

CITY OF WHITEHORSE – STANDING COMMITTEES

Monday, July 5, 2021 – 5:30 p.m.

Council Chambers, City Hall

CALL TO ORDER

ADOPTION OF AGENDA

PROCLAMATIONS

DELEGATE SUBMISSIONS

DEVELOPMENT SERVICES COMMITTEE

1. Public Input Report – Infrastructure Reconstruction and Local Improvement Policy
2. New Business

CORPORATE SERVICES COMMITTEE

1. Budget Amendment and Land Acquisition – 7720-7th Avenue
2. Semi-annual Procurement Report (January to June) – For Information Only
3. Upcoming Procurements (July and August) – For Information Only
4. New Business

CITY PLANNING COMMITTEE

1. Zoning Amendment and Land Exchange Agreement – Tank Farm Phase 1
2. New Business

CITY OPERATIONS COMMITTEE

1. New Business

COMMUNITY SERVICES COMMITTEE

1. New Business

PUBLIC HEALTH AND SAFETY COMMITTEE

1. New Business

CITY OF WHITEHORSE
DEVELOPMENT SERVICES COMMITTEE
Council Chambers, City Hall



Chair: Jocelyn Curteanu

Vice-Chair: Stephen Roddick

July 5, 2021

Meeting #2021-13

-
1. Public Input Report – Infrastructure Reconstruction & Local Improvement Policy
Presented by Director Mike Gau
 2. New Business

ADMINISTRATIVE REPORT

TO:	Development Service Committee
FROM:	Administration
DATE:	July 5, 2021
RE:	Public Input Report - Infrastructure Reconstruction & Local Improvement Policy

ISSUE

Report on public input received on policy changes proposed to modernize and affirm the City's approach to funding and carrying out neighborhood infrastructure renewal projects.

REFERENCE

- *Municipal Act*
- L.I.C. Rules Bylaw (2011-21)
- Infrastructure Reconstruction and Local Improvement Policy (Proposed)
- Frequently Asked Questions
- Local Improvement Policy (2011)
- 2021-2024 Capital Expenditure Program

HISTORY

As part of the City's infrastructure renewal program, the City replaces water, sewer and road infrastructure in neighbourhoods throughout the municipality using a funding arrangement following the Local Improvement Policy (the policy). The policy aims to apportion costs between the public and benefitting property owners where it is deemed that property owners receive a greater benefit than the general public. This process results in a portion of the surface work being paid for by benefitting property owners as a Local Improvement Charge (LIC). This charge is based on a standard rate for surface work for a similar improvement and apportioned by the frontage length of property, as laid out in the L.I.C. Rules Bylaw. The *Municipal Act* provides for stopping the process if the majority of affected property owners object.

Administration has drafted a new policy to address funding allocations according to the location of improvements and reclassify projects to provide clarity, streamline process and ensure taxpayer dollars are not used on private properties.

The proposed new policy is based on the governance and fiscal management principle that public funds will be used for public improvement projects, and private property owners are responsible for improvements and upgrades for the benefit of their own properties. The proposed policy reflects an approach which is common across Canada and is consistent with the framework of the Yukon's *Municipal Act*.

At the May 23, 2021 Council directed Administration to release the proposed Infrastructure Reconstruction and Local Improvement Policy to the public and carry out a public engagement process that included an online webinar and public input period ending June 14, 2021. Administration was also directed to report back to Standing Committee on July 5, 2021 to address the input received through the public engagement process.

The information webinar was advertised in social media and in local newspapers. Direct notification was sent to the Downtown Resident's Association and the Hillcrest Community Association. Ten residents participated in the webinar. Following the webinar, the recorded

video was watched 22 times and the project page viewed 142 times up until the cut-off for comments on June 14.

Ten submissions were received, of which eight asked questions about the reconstruction process and specific questions related to their own property. Two submissions expressed support for the policy and one expressed concern.

ALTERNATIVES

1. Approve the Infrastructure Reconstruction and Local Improvement Policy as presented.
2. Refer the proposed policy back to Administration.

ANALYSIS

Questions received

Most of the input received were questions regarding estimated costs for infrastructure replacement on private property. These were answered directly to the property owners.

Answers to “Frequently Asked Questions” have been developed and are posted on the project webpage for information (www.whitehorse.ca/departments/engineering-services/local-improvement-projects/local-improvement-policy-update).

Additionally, Administration has compiled a list of all of the specific questions received, along with answers provided for internal reference, tracking and follow-up.

Support for Proposed Policy

Two submissions expressed support for the policy with comments stating that the policy provided clarity, fairness, and that the opt-in/opt-out option was good. One submission felt that policy made sense and will allow projects to be completed in a timely fashion.

Along with supporting comments, it was suggested that property owners be provided with an estimate of what the costs would be to opt-in, including the cost of the infrastructure loan with interest, as well as a comparison of the costs for the property owner to do the work themselves at a later date. It was suggested that with this information, property owners may realize it is more affordable to opt-in than to do the work themselves later.

Administration is providing high level estimates to residents based on recent construction costs as well as a cursory review of the level of effort to restore a property after construction, based on landscape features and size of property. During the consultation process, if owners express interest in opting-in, their infrastructure work will be included in the detailed design for the overall project to further refine cost estimate. This will help with the property owner’s decision to commit to the loan through an infrastructure loan agreement.

Concerns raised

Fairness to past LIC payers

One resident raised concern about the fairness to past LIC payers by changing the past practice where benefitting property owners would pay for a portion of the surface works on public land and the City would pay for the work on the private property side. Further, it was suggested that the arrangement was reluctantly accepted by owners as a deal that would apply to everyone.

The funding arrangements for local improvement projects has changed a number of times over the years and this would be another instance. One reason for the change in policy is that up until recently the City had used public funds to pay for infrastructure on private property as part of local improvement projects. On principle, the City disagrees with the practice of using public funds to pay for infrastructure on private property as it enriches private property owners with public money. The new policy establishes that instead of paying for an LIC, they are instead responsible for the costs on their own property. In many instances, these costs are expected to be similar, depending on specific lot circumstances.

Need for Discretionary LICs

One submission questioned if discretionary LICs would ever be successful as optional improvements are often done by property owners themselves.

Discretionary LICs are proposed for “nice to haves” such as paving rear lanes, decorative lights, and boulevard landscaping, rather than the basic essential infrastructure now proposed as Infrastructure Reconstruction Projects. Interest in Discretionary LICs is proposed to be initiated through an expression of interest process. Once enough residents formally express support for a project, the City budget and design would be advanced for consideration. Therefore, these projects don’t begin until support is already demonstrated.

Temporary solution

The concern was raised that this policy may change again in the future should external funding not be available. Research during policy development found that other options could include increased taxes or neighbourhood specific levies, and it is noted that the proposed new policy is based on the current funding context, which includes external funding sources. Administration will review options for alternative funding sources should the external funding sources no longer be available.

Lack of criteria to determine type of project

One concern raised was the lack of criteria to determine if a project is an infrastructure reconstruction project or a discretionary LIC.

In the past, the argument has been made by the City that full replacement of roads and sewer and water lines has a greater benefit to the adjacent property owners due to streetscape road improvements, while the general population benefits from a highly functional network with lower maintenance costs. The new policy considers this benefit to be marginal in comparison to the benefit to the general public, and is primarily considered the replacement of a City-owned asset providing basic essential services. Discretionary LICs as proposed in the policy clearly benefit adjacent property owners to a much greater extent than the general public, and therefore better meet the intent of the *Municipal Act* provisions for LICs.

Recirculation pumps no longer a priority

One question that was raised was if recirculation pumps were still a priority of the City.

One of the benefits of past local improvement projects was that it helped to eliminate bleeders that wasted treated drinking water for frost protection, replacing them with recirculating pumps. To prevent the freezing of waterlines, bleeders rely on the flow of water that is discharged into the sanitary sewer system, whereas recirculating systems

keep water moving by returning the water back into the system, thereby preventing wasted water. While this replacement is still considered beneficial, it is deemed more beneficial to carry out infrastructure replacement in a timely manner and no longer use the LIC objection notice process. Recirculation systems will be required per the Utility Bylaw when redevelopment of a property occurs.

Few people are likely to opt-in

A concern was raised that few people will opt-in to a reconstruction loan program and complete the work on the private-side if they are required to pay for it instead of the City.

This concern may be the case for some people looking not to spend any money, but the City has highlighted a number of benefits of opting-in. This includes 1) the City would hire and manage the infrastructure contractor, 2) the disturbance to the street and their property would happen only once, 3) owners would benefit from cost savings anticipated from contractors being mobilized nearby for the City work, and 4) owners would avoid paying for repair later without the benefit of a favourable loan from the City. City Engineers will be providing information during design processes to inform the property owners of the anticipated costs for the private side work to help in their decision making.

Public process on Infrastructure Reconstruction Projects

One concern that was raised was regarding the public involvement in the redesign for infrastructure reconstruction projects in the proposed absence of the LIC objection notice.

Infrastructure Reconstruction projects will have public consultation and input from property owners taken into consideration during the design process. However, because property owners are not sharing the cost of reconstruction of the roadway and other public property, there will not be the objection process to determine whether the project proceeds or not. Council will be able to hear from delegates and consider submissions when the design is brought forward for approval as well as when the capital budget is approved.

ADMINISTRATIVE RECOMMENDATION

THAT Council approve the proposed Infrastructure Reconstruction and Local Improvement Policy.

CITY OF WHITEHORSE
CORPORATE SERVICES COMMITTEE
Council Chambers, City Hall



Chair: Stephen Roddick **Vice-Chair:** Jocelyn Curteanu

July 5, 2021

Meeting #2021-13

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1. Budget Amendment and Land Acquisition (7720 – 7th Avenue)
Presented by Manager Pat Ross
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Presented by Acting Manager Brittany Dixon
 3. Upcoming Procurements (July and August) – For Information Only
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ADMINISTRATIVE REPORT

TO:	Corporate Services Committee
FROM:	Administration
DATE:	July 5, 2021
RE:	Budget Amendment and Land Acquisition – 7220 7 th Avenue

ISSUE

To acquire title to Lot 6, Block 145, Plan 20148 LTO, Whitehorse, YT (7220 7th Avenue) lying within the Downtown Escarpment Control Zone area, and amend the 2021-2024 Capital Expenditure Program to allocate funds from City Reserves.

REFERENCE

- Official Community Plan (OCP)
- Zoning By-law 2012-20
- By-law 2021-37
- Appendix 'A'
- Location Sketch
- Downtown Escarpment Land Use Policy
- Escarpment Land Acquisition Program
- Signed Land Sale Agreement
- Appraisal dated October 15, 2019
- 2021-2024 Capital Expenditure Program

HISTORY

The Escarpment Land Acquisition Program came about in the early 1970s as a result of drainage and erosion problems as well as concerns over the risk of potential mudslides onto properties located at the foot of the downtown escarpment. A total of 80 properties were identified for acquisition by the City under this program, using fair market value as the acquisition price.

All but ten of the identified properties had been acquired by the City by 1984. Between 1984 and 1986, the City acquired six more properties. The most recent acquisitions were 812 Wheeler Street and 804 Strickland Street, concluded in 1999 and 2009, respectively. Currently, two titled properties remain in private ownership within the escarpment area, along with one Life Estate Lease administered by the Yukon government which expires in 2021.

The property comprising Lot 6, Block 145, Plan 20148 LTO is located within the escarpment area. The owner passed away in February 2019, and Administration has negotiated with the executor of the estate for the purchase of the property. A tentative agreement to purchase the property for the sum of \$333,000 was brought forward to Council for consideration on March 23, 2020. At the regular meeting held on March 30, 2020, following discussion that included concerns regarding the proposed price of the acquisition, Council referred the proposed acquisition by-law back to Administration for further review and negotiation with the estate's executor.

On June 8, 2021, the estate's executor proposed a lesser purchase price of \$250,000 for consideration by Council.

If approved by Council, the funds to purchase this property are proposed to be provided from City Reserves.

ALTERNATIVES

- 1: Approve the budget amendment and proceed with the land acquisition.
- 2: Refer the matter back to Administration.

ANALYSIS

OCP and Zoning

The proposed acquisition area is designated Greenspace – Environmentally Sensitive Area in the City's OCP. Policy 7.1.5 states that "Building development is generally not recommended within 60 metres of the escarpment, but may be permissible subject to modifications and/or mitigation techniques detailed by an adequately trained, qualified geotechnical engineer or geoscientist in a detailed site specific study, acceptable to the City, prepared on behalf of the property owner." The subject property is approximately 6.0 m from the toe of the escarpment.

The proposed acquisition area is zoned PE – Environmental Protection under Zoning By-law 2012-20. The purpose of the PE zone is to provide a zone for the protection and preservation of environmentally sensitive areas, wildlife habitat and other significant natural areas. The zone allows environmental protection areas as a principal use, nature interpretation facilities as a secondary use, and several conditional uses including accessory structures, community gardens and greenhouses, and non-accessory parking. Residential uses are not permitted in the PE zone.

Downtown Escarpment Land Use Policy

The subject area is within the Downtown Whitehorse Escarpment Control Zone, as identified in the Policy. The Escarpment Control Zone was derived from the 2002 Geohazard Risk Study produced by EBA (now Tetra Tech), which identified the subject area as being in a high-to-moderate hazard area. The Policy states that land with the Escarpment Control Zone should be for public use and should not be used for human habitation.

Appraisal

An appraisal of the property, assuming it was located in the Residential Downtown (RD) zone, was completed on October 15, 2019 by Stewart, Weir, MacDonald Ltd. This appraisal indicated an estimated fair market value of \$333,000. The reason for the RD zone assumption was to honour the intent of the Escarpment Lands Acquisition Program, which was to enable the owners to purchase a comparable property in a non-geo-hazard area.

Land Sale Agreement

The Land Sale Agreement identifies a completion date of September 30, 2021 for the purchase of the property or such earlier date as may be agreed upon by estate's executor and the City. The Land Sale Agreement requires that all chattels are to be removed from the property prior to the purchase completion date. The agreement also provides that the estate's executor may remove any buildings, improvements and fixtures from the property prior to the purchase completion date. These conditions of the agreement are consistent with past sale agreements for the escarpment property purchases.

No legal survey of the land would be required to facilitate the transfer of the title as it is already designated on a registered plan of subdivision.

Not proceeding with the sale would leave the estate holding a property that would be problematic to be sold on the open market, due to the non-conformance with the PE zone. A reasonably prudent buyer would not purchase the property at fair market value.

Demolition

Any structures remaining on the property after the City acquires ownership will be removed. The estimated cost of demolition has been included in the budget amendment request, noted in the Administrative Recommendation section of this report.

Administration previously obtained a Hazardous Building Material Assessment (HBMA) and an ASTM E2516-11 Class 3 cost estimate for demolition of the structures. The HBMA identified the presence of asbestos and lead paint. The presence of these hazardous materials increases the demolition cost due to special handling/disposal requirements. The estimate identified a cost ranging from \$45,744 to \$90,209. The estimate does not include the cost of backfilling and revegetating, which will cost an additional \$15,000 to \$20,000.

After demolition, the property will remain vacant until a determination can be made on how the property could potentially be used, in conformance with the Downtown Escarpment Land Use Policy.

Future Use

The subject lot is the only privately-owned property on the west side of 7th Avenue between Ray Street and Baxter Street. The City owns all ten other lots on that side of the block (of which five lots are currently leased to Downtown Urban Gardeners Society).

There is a potential to consider whether new development may be appropriate in this area. If directed by Council, Administration could obtain a site-specific geo-technical evaluation, prepared by a qualified engineering consultant, to determine whether development is possible and what modifications and/or mitigation techniques, if any, could be performed to reduce the risk to an acceptable level. Administration previously obtained an estimate of \$7,500 from Tetra Tech (formerly EBA) to perform this evaluation. If the results were favourable, Administration could bring a report to Council for consideration of whether to remove the area from the Downtown Escarpment Control Zone as indicated in the Escarpment Land Use Policy, and amend the zoning to allow for future private development. This approach would also be an option for the property owner to pursue should Council elect not to proceed with this purchase.

Capital Budget Amendment

Drawing funds from City Reserves requires an amendment to the Capital Budget. Administration is proposing that \$380,000 be allocated for the project, which would cover all costs associated with the acquisition and estimated demolition, based on the highest estimated demolition cost, and includes an additional contingency amount to cover potential cost increases to the 2020 demolition estimates. Any unused funds would remain in City Reserves.

ADMINISTRATIVE RECOMMENDATION

THAT Council amend the 2021 to 2024 Capital Expenditure Program and approve the creation of a new capital project for the purchase of escarpment land and the demolition of structures on that land titled “Acquisition of 7220 7th Avenue” in the amount of \$380,000, funded from the Land Bank Reserve; and

THAT Council direct that Bylaw 2021-37, a by-law to acquire title to the escarpment property located at 7220 7th Avenue, be brought forward for consideration under the bylaw process.



SCALE:
1:1,500

DATE:
July 5, 2021

FILE NO:
7220 7th Avenue

\\Land Acquisition\2021

DWN BY:
MLB

REV NO:
1

CITY OF WHITEHORSE - LAND AND BUILDING SERVICES

LOCATION SKETCH WITH IMAGE

Proposed Land Acquisition for Lot 6, Block 145
Downtown Whitehorse, Plan 20148 LTO YT.
Civic Address: 7220 7th Avenue



CITY OF WHITEHORSE

BYLAW 2021-37

A bylaw to authorize the acquisition of a parcel of escarpment land

WHEREAS section 265 of the *Municipal Act* (R.S.Y. 2002) provides that Council may by bylaw authorize the municipality to acquire any real property; and

WHEREAS it is deemed desirable that the City acquire title to a parcel of escarpment land from the estate of Alphonse Kowalkowski;

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

1. The City of Whitehorse is hereby authorized to accept title to Lot 6, Block 145, Plan 20148 LTO in the City of Whitehorse, Yukon Territory (municipally addressed as 7220 7th Avenue), as shown on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
2. The said land is to be acquired from the estate of Alphonse Kowalkowski for the sum of two hundred fifty thousand dollars (\$250,000.00), representing the negotiated purchase price for the property.
3. The Mayor and Clerk are hereby authorized to execute on behalf of the City of Whitehorse all documentation required for the completion of the acquisition of title for the said lands in an expeditious manner.
4. This bylaw shall come into full force and effect on the final passing thereof.

FIRST and SECOND READING:

THIRD READING and ADOPTION:

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2021-37
APPENDIX "A"



BYLAW 2021-37

A bylaw to authorize the acquisition of Lot 6, Block 145, Plan 20148 LTO (7220 7th Avenue).

LEGEND



SUBJECT PROPERTY

LAND SALE AGREEMENT

AGREEMENT dated this ____ day of _____, 2021.

BETWEEN:

**GREGORY A. FEKETE, EXECUTOR OF THE ESTATE OF ALPHONSE
KOWALKOWSKI, DECEASED**

(the "Vendor")

- and -

THE CITY OF WHITEHORSE

(the "Purchaser")

W H E R E A S:

A. The Vendor is the owner of property legally described as:

Lot 6
Block 145
Plan 20148 LTO
Whitehorse, Yukon Territory

(the "Property")

B. The Vendor has agreed to sell and the Purchaser has agreed to purchase the Property on the terms and conditions as hereinafter set out.

IN CONSIDERATION OF the premises, and the covenants, and agreements hereinafter set forth, the parties hereto agree as follows:

1. SALE AND PURCHASE

1.1 The Vendor hereby agrees to sell and the Purchaser hereby agrees to buy the Property on the terms and conditions herein contained. The Property is exempt from Goods and Services Tax, and if not the Vendor shall pay any such tax payable.

2. PURCHASE PRICE

2.1 The purchase price for the Property shall be the sum of Two Hundred, Fifty Thousand Dollars (\$250,000.00, which sum shall be paid on the Closing Date.

3. INCLUDED ITEMS

- 3.1 The Vendor is entitled to remove any buildings, improvements and fixtures from the Property prior to the Closing Date.
- 3.2 All chattels, including but not limited to furniture, appliances, vehicles, and any other personal effects, shall be removed from the Property prior to the Closing Date. If the Vendor leaves any chattels on the Property at the Closing Date for which the Purchaser incurs costs for removal of same, the Vendor shall pay to the Purchaser those reasonable costs.

4. COMPLETION AND TERMINATION

- 4.1 Balance of cash payments to be made and the sale completed on or before September 30, 2021 or such earlier date as agreed by the Vendor and the Purchaser (the "Closing Date"). In the event that the transaction is not closed on or before September 30, 2021, this Agreement shall terminate and be null and void.

5. POSSESSION

- 5.1 The Purchaser is to have vacant possession of the Property at 2:00 p.m. on the Closing Date.

6. ADJUSTMENTS

- 6.1 There shall be adjustments with respect to property taxes and utilities. The Vendor shall be responsible for all outstanding property taxes and utility charges owed by the Vendor up to the Closing Date. The Purchaser shall be responsible for property taxes and utility charges from and after the Closing Date.

7. CONDITIONS PRECEDENT

- 7.1 The Purchaser's obligation to complete the purchase of the Property is subject to the following conditions precedent:
 - (a) City Council agreeing to proceed with the sale of the Property by the adoption of a land acquisition bylaw.
- 7.2 The Vendor acknowledges and agrees that the Purchaser is under no obligation to fulfil the condition precedent set out in paragraph 7.1(a) hereof and City Council may exercise their discretion and refuse to adopt the land acquisition bylaw.

8. COSTS

- 8.1 The Vendor and the Purchaser shall each pay their own legal fees. The Purchaser shall pay all fees in connection with the registration of the Transfer of Land at the Yukon Land Titles Office.

9. NO ENCUMBRANCES

- 9.1 The Property is being sold and shall be transferred by the Vendor free and clear of all encumbrances (including unregistered easement) except restrictive covenants,

reservations and exceptions in the original grant from the Crown and easements in favour of utilities and public authorities. Encumbrances in this section includes tenancies, registered or unregistered.

10. RISK

- 10.1 The Property and any improvements located thereon will be and remain at the risk of the Vendor until 12:01 a.m. on the Closing Date. After that time, the Property and any improvements remaining thereon will be at the risk of the Purchaser.

11. GOVERNING LAW

- 11.1 This offer and the Agreement which will result from its acceptance shall be governed by and construed in accordance with the laws of the Yukon Territory.

12. CLOSING

- 12.1 Closing of the purchase and sale shall proceed to completion on the basis of reasonable undertakings settled between the Vendor and the Purchaser or their solicitors. Failing such agreement, tender of documents or money in the form of a certified cheque, bank draft or solicitor's trust cheque may be made at the Land Titles Office for the Yukon Land Registration District on the Closing Date at the hour of 10 o'clock in the forenoon.
- 12.2 The Vendor shall execute and deliver, no later than 10:00 a.m. the business day before the Closing Date, a duly registerable Transfer of the Property, along with the appropriate affidavits indicating the Goods and Services Tax exempt status of the Property, along with any consents required to grant clear title pursuant to the *Family Property and Support Act (Yukon)*.

13. TIME OF THE ESSENCE

- 13.1 Time shall be of the essence hereof, and unless the balance of the cash payment is paid and such formal agreement to pay the balance as may be necessary is entered into on or before the Closing Date the Vendor may at the Vendor's option cancel this agreement.

14. FINAL WALKTHROUGH

- 14.1 The Purchaser shall have the right to complete a final walkthrough of the Property within five (5) business days prior to the Closing Date, and the Vendor shall make reasonable accommodation for the Purchaser to conduct such a walkthrough.

15. REPRESENTATIONS

- 15.1 There are no representations, warranties, guarantees, promises or agreements other than those set out above and herein, all of which will survive the completion of the sale. The Vendor gives the following warranties and representations in regards to the Property which shall be true as of the Closing Date:
- (a) The Property is currently and will remain unoccupied until the Closing Date;

- (b) The Property will be left in a clean and tidy condition with all garbage and chattels not forming part of this Agreement removed; and
- (c) To the best of the Vendor's knowledge, the Property has not been insulated with urea formaldehyde or asbestos and there are no underground oil tanks located within the Property.

16. RESIDENT OF CANADA

- 16.1 The Vendor warrants and represents that the Vendor is a resident of Canada for the purposes of the Income Tax Act (Canada).

17. COUNTERPART AND FAX

- 17.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document. Delivery of a faxed copy of the Agreement shall be deemed to constitute sufficient delivery thereof.

18. ASSIGNMENT

- 18.1 This Agreement is not assignable by the Vendor or the Purchaser.

19. NUMBER AND GENDER

- 19.1 Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic where the context or the parties so require.

20. FURTHER ASSURANCES

- 20.1 The parties hereto shall execute such further documents and do such other things as may be necessary or desirable to give effect to the intent of this Agreement.

21. ENTIRE AGREEMENT

- 21.1 The provisions herein constitute the entire agreement between the parties and there are no representations or warranties, express or implied, statutory or otherwise and no agreements collateral hereto other than as expressly set forth or referred to herein.

22. AMENDMENTS

- 22.1 No modification, variation or amendment of any provision of this Agreement shall be made except by a written agreement and no waiver of any provision hereof shall be effective unless in writing.

IN WITNESS WHEREOF the Parties hereto have duly executed this Agreement as of the day and year first written above.

THE CITY OF WHITEHORSE, per:

Mayor

(SEAL)

Assistant City Clerk

OWNER:

Lot 6, Block 145, Plan 20148 LTO,
City of Whitehorse, Yukon Territory

Gregory A. Fekete, Executor of the
Estate of Alphonse Kowalkowski,
Deceased

Witness

ADMINISTRATIVE REPORT

TO: Corporate Services Committee
FROM: Administration
DATE: July 5, 2021
RE: Semi-Annual Procurement Update – For Information Only

ISSUE

Semi-annual procurement update

REFERENCE

Procurement Policy 2020-03

Appendix A – Semi-Annual Procurement Project Information Report Summary (January – June 2021)

HISTORY

In accordance with section 3.5.2 of the Procurement Policy, Administration is required to provide publicly to Council a semi-annual update on procurement projects, including:

- Contract awards with a value of \$100,000 and over;
- Procurements with a value of over \$100,000 that have incorporated requirements related to economic, social and/or environmental sustainability in their solicitation documents;
- Procurements with an estimated value of \$500,000 or more.
- Non-Competitive, single source or sole source procurements with a value over \$50,000;
- Emergency procurements, including their value;
- Instances of non-compliance with the policy and ensuing actions taken in each instance.
- Procurements deemed to be of significant interest to the public for which authority has been delegated to the City Manager in the event that Council was unable to be convened and time is of the essence, section 3.1.2 of City's procurement policy; and
- Pursuant to section 6.2 of this policy, contract extensions or renewals where the original contract contains no option for renewal, describing how the extension or renewal conforms to the requirements of this policy.

ANALYSIS

Appendix A includes detailed listings of procurements to June 30, 2021 as required under the Procurement Policy. A summary of the listing is provided below. There were no instances

of procurements related to sections 3.1.2 (significant interest) or 6.2 (contract renewals) of the policy for the first half of the year.

Contract Summary by Value Range				
Value Range	Number of Awards	Percentage by Number	Total Contract Value in Range	Percentage by Value
\$100,000 to \$500,000	14	88%	\$ 3,159,226.19	55%
Greater than \$500,000	2	13%	\$ 2,540,686.17	45%
Total	16	100%	\$ 5,699,912.36	100%

Emergency Procurement				
Value Range	Number of Awards	Percentage by Number	Total Contract Value in Type	Percentage by Value
\$100,000 and below	1	100%	\$37,350	100%
Above \$100,000	0	0%	\$0	0%
Total	1	100%	\$37,350	100%

Non-Competitive Procurement				
Type of Sole Source	Number of Awards	Percentage by Number	Total Contract Value in Type	Percentage by Value
Statutory or Market-based monopoly	0	0%	\$0	0%
Unique Deliverable with no alternative/ substitute	1	100%	\$430,500	100%
Need for compatibility with previously acquired deliverables	0	0%	\$0	0%
Patented/ Copyright Deliverable	0	0%	\$0	0%
Total	1	100%	\$430,500	100%

Type of Single Source	Number of Awards	Percentage by Number	Contract Value	Percentage by Value
An attempt to acquire the required Deliverables using a Competitive Procurement Process has been made in good faith, but has failed to identify more than one willing and compliant Supplier	3	60%	\$935,021	69%
The nature of the requirement is such that it would not be in the public interest to solicit competitive Bids, as in the case of security or confidentiality matters	1	20%	\$350,000	26%
Construction, renovations, repairs, maintenance etc. in respect of a building leased by the City that may only be done by the lessor of the building, in accordance with a lease agreement	0	0%	\$0	0%
The required Deliverables were supplied by a particular Supplier having specialized knowledge, skills, expertise or experience.	0	0%	\$0	0%
Goods were purchased under circumstances which were exceptionally advantageous to the City, such as in the case of a bankruptcy or receivership.	0	0%	\$0	0%
It was advantageous to the City to acquire the Deliverables from a Supplier pursuant to a procurement process conducted by another public body.	1	20%	\$66,000	5%
Another organization was funding or substantially funding the acquisition and determined the Supplier, and the terms and conditions of the commitment into which the City would enter were acceptable to the City.	0	0%	\$0	0%
The acquisition was for a particular brand of Deliverables that were intended solely for resale to the public and no other brand was desirable and the brand was not available from any other source.	0	0%	\$0	0%
Due to abnormal market conditions, the Deliverables required were in short supply.	0	0%	\$0	0%
The acquisition was for entertainment at a City event.	0	0%	\$0	0%
Total	5	100%	\$1,351,021	100%

City of Whitehorse
Semi-Annual Procurement Project Information Report to Council

Report Number 2021-001

Date of Meeting:	July 5, 2021
Subject:	2021 Semi-Annual Procurement Update
Period:	January - June 2021
Purpose:	Report on (Open-competitive procurement): a. Contract awards with a value of \$100,000 and over; b. Procurements with a value of over \$100,000 that have incorporated requirements related to Economic Sustainability, Environmental Sustainability and/ or Social Sustainability in their Solicitation Documents; c. Procurements for which authority has been delegated to the City Manager.

Solicitation Document#	Award Date	Awarded Vendor	Total Contract Amount	Approving Authority	Description of Acquisition	Sustainability in solicitation document
RFT 2021-003	16-Feb-21	Arctic Backhoe Services Ltd.	\$255,226.23	Manager, Financial Services & Procurement Office	Main Street Geohazard Mitigation	
RFT 2021-006	17-Mar-21	Terus Construction Ltd. (dba Skookum Asphalt Ltd)	\$1,941,269.42	City Manager	Asphalt Overlay Project	
RFP 2021-007	06-May-21	Stantec Architecture Ltd	\$151,043.10	Manager, Financial Services & Procurement Office	Consulting services - 139 Tlingit St. Energy Retrofit and Biomass Heating System	Environmental Sustainability
RFT 2021-015	03-Mar-21	Inland Kenworth Ltd.	\$271,317.00	Manager, Financial Services & Procurement Office	Supply and Delivery of One Tandem Axle Dump Truck	
RFP 2021-018	10-May-21	Stantec Architecture Ltd.	\$299,940.60	Manager, Financial Services	Consulting Services for 2021 Utility Stations Audit and Force Main Condition Assessment	Environmental Sustainability
RFT 2021-020	28-Apr-21	Andco Enterprises Ltd.	\$456,000.00	Manager, Financial Services & Procurement Office	Robert Campbell Bridge Deck Repairs	
RFP 2021-021	18-May-21	Morrison Hershfield Ltd.	\$123,885.00	Manager, Financial Services	Consulting Services for Design and Construction Inspection for McIntyre Drive Traffic Calming Project	Environmental Sustainability
RFT 2021-025	11-May-21	Terus Construction Ltd. (dba Skookum Asphalt Ltd)	\$599,416.75	City Manager	Rural Roads Surfacing	
RFP 2021-027	28-May-21	Associated Engineering (B.C.) Ltd.	\$189,194.75	Manager, Financial Services	Consulting Services for Range Road South Lift Station Project	Environmental Sustainability
RFP 2021-028	16-Apr-21	Associated Engineering (B.C.) Ltd.	\$209,995.50	Manager, Financial Services	Consulting Services for the Selkirk Pump House Second Barrier Treatment - Final Report	Environmental Sustainability
RFT 2021-030	16-Apr-21	Vimar Equipment Ltd.	\$348,814.00	Manager, Financial Services	Supply and Delivery of One (1) Regenerative Air Street Sweeper	
RFT 2021-036	27-May-21	Canadian Lynden Transport Co.	\$174,000.00	Manager, Financial Services	Supply and Delivery of Road Salt	
RFT 2021-038	27-May-21	Terus Construction Ltd.	\$250,232.13	Manager, Financial Services & Procurement Office	Supply of Crushed Sand	
RFT 2021-040	31-May-21	Morrison Hershfield Ltd.	\$190,737.00	Manager, Financial Services & Procurement Office	Consulting Services for the 2023-2033 Solid Waste Management Plan	
RFT 2021-050	11-Jun-21	Yukon Equipment Services Ltd.	\$108,371.55	Manager, Financial Services & Procurement Office	Schwatka Lake West Shore Parking Lot Upgrades	
RFT 2021-055	15-Jun-21	Balsam Backhoe Services	\$130,469.33	Manager, Financial Services & Procurement Office	Lewes Boulevard Pedestrian Crossing Underground Works	

City of Whitehorse
Semi-Annual Procurement Project Information Report to Council

Report Number 2021-001

Date of Meeting:	July 5, 2021
Subject:	2021 Semi-Annual Procurement Update
Period:	January - June 2021
Purpose:	Report on Non-Competitive, Single Source or Sole Source Procurements with a value over \$50,000

Department	Non-Competitive Procurement Type	Award Date	Approving Authority	Awarded Vendor	Description of Acquisition	Justification	Total Contract Value
Business & Technology Systems	Single Source Procurement	19-Jan-21	Director and City Manager	NorthwesTel Inc.	Internet Service (a 5-year contract from 2021-2025)	1. Failed to identify more than one supplier, and 2. Require the specialized knowledge/skills/expertize	\$475,200.00
Fleet and Transportation Maintenance	Single Source Procurement	01-Apr-21	Director and City Manager	Yukon Government	Long Line Street Painting	Advantageous to acquire the deliverables from another public service body	\$66,000.00
Human Resources	Single Source Procurement	04-May-21	City Manager	Carte Blanche	-Investigation services -Educational program -Redesign of HR department and process -General HR services while filling staff positions	1. The nature of the requirement is such that it would not be in the public interest to solicit competitive bids, as in the case of confidentiality matters; 2. The required deliverables are to be supplied by a particular supplier having special knowledge, skills, expertise/experience.	\$350,000.00
Fleet and Transportation Maintenance	Sole Source Procurement	10-May-21	Director and City Manager	Kendrick Equipment	Purchase and delivery of two electric Zamboni's, model #552 with lithium batteries and charging stations to CGC	The deliverable is unique to one supplier and no alternative or substitute exists.	\$430,500.00
Fleet and Transportation Maintenance	Single Source Procurement	25-May-21	Director and City Manager	Great West Equipment	Replacement of an failed engine	Failed to identify more than one supplier with competitive procurement process	\$74,988.91
Parks	Single Source Procurement	10-Jun-21	Director and City Manager	Castle Rock Enterprises Ltd Partnership	Site preparation to receive accessible playground gift from the Jumpstart Charity	1. Failed to identify more than one supplier with competitive procurement process, and 2. Deliverables are in short supply due to abnormal market conditions.	\$384,832.00
							\$1,781,520.91

City of Whitehorse
Semi-Annual Procurement Project Information Report to Council

Report Number 2021-001

Date of July 5, 2021
Subject: 2021 Semi-Annual Procurement Update
Period: January - June 2021
Purpose: Report on Emergency Procurements, including their value

Department	Award Date	Basis of determination of Emergency	Approving Authority	Description of Acquisition	Awarded Vendor	
Engineering Services	01-Jun-21	The need for this work arose through the unexpected failure of the escarpment in the downtown area. The current situation above the Cliffside Park requires immediate monitoring by a geotechnical engineering consultant to protect City property and the safety of public	Manager, Financial Services and Director	Engineering service for the geohazard monitoring of the escarpment in downtown area	Tetra Tech	\$37,350.00
						\$37,350.00

City of Whitehorse
Semi-Annual Procurement Project Information Report to Council

Report Number 2021-001

Date of Meeting: July 5, 2021
Subject: 2021 Semi-Annual Procurement Update
Period: January - June 2021
Purpose: Report on instances of non-compliance with the Procurement Policy and actions taken in each instance

Department	Award Date	Description of Acquisition	Awarded Vendor	Non-compliance details	Action(s) taken	Total Value (\$)
Water and Waste Services	15-Mar-21	Pre-Design Assessment – PC Flush Line Repair VC1	Morrison Hershfield Ltd.	Invitational Request for Proposal was issued to 3 companies with a single response and Contract was not awarded under the authority required for Single Source. This was a policy change transitional issue to the new policy. For purchases of level Procurement and the Manager of Finance must authorize after review and investigation.	Procurement Office identified the deficiency and informed the Services Area to ensure compliance on future awards.	\$18,600.00
Water and Waste Services	15-Mar-21	Exfiltration Test & Detailed Design – Pot Hole Lake Service Upgrade	Tetra Tech Canada Inc.	Invitational Request for Proposal was issued to 3 companies with a single response and Contract was not awarded under the authority required for Single Source. This was a policy change transitional issue to the new policy. For purchases of level Procurement and the Manager of Finance must authorize after review and investigation.	Procurement Office identified the deficiency and informed the Services Area to ensure compliance on future awards.	\$38,815.00

ADMINISTRATIVE REPORT

TO: Corporate Services Committee
FROM: Administration
DATE: July 5, 2021
RE: Forthcoming Procurements – For information only

ISSUE

Bi-monthly update on forthcoming procurement projects with an anticipated value greater than \$100,000.

REFERENCE

Procurement Policy 2020-03
Appendix A – Upcoming procurement projects information report

HISTORY

The Procurement Policy came into effect on January 1, 2021. In accordance with section 3.5.1 of the Policy, a list of forthcoming procurements with an anticipated value greater than \$100,000 must be provided to Council on a bi-monthly basis.

ANALYSIS

Managers have been asked to review their capital projects and operating requirements and provide information on their anticipated procurements valued over \$100,000 for the period of July and August 2021. The information as compiled by Financial Services department is attached as Appendix A.



Appendix A Upcoming Procurement Projects Information Report to Council

Report Number 2021-04

Date of Meeting:	July 5, 2021
Subject:	2021 Bi-monthly Procurement Projects Update
Period:	July-August 2021
Purpose:	The purpose of this report is to provide Council with a bi-monthly update on forthcoming procurement projects with an anticipated value greater than \$100,000

Upcoming Procurement Projects

No.	Department	Project Title	Brief description	Budget (Operating/Capital)	Will require Commencement Report (No/Yes + reason)	Anticipated Procurement Posting Date
1	Strategic Communications	Website Redesign	Phase One of the website redesign project ended in April. It consisted of hiring a consultant to gather information, conduct an audit of our website, and offer recommendations on how to improve it, among other things. Phase Two of the project will begin this summer, and will consist of putting an RFP out for the actual redesign of whitehorse.ca, using the information collected in Phase One. We anticipate that a new website will be made public sometime in 2022.	Capital	No, Project Value < \$500,000	07/15/2021

CITY OF WHITEHORSE
CITY PLANNING COMMITTEE
Council Chambers, City Hall



Chair: Samson Hartland

Vice-Chair: Laura Cabott

July 5, 2021

Meeting #2021-13

-
1. Zoning Amendment and Land Exchange Agreement – Tank Farm Phase 1
Presented by Planner Sidharth Agarwal
 2. New Business

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: July 5, 2021
RE: Zoning Amendment and Land Exchange Agreement – Tank Farm Phase 1

ISSUE

A bylaw to amend the zoning of Lots 429 and 430, Group 804, Plan 26170 LTO (Tank Farm) and Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT to designate Tank Farm as a Direct Control District and allow commercial/industrial development on Tank Farm Phase 1.

REFERENCE

- *Municipal Act (2002)*
- *Official Community Plan (2010)*
- *Zoning Bylaw 2012-20*
- *Commercial/Industrial Lands Study (2020)*
- *Bylaw 2021-29 (Zoning Amendment)*
- *Bylaw 2021-34 (Land Exchange)*
- Location Sketch
- Site Overview

HISTORY

The Tank Farm site is 56 hectares and bounded by Hamilton Boulevard to the west; Valleyview to the north; a Ta'an Kwäch'an Council parcel and Alaska Highway to the east; and Hillcrest and Burns Road to the south (please refer to the Location Sketch). The majority of the site is designated as Residential – Urban in the *2010 Official Community Plan (OCP)*. In December 2020, Council approved an *OCP* amendment to designate a portion of the Tank Farm parcel, known as Phase 1, as Mixed Use Industrial/Commercial to allow commercial/industrial uses similar to the existing lots nearby on Wasson Place and Burns Road. Council also designated the Tank Farm site as a Direct Control District in the *OCP*, which allows Council to directly control the use and development of the site. For Lot 429 (eastern-half of the Tank Farm site), *OCP* policy 5.7.9 places additional restrictions on management of granular material on-site which need to be incorporated in the current zoning amendment request.

A petroleum storage facility was formerly located on the Tank Farm site. Petroleum hydrocarbons leaked from the tanks, valves and pipelines into the soil, resulting in significant contamination of the site. In 2011, Environment Yukon designated the Tank Farm site as a contaminated site, giving the Yukon Government greater authority over remediation activities on the property to ensure the protection of human health and the environment. In December 2019, Environment Yukon issued a Certificate of Compliance for the Phase 1 portion of the Tank Farm site, stating that the area site has been satisfactorily restored to meet the *Contaminated Sites Regulations* standards.

The applicant, acting on behalf of the owner of the Tank Farm site, has applied to amend the *Zoning Bylaw* to allow for the development of industrial/commercial lots on the Phase 1 portion of the Tank Farm Site. The applicant has proposed two options for consideration. Option 2 involves a land exchange, whereas Option 1 does not.

- ‘Option 1’ – develop the commercial/industrial lots wholly within the Phase 1 Tank Farm parcel. A 30 m sloped buffer will be created at the western edge to provide a buffer between the commercial/industrial lots and the future residential development; and



- ‘Option 2’ – acquire a portion of the City-owned buffer strip between the Tank Farm parcel and Wasson Place lots, and in exchange, provide a wider 52 m sloped green strip that will act as a grade-separated buffer between the commercial/industrial lots and the future residential development.



The City’s Development Review Committee reviewed these two options and recommended ‘Option 2’ as the preferred zoning approach for Phase 1. The increased buffer provided in Option 2 offers several advantages over Option 1, including:

- increased separation between the commercial/industrial and residential uses, and
- more area to accommodate public amenities/infrastructure.

These benefits are explained later in the report. Subsequent approval of a *Land Exchange Bylaw* by Council is also required to facilitate the transfer of land ownership under Option 2. A detailed master planning process will take place to determine the ultimate design and uses of the remaining portion of the Tank Farm area.

To implement the *OCP* policies related to Direct Control Districts for the Tank Farm site, and allow commercial/industrial development for Phase 1, an amendment to the zoning of the Tank Farm site is required and a land exchange needs to be approved by Council.

ALTERNATIVES

1. Proceed with the zoning amendment and land exchange under the bylaw process.
2. Refer the matter back to Administration for further review.

ANALYSIS

1. Bylaw 2021-29 (Zoning Amendment)

Site Overview

The Phase 1 area (please refer to the attached Site Overview), is a 7.3 hectare portion of the Tank Farm site (Lot 429, Group 804, Plan 26170 LTO) located in the southeast corner of the lot, and a 0.7 hectare portion of the 32 m wide City-owned buffer strip (Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT), adjacent to Wasson Place. The eastern edge of Phase 1 has a steep sand and gravel escarpment that borders the buffer strip (which separates Phase 1 from the lots on Wasson Place). The escarpment initially existed on the city-owned buffer strip, and the top of the slope was frequently used as an informal trail/active transportation connection. Due to remediation works, the majority of this buffer strip has been cleared and excavated down to the same level as the lots on Wasson Place and not suitable for use as a trail.

Phase 1 is already cleared and primarily free of vegetation due to extensive excavation work from the remediation process. The majority of the Phase 1 area is not suitable for development and any development at current grade would require substantial fill to be hauled on-site.

Proposed Phase 1 Development

The proposal is to excavate the eastern portion of the Phase 1 area to create 13 fully serviced commercial/industrial lots, and bring its elevation closer to that of Wasson Place. As a result, there will be a significant grade change on the western edge between proposed Phase 1 and the remaining Tank Farm site (that is intended for a future residential subdivision). The grade separation will help mitigate impacts resulting from a change in land use.

The applicant expects that approximately 750,000 cubic metres of granular material would need to be relocated prior to development via a short internal haul road and stored just north of the Phase 1 area. This material will be stockpiled for use in future phases of the Tank Farm development. Approximately two percent of the material is expected to be utilized as part of the construction of Phase 1 development. The excavation and site haul work is planned for the construction season of 2022, pending subsequent approvals.

The proposed land exchange of the existing City-owned buffer and a portion of Phase 1 area presents an opportunity to mitigate negative impacts of the development while also providing space for public uses. The proposed land exchange can potentially:

- Reduce the amount of excavation required for site development;
- Increase separation between the commercial/industrial uses and residential areas;
- Provide more space for public uses, such as passive recreation and a future trail/active transportation connection (completed as part of the future Tank Farm site build-out); and
- Allow more room to accommodate required infrastructure (drainage swales, etc.).

The proposed commercial/industrial lots will be serviced by extending the existing infrastructure within Wasson Place and Burns Road. A new street connection will be constructed through vacant Commissioner's land, extending from Wasson Place. The applicant has applied for a Land Use Permit with Yukon Government to allow for the construction of this access within vacant Commissioner's Land. No assessment is required under YESAA for the construction of the proposed Phase 1 development. Water and sewer connections for the new area will be extended from the existing infrastructure on Wasson Place and Burns Road.

Official Community Plan

The *OCP* designates the Phase 1 area as Mixed-Use – Industrial/Commercial, which is intended to provide a mix of service commercial and light industrial activities similar to existing developments on Wasson Place/ Burns Road, Range Road and Marwell.

As mentioned earlier, for Lot 429 (eastern-portion of the Tank Farm site), *OCP* policy 5.7.9 places additional restrictions on relocating materials outside the site, processing of materials (e.g. washing or crushing) on-site, and requires a detailed material management plan through future zoning amendments and/or development agreements prior to any development taking place. Administration recommends that the *Zoning Bylaw* be modified to reflect the *OCP* policy 10.7.9.

OCP policy 6.2.2 states that suitable vegetated buffers shall be maintained around service commercial areas that border residential areas. The proposed sloped buffer at the western edge will fulfill a part of this requirement, along with a future recreational area and active transportation connection. Future master planning of the remaining portion of the Tank Farm will further help determine the extent of the buffer/separation.

Nearby areas currently zoned for residential uses from the proposed commercial/industrial lots include (distances measured to closest points):

- Hillcrest – 160 m
- McIntyre – 560 m
- Granger – 850 m
- Valleyview – 1,000 m

Zoning Bylaw

The current zoning of the Tank Farm portion of the subject area is FP – Future Planning, which is intended to protect land until such time planning has occurred to determine appropriate zoning. The current zoning of the City-owned buffer strip is PG –

Greenbelt, which is intended to provide areas of public land for buffers, trails and passive recreation.

DC–Direct Control District is being proposed as a new zone within the *Zoning Bylaw* to reflect the unique nature and additional regulations applicable to areas established as Direct Control Districts in the *OCP*. The DC zoning would be used in combination with other zoning designations (e.g. DC-FP, or DC-CIM). The DC prefix would indicate that these land parcels are identified as Direct Control Districts in the *OCP*, and the suffix indicates regulations as applicable normally under that zone. In line with the *OCP* policy 10.79, additional regulations are being proposed for Lot 429 that will:

- Restrict relocation of granular material outside the site, subject to a development agreement;
- Restrict the processing of granular material on site, subject to a development agreement; and
- Require a detailed material management plan to inform a future development agreement, which will allow the City to regulate the:
 - Amount of granular material to be excavated and processed on site,
 - Duration and hours of operation for excavation and site construction, and
 - Control measures to mitigate any potential noise/dust issues.

The proposed zoning is as follows:

- The commercial/industrial lots to be rezoned **DC-CIMx** – Direct Control Mixed-Use Commercial/Industrial (modified), which is intended for the development of commercial and clean industrial uses;
- The proposed grade-separated buffer strip at the western edge of the commercial/industrial lots to be rezoned **DC-PG** – Direct Control Greenbelt. This will be to provide a buffer between the commercial/industrial lots and future residential development, as well as locating a portion of a future trail/active transportation connection through the Tank Farm site; and
- The remaining Tank Farm site to be rezoned **DC-FP** – Direct Control Future Planning, to identify it is a Direct Control District. Additional planning work is required to determine appropriate zoning in the future.

Commercial Industrial Land Study

The *Commercial Industrial Land Study* identifies the need for 32 hectares of Mixed Use Industrial/Commercial land by 2040, of which approximately 10 hectares results from pending latent demand. While Phase 1 area was not part of the original scope of the study, the proposed amendment for the CIM zoning would add 6 hectares of serviced Mixed Use Industrial/Commercial land. This can make up a significant portion of the latent demand and fulfill short to medium-term demand for future commercial/ industrial lots.

The anticipated schedule for the zoning amendment is:

Planning Committee:	July 5, 2021
First Reading:	July 12

Public Hearing: August 9
Report to Committee: September 7
Second and Third Reading: September 13 (Schedule subject to change)

2. Bylaw 2020-34 (Land Exchange)

The *Land Exchange Bylaw* is being advanced concurrently with the *Zoning Amendment Bylaw*. If Council decides to approve the zoning amendment as recommended, Council may also approve the *Land Exchange Bylaw* immediately after the zoning approval. This will enable the City to transfer the city-owned buffer to the Tank Farm owner and receive a portion of the western edge of the Phase 1 development during the subdivision process. If Council does not wish to proceed with the zoning amendment as recommended, Council may choose to send the application back to Administration for revisions (e.g. revising the zoning amendment map in line with ‘Option 1’), or may decide not to proceed with the zoning amendment.

The land exchange would secure the City’s tenure within a portion of the proposed buffer strip located between the commercial/ industrial lots and the future Tank Farm residential subdivision. There will be no cost to the City to exchange the lands and the survey costs will be paid by the applicant.

The anticipated schedule for the *Land Exchange Bylaw* is:

Planning Committee: July 5, 2021
First and Second Reading: July 12
Third Reading: September 13 (Schedule subject to change)

Next Steps

If Council adopts the *Zoning Amendment Bylaw* and *Land Exchange Bylaw*, the applicant will subsequently submit an application to subdivide the subject area and the land exchange will be finalized as part of the subdivision process. The subdivision application will come to Council for consideration, as it will result in creation of more than six lots. In addition, a development agreement would be required as part of this process.

ADMINISTRATIVE RECOMMENDATION

THAT Council direct:

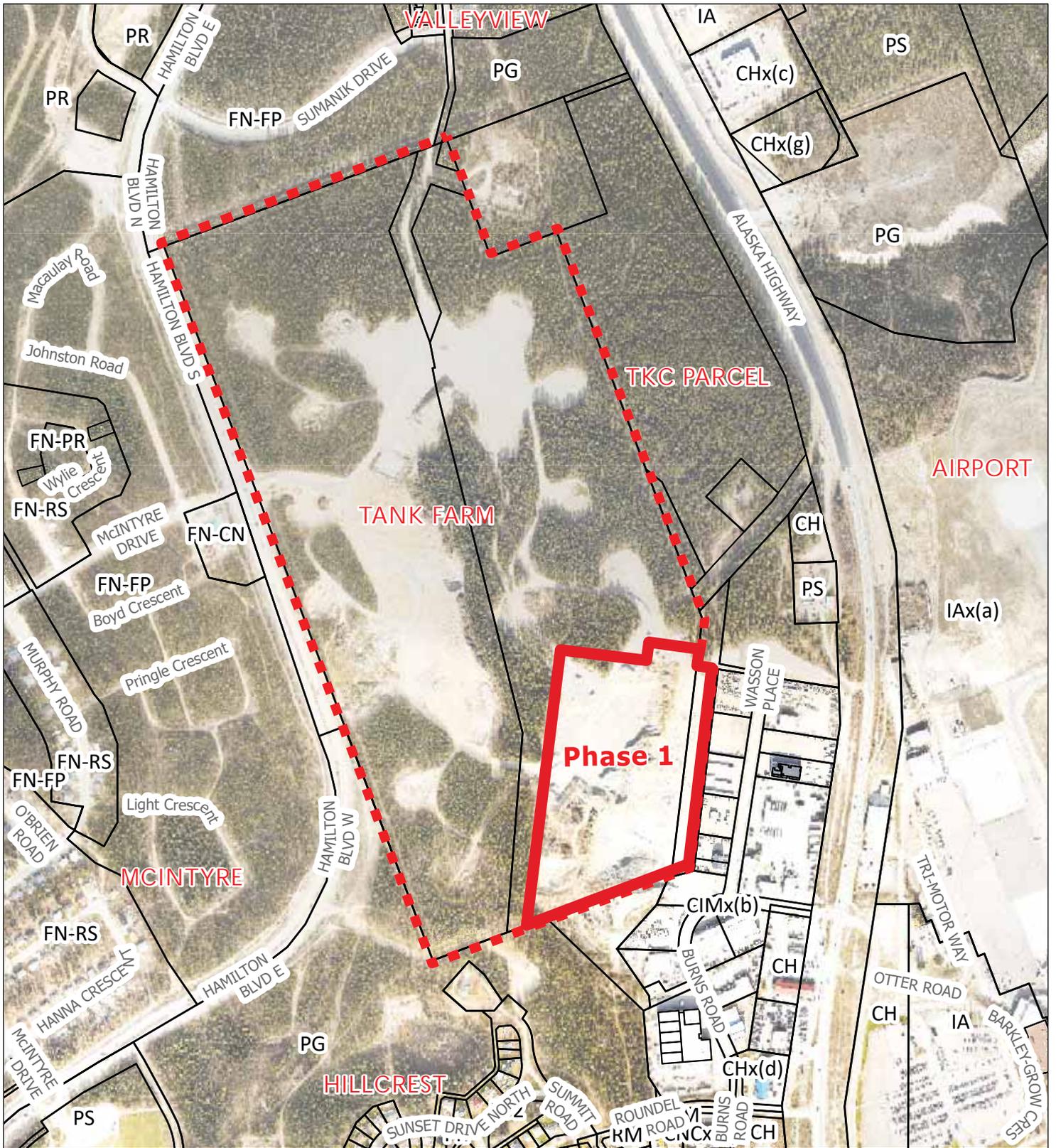
THAT Bylaw 2021-29, a bylaw to amend the zoning of the Tank Farm and Buffer, Hillcrest Industrial Subdivision, to designate the Tank Farm as a Direct Control District and allow commercial/industrial development on Tank Farm Phase 1; and

THAT Bylaw 2021-34, a bylaw to authorize a land exchange agreement with respect to the Tank Farm be brought forward for consideration under the bylaw process; and

THAT third reading of Land Exchange Agreement Bylaw 2021-34 be scheduled to coincide with second and third reading of Zoning Amendment Bylaw 2021-29.



CITY OF WHITEHORSE 'LOCATION SKETCH' TANK FARM



BYLAW 2021-29

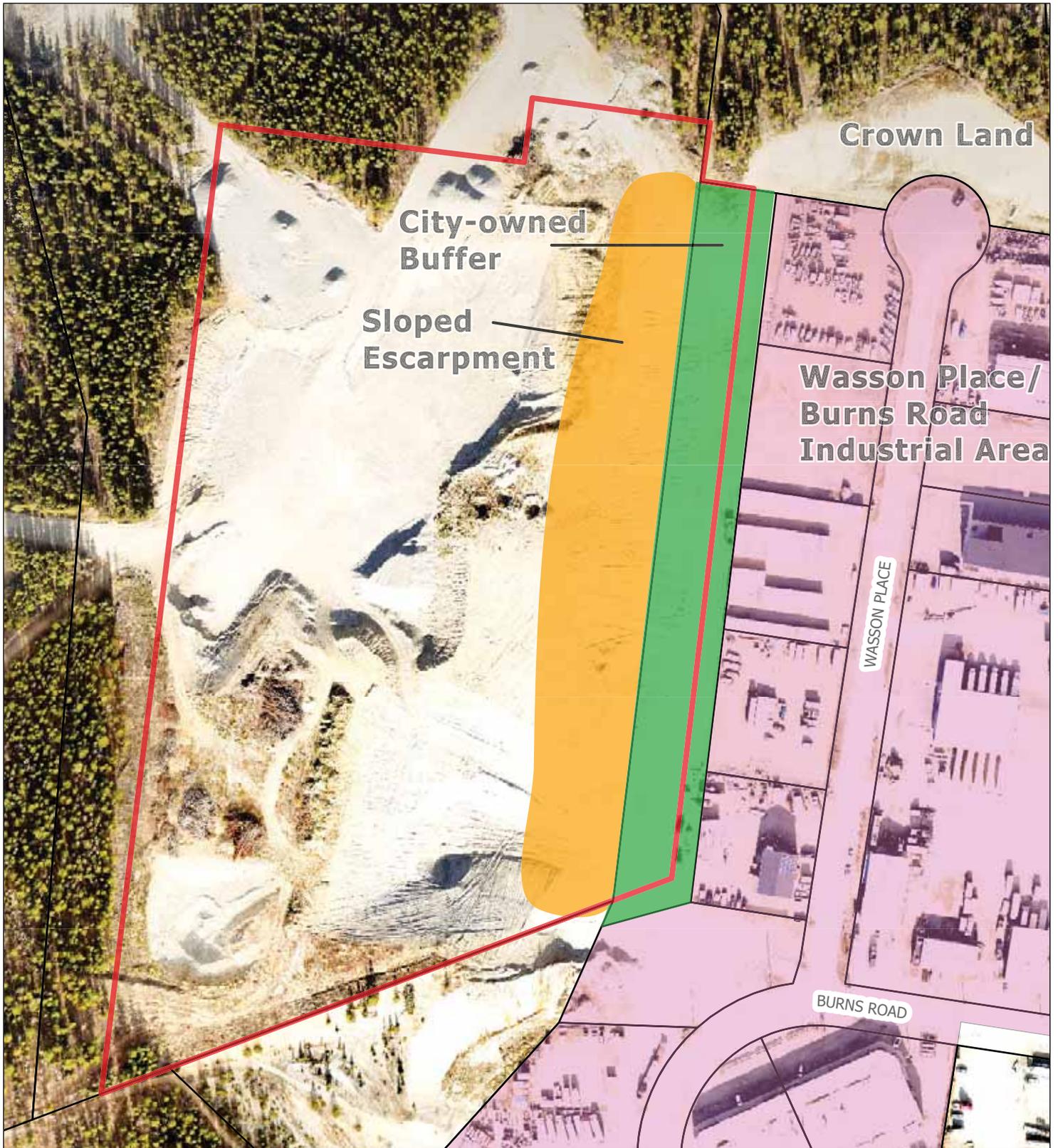
A bylaw to amend the zoning of Lot 429 & 430, Group 804, Plan 26170 LTO (Tank Farm) and Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT to designate Tank Farm as a Direct Control District and allow commercial/industrial development on Tank Farm Phase 1

LEGEND

-  Phase 1
-  Subject Area



CITY OF WHITEHORSE
PHASE 1 - SITE OVERVIEW



BYLAW 2021-29

A bylaw to amend the zoning of Lot 429 & 430, Group 804, Plan 26170 LTO (Tank Farm) and Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT to designate Tank Farm as a Direct Control District and allow commercial/industrial development on Tank Farm Phase 1

LEGEND

 Phase 1

CITY OF WHITEHORSE

BYLAW 2021-29

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 define a new Direct Control District zone; and

WHEREAS it is deemed desirable that the City of Whitehorse Zoning Bylaw be amended to allow for Phase 1 redevelopment of the area known as the Tank Farm;

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

1. Section 13 of Zoning Bylaw 2012-20 is hereby amended by adding a new subsection 13.2, and renumbering the remaining subsections accordingly. The new subsection 13.2 shall read as follows:

“13.2 DC Direct Control District

13.2.1 Purpose

To identify those lands established as Direct Control District under the *Official Community Plan* as shown in Appendix “E”, pursuant to section 291 of the *Municipal Act*.

13.2.2 Regulations

- a) This Zoning Bylaw contains additional zone designators for each DC-zoned parcel of land that shows uses and regulations that apply in addition to the DC zone regulations. For example, a parcel of DC zoned land shown in Schedule A as “DC-CIM” indicates that the zoning regulations of the CIM zone apply in addition to 13.2.3 of the DC zone.

13.2.3 Special Modifications

- a) Lot 429, Group 804, Plan 26170 LTO and portion of Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT, as shown in Map 1 of Appendix “E”, or any future lots subdivided from these land parcels, will be subject to the following special modifications:
 - (1) Granular material excavated from the site may be relocated from one area of the site to another, but no material may be removed from the site, unless permitted under 13.2.3 a)(4);

Zoning Amendment Bylaw 2021-29 – Tank Farm – Direct Control District and Commercial and Industrial Lands

- (2) Processing of material on site, such as washing or crushing, shall not be allowed, unless permitted under 13.2.3 a)(4);
- (3) A development agreement, as defined in *Subdivision Control Bylaw 2012-16*, is required as a condition of any future subdivision approval.
- (4) The development agreement, as defined in *Subdivision Control Bylaw 2012-16*, may authorize relocation of granular material outside the site, and processing of materials on site subject to the applicant providing a detailed material management plan to the satisfaction of the 'Approving Authority' as per sections 13 and 14 of *Development Agreement Regulations Bylaw 2012-15*.
- (5) In addition to items normally included in a development agreement as defined in *Subdivision Control Bylaw 2012-16*, it shall also specify:
 - (a) The amount of granular material to be extracted and stored on site,
 - (b) The amount of granular material to be utilized for site construction,
 - (c) Duration and hours of operation for extraction of granular material and construction work,
 - (d) Details of any material processing, such as crushing or washing, including duration of processing, type of equipment to be used, and amount of material to be processed, and
 - (e) Mitigation measures for noise, dust and other nuisance control during construction.
- (6) The granular material to be processed on site as authorized under 13.2.3 a)(4) shall only be utilized for construction within Lots 429 and 430, Group 804, Plan 26170 LTO, i.e. the Tank Farm site;
- (7) Relocation of granular material outside the site may only be permitted under 13.2.3 a)(4) if the Approving Authority under sections 13 and 14 of *Development Agreement Regulations Bylaw 2012-15* is satisfied that there is no further requirement of granular material for future construction activities within Lots 429 and 430, Group 804, Plan 26170 LTO, i.e. the Tank Farm site;
- (8) Notwithstanding section 45 of Maintenance Bylaw 2017-09, excavation and construction equipment and waste management trucks shall not be operated between the

Zoning Amendment Bylaw 2021-29 – Tank Farm – Direct Control District and Commercial and Industrial Lands

- hours of seven o'clock at night and seven o'clock in the morning (7:00 p.m. to 7:00 a.m.); and
- (9) A development permit shall not be issued for the site until conditions outlined in 13.2.3 a)(1) to (8) are fulfilled.”
- b) A portion of the Lot 429, Group 804, Plan 26170 LTO and Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT, is designated DC-CIMx with the following special modifications:
- (1) Industrial, salvage shall not be permitted;
- (2) A 15 m rear yard setback is required for all development adjacent to slopes greater than 30%; and
- (3) Retail Services, Restricted shall not be permitted.”
2. Zoning Bylaw 2012-20 is hereby amended by adding a new Appendix E – Direct Control Districts as indicated in Appendix “B” attached hereto and forming part of this bylaw.
3. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lot 429 and 430, Group 804, Plan 26170 LTO, and a 0.7-hectare portion of Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT, from FP-Future Planning and PG-Greenbelt to DC--FP-Direct Control Future Planning, DC--CIMx(b)-Direct Control Mixed Use Commercial/Industrial (modified) and DC--PG-Direct Control Greenbelt as indicated on Appendix “A” attached hereto and forming part of this bylaw.
4. This bylaw shall come into force and effect upon the final passing thereof.

FIRST READING:

PUBLIC NOTICE:

PUBLIC HEARING:

SECOND READING:

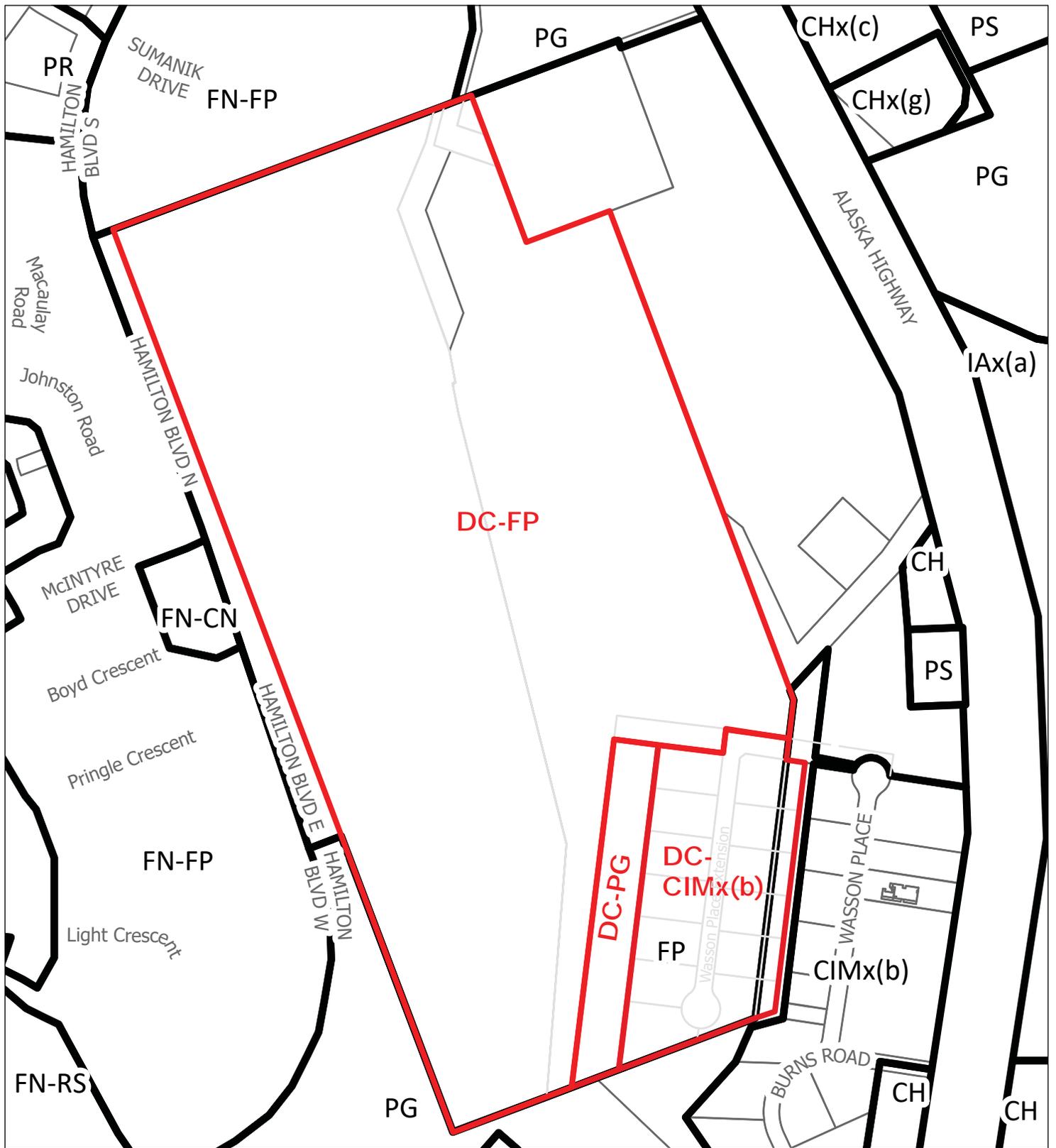
THIRD READING and ADOPTION:

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2021-29
APPENDIX 'A'



BYLAW 2021-29

A bylaw to amend the zoning of Lot 429 & 430, Group 804, Plan 26170 LTO (Tank Farm) and Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT to designate Tank Farm as a Direct Control District and allow commercial/industrial development on Tank Farm Phase 1

LEGEND



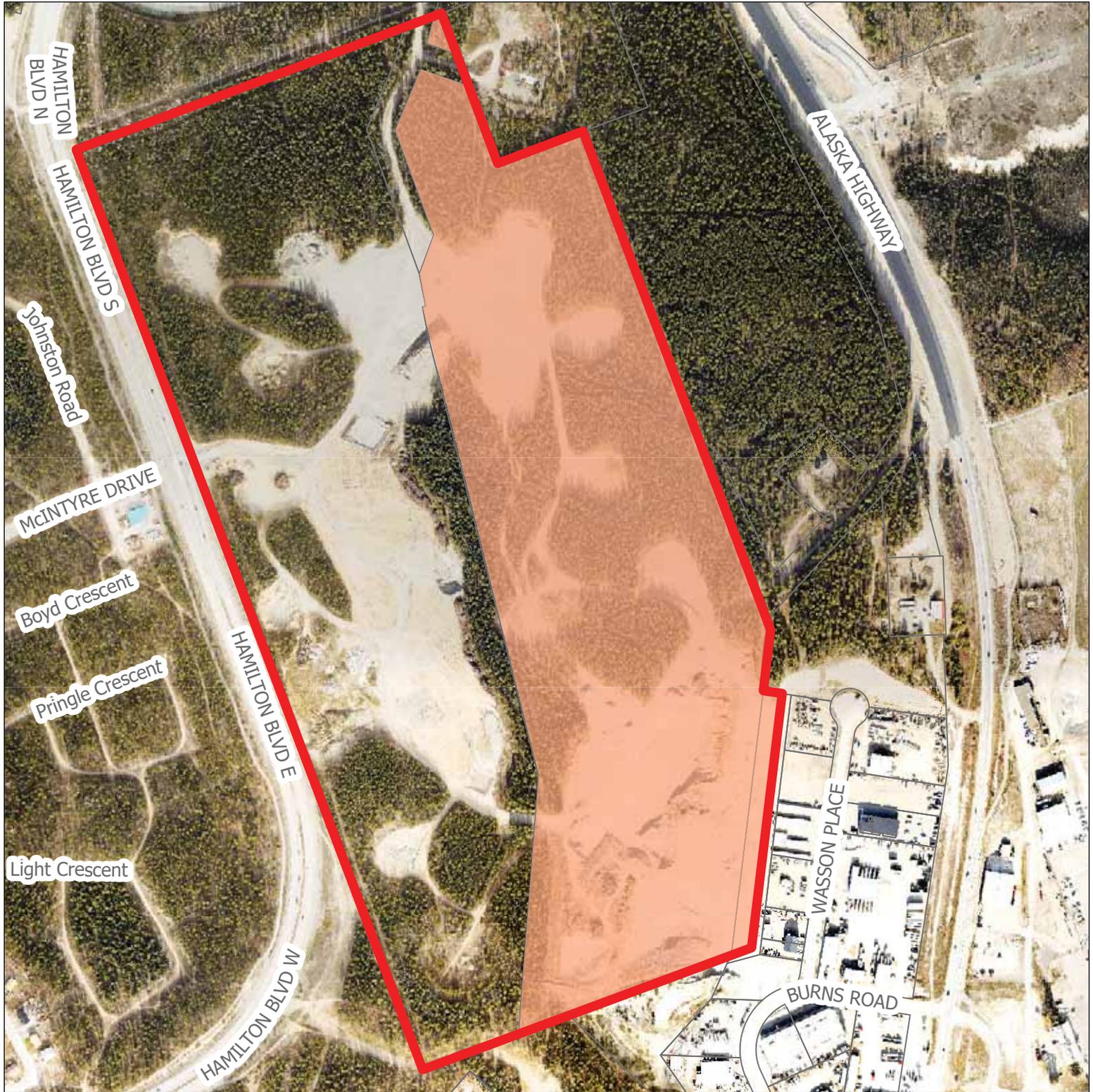
Zoning being Amended

Appendix “E”

Direct Control Districts

Map 1 (Tank Farm)

CITY OF WHITEHORSE
BYLAW 2012-20
APPENDIX "E"



Direct Control District



Direct Control District - Special Modification 13.2.3(a)

0 50 100 200 Meters

A scale bar showing 0, 50, 100, and 200 meters.

CITY OF WHITEHORSE
BYLAW 2021-34

A bylaw to authorize the exchange of property in the City of Whitehorse.

WHEREAS section 265 of the *Municipal Act* (R.S.Y. 2002) provides that Council may by bylaw, on such terms and conditions as deemed advisable, manage the municipality's interest in land; and

WHEREAS it is deemed desirable that the City exchange a portion of buffer in the Hillcrest Industrial Subdivision for parcel of land owned by 46447 Yukon Inc;

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

1. The City of Whitehorse is hereby authorized to enter into a land exchange agreement with 46447 Yukon Inc. The said agreement will authorize the exchange of lands owned by the City of Whitehorse, legally described as a portion of Buffer, Hillcrest Industrial Subdivision, Plan 2009-0107, comprising 7,100 m² +/-, Whitehorse (Parcel B), with lands owned by 46447 Yukon Inc., legally described as a portion of Lot 429, Group 804, Plan 26170, comprising a minimum of 7,100 m² +/- Whitehorse (Parcel A), for the sum of One Dollar (\$1.00), and other good and valuable considerations, as shown on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
2. The Mayor and Assistant City Clerk are hereby authorized to execute on behalf of the City of Whitehorse the Land Exchange Contract attached hereto as Appendix "B" and forming part of this bylaw, and all documentation required for the completion of the transfer of ownership of the said lands in an expeditious manner.
3. This bylaw shall come into full force and effect on the final passing thereof.

FIRST and SECOND READING:
THIRD READING and ADOPTION:

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2021-34
APPENDIX 'A'



BYLAW 2021-34

a bylaw to dispose a portion of the City-owned Buffer Hillcrest Industrial Subdivision, 2009-0107 LTO YT (Parcel B) and acquire a portion of Lot 429, Group 804, Plan 26170 LTO (Parcel A) through an equal area exchange

LEGEND



Subject Parcels

This LAND EXCHANGE CONTRACT dated for reference _____, 2021.

BETWEEN:

THE City of Whitehorse

(the "City")

AND:

46447 YUKON INC., a corporation duly incorporated under the laws of
the Yukon Territory

("46447 YUKON INC")

WHEREAS 46447 YUKON INC. is the legal and beneficial owner of the following property:

That portion of Lot 429, Group 804,
Whitehorse, Yukon Territory
Plan 26170 LTO
Comprising 7,100 m² and shown as Parcel A on the sketch attached hereto as Schedule "A"

(the "Property")

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration,
and to enable the boundary realignment for Phase 1 of a subdivision to be developed by 46447
YUKON INC. the City agrees with 46447 YUKON INC. to exchange the Property for a portion
of the lands owned by the City and legally described as follows:

That portion of BUFFER
Hillcrest Industrial Subdivision
Whitehorse, Yukon Territory
Plan 2009-0107 LTO
Comprising 7,100 m² and shown as Parcel B on the sketch attached hereto as Schedule "A"

(the "City Property")

Encumbrances

1. The Property and the City Property shall be free and clear of all encumbrances except restrictive covenants, reservations and exceptions in the original grant from the Crown, easements in favour of utilities and public authorities and except as set out herein.

Completion Date

2. The sale shall be completed in conjunction with the registration of the subdivision plan of 46447 YUKON INC's Phase 1 Development on Lot 429, Group 804, Whitehorse, Yukon, Territory, Plan 26170 LTO.

Possession

3. 46447 YUKON INC. shall have vacant possession of the City Property and the City shall have vacant possession of the Property at 2:00pm on the Completion Date.

Adjustments

4. There will be no adjustments in respect of the land exchange.

Conditions Precedent

5. The coming into force of this Agreement is subject to the following conditions precedent:
- a) City Council agreeing to proceed with the sale of the City Property and the acquisition of the Property by a land exchange bylaw and issuance of a subdivision approval for the Phase 1 development by City Council of Whitehorse with 46447 YUKON INC's Lands;
 - b) The Purchaser acknowledges and agrees that the City is under no obligation to fulfill the conditions precedent set out in paragraph 5 (a) hereof and City Council may exercise their discretion and refuse to pass the land exchange bylaw and the subdivision approval; and
 - c) The Property is free of contamination and remains compliant with all certificates of compliance issued by Yukon Environment.

Notice

6. Any notice, document or communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand to 46447 YUKON INC. at 10 Sunset Drive North, Whitehorse, YT, Y1A 4M8 and to the City at 2121 Second Avenue, Whitehorse, Yukon Territory Y1A IC2, or to such other address in the Yukon Territory, as either party may in writing advise. Any notice, document or communication shall be deemed to have been given and received when delivered.

Costs

7. 46447 YUKON INC. shall pay their own legal fees and the registration costs to complete this Agreement.

Law

8. This offer and the Agreement which will result from its acceptance shall be governed by and construed in accordance with the laws of the Yukon Territory.

Time Shall be of the Essence

9. Time shall be of the essence hereof.

Representations and Warranties

10. There are no representations, warranties, guarantees, promises or agreements other than those contained herein, all of which contained herein will survive the completion of the sale.

46447 YUKON INC.

By:

)
)
)
)
)

Authorized Signatory

THE CITY OF WHITEHORSE

By:

Dan Curtis, Mayor

Norma Felker, Assistant City Clerk

Schedule "A"

SKETCH OF

PROPOSED LAND EXCHANGE

PARCEL A

BEING PART OF LOT 429, GROUP 804,
(Plan 51614 CLSR, 26170 LTO)

PARCEL B

BEING PART OF BUFFER
(Plan 96111 CLSR, 2009-0107 LTO)

WHITEHORSE

YUKON

Scale 1:2000



LEGEND:

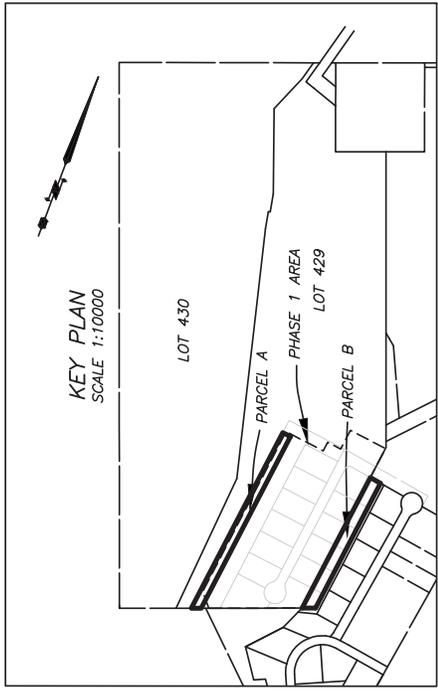
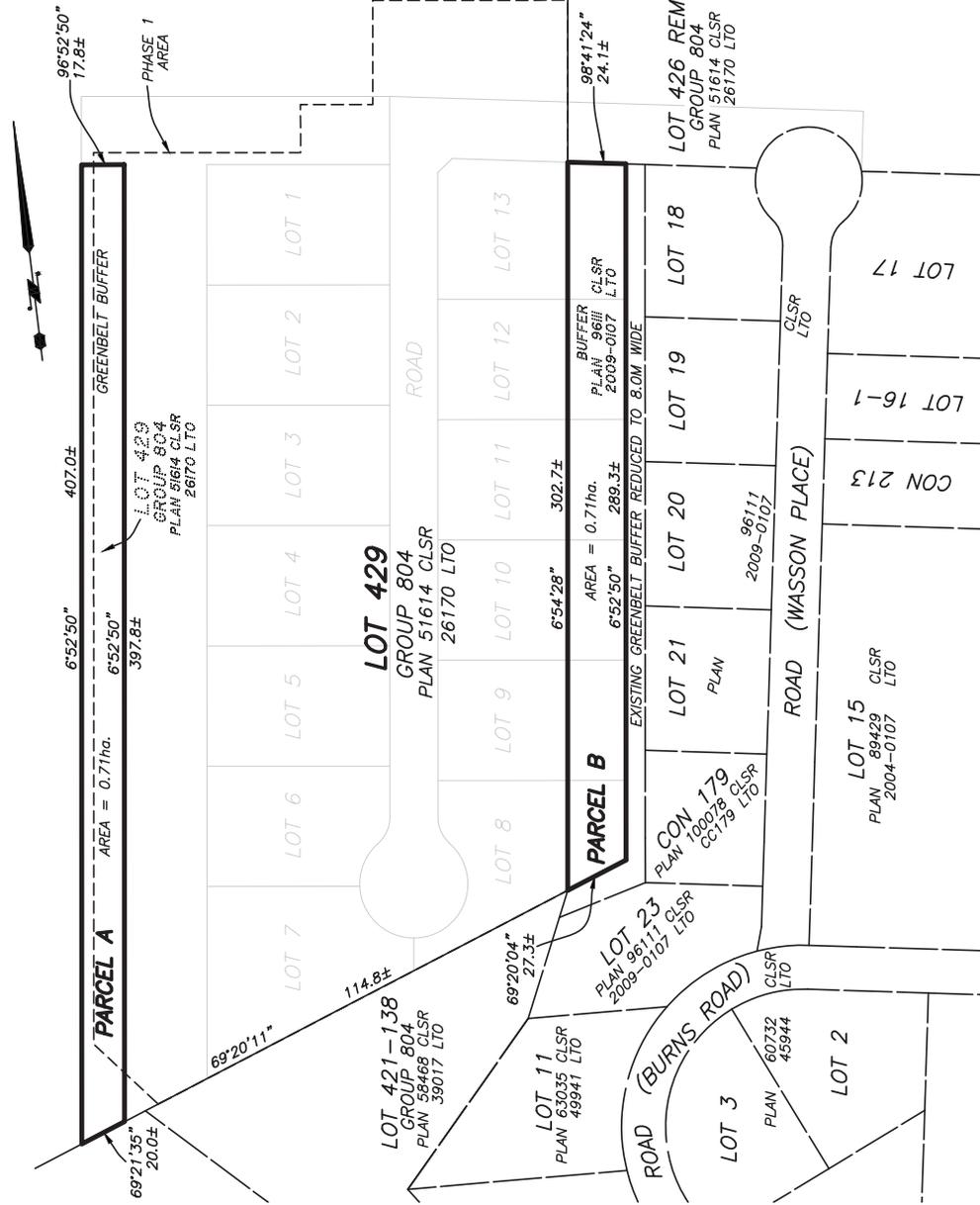
Bearings are UTM Grid derived from NRCAN Data Set and are approximate.

Distances are horizontal at general ground level and are expressed in metres.

Lands dealt with by this sketch shown thus

Phase 1 Area shown thus

(As indicated in the Certificate of Compliance)



UNDERHILL GEOMATICS LTD.
PROFESSIONAL LAND SURVEYORS
WHITEHORSE, YUKON

Job: W19050 D21-106 KL



CITY OF WHITEHORSE
CITY OPERATIONS COMMITTEE
Council Chambers, City Hall



July 5, 2021

Meeting #2021-13

1. New Business

CITY OF WHITEHORSE
COMMUNITY SERVICES COMMITTEE
Council Chambers, City Hall



Chair: Dan Boyd

Vice-Chair: Jan Stick

July 5, 2021

Meeting #2021-13

1. New Business

CITY OF WHITEHORSE
PUBLIC HEALTH AND SAFETY COMMITTEE
Council Chambers, City Hall



Chair: Jan Stick

Vice-Chair: Dan Boyd

July 5, 2021

Meeting #2021-13

1. New Business