

**From:** [Legislative Services](#)  
**To:** [Public Input](#)  
**Subject:** FW: Delegate Presentation April 8  
**Date:** Monday, April 8, 2024 10:24:26 AM  
**Attachments:** [OCP Amendment Proposals.docx](#)

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Hi,

This delegate is coming to speak at tonight's meeting, but they also requested I forward their letter to the public input email.

Thanks,

Noah B

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**From:** Active Trails <[REDACTED]>  
**Sent:** Monday, April 8, 2024 8:25 AM  
**To:** Legislative Services [REDACTED]  
**Subject:** Delegate Presentation April 8

To whom it may concern (Noah):

I would like to register as a Delegate for tonight's meeting. I would be speaking as an associate of Active Trails Whitehorse Association. The topic would be the OfficialCommunityPlanAdministrativeAmendments, that are on the Agenda for tonight's Regular Council Meeting.

Below you will find a copy of the intended presentation. There are no other documents provided or needed for this presentation.

Could you please inform me if I will be permitted to speak on this subject.

Thank you.

Keith Lay (Active Trails Whitehorse Association)

[REDACTED]

April 8, 2024

Good evening! My name is Keith Lay. I live in Porter Creek and I am here as an associate of Active Trails Whitehorse Association with regard to two of the proposed OCP amendments.

Please note that the questions that ATWA will be asking tonight are directed to administration, but may be of interest to councillors. We hope these questions will be answered. (Too bad we don't have a **Public or Delegate Questions and Answers** section that would appear under the **Meetings** section on the City's website.)

Administration wants to amend Section 7.9 of the OCP by adding a new *exception* to the City's Riparian 30-metre Setback requirement. Currently there are three exceptions that call for review and consideration on a site-by-site basis. Administration proposes to add a fourth exception "**where improvements to trails are proposed within a Riparian Setback.**"

**Question: a)** Should this not read subsection 7.9 iv. rather than 7.9 vi.?

**Comment:** In City documents such as the Chadburn Lake Park Management Plan the building of new trails within 30-metres of a riparian area is prohibited. This suggests the extreme sensitivity of such areas and their importance to maintain biodiversity. It clearly suggests the detrimental nature of increasing the footprint of *existing* trails in such areas.

However, if the City allows so-called *improvements* to trails that are already located in such areas, and if those *improvements* allow for the widening of such trails, then this will obviously result in the degradation of the riparian area. In other words, you are destroying the very reason why people may want to see such areas, by negatively impacting the areas' biodiversity.

Not enough information is provided by administration with regard to this amendment proposal. It is couched in language which suggests that increasing the width of existing trails located in riparian areas and doing some grading would result in increased accessibility, an assumption that we are supposed to take at face value.

No specific information is given by administration as to what (if any) expansion limits (in terms of width) would be placed on trails located within the 30-metre riparian limit. If this amendment is approved it would give the City carte-blanche as to the width of such trails, and carte blanche as to how it conducts the grading of such trails.

And, Section 7.11 of the OCP gives us no guarantee that there will be any environmental study undertaken to evaluate these so-called *improvements*, as the words **may be required** are employed in that section.

The amendment in its current form should not be approved.

**Note:** 7.11 An environmental study prepared by a qualified professional *may be required* when considering any potential reduction of the Riparian Setback.

**Note:** A riparian area is defined as the strip of moisture-loving vegetation growing along the edge of a natural water body. The exact boundary of the riparian area is often difficult to determine because it is a zone of transition between the water body and the upland vegetation.

Another amendment proposes a change to OCP Map #1 entitled, Greenspace Network Plan and Parks.

ATWA has indicated in this delegate presentation our understanding of what this amendment actually means, and we are just asking for confirmation from administration that our understanding is correct.

1. The Greenspace Network Plan and Parks – Map 1 forming part of The Official Community Plan Adopting Bylaw 2022-40 is hereby amended by incorporating the environmental sensitivity information from Map 3 – Environmentally Sensitive Areas in the 2017 Chadburn Lake Park Management Plan, as indicated on Appendix A and forming part of this bylaw.

**Comment:** This is what ATWA understands as to what administration is proposing with regard to this amendment.

**Map 3** on page 9 of the Chadburn Lake Park Management Plan (CLPMP) is entitled, Environmentally Sensitive Areas. However, two of the four environmental *sensitivity* rated areas illustrated on that map (Low Sensitivity and Minimal Sensitivity) are *not actually considered* to be Environmentally Sensitive Areas, despite the rather confusing title of the Map. (To be clear, it is our understanding that areas of High Sensitivity and Moderate Sensitivity on the map *are* Environmentally Sensitive Areas.)

So, areas of Low Sensitivity and Minimal Sensitivity will be included as Greenspace on the Greenspace Network Plan and Parks Map 1 of the OCP. And, areas of High Sensitivity and Moderate Sensitivity will be included as Environmentally Sensitive Areas on that same map.

We understand that this is necessary due to the completion of the 2017 Chadburn Lake Park Management Plan in order to “reflect the most recent environmental sensitivity information from” that plan.

**Question:** a) Is our understanding correct with regard to the above?

We have the impression that Map 3 of the CLPMP will not be changed. In other words, there would still be four areas of sensitivity identified on the map. So, if development does occur in park areas of Minimal and Low Environmental Sensitivity, “the impacts [would continue to] be offset by habitat improvements in other more sensitive natural areas found in the park” as

required by the Chadburn Lake Park Management Plan. (CLPMP p. 14 #3 Park-Wide Management Directives)

**Question: a)** Is our impression correct with regard to the above?

We do have some other questions and comments.

**Question: a)** Could the title of Map 3 of the Chadburn Lake Park Management Plan (CLPMP) be changed to read Environmental Sensitivity Rated Areas? At present, the current title of Map 3 is *Environmentally Sensitive Areas*. This leads one to believe that the entire Chadburn Lake Park is one big ESA as defined in the OCP.

**Question: b)** The CLPMP map on the Proposed Amendments – Map 1 Appendix A page, is given the date 2016, but the park plan was adopted in June of 2017. Could this be corrected?

Currently, the City has at least three different definitions of the term Environmentally Sensitive Areas found in various City documents as follows:

The **2020 Trail Plan** defines Environmentally Sensitive areas as “Areas with low tolerance to human disturbance where slight alterations would result in functional or structural changes to the ecosystem unit with potentially negative impacts on wildlife or visual aesthetics.”

The **OCP** defines Environmentally Sensitive Areas as “Water bodies, water courses, wetlands, high value habitat areas, wildlife corridors, and adjacent buffer as shown on Map 1 Greenspace Network Plan and Parks.”

The **Snowmobile Bylaw and ATV Bylaw** define Environmentally Sensitive Areas as “areas determined to have high wildlife values and/or high environmental sensitivity, where protection of natural areas, wildlife habitat, and ecological values is ensured and which have been identified in the Trail Plan.”

**Question: a)** Why does the City have three definitions of the same term?

**Question: b)** Would the City consider amending the OCP definition of an ESA to conform with the more explanatory and meaningful 2020 Trail Plan definition, which is the definition one would think should be used for both the ATV and Snowmobile Bylaw, and any other city document in which the term is used?

The City of Whitehorse does not seem to have a definition of the term *Greenspace*. The OCP talks about *Greenspace Intent* (see p. 75), but does not actually define the term. We understand that the OCP Greenspace designation includes areas that are considered to be ESAs, but unless we have clear definitions for both terms it is difficult to understand the difference between the two.

To add to the confusion surrounding the term Greenspace, the Zoning Bylaw defines "GREENBELT" as "an area that is left in a generally natural state that may be used for *passive or active recreation*, trails, or buffers."

The ATV Bylaw defines "Greenbelt" as an area of land generally left in a natural state which is under the ownership or control of the Crown, Commissioner of the Yukon or the City and may be used for **passive or active recreation**, trails, or buffers, as set out in the City's Zoning Bylaw."

The OCP mentions the term Greenbelt once, but supplies no definition.

**Questions: a)** Does the City consider Greenbelts to be part of what makes up a Greenspace?

**b)** Could the OCP amendments include the addition of a definition of the terms Greenspace, passive recreation, and active recreation (definitions of which we are as yet unable to find in City documents that use these three terms), and the term Greenbelt to its Glossary?

Thank you!

**From:** [Fleming, Chelsea](#)  
**To:** [Public Input](#)  
**Subject:** FW: Notice of Public Hearing - Administrative OCP Amendments  
**Date:** Friday, April 12, 2024 3:01:06 PM

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**From:** Glenda Koh [REDACTED]  
**Sent:** Wednesday, April 10, 2024 4:36 PM  
**To:** Fleming, Chelsea [REDACTED]; John Pattimore [REDACTED]  
**Subject:** RE: Notice of Public Hearing - Administrative OCP Amendments

Hi Chelsea,

We'll have a look and see whether we need to submit a comment to the public hearing. In the meantime, there's a grammatical problem with Policy 13.2ii that should probably be fixed when you're doing the amendment. I think it's supposed to say:

*"When determining permit regulations, the policies outlined in Section 15.12 Natural Resource Extraction should be reviewed and considered to minimize impacts on surrounding uses such as **by requiring** buffers, screening, and **anticipated** traffic **management** ~~volumes may be required.~~"*

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**From:** Fleming, Chelsea [REDACTED]  
**Sent:** April 10, 2024 2:14 PM  
**To:** John Pattimore [REDACTED]; Glenda Koh [REDACTED]  
**Subject:** Notice of Public Hearing - Administrative OCP Amendments

Good afternoon,

Please find a Notice of Public Hearing attached for proposed Bylaw 2024-22 for administrative Official Community Plan amendments.

It is noted that some of the proposed amendments will impact Kwanlin Dün First Nation (KDFN) settlement land parcels. The proposed amendments affecting KDFN settlement land parcels are based on prior discussions Administration had with KDFN.

Kind regards,  
Chelsea

**Chelsea Fleming** (she/her)  
Planner 2 • Planning and Sustainability Services  
City of Whitehorse • [REDACTED] • [whitehorse.ca](#)  
*Working and living within the traditional territories of the  
Kwanlin Dün First Nation and the Ta'an Kwäch'än Council.*

## **Request to Clarify OCP Boundary Between Greenspace and Designated Development Area Mt Sima Industrial Subdivision to allow Final Expansion of Lot 68, 163 Collins Lane**

### **Council Action Requested:**

- Direct Planning staff to update OCP Map #1 Greenspace Network Plan and Parks along with, OCP Map #5 Land Use Designations to better define how the boundary between the Industrial and Greenspace designations should be interpreted to accommodate a final enlargement to lot 68.
- Direct Planning staff on approval of third reading of the OCP Administrative Amendments Bylaw to advise Lands Branch the public land required for the proposed lot enlargement is now compliant with the OCP and designated for industrial use.

### **OCP Map Scale Makes Boundary Definition Subject to Interpretation**

- Given the city's size and shape, it is difficult to represent the "big picture" intent of the OCP at a scale that balances general planning intent with conflicting desires for interpretive flexibility, administrative consistency, and certainty.
- When Mt. Sima industrial subdivision was designed, the demand for large lots was not the priority it is today. Industrial businesses needing more land either bought out adjacent properties where feasible, or sought lot enlargements, ██████████ has had to do both.
- The proponent continues to grow and diversify his trucking /infrastructure construction business. He has received approval to expand his lot twice over the past decade to accommodate a 10-bay drive through equipment repair shop, store and maintain over 400 pieces of equipment. The amount of equipment and supplies in the yard fluctuates by the season, number, size, and location of company contracts.
- ██████████ is now the largest company serving the mining, infrastructure, construction, and transportation sectors hauling fuel, concentrate and supplies and rebuilding roads throughout the Yukon, western NWT, and northern BC.
- Both lot expansions were based on a liberal interpretation of the OCP boundary as illustrated in Map 1 Greenspace Network Plan and Parks and Map 5 Land Use Designations.

### **Public Land Disposition Policy**

- Yukon controls the sale of public lands. The City controls land use through the OCP, Zoning Bylaw, and Subdivision Approval process. A Land Development Protocol exists where Lands Branch will only accept an application for land purchase if the city advises Lands Branch the intended use is consistent with the OCP.
- The approval processes are independent of each other. Approval by one government does not obligate approval by the other as different factors are taken into consideration. A proponent desiring to purchase crown land must demonstrate need, supported by a Business Plan and YESAA submission under the YG Lands Branch process.
- Under the Government of Yukon/City of Whitehorse Development Protocol, confirmation of OCP compliance is the first step before Lands Branch will consider a crown land sale.

- The City also remains responsible for rezoning and subdivision approval, if Lands Branch concludes the sale is warranted.

#### **Justification for Requested Actions:**

- In 2021 [REDACTED] applied for a final lot enlargement based on the previous interpretation of where the boundary between the greenspace and industrial designations as shown on OCP Map#1 may lie. These interpretations were accepted by City Council and the first and second lot enlargements approved. We then learned that the 2010 OCP Map #1 had not been updated following approval of lot enlargement #2. This administrative error was also not corrected in the updated 2023 OCP.
- The simplest way to correct boundary interpretation issues going forward is to add a footnote to Map #1 and #5 with wording to the effect that *“the mapping scale on these maps indicates general intent. Where greater boundary certainty is required, refer to surveyed lot lines and the Zoning Bylaw”*.
- The proponent is asking that the OCP boundary accommodate a 3.9 ha expansion of lot 68. This will be the last possible expansion due to ground conditions and consideration of other natural values present in the vicinity.
- The additional land is required for multiple reasons. First there has been a shortage of large industrial lots within city boundaries for more than five years. No suitable private land alternative is available in the immediate area.
- Second, as the business has grown and diversified the outside storage area needs to be reorganized into at least four distinct work and storage areas. The Mt. Sima industrial Area does not have fire hydrants. The nearest fire support is located at the top of Two Mile Hill and Carcross Corner. Thus, equipment separation and sufficient circulation room is a priority.
- The six areas include a large maneuvering, clearance and circulation zone surrounding both sides of the drive-through maintenance shop to provide fire access and more maneuvering room for multi-axle truck combinations such as their fleet of 30 Super B fuel tankers used year-round. Another separate area is required to park heavy construction equipment such as bulldozers, excavators, belly dump-trailers, compactors, and concentrate haulage trailers. etc. A third area needs to be set aside to store up to 60 portable bunkhouse, kitchen, washhouse units sufficient to support 7-10 major road construction projects throughout rural Yukon and northern BC.
- A fourth area needs to be set aside for storage of construction materials that need to be ordered in bulk because of supply lead times before distribution to various job sites. Examples include materials such as road culverts, sewage, and water pipes etc.
- Over the years the company has acquired numerous types of specialized vehicles and equipment ranging from portable road bridges, a moveable mechanics shop, large fuel tanks, spill management supplies, blasting mats, water, and sewage education trucks, etc. Seacans are used to provide secure storage to house greases, oils, spare parts, tools etc.
- A sixth area is also included in the lot expansion plans to accommodate miscellaneous vehicle parking and equipment storage.

## 2021 Development Review Committee

- Following site visits by planning and parks staff in 2021, an independent environmental consultant [REDACTED] was retained by [REDACTED] to conduct a baseline environmental study and address City staff environmental concerns. [REDACTED] impact mitigation recommendations consistent with OCP policies were then adopted by the proponent and the application amended. The Development Review Committee (DRC) at a meeting December 8<sup>th</sup>, 2021, did not support the lot expansion citing non-conformity with the OCP, proximity to the nearest residential neighbour, impact on the trail and presence of wetland related water fluctuations.
- The DRC conclusion is not appealable. The proponent requested a debrief and asked City Planning to review the DRC conclusion during the OCP update. This did not happen nor was the OCP mapping error corrected.
- It is our contention that the DRC decision was incorrect, and unsubstantiated by fact. DRC neither acknowledged nor factored in in the changes recommended in the independent [REDACTED] report. The report included mitigation measures put forward consistent with OCP goals and policies. They did not consider that Parks staff had inspected the section of trail that needed to be realigned and accepted diversion subject to restoration to the same standard at the proponent's expense. Third, adopting the [REDACTED] boundary change removed the wettest area, reduced fill volumes, and established an elevation-based setback to accommodate potential seasonal water level fluctuations and groundwater recharge. Neither of the two meltwater channels is within the application site boundary. When questioned, staff could not provide tangible, factual evidence why they disagreed with the [REDACTED] assessment and recommendations.
- Of greater concern is that staff and DRC did not consider the merits of the enlargement request based on good planning practice. The new OCP explicitly supports a compact development form and densification in determining "highest and best use" as well as need. Enlargement of lot 68 to accommodate an existing, adjacent industrial land use is not a spot land application. Rather, it meets the highest and best use criteria as well as the directional intent of the OCP. Furthermore, the [REDACTED] report shows the proposed lot enlargement does not negatively undermine or compromise the adjacent greenspace.
- The proponent, in response to city concerns regarding fill requirements can reduce fill quantities by stepping down the grade and relocating light and specialized equipment and materials to this area reducing offsite visibility.
- The presence of a "wetland and meltwater channel with seasonal water level fluctuations" is cited as another reason for rejection. [REDACTED] addressed this issue in their report (attached) which includes a 30m setback from the OHWM of the wetland areas defined by vegetation change, topography, GPS tracking and bedrock outcrops. This is standard practice. When questioned, staff could not provide tangible, factual evidence why they disagreed with the [REDACTED] assessment.
- The reference to "impacts to a year-round recreational trail" is not supported by the facts. The trail was built as a ski trail without permission in 2017 and receives limited use. We talked to Parks staff in August 2021 and the Trails Manager did a site visit. [REDACTED] also mapped the existing trail using GPS. Parks staff indicated relocation of sections of trail affected by the lot enlargement was acceptable with a proviso.

- [REDACTED] would be allowed to relocate the affected section of trail provided the proponent undertook the work and covered the cost. This was acceptable to the proponent and the relocation work will be coordinated with lot development in a manner acceptable to Parks. It can also be included as a development permit approval condition to ensure compliance. This understanding about minor route modification will have no net effect on trail usability.

**Conclusion:**

There is a shortage of large lot industrial land. No reasonable or practical alternative exists in the immediate area. No complaints have been received from neighbours following the past two lot enlargements. The city supports densification, compact development, and local business. A final lot enlargement achieves that purpose, generates more tax revenue and is consistent with the purpose of the Mt. Sima Industrial Park.

The DRC 2021 decision was premature. It is not defensible given City Council prior approval of lot expansion under similar circumstances twice before. The Yukon Government Lands Branch will not accept a land purchase application until the city confirms the land sought after complies with the current OCP. This is not a guarantee that either government will ultimately approve a purchase application. Both government processes include additional public consultation during the city rezoning/subdivision approval process and Yukon YESAA processes.

We have put forward a solution to the problem of boundary definition and map scale interpretation. It resolves both our lot interpretation issue as well as providing suggested practical wording for OCP Maps #1 and #2. that can be included in the current OCP administrative changes going forward. It a logical administrative correction that can be included in the current OCP changes currently proposed. We believe we have also provided a reasonable rationale for the 3.89 ha lot enlargement request.