



DEVELOPMENT SERVICES COUNCIL REPORT

To: Mayor and Council

Date: November 14, 2023

From: Paul Gipps, CAO

File No: Z 23-04

Subject: **Z 23-04, Zoning Bylaw Amendment No.0265.18 (First and Second Reading), 2004 Bartley Road**

Report Prepared By: Cam Graham, Planner I

RECOMMENDATION to Consider and Resolve:

THAT Council deny the proposed Zoning Amendment Bylaw No.0265.18 (Z 23-04) at 2004 Bartley Road to permit heavy vehicle and equipment storage in an Agricultural Zone (A1) on approximately 1 acre of the subject property; and

THAT Council direct staff to close the file.

STRATEGIC AREA(S) OF FOCUS

Pursue Economic Growth and Prosperity – We will work with stakeholders throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

BACKGROUND

The subject property is a 9.87-acre parcel located within the Bartley North neighbourhood. The property is currently developed with a single detached dwelling, riding stable, agriculture uses (horses and chickens), and accessory buildings and structures on the southwestern portion of the property. A building permit was issued for a prefabricated 60' by 80' steel building on the northern side of the property (see Attachment 2). This building has since been constructed, as the building was proposed as an agricultural building, not for equipment storage. The applicant has noted that the application is needed as they had to relocate their business operation from the Auburn Road industrial area.

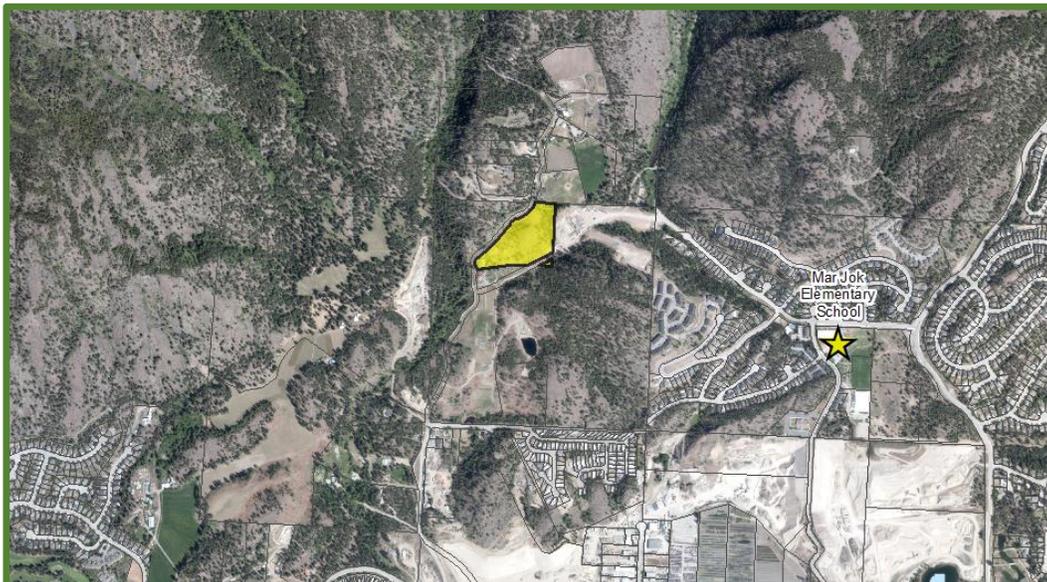
PROPERTY DETAILS

Address	2004 Bartley Road		
PID	031-851-967		
Folio	36414142.003		
Lot Size	39,974 m ²		
Owner	Alex, Steven, Colleen Richardson, Katie McIntyre	Agent	Colleen Richardson
Current Zoning	Agricultural Zone (A1)	Proposed Zoning	Agricultural Zone (A1) <i>with site specific text amendment</i>
Current OCP	Agricultural, Resource Land	Proposed OCP	N/A
Current Use	Single Detached Dwelling; Riding Stable; Agriculture, General; Accessory Buildings and Structures	Proposed Use	Single Detached Dwelling; Riding Stable; Agriculture, General; Accessory Buildings and Structures and vehicle and equipment storage
Development Permit Areas	Wildfire, Hillside, Sensitive Terrestrial Areas		
Hazards	N/A		
Agricultural Land Reserve	No		

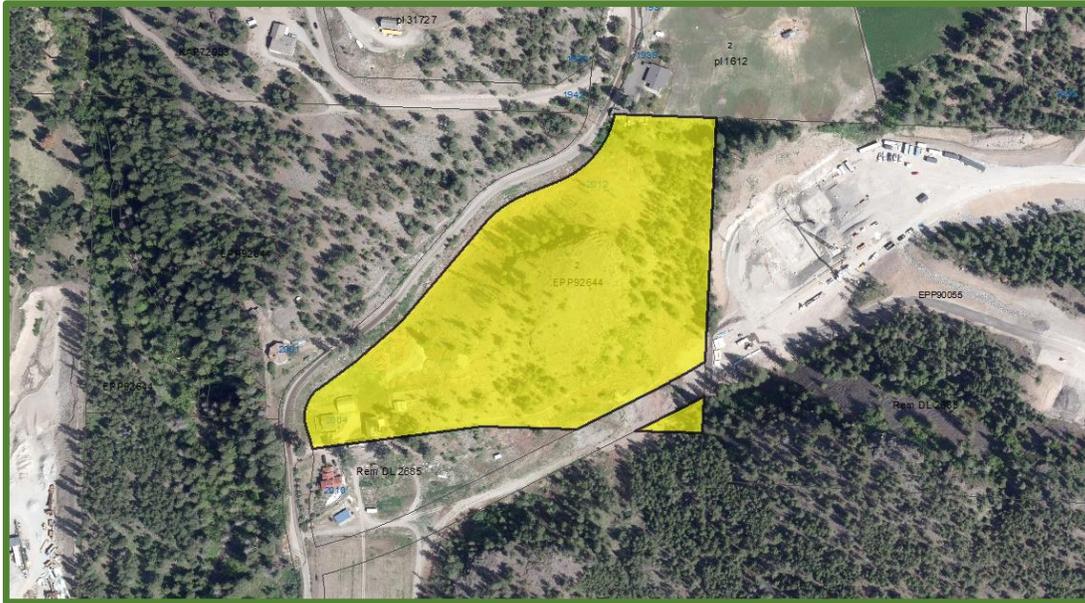
ADJACENT ZONING & LAND USES

North	^	Rural Residential Small Parcel Zone (RU2)
East	>	Agricultural Zone (A1)
West	<	Agricultural Zone (A1)
South	v	Agricultural Zone (A1)

NEIGHBOURHOOD MAP



PROPERTY MAP



Legislative Requirements

Council has the authority under s.479 of the *Local Government Act* to amend the Zoning Bylaw.

Proposal

The application is for Site Specific Zoning Bylaw Amendment to permit heavy vehicles and equipment storage in an Agricultural Zone (A1) on approximately 1 acre of the subject property (See Figure 1). The vehicle storage would include both indoor (within the existing 60'x80' prefabricated steel building) and outdoor storage.

The proposal has evolved since this initial amendment was applied for. Site visits and additional images as well as Bylaw Enforcement concerns led staff to believe the use that was applied for is different from what operations are being performed on the property (See Figure 2). The drone photos clearly show that this section of the property is closer to an

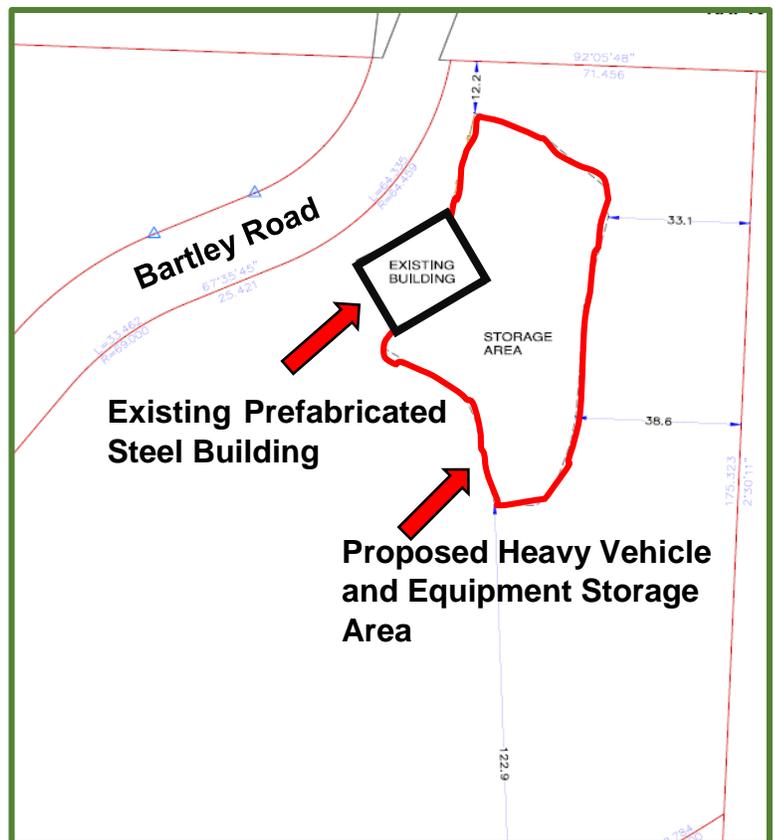


Figure 1: Site Plan for Proposed Storage

Industrial use than strictly equipment storage. It was made clear during our APC meeting that the applicant plans on not limiting the amount of heavy and industrial vehicles that will be stored in this 1-acre area. Currently, they have stated that the number of vehicles and equipment will be 18+ with no proposed cap. These adjustments to the application may have serious ramifications for nearby homeowners and true agricultural uses, such as the Niche Wine Company north of this property up Bartley Road.



Figure 2: Drone Photo (Dated 09 - 22, 2023)

Applicant's Rationale

The Applicant has provided a rationale for their proposal (Attachment 3) and is summarized below:

- The property will be primarily agricultural in use with a riding arena, pastureland, chicken coop, and their primary residence.
- The applicant moved to the Ensign Industrial Park on Auburn Road (I1 Zone), where they subleased a storage yard from Okanagan Ironworx. In 2020, when they renewed the lease, they were advised that it would only be for 3 years as there were plans to use that space for something else in the future.
- Industrial space is scarce in West Kelowna.
- The applicant has been the emergency contractor for longer than the City has been a municipality.

DISCUSSION

Zoning and Policy Review

Official Community Plan No.0300 (OCP 2040)

The Land Use Designation of the subject property in OCP 2040 is Agricultural and Resource Land. The portion of this property subject to this Site Specific Text Amendment is designated Resource Land. During the adoption of the Official Community Plan No. 0300, there were no changes to the Land Use Designations in this area. There is a longer term determination to be made as to the future land use of the area – whether this area will contribute to agricultural, rural, residential, or industrial land base. This discussion will initially take place along with the Industrial Land Use Study which has been proposed to begin in 2024; the determination of the future of these lands has implications on the recommended motion, as the future land use and infrastructure needs of this area has yet to be evaluated.

Agricultural Plan

Recommendation 11: “Protection of Agricultural Land”

The City of West Kelowna supports limiting of the amount of land used by residences and buildings on agricultural land to ensure a maximum amount of the land is available for agricultural production.

The proposal is not consistent with this application. The property is zoned agricultural, and this large, flat 1-acre area could have been available for agricultural uses. While this area wasn't being farmed prior to the application and did not eliminate land being farmed, the availability for agricultural production would be reduced with this proposal.

Zoning Bylaw No.0265

Part 3 General Regulations

Section 3.7 of the General Regulations in the Zoning Bylaw states on a parcel in the Agricultural Zone (A1), the parking and exterior storage of logging, industrial, commercial or construction vehicles or equipment is permitted in accordance with the following:

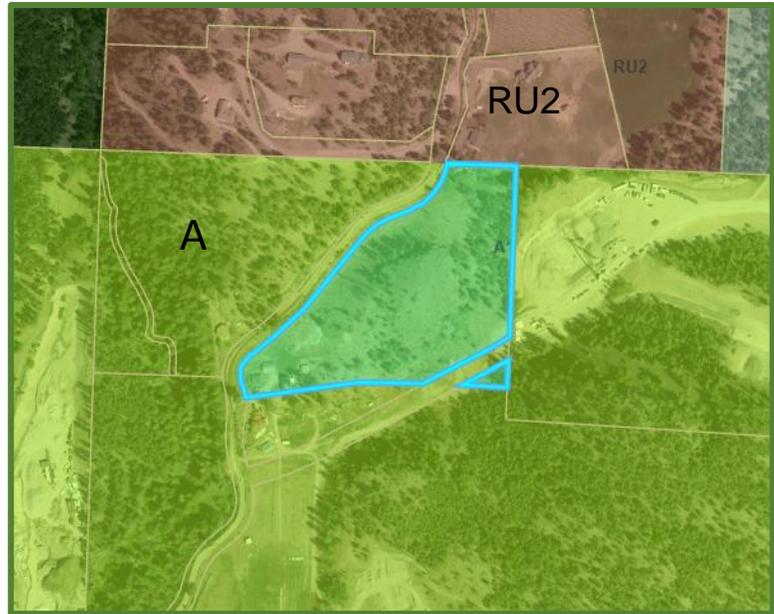


Figure 3: Zoning Map

Minimum Parcel Size	Maximum Number of heavy vehicles or equipment	Maximum area of the parcel covered by heavy vehicles or equipment	Minimum distance of heavy vehicles or equipment from a side of rear parcel boundary or stream
3.8 ha (9.4 ac)	4	300 m ² (3,229.2 ft ²)	15 m (49.2 ft)

The proposed site-specific text amendment application does not meet the above regulations in the Zoning Bylaw. The proposal is for storage of more than four vehicles or equipment (approx. 18+ vehicles and equipment) in an area larger than 300 m² (4,047 m²) and with a less than 15m setback from the northern side parcel boundary (See Attachment 3). The excess number of industrial vehicles on the property is roughly 4.5 times the permitted number of heavy vehicles and equipment permitted in an A1 zone.



Figure 4: Drone Photo (Dated 09 - 22, 2023)

The proposed number of heavy vehicles can grow based on the applicant applying for 18+ and not 18 units of equipment. If the business continues to grow, there is no cap on the number of heavy vehicles that can be stored on the proposed agriculturally zoned site.

Part 8 – Agricultural Zones

The subject property is zoned Agricultural Zone (A1). The A1 zone permits a variety of uses, including single detached dwelling, riding stable, agricultural general, and accessory buildings and structures. The adjacent properties to the North (RU2) are permitted and anticipated to include the following uses: Agricultural General, Greenhouse or Plant Nursery, Modular Home, Single Detached dwellings. These uses are not meant to be adjacent to an Industrial type use.

Vehicle and equipment storage is not a permitted use in the A1 Zone unless it meets the requirements in Section 3.7. An exemption exists for the storage of farm machinery and implements used on the farm on which the storage is taking place. The applicant has stated that the vehicles, although they could be used to aid in agriculture, are not agricultural vehicles.

Zoning Bylaw No.0265 (Part 23 - Interpretation)

Staff are concerned that the proposed use of the property is more consistent with 'Contractor Services' (see definition below). This definition includes many uses that this development would not require, such as accessory sales, and office space. It does however appear that operations being conducted do include warehouse space (storage of aggregate and on-site storage of equipment and vehicles). The principal use of Contractor Services is only permitted in these commercial and industrial zones: C4, I1, I3, I4, and I5.

CONTRACTOR SERVICES means premises used for the provision of contractor services which typically includes road construction, landscaping, concrete, electrical, heating and cooling, plumbing or similar services of a construction nature which require on-site storage of equipment and vehicles, warehouse space and accessory sales and office space.

The main use that is applicable is for 'Equipment storage,' which is not directly defined through Zoning Bylaw No.0265. It is referenced in Section 3.7, as stated above. The closest use would be considered 'outdoor storage' defined as:

OUTDOOR STORAGE means the storage of vehicles, equipment, goods or materials in the open air.

Bylaw Infraction Concerns

During this applications' duration, bylaw complaints were received regarding the subject property. First, staff were made aware that the hydrovac vehicles had been dumping materials on the property (See Figure 5). The applicant has since removed the sign and stopped these works, as dumping a hydrovac vehicle on the lot is not a permitted use in an Agricultural Zone. The applicant was made aware to not operate on 2004 Bartley



Figure 5: Sign Stating, "Dump over Bank"

Road while they have a rezoning application with the City. Neighbours have complained about the applicant storing more than the allotted four heavy vehicles and equipment before the application has been processed (Figures 6 & 7). The applicants have complied with our Bylaw Enforcement Department, and no enforcement has been taken. Attempting to limit the use of the property to equipment storage as opposed to other activities like the storage of aggregate or washing and cleaning the vehicles could prove challenging if the use of equipment storage is not followed by the applicant.



Figure 6 & 7: Bylaw Visit (Dated 09-15, 2023)

Advisory Planning Commission (APC)

THAT the Advisory Planning Commission recommend support for file Z 23-04, Zoning Bylaw Amendment, 2004 Bartley Road.

The Advisory Planning Commission was concerned with the proposal having no vehicle limit and the commission recommended including a heavy vehicles and equipment limit on site.

Agricultural Advisory Committee (AAC)

THAT the Agricultural Advisory Committee recommend support for file Z 23-04, Zoning Bylaw Amendment, 2004 Bartley Road.

Public Notification

In accordance with the *Local Government Act* and the Development Applications Procedures Bylaw No. 0260, notice of first reading was sent to all property owners and their tenants within 100 m of the subject property, was posted in the newspaper, and on the City's website. A Notice of Application sign was also installed on the property in accordance with the Development Application Procedures Bylaw No. 0260.

Per the Development Applications Procedures Bylaw No. 0260, a public hearing is not required for zoning bylaw amendment applications consistent with the Official Community Plan. Notwithstanding this, Council may at their discretion choose to hold a public hearing, or if unless 8 or more written submissions are received, a public hearing is required. If a public hearing is scheduled for this application further notice will be required.

CONCLUSION

Staff recommend Council deny this application as staff have numerous concerns about the existing and potential operations taking place in an agricultural zoned property (A1). Before the application has been considered by Council, the actual use of the site has extended beyond storage to more intensive operations similar to 'Contractor Services.' The property has undergone multiple bylaw enforcement concerns just in the duration of this application. The excess number of industrial vehicles on the property is significantly over the permitted number of heavy vehicles and equipment (approx. 18+ vehicles and equipment). If the business continues to grow, there is no cap on the number of heavy vehicles that can be stored on the A1 zoned site. The proposed area is 600 m² larger than permitted and does not comply with the proposed 15 m setback from the northern side parcel boundary (Bartley Road). There are also anticipated impacts caused by heavy vehicle traffic associated with this business operation on nearby homeowners, winery, and farms.

Should the Council deny the requested Site Specific Text Amendment, the file will be closed. As per the City's Development Applications Procedures Bylaw No. 0260, the applicant may re-apply for a similar proposal a minimum six months after initial consideration.

Alternate Motions to Consider and Resolve:

1. **THAT** Council give first and second reading to City of West Kelowna Zoning Amendment Bylaw No. 265.18, 2023 (File: Z 23-04); and

THAT Council direct staff to schedule the bylaw for consideration of third reading.

2. **THAT** Council give first and second reading to City of West Kelowna Zoning Amendment Bylaw No.0265.18, 2023 (File: Z 23-04); and

THAT Council direct staff to schedule a Public Hearing regarding the proposed zoning amendment.

This option is available for Council should 8 or more written submissions be received triggering the public hearing requirement, or if Council, at their discretion, wishes to hold a public hearing for this zoning bylaw amendment application.

3. **THAT** Council postpone first and second reading of Zoning Amendment Bylaw No.0265.18, 2023.

Should Council postpone consideration of the proposed amendment bylaw, further direction to staff on how to proceed is requested.

REVIEWED BY

Chris Oliver, Planning Manager

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

Trevor Seibel, Deputy CAO

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Zoning Amendments Bylaw No.0265.18
2. Site Plan
3. Applicant's Rationale
4. Delegation Request