



MACKENZIE COUNTY

REQUEST FOR DECISION

Meeting:	Regular Council Meeting
Meeting Date:	May 13, 2014
Presented By:	Byron Peters, Director of Planning & Development
Title:	Bylaw 953-14 Land Use Bylaw Amendments Add Regulation to Flood Prone Lands and Landscaping, Screening or Sound Barriers, Definition of Garden Suite and Change the Minimum Lot Size in Agricultural "A"

BACKGROUND / PROPOSAL:

Bylaw 953-14 is being brought forward to address a few more items in the updated Land Use Bylaw 791-10 that require attention. This item was tabled at the last Council meeting in order to allow administration to do more research on some items.

The regulation regarding Section 7.1, Access and Drainage, is to help avoid damage to buildings that can occur during overland flooding. Many developers disregard that they live in a flood susceptible area and are vulnerable to having their dwelling and buildings flooded during spring runoff. This change will help ensure that all developments in the County are built or placed at the same elevation as, or above, the downstream road centerline elevation.

The change to Section 7.29 Landscaping, Screening or Sound Barriers is to address the setbacks for trees and shrubs from property lines. After researching other municipalities in Alberta, administration found no existing rules or regulations in relation to setbacks between trees and property lines. ATCO Electric does have a policy in place that all trees must be at a minimum of 6 meters (20 feet) from power lines.

The Planning and Development department feels that having a setback for side and rear property lines at 1.5 meters (5 feet) is more than sufficient considering that in most residential districts that is the minimum setback for buildings and dwellings. The regulation mentions that the owners of the tree(s) or shrub(s) are responsible for the upkeep and maintenance on their property and neighbouring properties.

Recently there has been confusion regarding the definition of a Garden Suite. There was a development permit that was approved because there were no grounds for

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refusal. A Garden Suite is to be placed on an existing yard site that has a principal dwelling that is accessible by the same driveway.

Also, the minimum lot size for residential lots in rural areas (Agricultural "A") is proposed to be changed from 3 acres to 5.5 acres. This is a preventative measure to ensure that there will be no other 10 acre splits to cause problems with adjacent landowners. By implementing a minimum of 5.5 acres, the only subdivisions that would qualify to be split would be ones that were subdivided as an existing farmstead, and that needed more land to satisfy setback requirements. Administration feels that it is highly unlikely that a property owner would move that many buildings in order to split their small parcel.

Administration has asked legal counsel for advice as it relates to this topic. To quickly summarize the advice; increasing the minimum lot size contradicts our Municipal Development Plan, as there are many references to preserving agricultural land and reducing the number of conflicting land uses. Due to this contradiction, the proposed change could easily be appealed by a ratepayer, with the claim that the regulation is in place not as a planning regulation, but as a property rights regulation. And a property rights regulation is outside of the scope of a Land Use Bylaw.

Another option for consideration is to reduce the maximum lot size to 5.5 acres. This would align with our current policies to protect agricultural land and its excessive fragmentation. Or an amendment could be made restricting the number of subdivisions to two per quarter section. Either of these amendments could be easily defended by citing our current policies and regulations.

These amendments were presented to both the Municipal Planning Commission and Inter-Municipal Planning Commission. The IMPC had no concerns, and recommended to Council for approval as presented.

The Municipal Planning Commission made the following motion at the April 24, 2014 MPC meeting:

MOTION 14-04-072 *That the MPC recommend to Council to amend the Land Use Bylaw to add regulation to Section 7.1, to revise the definition of "GARDEN SUITE" and that the minimum lot size be changed to 2.2 ha (5.5 acres) in Section 8.1 C. (b), subject to public hearing input.*

The MPC does not recommend the additional regulation to Section 7.29 regarding the tree setbacks.

OPTIONS & BENEFITS:

These changes and additions will provide greater clarity on several items that are currently in the Land Use Bylaw, and provide new direction for some items that were not previously included. The intent is to keep the LUB as clear and concise as possible, while protecting the rights of each individual.

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COSTS & SOURCE OF FUNDING:

Costs will consist of advertising the public hearing, and will be borne by the Planning Departments operating budget.

SUSTAINABILITY PLAN:

The sustainability plan does not address any topics that affect this bylaw amendment.

COMMUNICATION:

The bylaw amendment will be advertised as per MGA requirements.

RECOMMENDED ACTION:

That first reading be given to Bylaw 953-14 being a Land Use Bylaw Amendment to add regulation to Sections 7.1 and 7.29, and to revise the definition of "GARDEN SUITE", subject to public hearing input.

BYLAW NO. 953-14

**BEING A BYLAW OF
MACKENZIE COUNTY
IN THE PROVINCE OF ALBERTA**

**TO AMEND THE
MACKENZIE COUNTY LAND USE BYLAW**

WHEREAS, Mackenzie County has a Municipal Development Plan adopted in 2009, and

WHEREAS, Mackenzie County has adopted the Mackenzie County Land Use Bylaw in 2011, and

WHEREAS, the Council of Mackenzie County, in the Province of Alberta, has deemed it desirable to amend the Mackenzie County Land Use Bylaw to add regulations, revise the definition of Garden Suite and change the minimum lot size in Agricultural “A” zoning.

NOW THEREFORE, THE COUNCIL OF THE MACKENZIE COUNTY, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:

1. That the Mackenzie County Land Use Bylaw be amended with the following additions and changes:

Add Regulation to Section 7.1:

Access and Drainage:

- (e) *Any doors, windows and other openings to any DEVELOPMENT shall be at the same or greater elevation as the downstream road centerline elevation to avoid overland flood damage, water seepage and other water related damage.*

Add Regulation to Section 7.29:

Landscaping, Screening or Sound Barriers:

- (k) *Trees and Shrubs **shall** be setback at least 1.5 meters (5 feet) from the side and rear property lines to avoid overgrowth and leaf shed into neighbouring properties. No setback is required for the front property line. Owners of the trees and shrubs are responsible for their upkeep and maintenance, and to ensure they do not negatively impact neighboring properties.*

Revise the Definition of a Garden Suite in Section 3.3 to read as:

***“GARDEN SUITE”** means a secondary DWELLING UNIT on a parcel of land on which there is already a principal DWELLING UNIT located on the same YARD, accessible by the*

same driveway. A GARDEN SUITE is to only be ACCESSORY to the principal DWELLING UNIT.

READ a first time this ____ day of _____, 2014.

PUBLIC HEARING was held this _____ day of _____, 2014.

READ a second time this ____ day of _____, 2014.

READ a third time and finally passed this ____ day of _____, 2014.

Bill Neufeld
Reeve

Joulia Whittleton
Chief Administrative Officer