

Report to Council



Date: March 21, 2016
File: 1250-04
To: City Manager
From: Community Planning Department Manager
Utilities Planning Manager
Subject: Arab/Appaloosa Land Use and Bylaw Enforcement Strategy

Recommendation:

THAT Council receives, for information, the report from the Community Planning Department Manager dated March 21, 2016 regarding the Arab/Appaloosa Land Use and Bylaw Enforcement Strategy;

AND THAT Council directs staff to follow bylaw enforcement strategy as identified in the Community Planning Department Manager's report, dated March 21, 2016 regarding the Arab/Appaloosa Land Use and By Enforcement Strategy;

AND THAT Council direct staff to prepare Official Community Plan amendments as identified in the Community Planning Department Manager report, dated March 21, 2016 regarding the Arab/Appaloosa Land Use and Bylaw Enforcement Strategy;

AND THAT Council direct staff to lift the moratorium on accepting re-zoning applications in the Arab/Appaloosa area as noted in the the report from the Community Planning Manager, dated March 21, 2016 regarding the Arab/Appaloosa Land Use and Bylaw Enforcement Strategy;

Purpose:

The purpose of this report is to provide Council with the results of the public interest survey for a Local Area Service (LAS) and recommend a land use strategy and bylaw enforcement strategy.

Background:

The area in question is designated for potential I6 - Low Impact Transitional Industrial zoning and is limited to properties off of Arab and Appaloosa Roads, near Sexsmith and Highway 97. Just over 40 properties totaling approximately 35 ha are effected. The properties are

predominantly used as large lot residential properties, however a dozen have historical illegal, non-conforming light industrial uses.

The Sexsmith Industrial area is south and east of the area in question, and has been zoned and used for General Industrial purposes for many years. Properties to the north have been zoned and developed for single family residential housing. To the west of Arab and Appaloosa roads, lands are agriculturally zoned and in the Agricultural Land Reserve.

Land Use History

- In 2011, Council adopted the City of Kelowna Official Community Plan (OCP).
- The OCP designated the properties along Arab and Appaloosa Roads as being for future Industrial - Limited use.
- The neighbourhood is made up of agriculturally zoned lots averaging 0.8 ha in area.
- Many of the properties were being used for light industrial and storage uses, not conforming to zoning restrictions of the day.
- The intent of the Industrial - Limited designation was to recognize the character of the neighborhood and give owners a path to conformity by allowing properties to be re-zoned for transitional industrial use.
- Properties designated Industrial - Limited are permitted to apply to re-zone to the I6 - Low Impact Transitional Industrial.

2012

- Since the adoption of the OCP, one property in the area has been re-zoned to I6 - Limited Impact Transitional Industrial.
- In November of 2012, a moratorium was placed on development applications in the area, pending a resolution to servicing (water, sewer, roads and drainage improvements) and land use concerns.
- No applications have been taken in since then November 2012.
- In 2012, Council resolved:
*“THAT Council direct staff to report back with proposed amendments to the I6 - Low-Impact Transitional Industrial Zone to ensure consistency of intent and purpose with the Kelowna 2030 - Official Community Plan;
AND THAT Council direct staff to accept no further Rezoning applications to the I6 - Low-Impact Transitional Industrial Zone, pending completion of the proposed amendments to the I6 Zone.”*

2013

In late 2013, staff and Council revisited the issue and Council reaffirmed its direction in a closed meeting.

The proposed amendments are consistent with Council's 2013 direction, allowing outdoor storage, requiring development permits, and clarifying the purpose of the zone and land use. Several properties continue to have non-complying uses, unable to apply for Zoning relief.

At the February 23, 2015 Council meeting, Council directed staff to pursue Bylaw amendments to the Official Community Plan and affirmed its desire to pursue a local service area to build the infrastructure required to rezone lots along Arab and Appaloosa Roads to the new I6 zoning designation.

The OCP amendments were completed in September 2015 and the policies were redesigned to accommodate a change in the Clydesdale road design.

Local Area Service Survey Process and Results

Personalized letters were sent out to each home owner in the identified area. These letters outlined the share of the costs for infrastructure improvements (to the specific property) and a description of the opportunity for rezoning of the property should a local service area be successful. Specific costs for improvements were identified for each type of improvement (roads, drainage, and sewer costs), and a self-addressed, self-stamped response form was provided in order to receive feedback from the residents. Also, an invitation to a public open house was provided. Residents had the choice of either submitting their survey at the open house or by mail. The Open House took place on January 27, 2016 and survey results were finalized on February 19, 2016. The results from the public interest survey are as follows.

Of the 48 properties that were asked to vote, only 29 responded:

59 % for NO for a LAS (roads, drainage, sewer)

41 % for YES

In order for a Local Area Service to be successful, the city must receive petitions from at least 50% of the parcel owners in the proposed service area that are in favor of the project. Further, the value of parcels whose owners are in favor of the proposed LAS must exceed 50% of the total assessed value.

The City only received 12 votes in support of the LAS for roads, drainage and community sewer. The proposed Service Area has 48 lots within the subject area which requires the City to receive at least 25 votes in favour of a LAS in order to meet the 50% Provincial requirement. Given the results of the public survey, a Local Service Area process would be unsuccessful.

While sewer alone would not provide the necessary infrastructure needed to enable rezoning, the City asked residents if they would be interested in an option to build sanitary sewer as a standalone project, and the following results were received:

Of the 48 properties that were asked to vote, only 29 responded:

75.86% for NO for a Sewer LAS only

24.14% for YES

The lack of neighbourhood support for the LAS process means that no urban style re-development will be able to occur on lands in this area which do not have access to services.

Planning Comments:

Based on the lack of support for the Local Area Service plan for the neighbourhood, Community Planning is proposing to bring an OCP amendment to Council in order to better align the land use regulation with the servicing limitations.

From a big picture planning perspective, the Community Planning Department would like to ensure that a proper transition exists between the heavier industrial uses in the I2-General Industrial zone on the south side of Sexsmith and the east side of the future Hollywood Road.

Staff have long had concerns about the transition between the proposed transitional industrial land use designation and the Sol Terra residential development to the north.

The Community Planning Department recommends that the OCP be amended to allow future Industrial-Limited Use for those properties that front Sexsmith Road, but restrict development along the north and south side of Appaloosa to large lot rural residential. Properties along the industrial (and serviced) Sexsmith Road will have the opportunity to apply for industrial re-zonings, while the rural residential parcels will continue to act as a transition between the general industrial Sexsmith and the higher density residential land uses to the north. The proposed land use plan is shown graphically in Attachment "B".

Community Planning also recommends that the I6 - Transitional Industrial zone continue to be deployed in the Industrial-Limited areas. The I6 zone supports transitional industrial development with sensitive buffering to act as a transition between heavier industrial development south of Sexsmith and residential land uses further north.

Given the outcomes of the Local Area Service survey results, this provides this section of the City with certainty regarding servicing and corresponding land uses, and reduces speculation about possible future amendments. Therefore, staff recommend that the moratorium on accepting re-zoning applications in the area be lifted as the corresponding OCP land use designations will reflect the supportable land uses that Staff will forward for Council's consideration. This will allow applications which have been held pending resolution to the servicing questions in the area to proceed to Council for consideration.

These amendments will give land use clarity to residents of the area and potential investors and clarify future Bylaw enforcement actions. In order for the updated land use strategy to be successful, a bylaw enforcement strategy must be implemented concurrently. This strategy is detailed in the following section.

Proposed Bylaw Enforcement Strategy:

Staff are recommending the following enforcement strategy for the Areas shown in Attachment A, Subject Area:

- Provide notification to the affected residents of the City's intent to enforce its bylaws. The notification will provide information regarding permitted uses and requirements under the existing A1 Zone, permitted uses and requirements under the I6 Zone (should an application for rezoning be successful), current infractions, the rezoning process, and Bylaw Enforcement Notice. The intent of this information package is to assist residents to become compliant with the City's bylaws. Residents will have one month to indicate whether or not they wish to pursue rezoning or pursue the relocation of their business.
- A six month grace period, on progressive enforcement action, will be granted for those who do not reply or indicate that they wish to pursue either rezoning or relocation. Many of these residents are providing seasonal storage of vehicles.
- A one year grace period will be granted to those residents who do respond to the notification letter and indicate that they wish to relocate their business or rezone their property.

Once the grace period has expired, or should residents indicate that they do not wish to pursue rezoning or relocation of their business, the City will follow its standard progressive enforcement procedures, starting at fines and moving to court injunctions.

The Recommended Land Use and Bylaw Enforcement Strategy:

1. Discontinue any further action to pursue a local service area to enable rezoning of the Appaloosa subject area.
2. Pursue further changes to the OCP Future Land Use Designation as described above.
3. Start enforcement in the manner described above immediate over the areas shown in appendix A and over the entire Appaloosa subject area 6 months after the proposed OCP changes are complete.

Communications:

A letter will be sent back to the residents of the Appaloosa identifying the results of the public survey and any land use and bylaw enforcement strategy that Council adopts.

Internal Circulation:

Urban Planning Manager
Policy & Planning Manager
Building & Permitting Manager
Bylaw Services Manager
City Clerk

Considerations not applicable to this report:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Existing Policy:

Personnel Implications:

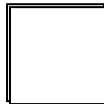
External Agency/Public Comments:

Alternate Recommendation:

Submitted by:

R.Smith, Community Planning Manager

Approved for inclusion:



D.Gilchrist,
Divisional Director Community Planning and Real Estate

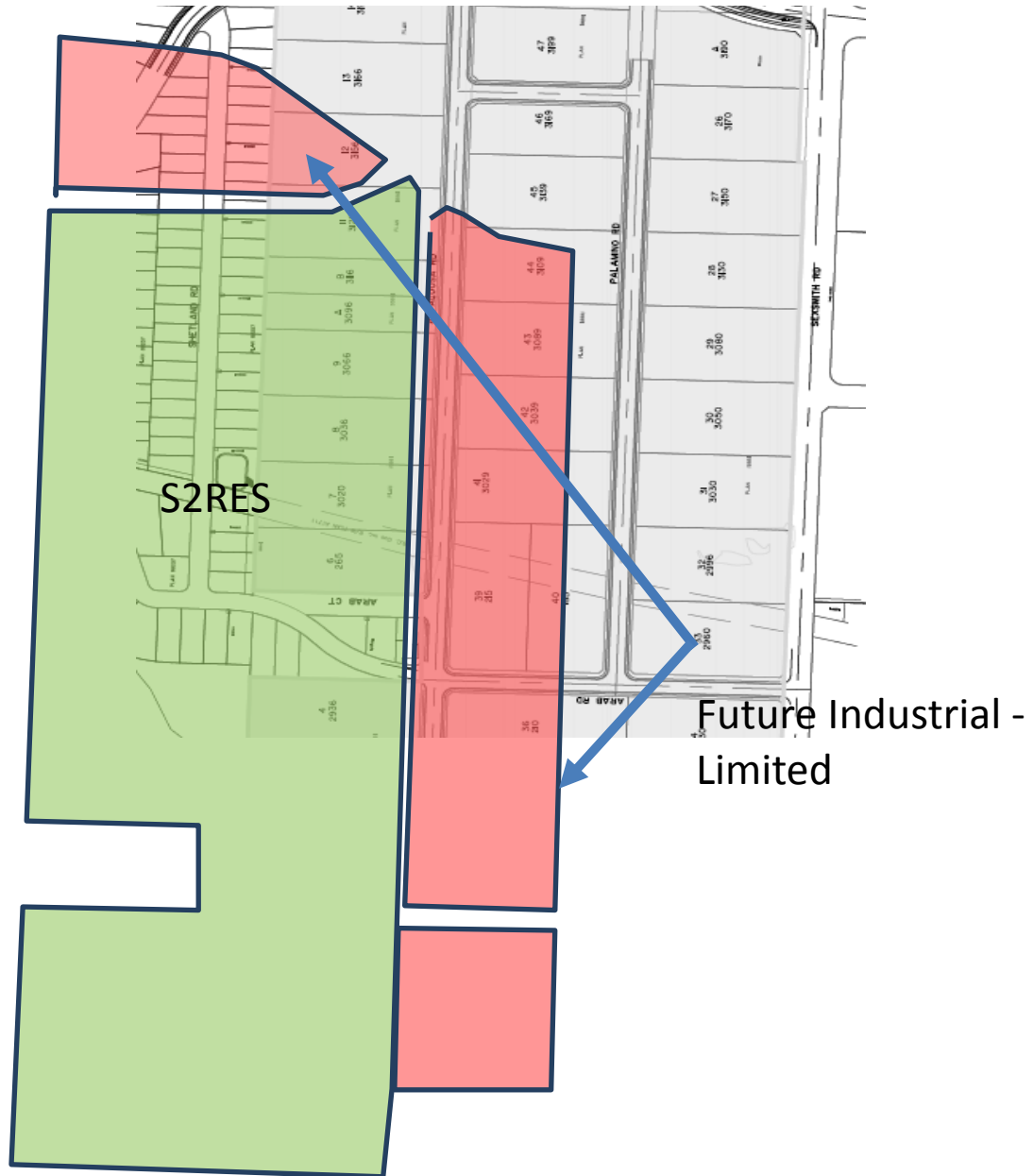
Attachment A, Subject Area,
Attachment B, OCP Changes
Attachment C, Summary Table of Permitted I6 Uses

cc: Divisional Director, Communications & Information Svcs
Divisional Director, Community Planning & Real Estate
Divisional Director, Infrastructure
Manager of Utilities Planning
Policy & Planning Department Manager

Attachment A -Subject Area



Attachment B - OCP Changes



Attachment C - I6 Zone Permitted Uses

15.6 I6 – Low-Impact Transitional Industrial

I6lp – Low-Impact Transitional Industrial (Liquor Primary)

15.6.1 Purpose

The purpose is to provide a **zone** for a range of low-impact transitional industrial land uses which are appropriate as a transition between established industrial land uses and residential, rural, and agricultural land uses. Uses should be primarily indoors, with limited outdoor storage behind extensive buffering or screening. This **zone** is only available for land that is designated in the City of Kelowna Official Community Plan for Industrial – Limited.

15.6.2 Principal Uses

The **principal uses** in this **zone** are:

- a) animal clinics, major
- b) animal clinics, minor
- c) automotive and equipment repair shops
- d) business support services
- e) commercial storage
- f) contractor services, general
- g) contractor services, limited
- h) custom indoor manufacturing
- i) emergency and protective services
- j) equipment rentals
- k) general industrial use, limited
- l) household repair services
- m) outdoor storage
- n) participant recreation services, indoor
- o) private clubs
- p) recycling depots
- q) single dwelling housing
- r) utility services, minor impact
- s) vehicle and equipment services, limited

15.6.3 Secondary Uses

The **secondary uses** in this **zone** are:

- a) home based businesses, major
- b) home based businesses, minor
- c) residential security/operator unit
- d) secondary suite within single dwelling housing

15.6.4 Subdivision Regulations

- a) The minimum **lot width** is 40.0 m.
- b) The minimum **lot depth** is 50.0 m.
- c) The minimum **lot area** is 1.0 ha unless a connection to the community sanitary sewer system, in accordance with the requirements of the City of Kelowna's Subdivision, Development & Servicing Bylaw has been installed. If a connection to a community sanitary sewer system is available the minimum **lot area** is 3500 m².