so that no direct rays of light are directed at any adjoining properties.

Stormwater Management

Municipal Stormwater System Regulation and Fees Bylaw No. 1024, 2015 requires infiltration galleries for new development, and must be designed and certified by a Professional Engineer. Further, the Bylaw states that there shall only be one connection per lot. Under the proposed Official Community Plan and Zoning Bylaw amendments, stormwater management will be addressed at the building permit stage pursuant to Bylaw 1024.

Accessibility

A 1.2 metre hard surfaced pathway is required to the front entrance of the ADU to a highway; a highway would include a lane, road, or boulevard, but not a private right of way or a linear parkway.

It is recommended that additional recommendations regarding designing for accessibility and inclusion would be included in the ADU application guide such as barrier-free access and design provisions that would facilitate aging in place and improve accessibility.

Form and Character

Regulation to restrict ADUs from being developed in front yards has been maintained and a provision has been added to ensure that garages do not protrude beyond the front entrance of a unit.

Form and Character Development Permit Area guidelines such as those related to visual interest in design and use of building materials that reflect the character of the principal dwelling unit can not be required by a Zoning Bylaw; however, will be encouraged through the new website and brochure that will include sample images and design recommendations.

Sloped Lots

To reduce situations where ADUs are taller than the principal dwelling on uphill sloping lots, the bylaw amendment proposes that the roof of an ADU shall not be higher than the peak of the roof of the principal dwelling, for lots with slopes greater than 20%.

PUBLIC ENGAGEMENT AND CONSULTATION

The project team presented the proposed amendments to the Advisory Planning Commission, Accessibility and Inclusion Committee, and Homelessness and Affordable Housing Committee. All the respective committees indicated support for the proposed concept of streamlining with some concerns and indicated that they would like the opportunity to review the draft bylaws and associated ADU application guide once drafted.

The Advisory Planning Commission passed the following resolution:

THAT the APC supports the concept of streamlining the Accessory Dwelling Unit Approval Process in alignment with the comments made in these minutes and awaits further information from Council and staff on recommendations sought from the APC.

Accessibility and Inclusion Committee passed the following resolution:

That the Accessibility and Inclusion Committee provide the following comments on the proposed changes to the Accessory Dwelling Unit Approvals Process:

- *to encourage universal design and incorporate accessible recommendations in the companion guide for ADUs, such as step free access and Saferhome Standards*
- *and that the draft companion guide for Accessory Dwelling Units be referred to the Accessibility and Inclusion Committee when available.*

The Homelessness and Affordable Housing Committee provided comments that are included in the minutes but did not make a specific resolution.

One email was received from the public expressing general support for the project and making some specific comments (Attachment 3 – Public Submission). Should Council give the subject bylaws first and second reading and direct staff to prepare the associated application guide, the application guide will be drafted and placed on the Village website along with background information and the amending bylaws for public review. A press release is proposed to be drafted to notify the community of this opportunity to comment on the draft bylaws in advance of the public hearing. The public hearing is anticipated to be held in mid-September.

ALTERNATIVES

1. That Council provide alternate direction.

STRATEGIC OBJECTIVE

- Healthy Community
- Quality Infrastructure Planning and Development
- Comprehensive Community Planning
- Economic Development

FINANCIAL IMPLICATIONS

The cost in staff time of processing ADU development permit applications is not fully recovered by the application fee of \$1,200. Removing the requirement for a development permit will have a positive financial impact.

OPERATIONAL IMPLICATIONS

Staff spend a considerable amount of time on ADU inquiries and applications as many of the applicants are not experienced developers and find the approval requirements onerous. The Village has a very high approval rate associated with ADU Development Permit Applications. As staff resources are limited, the intent of streamlining and improving communications materials is not only to improve the process for the applicant, but also to free up staff time currently utilized

for ADU inquiries and processing ADU development permits for processing other development applications to improve the overall level of service as well as Council priority initiatives.

CLIMATE CHANGE IMPLICATIONS

Current DPA guidelines for ADUs such as requiring that ADUs be solar ready and provide an energized outlet for Level 2 electric vehicle charging are included in the draft Zoning Bylaw amendment. Further building efficiency requirements will be addressed through adoption of the BC Energy Step Code.

ATTACHMENTS

1. Draft OCP Amendment No. 1174
2. Draft Zoning Bylaw Amendment No. 1175
3. Public Submission

Respectfully submitted,

C. Simpson

Courtney Simpson
Manager of Development Services

M. Mason

Michelle Mason
Interim Chief Administrative Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1174

A bylaw to amend the Official Community Plan Bylaw.

The Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. This Bylaw shall be cited as “Official Community Plan Amendment Bylaw No. 1174, 2022”.
2. Part D, Section 10.6.1 of the Village of Cumberland Official Community Plan, Bylaw No. 990, 2014 is amended by removing the following:
‘Single Family with accessory dwelling unit (garage apartment, coach house, laneway house)’
3. Part D, Section 10.6.3 of the Village of Cumberland Official Community Plan, Bylaw No. 990, 2014 is amended by adding point (q) under subsection (1) which states:
‘q. For construction, alteration, renovation, addition, or demolition of an accessory dwelling unit.’
4. Part D, Section 10.6.6 of the Village of Cumberland Official Community Plan Bylaw No. 990, 2014 is repealed in its entirety.
5. At its meeting on August 8, 2022, Council considered and passed a resolution with respect to opportunities for consultation on this Bylaw with persons, organization, and authorities it considered to be affected, as per sections 475 and 476 of the *Local Government Act*.

READ A FIRST & SECOND TIME THIS XX DAY OF [month] 2022.

PUBLIC HEARING HELD THIS XX DAY OF [month] 2022.

READ A THIRD TIME THIS XX DAY OF [month] 2022.

ADOPTED THIS XX DAY OF [month] 2022.

Mayor

Corporate Officer

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

BYLAW NO. 1175

A Bylaw to amend Zoning Bylaw No. 1027, 2016

The Council of the Corporation of the Village of Cumberland, in open meeting assembled, enacts as follows:

1. This Bylaw shall be cited as “Zoning Amendment Bylaw No. 1175, 2022”.

Zoning Amendments

2. The Zoning Bylaw No. 1027, 2016 is amended in Part 2, Section 2.2 by **inserting** the following definitions:

Accessory Dwelling Unit	means a separated secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit on a fee simple lot.
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3. The Zoning Bylaw No. 1027, 2016 is amended in Part 4, by **repealing** section 4.2 and **substituting** the following:

4.2 Accessory Dwelling Units

- d) Where an *accessory dwelling unit (ADU)* is permitted, the following regulations shall apply:
 - i) an ADU shall not be located in a *front yard*;
 - ii) the ADU must be fully detached from (and with no breezeway to) any *single family dwelling* on the subject *lot*;
 - iii) the gross floor area of the ADU:
 - 1) must not exceed 90.0 square metres (968.8 square feet); and
 - 2) must be less than 75% of the *GFA* of the *single family dwelling*.
- e) The Height of an ADU must not exceed:
 - i) if one *storey*, 6.5 metres (21.3feet); or
 - ii) if two *storeys*, 7.5 metres (24.6feet).
- c) Notwithstanding the *setback* regulations for the Zone:
 - i) *lots* with interior side yards less than 1.5 metres (4.9feet); and
 - ii) with a rear *lane* less than 6.0 metres (19.7feet) wide or a *lane* which is greater than 6.0 metres but is not accessible year-round;must provide no less than 1.5 metres (4.9feet) in width from the entrance of the ADU, past the principal *building* for emergency access from the *frontage*.

If a fence is installed within the 1.5 metres (4.9feet) clearance area, a gate, accessible at all times and no less than 1.5 metres in width, needs to be provided.

- f) An ADU shall not be subdivided from the parent property under the Strata Property Act.
- g) The landscaping and screening for an ADU shall:
 - i) Include one shade tree per ADU.
 - ii) Follow the Village of Cumberland's Urban Forest Management Plan for tree spacing and species type.
 - iii) All required landscaping shall be watered by a fully automatic irrigation system that meets or exceeds IIABC standards. Run-off onto sidewalks, streets, or parking areas shall not be permitted.
 - iv) Notwithstanding Section 4.2 (e) (iii), existing areas of undisturbed native vegetation which have been accepted as a landscape buffer or shade tree are exempt from requiring a fully automatic irrigation system.
 - v) A solid screen shall be provided and maintained where an ADU is located within 4.5 metres of a parcel boundary, consisting of either fencing or a hedge with a minimum height at maturity of 2.0 metres, along rear and interior side parcel boundaries adjacent to the ADU and its outdoor amenity space.
 - vi) Include an unobstructed, hard-surfaced lighted pathway at least 1.2 metres wide from either a street or lane, to the entrance of the ADU.
- h) Outdoor lighting for any development shall meet current dark skies guidelines and be located and arranged so that no direct rays of light are directed at any adjoining properties.
- i) An outside amenity area shall be provided in the form of a deck, dedicated yard, garden, or similar feature. A parking area does not qualify as an outside amenity area.
 - i) The amenity area shall have a minimum width of 2.5 metres and must not be less than 10.0 square metres (107 square feet) in area.
 - ii) Amenity areas shall be provided along the rear property line or internal to the lot.
- j) An ADU shall not include any balconies, roof top decks, or above ground patios facing the rear or side yard immediately adjacent to a neighbouring property.
- k) In the R1-A Zone, transparent surfaces on external second storey ADU walls, adjacent to an interior side or rear lot line, shall be limited to 20% of the total wall area where the setback from the interior and rear lot lines is less than 2.0 metres.
- l) For uphill sloping lots, with slopes greater than 20%, no portion of the roof of an ADU shall be higher than the peak of the roof of the principal detached dwelling on the same parcel.
- m) Garages shall not protrude beyond the front entrance of a unit.
- n) ADU's shall provide energized outlets capable for Level 2 electric vehicle charging.
- o) ADU's shall be designed to be solar ready and include the technical components to facilitate the use of solar panels.

- p) Waste disposal and recycling bins provided for the ADU shall be screened from adjacent properties.

Severability

- 4. If any section or subsection of this Bylaw is found to be invalid by a court of competent jurisdiction, the section or subsection may be severed from the Bylaw without affecting the validity of the remainder of the Bylaw.

READ A FIRST & SECOND TIME THIS XX DAY OF [month] 2022.

PUBLIC HEARING HELD THIS XX DAY OF [month] 2022.

READ A THIRD TIME THIS XX DAY OF [month] 2022.

ADOPTED THIS XX DAY OF [month] 2022.

Mayor

Corporate Officer

From: [REDACTED]
To: [Courtney Simpson](mailto:CSimpson@cumberland.ca)
Subject: Re: questions/comments on proposed ADU changes
Date: July 12, 2022 9:18:57 AM

Hi Courtney,

Certainly if you feel it's helpful to share my email then go for it :)

Also thanks for your comments on my comments.

Regarding the roof height. I just feel there should at least be a way in the bylaws that allows for the construction of some form of ADU on a rear sloping lot without requiring a variance. Maybe more restrictive rules but the current idea of not allowing them taller than the existing house would prohibit their construction on some lots all together. It could also result in an undesirable side effect of unsightly additions to homes just to make them taller, and therefore meet the bylaw requirements for the ADU.

I do still think though that in most cases requiring a hard surface pathway from the ADU in the backyard to the street is not needed. Especially when a lot of properties would required stairs in said pathway and wheelchair access isn't possible anyway. I would strongly suggest dropping the need for hard surface and changing the wording to allow permeable surfaces. There is also talk of reducing costs to the developer as a reason to drop the DP process. A 5' wide concrete pathway to an ADU in a backyard could easily run a cost of \$5000-\$10000. That cost could be greatly reduced if gravel paths were allowed for example.

Thanks again for you time.

[REDACTED]

On Tue, Jul 12, 2022 at 8:40 AM Courtney Simpson <CSimpson@cumberland.ca> wrote:

Hi [REDACTED],

Thank you for your email and your words of support. Would you like your email to be shared with Council?

Regarding the height limits for an ADU on sloping properties, someone can always apply for a development variance permit to vary the requirements in the Zoning Bylaw. This what we have in mind for a lot that has such a slope, if it can't practically meet height requirements we are proposing. This means that Council can review the specific proposal in this case, and if they support the height variance the ADU can be built. If we can come up with better Zoning Bylaw language to reduce the number of variance applications and still retain that neighbourhood fit, that is a good thing. We will have a close look at your suggestion.

For the 1.5m hard surface path, this is already required (although it is 1.2m now). Formally, all ADUs must have pedestrian access from the street (not the lane), and if they can also have access from the lane, ideally having parking off the lane also, that is best. Because lanes are in such a variety of condition we could not at this time require access from the lane only. The reason for the hard surface is accessibility. We will have a close look at your suggestion on this one as well.

Step Code, yes, is on our list of projects to tackle.

Thanks again for taking the time to comment.

Courtney

Courtney Simpson, RPP MCIP

Manager of Development Services

Village of Cumberland | Box 340, [2673 Dunsmuir | Cumberland, BC | V0R 1S0](#)

[Office 250.336.3019](#) | Cell 250.897-8031 | e: csimpson@cumberland.ca

I would like to acknowledge that we are on the Unceded traditional territory of the K'ómoks First Nation.

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From: [REDACTED]
Sent: July 11, 2022 3:00 PM

To: Planning <Planning@cumberland.ca>; Karin Albert <kalbert@cumberland.ca>
Subject: questions/comments on proposed ADU changes

Hi there,

First off, kudos for looking at eliminating the development permit process for ADUs. I have long thought that this was a barrier to development that didn't need to be there. Very excited to see how this affects development going forward.

I recently read through the list of proposed changes to the bylaws pertaining to ADUs and had a few questions/comments. See below:

- Urban Design Item (13) talks about properties with an uphill slope of more than 20% being required to have no rooflines rising higher than the principal dwelling. While I see why this is being looked at, I think it would be unfortunate to limit certain properties from having an ADU because their lot backs into a hill. I know that the recently finished ADU on camp road is likely why this is being discussed. I think it was shown that with thoughtful design, even an ADU that is higher than the principal dwelling can fit into the neighborhood. I would suggest rather than limit the roof height to be no higher than the principal dwelling, a different approach like limiting it to a single story or perhaps restricting the ADU to be not higher than "x" above any point on the surrounding grade. This would force the roof design to follow the slope of the grade and create a building that is by nature less obtrusive.

- Access (7) mentions requiring a 1.5M wide, hard surfaced, lighted pathway from the front lot line to the ADU door. Most ADU's are at the back of the property and many are only accessed from the laneway. It doesn't seem practical to require a 1.5M wide sidewalk that runs almost the entire length of the property when an ADU doesn't have any access other than the lane. Concrete and other hard surfaces contribute greatly to climate change and limiting their use seems like a good plan.

- Then just a comment about requiring solar ready and car charging capabilities. I think this is a great ask, but could the village go further in requiring all new construction adhere to a certain level of the step code? In a village that cares so deeply about climate change, it is odd that we haven't yet made this a requirement. Currently most areas around the Comox Valley are requiring Step 3, I would suggest that Cumberland be bold and require Step 4 while also requiring solar ready and charging stations.

Thanks for your time, I look forward to following along as these changes are developed.

Thanks,

