

ADMINISTRATIVE REPORT

TO:	Planning Committee
FROM:	Administration
DATE:	July 6, 2020
RE:	Public Hearing Report Follow-Up – OCP Amendment (Tank Farm)

ISSUE

A report on questions raised by Council regarding the public hearing report for an amendment to the Official Community Plan (OCP) to allow for commercial and industrial development on a portion of the Tank Farm site adjacent to Wasson Place.

REFERENCE

Municipal Act
Zoning Bylaw 2012-20

2010 Official Community Plan
Bylaw 2020-10 and Appendix A

HISTORY

In 2019, 3 Pikas, acting on behalf of the owner of the Tank Farm site, applied to amend the land use designation of a portion of the site from Residential–Urban to Mixed-Use–Industrial/Commercial to facilitate a first phase of development of the Tank Farm site.

The subject area (Phase 1), is a 7.3-hectare portion of the Tank Farm site, located in the southeast corner of the lot, adjacent to lots on Wasson Place. Phase 1 is already cleared and mostly free of organics due to extensive excavation work from remediation. The majority of the area is not currently suitable for development as there are deep depressions created through the remediation process. Development at the current grade would require substantial fill to be hauled on-site.

A portion of Phase 1 is at the same grade as lots located on Wasson Place. However, due to steep grades on the western portion of the subject area, the proponent expects that an additional 750,000 cubic metres of material will need to be relocated prior to development. This material would be moved to another area of the Tank Farm site and stockpiled for use in future phases (e.g. road construction). The timeframe for the relocation of the material would be relatively short (approximately 3-4 months). Movement of material would be through pushing and scraping using heavy equipment. It would not be loaded on trucks and hauled. Once the excess material has been relocated, the proposal is to develop approximately 13 fully serviced commercial/industrial lots accessed from an extension of Wasson Place.

There would also be a significant grade change of approximately 12 m between proposed Phase 1 and the future residential area, which would help to mitigate any impacts resulting from a change in land use.

A public hearing was held on April 27, 2020. A report on the public hearing was presented on June 1, 2020. At that time, Council had several questions pertaining to the amendment which required further information from the proponent. These questions were related to how

long the regrading of Phase 1 would take, what type of machinery would be used, and how big of stockpile it would create elsewhere on the site. Additionally, Administration had become aware of a discrepancy between the proponent's proposal and public hearing submission related to hauling of material off-site. The proponent had stated that no hauling would occur, but then was found to be hauling material.

Per the recommendation in the report, Council referred the amendment back to Administration for further review. Administration has worked with the proponent to get further information regarding Council's questions and is now bringing this issue back to Council for consideration.

ALTERNATIVES

1. Proceed with second reading under the bylaw process.
2. Amend the bylaw at second reading to address public concerns.
3. Hold a second public hearing before proceeding to second reading
4. Do not proceed with second reading.

ANALYSIS

Time Frame for Regrading Activities

The proponent has stated that current estimates for the regrading process would be approximately 140 days and is feasible based on best available information at this stage of conceptual design, completed by their engineering team. The original proposal submitted as part of this OCP amendment had stated that the work could be completed in 60 days.

According to the proponent, the increase in timeline for regrading is a result of the delays in processing the amendments and obtaining the required permitting, pushing the original intended start date of the project back from early summer to late fall / early winter. As a result, the work is now likely to occur in cold weather, which can pose a number of challenges and affect timelines. Additionally, essential work equipment and resources have now been committed to other projects and are no longer available for work at the Tank Farm. According to the proponent, the estimated length of the regrading process is presented as a 'worst-case' scenario and assumes additional delays.

Equipment Proposed for Regrading Activities

According to the proponent, the equipment needed for the regrading process would include:

- 631 scrapers (three to five);
- D10 bulldozers (three to five);
- D9 stockpile dozer;
- grader (road maintenance); and
- water truck (dust control).

The materials would be moved to the stockpile area using an onsite haul road, which was authorized by Government of Yukon, Standards and Approvals Branch on March 31, 2020.

Location and Size of Stockpile

According to the proponent, the stockpile area created from the regrading process would be approximately seven hectares in size and located approximately 180 m north of Phase 1 and 380 m east of Hamilton Boulevard. This location represents roughly 13% of the total Tank Farm area (56 ha). The proponent estimates that the pile would be approximately 8 m tall, 200 m in width, and 400 m in length. This location is at a similar elevation as Hamilton Boulevard.

It should be noted that while the stockpile would generally be the same volume of material that will be relocated from the Phase 1 area, it will not be the same size. The stockpile area will be wider and longer than the excavation area, which will keep the height lower (approximate 4 m difference).

The proponent intends for the stockpile to be temporary and to be used for site development for Phase 1 and Future Phases (lot grading, fill of existing excavations, surface drainage, pipe/road bedding, road access, concrete, asphalt).

Review of Off-Site Hauling Activities

In their public hearing submission, the proponent stated that no off-site hauling would occur as part of the regrading process and that they intended to stockpile material on-site only. However, following the public hearing, the proponent started hauling granular material from the site. This hauling was done without authorization from the City. A Notice of Violation was issued on May 22 and an Order was issued on June 1. Hauling ceased May 24; no activity has been observed since that date and only two pieces of equipment remain on-site.

The proponent has stated that as part of the remediation process, any aggregates produced and stockpiled could be removed from the site. According to the proponent, the hauling was to reduce existing stockpiles of material remaining from the remediation process. Prior to the material being removed from the site, it was processed and thoroughly tested through screening, crushing, and sorting to remediate and repurpose contaminated material into a useable product.

The proponent has stated that the material was transformed from an environmental hazard to a useable product that could be used to construct infrastructure in Whitehorse and the surrounding areas. This process facilitated remediation of the contaminated soil and eliminated risks associated with the Tank Farm site. Materials that were produced or processed during remediation have mostly been removed from the site at this point.

As the remediation process is finalized and the existing land treatment facility is decommissioned, some additional contaminated material may need to be removed from the site to a waste facility. The proponent has also expressed interest in removing small remaining stockpiles of material created from the remediation process. Any hauling of material from the site related to the regrading process would be only permitted under a valid development permit authorized through the City.

The overall goal of remediation is to enable future development. The proponent's stated intention is to work with the City to develop the Tank Farm to its full potential. A developed neighbourhood in this location would have multiple benefits (more housing, more residents

within existing infrastructure footprint, new amenities, potential for better transportation connections, etc).

There was a question whether the unauthorized hauling from this site had a material impact on the application, which was part of the reason for postponing second reading of this bylaw. While some material was removed from the application area, it was already highly disturbed and unsuitable for residential development and there has been no substantial change to this application as a result. From a planning perspective, the change in designation to allow commercial/industrial development within the subject area is the best use of land.

Impact of Potential Land Swap

As part of the public hearing, a potential land swap between the City and the proponent was discussed. This land swap would trade the current City-owned buffer along Wasson Place for land along the proposed top of escarpment that would become more functional greenspace. It is important to note that the areas being considered in this exchange would need some analysis to ensure public benefit is retained. The flat area adjacent to Wasson Place is significantly more valuable than the escarpment area, so the parcels being exchanged may not be the same size or configuration, but based on value.

Per review by the proponent, this potential land swap would also reduce the volume of material proposed for regrading by approximately 100,000 m³ and reduce the on-site hauling activity and associated impacts by approximately 20 days.

The City could pursue this idea further with the applicant as part of a future zoning amendment application that would not offend the OCP designation per Policy 5.1.1, which states that OCP designation boundaries should be interpreted based on compatibility of intended uses and not detailed mapping features, such as lot lines.

Next Steps

Administration remains of the view that from a planning perspective, the OCP amendment proposal is sound and is the best land use designation for the subject area. However, any future zoning amendment or development agreement through subdivision should include regulations to mitigate concerns raised by the public. This could include:

- regulating the volume of material being relocated;
- restricting any material from being hauled off-site;
- limiting on-site processing of material;
- regulated hours of operation; and
- restricting uses allowed in the proposed Mixed-Use – Industrial/Commercial area, e.g. to match restrictions currently applied in the Wasson Place/Burns Road area.

OCP policies 8.4.4 and 8.4.5 discuss the activities and requirements related to remediation of the Tank Farm. Now that the remediation work is substantially completed, these two policies could be removed from the OCP.

It is also recommended that OCP policy 10.7.9 be amended as part of this bylaw. This policy currently establishes the Tank Farm area a Direct Control District, pursuant to Section 291 of the *Municipal Act*. This allows Council to directly control the use and development of land buildings within the area. This policy also refers to remediation work, which is now out of date as the site has been cleaned to a residential standard.

Finally, as additional information has been provided regarding the regrading process, amendments to the bylaw, and conflicting information from the applicant, Council may choose to hold a second public hearing to ensure that citizens can review this information and provide their input. Any new public hearing would be subject to the requirements of the *Municipal Act*, including advertising and mail-outs, as well as notification to the Minister.

ADMINISTRATIVE RECOMMENDATION

THAT Council direct that Bylaw 2020-10, a bylaw to amend the Official Community Plan designation of a portion of the Tank Farm site from Residential–Urban to Mixed-Use–Industrial/Commercial be amended prior to second reading to:

1. Delete Policies 8.4.4 and 8.4.5, relating to the remediation of the Tank Farm property, from the Official Community Plan; and
2. Include a clause to amend Policy 10.7.9 of the Official Community Plan to read as follows:

“10.7.9 The White Pass Tank Farm near Valleyview is established as a Direct Control District, pursuant to Section 291 of the *Municipal Act*. This will allow Council to directly control the use and development of the land and buildings within the area. As part of the development of this site the following development restrictions are applied to Lot 429, Group 804, Plan 26170 LTO, or any future lots subdivided from Lot 429:

- a) Granular material may be relocated from one area of the site to another, but no material may be removed from the site, unless authorized through a future amendment to the Zoning Bylaw and/or a Development Agreement;
- b) No processing of material, such as washing or crushing, shall be undertaken on-site, unless authorized through a future amendment to the Zoning Bylaw and a Development Agreement; and
- c) Detailed plans for material management and/or relocation of material within the Tank Farm property shall be authorized through a future amendment to the Zoning Bylaw and a Development Agreement.”

AND FURTHER THAT Council direct that a second public hearing be held prior to second reading of Bylaw 2020-10 as amended.