

# REPORT TO COUNCIL



**Date:** 11/7/2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning Department (AC)

**Application:** Z16-0062      **Owner:** Palomino Developments Ltd., Inc. No. BC1087417

**Address:** 3150 & 3170 Sexsmith Rd      **Applicant:** Grant Maddock

**Subject:** Rezoning Applications

**Existing OCP Designation:** Industrial Limited (IND-L)

**Existing Zone:** A1 - Agriculture

**Proposed Zone:** I6 - Low Impact Transitional Industrial zone

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## 1.0 Recommendation

THAT Rezoning Application No. Z16-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification on Lots 26 and 27, Section 3, Township 23, ODYD, Plan 18861, located at 3150 & 3170 Sexsmith Rd, Kelowna, BC from A1 - Agriculture 1 zone to the I6 - Low Impact Transitional Industrial zone, be considered by Council;

AND THAT Council waives the requirement to hold a Public Hearing for the Rezoning bylaw;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered subsequent to the following:

To the outstanding conditions identified in Attachment "A" associated with the report from the Community Planning Department dated November 17<sup>th</sup> 2015.

## 2.0 Purpose

To rezone the subject properties to the I6 - Low Impact Transitional Industrial zone zone for a RV storage facility.

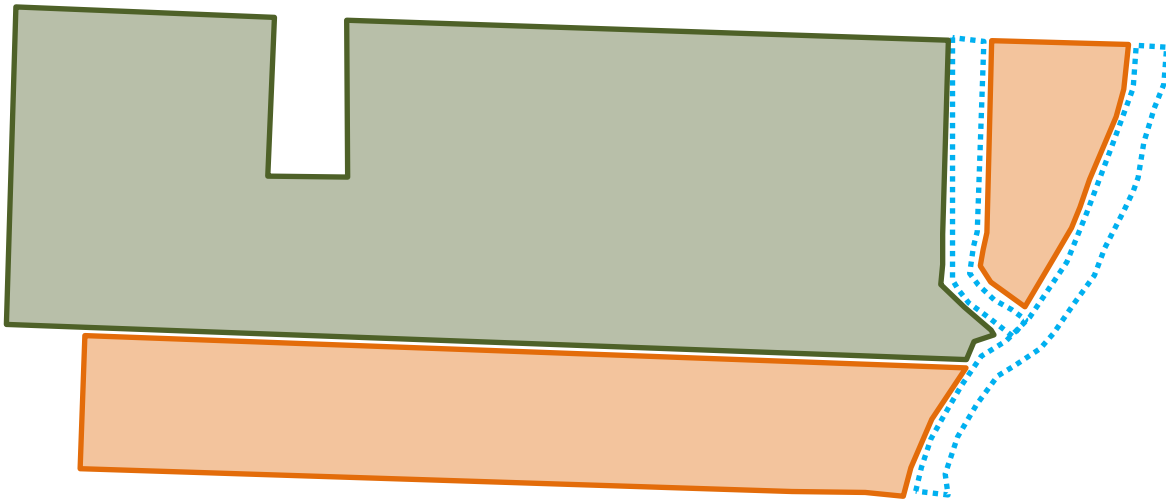
## 3.0 Community Planning

### 3.1 Background - Sexsmith/Appaloosa Area

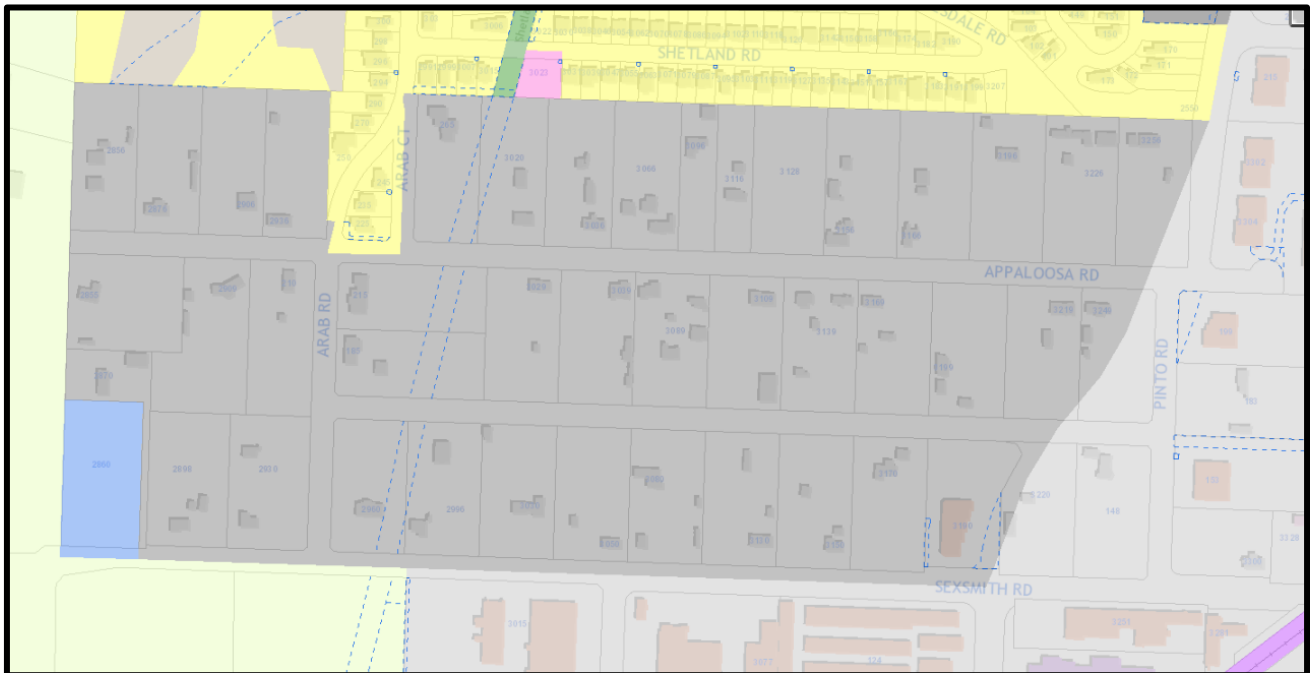
During the 2004-2010 timeframe some property owners within the Sexsmith/Appaloosa Road neighbourhood that were operating illegal industrial uses applied to rezone their properties to an industrial zone in order to legalize the use. The area at the time was designated as a rural single family area. After discussion and during a comprehensive Official Community Plan review in 2010

for the whole municipality, City Council decided this area should be designated as Industrial - Limited to legitimize the industrial uses that were occurring in the area. However, in order to support this new zoning, the services (water, drainage, road, and sewer) would need significant upgrades to become compatible with typical industrial uses. Council was presented with a staff report on December 16<sup>th</sup> 2013 to review potential options for land use and servicing in the Arab/Appaloosa area. Council approved the existing Industrial-Limited OCP designation for the Arab/Appaloosa area with the potential for I6-Low-Impact Transitional Industrial Zoning. As a result, the property owners were responsible for the infrastructure upgrades if an industrial rezoning were to be approved. The property owners voted on whether to proceed to a Local Area Service (LAS) on January 28<sup>th</sup> 2016. The LAS vote failed as there was not enough support by property owners to pay for infrastructure upgrades. At the March 21<sup>st</sup> 2016 meeting, Council directed Staff to initiate a bylaw enforcement strategy, prepare OCP amendments along Appaloosa Road from an industrial to a rural designation (see figure 1 below), and to lift the moratorium on accepting re-zoning applications.

**Figure 1: Proposed Policy Direction**



- Area to remain Rural Residential (A1 zone)
- Area to be permitted future Industrial - Limited (I6 zone)
- Future Road Plan



### 3.2 Background - 3150 & 3170 Sexsmith Road

In 2010, the City changed the OCP designation from Single Family to Industrial-limited. Shortly after, the subject properties (3150 & 3170 Sexsmith Rd) applied for a rezoning (Z10-0092) to the I6 zone. Council approved the I6 zone but the application never moved forward to final adoption. Numerous extensions were applied for because the owner did not have a tenant ready to occupy and the servicing costs were significant. The cost to service these two properties were estimated

with the sewer connection fee (\$194,557.00), Sexsmith frontage improvements (\$47,400.00), and Palomino Road improvements (\$79,100.00) for a total cost of \$321,057.00.

The last extension expired on November 16<sup>th</sup> 2015. The applicant then applied for a rezoning to I2 zone in January of 2016. Staff was not willing to support an application to the I2 zone as per Council's direction to have transitional industrial uses next to rural residential properties. A Council report recommending non-support for the I2 zone was removed from Council Agenda package in September 2016 at the applicant's request. A buyer of the property in September of 2016 has re-applied for the I6 zone as well as a Development Permit and Development Variance Permit for RV storage. The corresponding permitted use in the I6 zone is outdoor storage. Since Council has already approved an I6 rezoning in 2010 on the subject property, Staff are recommending that the requirement for a public hearing be waived and the file proceed straight to consideration of the Development Permit and Development Variance Permit. Should Council want the regular process of a public hearing to be a requirement on this file, an alternative recommendation has been included in Section 7.0 of this report.

### 3.3 Discussion

The Industrial - Limited Future Land Use (IND-L) designation was established in 2011 after public consultation associated with the 2030 OCP review. The IND-L designation and I6 zone allow for a range of low-impact industrial land uses that are intended to act as a transition between the general industrial areas to the south and east and the rural residential areas to the north and west. The permitted uses, development regulations, screening requirements, parking restrictions, outdoor storage restrictions, and other regulations in the I6 zone are designed to mitigate the industrial uses on nearby residential, rural and agricultural uses in this area. The I6 zoning regulations compared to the I2 zoning regulations are relatively restrictive for potential industrial tenants (see Attachment 'B' for a list of comparisons between I2 vs I6). For example, parking must be consolidated into one area and parking cannot occur in the building setback areas. The applicant is applying for a Development Variance Permit to waive some of these restrictions. If Council approves the I6 land use, Staff will provide additional details within the Development Permit and Development Variance Permit reports.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant did not notify any neighbour within the required 50 metre radius. The I6 zone had a public consultation process in 2010 and a new I2 zone public notification process in 2015. For these reasons a public notification process was not performed.

## 4.0 **Proposal**

### 4.1 Project Description

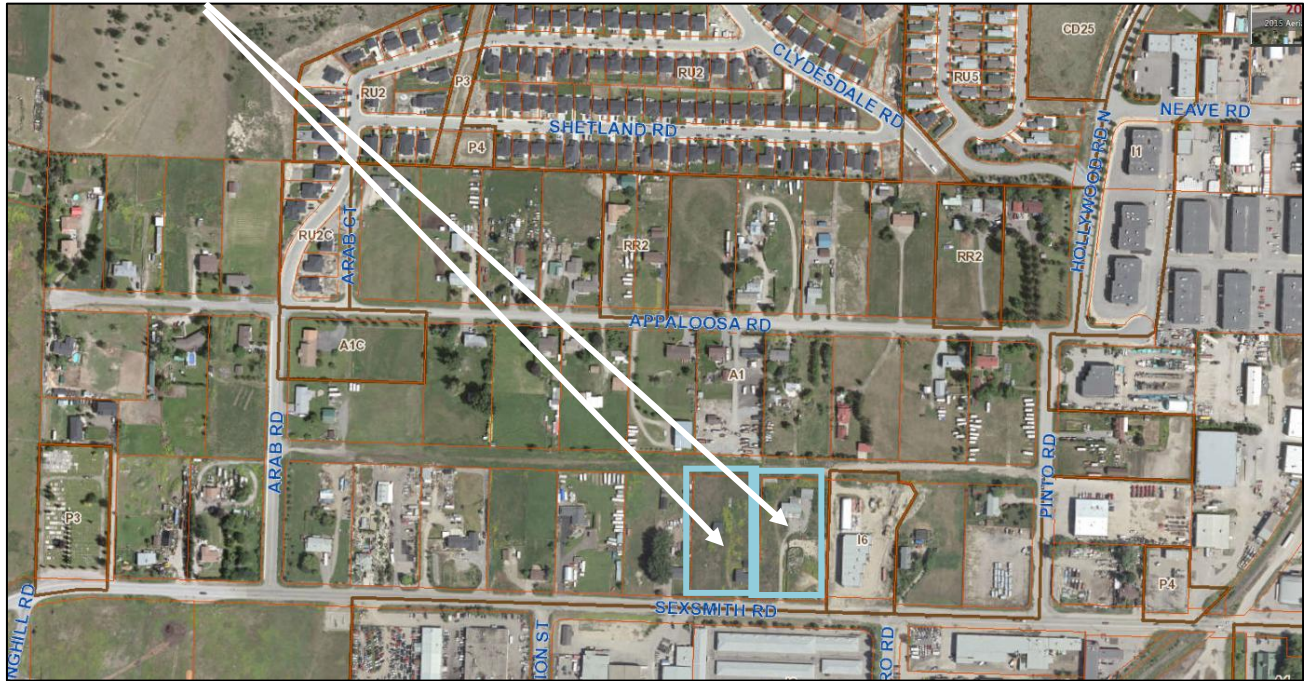
The proposal is to rezone the two subject properties to the I6 - Transitional Industrial zone in order to allow RV storage on the subject properties.

### 4.2 Site Context

The subject parcels are located within the Arab/Appaloosa area. The subject property is designated as Industrial - Transitional (IND-T) in the OCP and the lot is within the Permanent Growth Boundary. Specifically, the adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture	Agriculture/industrial/residential
East	A1 - Agriculture	Agriculture/industrial/residential
South	I2 - General Industrial	Industrial
West	A1 - Agriculture	Agriculture/industrial/residential

## Subject Properties Map: 3150 &amp; 3170 Sexsmith Rd



Zoning Analysis Table		
CRITERIA	Proposed	I6
Development Regulations		
Buildings		
Max FAR	n/a	No Limit
Max Site Coverage	<50%	50%
Max Height	Single storey structure	2 ½ stories & 9.5 m
Min Front Yard Setback	4.5 m	4.5 m but 6.0 m for garages / carports
Min Side Yard Setback	10.4 m	<ul style="list-style-type: none"> <li>- 3.0 m for residential bldgs.</li> <li>- 4.5 m for industrial bldgs. when adjacent to 'I' zoned property.</li> <li>- 7.5 m for industrial bldgs. when adjacent to a non-industrial future land use.</li> </ul>
Min Flanking Side Yard Setback	n/a	Not regulated
Rear Yard	>30 m	<ul style="list-style-type: none"> <li>- 7.5 m for all bldgs.</li> <li>- 30.0 m when adjacent to a non-industrial future land use.</li> </ul>
Other Regulations		

Parking Locations		
	Proposed	I6
Min Front Yard Setback	3.0 m ❶	No Parking in front yard except visitor and residential (4.5m)
Min Side Yard Setback (west)	3.0 m ❷	No Parking in side yards (4.5 m)
Min Side Yard Setback (east)	0.0 m ❸	No Parking in side yards (4.5 m)
Min Rear Yard Setback	3.0 m ❹	7.5 m
Outdoor Storage		
	Proposed	I6
Location	n/a	Not permitted in the setback areas and shall be consolidated into a single area per lot
Screening	Chain link fence proposed ❺	Must be screened with opaque fencing and landscaping
Minimum Landscape buffer		
	Proposed	I6
Front	3.0 m	3.0m
Rear	3.0 m	3.0m
Side (east)	0.0 m ❻	3.0m
Side (west)	3.0 m	3.0m
Parking		
	Proposed	I6
Parking lots over 50 vehicles - Minimum landscape island	0 m <sup>2</sup> ❼	2m <sup>2</sup> per parking stall = 314 m <sup>2</sup>
Outdoor Display		
	Proposed	I6
Location	n/a	Outdoor display / sales (& non-accessory parking) shall not encroach into the landscape areas
<u>Variances</u> ❶ Reduce parking setback in front yard from 4.5 m to 3.0 m ❷ Reduce parking setback in side yard (west) from 4.5 m to 3.0 m ❸ Reduce parking setback in side yard (east) from 4.5 m to 0.0 m ❹ Reduce parking setback in rear yard from 7.5 m to 3.0 m ❺ Applicant shows a chain link fence when an opaque fence is required ❻ Reduce minimum landscape buffer from 3.0m to 0.0m. ❼ Reduce the minimum landscape island area from 314 m <sup>2</sup> to 0m <sup>2</sup> .		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Chapter 5: Development Process

**Compact Urban Form.**<sup>1</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.3.2 (Development Process Chapter).

**Sensitive Infill.**<sup>2</sup> Encourage new development or redevelopment in existing residential areas to be sensitive to or reflect the character of the neighbourhood with respect to building design, height, and siting.

**Industrial Land Use Policies**

**Objective 5.28.**<sup>3</sup> Focus industrial development to areas suitable for industrial use.

**Industrial Supply Protection.**<sup>4</sup> Protect existing industrial lands from conversion to other land uses by not supporting the rezoning of industrial land to preclude industrial activities unless there are environmental reasons for encouraging a change of use.

**6.0 Technical Comments**

**6.1 Building & Permitting Department**

a) No Comment.

**6.2 Development Engineering**

- See attached Memo dated November 17<sup>th</sup> 2015

**6.3 Fire Department**

a) The fire department has no issues with zoning change and would like to comment prior to a DP or BP being obtained.

**7.0 Alternate Recommendation**

THAT Rezoning Application No. Z16-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification on Lots 26 and 27, Section 3, Township 23, ODYD, Plan 18861, located at 3150 & 3170 Sexsmith Rd, Kelowna, BC from A1 - Agriculture zone to the I6 - Low Impact Transitional Industrial zone zone, be considered by Council.

AND THAT the Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Zone Amending Bylaw be subsequent to the following:

To the outstanding conditions identified in Attachment "A" associated with the report from the Community Planning Department dated November 17<sup>th</sup> 2015.

**8.0 Application Chronology**

Date of Application Received: Sept 20<sup>th</sup> 2016

Date of Public consultation: August 24<sup>th</sup> 2015 (for I2 rezoning application) & 2010 (for original I6 rezoning)

**Report prepared by:**

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Adam Cseke, Planner

**Reviewed by:**



Terry Barton, Urban Planning Manager

<sup>2</sup> City of Kelowna Official Community Plan, Policy 5.22.6 (Development Process Chapter).

<sup>3</sup> City of Kelowna Official Community Plan, Objective 5.28, Chapter 10 (Development Process Chapter).

<sup>4</sup> City of Kelowna Official Community Plan, Policy 5.28.1 (Development Process Chapter).

**Approved by:**



Ryan Smith, Community Planning Manager

**Attachments:**

Development Engineering Comments dated November 17<sup>th</sup> 2015 (Attachment 'A')

I2 vs I6 Comparison (Attachment 'B')

Draft Development Permit



# DRAFT DEVELOPMENT PERMIT & DEVELOPMENT VARIANCE PERMIT



## APPROVED ISSUANCE OF DEVELOPMENT PERMIT & DEVELOPMENT VARIANCE PERMIT

**File Number** Z16-0062  
**Issued To:** Palomino Developments Ltd., Inc. No. BC1087417  
**Site Address:** 3150 & 3170 Sexsmith Rd  
**Legal Description:** Lots 26 and 27, Section 3, Township 23, ODYD, Plan 18861  
**Zoning Classification:** I6 - Low Impact Transitional Industrial zone  
**Development Permit Area:** Comprehensive Development Permit Area

### SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

The issuance of a Permit limits the Permit Holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

### 1. TERMS AND CONDITIONS

THAT Development Permit No. Z16-0062 & Development Variance Permit No. DVP16, located at 3150 & 3170 Sexsmith Rd Kelowna, BC be approved subject to general conformance to the drawings (Schedule "A", "B", & "C") attached to this permit.

AND THAT the variances to the following sections of Zoning Bylaw No. 8000 be granted:

TBD

### 2. PERFORMANCE SECURITY

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Permit Holder and be paid to the Permit Holder if the security is returned. The condition of the posting of the security is that should the Permit Holder fail to carry out the development hereby authorized, according to the terms and

conditions of this Permit within the time provided, the Municipality may use the security to carry out the work by its servants, agents or contractors, and any surplus shall be paid over to the Permit Holder, or should the Permit Holder carry out the development permitted by this Permit within the time set out above, the security shall be returned to the Permit Holder. There is filed accordingly:

- a) Cash in the amount of \$ 46,945.00 OR
- b) A Certified Cheque in the amount of \$ 46,945.00 OR
- c) An Irrevocable Letter of Credit in the amount of \$ 46,945.00 .

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

### 3. DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached to this Permit that shall form a part hereof.

If the Permit Holder does not commence the development permitted by this Permit within two years of the date of this Permit, this Permit shall lapse.

**This Permit IS NOT a Building Permit.**

The issuance of this Permit grants to the municipality a save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality granting to me the said Permit.
- b) All costs, expenses, claims that may be incurred by the Municipality if the construction by me of engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

Should there be any change in ownership or legal description of the property, I undertake to notify the Community Planning Department immediately to avoid any unnecessary delay in processing the application.

### 4. APPROVALS

Issued and approved by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Ryan Smith, Community Planning Department Manager  
Community Planning & Real Estate

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Date

**The PERMIT HOLDER is the CURRENT LAND OWNER.  
Security shall be returned to the PERMIT HOLDER.**