



The Corporation of the City of Courtenay

# Staff Report

**To:** Council

**File No.:** 3360-20-2402

**From:** Director of Development Services

**Date:** May 22, 2024

**Subject:** Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing)

## PURPOSE:

For Council to consider first reading of Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) (Attachment 1 May 8, 2024), modifications to Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing), and second reading and third reading of Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) as modified. Attachment 3 is a track changes version of Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) for consideration, and Attachment 4 is the same bylaw with the track changes modifications incorporated.

## BACKGROUND:

Council, at its Regular Meeting of May 8, 2024, considered a report entitled Small-Scale Multi-Unit Housing Regulations from the Director of Development Services, which provided a summary of recent amendments to the *Local Government Act* intended to accommodate small-scale infill housing and the proposed R-SSMUH Zone regulations. Staff was seeking some feedback from Council on parking requirements and the general regulations. As a result of this discussion Council passed the following resolutions:

*THAT Council receive for information the report from the Director of Development Services entitled "Small-Scale Multi-Unit Housing Regulations" and dated May 8, 2024; and THAT the parking requirements that apply to properties that are subject to the Small-Scale Multi-Unit Housing be as follows:*

- properties within 15-minute walking radius of the downtown core, or town centres, or urban corridor, be reduced by one stall per property; and,*
- when more than one access point to a property is available, such as a front street and laneway, parking stalls must be distributed in a manner as to prevent a continuous row of parking stalls.*

*THAT Council direct staff to bring forward amendments to "Zoning Bylaw No. 2500, 2007" in substantially the form set out in the reported dated May 8, 2024 and Attachment 1, if applicable, other affected bylaws that will bring municipal regulations into conformity with the Local Government Act.*

*THAT Council direct staff report back to Council on the feasibility of providing residential on street parking to meet the parking requirements of the R-SSMUH Zone, to identify and consider any required amendment to Division 7 of the "City of Courtenay Zoning Bylaw No. 2500, 2007", in 2025.*

Proposed Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) was posted on social media and webpage after Council's consideration of the report. Given this notice formed part of the information available to the Public, modifications will need to be considered to Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) by Council prior to consideration of second reading of the bylaw.

**DISCUSSION:**

The City must comply with Bill 44 and subsequent changes to the *Local Government Act* that mandates properties that qualify as “Restricted Zones” and have a lot size of under 4050m<sup>2</sup> must be rezoned to permit three (3) dwelling units on lots under 280m<sup>2</sup> and four (4) dwelling units for lots over 280m<sup>2</sup> by June 30, 2024. Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing), is attached to this report as Attachment 1, it addresses the provincial regulations for Bill 44. Bill 47 Transit Oriented Development Areas (TOD) does not apply to the City of Courtenay and as such the proposed Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) does not permit six (6) dwelling units per lot.

**Eligible Properties**

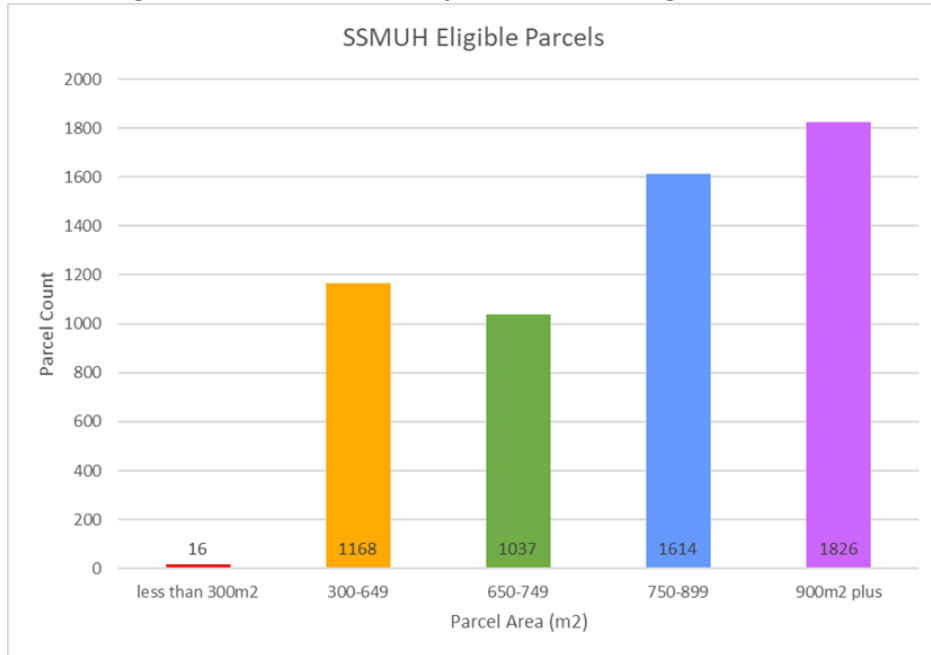
Staff note that there is a handful of lots under 300m<sup>2</sup> for the properties identified as “restricted Zone” which would be eligible for three (3) dwelling units. As noted in Figure 1 the majority of the eligible properties that are considered “Restricted Zone” are 300 m<sup>2</sup> or greater and would qualify for four (4) dwelling units under Bill 44. Future modifications to the R-SSMUH zone can be undertaken after this date and staff will be monitoring the impact on the R-SSMUH zone after its adoption and will update Council.

The City of Courtenay Zoning Bylaw No. 2500, 2007 contains sixteen (16) residential zones that meet the provincial definition of “Restricted Zone, being: R-1, R-1B, R-1C, R-1D, R-1E, R-1S, R-2, R-2A, R-2B, RR-1, RR-2, RR-2S, RR-3, RR-4, RR-5, and R-RU zones. A “Restricted Zone” is a residential zone that limits the permitted uses to single residential dwellings and/or duplexes, with or without a second accessory dwelling unit.

Staff evaluate that the most appropriate approach for the City of Courtenay is to rezone all properties in the “Restricted Zones” to the new Residential Small-Scale Multi-Unit Housing (R-SSMUH) zone shown as Schedule A in Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) in Attachment 1 to this report. As many of the identified “Restricted Zones” are similar in terms of permitted principal and secondary uses, and development regulations such as minimum lot size, lot depth, and setbacks in existing zones are equal to or greater than those proposed in the new R-SSMUH zone, the risk of creating non-conforming properties is minimized.

There are 5649 properties that have been identified to be rezoned to R-SSMUH. Figure 1 below identifies the distribution of parcel size ranges that will be rezoned to R-SSMUH by number of properties. This represents approximately 60% of our properties and 22% of the City area. Many of the larger lots could potentially be subdivided into two or even three lots with the 300 m<sup>2</sup> minimum lot size being proposed in the new R-SSMUH zone.

**Figure 1: Size of Parcels Proposed for Rezoning To R-SSMUH**



**R-SSMUH Zone**

The proposed R-SSMUH zone follows provincially recommended reductions in setbacks and parking, as well as recommendation for increased height and lot coverage, which will allow for additional units on the average size lot. Details such as lot size and shape, lane access, corner or interior lot location, size of proposed units, Development Permit Area (DPA) Regulations for Form and Character, and the impacts of any environmental/hazardous features will determine the potential for additional units on any specific lot within the proposed R-SSMUH zone.

Proposed Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) Attachment 1 contains a series of text and map amendments to:

**DIVISION 3 INTERPRETATION**

- Part 1 Definitions that will streamline and facilitate the administration of the proposed R-SSMUH zone. This includes deletions, revisions, and additions to support the SSMUH regulations noted in Zoning Bylaw Amendment No. 3135, 2024.

**DIVISION 6 GENERAL REGULATIONS**

- A new Section 6.19.1 has been added that will allow either a Secondary Suite and/or Accessory Dwelling unit on properties that are not currently being considered for R-SSMUH zoning.

**DIVISION 7 OFF STREET PARKING AND LOADING**

- Proposed parking requirements for the R-SSMUH Use in Schedule A Required Number of Off-street Parking spaces in Zoning Bylaw No. 2500, 2007 is one per dwelling unit regardless of dwelling type.
- In addition, pursuant to Council’s direction at the Regular Meeting of May 8, 2024, a reduction of one parking space within the Walkable Areas r based on a 15 minute walk.
- A new Section 7.1.13. Parking Reductions within the Walkable Areas has been added and are included as a proposed text amendment in Attachment 1 to this report. A map has been

generated based upon a 15-minute walk and illustrated in “Schedule 7F “Walkable Areas” has been attached to proposed Bylaw No. 3135, 2024 as Schedule C.

#### DIVISION 8 CLASSIFICATION OF ZONES

- Schedule A to proposed Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) outlines the regulations for the Residential Small-Scale Multi-Unit Housing (R-SSMUH) Zone which includes Permitted Principal and Secondary Uses, Density, Minimum Lot Size, Building Height and Setbacks, that are consistent with the intent of the provincial requirements and guidelines.

#### SCHEDULE 8 ZONING MAP

##### Map and Table of Eligible Properties

- Schedules B1 through B16 identify the current “Restricted Zone” properties that are proposed to be rezoned to R-SSMUH. This are zoning map amendments to Zoning Bylaw No. 2500, 2007 that are identified in Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing). These proposed mapping amendments are to Schedule 8 (Zoning Map) to Zoning Bylaw No. 2500, 2007, and list the legal descriptions, addresses and Property Identification (PID) numbers of those properties proposed to be rezoned from their existing “Restricted Zone” to the proposed Residential Small-Scale Multi-Unit Housing (R-SSMUH) zone.

##### Map and Table of Non-Eligible Properties for R-SSMUH

- Schedules B17 and B18 identify 15 non-eligible properties for R-SSMUH that were discovered during staff’s examination of the total number of lots eligible for SSMUH zoning. Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) identifies these mapping amendments which will be applied to Schedule 8 (Zoning Map) to Zoning Bylaw No. 2500, 2007, and list the legal descriptions, addresses and Property Identification (PID) numbers. Of the 15 properties in “Restricted Zones” with existing residential zoning the following amendments are proposed:
- One (1) property is a large lot within the Floodplain designated for Agriculture in the Official Community Plan (Schedule B17 to proposed Bylaw 3135, 2024). This property is proposed to be rezoned from Rural Residential 5 (RR-5) to the Agricultural One (A-1) zone as it is not suitable for SSMUH zoning.
- The remaining 14 properties identified as not eligible for R-SSMUH are City property, provincially owned, or owned by a land trust, with Official Community Plan land use designations as Parks and Recreation. These 14 lots are proposed to be rezoned to Public Assembly 2 (PA-2) (Schedule B18 to proposed Bylaw 3135, 2024).

Details of those properties identified as non-eligible are presented in Table 1 Properties Not Eligible for SSMUH zoning in Attachment 2 to this report. Provincial regulations require that a list of properties in “Restricted Zones” not being rezoned to a residential scale-scale multi-unit housing zone be provided to the Province along with appropriate justification for this decision. Table 1 Properties Not Eligible for R-SSMUH will form part of that submission to the Province.

#### **Official Community Plan (OCP)**

An Official Community Plan (OCP) land use designation conflict was identified that requires an amendment to the OCP for 2576 Hebrides Crescent from Parks and Recreation to Urban Residential as the zoning is R-1B and will be rezoned to R-SSMUH. This is a privately owned property. Bill 44 permits this conflict to exist in

order to facilitate SSMUH legislative goals. This OCP designation will be officially corrected in the next OCP update cycle which must occur by December 31, 2025.

Address	Current Zone	Proposed Zone	Land Use Designation	Legal description
2576 Hebrides Cr	R-1B	R-SSMUH	Parks and Recreation	LOT 22 DISTRICT LOT 158 COMOX DISTRICT PLAN VIP79704

**Bill 44 and subsequent amendments to the Local Government Act**

Section 481.3 (7) of the *Local Government Act* requires that:

*“In developing or adopting a zoning bylaw to permit the use and density of use required under this section to be permitted, a local government must consider applicable guidelines, if any under Section 582.1 (provincial policy guidelines related to small-scale multi-unit housing)”.*

Table 1 below shows a comparison of the proposed R-SSMUH zoning regulations with guidelines contained in Part 4 of the Provincial Policy Manual and Site Standards. The proposed R-SSMUH zoning regulations follow the recommended provincial guidelines fairly closely with minor variations for local conditions.

**Table 1: Comparison of Provincial Recommended Guidelines and Proposed Residential – Small-Scale Multi-Unit Housing (R-SSMUH) Zone Regulations**

Zoning Bylaw Parameter	Recommended Benchmark	Provincial Considerations	Proposed R-SSMUH Zone Regulations
Front Yard Setback	Minimum 2 m	A front lot line setback of 4-6 m may be warranted if there are no sidewalks or public boulevards for trees, or to accommodate stormwater infrastructure or future road right of way dedications.	Minimum: 4 m with provision for garage/carport setback of 6 m.
Rear Yard Setback	Minimum 6 m for principal buildings Minimum 1 m for ADUs	Actual rear lot line setbacks will approximate 5 m if parking in rear is required due to parking requirements and lot configuration	Minimum: 5 m for principal buildings 1.5 m for ADUs
Side Yard Setbacks	Minimum 1.2 m	Actual side yard setbacks will approximate 3 m if parking in rear is required due to parking requirements and lot configuration.	Minimum: 1.5 m for interior side yards 3.0 m for exterior side yards
Height	Maximum 11 m to midpoint of sloped roof or flat roof on principal buildings	A universal height limit that permits three storeys regardless of the method of measurement, site gradient, or roof style is recommended to help improve the viability and diversity of housing forms	Maximum: 11 m to midpoint of sloping roof or flat roof on principal buildings 6.5 m to midpoint of sloped roof or flat roof for ADUs

Maximum No. of Storeys	3 storeys for principal building 2 storeys for ADUs		No regulations for storeys
Maximum lot coverage	50%	Onsite parking requirements will contribute significantly to impervious surface coverages on lots. Impervious coverages exceeding 60% may require on-site stormwater retention and/or treatment.	60% for impermeable surfaces.
Off-Street Parking	1 space per dwelling unit	Other factors that could be used to set parking requirements include proximity to services (i.e. designated village or town centres), walk scores, and the availability of on-street or other parking alternatives.  Higher maximum parking requirements (e.g. 1.5 spaces per unit may be appropriate in smaller communities with no or limited public transportation, or for example, where on-street parking is impractical due to snow removal requirements.	1 space per dwelling unit
Adapted from Table 6 Recommended zoning regulations for lots requiring a minimum of 3 or 4 units that are less than 1,215 m <sup>2</sup> in size. (Provincial Policy Manual and Site Standards Part 4 p.70)			

**Secondary Suites and Accessory Dwelling units in other Zones**

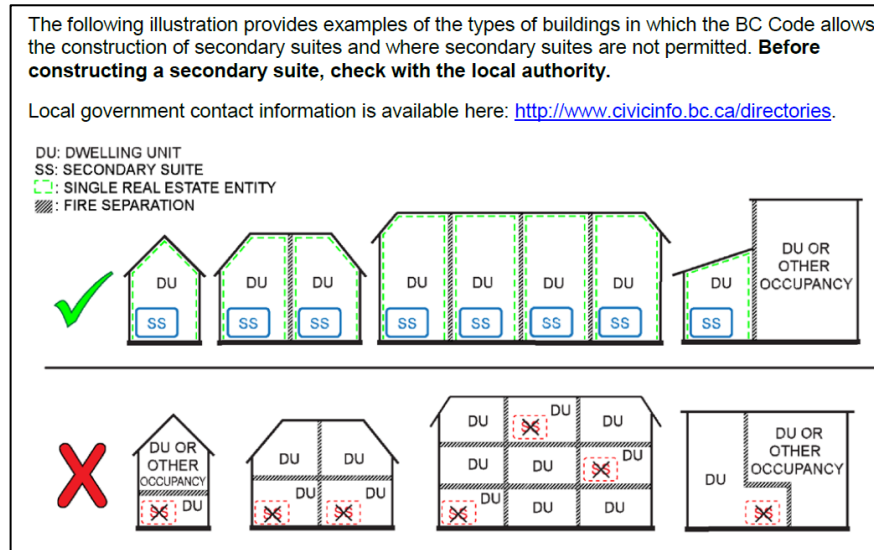
In addition to zoning approximately 5649 lots within the City of Courtenay to the proposed R-SSMUH zone, a proposed new Section 6.19.1. in DIVISION 6 GENERAL REGULATIONS will allow either a Secondary Suite and an Accessory Dwelling Unit as accessory to a single residential or duplex dwelling in any zone where such principal uses are permitted, including Agricultural, Rural Residential or CD Zones subject to development regulations in the applicable zone or any other restrictions such as Restrictive Covenants or strata bylaws.

In this manner, the City of Courtenay expects to achieve its goal of significantly adding to the number, size, diversity and tenure (ownership or rental) of housing options available within the City. This will align with Bill 44 expectations of the “Restricted Use” be permitted a secondary suite and an accessory dwelling unit on properties that permit the use to increase housing supply.

**BC Building Code**

Figure 2 below, is an excerpt from BC Building Code Information Bulletin No. B19-05, and illustrates potential housing forms and tenure options that may be possible within the Building Code regulations for secondary suites in a single dwelling unit or a duplex or a townhouse, considering health, safety and fire protection. Building Code standards in addition to zoning parameters will determine the opportunity for infill development of secondary suites within a dwelling unit.

**Figure 2: Excerpt from BC Building Code Information Bulletin No. B19-05. December 12, 2019  
Secondary Suites, Changes to Design and Construction Requirements BCBC 2018 Revision 2**



**Testing of the R-SSMUH Zone**

At the May 8, 2024 regular Council meeting, EKISTICS presented a series of graphics on the various forms and unit type mix may be possible to test the R-SSMUH zone regulations to demonstrate what may be built. Some of these graphics were in the May 8, 2024 report to Council. (Please see Attachment 5)

**POLICY ANALYSIS:**

The proposed Bylaw Amendments respond to Bill 44 provincial legislation and timelines for adoption, thereby aligning Courtenay bylaws with the new requirements.

In order to fully support the Small-Scale Multi-Unit Housing initiative, other City Bylaws may need to be amended, and staff will bring those amendments forward at the earliest opportunity for the consideration of Council.

**FINANCIAL IMPLICATIONS:**

The Province has provided funding to each local government to support planning and capacity to meet the new provincial housing legislative requirements. The City of Courtenay received \$286,000 from this fund earlier this year.

**ADMINISTRATIVE IMPLICATIONS:**

The mandatory timelines imposed by the province are challenging and will require priority to be assigned to this project at the expense of other regular duties in addition to consultant services.

**STRATEGIC PRIORITIES REFERENCE:**

This initiative addresses the following strategic priorities:

- Buildings and Landscape - Update Zoning Bylaw - review maximum building heights
- Buildings and Landscape - Review and update land use regulations and bylaws for consistency with OCP

### **PUBLIC ENGAGEMENT:**

Bill 44 amendments to the *Local Government Act* prohibits a Council from holding a public hearing for zoning bylaw amendments that are for the purpose of implementing the Small-Scale Multi-Unit Housing legislation.

The City is still required to provide notice as per Section 467 of the *Local Government Act*, and Development Procedures Bylaw 3106, 2023. Notice was placed in the newspaper, on social media and posted on the City Webpage. As there are greater than 10 properties affected, approximately 5649 properties, notice is given through social media, webpage and advertisement in the paper. No mailouts are required under the *Local Government Act*.

For the 15 properties that are not eligible for R-SMMUH zone and being rezoned to PA-2 or A-1, a mailout was undertaken to occupants and owners within a 100-metre radius of that property which resulted in a total of 623 notices that were mailed.

As of the date of this report, one written comment has been received and is attached to this report. Staff have received some questions seeking clarifications. Any further written comments received will be provided to Council. (Attachment 6)

### **OPTIONS:**

1. **NOTE:** Each motion to be read separately.

THAT Council give first reading to Zoning Amendment Bylaw No. 3135, 2024 (small-scale, multi-unit housing) dated May 8, 2024.

That Council modify Zoning Bylaw Amendment Bylaw No. 3135, 2024 (small-scale, multi-unit housing) as follows:

- a. In Section 6.19.1. (i) delete “or” after (1) secondary Suite add “and”;
- b. In Section 6.19.1 (ii) delete “or strata titling”;
- c. In Section 7.1.13 delete “the Downtown Core Area” and replace with “Walkable Areas”;
- d. In Section 7.1.13 (1) delete “for additional units, secondary to the principal residential use” and replace with “on a property”;
- e. In Section 7.1.13 add after Schedule 7F “Walkable Areas” and after Schedule 7E add “shown in Schedule C of this Bylaw”;
- f. In Schedule 7A-Required Number of Off-Street Parking Spaces add the R-SSMUH use under A. Residential and add under the Required Parking Space 1 per dwelling unit to correspond with the SSMUH use;
- g. In Schedule A to Zoning Amendment Bylaw No.3135, 2024 (small-scale, multi-unit housing), renumbering the duplicate occurrence of 8.1.6 to become 8.1.7, and renumbering the remainder of section 8.1 accordingly;
- h. In Schedule A to Zoning Amendment Bylaw No.3135, 2024 (small-scale, multi-unit housing) Section 8.1.9 Off Street Parking (2) delete “No more than 50% of the front yard area shall be used for off street parking” and replace with “Where more than one access point to a property is available, such as a front street and laneway, required parking stalls must be distributed in such a manner as to prevent a continuous row of parking stalls”;



- i. In (e) AMENDING DIVISION 8 Part 1 Residential Zones 2. Change “B17 to B18” and add after Small-Scale Multi-Unit (R-SSMUH) Zone, “Agriculture One (A-1), Public Use and Assembly Two (PA-2)”;
- j. In DIVISION 3 Part 1 add to the definition of duplex after “other” “and for certainty does not include a building that only contains a principal dwelling unit that contains a secondary suite”;
- k. In DIVISION 3 Part 1 for the definition dwelling townhouse:
  - i. after “has” add the words “at least two”;
  - ii. delete the word “a”; and
  - iii. add the letters “es” to access;
- l. In DIVISION 3 Part 1 for the definition of secondary suite:
  - i. add the word “and” after “located”;
  - ii. delete the words “contained within a building which is a single real estate entity”.

THAT Council give second reading as modified to Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing).

THAT Council give third reading as modified to Zoning Amendment Bylaw No. 3135, 2024 (small-scale-multi-unit housing).

THAT given Ministerial Order No. M114, dated May 8, 2024, and regrading Approval Exemption (Controlled Access Highway) Regulation, Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) does not require referral to the Minister of Transportation and Infrastructure for approval.

THAT Council confirms that it has given consideration to the Provincial Policy Manual and Site Standards document prepared by the Province of British Columbia, specifically, the standards recommended in Part 4 of the document.

THAT pursuant to Section 484.4 (2) of the *Local Government Act*, Staff prepare and submit the required letter of notification to the Province as soon as practicable after adoption of Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing), identifying the “Restricted Zone” properties that have been rezoned to the Residential Small-Scale Multi-Housing zone and the additional properties within “Restricted Zones” that are exempt from Sections 481.3 (4) and (5) of the *Local Government Act*.

THAT staff, following final adoption and before the end of 2024, bring a report back to Council on the effects of Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) on the development of infill housing within Courtenay.

THAT, given the size and scope of Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing), staff may need to bring forward additional amendments to correct the zoning bylaw, which will be done at no cost to the property owner.

2. THAT Council provide alternative direction to staff.

**ATTACHMENTS:**

1. Zoning Amendment Bylaw No. 3135, 2024 (small-scale multi-unit housing) May 8, 2024
2. Table of properties not eligible for R-SSMUH zone
3. May 22 modified Zoning Amendment Bylaw No. 3135 (small-scale multi-unit housing) with Track Changes
4. May 22 modified Zoning Amendment Bylaw No. 3135 (small-scale multi-unit housing)
5. 2024 Staff report dated May 8, 2024
6. Written Comment received in response to public notification

Prepared by: Nancy Gothard, RPP, MCIP, Manager of Community and Sustainability Planning

Reviewed by: Marianne Wade, RPP, MCIP, Director of Development Services

Concurrence: Geoff Garbutt, M.P.I., MCIP, RPP, City Manager (CAO)