



The Corporation of the City of Courtenay

Staff Report

To: Council

File No.: 3360-20-2306/RZ000079

From: Director of Development Services

Date: July 31, 2024

Subject: 11th Street Zoning Bylaw Amendment No. 3059 – Application Introduction

PURPOSE:

To provide Council information on the proposed Zoning Bylaw Amendment No. 3059 in advance of Council considering first reading of the proposed Zoning Bylaw Amendment No. 3059 to provide Council the opportunity to ask questions prior to Staff finalizing the proposed Zoning Amendment Bylaw No. 3059.

BACKGROUND:

In October 2023, the owner of the properties at 125 and 120 11th Street and 1128 Beckensell Avenue submitted a rezoning application that proposed these three parcels be rezoned to a comprehensive development zone to allow for the construction of a 5-storey multi-residential rental apartment building, elevated above an at grade parking lot. The rezoning proposal includes a request from the applicant to purchase a City owned lot located, outlined in green, between 120 and 125 11th street properties (Figure 1).

Figure 1: Properties subject to the rezoning application shown in red. Unaddressed City owned parcel shown in green.



The properties gently slope from west to east with a high point along the property lines at Beckensell Avenue, and lowest elevations along the Courtenay River. Only one of the properties (125 11th Street) has

an existing residence, an old single detached home that will be demolished to accommodate the new development. Most of the site has been previously cleared of vegetation and now primarily consists of maintained lawn and overgrown non-native vegetation, however mature trees exist primarily along the site's property lines, with others scattered intermittently throughout the lots.

Proposed Development

The purpose of the rezoning application will be to rezone 4 properties, representing 6,210m², to Comprehensive Development Forty-One Zone (CD-41) to facilitate lot consolidation and the development of an approximately 104 unit 5-storey purpose-built rental apartment building (Figures 2 and 3).

Figure 2: Perspective drawing of west (street facing) building elevation along Beckensell Avenue



Figure 3: Site plan of proposed development. Proposed building footprint shown in hatching sitting atop surface parking.



The proposed rental development contains an estimated unit mix of 40 smaller studios, 32 larger studios (executive suites), 24 one-bedroom and 8 two-bedroom units. Four residential floor sit atop of the single storey above grade parkade comprising approximately 100 parking stalls. This design largely addresses the site's location in the floodplain and flood construction levels, discussed further detail later in this report. Access to the property will be solely from Beckensell Avenue.

The applicant has requested to purchase the unaddressed City owned lot based upon Council's decision to consider sale on this property in 2015. Staff reviewed the 2015 application and is supportive of the disposition of the city owned lands to support purpose built rental housing that aligns with the policies in the OCP. Staff and the applicant understand it is Council's decision to dispose of the land, following the legislative process laid out in Sections 26 and 94 of the *Community Charter*.

DISCUSSION:

The proposed *Zoning Amendment Bylaw No. 3059* seeks to rezone all four properties to a new Comprehensive Development Forty-One zone (CD-41) in order to facilitate a four-lot consolidation of the subject properties for the purpose of building a 5-storey multi-residential rental apartment building. The existing zoning of the four properties listed, from north to south, is as follows (and shown in Figure 4 outline in aqua):

1. 125 11th Street [LOT A, SECTION 69, COMOX DISTRICT, PLAN 32204] – Commercial Two (C2).
2. 120 11th Street [LOT 1, SECTION 69, COMOX DISTRICT, PLAN 6674] – Multiple Use Two (MU-2).
3. The unaddressed City owned lot [THAT PART OF LOT 10, SECTION 69, COMOX DISTRICT, PLAN 3030, TAKEN FOR ROAD PURPOSES AND CONTAINING 0.27 OF AN ACRE MORE OR LESS, SHOWN IN RED ON PLAN 284BL] – no zone assigned and outlined in red in figure 4 below
4. 1128 Beckensell Avenue [LOT 2, SECTION 69, COMOX DISTRICT, PLAN 6674] – Multiple Use Two (MU-2).

Figure 4: Legal descriptions of lots proposed to be rezoned. City owned parcel shown in red.



ANALYSIS:

Proposed CD-41 Zone and Land Use Designation

The subject properties are designated Urban Corridor and are immediately adjacent the Downtown Town Centre Land use designation. The Urban Corridor designation are intended to be primary focus areas of commercial and residential densities outside the downtown. These areas are designated to support a mix of uses that include a variety of higher-density housing choices as well as regional retail destinations. In this instance multi-residential rental zoning, accessory buildings and structures and home occupation are the only proposed uses.

The proposed CD-41 Zone in comparison to the existing Multi-Use 2 zone that is designated on two of the parcels differs in the following respects:

- Increase height from 10 metres to 20 metres to accommodate a 5-storey building in line with the land use designation supporting higher densities and heights in this area.
- Maintain a lot coverage comparable to other higher density developments after considering the fact that a significant proportion of the site cannot be developed due to environmental sensitivity.
- Reduce vehicular and bicycle parking requirements to suit target resident needs, reflecting a mix of unit types and proximity to the downtown range of services that provides access by proximity;
- Reduce useable open space requirements from a standard of 20 m² per unit to on average 13 m² as provided in a common open space, and through the provision of private patios. This is in recognition of the proximity of large community parks nearby (Simms, Lewis and Standard Park).

Figure 5: Land use designations in the area. Subject properties shown in red outline. Properties in pink are Urban Corridor designation, properties in red are Downtown Town Centre designation.



Land Appraisal and Disposition

City owned land must be disposed as per the legislation under Sections 26 and 94 of the *Community Charter*. Council is required to give notice of the proposed disposition. An appraisal by Cunningham & Rivard Appraisals Ltd. was completed in December 2023 that determined the estimated market value of the City's parcel based on the its value assumed to be consolidated with the surrounding lots and zoned to allow a 5-storey apartment. The value would be \$360,000.00.

If Council directs Staff to proceed with the sale of the land, public notice of disposition will be required and a Purchase and Sale Agreement will be drafted based upon the appraisal and in accordance with relevant legislation. This disposition would form one of the conditions in the rezoning of the lands and would be considered by Council as part of this rezoning application.

Archaeological Information

The application has been referred to K'ómoks First Nation (KFN) to understand possible Cultural Heritage Investigation Permit (CHIP) requirements. KFN staff have provided instruction to the applicant on how to proceed with the development proposal should Council approve the Zoning Amendment Application.

Environmental Development Permit and Tree Protection and Management Bylaw No. 2850

The proposed development is adjacent the Courtenay River and contains associated riparian areas which are Environmentally Sensitive Areas (ESA) and therefore requires Environmental Impact Assessments and the issuance of an Environmental Development Permit (EDP) as part of the development approval process. Department of Fisheries and Oceans (DFO), Ministry of Water Land and Resource Stewardship (WLRS) and the local conservation stewardship sector were referred the rezoning application. DFO and WLRS (provided responses which have informed the Environmental Impact Assessment (EIA). Staff have also retained the services of a third-party Registered Professional Biologist to assist with analysis of development proposals that could have impact on local ESAs.

Based on the environmental assessment and review by authorities with jurisdiction, the Courtenay River and adjacent riparian areas are the only ESAs on the property. The Riparian Area Protection Regulations (RAPR) does not apply to this portion of the Courtenay river due to the adjacent shoreline's estuarine environment (saltwater). To respond to other environmental protection best practices and regulatory requirements, the proposal includes a 15-metre environmental setback from the Courtenay River. Within this area development is not permitted except for restoration and enhancement which will be required in the form of invasive species removal, native tree, shrub and groundcover replanting and the installation of terrestrial habitat features such as bird and bat boxes.

Additionally, the proposal includes a 30-metre low impact development setback from the Courtenay River. Between the 15 environmental setback and the 30-metre low impact development setback only the following uses will be permitted: landscaping and environmental restoration in the form of high tree canopy cover, open space use by rental building residents in the form of limited gravel pathways and amenity BBQ and seating area, and a limited portion of the parking area in the form of permeable surfaces. See Figure 3 for these different setbacks.

Section 219 Covenants identifying acceptable, restricted, and required uses within these two setback areas would be part of zoning approvals.

Tree bylaw requirements apply to portions of the development proposal outside of the environmental setbacks and are proposed to be met primarily through landscape replanting around the perimeter of the

property to also support aesthetic and privacy goals, and possible cash-in-lieu option into the City's Tree Replanting Reserve Fund.

Further detailed information on the EIA, the EDP, tree bylaw requirements and how they relate to the rezoning application will be provided in the Staff Report that accompanies First Reading of *Zoning Amendment Bylaw No. 3059*.

Floodplain Management Bylaw No. 1743

The subject property falls within the floodplain as defined in *Floodplain Management Bylaw No. 1743*. To meet the Bylaw's requirements, the development will have to be constructed above the Flood Construction Level (FCL) as determined by a Geotechnical Engineer.

A geotechnical report from a qualified professional will be required to satisfy both the structural requirements needed to design the building above the FCL and to withstand damages during a flood event. If the information in the report satisfies both of the floodplain specifications, then the development will satisfy the bylaw requirements and the geotechnical report will be appended to a Section 219 'Save Harmless' Covenant and registered on title prior to the issuance of a Building Permit.

Community Amenity Contributions

The OCP's CAC policy looks to secure as non-market, 15% of units within a development reflecting 15% of the net increase in development rights achieved through rezoning; i.e. the density increase. The applicant is offering to build and operate 6 below market rental units. In response to policy to support a mix of unit types, the applicant proposes 1 two-bed unit, 2 one-bed unit, three studios, representing approximately 15% of the units and 16% of the square footage that would be gained if the rezoning is approved.

These units will be secured in perpetuity at 30% below the Median Market rate for comparable buildings in Courtenay as defined by CMHC from time to time. This will require as a condition of the rezoning a Housing Agreement Bylaw be executed by the owner prior to adoption of the proposed zoning amendment bylaw and be registered on title.

The applicant has relayed that if any further housing amenity was provided, the project would not be financially viable and could not proceed based on the current markets (housing, labour, materials). While not an amenity, it's also notable that the proposal is for purpose built rental and that through rezoning rental tenure will be secured through the zone.

Currently the Zoning Bylaw does not have density bonus regulations nor inclusionary zoning regulations, under Bill 16 staff will be bringing forward the new local government tools being provided by the provincial government which would enhance the current OCP community amenity contributions for securing affordable housing.

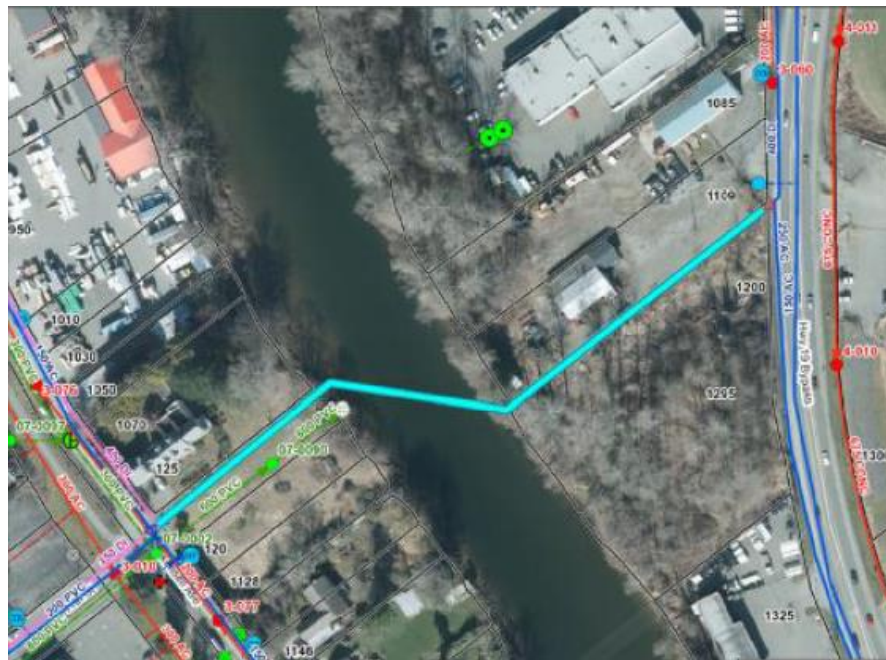
CMHC Development Financing

The applicant is pursuing Canada Mortgage and Housing Corporation (CMHC) MLI Select financing. This funding criteria related to affordability, energy efficiency and GHG reductions and accessibility. Many of these criteria overlap with OCP goals and Council's strategic priorities regarding housing, climate and inclusion.

Servicing Infrastructure

Prior to issuance of a Building Permit, security for the off-site works will be required for the frontage improvements along Beckensell Avenue. As part of the works and services agreement, the owner will also need to remove an abandoned CVRD water main that runs underneath the roadway dedication, through the proposed development and under the Courtenay River. The main will be removed only from the west property line to the boundary of the environmental setback determined by the Environmental Development Permit, where the remainder will be capped and deserted (see Figure 6 X for abandoned watermain alignment). An active 600mm PVC storm water pipe also runs underneath the road dedication, and will need to be realigned by the applicant outside of proposed building footprint to allow future public maintenance access through a statutory right-of-way (SRW) this will be a condition of the rezoning and the SRW to be registered prior to final inspection as part of the building permit application process.

Figure 6: Abandoned CVRD watermain in blue that runs across the Courtenay River and that will be removed off the development site shown. 600mm PVC storm water pipe shown in green on City owned property.



The property is already connected to City sewer, water and storm water services. As part of the zoning amendment application process, the applicant will be required to pay for modeling for sanitary and water flow to determine if any off-site infrastructure improvements are necessary to permit the development.

Transportation Impact Assessment

A Transportation Impact Assessment (TIA) has been provided to support staff with understanding the impacts to the City's transportation networks and to provide potential mitigation recommendations where impacts exist. Overall, it was the opinion of the TIA's authors the proposed development would have negligible impacts on traffic conditions in the study area.

"The proposed development is anticipated to generate approximately 40 vehicle trips (10 inbound, 30 outbound) in the AM peak hour and 40 vehicle trips (25 inbound, 15 outbound) in the PM peak hour based on ITE rates. The Midday peak hour trip generation was conservatively based on the PM peak hour, due to a lack of data to accurately estimate this volume for residential land use. Based

on this, the project is anticipated to generate 1 new vehicle on the road network every 1-2 minutes at peak times. This is not considered to be significant.” (Page I, TIA, Attachment #4)

The three intersections that were studied for this proposal included:

- Cliffe Avenue and 11th Street,
- Cliffe Avenue & 13th Street, and
- 11th Street & Beckensell Avenue/Site Access (future).

Notably, all intersections continued to operate within an acceptable performance range with the additional traffic generated from the development currently (opening day). The study however did find future operation (+10 years) was likely to result in failure at the two intersections on Cliffe, with the Level of Service (LOS) projected to be E during peak midday hours. As a result of this and other findings, the applicant will be required or has agreed to the following transportation improvements which will be secured with a section 219 covenant:

- Financial contribution toward the future construction of a signalized intersection at Cliffe and 11th Avenue as part of the Building Permit application process. This is an infrastructure upgrade identified in the Transportation Master Plan.
- An additional leg (east) of the intersection at 11th and Beckensell will be created, acting as the sole access to the property. The TIA recommends a 4-leg all-way stop controlled intersection.
- The proposal currently requests that the City create a ‘no stopping’ zone along the south edge of Beckensell Avenue, for a length of 20 metres to ensure parked/stopped vehicles to not obstruct the outbound vehicle’s minimum required sight distance of 35 metres. This looks to protect uses of the multi-use path by providing clear sight lines for vehicles exiting the development but will result in 20 less metres of on-street parking.
- Provide additional improvements around the newly created intersection. This includes, stop signs and painted stop bars and zebra crossing and Pedestrian crossing signs for the intersections south leg.
- The applicant has indicated willingness to install benches at the north and south bound bus stops on Cliffe Avenue.
- Traffic Demand Management (TDM) Strategies will be incorporated into the development including providing a bicycle repair station on the property and promotional material to the residents about active and alternative transportation, in addition to the car share opportunity described above.

On Site Parking

Vehicle Parking

Off-street parking for this project is located at grade and underneath the elevated residential building. The standard parking requirement for multi-residential dwellings is 1.2 per dwelling unit with 10% of the required spaces being provided and retained for visitor parking. This parking ratio would generate a requirement for 125 parking stalls for 104 dwelling units. The current proposal provides 100 parking stalls, 11 of which are small car stalls. In addition to the designated small car stalls, the parking proposal also requests that a number of the other parking stalls be permitted to be dimensioned smaller than standard parking stall size. The proposal includes 10 of the parking stalls reserved for visitors, 20 of the parking stalls are outfitted with electric vehicle charging stations, 3 of the parking stalls are accessible and 1 is provided permanently for a car share available to the residents. As commercial and larger non-profit car share providers are not available to the Comox Valley at this time, the applicant is proposing to establish a car share option, including purchase of a car, for exclusive use of the residents. The coop car share program would be secured by a section 219 covenant as part of the rezoning amendment process.

Bicycle Parking

The standard bike parking requirement multi-residential dwellings is 2 bike parking stalls per dwelling unit for the use of residents (Class II), as well as an additional 10% of the minimum number of bike stalls for visitors (Class I). This bike parking ratio would generate a requirement for 229 bicycle stalls, including 208 Class II and 21 Class I. The development is proposing a ratio closer to 1.3 stalls for each unit and increasing the visitor parking to 42. The proposal also includes different designs for the bike parking than zoning standard requirements, such as allowing for slightly fewer of the oversized bike parking stalls (from 20 to 16), allowing for wall mounted options, and allowing for some of the residential stalls to be located within tenant units instead of only within a centralized location part of the residential building. There has been improvements in wall mounting technology that is not reflected in the current zoning bylaw and movement to bike storage being preferred in units where they can be accommodated.

Site specific parking ratios and dimensions may be written into a Comprehensive Development (CD) zone, thus not requiring a Development Variance Permit should Council wish to support the parking proposals.

Landscaping

In addition to the perimeter and open space landscaping described in the environmental development permit and tree bylaw section above, landscaping will include the retention of the existing landscape feature wall and mature cedar hedges that currently runs most of the length of the subject property, and which are located on City property (Figure 7). The applicant has offered to retain this existing landscaping and enter into a section 219 covenant that provides for the retention and maintenance of existing frontage landscaping in city right of way. This agreement will be registered on title.

While landscape setbacks are generally deeper on private property, staff evaluate this as an appropriate street frontage landscape proposal given particular street context, balance of greenspace across the proposal, and recognition to this property being close to the downtown urban form which does not require deep landscape setbacks.

Figure 7: Existing landscape feature wall and mature cedar hedges located on Beckensell Avenue.



Proposed Conditions of Rezoning

As part of the rezoning application the following conditions must be met prior to consideration of adoption of any bylaws:

- An executed Purchase and Sale Agreement
- Consolidation Plan
- Section 219 covenant for the retention and maintenance of existing frontage landscaping on City ROW
- A Housing Agreement bylaw registered as Section 219 covenant on title.
- A section 219 covenant to secure a coop car share program
- A section 219 covenant to secure transportation and infrastructure requirements.
- A section 219 covenant to secure environmental setback requirements.

FINANCIAL IMPLICATIONS:

If rezoning and subdivision advance as proposed by the applicant and detailed in this report, the subdivision will trigger Development Cost Charges to be paid by the applicant prior to Building Permit approval.

The appraised value of the public land estimated at \$360,000 would be received by the City through a purchase and sale agreement and the funds will be allocated to be used for future purchase or improvements of public lands.

ADMINISTRATIVE IMPLICATIONS:

Processing Zoning Bylaw amendments is a statutory component of the corporate work plan and a core duty of the Development Services Department. Work to date has primarily been carried out by Development Services staff, although other departments have provided referral comments.

Should the zoning bylaw amendment receive favourable consideration by Council, two Development Permit Applications (Environmental and Form and Character) will be processed separately and considered by the Director of Development Services. To determine the developable area of the site, inform the proposed site plan and the draft CD zone, Staff have already begun substantial work on drafting the Environmental Development Permit.

STRATEGIC PRIORITIES REFERENCE:

This initiative addresses the following strategic housing priorities:

- Good Governance - Review and streamline development process and set targets for application processing times
 - Through adoption of *Development Procedures Bylaw No. 3106*, the Delegate was able to waive the Public Hearing for a rezoning that conforms to Courtenay’s OCP. This reduced the number of times this rezoning has to be considered by Council and allowed for a shorter timeframe for being considered for adoption.
- Buildings and Landscape - Update Development Cost Charges (DCC) Bylaw
 - This project will be subject to the new Development Cost Charges as recently set through *Development Cost Charges Amendment Bylaw No. 3116, 2023*.

PUBLIC ENGAGEMENT:

The Community Information Meeting requirements for this development have been waived at the discretion of the Director of Development Services, as per Section 7.2 of *Development Procedures Bylaw No. 3106, 2023*.

The applicant, Pacific Swell Developments, voluntarily held a community engagement on Wednesday, July 3, for neighbouring tenants and property owners to see drawings of the proposed redevelopment. The applicant's consultants were available to answer questions and provide feedback. The primary concern of those who attended related to privacy. Based on these conversations, the developer adjusted the site plan by moving the garbage/recycling from the south side of the property to the centre to avoid smell and noise, removed the bike racks along the south property line to reduce activity and noise and is engaged in ongoing discussion with the owners of the lot to the south about adding fencing and a row of hedges.

As defined in section 464 (3) of the *Local Government Act*, a public hearing for this proposed rezoning is prohibited as it meets the criteria laid out in this section. Specifically,

- (a) there is an official community plan in effect for the area that is the subject of the zoning bylaw amendment;
- (b) the proposed zoning bylaw amendment is consistent with the official community plan,
- (c) the sole purpose of the proposed zoning bylaw amendment is to permit a development that is, in whole or in part, a residential development, and
- (d) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development.

Notification in accordance with section 467 of the *Local Government Act* will be given in advance of First reading of the proposed *Zoning Amendment Bylaw No. 3059*. The public notification will take the form of an advertisement posted on the City's website and social media channels for two consecutive weeks in advance of bylaw reading, and mailed out to residents within 100 metres. The public notification will be given prior to the regular council meeting where Council will consider first, second and third reading of proposed *Zoning Amendment Bylaw No. 3059* and as per Development Procedures Bylaw No. 3106, 2023.

OPTIONS:

1. THAT Council direct staff to bring forward the application for consideration of 1st, 2nd and 3rd reading at a regularly scheduled Council Meeting.
2. THAT Council provide alternative direction to staff.

ATTACHMENTS:

1. *Attachment No. 1 – Architectural Drawings*
2. *Attachment No. 2– Landscape Plan*

Prepared by: Jacob Cramer, Planner 1 – Development Planning
Reviewed by: Nancy Gothard, RPP, MCIP, Manager of Community and Sustainability Planning
Marianne Wade, RPP, MCIP, Director of Development Services
Concurrence: Geoff Garbutt, M.PI., MCIP, RPP, City Manager (CAO)