

REQUEST FOR DECISION (RFD)

Date: August 25, 2026
To: Mayor Milligan and Members of Council
From: Jeremy Johnston, Director of Planning and Development
Subject: Zoning Bylaw No. 1750, Amendment Bylaw No. 2556, 2026
Consideration of Initial Readings

RECOMMENDATION

- That Council approve the application to amend Zoning Bylaw No. 1750 by changing the Zone Designation of 502, 522 and 542 5th Avenue from P1 – Public Institutional to CD6 – Comprehensive Development Six Zone.*
- That Zoning Bylaw No. 1750, Amendment Bylaw No. 2556, 2026 be given first and second readings.*

PURPOSE

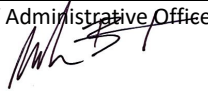
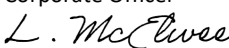
This report is to provide Council with information to support a decision regarding a proposed Zoning Bylaw amendment application to:

Re-zone 502, 522 and 542 5th Avenue (the “Subject Property”) from P1 – Public Institutional to CD-6 – Comprehensive Development Six Zone to permit a high-density residential development in an apartment building configuration.

The draft bylaw amendment (“Bylaw No. 2556”) is included as an attachment to this report.

BACKGROUND

The Subject Property is located in the Maintown neighbourhood and is currently zoned P1 – Public Institutional. The properties are vacant, are listed for sale, and a developer (the “applicant”) has submitted a zoning bylaw amendment application to redesignate the property for residential purposes and permit a high density residential development on the site. The site, which is located behind the Holy Family Catholic Church and Fernie Family Centre, was recently used as a community garden and playground for the Wild Wapiti Child Care operating from the Fernie Family Centre space but that has been decommissioned and it now sits mostly vacant. The north-eastern edge of the property is used as a surface gravel parking lot.

Reviewed by:			
Chief Administrative Officer 	Corporate Officer 	Director of Finance 	Director of Planning and Development Services:

The applicant is Mountain House Development Corporation.

The applicant attended a pre-application meeting in 2025 with the Planning and Development Services Department and the Engineering and Public Works Department to review a concept proposal and discussed required steps to facilitate the proposed development. This zoning amendment application is the first step in that process.

DISCUSSION

Site Context:

The Subject Property includes three 60-foot by 120-foot lots that are relatively flat and situated at the southwest corner of Block 16 in the Maintown neighbourhood, at the intersection of 5th Avenue and 5th Street. The total site area is approximately 2013 square metres, or 0.5 acres. The lots are located behind the existing Catholic Church and Fernie Family Centre, and across 5th Street from the Courthouse, all of which are zoned P1 – Public Institutional.

Adjacent uses to the north include low- and medium-density residential properties zoned R-SS – Residential Small Scale and R4 – Multiple Family Residential. The Subject Property is two blocks away from the Historic Downtown.



Proposed Development:

The applicant is proposing a 43-unit, five-storey residential building that is placed at the southeast corner of 5th Avenue and 5th Street. The building is proposed to be 16 metres tall. The ground floor is proposed as a residential amenity space, lobby, secure storage, and a partially covered parking area. There are total of 43 parking spaces proposed.

Floors two through five are proposed to contain apartment units ranging from bachelor to two-bedroom units, as well as internal halls, a landscaped terrace, and common outdoor amenity space. The fifth floor is set further back from the property boundaries to reduce the appearance and size of the building from adjacent streets. There is an approximately 1.3 metre setback proposed from adjacent lots to the north-east at the fifth storey.

The proposed unit breakdown is as follows:

- 8 Studio Units, ranging in size from 385 to 460 square feet
- 14 1-Bedroom Units, ranging in size from 510 to 650 square feet
- 21 2-Bedroom Units, ranging in size from 810 to 915 square feet

The applicant has indicated the proposed dwelling unit mix is intended to reach a variety of market segments, ranging from individuals to smaller families. The applicant intends to stratify the building upon completion so that units can be sold individually. These are proposed as market-rate dwelling units. More detail is provided in the application package attached to this report.

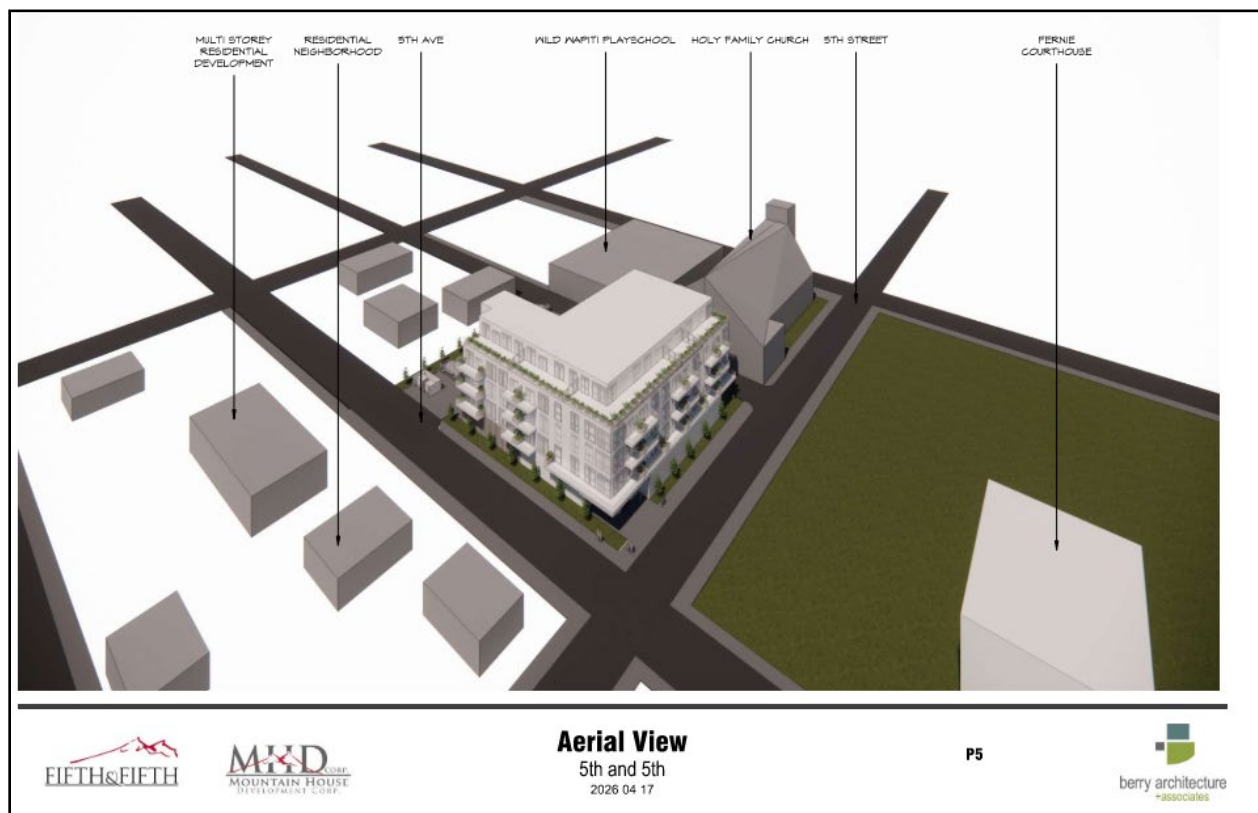


Figure 1: Visual Rendering of Proposed Project



Figure 2: Visual Rendering of Proposed Project

Technical Submissions

The applicant has provided the following technical studies for this development, which are attached to this report:

Site Servicing Report, dated May 7, 2026, prepared by McElhanney Ltd.

This report provides an assessment of the anticipated water, sanitary, and stormwater demands for the proposed development. The report demonstrates adequate capacity to service the proposed development. However, further mitigation measures will be considered for the existing shallow City utilities located within the alley, given the anticipated heavy traffic loading. These measures may include one or a combination of increasing the depth of burial, installing rigid insulation, and paving the alley over the affected utilities to provide adequate protection. Furthermore, the developer must demonstrate compliance with the City's stormwater attenuation requirements.

Sanitary Assessment Technical Memo, dated July 29, 2026, prepared by McElhanney Ltd.

This memo reviewed potential sanitary sewer demand compared to the current P1 – Public Institutional zoning. The memo closes with the finding that the sanitary demands of existing zoning are comparable to those under the proposed zoning.

Laneway Traffic Review, dated July 31, 2026, prepared by McElhanney Ltd.

Staff requested a study of the traffic generated by the development and its impact specifically on the existing laneway and traffic movements in- and out- of the laneway.

16 of the 43 parking spaces are proposed to be accessible directly from the laneway. This study concludes noting that the laneway is expected to “operate acceptably” with single-lane two-way traffic with the increased traffic anticipated from the development.

The study notes that the developer would need to increase the effective width of the laneway to the legal width of 6.1 metres to permit turning movements required to use the 90-degree parking stalls. The study also recommends the addition of signage regarding no parking within the lane.

Existing Zoning

The Subject Property is currently zoned P1 Public Institutional which permits a broad range of uses including arenas, childcare services, clubs, community halls, group homes, hospitals, rest homes, and more.

The maximum currently permitted height is 12 metres, and the maximum currently permitted parcel coverage is 60%.

Proposed Comprehensive Development Zone

In reviewing the concept staff considered different approaches to regulating the development and determined that developing a Comprehensive Development Zone would be the most straight forward. If adopted, the proposed zone would only apply to the Subject Property.

Several key aspects of the proposed zone include:

Matter To Be Regulated	Regulation	Comparison with existing regulations
Minimum front and side yard setbacks	0 metres	Consistent with C1 zone
Maximum Building Height	16 metres	C1 and C-HWY zones permits up to 18 metres. The Neighbourhood Mixed-Use (NMU) zone in the Montane neighbourhood permits up to 21 metres, or six storeys. An increase from the current permitted height on the property which is 12 metres.

Maximum density	43 units, equivalent to 212 dwelling units per hectare	Comparable to the 200 dwelling units per hectare permitted in the NMU zone in the Montane neighbourhood The C1 zone does not provide a density limit.
Maximum Parcel Coverage	50%	A reduction from the currently permitted parcel coverage of 60%. 50% is somewhat common for maximum parcel coverage including in the RSS zone (when building 3 or more units), CS1, and NMU. There is no maximum parcel coverage in the C1 zone.
Minimum parking requirement	1 parking space per dwelling unit	A reduction from the standard requirement of: 1 space per studio or one bedroom unit 1.5 spaces per 2 bedroom unit
Fifth floor setback / Angular Plane requirement	Any portion of a building above a height of 13 metres shall be setback from the nearest parcel boundary by a minimum of 1.3 metres, measured from a point 13 metres above grade at the nearest lot line.	A new regulation type for Fernie to ensure that the fifth storey is set back from the street to reduce its impact on adjacent streets.

INTERNAL CIRCULATION

The Engineering and Public Works Department has reviewed this application and contributed to this report.

LEGAL/STATUTORY AUTHORITY

Zoning Bylaw Legislation

Section 479 of the *Local Government Act (LGA)* states that a local government may, by bylaw, regulate the use of land, buildings and other structures, and the density of the use of land, among other things. The *LGA* provides further requirements for establishing these bylaws. The power to amend a bylaw is provided in Section 137 of the *Community Charter*.

Public Hearing Legislation

Section 464 of the *LGA* pertains to the requirement for holding a public hearing before adopting certain bylaws. Specifically, Section 464(3) of the *LGA* states that a local government **must not hold a public hearing** for a proposed zoning bylaw if:

- a) an official community plan is in effect for the area that is the subject of the zoning bylaw,
- b) the bylaw is consistent with the official community plan,
- c) the sole purpose of the bylaw is to permit a development that is, in whole or part, a residential development, and
- d) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development.

Staff are of the opinion that Bylaw No. 2556 is consistent with the above legislation and therefore the City of Fernie must not hold a public hearing for this zoning bylaw amendment application.

If Council determines that the application is not consistent with the OCP but wish to proceed with further consideration, staff would review applicable sections for amendment, draft an amending bylaw and schedule a public hearing as required.

LEGAL/STATUTORY PROCEDURAL REQUIREMENTS

Pursuant to section 467 of the *LGA*, if a local government decides not to hold, or is prohibited from holding, a public hearing, it must give notice in accordance with Section 94 of the *Community Charter* prior to the first reading of the bylaw.

Notice by at least one of the means specified in a public notice bylaw (or if using the default, the last publication of the notice) must be not less than three days and not more than 10 days before the first reading of the bylaw. If the proposed bylaw alters the permitted use or density of any area or the residential rental tenure in any area, or limits the form of tenure to residential rental tenure in any area, then the notice must be mailed or otherwise delivered at least 10 days before first reading of the bylaw to owners and tenants within a distance that is specified in local government bylaw which is 100 metres.

Notice of Bylaw No. 2556 was posted on the City's Public Notice Posting Places on or before August 11, 2026, and was advertised in the August 13 and August 30, 2026, editions of the Free Press newspaper. In addition, notice was mailed to registered owners within a 100-metre radius of the subject property on or before August 11, 2026, and hand delivered to occupants of those properties on or before August 11, 2026.

Land Use Application Procedures and Fees Bylaw No. 2530, pursuant to Section 460 of the *Local Government Act* defines procedures under which an owner of land may apply for an amendment to a bylaw. The bylaw states that processing amendments to a bylaw is to be in accordance with Council Procedures Bylaw No. 2446.

COMPLIANCE WITH CORPORATE STRATEGIES & POLICIES

Official Community Plan Bylaw No. 2231

Staff reviewed the application in the context of various policies of the Official Community Plan (OCP) to determine whether it is considered consistent with the OCP.

The following sections are highlighted to support this determination.

1-A Housing

1-A.1 Encourage a spectrum of residential dwelling types, locations and densities in order to accommodate various socio-economic groups, age groups, and lifestyles in Fernie.

1-A.4 Support infill and redevelopment throughout the City, locating housing close to existing services, in accordance with each neighbourhood plan.

1-A.5 Encourage and support more diverse housing stock in each neighbourhood to meet priority needs for seniors, low-income families, young families, and people with disabilities.

1-A.7 Work towards increasing the overall density of housing in the existing urban area as a means to optimize the City's investments in infrastructure and as a means to reduce service delivery costs.

1-C.2 Neighbourhoods and Planning Areas – Maintown

1-C.2.4 Encourage higher density development in Maintown South to create development in closer proximity to the Historic Downtown.

2-B Public Transit

2-B.4 Reduce parking requirements according to the Parking Management Plan 2012 recommendations to encourage better use of land resources and support a shift to more public transit and active transportation alternatives.

The applicant has proposed one parking space per dwelling unit, which is a reduction of the standard requirements in the zoning bylaw. This reduction is supported by this policy and by good planning practice, which has shifted towards reduced parking requirements in urban areas to better support pedestrian-friendly environments, active transportation, and reduce the amount of surface parking needed.

6-F Viewscapes

Although not a numbered policy, this section states:

“Fernie is surrounded by majestic mountain views. Protection of these views from visual barriers by future development and the protection of community view corridors enhance the livability and marketability of Fernie for visitors as well as new investors or existing homeowners.”

6-F.1 Identify and preserve important view corridors in the downtown commercial area.

No view corridors have been identified pursuant to the above policy. At five storeys, the proposed project will undoubtedly have some impact on certain views in the downtown area when looking

towards Mount Fernie. However staff are of the opinion that the overall impact on viewscape would be offset by other policies outlined in this discussion which support the proposed project.

7.A Greenhouse Gas Emissions

7-A.6 Implement policies and initiatives to encourage mixed-use, infill developments to promote compact, walkable neighbourhoods and to maximize efficiencies in existing transportation and municipal services infrastructure

This proposal directly supports this policy direction. Infill development close to commercial services can reduce vehicle trips for daily needs. Maintown is a walkable neighbourhood and this development would be well served by nearby amenities without the need to drive single occupant vehicles.

9-A Managing Development – General Policies

9-A.1 Promote the efficient use of land, provide greater transportation choices, reduce public servicing costs and achieve environmental benefits through compact development.

9-A.3 Ensure the efficient use and financial viability of existing and planned investment in public infrastructure.

9-A.6 Promote and support development of a wide range of housing options for all income levels and needs.

9-B.6 Residential Infill and Intensification

The Subject Property is designated Residential Infill and Intensification in Schedule B: Land Use Designations of the OCP.

9-B.6.1 Appropriate uses in areas designated “Residential Infill and Intensification” include ground-oriented multifamily residential, single family residential, institutional, and neighbourhood commercial.

9-B.6.2 Encourage ground-oriented multi-family residential development such as townhouses and garden apartments that conform to the existing character of the neighbourhood.

9-B.6.7 Encourage higher density residential developments to locate closer to the Historic Downtown area.

Staff are of the opinion that the proposed development can be considered consistent with these policy sections when read together. Clearly, higher density development was contemplated for within this land use designation and was directed to be close to the Historic Downtown area. The Subject Property is one block away from the Historic Downtown area which staff feel justify the increased density noted. “Ground-oriented” multi-family residential development is not a defined term, and staff note that other developments in apartment configurations with shared entrances have been built with success, including the Veneto apartments, North Court apartments, and 901 2nd avenue apartments.

Building Heights in Fernie

The proposed project has a maximum height of 16 metres. The tallest building height regulations permitted in Fernie are currently:

- C1 (Downtown) zone: 18 metres
- Neighbourhood Mixed-Use Zone (Montane): 21 metres

Several notable taller buildings in Fernie include:

- Catholic Church: 13.7 metres to roof ridgeline (estimated)
- Courthouse: 14.6 metres to roof ridgeline (estimated)
- 692 3rd Avenue, Old Firehall (in construction): 16.4 metres
- North End Court: 14.5 metres
- 302 Pine Avenue, Childcare/Mixed-Use (in construction): 16.9 metres

Heritage

There are a number of policies throughout the OCP that identify desired protection for the built heritage of Fernie. The adjacent church is designated as a “Building with Heritage Value (Not Registered)” in Schedule C of the OCP. The courthouse property is designated as a “Heritage Area Revitalization Program Designation (Registered)” in Schedule C. Some relevant policies for consideration include:

1-B.1 Maintain a heritage conservation area in Maintown and the Historic Downtown to support the continued preservation of historic buildings in the community.

1-C.2.8 Support conservation and preservation of heritage homes and buildings in the Maintown South area.

9-A.5 Respect and protect Fernie's heritage for the benefit of existing and future generations.

There are no specific policies that direct staff regarding the backdrop of the identified nearby heritage buildings; only those that seek to protect the character of the buildings themselves. Policy 9-A.5 is a broad policy statement, and staff do not interpret this statement as a broad constraint on development. In this case, the proposed building will form part of the viewscape behind the church, but is not expected to impact the church building itself.

As part of the form and character development permit process, staff would work with the applicant toward appropriate design choices that meet the guidelines for heritage and built environment. This typically includes aspects such as materials choices, colour, and other complementary design elements. At this stage, the zoning bylaw amendment is only guiding the mass of the building through height, setbacks, parking and lot coverage regulations.

Multi-Family Residential Development Permit Area

Section 9-C.7 of the OCP provides guidelines for the form and character of multi-family residential developments. Certain properties are designated in Schedule Q of the OCP as being in this area, however the section also states:

*All areas zoned, or re-zoned, as R3-Medium Density or R4-Multiple Family Residential (High Density), or **any other zone that permits multi-family residences**, are designated as the Multi Family Residential Development Permit Area.*

This means that upon rezoning the Subject Property to permit multi-family residences, the multi-family development permit policies and Schedule 'S' – Building Design Guidelines would apply without amendment to the OCP.

Staff note that this configuration where there is both a policy statement capturing all multi-unit development and a separate map that identifies specific sites is not a preferred approach and would look at options to simplify the approach in the future OCP.

In summary, upon review of the OCP in its entirety, Staff consider the application to permit high density residential use by rezoning the Subject Property from P1 – Public Institutional to the proposed CD6 – Comprehensive Development Six Zone, to be consistent with the Official Community Plan.

Housing Needs Report 2025

The most recent Housing Needs Report states that Fernie requires 551 new housing units within five years (by 2030). In-stream and under construction dwelling unit applications since the Housing Needs Report was released account for as many as 365 new dwelling units; however given the early stages of a number of these, dwelling units may not be realized for several years, and there is always a risk that projects do not proceed.

With a mix of small and medium-sized units with a proposed ownership tenure, staff view the proposed project as adding needed diversity to the multi-unit residential market in Fernie. The proposed project does not provide targeted dwelling units for special needs related to accessibility (beyond Building Code requirements), non-market pricing, extreme core housing need as described in the Housing Needs Report.

Ongoing Official Community Plan Update

Staff recognize that a major project is underway to replace the current OCP which was adopted in 2014. However, before a replacement bylaw is adopted, staff do not feel that there is enough formal guidance in this ongoing project to weigh against this proposal.

Council Strategic Plan

The proposal directly supports a number of Council's strategic goals related to housing diversity, namely:

- **Increased multi-family and infill development.**
- **Reduction in infrastructure deficit per dwelling by end-of-term.**
By increasing the number of dwelling units on existing services without adding new municipal assets, the proposal would reduce the infrastructure deficit on a per-dwelling basis.
- **An increase in the number of services within walking distance of neighbourhoods.**
By adding more dwelling units to the well-served commercial area of downtown, the proposal supports the commercial viability of downtown businesses as well as providing future residents good access to services.

Asset Management Policy CP-2022-001

Sustainable Growth and Development

- An asset management lens will be incorporated into the City's regulatory and policy framework for decision-making on community growth and development, including boundary expansion, to ensure the City does not acquire services and infrastructure that are not socially, economically, and environmentally responsible.

The proposal directly supports more efficient use of existing municipal services without requiring the creation of new linear assets (water, sewer, road).

FINANCIAL/BUDGETARY CONSIDERATIONS

Tax Collection

The proposed project has a projected value of \$22,200,000. At the 2026 tax rate of \$3.31 per \$1,000 of assessed value, this would generate an estimated annual tax revenue of \$73,482. Actual taxable assessed value would be determined at a later date by BC Assessment.

Development Cost Charges

Development Cost Charge Bylaw 2276 includes a "High Density Residential" rate of \$4,124 per dwelling unit. With 43 dwelling units, this project would include a total charge of \$177,332.

Staff note that an update to the Development Cost Charge bylaw has been initiated.

Planning Permit Fees

The applicable zoning bylaw amendment fee for this application is \$2800. If zoning is approved, the project would proceed to development permit stage which would include fees of \$1200.

Building Permit Fees

The building permit fee for a \$22,200,000 construction project would be approximately \$222,000.

PERSONNEL IMPLICATIONS

The following staff members are typically engaged in a zoning bylaw amendment application:

1. *Municipal Clerk* – collects payment and application at the front desk.
2. *Planning Coordinator* – reviews application for completeness, assigns file number. Supports completion of notice requirements.
3. *Planner* – reviews the application in relation to applicable bylaws and discusses with *Director and/or Manager of Planning* for consideration of support. A referral is then sent out internally to other departments and externally where required. Coordinates notice requirements.
4. *Planner and Deputy Clerk* – draft and finalize proposed bylaw.
5. *Bylaw Enforcement Officers* – support delivery to all properties within 100 metres of Subject Property.
6. *Council* – reviews the application and considers bylaw readings and adoption.
7. *GIS Tech* – updates zoning dataset and maps.
8. *Deputy Clerk* – supports bylaw consolidation.

EXTERNAL AGENCY/PUBLIC COMMENTS

Being within 800 metres of a controlled access highway, the proposed bylaw must be approved by the Ministry of Transportation and Transit prior to it taking effect.

COMMUNICATION CONSIDERATIONS

Communication of this project has been completed as required by the Land Use Application Procedures and Fees Bylaw and the Community Charter.

OPTIONS

1. *That Council approve the application to amend Zoning Bylaw No. 1750 by changing the Zone Designation of 502, 522 and 542 5th Avenue from P1 – Public Institutional to CD6 – Comprehensive Development Six Zone.*
2. *That Zoning Bylaw No. 1750, Amendment Bylaw No. 2556, 2026 be given first and second readings.*
2. That Council reject the application to amend Zoning Bylaw No. 1750; or
3. That Council request more information regarding the application to amend Zoning Bylaw No. 1750.

CONCLUSION

The proposed bylaw amendment would provide a significant number of new and diverse housing options in a location that Staff find to be generally supported by the Official Community Plan. Staff recommend Option 1.

Respectfully submitted,

Jeremy Johnston, Director of Planning and Development

Attachments:

- A. Zoning Bylaw No. 1750, Amendment Bylaw 2556, 2026
- B. Application Package