



COUNCIL REPORT
Development Services
For the April 21, 2020 Council Meeting

DATE: April 14, 2020 File: Z 20-01

TO: Paul Gipps, CAO

FROM: Hailey Rilkoff, Planner II

RE: Z 20-01; Zoning Bylaw Amendment No. 0154.88; 2648 Kyle Road
Legal: Lot 1 District Lot 2601 ODYD Plan 7670 except Plans 13775, 14130, 15302, 15847, 16899, 19651 and 31194
Owner: Denciti Kyle Rd Holdings Ltd., Inc.No. BC1178060
Agent: Urban Design Group Architects Ltd.

This file is being brought forward to Council with the intention of furthering the proposed land use approval process. The subject property is currently under construction with issued Building Permits for Buildings 1 and 2 and a Building Permit application for Building 3. A development of six multi-tenant buildings was approved under an Industrial Development Permit (DP 18-35) in March of 2018.

RECOMMENDED MOTION:

THAT Council give first and second reading to City of West Kelowna Zoning Amendment Bylaw No. 0154.88, 2020 (File Z 20-01); and

THAT Council direct staff to waive the Public Hearing for the proposed Zoning Amendment Bylaw.

RATIONALE:

The recommended motion is based on the following considerations:

- The proposal would allow greater flexibility for the owners of the subject buildings while addressing the intent of the Zoning Bylaw's requirements (proposing a covenant to notify owners of cannabis production);
- Cannabis Production is permitted in Buildings 1 and 2 (if all tenants are cannabis production);
- The adjacent P2 Zone parcel is well buffered from the subject property (McDougal Creek); and
- Recent amendments to the Zoning Bylaw ensure that air filtration requirements are addressed.

LEGISLATIVE REQUIREMENTS:

Council has the authority under Part 14 (S.479) of the *Local Government Act (LGA)* to create and amend its Zoning Bylaw, including the creation of provisions specific to different locations within a single zone.

The *Local Government Act* (s.464(2)) permits local governments to waive the holding of a public hearing on a proposed zoning bylaw amendment if there is an official community plan in effect for the area that is subject to the bylaw and the bylaw is consistent with the plan. With the recommended motion, the proposed site specific text amendment would be consistent with the underlying OCP land use designations. Should Council choose to waive the public hearing, in accordance with section 467 of the LGA, the City will be required to give notice that it is waiving the public hearing and providing opportunity for the public to review the bylaw.

BACKGROUND:

In March of 2019, an Industrial and Hillside Development Permit to allow for the construction of six multi-tenant industrial buildings (in two phases) subject to the conditions in the attached Development Permit (Attachment 1) was issued. Two Building Permits have been issued (for Buildings 1 and 2) and another Building Permit has been applied for (Building 3). The total density of the site is ~225,000 sq.ft. (209031m²) of industrial buildings with ~59 units ranging in size from 1,700 to 20,000 sq.ft (Figure 1).

Proposal

The applicant is requesting a site-specific text amendment to permit cannabis production in a building with multiple occupancies for Buildings 1-3 of the proposed development. As part of this request, Building 3 will encroach within the 150m buffer to the adjacent P2 Zoned parcel (Brookhaven) by approximately 40m.

The applicant has proposed to register a S.219 Covenant restricting cannabis production to the first three buildings. The covenant will also notify future owners that there is the potential for cannabis production in any or all of the various units within the first three buildings.

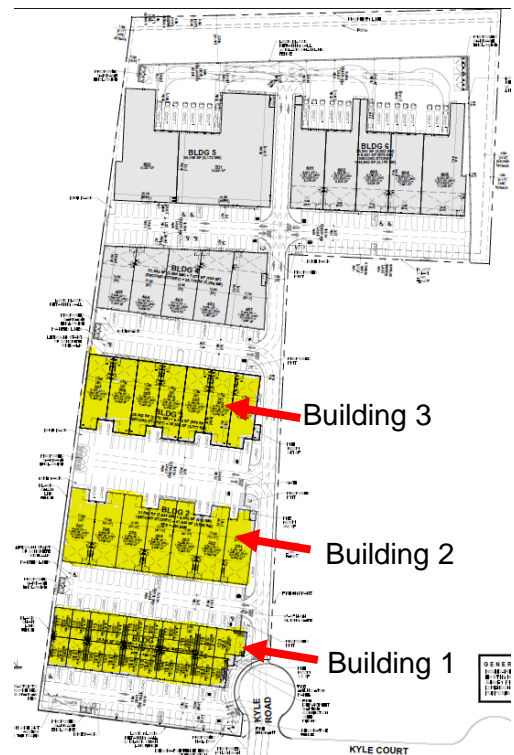


Figure 1. Site Plan DP 18-35.01

Location and Surrounding Context

The subject property is located adjacent to the Brookhaven Care Centre and Crystal Springs Mobile Home Park approximately 400m north-west of the Highway 97 intersection with Bartley Road. The subject property is zoned I1 – Light Industrial and has a Future Land Use Designation of Industrial. The property is approximately 10.33 acre (41804m²), and is surrounded by the following uses:

- North – Crystal Springs Mobile Home Park (RMP Zone)
- East – Brookhaven Care Facility (**P2 Zone**) and a similarly zoned I1 – Light Industrial Parcel (former pellet plant)

- South – Similarly zoned I1 parcels
- West – I1 – Light Industrial and I4 – Gravel Extraction Zoned properties (Auburn Rd. strata)

The subject property does include an existing Telus communications tower on the south-west portion of the site and is accessed through an existing SRW.

Policy and Bylaw Review

Zoning Bylaw No. 0154

The subject property is located within the Light Industrial Zone (I1), which permits a variety of retail, manufacturing, service-related uses and cannabis production facilities. Cannabis Production Facilities are defined as:

CANNABIS PRODUCTION FACILITY means premises used for cannabis production, including premises used for cannabis production by a licensed producer under Part 1 of the Federal Regulations and premises used for cannabis production by one or more persons under one or more registrations under Part 2 of the Federal Regulations, but not including residential premises used for the production, processing or storage of cannabis for the medicinal use of a resident of the premises under a registration under Part 2 of the Federal Regulations.

The Zoning Bylaw also regulations Cannabis Production Facilities in the General Regulation section as follows:

3.3.8 Except as expressly permitted by this bylaw, cannabis production facilities are prohibited in buildings with multiple occupancies unless all of the occupancies in the building are cannabis production facilities.

3.25.1 Cannabis production facilities shall be sited a minimum distance of 150 m (492 ft) from an abutting:

- zone that permits dwellings as a principal use; and
- P zone

3.25.2 Cannabis production facilities shall comply with, at a minimum, the air filtration and security requirements set out in Part 1 of the Federal Regulations.

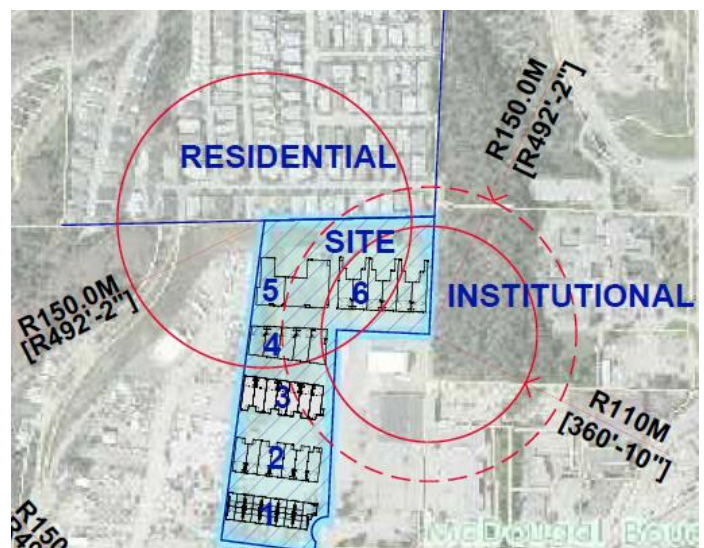


Figure 2. Setback from P2 Zoned Parcel

Discussion

The Zoning Bylaw regulation to not permit Cannabis Production in multi-tenant buildings was intended to protect the interest of and eliminate any potential impacts to existing tenants in multi-tenant buildings (e.g., have a cannabis production use move into an existing building with established tenants). While this proposal conflicts with the regulation, it is a different scenario as the proposed buildings are under construction and have no established tenants. The applicant is also proposing to address the intent of the Zoning Bylaw regulations by registering a covenant on title notifying future property owners of the potential for there to be cannabis production in the units.

In addition to the multi-tenant considerations, the site-specific text amendment is also proposing to allow production within the established 150m buffer from a P2 Zoned parcel. In this instance, the functional separation is ~245m from the buildings on the P2 parcel as it is separated by McDougal Creek (Figure 3).



Figure 3. Separation from P2 Zoned Parcel

APC CONSIDERATION

This application has not been considered by the Advisory Planning Commission (APC) as the APC meetings have been postponed indefinitely due to the ongoing provincial state of emergency and public health orders restricting public gatherings.

PUBLIC NOTIFICATION

A Notice of Application sign has been posted on site as per the Development Applications Procedures Bylaw No. 0260. Should Council give first and second reading to the proposed bylaw amendment, a Public Hearing will be held in accordance with the *Local Government Act*.

ALTERNATE MOTIONS(S):

1. **THAT** Council give first and second reading to City of West Kelowna Zoning Amendment Bylaw No. 0154.88, 2020 (File Z 20-01); and

THAT Council direct staff to schedule the proposed bylaw amendment for Public Hearing, when appropriate.

Should Council not wish to waive the public hearing, a Public Hearing will be scheduled when appropriate. Staff are currently awaiting direction from the Province on how to hold meaningful Public Hearings while meeting all of the Provincial Health Orders and recommendations due to the COVID-19 pandemic.

2. **THAT** Council postpone first and second reading to City of West Kelowna Zoning Bylaw Amendment Bylaw No. 0154.88, 2020 (File: Z 20-01).

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

3. **THAT** Council deny File Application No.: Z 20-01 and direct staff to close the file.

Should Council deny the proposal, the file will be closed. As per the City's Procedures Bylaw, the applicant could re-apply for a similar proposal 6 months after initial Council consideration.

REVIEWED AND APPROVED BY:

Brent Magnan, Planning Manager
Mark Koch, Director of Development Services
Tracey Batten, Deputy CAO/Corporate Officer
Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Subject Property Map
2. Context Map
3. Site Plan
4. ZB154.88