



Discretionary Use and Zoning Bylaw Amendment - 2201 1st Avenue - PL202100134 and PI202100135

Date	October 6, 2021
To	Regina Planning Commission
From	City Planning & Community Development
Service Area	Planning & Development Services
Item No.	RPC21-58

RECOMMENDATION

Regina Planning Commission recommends that City Council:

1. Approve an amendment to *The Regina Zoning Bylaw, 2019* to add “Industry, Heavy” as a discretionary land use in the IL-Industrial Light Zone, subject to the use being contained within a building (indoor).
2. Approve the discretionary use application for the proposed development of “Industry, Heavy” and “Storage, Hazardous Material” located at 2201 1st Avenue (suite location: 674 Cornwall Street), being Plan: 90R51768 Block: B in the Industrial Park Subdivision, subject to compliance with the following development standards and conditions:
 - a) The approved use (storage and processing of lithium batteries) shall be confined within a total area of 1057 square meters as shown in Appendix A-3 and shall be entirely contained indoors within the existing building;
 - b) Prior to occupancy, the applicant shall submit to the City an Emergency Response Plan, satisfactory to the City, for the handling of hazardous materials. The development shall be carried out and continue to be operated in accordance with said Plan;
 - c) Approval from the Ministry of Environment, if applicable, shall be submitted prior to issuance of development permit; and

- d) Except as otherwise specified in this approval, the development shall comply with all applicable standards and regulations in *The Regina Zoning Bylaw, 2019*.
3. Instruct the City Solicitor to prepare the necessary bylaw(s) to give effect to the recommendations, to be brought forward to the meeting of City Council following the required public notice.
4. Subject to adoption of the bylaw contemplated in Recommendation 3, authorize the Development Officer to issue a development permit with respect to the application, upon the Applicant making payment of any applicable fees or charges and entering into a development agreement if one is required.
5. Approve these recommendations at its meeting on October 13, 2021.

ISSUE

The applicant, Lytehorse Labs Inc., proposes to operate a shop intended for the production of electric recreational vehicles (ERV) accompanied with storage and assembly of lithium batteries (i.e., “Industry Light,” “Storage, Hazardous Material” and “Industry, Heavy” land uses), in an existing building located on the subject property. The property is zoned IL – Industrial Light Zone, in which the production of ERV is permitted, storage of lithium batteries is discretionary, and the assembly of lithium batteries is prohibited. The proposed zoning amendment will accommodate assembly of lithium batteries (“Industry, Heavy) as a discretionary use in the IL – Industrial Light Zone subject to the use being contained within a building (indoor).

All properties in the city of Regina are assigned a zoning designation under the *Regina Zoning Bylaw, 2019* (Zoning Bylaw). Within each zoning designation, land-use can be permitted, prohibited or discretionary. A property owner/developer can submit applications to request a zoning amendment to facilitate development proposals. Discretionary use applications require a public and technical review; and both the zoning amendment request and discretionary use application require consideration and recommendation by the Regina Planning Commission (RPC) and consideration and approval by City Council to proceed. As a note, this application was submitted prior to September 1, 2021, when *Bylaw No. 2021-44*, delegating authority of discretionary use decisions to the Development Officer, took effect.

These applications are being considered pursuant to the *Planning and Development Act, 2007* (Act); *Design Regina: The Official Community Plan Bylaw 2013-48* (OCP) and the Zoning Bylaw. The proposal has been assessed and is deemed to comply with the Act, OCP and the Zoning Bylaw, including suitability of the proposed use based on the prescribed evaluation criteria for discretionary uses established in Part 1E.3 and the specific criteria applicable to used involving Hazardous Materials as prescribed in section 1E.3.3.

IMPACTS

Financial Impacts

The applicant will be responsible for the cost of any new or changes to existing infrastructure that may be required to directly or indirectly support any proposed development that may follow, in accordance with City standards and applicable legal requirements.

Environmental Impact

City Council set a community goal for the City of Regina of achieving net-zero emissions and sourcing of net-zero renewable energy by 2050. In support of this goal, City Council asked Administration to provide energy and greenhouse gas implications of recommendations so that Council can evaluate the climate impacts of its decisions.

The use of an existing facility for the proposed development eliminates greenhouse gas emissions generated from the construction of a new building.

As outlined in section 1E.3.3 of the Zoning Bylaw, the applicant provided a description of the processing and production of all hazardous materials and dangerous goods involved in the storage of lithium battery as part of the application to determine the environmental impact. Administration has no concerns.

An Emergency Response Plan shall be submitted to Fire & Protective Services prior to occupancy and any permits required through the Ministry of Environment will need to be completed.

Policy/Strategic Impact

The proposed development supports the following OCP goals/policies:

- Section D5, Goal 4 - Provide appropriate locations and development opportunities for a full range of industrial, commercial, and institutional activities.
- Policy 7.15.3: Compatibility with adjacent residential land use through the minimization of off-site impacts.
- Policy 7.25: Consider heavy industrial development only within NEW EMPLOYMENT AREAS or EXISTING APPROVED EMPLOYMENT AREAS where it can be demonstrated to the satisfaction of the City that the proposed development:
 - 7.25.2: Is compatible with adjacent land uses and the NATURAL SYSTEM.
- Section, Goal 7- Ensure that the Zoning Bylaw facilitates development in accordance with the goals and policies of this Plan.

- Policy 14.40: Ensure that applications to amend the zoning bylaw and discretionary use applications consider the following:
 - 14.40.1 The nature of the proposal and its conformity with all relevant sections of this Plan, as well as any approved concept plans.

OTHER OPTIONS

Alternative options would be:

1. Approve the zoning amendment and discretionary use applications with specific changes to the zoning amendment and/or to the proposed development plan.
2. Refer the applications back to Administration. If City Council has specific concerns with the proposal, it may refer the application back to Administration to address or make additional recommendations and direct that the report be reconsidered by Regina Planning Commission or brought directly back to Council following such further review. Referral of the report back to Administration will delay approval of the development until the requested information has been gathered or changes to the proposal have been made.
3. Approve the zoning amendment only and refer the discretionary use applications back to Administration to address or make additional recommendations and direct that the report be reconsidered by Regina Planning Commission or brought directly back to Council following such further review. Referral of the report back to Administration will delay approval of the development until the requested information has been gathered or changes to the proposal have been made.
4. Approve the zoning amendment only and deny one or both discretionary uses. In this option, Council must consider an alternate motion to deny the development applications. The motion must include the reasons for the denial based on the evaluation criteria.
5. Deny the applications. The storage and assembly of lithium batteries will not proceed on the subject property if City Council rejects the applications.

COMMUNICATIONS

The applicant and other interested parties will receive a copy of the report and notification of their right to appear as a delegation at the Council meeting when the application will be considered. Public notice of the public hearing required when the proposed bylaw is considered will be given in accordance with *The Public Notice Policy Bylaw, 2020*. The Applicant will receive written notification of the City Council's decision.

DISCUSSION

Applicant's Proposal

The applicant proposes to produce electric recreational vehicles (ERV), accompanied with storage and assembly of lithium batteries. The Zoning Bylaw classifies these land uses as "Industry Light," "Storage, Hazardous Material" and "Industry, Heavy" respectively. The proposed development will occupy approximately 1057 square meters of an existing multi-tenant building located on the subject property.

Administration supports the zoning amendment to include "Industry, Heavy" as discretionary in the IL – Industrial Light Zone, both to accommodate this specific development proposal, which includes the assembly of lithium batteries, and more broadly as a use that may be suitable in other situations within the zone. The proposed amendment will allow hazardous uses to be both stored and processed, as a discretionary use, in the IL – Industrial Light Zone when indoors.

Zoning Bylaw Amendment Analysis

The intent of the IL - Industrial Light Zone is to allow for the gradual transition of industrial uses between non-industrial and higher-intensity industrial areas and allow for limited non-industrial uses. The IL – Industrial Light Zone allows for "Light, Industry" as a permitted use, and "Storage, Hazardous Material" as a discretionary use. "Industry Heavy" is a prohibited use in the IL – Industrial Light Zone. Since lithium batteries are proposed to be assembled through a process involving soldering and packing, the land use is classified as "Industry Heavy." Therefore, an amendment to the Zoning Bylaw is required to accommodate the proposal by adding "Industry, Heavy" as a discretionary use to the IL – Industrial Light Zone.

Administration supports the proposed amendment for the following reasons.

1. Allowing "Industry, Heavy" as a discretionary use in the zone allows a case-by-case analysis of proposals based on their impact, having regard for site context, the nature and impact of the proposal, including the scale and off-site impacts.
2. Hazardous materials-related land uses were discretionary in all industrial zones in the former Zoning Bylaw No. 9250. Therefore, there is already a history of this land use in all industrial areas. Administration is not aware of any issues associated with accommodating hazardous materials land uses in these contexts.
3. Allowing this land use within the IL Zone does not conflict with City policies.

Discretionary Use Analysis

Assuming the proposed zoning amendment and related recommendation are supported, the specific discretionary use applications related to the subject property are subject to evaluation on its own merits. Pursuant to section 56 of The Act, a discretionary use decision to approve, reject, or approve

subject to development standards or conditions must be in accordance with, and supported by the Zoning Bylaw. Section 1E.3.5 of the Zoning Bylaw specifies criteria by which all discretionary uses must be evaluated. Generally, in exercising its discretion, Council's decision with respect to discretionary use applications must be evaluated based on:

1. consistency of the proposed use with the OCP;
2. consistency of the proposed use with other policy documents with emphasis on land use and intensity, and impact on public facilities and infrastructure and services;
3. consistency of the proposed use with the Zoning Bylaw; and
4. potential adverse impacts or nuisances affecting nearby land, development, land use, property, neighbourhood character, the environment, traffic, public right-of-way, and other matters of health and safety.

Furthermore, all discretionary use applications must consider any criteria particular to the discretionary land use (or building type) as specified in the Zoning Bylaw and be consistent with *The Statements of Provincial Interest Regulations*. Council may prescribe specific development standards or conditions of approval only if they are necessary to secure the objectives of the Zoning Bylaw with respect to the size, shape, and arrangement of buildings or site; accessibility and traffic patterns of people or vehicles; mitigation of noxious or offensive emissions (i.e., noise, dust, glare, odour); and treatments to landscape, parking, open spaces, lighting, signs, excluding material or architectural detail.

The Zoning Bylaw requires that details of a land use involving hazardous materials be provided for review and that approval may be subject to conditions to mitigate potential concerns.

The application was considered for suitability based on the additional prescribed evaluation criteria for discretionary uses as set out in the Zoning Bylaw section 1E.3 and specific to hazardous uses. Under *The Hazardous Substances and Waste Dangerous Goods Regulations*, storage of lithium and lead acid batteries is considered dangerous goods. As required, the applicant submitted full description of all hazardous materials and dangerous goods that will be stored on this site for review.

The application was also circulated to the Saskatchewan Ministry of Environment. They advise "*environmentally sensitive activities may require a review or permit*". Such activities include but are not limited to: "*storage of hazardous materials; industrial or commercial processes that may create air pollution, liquid or solid waste; or generation or storage of industrial waste*". Administration reviewed the information provided, which included the description of the hazardous material or lithium batteries, to determine the environmental impact of the proposed development and has no concerns. The conditions of the approval require any necessary permits from the Ministry of Environment to be obtained prior to the issuance of the permit.

Land Use Details	Existing	Proposed
Zoning	IL- Industrial Light Zone	No change
Land Use	"Industry, Light" (Permitted)	"Industry, Light" (Permitted) "Storage, Hazardous Material" (Discretionary) "Industry, Heavy" (Discretionary)
Area of Unit	1057 m ²	No change
Zoning Analysis	Required	Proposed
Number of Parking Stalls	6	6 (Existing)
Min. Lot Area (m ²)	500	Existing building

Other aspects of the proposed development, including parking, conforms with the Zoning Bylaw.

The surrounding area is zoned IL – Industrial Light Zone with 1st Avenue and an auto body repair shop to the north and west, SaskTel’s employee development centre to the east and other commercial and office development to the south. This multi-tenant building is currently used for paint shop, indoor storage and other industrial offices. There are no sensitive land uses in proximity to the proposed use that should be specially considered through this discretionary use application.

Community Engagement

In accordance with the public notice requirements of *The Public Notice Policy Bylaw, 2020*, neighbouring property owners within 75 metres of the proposed development received written notice of the application and a sign was posted on the subject site. Administration received two comments in support of this application.

DECISION HISTORY

City Council’s approval is required pursuant to Part V of *The Planning and Development Act, 2007*.

Respectfully Submitted,

Respectfully Submitted,


Autumn Lawson, Director, Planning & Development Services


Diana Hawryluk, Executive Director, City Planning & Community Dev.

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ATTACHMENTS

Appendix A-1 (Subject Property Map)

Appendix A-2 (Aerial Map)

Appendix A-3 (Building Plan)

Appendix A-4 (Battery Assembly Area)

Appendix B (Public Consultation Summary)