



PLANNING

TO: Council

DATE: January 10, 2023 **DIVISION:** All

TIME: Morning Appointment

FILE: 1013-137 **APPLICATION:** N/A

SUBJECT: Municipal Development Plan and Land Use Bylaw Amendments:
Business, Live-Work District; Special, Future Urban Development District,
Special Function Business and Home-Based Business Uses

EXECUTIVE SUMMARY:

On September 27, 2022, Council directed Administration to prepare amendments to both the Municipal Development Plan (County Plan) and the Land Use Bylaw (LUB), specifically to:

- remove the ability to redesignate to the Special, Future Urban Development (S-FUD) District;
- remove the ability to redesignate to the Business Live-Work (B-LWK) District;
- remove the Special Function Business (SFB) use from all districts that currently allow the use;
- create a Home-Based Business Type 3 (HBB3) use within residential and agricultural parcels that could be applied to appropriate sites subject to approval of a land use amendment application by Council;
- create locational principles and site criteria in the County Plan for HBB3 uses to guide the location of uses to compatible areas; and
- create HBB3 General Regulations in the LUB to provide additional requirements.

Administration was further directed to present the proposed amendments to Council for consideration no later than January 2023.

Administration proposes amendments to the County Plan through Bylaw C-8356-2023 (Attachment 'A') and to the LUB through Bylaw C-8357-2023 (Attachment 'B'), with the effect of replacing the B-LWK and S-FUD Districts, and the SFB use, with a new HBB3 use. The intent is to offer more focused opportunities to residents in the County to undertake limited-scale business uses on their property in a manner that is better guided by County Plan policies and LUB regulations.

A key requirement of the proposed amendments was that a HBB3 use must still be secondary to the principal residential use on the site and must be compatible with the residential and/or agricultural character of the surrounding area. This would be ensured through strong locational criteria set out in the proposed County Plan amendments, and through detailed site development requirements in the proposed LUB amendments. The proposed locational criteria would aim to direct these more intensive HBB uses to areas away from existing residents to larger parcels, but with a further requirement that appropriate servicing and transportation access should be available to support the HBB use. Rather than restricting HBB Types by the specific use (e.g.: wedding venue, automotive services), the proposed LUB criteria instead would manage the HBB through parameters including maximum outside storage or outside activity area, minimum parking stalls, setbacks and landscaping. The LUB regulations would allow a degree of discretion to the Development Authority to accommodate the local context of a HBB3.

In addition to establishing a new HBB3 use, Administration is recommending amendments to the existing HBB Type 1 and 2 use regulations to improve interpretation, to address previously identified issues with the existing HBB allowances, and to better distinguish the three HBB Types. The HBB3

Administration Resources

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use provides a higher outside storage maximum area over the HBB2 regulation; this requirement for a larger outside storage area was a common reason for landowners applying to redesignate to the B-LWK district. At the full discretion of the Development Authority, the HBB3 use also allows for a higher number of non-resident employees, which facilitates previously problematic uses such as event venues proposed under the SFB use.

Prior to applying for a HBB3 development permit, a landowner would be required to add the use to their parcel through a land use redesignation application; this would allow Council the ability to determine the acceptability of a HBB3 use against the County Plan and Land Use Bylaw requirements and through a public hearing process.

In accordance with Council direction, the amendments would allow landowners with existing S-FUD and B-LWK designations to retain their zoning, with modifications to prevent the potential to further subdivide existing B-LWK parcels. However, the ability to redesignate to these districts would be removed. Similarly, the amendments to the LUB would remove SFB from all districts which currently list it as a use, with the holders of current SFB development permits expected to apply for HBB2 or HBB3, as appropriate, upon expiry of their current permit.

Addressing the challenges experienced with the S-FUD district, amendments are proposed to Section 28.0 (Area Structure Plan Preparation and Amendment) of the County Plan to acknowledge that interim residential or business uses should be considered permanent uses outside of an area structure plan or local plan and should be assessed as such. Additional policies are proposed within Section 28.0, which encourage the consideration of interim uses appropriate to the local context within any new ASP or ASP amendments.

Overall, these County Plan and LUB Amendments ensure that interim and home-based business uses are managed in a way that promotes responsible growth in alignment with the regional and municipal statutory planning framework, and Council's Strategic Plan. Furthermore, the amendments promote more certainty for all stakeholders in the application process in accordance with Council's Strategic Objectives of promoting improved customer service, and greater transparency and communication.

ADMINISTRATION RECOMMENDATION:

Administration recommends approval in accordance with Option #1.

BACKGROUND:

Both the S-FUD and B-LWK districts have been problematic for the County since their inclusion in the County's 2020 LUB due to the location, intensity, and subsequent impacts to surrounding residential and agricultural parcels. Although included within the LUB, these districts promote uses that have limited support within the Regional Growth Plan or County Plan, and they have encouraged the dispersed location of small-scale business uses outside of approved area structure plans. Replacement of these districts with a HBB3 use would, subject to criteria, allow for small-scale home-based business uses to occur on residential and agricultural parcels, but as a secondary use to the principal residential/agricultural activities on the parcel.

Special, Future Urban Development (S-FUD) District

The purpose of an S-FUD district in most municipalities is to allow for interim uses in areas where development is intended to occur in the near term. In Rocky View County, this would be within area structure plans. The S-FUD district regulations have been problematic as they do not clearly support this intent, and many applications have been received for S-FUD in areas of the County outside of approved ASPs.



The existing S-FUD district has been reviewed against the Regional Growth Plan and the County Plan, and there is no support for allowing interim uses prior to build out of growth areas. Similarly, many of the County's area structure plans (ASPs) do not anticipate or accommodate the establishment of interim uses prior to implementation of comprehensive subdivision and development plans.

The S-FUD district is also redundant, as the uses allowed for within S-FUD are also allowed within several other business districts within the LUB. Through the newly proposed HBB3 use, this would provide landowners with a residential dwelling on their property the opportunity to accommodate some small-scale business uses either as an interim use in an identified growth area, or as a permanent use appropriate within residential and agricultural areas.

Considering the lack of support within regional and municipal statutory planning policy for interim uses, and the issues observed with ambiguity and duplication in the current S-FUD district, Administration recommends that amendments be made to the LUB to remove the district, and to replace the small-scale business uses currently allowed within the district with the newly created HBB3 use.

Business, Live-Work (B-LWK) District

The purpose of the Business Live-Work District, as outlined in the Land Use Bylaw is to provide for *"a combination of residential and light industrial or commercial activity on a single parcel, with residential as the primary use. The parcel shall be located in the Central East Rocky View Region in locations where adjacent development is industrial or commercial in nature."*

It is understood that the intent of this district at the time of approval was to encourage and support the demand from some residents for light industrial or commercial activity to occur on a larger scale than was allowed under the Home-Based Business Type 1 and Type 2 uses. However, adverse impacts on surrounding residential and agricultural properties, development compliance concerns, and potential effects on stormwater and transportation infrastructure have all raised questions over whether the B-LWK district is functioning adequately.

The B-LWK regulations promote business uses that exceed what might be considered ancillary to a residential use and which are typically more appropriate for an identified commercial or industrial area. There is the continued likelihood of business operators securing residential and agricultural properties to locate their use on these lands, thereby avoiding the costs of locating within a comprehensively planned business area.

The proposed HBB3 use is proposed to improve the management of small-scale business uses through a more detailed policy and regulatory framework which aligns more closely to the current HBB2 use to better protect the residential and agricultural character of the surrounding area in which the business is proposed to be located.

Special Function Business (SFB)

Previous feedback from Council has identified a concern in relation to the allowances of the SFB use, and more specifically, the regulatory guidelines for wedding venues. Applicants often seek to gain approval for wedding venues under the SFB use. As wedding venue uses have raised similar concerns to the uses that would fall under B-LWK, it is recommended that SFB uses may be best placed within a HBB2 or HBB3 use depending on the proposed intensity. Although SFB uses may not operate as frequently as uses in the B-LWK district, the intensity of the use can cause greater impacts than a business operating on a more regular basis. It is therefore proposed that they should be assessed and managed in a similar manner to other business uses proposed within a primarily agricultural or residential area. The Special Event Permit process is still available for those events of a one-off nature or annual frequency that fall below the thresholds of an SFB.

PROPOSED AMENDMENTS:

A core principle of allowing any home-based business use should be to protect the integrity and character of the agricultural and residential areas in which they are located. Where home-based business uses are proposed, the primary agricultural and residential use within a site should be emphasized, and home-based uses should be limited to the extent that they are clearly ancillary to the principal use.

Administration's recommended amendments to the County Plan and LUB would ensure that business uses within residential and agricultural areas are managed in a way that promotes orderly development in alignment with the wider growth strategy of the County's statutory planning documents and the objectives of Council's Strategic Plan.

Municipal Development Plan (County Plan) (see Attachment 'A')

The County Plan amendments generally add locational criteria to direct proposed HBB3 uses to larger agricultural and residential parcels within the County, away from the County's residential growth areas. Proximity to the County's long-range transportation network, and servicing availability are also a consideration of the drafted policies for HBB3 uses. Further amendments are proposed to the County Plan to encourage the County to explore the provision of temporary uses within area structure plans as these community planning documents are reviewed and drafted.

The County Plan amendments to the Home-Based Business section of Section 14.0 (Business Development) for Home-Based Businesses requiring a land use amendment include:

- minimum parcel sizes of 1.60 hectares (± 3.95 acres);
- exclusion from area structure plan or local plan areas supporting hamlet residential or country residential subdivision;
- separation distances of 200 metres from certain residential dwellings;
- consideration of servicing availability and transportation matters; and
- a requirement to have an established dwelling on-site.

The County Plan amendments to Section 28.0 (Area Structure Plan Preparation and Amendment) for Interim Land Uses include:

- policy direction to encourage interim land use compatibility with existing and future uses within the surrounding area;
- a requirement for uses to align with relevant statutory and non-statutory plans, policies, and standards, to consider potential infrastructure impacts on County, Provincial, and other municipalities and to be removed from the lands when required without significant remediation;
- limitations on subdivision for interim land use areas prior to being supported by an area structure plan; and
- confirmation that residential and/or business land uses outside of an adopted area structure plan shall be considered permanent uses and should be assessed as such.

Land Use Bylaw (LUB) (see Attachment 'B').

Home Based Business General Amendments

The LUB amendments generally add more clarity and increased regulations to the existing HBB2 use, and the newly proposed HBB3 use, to ensure a clear understanding between the uses, and the areas of the LUB which will be used to determine which use a proposed business would fall under. The LUB amendments also allow further discretion to Administration to review requirements, and to determine the suitability of the business and subsequent land use regulations based upon the site, context, and previous operational history of the business at time of renewal if applicable.



For HBB3, in addition to locational criteria, land use amendment and development permit applications would be assessed against site development criteria covering items including:

- limitations on outside storage and outside business-related activities to the lesser of 5% of the site area or 4,000 sq. metres (± 0.99 acres);
- minimum setbacks of 30 metres for outside storage and outside activity uses associated with the HBB3 use, including a 10-metre wide landscaping strip;
- fencing of outside storage areas using appropriate fencing design and materials; and
- minimum parking requirements of 5 stalls per 100 sq. metres of the gross development footprint for those HBB uses accommodating visitors.

To ensure that the locational and site development criteria are implemented, a site plan and Operations and Access Management Plan would be required to support development permit applications. The LUB regulations set out key aspects of the business use that would need to be confirmed and controlled by development permit conditions upon approval.

The LUB amendments to Home-Based Business include:

- Clearer definitions and bylaw parameters which separate HBB1, HBB2 and HBB3 uses;
- Ability for HBB2 and HBB3 to locate in appropriate Agricultural and Residential districts through a Development Permit, or Land Use Amendment and Development Permit process;
- Increased site plan requirements, which serve to better protect the residential and agricultural character and integrity of the parcel and surrounding area;
- Requirement to submit an Operations and Access Management Plan, to clearly reflect the nature of the business, and condition the development permit appropriately holding the business accountable to the proposed activity;
- Ability for Administration to use increased discretion when reviewing applications, to further consider the site context while ensuring strong planning principles in decision making.

Business, Live-Work (B-LWK) District Amendments

The LUB amendments remove the ability to redesignate to the B-LWK District from the LUB. All parcels having this land use designation on the date of adoption of Bylaw C-8357-2023 will remain with the current rules and regulations of the B-LWK district in full force and effect. Residential or Agricultural parcels wishing to pursue a more intense Home-Based Business, where previously the B-LWK district was an option, can now do so through a HBB3 modifier use within residential and agricultural parcels that could be applied to appropriate sites subject to approval of a land use amendment application by Council.

Special, Future Urban Development (S-FUD) District Amendments

The LUB amendments remove the ability to redesignate to the S-FUD District from the LUB. All parcels having this land use designation on the date of adoption of Bylaw C-8357-2023 will remain with the current rules and regulations of the S-FUD district in full force and effect.

Special Function Business (SFB) Amendments

The LUB amendments would remove the SFB use from all districts in the LUB in which it is currently allowed. All Development Permits currently holding an SFB use are temporary in nature, and are required to apply for a development permit renewal. If Council approve the LUB amendments presented, SFB development permits would not be able to be renewed and instead, an application would need to be made for a HBB2 use, or a HBB3 use with prior approval from Council for the use.

POLICY ANALYSIS:Regional Growth Plan

The recent adoption of the Growth Plan has a significant impact on the ability to support S-FUD uses outside of a Preferred Growth Area. The Growth Plan does not distinguish between interim and permanent uses, and certain uses within the S-FUD district could be considered to create a Rural Employment Area, which is defined by the Growth Plan to be an employment area of lower density and servicing that includes uses such as transportation services, outdoor storage, and manufacturing.

All Rural Employment Areas are required to be planned through an area structure plan, and Policy 3.1.6.2 states that these areas cannot be located within two kilometres (1.25 miles) of an urban centre, Joint Planning Area, or another Rural Employment Area. This criterion is likely to hinder many S-FUD proposals as these have sought to locate close to urban centres and existing County growth areas on the assumption that these areas will expand in future.

The Growth Plan includes reference to home-based business in Policy 3.1.7.1. This policy notes that there is no locational criteria applied to home-based business, but offers no definition of the use. While there appears to be significant flexibility within the Growth Plan for home-based business uses of a higher intensity, it is again noted that the current B-LWK allowances may be supporting uses that would need to be planned as a Rural Employment Area. These are required to be supported by an area structure plan, with the assumed intent of preventing dispersed development of small-scale employment uses.

Administration advises that minor amendments to the County Plan to accommodate criteria around home-based business are not considered regionally significant, and therefore, referral to the Calgary Metropolitan Region Board would not be required. Furthermore, the amendments are in full alignment with the Regional Growth Plan.

Municipal Development Plan (County Plan)

Although the Land Use Bylaw provides the regulations and purpose for S-FUD parcels, the County Plan should be the key consideration in determining the acceptability of Interim Land Uses and its location. With the removal of the S-FUD District, the proposed amendments to Section 28.0 aim to provide more clarity and direction in association with Interim Land Uses, and provides policy statements that guide locational criteria, suitability, and limitations of uses if proposed.

Section 14.0 (Business Development) of the County Plan does offer some flexibility in considering small-scale business uses in the agricultural area, but generally encourages business uses to be located in established business areas. The section also requires that if a business use is to be located outside of an identified business area, justification needs to be given as to why the use cannot be located within a business area. Section 14.0 also refers to 'Other Business Development', which provides support for small-scale business uses subject to specified criteria. With the removal of the B-LWK District, the proposed amendments to Section 14.0 aim to clarify the County's position on home-based business and provide more direction to businesses that require a land use amendment through locational criteria, suitability, and limitations of uses.

Administration concludes that the proposed County Plan amendments better support the Plan's growth strategy and business development goals. The amendments also promote better alignment between Council's Strategic Plan theme of responsible growth, the County Plan vision and goals, and the Land Use Bylaw.

BUDGET IMPLICATIONS:

There are no budget implications associated with these amendments.

COMMUNICATIONS PLAN:

Circulation of the proposed County Plan and LUB Amendments was undertaken to all adjacent jurisdictions including the two First Nation Bands in accordance with Municipal Government Act requirements. The City of Calgary, Town of Cochrane, Town of Crossfield, and Wheatland County all responded with no objection or comment to the proposed amendments.

The proposed amendments were also circulated to all Development Permit holders of businesses located in the B-LWK District, and Development Permit holders of HBB2 and SFB uses, a total of 190 applicants. Any comments or questions have been responded to. The proposed County Plan and LUB Amendments have also been posted on the County's 'Bylaws Under Review' webpage, with all the necessary information and response to potential FAQs.

STRATEGIC OBJECTIVES:

Administration recommends County Plan and LUB amendments to ensure that interim uses do not counter Council's Strategic Plan theme of responsible growth, and that home-based business uses support Council's strategic objective for orderly economic development. The amendments are also focused on providing more certainty for all stakeholders and decision-makers in the application process in alignment with the Council objectives of promoting improved customer service and greater transparency and communication.

OPTIONS:

(County Plan Amendments)

- Option # 1: Motion #1 THAT Bylaw C-8356-2023 be given first reading.
- Motion #2 THAT Bylaw C-8356-2023 be given second reading.
- Motion #3 THAT Bylaw C-8356-2023 be considered for third reading.
- Motion #4 THAT Bylaw C-8356-2023 be given third and final reading.

Option #2: THAT alternative direction be provided.

(Land Use Bylaw Amendments)

- Option # 1: Motion #1 THAT Bylaw C-8357-2023 be given first reading.
- Motion #2 THAT Bylaw C-8357-2023 be given second reading.
- Motion #3 THAT Bylaw C-8357-2023 be considered for third reading.
- Motion #4 THAT Bylaw C-8357-2023 be given third and final reading.

Option #2: THAT alternative direction be provided.

Respectfully submitted,

Concurrence,

"Brock Beach"

"Dorian Wandzura"

Acting Executive Director
Community Services

Chief Administrative Officer



ATTACHMENTS:

ATTACHMENT 'A': Bylaw C-8356-2023 & Schedule 'A' (County Plan Amendments).

ATTACHMENT 'B': Bylaw C-8357-2023 & Schedule 'A' (Land Use Bylaw Amendments).

ATTACHMENT 'C': County Plan Sections 14.0, 28.0 and Appendix B (Redlined Version).

ATTACHMENT 'D': Land Use Bylaw Amendments (Redlined Version).