



The Corporation of the City of Courtenay

Staff Report

To: Council
From: Director of Development Services
Subject: Official Community Plan Amendment Bylaw No. 3141

File No.: 6480-20-2401
Date: May 22, 2024

PURPOSE:

For Council to consider first and second reading of *City of Courtenay Official Community Plan Amendment Bylaw No. 3141* (the Bylaw) to designate municipally owned land as *Urban Corridor*.

BACKGROUND:

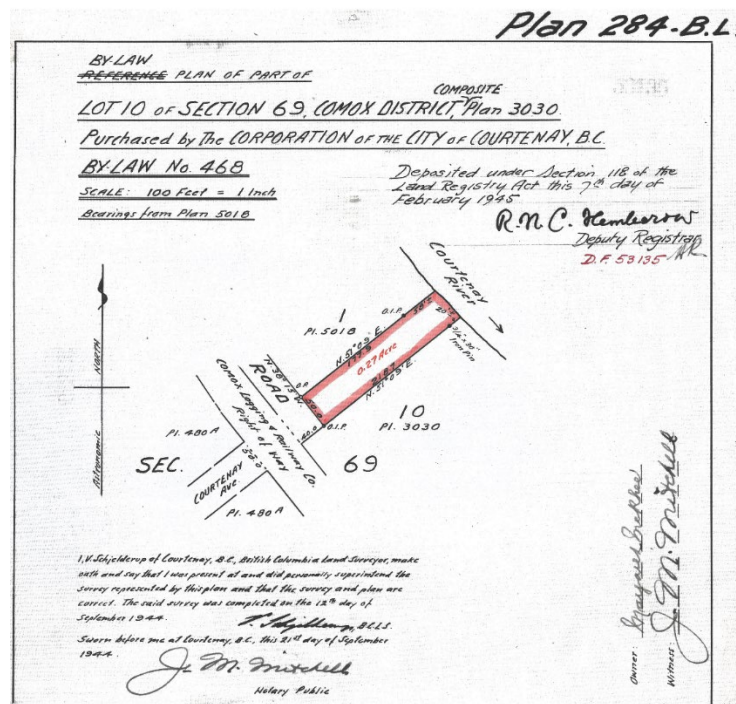
The City has received a development application for a purpose built rental building on three parcels surrounding the municipally owned land. The rental building is proposed to be located primarily on 120/125 11th St and 1128 Beckensell Avenue (the Development Lands). The current proposal requires the developer to acquire the municipally owned land.

The Bylaw only applies to municipally owned land. The parcel of land in the Bylaw is outlined in red in Figure 1 below, and it is legally described as:

PID: 006-318-657

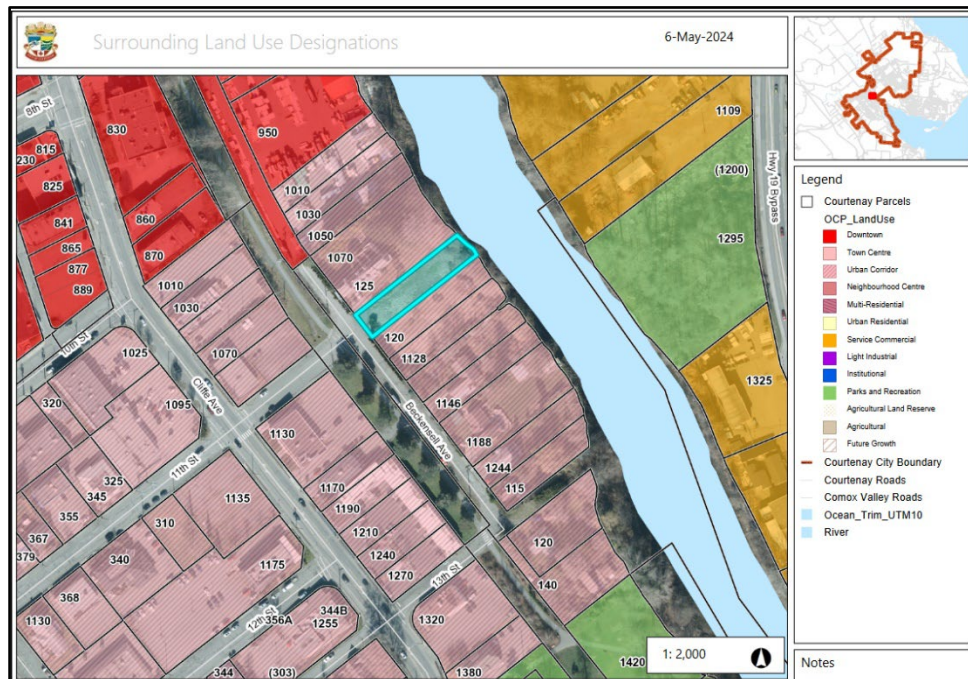
THAT PART OF LOT 10, SECTION 69, COMOX DISTRICT, PLAN 3030, TAKEN FOR ROAD PURPOSES AND CONTAINING .27 OF AN ACRE MORE OR LESS, SHOWN IN RED ON PLAN 284 BL

Figure 1 Land Purchased by City of Courtenay and deposited under Land Registry Act Section 118



The Official Community Plan No. 3070, 2022 (OCP) does not have a land use designation on this parcel of land and as such staff are recommending this parcel be designated *Urban Corridor* to align with the surrounding properties which would allow for future development of the lands and consolidation. Figure 2 from the Official Community Plan identifies this parcel of land.

Figure 2 Parcel of land in the Official Community Plan



DISCUSSION:

OCP Amendment Bylaw No. 3141 seeks to amend the OCP to designate this parcel of land owned by the City of Courtenay as *Urban Corridor*. The parcel of land does not currently have a designation in the OCP because it has historically been treated interchangeably as highway or statutory right of way.

Status of the Land

While the entire history of this parcel of land is not traceable through accessible records, the City of Courtenay did not acquire this parcel of land as a result of any typical processes to dedicate land as highway. This would typically include the following: by the deposit of a plan of subdivision, reference, or explanatory plan under the *Land Title Act*. Instead, it was purchased by the City of Courtenay for \$500 in 1945 for the purposes of extending Courtenay Avenue. This purpose is reflected in the legal description of the parcel of land. Despite the intention, since its creation, the parcel of land has not been used as a highway and it is a titled fee simple parcel owned by the City of Courtenay.

Development History

Prior to their sale in 2023, the three parcels surrounding the municipally owned parcel of land (120/125 11th St and 1128 Beckensell Avenue) were part of the estate of Michael Laver. Collectively, these lands have been the focus of prior redevelopment. Most prominently, the City received a 2015 proposal for a senior’s housing complex that also contemplated a disposition of this municipally owned parcel of land. Critical to the 2015 proposal was the prerequisite that the City of Courtenay no longer consider the end of 11th Street as a viable option for a future third bridge crossing between west and east Courtenay. Council eliminated the 11th

Street crossing location as an option through a motion carried on March 14, 2016. With greater certainty provided by Council at that time that the location would not serve as a future bridge crossing, the City entered into negotiations with the Mr. Laver to support on a process for the City to dispose of the land in a way that would support redevelopment. However, rather than an outright sale of the City owned land, a key component of the proposal was that it would include an Agreement for Land Exchange.

In July 2020, with no significant progress on meeting the Agreement nearly three years after it was signed, a Letter was sent to Mr Laver in July 2020 letting him know the Agreement had come to an end and the remainder of the legal fee securities were returned.

Current Proposal

In October 2023, the owner of the properties at 125 and 120 11th Street and 1128 Beckensell Avenue submitted a rezoning application that proposed the three aforementioned parcels be rezoned to a comprehensive development zone to allow for the construction of a 4-storey purpose built rental apartment building, elevated above an at grade parking lot with 104 units for rental accommodation with various unit types. **(Figure 3)**.

Figure 3 Proposed 4-storey Rental Apartment - West Elevation



Submission of the rezoning application was predicated on an understanding shared by the applicant and Staff, that any disposal of municipally owned land must follow the statutory framework set out in the Community Charter. Section 26 of the Community Charter requires notice of any proposed disposition. Where the land is not available to public, this notice must include the name of the person proposed to acquire the land, the consideration for the proposed disposition, and the terms of the proposed disposition. If the land is sold for less than fair market value, notice of this less than fair market value must be given also.

The applicant needs to acquire this land from the City to create a contiguous parcel of land large enough to develop the proposed site plan. The first step in this process would be to for Council to consider designating the land as Urban Corridor to align it with the surrounding properties and the OCP.

Council will have future opportunities to decide whether to proceed with the disposition and to review the details of the proposed development. This designation of the municipally owned lands is beneficial regardless of whether the disposition or the development proceed.

FINANCIAL IMPLICATIONS:

There is no direct financial implication related to this bylaw.

ADMINISTRATIVE IMPLICATIONS:

The drafting of *OCP Amendment Bylaw No. 3141* falls within the Planning Division's regular work program. Staff time spent on accompanying reports and reviews are captured as part of the normal scope of work for the Development Services Department.

PUBLIC ENGAGEMENT:

As required by section 464 and section 466 of the *Local Government Act*, before a bylaw to amend an OCP can be adopted, a public hearing must be held after the first and before the third reading to allow the public to make representations.

In accordance with section 466 of the *Local Government Act*, section 94 of the *Community Charter* and *City of Courtenay Development Procedures Bylaw No.3106, 2023*, notification will be posted on the City's website and social media. An advertisement will be placed in two consecutive newspapers and a mailout will be delivered to all owners and tenants within a 100-metre radius of the subject property. All notification will include:

- a) the time and date of the hearing;
- b) the place of the hearing,
- c) in general terms, the purpose of the bylaw;
- d) the land or lands that are the subject of the bylaw;
- e) the place where and the times and dates when copies of the bylaw may be inspected.

Under section 475 *Local Government Act*, Council will provide opportunities it considers appropriate for consultation with persons it considers will be affected, including the CVRD, Comox/Cumberland, First Nations, and the province/provincial agencies. As well, under section 476 *Local Government Act*, Council will consult the school board.

OPTIONS:

1. THAT Council give first and second readings to "*OCP Amendment Bylaw No. 3141*", and THAT Council direct staff to set a public hearing date for June 19, 2024 at 4:00 pm at the CVRD Civic Room 770 Harmston Ave Courtenay, BC; and THAT Council direct staff to provide notice as per section 466 of the *Local Government Act*, section 94 of the *Community Charter* and *City of Courtenay Development Procedures Bylaw No. 3106, 2023* THAT Council under section 475 *Local Government Act*, Council will provide opportunities it considers appropriate for consultation with persons it considers will be affected, including the CVRD, Comox/Cumberland, First Nations, and the province/provincial agencies. As well, under section 476 *Local Government Act*, Council will consult the school board.
2. THAT Council Council defer and request additional information from staff for "*OCP Amendment Bylaw No. 3141*".
3. THAT Council not proceed with the application for "*OCP Amendment Bylaw No. 3141*".

ATTACHMENTS:

1. *Draft OCP Bylaw Amendment No. 3141*

Prepared by: Jacob Cramer, Planner 1

Reviewed by: Nancy Gothard, RPP, MCIP, Manager of Community and Sustainability Planning
Marianne Wade, RPP, MCIP, Director of Development Services

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