

Topic: Public Hearing Re: Bylaw No. 2013-20, Amendment to Land Use Bylaw No. 20-2009

Discussion

The Application

The County has received an application from two (2) landowners in Zone 2 of the Acheson Industrial Area to amend Map 9 and 9A within Land Use Bylaw No. 20-2009 to redistrict certain lands within NW 11-53-26-W4M from the IRD – Industrial Reserve District to the BI – Business Industrial District. If the proposed redistricting amendments are accepted, both landowners wish to undertake further subdivision and development of the lands for anticipated future industrial/commercial use.

Site and Previous Approvals on the Lands

The subject quarter section (NW 11-53-26-W4M) currently consists of two titled areas under separate ownership. The lands are immediately south of Highway 16 (Yellowhead), east of Range Road 262 (Bevington Road) and north of Township Road 531A (Parkland Avenue) in Zone 2 of the Acheson Industrial Area. Boblen Holdings Co. Ltd. owns a 2.407 hectare parcel of land in the northwest corner of the quarter section. A development permit was historically approved for industrial manufacturing and storage (Cross Country Homes) on the parcel; the parcel is not yet connected to municipal services. The parcel is part of this currently proposed redistricting application.

Parkland Estates Development Corp owns the balance of the quarter section (51.16 hectares), however only those lands (24.65 ha) north of Parkland Avenue are subject of the current redistricting application. The lands were historically used for extensive agricultural activities. A ravine is located in the northeast portion of the quarter section and is proposed to be utilized as part of the future storm water management for the area. Penn West Petroleum Ltd. is currently operating two oil/gas wells in proximity of the ravine. Chevron Canada Limited holds the licensee for an abandoned well also in proximity to the ravine.

Analysis

Compliance with Capital Region Growth Plan and Approved County Plans

1. Capital Region Growth Plan

Bylaw 2013-20 does not require referral to the Capital Region Board as Land Use Bylaw amendments are not a requirement under the Regional Evaluation Framework. Administration is of the opinion that Bylaw 2013-20 and the development of NW 11-53-26-W4M is consistent with the land use policies of Priority Growth Area 'A' to grow employment in the Acheson area where existing municipal infrastructure can be logically and efficiently extended.

2. Municipal Development Plan (MDP)

The proposed amendment application is consistent with Section 5 of the County's MDP where new industrial/commercial development is directed into established industrial areas, including Acheson. The

Land Use Concept Map (Map 2) within the MDP identifies the land for industrial/commercial development. Bylaw No. 2013-20 does not require referral to the City of Edmonton as the proposed re-districting amendment is consistent with the MDP and existing Acheson Industrial Area Structure Plan Bylaw No. 20-97. Policy 11.6 in the MDP does not require formal referral of LUB re-districting applications to the City of Edmonton that are consistent with Bylaw No. 20-97; however an informal referral was sent to the City of Edmonton for information purposes.

3. Acheson Industrial Area Structure Plan (ASP)

The subject lands under the Bylaw 2013-20 amendment fall within Stage 2 of the Commercial/Industrial designation within the existing ASP Bylaw No. 20-97. Bylaw No. 2013-20 is consistent with Policy 4.2.1(12) of the ASP where development of the Stage 2 area follows substantial development of Stage 1 lands, as identified on Land Use Concept Map 4.1. Note: Bylaw No. 2013-20 is also consistent with proposed Bylaw No. 32-2012, being the proposed replacement ASP that was not supported through the Regional Evaluation Framework process earlier this year.

4. Future development of N.W. 11-53-26-W4M

As noted, Parkland Estates Development Corp. has simultaneously submitted a two (2) phased subdivision for the subject lands in NW 11-53-26-W4M should Bylaw No. 2013-20 be successful.

Administration identifies the following unresolved or potential issues:

1) Acheson Zone 1 and 2 Traffic Sensitivity Analysis (Hwy 60 & Twp Rd 531A Intersection)

At the August 27, 2013 Council Meeting (1st Reading), Administration identified a requirement to complete the already commenced traffic sensitivity analysis for Zone 1 and 2 of Acheson, further impacted by the proposed amendment application. Administration has received an initial draft of the Traffic Sensitivity Analysis from our Consultant. A presentation regarding the preliminary findings of the analysis was presented at the September 17, 2013 General Priorities Committee and was further reviewed with Administration on October 1, 2013. **Council may proceed with adoption of Bylaw 2013-20 in respect to the Zone 1 and 2 traffic sensitivity analysis for the Highway 60 and Township Road 531A intersection at their discretion.**

2) Phase 1 - Stormwater Management

The primary Applicant proposes to drain Phase 1 lands west to the existing storm water management facility (wet pond) at the southeast corner of Highway 16 and Highway 60 and not construct a new facility in NW11. Administration has identified to the Developer that the **Phase 1 drainage as proposed is inconsistent with Water Act Approval No. 00287756-00-00 as currently issued by Alberta Environment and the Parkland County Acheson/Big Lake Area Master Drainage Plan.** Administration has encouraged the Developer to complete the necessary engineering reviews and supporting documentation to make application to Alberta Environment to amend the Water Act approval. Administration received a number of unsigned technical documents related to this matter from the Applicant and their representatives on Friday, September 20, 2013 at the end of the day. **A review of these documents is currently being completed by Engineering Services and a separate report/update will be provided to Council at the Public Hearing regarding this matter.** Should a Water Act amendment be successful, the Developer must be able to demonstrate that the existing storm water facility is in a condition capable of accepting run-off flows from the Phase 1 development.

3) Existing SWMF at Highway 60 and 16 – Deficiencies & Landscaping

The existing SWMF at Highway 60 and Highway 16 has not yet received a Final Construction Certificate (FAC) that was to be completed in 2007 due to a number of construction deficiencies, including significant erosion and other design issues. Further, **the Developer has also not completed certain landscaping improvements around the facility that were previously required by Council** when the County transferred some land in NW10-53-26-W4M to the Developer under a previous approval; however security is being held for this landscaping work. The Applicant and their representatives submitted an updated landscaping plan to Administration on September 20, 2013 seeking a new County approval. The accepted plan from 2009 proposed a total of 2,167 plant units for a total price estimate of approximately \$218,000.00. The September 2013 updated plan proposes a total of only 363 plant units; a cost estimate was not provided. **This represents an approximate 86% reduction in landscaping.** Administration recommends that the updated landscaping plan not be accepted and the Applicant be required to complete landscaping as per the previous approved 2009 plan. For years Administration has encouraged the Developer to address the deficiencies and landscaping in a timely manner to avoid potential delays during redistricting/subdivision applications (such as this one), but has not received a satisfactory response to date.

4) Phase 2 - Stormwater Management

The Applicant proposes to construct a new in-stream storm water management facility (dry pond) within the ravine area of NW 11-53-26-W4M to address drainage from the Phase 2 development in NW 11-53-26-W4M and other lands to the south and southwest. Both a dry pond and an in-stream pond are not the preferred method of handling storm water management under Alberta Environment Guidelines and the *Parkland County Acheson/Big Lake Area Master Drainage Plan*. As such, detailed design of the facility should be completed at this time and submitted into Parkland County and Alberta Environment to ensure its acceptance at subdivision stage, should the re-districting application be successful. Further, **the acceptance of a storm water management design for the Phase 2 facility is contingent on whether an amendment to Water Act Approval No. 00287756-00-00 for Phase 1 is accepted.**

5) Phase 2 – Operating Oil/Gas Wells within NW11-53-26-W4M

Two operating well sites, both owned by Penn West Petroleum Ltd. (License #0003571 and #0005319), are located in NW 11. Both well sites have been confirmed by the Licensee and the Alberta Energy Regulator (AER) as potential Level 1 sour oil/gas facilities, and as such require a minimum 100.0 metre surface setback from the center of the well-head consistent with the *Provincial Subdivision and Development Regulation*. **The Applicant has proposed to dedicate and transfer a public utility lot to the County contains the two operating well sites and supporting infrastructure to the County as part of the lot that contains the Phase 2 storm water management facility.** Administration recommends that the Phase 2 subdivision be redesigned by the Applicant and that lands only needed to support the creation of a public utility lot for the storm water management facility be included. In contrast, **Administration recommends that the matter of accepting a parcel that includes the operating wells be reviewed with the County's Solicitor prior to proceeding with the current design.**

6) Phase 2 – Abandoned Oil/Gas Well within NW11-53-26-W4M

A third wellbore, owned by Chevron Canada Limited (License #0012578J) is also located within NW 11. The well is identified as abandoned and Reclamation Certificate Exempt. This was confirmed by

Administration with the Alberta Energy Regulator (AER) since first reading on August 27, 2013. As such, Administration's previous request to the Applicant as outlined in the August 30, 2013 letter to produce a Reclamation Certificate for the abandoned well is no longer required. However, **the Provincial Subdivision and Development Regulation and AER's Directive 079: Surface Development in Proximity to Abandoned Wells** requires the Applicant to contact the licensee and discuss the proposed subdivision in respect to the minimum setback requirements (5.0 metres) as set out in Directive 079. Administration has received no correspondence from the Applicant, Chevron, or AER regarding the abandoned well and whether or not a 5.0 metre setback is sufficient, or whether a surface setback from the wellbore is exempt under Directive 079. **The Applicant has proposed to construct the Phase 2 storm water management facilities overtop of License #0012578 and transfer the improvement to the County without identifying the surface setback above the abandoned well bore through consultation with the Licensee and AER, if any.** If no setback is required, what if any modifications to the well bore itself may be required by the Licensee, AER or Alberta Environment to allow the development of a storm water management facility overtop of Licensee #0012578? Administration is notes that if a surface setback is required consistent with the *Subdivision and Development Regulation* then design of the proposed SWMF and lot configuration in Phase 2 must change.

7) Phase 2 - Proposed Pan-Handle Parcel (Lot 126).

The Applicant proposes to create a pan-handle shaped parcel (Lot 126) within Phase 2. Policy 10.15 within the County's Municipal Development states that *"the County will discourage subdivisions that reply on a panhandle to obtain legal and physical access to a municipal road"*. A panhandle subdivision *"means a parcel which has its primary legal and physical access from the municipal road through a narrow strip of land called the panhandle"*. As such, **Administration is unable to support the proposed creation of Lot 126, as it is currently designed as a panhandle.** The Applicant has not demonstrated a redesign of Lot 126 that is consistent with County policy.

Referral Comments

Proposed Bylaw No. 2013-20 was referred to adjacent landowners, the City of Edmonton, Alberta Transportation, Acheson Business Association and the Wagner Natural Area Society. It was also advertised in the September 13th and 20th editions of the Spruce Grove Examiner and Stony Plain Reporter. As of the date of this report no responses were received by Administration.

Administration's Position

Administration supports Bylaw No. 2013-20 **subject to** the Applicant addressing the items identified in this report. The Applicant has not satisfactorily responded to a number of items raised by Administration, including those identified prior to and at first reading regarding the proposed development of NW 11-53-26-W4M. As such, **Administration recommends that the Public Hearing regarding Bylaw No. 2013-20 be recessed until the above matters have been addressed by the Applicant.** Administration has reserved the potential dates of November 26, 2013 at 10:00 a.m. and December 10, 2013 at 9:30 a.m. to reconvene the Public Hearing subject to Council approval.

The proposed redistricting and development of a portion of NW 11-53-26-W4M for industrial/commercial use within the BI – Business Industrial District under the County’s Land Use Bylaw is consistent with the Capital Region Growth Plan, the County’s Municipal Development Plan and the Acheson Industrial Area Structure Plan. The development at this location in Zone 2 of the Acheson Industrial Area is practical as existing infrastructure can be logically and efficiently extended at this time subject to addressing the items identified within this report. As no concerns have been received to date the proposed zoning change appears to be supported by referral agencies and the local community.

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September 30, 2013