



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 3360-20-1911

From: Director of Development Services

Date: November 22, 2023

Subject: ATT 2 Staff Report (Third Reading) - Zoning Amendment Bylaw No. 2973 (2023-11-22).docx
Amendment Bylaw No.2973 Third Reading

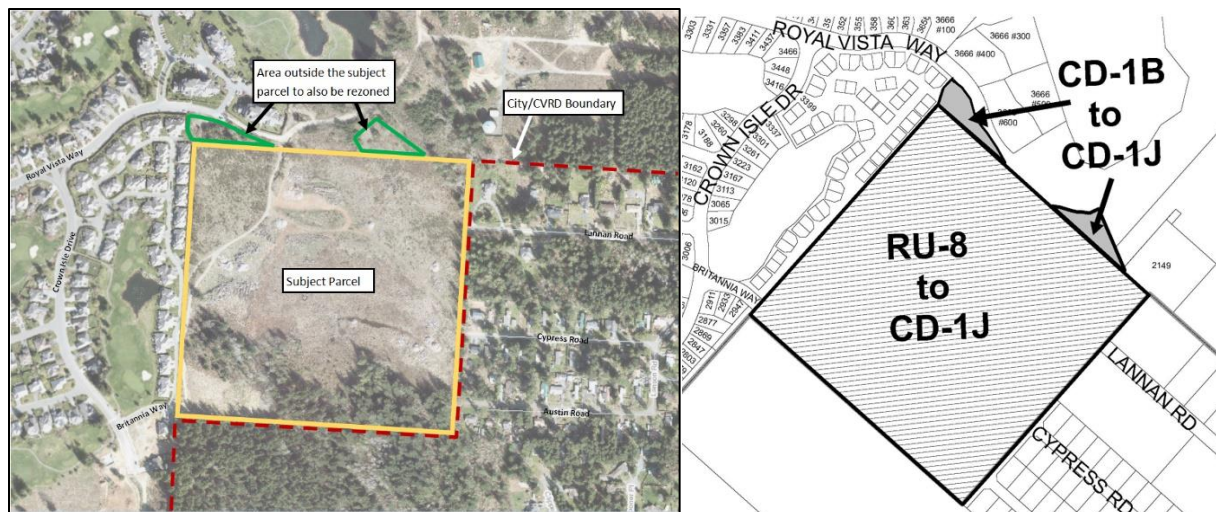
PURPOSE:

For Council to consider Third Reading of Zoning Bylaw Amendment No. 2973.

BACKGROUND:

At the July 26, 2023 regular council meeting, council received a briefing note to provide an update on this application. This application to rezone the subject property was originally received in June 2019 and included both an OCP amendment (from undesignated land use to mixed use) and Zoning Bylaw amendment from CD-1 J from CVRD RU-8 zone given the lands had been annexed into the City of Courtenay in 2013 (see Figure 1).

Figure 1 Subject Property



Council adopted first and second readings of Zoning Amendment Bylaw No. 2973 and OCP Amendment Bylaw No 2072 - Lannan Road at the January 6, 2020 regular Council meeting and both amendments proceeded to a public hearing on January 20, 2020.

Upon the termination of the public hearing, staff presented a report at the February 18, 2020 Council meeting, requesting third reading of the bylaws. Council did not adopt Third reading of either bylaw, deferring consideration as per the following resolution:

THAT Council defer a decision on the main motion (OPTION 1) of the February 18th, 2020 staff report "Third Reading Report - Official Community Plan (OCP) Amendment Bylaw No. 2972 and Zoning Amendment Bylaw No. 2973 - Lannan Road" to allow staff to present the report to Council and give Council the opportunity to review and consider the other options available listed on pages 5 and 6 of the staff report.

At the Regular Council Meeting held on April 6, 2020 at the staff brought forward a Follow up Report for Council's consideration. The following resolution was carried:

THAT based on the April 6th, 2020 staff report "Follow Up Report - OCP Amendment Bylaw No. 2972 and Zoning Amendment Bylaw No. 2973 - Lannan Road" Council approve OPTION 1 and require the applicant to make revisions to the proposal and supply the information listed below prior to proceeding with the bylaw amendments:

- 1. All remaining trees within the area identified generally on Schedule No. 1 are to be protected with the exception of tree removal necessary to allow for the extension of the Britannia Place strata as well as the extension of Britannia Way.*
- 2. Require that the location of any proposed stormwater management facility is identified to the satisfaction of all relevant authorities but in no case can the facility be located within the area identified on Schedule No. 2.*
- 3. The development's stormwater management design must be completed to the satisfaction of the City and any other agencies which may be affected depending on the facilities' location.*
- 4. An appraisal is to be provided to the City determining the current property value and the value realized once the subject property is rezoned to help inform Council's decision on amenities.*
- 5. Additional consideration of transportation modes must be provided and integrated into the proposal to reduce the dependence on automobile trips.*

DISCUSSION:

Since the original application and the April 6, 2020 resolution, the City adopted a new Official Community Plan (OCP) Bylaw No. 3070, 2022. The 2022 OCP designates the subject property as Urban Residential which supports the zoning amendment. Given this context, the 2020 OCP Amendment Bylaw is no longer required. It is also important to note that given this application has had a public hearing, commitments and requirements of the day are legislatively required to move forward through to adoption. Substantive changes to the rezoning application or the addition of new information received or considered after the termination of the January 20, 2020 Public Hearing would likely require the City to hold a new public hearing. In this situation OCP Bylaw No.2387, 2005 should guide the discussion at all future readings.

Conditions prior to Adoption

The conditions below will be incorporated into the Council resolution for third reading of Zoning Bylaw No. 2973 for their consideration and these items will have to be finalized between Staff and the applicant prior to a staff report coming back to Council for their consideration of the bylaw adoption. These items are listed and described below:

- 1. Dawn to Dawn Modular Home-** commitment to provide a modular home for a location to be determined as per the reports to date prior to adoption either through security or provision.
- 2. Lannan Park Master Plan –** means a master plan that provides preliminary park programming for the lands that will accompany a section 219 covenant for deferral of park land. This plan will include

definitions of parks and total parks land required under the LGA (5%) and will follow Parks and Recreation Master Plan 2019 as a minimum. This plan will form a Schedule in the Development Agreement (DA).

3. **Environmental Master Plan** – based upon Strategic Overview Environmental Assessment dated October 18, 2017 this report will need to be updated and a plan will be developed to identify the tree protection area and other environmental conditions reflected to date in the various reports. This will guide future phases of development and will form a schedule in the DA to address provincial legislation and city bylaws of the day.
4. **Preliminary Infrastructure Master Plan**- based upon Koers & Associates combining all technical memos received to date into one master servicing plan that will inform each phase of development detailed engineering plans. Comments will be provided to the consultant by the City which will need to be addressed and the Master Plan finalized based upon the reports to date and issues raised by Council. This report will form a Schedule in the DA.
5. **Preliminary Stormwater Management Master Plan** – the draft report prepared by Koers & Associates version 1 September 2022 was submitted to the city and will need to address city comments and issues raised to date in the reports to Council. This plan will need to be finalized prior to adoption of the bylaw and will form a Schedule in the DA.
6. **Street hierarchy/active transportation Preliminary Master Plan** – based upon the reports to date and issues raised by Council this plan will coordinate environmental considerations such as bioswales into the street design, greenways, pathways for active transportation. This plan will form a schedule in the DA.

Development Agreement

As noted in the briefing note of July 26, 2023 Staff have recommended that, a Development Agreement which is registered on the title of the subject lands through a Section 219 covenant prior to adoption of the Bylaw. The Development Agreement will outline the phases of development (see Figure 3) and the requirements that must be met prior to a subdivision being approved for a particular phase. As such the lands cannot be constructed upon until these requirements have been met to the satisfaction of the City.

The City and the applicant have commenced working on this document and this document would be drafted and provided to Council for their consideration as part of the adoption of the bylaw. Staff are satisfied this Development Agreement meets the intent to manage construction and development by phases as outlined in the staff reports.

MOTI

Approval by MOTI will be required prior to adoption as the lands are within an 800 metre radius of a controlled intersection.

Terms of the Development Agreement

Listed below are the terms of the DA as discussed with the applicant which if Council supports would then form the content of the DA. The DA would then be drafted in consultation with the applicant, the final

version reviewed by legal counsel, and executed by the applicant. This document would form part of the Council report for their consideration of the bylaw for adoption.

General

- 1) Each phase is required to provide at time of subdivision application:
 - Geotechnical, Environment assessment, arborist, infrastructure capacity model and design, fire protection plan and emergency services, roadways
 - Cost estimates to inform the works and services agreement.
- 2) PLR will identify all required legal documents including updates to park land deferral covenant to be prepaid by applicant's legal counsel.
- 3) All third-party costs occurred by City including legal will be invoiced to the applicant for payment.
- 4) As part of final subdivision approval, the applicant will submit the volunteered community amenity contributions as per the mutually agreed to schedule attached to this agreement.
- 5) Applicant is responsible for obtaining any CVRD approvals for infrastructure and securities.
- 6) Applicant is responsible for obtaining any approvals for roadway extension and connections into MOTI jurisdiction.
- 7) Transportation Impact Assessments (TIA) for each phase if required and identification of required upgrades associated with development.
- 8) Park land dedication to be addressed at each phase of development and the Park Land Deferral Covenant modified. The objective is to have parks earlier in the development for public use.

Phase 1 – Britannia Development

1. Preliminary Residential Stormwater Management Master Plan (updated version for adoption of the Bylaw prepared by *Koers & Associates Engineering Ltd.*) that guides storm water requirements will ensure that the temporary detention pond is feasible. And, that a permanent solution can be achieved should phase 2 not proceed within 10 years of the date of this development agreement.
2. Design for the offsite stormwater to be piped in MOTI SRW to be initiated to meet the requirements for MOTI permit to ensure that the required infrastructure for Phase 2 will be acceptable to MOTI in order to prepare for construction of this utility in Phase 2.
3. The stormwater flows from Lake 20 to Parry Place requires an SRW to be put in place and a permit will be required by MOTI for these works. A resolution needs to be in place prior to Phase 2.
4. Koers & Associates to confirm that Phase 1 can connect to existing private services and consolidate with existing strata.
5. That post-development drainage will be directed to discharge to the existing drainage courses. A better understanding of private versus public drainage courses will be required in the Preliminary Residential Stormwater Management Master Plan
6. Meter will be installed to the PL for to service the units and the service becomes private from PL to units to be discussed with city, strata and developer.
7. Traffic Impact Assessment (TIA) for the lands to be undertaken to identify off site upgrades and which phase triggers the required improvements to be completed to inform Phase 2.

Phase 2

1. Tree Retention to be protected via covenant or dedicated to city prior to final approval of subdivision and protected during construction with a construction management plan and monitoring by a third party.
2. Connectivity through the phases is required for emergency services and construction activity utilizing Britannia Way – a standard of road surface to be determined.
3. Greenway trail to be secured via legal document as per the plan in schedule of the DA Document.
4. Implementation of the Preliminary Stormwater Management Master Plan (PSMMP) to support the construction and operations of the onsite and offsite drainage system as outlined in the report and to the approved MOTI permits.
5. That sanitary sewer can be extended to the limits of the roadworks and all on-site sanitary sewers required to service this phase and beyond, which may or may not include a sanitary lift station. A discussion will be had with Staff and the applicant to finalize this in the DA and Master Preliminary service report to be prepared by Koers & Associates. This will be finalized prior to issuance of a PLR.

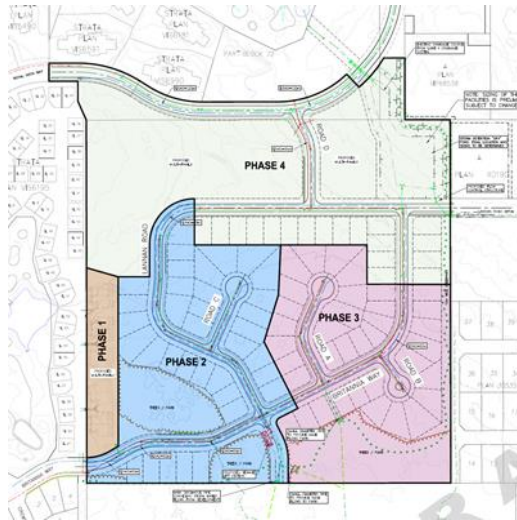
Phase 3

1. Design of the stormwater management plan that drains to the Little River catchment area needs to be finalized to the satisfaction of City and MOTI as outlined in the Preliminary Stormwater Management Master Plan.
2. Any requirements needed to support all master plans and connectivity as identified in these plans.

Phase 4

1. Construction of all required on-site storm sewers, including volume reduction facilities and the detention pond in the northeast corner (Little River Catchment Area) to be built and be operational prior to final subdivision approval as outlined in the Preliminary Stormwater Management Master Plan.
2. Master Preliminary
3. That the work will also include the stubs for the multi-family sites, which must develop on-site private stormwater management facilities in accordance with Bylaw 2919

Figure 3 Koers & Associates Engineering Ltd Proposed Development Phasing for DA

**POLICY ANALYSIS:**

The proposed zoning amendment aligns with the new OCP which identifies these lands as Urban Residential. An OCP amendment is no longer required.

FINANCIAL IMPLICATIONS:

When the phases are built and constructed there will be operational costs incurred by the newly created public roads, parks, trails and off-site services that the city will have to bear.

ADMINISTRATIVE IMPLICATIONS:

There will be staff time required to finalize master plans, DA, and associated legal documents that outside of the daily work activities. Given the nature of this development adoption of this rezoning application will require the coordination of activities between a number of departments as well as staff time for implementation. Involved in this implementation will be representatives of Recreation, Culture and Community Services, Public Works Services, Legislative Services and Engineering Services.

STRATEGIC PRIORITIES REFERENCE:

This proposed development does provide a mix of housing with the proposed zoning that restricts the number of single-family homes to provide a more diverse housing form to meet housing choices for residents in the community.

PUBLIC ENGAGEMENT:

A public hearing was held as per the LGA requirements and forms part of the reports received by Council to date.

OPTIONS:

1. THAT Council give third reading to Zoning Amendment Bylaw 2973; and that prior to adoption of the bylaw the following conditions be met:
 - a) **Dawn to Dawn Modular Home**- commitment to provide a modular home either through security or provision.

- b) **Lannan Park Master Plan** finalized to satisfaction of the Director of Development Services.
 - c) **Environmental Master Plan** finalized to satisfaction of the Director of Development Services.
 - d) **Preliminary Infrastructure Master Plan** finalized to satisfaction of the Director of Development Services.
 - e) **Preliminary Stormwater Management Master Plan** finalized to satisfaction of the Director of Development Services.
 - f) **Street hierarchy/active transportation Preliminary Master Plan** finalized to satisfaction of the Director of Development Services.
 - g) **Development Agreement** be finalized to the satisfaction of the Director of Development Services and executed by the applicant.
- 2. THAT Council deny third reading of Zoning Amendment Bylaw No.2973.
 - 3. THAT Council provide alternative direction to staff.

ATTACHMENTS:

- 1. July 26, 2023 Council Briefing Note

Prepared by: Marianne Wade, Director of Development Services

Concurrence: Geoff Garbutt, M.Pl., MCIP, RPP, City Manager (CAO)