

REPORT TO COUNCIL



Date: 2/7/2017

RIM No. 0940-00 & 0940-50

To: City Manager

From: Community Planning Department (AC)

Application: DP16-0232 & DVP16-0233 **Owner:** Palomino Developments Ltd., Inc. No. BC1087417

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

Subject: Development Permit & Development Variance Permit Applications

Existing OCP Designation: Industrial Limited (IND-L)

Existing Zone: A₁ – Agriculture

Proposed Zone: I6 – Industrial Transitional

1.0 Recommendation

THAT Final Adoption of Zone Amending Bylaw No. 11316 be considered by Council;

THAT Council authorize the issuance of Development Permit No. DP16-0232 for Lots 26 and 27, Section 3, Township 23, ODYD, Plan 18861, located at 3150 & 3170 Sexsmith Rd, Kelowna, BC, subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land to be in general accordance with Schedule "C";
4. That the applicant be required to post with the City, a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit DVP16-0233 for Lots 26 and 27, Section 3, Township 23, ODYD, Plan 18861, located at 3150 & 3170 Sexsmith Rd, Kelowna, BC;

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

Section 15.6.9 Landscaping, buffering and Parking:

- To allow parking in the front yard by reducing the front yard setback (from 4.5m to 3.0m);
- To allow parking in the east side yard setback by reducing that side yard setback (from 4.5m to 0.0m);
- To allow parking in the west side yard setback by reducing that side yard setback (from 4.5m to 3.0m);
- To allow parking in the rear yard setback by reducing the rear yard setback (from 7.5m to 3.0m);

Section 7.6.1 (c) Minimum Landscape Buffers:

- To reduce the minimum landscape buffer on the east side yard property line from 3.0m to 0.0m;

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permits/Development Variance Permits Applications in order for the permit to be issued;

AND FURTHER THAT the Development Permits and Development Variance Permits be valid for two (2) years from the date of Council approval, with no opportunity to extend.

2.0 Purpose

To review the Form & Character Development Permit for a Recreational Vehicle (RV) storage facility including a mobile home security operator unit and to consider five variances.

3.0 Community Planning

3.1 Background

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 16th 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. On Nov. 21st 2016 Council waived the public hearing at Staff's recommendation as the rezoning has already been approved 2010.

3.2 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. Staff have been encouraging potential industrial users to consider the I6 zone and reducing some of I6 zone restrictions will help with that goal.

The variances on the east property line (both landscape & parking setback reduction) are considered appropriate by Staff as that side is adjacent to an existing industrial use. The parking setback limit is unique to the I6 zone but Staff are supportive of those variances as they will increase the viability for industrial tenants.

The design guidelines encourage housing in light or transitional industrial areas as a secondary use. The applicant is proposing a mobile home as a residential security operator unit. The mobile home provides flexibility in building location especially when Palomino Road is built. Access would be required to be re-routed through Palomino Rd and access would be eliminated from Sexsmith Road. The mobile home then could be moved to the new entrance to the RV storage lot at that time.

3.3 Public Notification

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant has notified all the neighbours within the required 50 metre radius regarding the proposed variances.

4.0 **Proposal**

4.1 Project Description

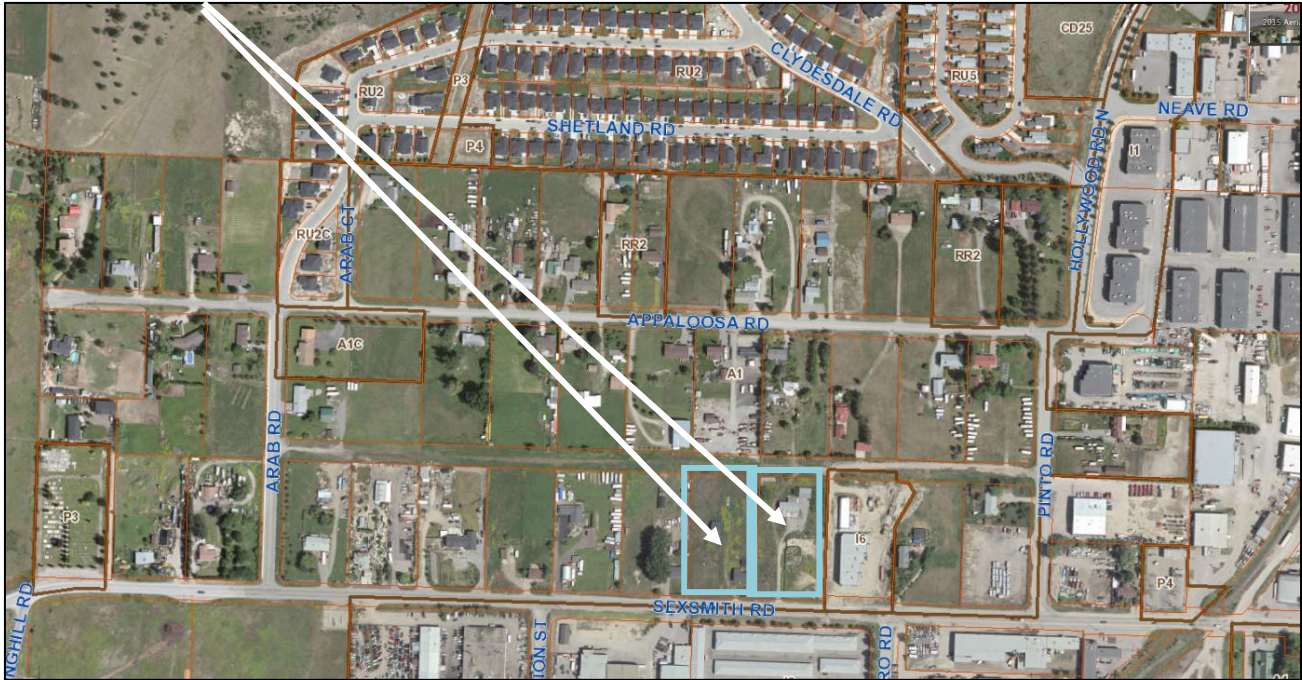
The proposal is for a 157 stall RV storage facility and for a mobile home as a residential security unit.

4.2 Site Context

The subject parcels are located within the Arab/Appaloosa area. The subject property is designated as Industrial – Limited (IND-L) 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	I6 – Industrial Transitional	Industrial
South	I2 – General Industrial	Industrial
West	A1 - Agriculture	Agriculture/industrial/residential

Subject Properties Map: 3150 & 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"> - 3.0 m for residential bldgs. - 4.5 m for industrial bldgs. when adjacent to 'I' zoned property. - 7.5 m for industrial bldgs. when adjacent to a non-industrial future land use.
Min Flanking Side Yard Setback	n/a	Not regulated
Rear Yard	>30 m	<ul style="list-style-type: none"> - 7.5 m for all bldgs. - 30.0 m when adjacent to a non-industrial future land use.
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 ④	7.5 m
Outdoor Storage		
	Proposed	16
Location	n/a	Not permitted in the setback areas and shall be consolidated into a single area per lot
Screening	Chain link fence proposed with slats	Must be screened with opaque fencing and landscaping
Minimum Landscape buffer		
	Proposed	16
Front	3.0 m	3.0m
Rear	3.0 m	3.0m
Side (east)	0.0 m ⑤	3.0m
Side (west)	3.0 m	3.0m
Outdoor Display		
	Proposed	16
Location	n/a	Outdoor display / sales (& non-accessory parking) shall not encroach into the landscape areas
<p><u>VariANCES</u></p> <p>① Reduce parking setback in front yard from 4.5 m to 3.0 m</p> <p>② Reduce parking setback in side yard (west) from 4.5 m to 3.0 m</p> <p>③ Reduce parking setback in side yard (east) from 4.5 m to 0.0 m</p> <p>④ Reduce parking setback in rear yard from 7.5 m to 3.0 m</p> <p>⑤ Reduce minimum landscape buffer from 3.0m to 0.0m.</p>		

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ 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.

Sensitive Infill.² 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 5.28.³ Focus industrial development to areas suitable for industrial use.

Industrial Supply Protection.⁴ 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.

Secondary Housing in Light Industrial Areas.⁵ Consider the limited expansion of housing as a secondary use within industrial buildings in light or transitional industrial areas.

¹ City of Kelowna Official Community Plan, Policy 5.3.2, Chapter 5 (Development Process Chapter).

² City of Kelowna Official Community Plan, Policy 5.22.6, Chapter 5 (Development Process Chapter).

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

⁴ City of Kelowna Official Community Plan, Policy 5.28.1, Chapter 5 (Development Process Chapter).

⁵ City of Kelowna Official Community Plan, Policy 2, Objective 5.29, Chapter 5 (Development Process Chapter).

Public and private open space.⁶ Design industrial developments to include outdoor break areas, green space, bicycle racks, skylights and windows in work areas, and linkages to recreational opportunities (e.g. linear parks).

Transitional Industrial Design Guidelines.⁷

In areas designated for Industrial – Limited use, these guidelines must be considered as well as all other guidelines in this section.

Policy #	Description
18.1	Industrial development adjacent to residential land uses must be planned, landscaped and screened to maintain the privacy of residential uses.
18.2	Where new industrial development is occurring adjacent to residential uses, window openings shall be placed to reduce the opportunity for overlook and be off set from residential windows.
18.3	Unfinished concrete block shall not be used as an exterior building material for principal facades or where the façade faces a residential land use.
18.4	Where loading doors face the street, they shall be set back from the main building plane.
18.5	The primary entrance of the main building on site should face the roadway.
18.6	Where security concerns limit windows and other openings, building design should employ other design techniques to avoid creating long blank walls.
18.7	Rooftop screening of mechanical and electrical equipment must be provided using materials consistent with the treatment of principal facades.
18.8	All lighting shall be oriented facing the site, pointed in a downward direction and constructed at the lowest practical elevation to minimize light trespass over surrounding properties.
18.9	Tall, broadcast or flood lights are not permitted.
18.10	Where possible, parking and outdoor storage should be located behind buildings or other structures. Where parking and storage is not behind buildings, it must be screened with landscaping or fencing.
18.11	Unpaved parking and storage surfaces should be made dust free through design or treatment.

6.0 Technical Comments

6.1 Building & Permitting Department

- a) Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permit(s).
- b) Placement permits are required for any sales or construction trailers that will be on site. The location(s) of these are to be shown at time of development permit application.
- c) Building Permit required for the parking lot and will require design by a Civil Engineer.
- d) Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of Radon mitigation and NAFS are being applied to this structure at time of permit application.

6.2 Development Engineering

- See attached Memo dated November 17th 2015.

⁶ City of Kelowna Official Community Plan, Policy 7.5, Chapter 14 (Urban Design Development Permit Areas).

⁷ City of Kelowna Official Community Plan, Chapter 14 (Urban Design Development Permit Areas).

6.3 Fire Department

- a) Ensure clear rows are maintained should emergency access be required. A fire department lockbox is suggested for the gate for after-hours emergencies. The building onsite shall meet the requirements of section 9.10.19 Smoke Alarms and Carbon Monoxide alarms of the BCBC 2012.

7.0 **Application Chronology**

Date of Application Received: Sept 26th 2016
Date of Public consultation: November 28th 2016

Report Prepared by: Adam Cseke, Urban Planner
Reviewed by: Terry Barton, Urban Planning Manager
Approved by: Ryan Smith, Community Planning Manager

Attachments:
Development Engineering Comments dated November 17th 2015 (Attachment 'A')
Development Permit

DEVELOPMENT PERMIT & DEVELOPMENT VARIANCE PERMIT



APPROVED ISSUANCE OF DEVELOPMENT PERMIT & DEVELOPMENT VARIANCE PERMIT

File Number	DP16-0232 & DVP16-0233
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 – Industrial Transitional
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 & Development Variance Permit No. DP16-0232 & DVP16-0233, 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:

Section 15.6.9 Landscaping, buffering and Parking:

- To allow parking in the front yard by reducing the front yard setback (from 4.5m to 3.0m);
- To allow parking in the east side yard setback by reducing that side yard setback (from 4.5m to 0.0m);
- To allow parking in the west side yard setback by reducing that side yard setback (from 4.5m to 3.0m);
- To allow parking in the rear yard setback by reducing the rear yard setback (from 7.5m to 3.0m);

Section 7.6.1 (c) Minimum Landscape Buffers:

- To reduce the minimum landscape buffer on the east side yard property line from 3.0m to 0.0m;

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.

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

Date

The PERMIT HOLDER is the CURRENT LAND OWNER.

Security shall be returned to the PERMIT HOLDER.