



## **BYLAW 24-24 - LAND USE BYLAW AMENDMENT 149 ELIZABETH STREET**

### **Purpose**

The purpose of Bylaw 24-24 is to amend Land Use Bylaw 17-21 by redesignating 149 Elizabeth Street (Plan 1420L, Block F, Lots 25-37) from Downtown District and Traditional Neighbourhood District to General Commercial District.

### **Readings**

This Bylaw is ready for second and third reading.

### **Report, Analysis and Financial Implications**

A Public Hearing was held September 23, 2024 for this Bylaw, which proposes to redesignate Lots 25-37, Block F, Plan 1420L (149 Elizabeth Street) from Downtown District (D) and Traditional Neighbourhood District (TN) to General Commercial District (GC). The subject site is located one lot west of Northridge Drive and is bound by the Canadian Pacific Kansas City (CPKC) Railway corridor to the south, a single detached home to the west, and a service station and convenience store to the east.

Consisting of a single parcel, the subject site has two land use designations: the east half of the parcel is designated Downtown District, and the west is designated Traditional Neighbourhood District. The parcel presently accommodates a car and truck washing business operating out of two buildings. Under Land Use Bylaw 40-98 the parcel was designated Direct Control, allowing for the single use of a car and truck washing establishment. However, when the parcel was transitioned to the current Land Use Bylaw 17-21 it was inadvertently split zoned into the Traditional Neighbourhood District and Downtown District even though the entire site is designed and used as a car and truck wash. Neither district allows for the use of a car and truck wash, resulting in the established activity being a legal non-conforming use.

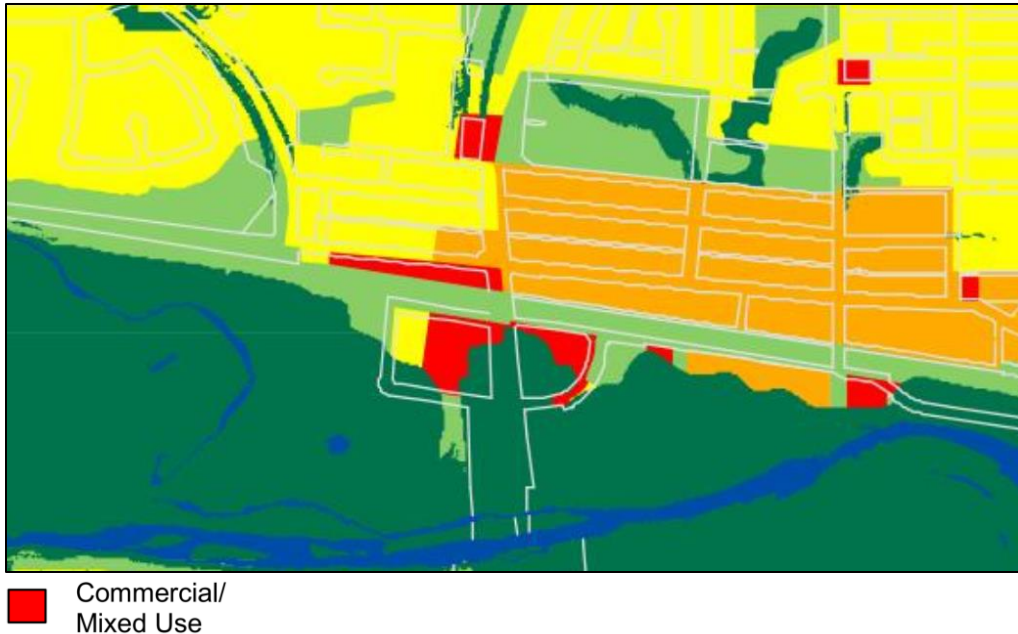
In order to address the issue of split-zoning of the site, Bylaw 24-24 proposed to redesignate the parcel to General Commercial (GC) District which better suits the current development of the site and addresses the non-confirming use as a vehicle wash station, which is a discretionary use in the GC District. The GC District would also allow for increased flexibility of development on the site and allow consideration of a vehicle rental business as a discretionary use. The site was not proposed to be designated Downtown District as the site extends beyond the west boundary the downtown area identified in the Municipal Development Plan.

Following the public hearing on September 23, 2024, Administration was directed to bring a report regarding potential options for land use designation of the subject property to the October 15, 2024 Council Meeting. Administration examined four different options for land use districts on the subject site: General Commercial District (GC), Downtown District (D), Direct Control District (DC), and retaining the existing split zoning.

### Option 1 – Redesignate to General Commercial District (GC)

Redesignating the subject site to General Commercial District would align with the Municipal Development Plan. The subject site is identified as future commercial/mixed use in the Municipal Development Plan (MDP) (Map D.9: Future Land Use Concept Map) and is located outside of the downtown area as delineated in the Municipal Development Plan.

Map D.9: Future Land Use Concept Map



The Land Use Bylaw (17-21) provides the following general description of the General Commercial District:

“The Primary intent is to provide employment opportunities through various commercial and office Buildings with provisions for higher density residential opportunities as either a town-wide destination or neighbourhood destination.”

The mix of uses or activities may include a “a blend of office, commercial and residential in a variety of configurations.”

The General Commercial District and Downtown District share 32 permitted and discretionary land uses. Of these uses, only a wash station and service station are not allowed in the Downtown District, while they are discretionary uses in the General Commercial District. Uses that are permitted in the General Commercial District but discretionary in the Downtown District include short-term lodging – large, entertainment establishment, animal boarding & breeding and death care.

A development permit application for a permitted use that conforms with all provisions of the Land Use Bylaw must be approved. However, the development authority may refuse a development permit application for a discretionary use even if the proposal conforms with the Land Use Bylaw if the development authority has a sound planning basis for concluding the use is inappropriate or incompatible at a particular location.

General Commercial (GC) District is the best fit with the current development of the site and addresses the non-conforming use as a vehicle wash station. The GC District would also allow for increased flexibility of development on the site to allow for consideration of a vehicle rental business as a discretionary use.

#### Option 2 – Redesignate the entire site to Downtown District (D)

The western extent of the Downtown District as identified in the Municipal Development Plan and Land Use Bylaw is the gas bar and convenience store located immediately east of the subject parcel and the RBC located across the street to the north. The east half of the subject parcel is presently designated Downtown District. The Land Use Bylaw provides the following general description for the Downtown District:

“The Primary intent is to support local business activities and encourage sensitive infill Development with a high-quality design and pedestrian connectivity in the Okotoks downtown area. Heritage resources should be preserved, respected and enhanced where possible.”

The mix of uses or activities include “a blend of business, commercial, community and residential in a variety of configurations with active Uses located on ground levels and service or residential Uses located on higher Storeys.”

The existing car and truck wash is not a listed use in the Downtown District and is therefore currently a legal non-conforming use. A legal non-conforming use is a use that conformed with the Land Use Bylaw when the use was approved but due to a change to the land use bylaw for the property is no longer allowed. The non-conforming use can continue to operate on the property provided it does not discontinue operating for a period of six consecutive months, is not enlarged or added to within the site, no structural alterations are made to buildings containing the non-conforming use, and no additional buildings are constructed on the site. Any future uses must conform with the current Land Use Bylaw. A non-conforming use is not affected by a change of ownership or tenancy of the land or building.

The Downtown District is intended to reflect the core downtown area and is broken into four separate character areas. The subject site is currently beyond the Main Street Character area of the Downtown District as well as the proposed boundaries of the Downtown Area Redevelopment Plan, which is currently under development. If Council is of the view that the subject site should be designated Downtown District, the Character Areas of the Downtown District will be updated to include this site. The change would also be factored into the upcoming Downtown Area Redevelopment Plan boundaries to ensure consistent policy and land use bylaw alignment.

### Option 3 – Redesignate to Direct Control District

Under the previous Land Use Bylaw 40-98 the parcel was designated Direct Control District for the single use of a car and truck washing establishment. When Land Use Bylaw 17-21 was adopted all of the previous 35 Direct Control Districts were also transitioned to standard districts in order all for more flexibility, streamline approval processes, and better align with the Municipal Development Plan. Direct control districts often resulted in complex and time intensive development applications before Council for even minor changes to a property if there was limited or little direction provided in the Direct Control District. A Direct Control District remains an option in accordance with the provisions of the *Municipal Government Act* and the Land Use Bylaw (17-21), which states “the purpose of a Direct Control District is to provide for Development that, because of its unique characteristics, innovative ideas or unusual site constraints requires specific regulation unavailable in other Districts”. Council would also need to establish appropriate development standards in the bylaw approving a Direct Control District and also identify whether Council will remain the Development Authority or be delegated to the Development Officer. It is Administration’s opinion that a direct control district is not required as development on the subject site can be regulated with one of the existing land use districts.

### Option 4 – Abandon Bylaw 24-24 and retain existing land use designations

The subject property is presently split zoned with the eastern portion of the site designated Downtown District and the western portion designated Traditional Neighbourhood District. As land use districts typically follow defined property lines, split zoning can make it difficult to determine exactly where the boundary between the land uses is located. Split zoning may also result in a parcel that is more challenging to develop, as each half of the lot would have different permitted and discretionary uses and different development standards.

Administration proposed the redesignation of the subject site to General Commercial District (GC) to align with the Municipal Development Plan and the Downtown Character Area Map in the Land Use Bylaw. If an alternative option for the redesignation of the subject lands is preferred by Council, a revised bylaw will be brought back to Council for consideration.

### **Strategic Plan Goals**

<input checked="" type="checkbox"/>	Responsibly Managed Growth
<input checked="" type="checkbox"/>	Strong Local Economy
<input type="checkbox"/>	Organizational Excellence

<input type="checkbox"/>	Demonstrated Environmental Leadership
<input type="checkbox"/>	Enhanced Culture & Community Health

## **Community Engagement Strategy**

A Public Hearing was held September 23, 2024, second reading of the Bylaw was put on the floor, however a motion to postpone decision on second reading was approved with a request for further information from Administration.

In accordance with section 216.4 of the *Municipal Government Act*, Council may pass the bylaw, make any amendment to the bylaw it considers necessary, or defeat the bylaw without further advertisement or hearing.

## **Alternatives for Consideration**

n/a

## **CAO Comments**

I support the recommendation to advance Bylaw 24-24 to second and third reading. The overall intent of this Bylaw is to correct an administrative error which occurred. Having split zoning on one site is not appropriate and provides no certainty to the property owner. The proposed commercial district most closely reflects that actual use of the site today and provides limited ability for a change in use that is most consistent with the current operating conditions.

## **Attachment(s)**

1. Bylaw 24-24 - First Reading Version

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September 27, 2024