

## **ADMINISTRATIVE REPORT**

<b>TO:</b> Planning Committee
<b>FROM:</b> Administration
<b>DATE:</b> April 6, 2021
<b>RE:</b> Public Hearing Report – Zoning Bylaw Amendment – 107 Range Road

### **ISSUE**

Public hearing report on application to amend the zoning of Lot 1304 QUAD 105D/11, Plan 2019-0030 LTO (107 Range Road) to permit an eating and drinking establishment including a drive-through component as a principal use.

### **REFERENCES**

Municipal Act (2002)	Downtown Retail Strategy (2006)
Official Community Plan (2010)	Transportation Demand Management Plan (2014)
Zoning Bylaw 2012-20	Downtown Retail and Entertainment Strategy
Bylaw 2021-13 (Proposed)	2016 – 2025 (2016)
Draft Appendix A – Bylaw 2021-13	Whitehorse Sustainability Plan (2015) Commercial and Industrial Lands Study (2020)

### **HISTORY**

The City has received an application to amend the zoning of 107 Range Road. The developer is planning to build a restaurant with a drive-through component. The current zoning is CHx(c)–Highway Commercial (modified), which permits eating and drinking establishments, but not with a drive-through component.

A Public Hearing was held on March 22, 2021. Due to the COVID-19 pandemic, Council Chambers were closed to the public. However, members of the public could call-in or provide written submissions. A total of 27 submissions were received.

Community input was also accepted through email and posted to the City website. 21 written submissions and two verbal submissions were received, with 14 in support, 11 opposed and one expressing concern.

Two petitions of support were received with more than 2,200 signatures, many of which were duplicates or from non-residents. Some petitions were not on topic, meaning that they asked for support for a particular tenant rather than for the proposed zoning amendment.

Comments of opposition or concern fell into the following categories:

- Contradiction with City plans, policies and objectives.
- Encouraging highway-commercial development.
- Unforeseen impacts related to drive-throughs.
- Timing of Official Community Plan update.

Comments of support fell into the following categories:

- Access to eating and drinking establishments for nearby residents and workers.
- Additional services for people travelling along the Alaska Highway without having to stop in Downtown Whitehorse.
- Reduction of traffic congestion in Downtown and Riverdale.
- Unrelated commentary referring to a potential tenant.

Administration has summarised the key themes within this report and included further analysis within Appendix A.

## **ALTERNATIVES**

1. Proceed to second and third reading under the bylaw process.
2. Proceed to second reading and defeat the bylaw.

## **ANALYSIS**

### **Contradiction with City objectives and policies**

Almost all respondents who were opposed to the application were concerned that the drive-through establishment proposal runs contrary to the Council approved Sustainability Plan, Official Community Plan (OCP) and/or Council's commitment to the City of Whitehorse Declaration of a Climate Change Emergency.

### **Sustainability Plan and Climate Emergency Declaration**

Almost all respondents in opposition to the proposed change in land-use stated that this application is contrary to the goals and objectives of the Sustainability Plan and Council's declaration of a Climate Emergency. Further, they stated that this proposal is contrary to the objectives and may compromise the community's ability to meet the Sustainability Plan's targets to decrease single-occupant vehicle trips by 25% by 2030 and increase the sustainable mode-share of all trips by 48% and reduce Greenhouse Gas emissions.

*Administrative response:* The Sustainability Plan targets mentioned were carried forward from the City's Transportation Demand Management Plan. The connection to the application is that land-use decisions have a direct impact on the transportation choices of the people who access them. The proposal land use would cater to vehicular transportation.

In general, across Canada, brands, chains, and franchises dominate the Quick Service Retail (QSR) "drive-through" landscape along high-traffic areas (major highways and commuter routes). QSR drive-throughs offer convenience and familiarity and draw two-thirds of total restaurant traffic. As such, the proposed is contrary to the goals and objectives of the Sustainability Plan.

In 2019, Council passed a resolution declaring a Climate Change Emergency for the purpose of enhancing and accelerating action on the City's commitment to protect our community, economy and ecosystems from the impacts of climate change as we advance strategic objectives. Land use decisions, such as the proposed change in use, which encourage greenhouse gas emissions by prioritizing personal convenience over more strategic land use decisions are in contradiction to the efforts of accelerating the City's actions against climate change.

## **Official Community Plan**

One respondent pointed out that the Official Community Plan (OCP) includes a principle to consider development decisions amongst infrastructure, energy use and transportation considerations and locate essential services and commercial opportunities in the downtown.

*Administrative response:* The intent of the OCP is to encourage smaller-scale commercial activity downtown and in strategic neighbourhood locations, rather than along the Alaska Highway. The proposal risks encouraging new small-scale commercial activity in place of other large-scale uses that require a large site. However, the OCP also includes a policy that permits commercial uses on the subject site, although it specifies that sites like this are intended for larger commercial formats that require extensive outdoor storage that have an operational requirement to be located on the main transportation corridor.

### Encouraging highway-commercial (CH) development

The second most frequent concern raised over this application was related to encouraging new highway-oriented commercial development along the Alaska Highway. References were made to other communities with highway-oriented developments across the country that saw direct consequences to their downtowns as a result. Some respondents were concerned that approving this change of use would set a precedent that could encourage similar developments of other CH-zoned lots. In addition to this, one respondent believes that a statement by a member of council at a previous council meeting that suggested that Whitehorse's downtown core is "outgrowing itself", was an exaggeration.

*Administrative response:* In addition to a large number of underutilized lots throughout the downtown, there are at least six vacant sites that permit the proposed use without the need for a zoning amendment. If permitted, and an eating and drinking establishment with a drive-through component proves successful along the Alaska Highway, it may encourage competing QSR establishments to follow suit and relocate from Downtown to take advantage of commercial-highway zoned lots without the same constraints that occur Downtown. As demonstrated in the Commercial and Industrial Land study, market demand for serviced lots that are suited to large-scale operations are in high demand, and this land is in short supply. The proposal may further exacerbate existing land shortages identified in the Commercial and Industrial Land study.

### Unforeseen impacts related to drive-throughs

## **Health**

The impact that drive-through establishments have on health was also raised as a concern by a number of respondents.

*Administrative response:* The Sustainability Plan includes a goal to achieve a safe and healthy community, including a target to decrease the percentage of population with chronic illnesses by 2050. The City can influence food-based businesses and activities, but has little influence over production, regulation, and consumption. The City can however promote health by encouraging active transportation over more sedentary modes such as driving, and getting out of their vehicles to get their food.

## **Litter**

Four respondents raised concern with the frequency of litter generated by QSR as witnessed during highway litter clean-up projects.

*Administrative response:* The adoption of zoning bylaws to ban fast-food drive-throughs across Canadian municipalities suggests that litter is of concern from fast food drive-throughs.

## **Safety Concerns**

A submission raised safety concerns, where permitting a drive-through along the Alaska Highway route for the convenience of travellers who wish to continue their journey without stopping, would encourage drivers to risk becoming distracted/careless while driving at highway speeds.

*Administrative response:* The Canadian Council of Motor Transport Administrators and Royal Canadian Mounted Police suggest that eating and drinking while driving could lead to distracted driving. This is of particular concern when considering that drivers will be distracted crossing the new multi-use path when exiting and/or while driving on the highway would increase the severity and risk of consequences when travelling at highway speeds.

### Timing of the Official Community Plan Update

Some respondents expressed concern with the timing of the application concurrent to a process which is comprehensively reviewing land uses.

*Administrative response:* The Whitehorse 2040 OCP process is underway and through this process, OCP policies will be reviewed to provide further clarity on the objectives for this area, with subsequent updates to the zoning bylaw to align with the intent of the OCP.

During the Whitehorse 2040 process, Administration heard from 850 community respondents, of which 81% supported seeing stores/restaurants located within walking distance of their home. This proposal is not within walking distance of resident's homes.

However, the timing of the adoption of the new OCP and subsequent zoning is unknown.

### Additional services for people travelling along the Alaska Highway without having to stop in Whitehorse

Two respondents stated their support to permit a drive-through along the Alaska Highway that serve people travelling along the highway that do not wish to stop in Whitehorse.

*Administrative response:* Although the addition of a drive-through component could increase the convenience for some travellers passing through Whitehorse, a drive-through would not be beneficial to all types of vehicles. Due to the physical constraints of a drive-through, operators of large vehicles such as goods movement vehicles and recreation vehicles would be required to park their vehicle and walk-in.

### Support to encourage more businesses out of the downtown to the highway to reduce traffic congestion in Downtown and Riverdale.

Some submissions expressed that relocating businesses to the highway would help reduce traffic congestion Downtown, and in other areas such as Riverdale.

*Administrative response:* While there may be less in-flow of traffic to Downtown, the opposite may be true with more day-workers driving out of Downtown and then back into Downtown to access a business on the highway. Traffic impacts on Riverdale would be negligible; the flow of traffic would be the same if a person was driving to the appropriately zoned area in Downtown or to the proposed location on Range Road along the highway.

Unrelated commentary referring to a potential tenant

Some submissions expressed support for a potential commercial tenant.

*Administrative response:* The tenancy of a proposed change in use cannot be a point of consideration for a zoning amendment. Per the Zoning Bylaw, the review of a rezoning application should be based on the full development potential of the uses and development regulations specified in the proposed zone and not on the merits of any particular development proposal - such as a potential commercial tenant. Showing preference to a particular commercial tenant in a zoning review could be perceived as unfair and discriminatory. Moreover, commercial tenants are subject to change, while the impact of a zoning change is in effect as long as the development remains.

Summary

In conclusion, the proposed use is not in line with the intent and objectives of the OCP, Sustainability Plan, Transportation Demand Management Plan and the Downtown Retail and Entertainment Strategy.

The proposed change in zoning may encourage small-scale commercial uses on a large commercial lot which is in short supply. It may also result in more people driving to use the establishment than an eating and drinking establishment without a drive-through. The Whitehorse 2040 OCP process is underway. Through this process, the OCP policies will be reviewed with respect to the impacts of land use changes with the objective of providing further policy clarity. Subsequently, the zoning bylaw will be updated to align with the intent of the OCP.

**ADMINISTRATIVE RECOMMENDATION**

THAT Council direct that Bylaw 2021-13, a bylaw to amend the zoning at 107 Range Road to permit eating and drinking establishments including a drive-through component, be brought forward to second reading and defeated.

## Appendix A

### Health

In general, across Canada, brands, chains, and franchises dominate the Quick Service Retail (QSR) “drive-through” landscape which suggests a high likelihood for a major food chain to operate within an establishment with a drive-through than an establishment without. Fast-food drive-through services provide a convenient and easily accessible way for individuals to purchase and consume foods without exiting their vehicle, also contributing to physical inactivity and distracted driving.

In recent years, municipalities across North America have implemented zoning bans on drive-through facilities. While a number of jurisdictions have done so with the goal of fostering healthier food environments, and in many cases, the rationale for policy adoption extends beyond health. The most commonly proposed reasons for such policies included: promoting health, maintaining visual appeal of the community, addressing noise, safety and traffic concerns, protecting local economy, environmental considerations, addressing noise concerns, and enhancing community walkability. It also stated that some intentions for the bans aimed to *“improve urban design and promote downtown centres; promote sustainability and sustainable development; reduce odour and litter”*.

### Safety

The Canadian Council of Motor Transport Administrators published a Distracted Driving White Paper in 2018. The definition of distracted driving is:

*“When a driver’s attention is diverted from the driving task by secondary activities (e.g., eating, talking to passengers, talking or texting on electronic communication devices (ECDs) such as cell phones and smartphones)”*.

The Royal Canadian Mounted Police (RCMP) website also includes eating or drinking as a listed example of distracted driving. The RCMP state that distracted driving can lead to *“reduced reaction times, impaired judgment and injuring or killing yourself, your passengers and/or other people.”* RCMP suggest that people avoid eating and drinking while driving.

Inattentive/distracted driving was the most commonly reported contributing factor to Motor Vehicle Collisions in Yukon between 2011 and 2017 and also resulted in some of the most severe injuries. While not every instance of eating and drinking while driving results in a consequence, it could impede reaction times. Distracted driving would be of particular concern with the multi-use path being located at the exit of the site, and that reduced reaction times increase the severity and risk of consequences when travelling at highway speeds.

**CITY OF WHITEHORSE**  
**DEVELOPMENT SERVICES COMMITTEE**  
Council Chambers, City Hall



**Chair:** Jocelyn Curteanu

**Vice-Chair:** Stephen Roddick

April 6, 2021

Meeting #2021-07

---

1. New Business