

Report to Council



Date: November 28, 2016
File: 1200-30
To: City Manager
From: Ryan Roycroft, Planner
Subject: Arab and Appaloosa Road Future Land Use and Servicing Options

Recommendation:

THAT Council receive for information, the supplementary report from the Community Planning Department dated November 28, 2016, with respect to the Industrial - Limited future land use designation for properties along the Arab and Appaloosa Roads;

AND THAT Council direct staff to pursue Option 3 as outlined in the report from the Community Planning Department dated November 28, 2016.

Purpose:

To review options to address future land use designation and servicing incompatibilities in the Arab and Appaloosa Road neighborhood.

Background:

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.

2012

In November of 2012, a moratorium was placed on development applications in the area, pending a resolution to servicing and land use concerns.

At the meeting, Council resolved that:

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.”

At the December 3, 2012, Council meeting, Council requested that staff “...report back with options for amending the I6 - Low-Impact Transitional Industrial Zone, to ensure consistency of intent and purpose with the Kelowna 2030 - Official Community Plan (OCP)”.

2013 Considerations:

At the December 13, 2013 Council Meeting, Council Directed staff to:

Council directs staff to follow Option 1 as identified in the Utilities Planning Manager, Bylaw Services Manager & Urban Planning Managers report, dated December 16, 2013 regarding the Arab/Appaloosa Land Use and Servicing Options;

AND THAT Council directs staff to bring forward the proposed amendments to the I6 Zone, including a provision for outdoor storage, and to require Development Permits, to ensure consistency with the intent and purpose of the Kelowna 2030 OCP and Industrial-Limited designation;

AND THAT Council directs staff to ensure that the fire flow and servicing with respect to the I6 zone be required as per Subdivision, Development & Servicing Bylaw No. 7900;

AND THAT Council directs staff to commence bylaw enforcement action against the two (2) most prolific offenders;

AND FURTHER THAT Council directs staff to hold a Local Area Service meeting in order to gauge support for a Local Area Service Bylaw and to explain the proposed changes to the I6 zone.

Option 1 identified: Keep the existing OCP Industrial - Limited designation for the Arab/Appaloosa area with potential for I6-Low-Impact Transitional Industrial Zoning. Provide an optional exemption for the I6 requirements for fire flow and require a restrictive covenant as a condition of rezoning that limits building design to available fire flows. The exemption and covenant will occur during the rezoning process.

Options were developed and presented to Council at the March 25, 2013 Council meeting and at this meeting Council resolved:

THAT Council receive for information, the supplementary report from the Manager of Urban Land Use dated March 19, 2013, with respect to the Industrial - Limited future land use designation contained in the Kelowna 2030 - Official Community Plan;

AND THAT Council direct staff to pursue Land Use Alternative 1, as identified

below;

AND THAT Council direct staff to initiate the process to advance Sanitary Sewer Connection Area #35 to a Specified Sanitary Sewer Service Area;

AND FURTHER THAT Council direct staff to accept no further Rezoning applications for the Arab Appaloosa road area, pending final resolution of land uses for the area.

On May 16, 2013, Council authorized funds necessary to create a pre-design for the water, sewer, and roads, and associated drainage works for the Arab/Appaloosa area. The pre-design works included pre-designs for the Hollywood Road extension from Hollywood Road to Cambrio Road, and from Clydesdale Road to the new Hollywood Road connector. Although these roads will be funded through a future development, it was important to understand the road alignments in order to determine the scope of the proposed infrastructure required to support a change in zoning from the existing A1 - Agriculture 1 Zone to the I6 - Low-Impact Transitional Industrial Zone.

At the September 30, 2013 Council meeting staff reviewed the Focus Engineering pre-design, the costs of the infrastructure required to meet zoning requirements, and the various service areas, their costs, and the typical and maximum costs that a homeowner on Appaloosa Road would be required to fund if a Local Service Area were adopted.

2015 Servicing Considerations:

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 to the new I6 designation.

THAT Council receive for information the supplementary report from the Urban Planning Manager dated January 26, 2015, with respect to the Industrial -Limited Future Land Use designation and the land use issues along Arab and Appaloosa Roads;

AND THAT Council direct staff to bring bylaw amendments to the Official Community Plan and Zoning Bylaw amending Industrial development guidelines and policies to Council for consideration after a public open house has been held.

AND FURTHER THAT Council direct staff to conduct a public open house to survey support for a Local Area Service to pay for the extension of Sanitary Sewer Service to lots along Arab and Appaloosa Roads to facilitate industrial development. This consultation will take place after the adoption of the Zoning Bylaw and Official Community Plan amendments.

The OCP amendments were completed in September 2015 and the project was redesigned to accommodate a change in the Clydesdale road design. The designs and costs for the project were completed by a consulting firm and reviewed by the infrastructure division.

Local Area Service Survey, January 2016:

Personalized letters were sent out to each home owner that outlined their share of the costs for infrastructure improvements and a description of the opportunity to rezoning of their property should a local service area be successful. The letters were sent by registered mail. An information sheet about the survey process, background and next steps; specific costs for improvements were identified for each type of improvement; and a self-addressed, self-stamped response form was provided to each household, in order to receive feedback from the residents.

An invitation to a public open house was also provided. Residents had the choice of either submitting their survey to at the open house or by mailing in the same. The Open House took place on January 27, 2016 and survey results were finalized on February 19, 2016.

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 (LAS) to be successful, the city must receive petitions from at least 50 per cent 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 per cent of the total assessed value of the proposed service area.

The City has **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 means the City needs 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, it is highly unlikely that a Local Service Area process would be successful.

While sewer alone would not provide the necessary infrastructure needed to enable rezoning, staff also surveyed residents were not if they would be interested in rezoning but building sanitary sewer as a standalone project. 86% for respondents living along Appaloosa indicated they did not support a sewer only LAS.

Council Directives:

Based on the LAS survey results, on the March 21, 2016 meeting, Council directed staff to prepare Official Community Plan amendments removing the Industrial - Transitional designation from properties in the neighborhood, and re-designating them as Resource Protection.

AND THAT Council direct staff to follow the future land use and bylaw enforcement strategy as identified in the Utilities Planning Manager report, dated March 7, 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 Utilities Planning Manager report, dated March 21, 2016 regarding the Arab/Appaloosa Land Use and By Enforcement Strategy;

AND FURTHER THAT Council direct staff to process Zoning Bylaw Applications

submitted for properties designated for Industrial - Transitional Use, and advance any bylaws in progress to Council for consideration and any required public consultation.

Two additional mailouts were sent to neighborhood residents indicating the bylaw enforcement strategy prior to the preparation of the Official Community Plan amendments considered by Council at the November 15th Public Hearing.

The proposed Official Community Plan amendment bylaw was defeated by Council. Council directed staff to propose alternative options for future land use and servicing in the area.

A follow up letter was sent to residents on March 29th, 2016 informing residents of the results of the survey and Council's decision with respect to the Local Service Area.

OPTIONS:

Option 1: Limited consultation

With the full extent of consultation to date, including the open house, survey and multiple mail outs, it is possible to proceed to amending the Official Community Plan as was recommended by Council without further consultation.

Because the OCP amendment bylaw was defeated, a new bylaw and new public hearing would be required.

The costs for the improvements required to facilitate rezoning through a LAS will not likely to be reduced. There may be a small savings in sewer costs caused by coordinating the recent construction of Hollywood Road with community sewer, but these costs are likely to be offset by higher road and drainage costs due to inflation.

This option would be the most direct option, and would meet the Council resolution of March 21, 2016. It would give clear direction to potential purchasers that the majority of this neighbourhood is not intended for Industrial use. Because the LAS results were so definitive - only 12 of 48 properties supporting - there appears to be a gap between the sentiments expressed at the public hearing and surveyed responses.

However, this option would not include further consultation or discussion with the neighbourhood. A further, an additional letter clarifying the results of the LAS survey and costs could be send out to residents.

Option 2: Informational Mail-Out

To address some of the misinformation, a registered mail out would be directed to neighbourhood residents, giving information and addressing some of the questions raised at the public hearing. Staff would prepare a detailed mail out with information on costs, processes and consequences.

An updated plan and refresh on capital costs is recommended in this option as the original report is now a couple of years old and some works have been built during recent construction. If there is some question on validity of the costs, then an update of the predesign is warranted.

This option would give residents an additional opportunity to inform themselves on the process, costs and consequences of the LAS. However, a mail out may only lead to more uncertainty in the neighbourhood. Further, this may aggravate residents who did not wish to rezone and were concerned about the affordability of the LAS improvements. With the previous survey only garnering half of the support needed to move forward with an LAS, there may be a perception that the City is unwilling to accept non-support.

Given the results of the last public interest survey and updated costs, staff has no reason to believe the results of another survey or LAS would be different from earlier this year.

Information could be included to the neighbourhood regarding how to initiate a property-owner led LAS process with a deadline give for initiating in order to ensure timely resolution should property owners wish to pursue these options.

Option 3: Informational Mail-Out and Survey with Public Open House / Meeting

This option would include a similar approach to Option 2, with an additional information session. Staff recommend that this option include a re-costing of the project, but will likely result in costs higher than previous estimates.

- Commissioning WSP to re-assess LAS costs
- Sending all owners in the neighborhood new cost estimates by registered mail
- Holding a public information session
- Providing options for residents to initiate property-owner led Local Area Service
- Provide a final report to Council to either pursue an LAS or recommending Official Community Plan amendments.

Staff believe that it is important to resolve the matter as soon as possible. Many properties in the neighborhood are for sale, and real estate turnover will mean that there will be new residents in the area who have not been part of the process, which may further delay resolution. Should Council accept Option 3, Staff will be targeting a December 14th Public Meeting with a goal of bringing a final recommendation to Council in January 2017.

This option has the advantage of the most in-person discussions. However, duplicating the previous process may cause additional confusion from the owners who did not attend the public hearing about why the same public interest survey is being posed again within the same year. Because the opposition to the LAS was so strong, with only 12 votes in support, additional consultation may give the perception that the city is unwilling to accept any public comment not supporting the LAS.

However, the optics of a mid-December Open House may be problematic, as the timing may create the perception that the City is trying to avoid public scrutiny. Staff scheduling conflicts make a January Open House impossible, which would mean that the additional public consultation would not occur until February. This further delays resolution.

Option 4: Defer process to the Official Community Plan Review

Council may consider reviewing land use in the area as part of the overall Official Community Plan review process, which will begin in 2018. This option will not lead to a swift resolution,

as the new OCP is not expected to be completed for a number of years, and will leave landowners unsure of future options. If the review is to be incorporated in the Official Community Plan process, staff recommend that the moratorium on development applications in the area be re-instated.

This option would be the pragmatic approach, allowing the emotional issue an opportunity to breathe and perhaps allow emotions to defuse. It would also allow the issue to be considered in the context of broader industrial inventory and servicing levels in the City. properly This option would result in status quo including inequitable tax rates based on quasi-industrial businesses operating in the neighbourhood.

Bylaw complaints from those residents who wish the zoning to remain as it is would continue to go unenforced in this area, as there is no way to reasonably resolve them.

Considerations not applicable to this report:

External Agency/Public Comments:

Internal Circulation:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Existing Policy:

Financial/Budgetary Considerations:

Communications Comments:

Personnel Implications:

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