



THE CORPORATION OF THE CITY OF COURTENAY

## BRIEFING NOTE

To: Council

File No.:3360-20-1911/ OCP00007

From: Director of Development Services

Date: July 26, 2023

Subject: SRDDS Udate Report Zoning Amendment Bylaw No.2973.docx

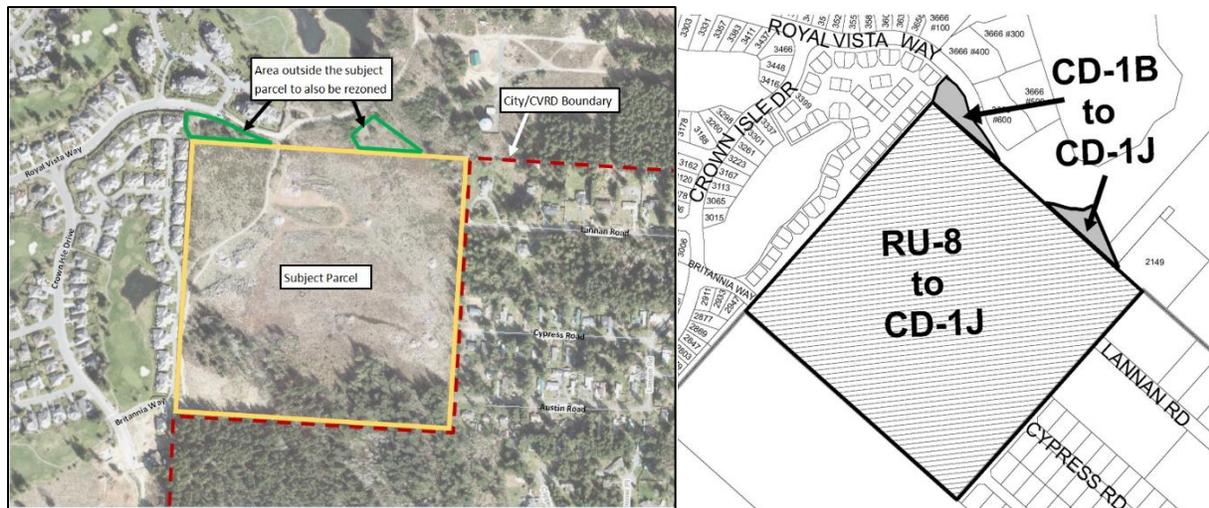
### PURPOSE:

To provide Council with an update on the status of Zoning Amendment Bylaw No 2973 and OCP Amendment Bylaw No. 2072 and outline next steps.

### BACKGROUND:

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.*

Upon further review, staff have determined that if undertaken, the request for an appraisal would be considered new information (item 4 of the aforementioned resolution) and would trigger a new public hearing. Additionally, the original intent of the request for an appraisal to determine the lift value of the property was not a policy within the 2005 OCP Bylaw which applies to this rezoning application.

It is important to note that from January 6, 2020 to February 18, 2020, a number of requirements were identified in the staff reports and amenity contributions were volunteered by the applicant which form the public record of Zoning Amendment Bylaw No. 2973.

#### **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.

#### ***Phased Development Agreement***

Staff have reviewed the comments regarding a Phased Development Agreement and have identified a more streamlined legislative tool, a Development Agreement which is registered on the title of the parcel of land by a Section 219 covenant prior to adoption of the Bylaw. The Development Agreement will outline the phases of development 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 would form part of the staff report for the consideration of Third Reading of the Zoning Amendment Bylaw No. 2973. Staff are satisfied this Development Agreement meets the intent to manage construction and development by phases as outlined in the staff reports.

Status of Issues for Consideration Prior to Adoption of Bylaws

**Land Use, Housing Form, and Density**

The CD-1 J zoning limits total number of units to 330. The split is 122 Single residential dwellings units that are permitted to have secondary suites and 208 duplex or multi-family residential dwelling units. Minimum lot size was decreased from 465m<sup>2</sup> to 400 m<sup>2</sup>. The Developer will have a section 219 covenant that will outline construction details that will include Step Code 3 or better, and will coordinate with infiltration designs for house and road ways to address stormwater management plan. This will include solar panels, EV chargers, bio-swales, infiltration trenches, drought resistant landscaping and native plants. See Figure 2 Conceptual Development Layout. Staff are satisfied that building Performance Standards are in alignment with recent changes to the BC Building Code which requires Step Code 3 for all Part 9 Buildings. The applicant has committed to encompass Step Code 3 or better specifications in the section 219 covenant. Staff are satisfied this resolution has been addressed and it will be addressed in the Development Agreement.

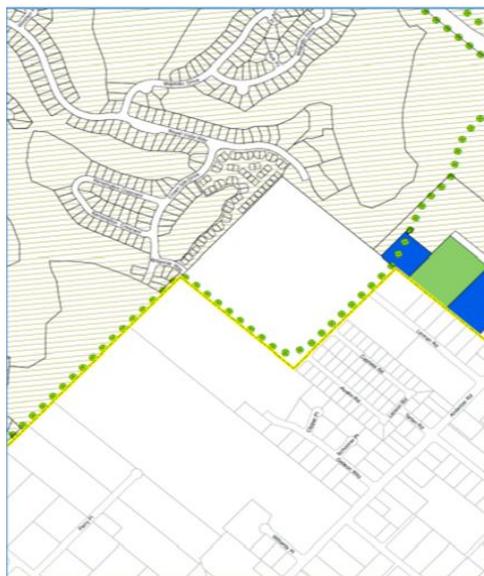
Figure 2 Conceptual Development Layout



### ***Trails and Greenway Connections***

The pathway identified in Figure 3 aligns with the Parks and Recreation Master Plan (September 30, 2019) and OCP (Bylaw No.2387, 2005). These were the documents that formed the public records for First and Seconding Reading of Zoning Bylaw Amendment No.2973, the public hearing held on January 20, 2020, the consideration of third reading on February 18, 2020, and update report on April 6, 2020. The Greenway trail is noted in the conceptual Development Layout (Figure 2).

Figure 3 Greenway Trail



The OCP Bylaw No. 2387, 2005 policies required integration of greenways and the inclusion of pedestrian walkways with any subdivision and developments to link residences to public facilities, transit, parks, and neighbourhood amenities. Dedication of buffer strips within properties prior to rezoning of land and/or use of section 219 covenants to provide for pedestrian trails and landscaped areas were required in addition to the 5% parkland dedication requirement under subdivision.

The reports indicate that this Greenway trail could be secured in a Development Agreement and the intent was to have this secured prior to adoption of the bylaw. The applicant has been discussing the design of this trail with the Brooklyn Creek Watershed Society and City staff. Staff will require this Greenway Trail conceptual design and construction specifications be secured in the Development Agreement.

In addition, buffer areas will be identified based upon the Conceptual Development Layout (Figure 2) and incorporated into the Development Agreement.

### ***Park***

As part of the development phasing and associated subdivision approval process, park dedications of 5% of the land area are required under the *Local Government Act*. Staff have been working with the applicant to identify types of parks along with area and location based upon the Conceptual Development Layout (Figure 2). In the reports to date the City has highlighted the desire for parks to come earlier in the development

process and align with the Parks and Recreation Master Plan (September 30, 2019), and is working with the applicant to address this in the Development Agreement.

### Environmental Considerations

The Strategic Lannan Development Site Wetland Assessment dated May 14, 2019 was submitted to staff and informed the Zoning Amendment Bylaw No. 2973. The staff reports to date indicate the City's requirement for a registered professional biologist to undertake an environmental assessment with each phase of development. The recommendation for this will be a requirement in the Development Agreement.

Concern over the existing trees and protecting them was identified in staff reports and Council resolutions. This area has been defined as per Council Resolution on April 6, 2020 and is noted in Figure 4 Tree Protection Area. This protected area will be addressed in the Development Agreement as a section 219 covenant.

Figure 4 Tree Protection Area from April 6, 2020



### Stormwater Management

The applicant and the City have been working on the stormwater management design with other relevant authorities and have arrived at a conceptual design which received "approval in principle from MOTI". The applicant has worked with the Brooklyn Creek Watershed Society who have provided the City with a letter acknowledging the information sharing on the Koers & Associates Engineering Ltd Proposed Residential Subdivision Drainage Study dated September 1, 2022 Rev 1 and the Town of Comox Anderton Corridor Servicing Study draft report, which employs a water balance approach, that offers more downstream

protection than the City of Courtenay standards in our Subdivision and Development Servicing Bylaw No. 2919.

Staff have reviewed this plan with the applicant and will be providing comments on the draft study and design, both the study and design will be required as part of the Development Agreement. Detailed Designs will be required at each phase of development and the required off site construction will be required at the early phase of the development.

As per the April 6, 2020 resolution the pond is not placed in the lands noted in Figure 5 and the pond is located on lands owned by Crown Isle which consist of an executive golf course. It is proposed that this pond be incorporated into the existing golf course use.

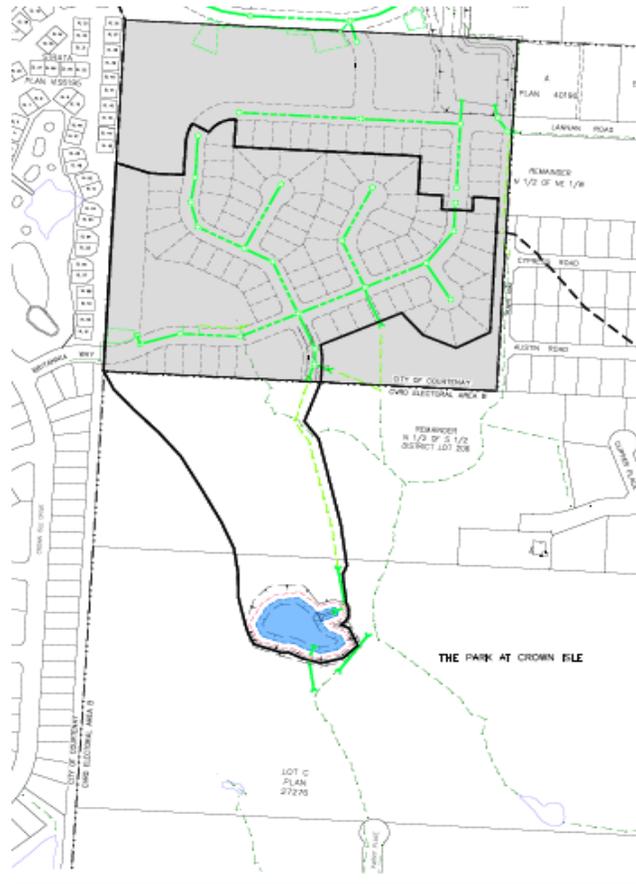
Once the Proposed Residential Subdivision Drainage Study has been finalized and associated designs are acceptable for a MOTI application submission, the City will be making an application to MOTI to convey the stormwater that is currently not managed in the area south of the proposed Lannan development into a pipe located in the MOTI roadway. According to the applicant's engineer, the pipe will discharge to Brooklyn Creek as it does now, and it is to be designed to accommodate existing flows. The Proposed Residential Subdivision Study includes the use of infiltration systems, control mechanisms at the pond, and maintains the baseflow required to maintain the health of the trees and vegetation. According to the applicant's engineer, stormwater generated with the Lannan development is intended to be address on site and through the stormwater pond. This conceptual plan is illustrated in Figure 5 below.

Staff will continue to work with the applicant's engineer and with relevant agencies through the design and construction period. The finalized report will be incorporated into the Development Agreement.

Figure 5 Protect Area from Stormwater Pond from April 6 2020



Figure 6 Koers & Associates Engineering Ltd September 1, 2020 Rev.1



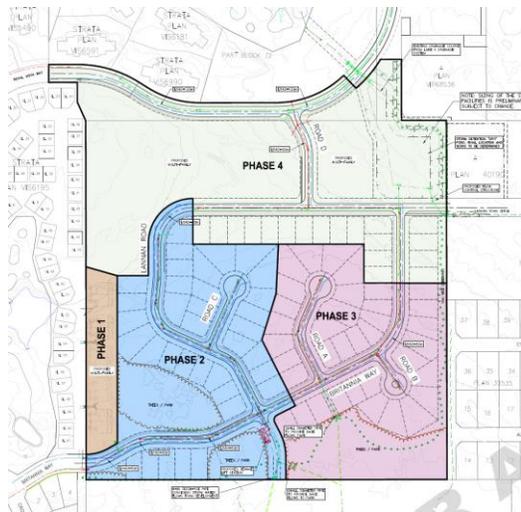
**Servicing**

Koers & Associates has submitted a Technical Memorandum No. 1 dated May 9, 2019 for the proposed Lannon Conceptual Development Layout in support of the Zoning Amendment Bylaw No. 2793, Technical Memorandum No.2 dated May 24, 2019 and Technical Memorandum No.2 Revision 1 dated August 10, 2021 for the proposed Britannia Development, and Technical Memorandum No.3 dated June 30, 2023 an updated conceptual servicing report for the proposed Lannon Road development.

The Consultant's report notes the need for a sanitary lift station to be located near Lannon and Britannia Way which will require a SRW or dedication of land for utilities. In addition, the Consultant notes that a water system network analysis by the City's modelling consultant will be required to confirm water capacity and fire flow demand. Staff are reviewing Technical Memorandum No. 3 and will provide comments to the applicant to inform the Development Agreement.

This report outlines the proposed development phasing plan that will inform the Development Agreement and the proposed development phasing plan provided by Koers is illustrated below (see figure 7) :

Figure 7 Koers & Associates Engineering Ltd Proposed Development Phasing



### Amenities

Regarding the April 6, 2020 resolution requiring an appraisal to be provided to the City to determine the current property value and the value realized once the subject property is rezoned, this is challenging for the City to request given we have no policy or requirements for this in the OCP Bylaw No. 2387, 2005 which guided these amenity contributions made by the applicant.

There is substantial public record on the amenities offered by the applicant which include:

- Contribution of \$225,000 to Affordable Housing Fund as per section 7.6 (c) of Bylaw 2387, 2005 but is subject to change based on the final lot sizes and the final number and area of multifamily units
- Contribution to Parks, Recreation, Cultural and Senior's Facilities Amenity Reserve Fund of \$225,000 section 7.5 of Bylaw 2387 but subject to change based upon the final lot sizes and other variables such as the final area of multifamily units and the location of stormwater management facilities.
- Park improvements to 2600 Crown Isle as per specifications provided in February 18, 2020 staff report, staff will confirm completion as construction had commenced
- As per February 18, 2020 staff report provision of a furnished modular house for those on the verge or experiencing homelessness somewhere in the City as outlined in the letter provided
- Other amenities that upon staff review of the public records may have to be incorporated into the Development Agreement

Given that these contributions to date form the public hearing record it is suggested that these amenities are documented in the development agreement. As Community Amenities are voluntary the applicant can volunteer to contribute more if they desire to do so.

### Next Steps

Staff will work with the applicant to draft a Development Agreement which would form the staff report for consideration of third reading of Zoning Amendment Bylaw No.297s Lannan road.

**ATTACHMENTS:**

Attachment 1 January 6, 2020 Staff Report OCP Amendment Bylaw 2972 and Zoning Amendment Bylaw 2973 – Lannan Road

Attachment 2 February 18, 2020 Staff Report Third Reading Report OCP Amendment Bylaw 2972 and Zoning Amendment Bylaw 2973 – Lannan Road

Attachment 3 March 16, 2020 Staff Report Follow Up Report OCP Amendment Bylaw 2972 and Zoning Amendment Bylaw 2973

Prepared by: Marianne Wade, Director of Developments Services

Concurrence: Kate O'Connell, Acting City Manager