

File #: OCP-01-2012

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: July 16, 2012
RE: Official Community Plan Amendment – Upper Tank Farm

ISSUE

Application to amend the Official Community Plan to allow for temporary remediation and quarrying activities in the Upper Tank Farm area.

REFERENCE

- *Municipal Act*
- *Environment Act*
- 2010 Official Community Plan
- OCP Amendment Application
- Zoning Bylaw 2006-01
- Bylaw 2012-35
- Yukon Contaminated Sites Regulations

HISTORY

Golder Associates, acting on behalf of 46447 Yukon Inc., owner of the Upper Tank Farm (Tank Farm) site, has applied to amend the Official Community Plan (OCP) to allow for temporary remediation and quarrying activities. The Tank Farm site is 56 hectares in size and is bounded by Hamilton Boulevard to the west; Valleyview to the north; a Ta'an Kwäch'än Council parcel and Alaska Highway to the east; and Hillcrest and Burns Road to the south.

Between 1942 and 1996, the former Tank Farm operated as a petroleum storage facility. During this time, petroleum hydrocarbons leaked from the tanks, valves and pipelines into the soil below which eventually led to environmental contamination of the site. Beginning in the early 1990s, the owners undertook remediation work and in 2001, the near surface contamination area was cleaned up. However, petroleum hydrocarbons are still present in soil and groundwater at lower depths.

In 2011, Environment Yukon designated the Tank Farm as a contaminated site which means it is subject to the Yukon Contaminated Sites Regulations under the *Environment Act*. It gives the Government greater authority over remediation activities on the property so as to ensure the protection of human health and the environment.

In 2012, the owner retained Golder Associates to develop an integrated restoration and redevelopment strategy for the Tank Farm. In May 2012, the consultants held a visioning and design workshop on the future of the Tank Farm, which included meetings with the Government of Yukon, City of Whitehorse, Kwanlin Dün First Nation, Ta'an Kwäch'än Council, and nearby community associations. An Open House was also held for the general public to gather feedback on the design concepts. The workshop

cumulated in the creation of the preferred concept which divides the Tank Farm into two distinct areas:

1. An urban residential neighbourhood on the western (upper) portion of the site
2. A mixed use industrial/commercial area on the eastern (lower) portion of the site

The owner would like to pursue a two-step OCP amendment process. The first step is to amend the OCP to allow for remediation and quarrying activities in order to clean up the site for future development. Temporary remediation activities are allowed in any OCP land use designation. However, due to the extent of the remediation activities necessary, the owner is requesting a new OCP policy specific to the Tank Farm that allows for on-going remediation activities including clearing, excavation, crushing, land treatment facilities, and the removal of soil. The owner is also requesting temporary quarrying as well. During the remediation process, the site will be undergoing significant re-contouring. The tentative schedule is to begin remediation activities in 2013 which would continue for the next 2-5 years.

The amendment schedule is proposed as follows:

Planning Committee:	July 16 th , 2012
1 st Reading:	July 23 rd
Public Notice Served:	July 27 th and August 3 rd
Public Hearing:	September 10 th
Report on Public Hearing:	September 17 th
2 nd Reading:	September 24 th
3 rd Reading:	November 26 th 2012 (pending Ministerial approval)

The second step, which will come at a later time, will involve an application to change the land use designations for portions of the Tank Farm and adjacent parcels in order to meet the objectives of the preferred concept. This two-step process would allow the owner to begin the lengthy remediation process, which is the top priority.

ALTERNATIVES

- Option 1: Proceed with the Official Community Plan amendment under the bylaw process.
- Option 2: Do not proceed with the Official Community Plan amendment.

ANALYSIS

Restoration Work

The applicants have indicated that they will be remediating the site to numerical standards in order to minimize post remediation monitoring requirements and provide a level of certainty to future land owners. This approach sets out the allowable levels of contaminants based on the risks they pose to human and environmental health and involves the treatment and removal of contaminants. The applicable soil remediation standards would be to residential and commercial land use standards. A numerical based approach is preferred over a risk-based approach since the contaminants are removed rather than controlled through barriers or land use restrictions.

Yukon Environment is the principal regulatory body to ensure that the remediation activities meet the Yukon Contaminated Sites Regulations. Development can take place

once contamination has been dealt with in accordance with the government-approved Plan of Restoration. Yukon Environment issues a Certificate of Compliance once Contaminated Sites Regulation standards for the intended land uses are met.

The applicants have included a preliminary Plan of Restoration which outlines the scope of activities, proposed methods and timelines. The reclamation activities include: clearing and grubbing portions of the site; construction of a temporary land treatment unit; excavation of non-contaminated and contaminated soil; sorting, crushing and processing the contaminated soil in the land treatment facility; and backfilling the site with non-contaminated and clean fill. Due to the extent of the contamination, the eastern portion of the site will be brought down to a similar elevation as the Alaska Highway and Wasson Place. The plan notes that some of the non-contaminated material could be transported off-site to other locations.

A phased approach to the remediation is proposed where excavation of contaminated material would begin in the southeast and northwest areas of the property. Clearing and grubbing of vegetation will be required in areas of general excavation. However, existing vegetation will be retained where possible.

The construction of the land treatment unit and general remediation activities triggers a review by the Yukon Socio-Economic Assessment Board (YESAB). A land treatment facility is a specially constructed facility for treating soil contaminated with petroleum hydrocarbons. The contaminated material is placed in a large earth berm, called a bio-cell, where naturally occurring microbes break down the organic contaminants such as petroleum hydrocarbons into non-toxic material. The design, operation and decommissioning of the land treatment facility would also fall under the Yukon Environment's Guidelines for Land Treatment Facilities which requires a minimum 60 m setback from residences. The plan notes that the facility would be located more than 200 m away from residential properties (the proposed location for the facility is in the southwestern portion of the Tank Farm).

The applicants have indicated that they will be submitting to YESAB this summer. The City would include any YESAB Decision Document requirements as part of the development permit conditions. The City would not issue any permits until after the YESAB review is complete.

Official Community Plan (OCP)

The Tank Farm is currently designated Residential-Urban in the OCP which reflects the vision to develop a serviced residential area within the City's Urban Containment Boundary. The preferred concept that was developed out of the May workshops proposes light industrial and commercial uses in the eastern portion of the Tank Farm. At a later point, the applicants may apply to amend the eastern portion of the Tank Farm to another land use designation such as Mixed-Use – Industrial/Commercial.

Generally, development of the Tank Farm site is encouraged in the OCP. Policy 8.4.2, under Land Remediation, states that "the redevelopment of brownfield sites around Whitehorse is strongly encouraged as an infill strategy to help reduce urban sprawl." Policy 8.4.3, under Land Remediation of the OCP, states that "temporary approval of land remediation in any land use designation may be granted".

Due to the activities proposed and the amount of material that needs to be excavated, the work that will be taking place on the Tank Farm will resemble a quarry operation. As a result, the OCP would have to be amended to include a new policy 8.4.4 under Land Remediation. The policy would allow for both temporary remediation and quarrying in the Tank Farm. The Natural Resource policies governing quarrying would apply which includes haul road requirements, restricting hours of operation, and placing restrictions on certain activities such as crushing to reduce noise exposure.

The Tank Farm is located on well-drained gravel and the contamination has likely spread to adjacent parcels. As a result, the proposed OCP policy would allow similar remediation, excavation and quarrying activities on these parcels. The owner will be collaborating with adjacent property owners who would be affected by the excavation activities.

The Natural Resource section of the OCP requires a 300 m buffer between quarries and residential areas. However, the Tank Farm is directly adjacent to Residential-Urban areas so it is impossible to respect the 300 m buffer. As a result, the 300 m buffer requirement is removed in this case. Special restrictions on certain activities, such as crushing, could be applied to mitigate concerns over impacts to nearby property owners. In addition, the YESAB process may recommend certain mitigations on the remediation activities.

The OCP also designates the Tank Farm as a Direct Control District (DCD). The DCD designation was applied in response to the contamination concerns from the development. According to the *Municipal Act*, a DCD grants Council additional authority over the development of the site. Council can directly control the use and development of the land or buildings individually rather than establish rules common to all buildings and land in the area such as the RS – Residential Single Detached zoning applied over an entire residential street or neighbourhood block. This control could be applied at later stages, including zoning amendment or development agreement processes if Council desires for additional control. The DCD control is more appropriate if the contaminants are not removed and additional land use restrictions are needed, such as requiring building setbacks from contamination sources or special building design controls.

Inclusion of Adjacent Parcels

The Ta'an Kwäch'än Council and Kwanlin Dün First Nation own parcels adjacent to the Tank Farm. The consultants have met with both First Nations, who have expressed an interest in working collaboratively with the design team to develop a comprehensive neighbourhood plan for the larger area. Both First Nations will be included in the more detailed design phase of this project.

In addition, the consultants will be working with the Yukon Government, City of Whitehorse, Alacrity, Shaw Satellite and Salvation Army who all own properties in the area and may be affected by some of the activities.

Development Review Committee (DRC)

At the June 19 DRC, a comment was raised that there is an existing city water main that intersects the property including the proposed excavation area. This main services Hillcrest and was installed prior to the original Tank Farm development. There is no

easement registered on title for the main. If the plan is to excavate a portion of the Tank Farm, keeping the water main in service is more difficult, if not impossible. Solutions will need to be explored, including relocating the main to a more suitable location.

ADMINISTRATIVE RECOMMENDATION

THAT Council direct Bylaw 2012-35, a bylaw to amend the OCP to allow for temporary remediation and quarrying activities in the Upper Tank Farm area, be brought forward for due consideration under the bylaw process.