

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: December 6, 2021
RE: Zoning Amendment – Lot 1216 Robert Service Way

ISSUE

A zoning amendment is proposed for Lot 1216 Quad 105D/11 2010-0050 LTO YT Kwanlin Dün First Nation (KDFN) Settlement Land C-34B to allow for commercial/industrial and public utility lots.

REFERENCE

- 2010 Official Community Plan (OCP)
- Zoning Bylaw 2012-20
- KDFN Self-Government Agreement (2005)
- Joint Declaration of Commitment (2018)
- KDFN Community Land Plan (2020)
- Robert Service Way Planning Study (2018)
- Commercial Industrial Land Study (2020)
- YESAB 2021-0076 Designated Office Evaluation Report, February 8, 2020 – South Access Road
- YESAA 2020-0196 Consolidated Decision Document, March 9, 2021 – South Access Road
- YESAB 2021-0076 Designated Office Evaluation Report, July 23, 2021 – Whitehorse Battery Energy Storage Project
- YESAA 2021-0076 Consolidated Decision Document, August 23, 2021 – Whitehorse Battery Energy Storage Project
- Location Map (Appendix A)
- Current and Proposed Permitted Uses (Appendix B)
- Proposed Bylaw 2021-38 (Appendix C)

HISTORY

Chu Niikwän Limited Partnership (CNLP), KDFN's development corporation, proposes to rezone 10.8 ha of a KDFN settlement parcel known as C-34B located at the northeast corner of the Robert Service Way and Alaska Highway intersection. The current zoning of the subject parcel is FN-FP – First Nation – Future Planning which requires rezoning to allow for development.

Yukon Energy Corporation (YEC) intends to lease a portion of the subject parcel for its new Battery Energy Storage System (BESS) facility and CNLP is requesting to rezone 1.66 ha of the site to FN-PU – First Nations – Public Utilities to facilitate the BESS facility. YEC selected the location based on public engagement, consultations with First Nation governments and its accessibility and proximity to existing production and transmission infrastructure. The batteries are planned to be stored in metal containers

and equipped with an automated system for detection and suppression of fire. YEC will also coordinate with the Whitehorse Fire Services department to prepare a fire response plan. The facility is expected to create low noise nuisance and have very low risk of fire or explosion, as stated in the YESAB Designated Office Evaluation Report. The BESS project was assessed and approved through the *Yukon Environmental and Socio-Economic Assessment Act* (YESAA) process on August 23, 2021 (YESAA 2021-0076). CNLP is requesting to rezone the remaining 9.13 ha of the site to FN-CIM – First Nation – Mixed Use Commercial/Industrial for the development of potentially four commercial/industrial lots.

The proposed development will be un-serviced, meaning it will have on-site services and not utilize municipal water or sewer services. Road access to the site will be provided through the vacant commissioner's land to the east, to connect with the Robert Service Way and Ear Lake Road intersection. The road access project was assessed and approved through the YESAA process on March 9, 2021 (YESAA 2020-0196), subject to a heritage resources impact assessment.

The proposal was reviewed by the Development Review Committee on May 12, 2021 and no significant concerns were raised.

ALTERNATIVES

1. Proceed with the zoning amendment under the bylaw process.
2. Do not proceed with the zoning amendment.

ANALYSIS

Site Context

The site is located at the northeast corner of the Alaska Highway and Robert Service Way intersection. The site is surrounded by vacant land to the north and east, Ear Lake Quarry to the south, and CIM–Mixed-Use Commercial/Industrial and CH–Highway Commercial zones to the west.

Kwanlin Dün First Nation Self-Government Agreement (SGA) (2005)

According to the SGA, the subject parcel is a KDFN Type 2 settlement land which permits KDFN to exercise planning, zoning and land development powers that are:

- In accordance with the designations set out in the KDFN SGA.
- Consistent with the City's designations.
- Does not have an adverse effect on the ability of the City or the Government of Yukon to provide protective services on the parcel.

The proposed zoning aligns with the SGA industrial designation, which permits light and heavy industrial, commercial and residential uses, however the proposed zoning will prohibit the heavy industrial and residential uses on the site. The proposed zoning is also consistent with the Official Community Plan (OCP) designation and is not anticipated to create adverse effects on protective services.

Joint Declaration of Commitment (2018)

The City declared, as part of the Joint Declaration of Commitment signed between the City, KDFN, and TKC in 2018, that it will be respectful and supportive as neighbours and friends, and collaborate on outstanding issues for mutual benefit, with future generations in mind. The rezoning amendment process provides an opportunity to demonstrate that commitment.

2010 Official Community Plan (OCP)

Map 2 of the OCP recognizes the subject parcel as KDFN Type 1 & 2 land. Policy 5.1.8 provides Council may amend this map to align with the intended use but it is not required for lands governed by the Self-Governing Agreement. Amending the OCP would add approximately three months to the process.

The OCP also outlines policies for site planning and landscaping controls along the Alaska Highway. These policies are reflected in the gateway landscaping requirements of the Zoning Bylaw and are applicable during the development permit stage.

The OCP is also in the process of being updated. The OCP Emerging Directions report includes a policy direction to continue to collaborate with Kwanlin Dün First Nation to support them as they plan and develop their land. The report also encourages the intensification of underutilized land in existing employment areas. The proposed rezoning will facilitate the development of a vacant site.

Proposed Development and Zoning Approach

The current zoning of the subject parcel is FN-FP—First Nation Future Planning, which identifies First Nation land that requires further planning work to determine the appropriate zoning. This work has been completed and it has determined the PU—Public Utilities zone is the most appropriate for the proposed YEC Battery Energy Storage System (1.66 ha) and the CIM—Mixed Use Commercial/Industrial zone is desirable for the remainder of the site (9.13 ha). The subject site is in proximity to lands zoned as Public Service and other Mixed-Use Industrial/Commercial, which allows for similar and/or compatible uses to the proposed zoning.

Other City Documents

Robert Service Way Planning Study (2018)

The proposed zoning amendment aligns with the recommendations in the Robert Service Way Planning Study, which recognizes the area as a gateway for Downtown Whitehorse. It recommends the site be considered for commercial and light industrial, among other uses. Finally, the study supports the road access from the intersection of Robert Service Way and Ear Lake Road.

Commercial Industrial Land Study (2020)

The Commercial Industrial Land Study identifies a need for an additional 32 ha of mixed use commercial/industrial land by 2040. The study identified the subject parcel as a candidate site with good development potential for commercial/industrial uses.

The proposed development would add 9.13 ha of un-serviced CIM lots to the supply to help meet the short to medium term future demand for commercial/industrial lots. However, the study cautions that landowners of un-serviced lots may be reluctant to incur the costs associated with connecting to municipal services once services arrive nearby, due to their initial investment in and the continued functionality of on-site services.

The long-term intent is to provide services south along the Alaska Highway to connect to the future development area South of Copper Ridge. While developing un-serviced lots could result in underutilized land once services area available, the site could be designed to intensify when services arrive. This can be addressed through the development permit process.

Conclusion

The proposed amendment to rezone the site from FP–Future Planning to PU–Public Utility and CIM–Mixed-Use Commercial/Industrial zones aligns with the City's vision for the area, as outlined in the Official Community Plan, Emerging Directions report, the Robert Service Way Planning Study, and the Commercial Industrial Land Study. The City has identified the need for 32 ha of commercial industrial land to accommodate growth to 2040, which this rezoning amendment will help fulfill by facilitating the development of commercial industrial lots.

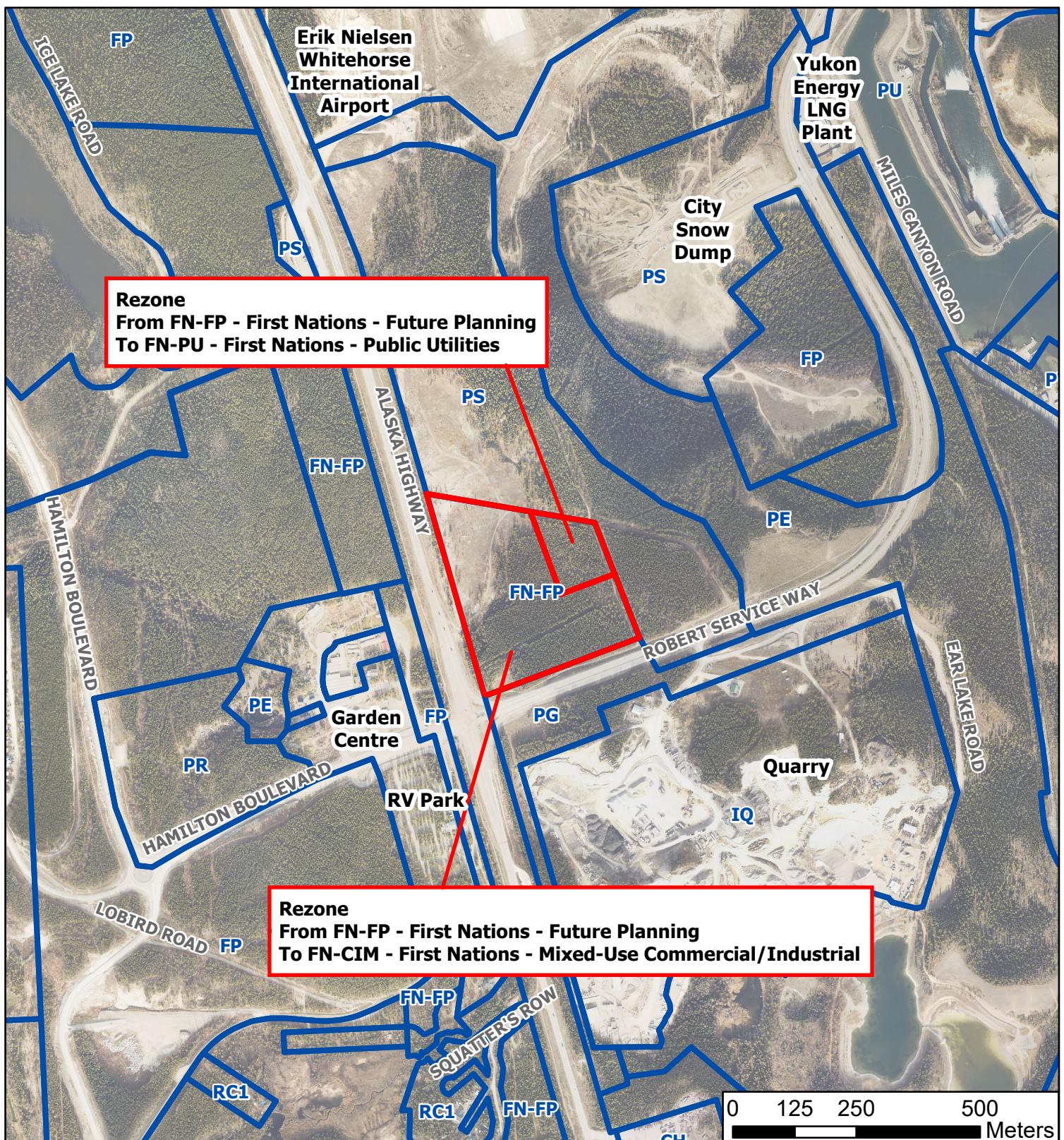
ANTICIPATED AMENDMENT SCHEDULE

The anticipated schedule for the amendment, which is subject to change, is:

Planning Committee	December 6, 2021
1 st Reading	December 13, 2021
Newspaper Ads	December 17, 2021 and January 7, 2022
Public Hearing	January 17, 2022
Report to Committee	February 7, 2022
2 nd and 3 rd Reading	February 14, 2022

ADMINISTRATIVE RECOMMENDATION

THAT Council direct that Bylaw 2021-38, a bylaw to amend the zoning of Lot 1216 on Robert Service Way to allow for public utility and commercial/industrial uses, be brought forward for consideration under the bylaw process.



DATE:
Dec 6, 2021

FILE NO:
Z-09-2021

Lot 1216

CITY OF WHITEHORSE - PLANNING AND SUSTAINABILITY SERVICES

Bylaw 2021-38

An application to amend the zoning of Lot 1216 Quad 105D/11
2010-0050 LTO YT (KDFN Settlement Land c-34B) to allow for
commercial/industrial and public utility lots.



1 Appendix B: Current and Proposed Permitted Uses

Current Permitted Uses FN-FP	Proposed Permitted Uses	
	FN-PU	FN-CIM
<p>13.2.2 Principle Uses:</p> <ul style="list-style-type: none"> a) Uses will be determined by future First Nation land policies 	<p>Until such time as Kwanlin Dün exercises zoning powers that govern this parcel, the zoning regulations of the PU zone apply.</p> <p>12.5.2 Principal Uses</p> <ul style="list-style-type: none"> a) emergency and protective services b) public utilities 	<p>Until such time as Kwanlin Dün exercises zoning powers that govern this parcel, the zoning regulations of the PU zone apply.</p> <p>10.4.2 Principal Uses</p> <ul style="list-style-type: none"> a) aircraft sales/service b) animal clinics c) animal shelters d) auctions/auction grounds e) business support services f) commercial schools g) commercial storage h) community recreation services i) custom indoor manufacturing j) eating and drinking establishments k) emergency and protective services l) equipment sales/rentals, heavy m) fabrication shops n) fleet services o) gas bars p) garden centres q) general contractor services r) health services s) household repair services t) indoor participant recreation services u) industrial, salvage v) kennels w) manufacturing x) mobile catering food services

		y) offices (above the ground floor) z) outdoor recreation equipment rentals/sales aa) pet clinics bb) processing, light cc) retail services, convenience dd) retail services, restricted ee) vehicle sales and service ff) warehouse sales
11.1.3 Secondary Uses a) accessory building/structure b) eating and drinking establishments c) fleet services d) institutional services	12.5.3 Secondary Uses a) accessory building/structure b) caretaker residence	10.4.3 Secondary Uses a) accessory building/structure b) caretaker residence c) outdoor storage d) retail services, general
11.1.4 Conditional Uses a) Land treatment facilities	12.5.4 Conditional Uses a) land treatment facilities b) outdoor participant recreation services	10.4.4 Conditional Uses a) bulk fuel depots b) caretaker residence, 121 to 297m ² c) offices on the ground floor or more than 50% of the gross floor area of the building.

CITY OF WHITEHORSE

BYLAW 2021-38

A bylaw to amend Zoning Bylaw 2012-20

WHEREAS section 289 of the *Municipal Act* provides that a zoning bylaw may prohibit, regulate and control the use and development of land and buildings in a municipality; and

WHEREAS section 294 of the *Municipal Act* provides for amendment of the Zoning Bylaw; and

WHEREAS it is deemed desirable that the City of Whitehorse Zoning Bylaw be amended to allow for the development of public utility and commercial/industrial lots on Kwanlin Dün First Nation Settlement Land at the northeast quadrant of Robert Service Way and Alaska Highway;

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lot 1216 Quad 105D/11 Plan 2010-0050 LTO YT (KDFN C-34B), located at the northeast quadrant of Robert Service Way and Alaska Highway, from FN-FP – First Nation – Future Planning to:
 - (1) FN-PU – First Nation – Public Utilities for 1.66 ha of the northeast corner of the lot, with the southern boundary running parallel to the southern lot line at a distance of ±136 m north of the southern lot line, and the western boundary running parallel to the east lot line at a distance of ±116 m from the eastern property line, as indicated on Attachment 1 and forming part of this bylaw; and,
 - (2) FN-CIM – First Nation – Mixed Use Commercial/Industrial for the remainder of the lot, as indicated on Attachment 1 and forming part of this bylaw.
2. This bylaw shall come into force and effect upon the final passing thereof.

FIRST READING:

PUBLIC NOTICE:

PUBLIC HEARING:

SECOND READING:

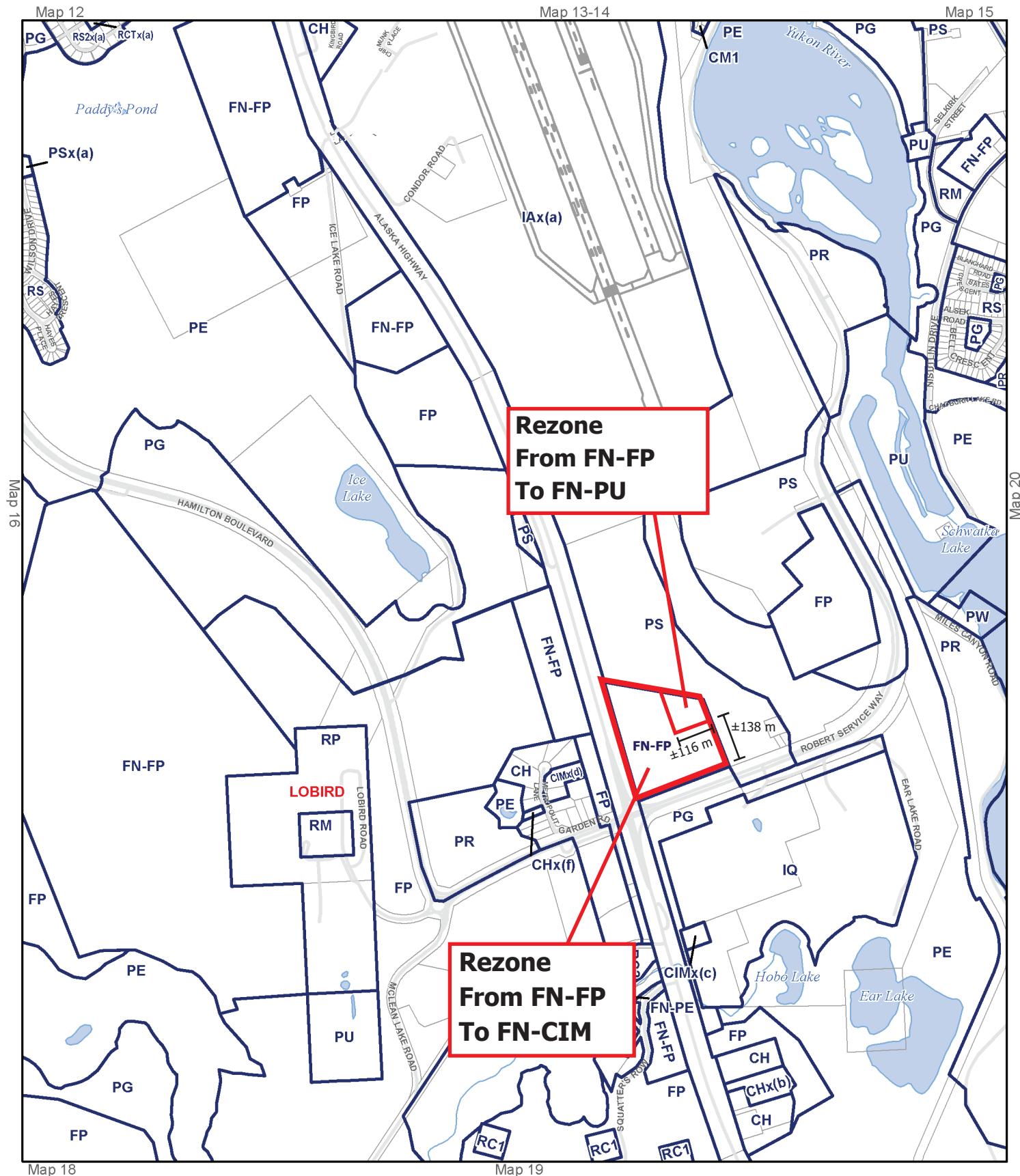
THIRD READING and ADOPTION:

Mayor

City Clerk

MAP 17

AIRPORT, LOBIRD
ROBERT SERVICE WAY



Where a letter appears in brackets following a zoning designation, e.g. RSx(a), the letter corresponds to the 'special restrictions' subsection for that zone.



8

U

725

Consolidation date:
October 6, 2020

Projection: NAD 1983 UTM Zone 8