



MINUTES

SPECIAL COUNCIL MEETING (PUBLIC HEARING)

Thursday, November 16, 2023, 7:00 P.M.
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC

Present: Mayor L. Krog, Chair
Councillor S. Armstrong
Councillor T. Brown*
Councillor H. Eastmure
Councillor B. Geselbracht
Councillor E. Hemmens
Councillor P. Manly
Councillor J. Perrino
Councillor I. Thorpe

Staff: D. Lindsay, Chief Administrative Officer
J. Holm, Director, Planning & Development
D. LaBerge, Director, Bylaw Services
D. Fox, Manager, Building Inspections
L. Rowett, Manager, Current Planning
C. Horn, Planner
K. Mayes, Planner
K. Robertson, Deputy Corporate Officer
J. Tonella, Steno, Legislative Services
J. Vanderhoef, Recording Secretary

1. CALL THE MEETING TO ORDER:

The Special Council Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Agenda Item 5(a) Covenant Amendment Application No. CA17 – 6340
McRobb Avenue – Add recommendation.

* Denotes electronic meeting participation as authorized by “Council Procedure Bylaw 2018 No. 7272”

- (b) Agenda Item 8(d) Bylaw Contravention Notice - Construction Started Without A Building Permit - 458 Stirling Avenue – Add delegation from Meenu Bala.
- (c) Agenda Item 8(e) Bylaw Contravention Notice - Construction Started Without A Building Permit - 17 - 111 Wall Street – Add delegation from Sonja Killoran-McKibbin.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. PUBLIC HEARING REQUIREMENTS:

Mayor Krog advised that Council was meeting on the traditional territory of the Snuneymuxw First Nation and outlined the purpose and protocols of the Public Hearing.

Mayor Krog then outlined the process to accommodate members of the public who were attending in person and for those who wanted to participate by phone.

Mayor Krog explained the requirements for conducting a Public Hearing.

5. CALL THE PUBLIC HEARING TO ORDER FOR COVENANT AMENDMENT APPLICATION NO. CA17 - 6340 MCROBB AVENUE

a. Covenant Amendment Application No. CA17 - 6340 McRobb Avenue

Mayor Krog called the Public Hearing to order at 7:05 p.m.

Caleb Horn, Planner, introduced the application and noted that seven (7) written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2023-NOV-16 with respect to Covenant Amendment Application No. CA17 - 6340 McRobb Avenue.

Mayor Krog called for submissions from the Applicant:

1. Scott Mack, Townsite Planning, spoke outlining the application. Highlights included:
 - Covenant Amendment application is for phases two and three of the project. Phase one is already under construction
 - The applicant is requesting to amend the current covenant from a 20-storey building form to a 6-storey building
 - The current covenant would allow for up to 308 units and the proposed amendment would allow up to 266 units

- The revised proposal is more consistent with the Official Community Plan (OCP) and is a better fit with the existing neighbourhood
- Due to the significant height in the previous building plan there was a large setback requirement on the north property line of 17m. The applicant proposes to reduce this setback to 7.5m with the proposed 6-storey building
- The proposed covenant amendment will include a greater setback of 10m for the uppermost sixth storey to address privacy concerns raised by neighbours
- Hosted two information sessions. The first was an invitation for immediate neighbours and the second was open to the wider community
- Most attendees agreed that the lower building height of the 6-storey building was an improvement
- The majority of parking will be underground and accessed by a driveway from Calinda Street
- Confirmed that the shadow renderings are accurate and any difference in grade to adjacent properties on Pachena Place would not noticeably affect shadowing

Council discussion took place regarding strata fees, the reasons for changing the setback requirements, and concerns regarding the shadow study.

Mayor Krog called for submissions from the Public:

1. Bill Manners, spoke in opposition, on behalf of the Dover Community Association, and expressed concerns about growth in the area; emergency vehicle parking; and the reduced setback between the development and Pachena Place residents. Requested a new park be established within the currently mandated 17m setback.
2. Diana Lyons, spoke in opposition, and stated concerns regarding the height of the building, setbacks, and privacy.
3. Norm Winton, spoke in opposition, stating concerns regarding privacy and the main floor of the building. He does not agree with the shadowing projections provided and prefers the 20-storey building over the 6-storey building.
4. Fred Lyons spoke in opposition, stating that a 7.5m setback will impact the privacy of neighbours. He disagrees with the shadow

studies provided and would like the building design moved further away from Pachena Place.

5. Gary Myres, spoke in opposition, stating he had researched the area prior to purchasing his home and was aware of the covenant amendment for a 20-storey building on the property and was comfortable with that, but is concerned now that the change to a 6-storey building will block sunlight.
6. Oakley Duff spoke in opposition and requested more time for consultation with the developer. Would like to see the 17m setback negotiated into a park.

Mayor Krog called for submissions from the Public for a second time:

7. Jan Smith, spoke in opposition, noting the number of times the zoning and proposed developments for this property have changed over time. She stated concerns regarding the loss of sunlight, accuracy of the shadow studies, and the proximity of the 6-storey building to people's backyards on Pachena Place.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Covenant Amendment Application No. CA17 - 6340 McRobb Avenue.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for Covenant Amendment Application No. CA17 - 6340 McRobb Avenue be closed at 7:38 p.m.

Councillor Hemmens asked Staff for clarification regarding how shadow studies are validated.

Caleb Horn, Planner, noted that shadow studies would be considered accurate based on professional reliance. Staff do review the material and sites to see there is accuracy with what has been proposed.

Councillor Perrino asked Staff for clarification regarding the reason for the changes to the setback requirements and timeline for the building development permit to come back before Council.

Caleb Horn, Planner, noted that the building development permit would consider site and landscaping details. The applicant has applied for a development permit but requires the covenant amendment to be approved as it is not currently in line with the covenant.

Councillor Manly asked Staff for clarification regarding when changes could be made to the design of the building.

Caleb Horn, Planner, noted that the covenant would only be limiting the density and height. There isn't a commitment to develop the property based on the conceptual plans. He noted that the 7.5m setback is the minimum setback and the applicant can propose something further from that during the development stage.

It was moved and seconded that Council direct Staff to discharge and replace existing Section 219 covenants at 6340 McRobb Avenue, in order to facilitate the development of Phases 2 and 3 with a 6-storey multi-family residential project. The motion carried.

Opposed: *Councillors Armstrong and Thorpe*

6. CALL THE PUBLIC HEARING TO ORDER FOR REZONING APPLICATION NO. RA492 - 6074 METRAL DRIVE, ZONING AMENDMENT BYLAW 4500.216

a. Rezoning Application No. RA492 - 6074 Metral Drive

Mayor Krog called the Public Hearing to order at 7:55 p.m.

Kristine Mayes, Planner, introduced the application and noted that no written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2023-NOV-16 with respect to Rezoning Application No. RA492 - 6074 Metral Drive.

Mayor Krog called for submissions from the Applicant:

The applicant was not in attendance to speak regarding Rezoning Application No. RA492 - 6074 Metral Drive.

Mayor Krog called for submissions from the Public:

1. Trent Whaley spoke in favour and stated the form of the townhomes is excellent for small families starting out and noted the benefits of the location being close to shopping and potential employment opportunities.
2. John Jeffrey, spoke in opposition, requesting that a restrictive covenant be imposed to limit the height of the new townhomes to two

stories to align with the existing residential properties immediately behind the property.

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding Rezoning Application No. RA492 - 6074 Metral Drive.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Rezoning Application No. RA492 - 6074 Metral Drive.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for Rezoning Application No. RA492 - 6074 Metral Drive be closed at 8:00 p.m.

It was moved and seconded that "Zoning Amendment Bylaw 2023 No. 4500.216" (to rezone 6074 Metral Drive from Single Dwelling Residential [R1] to Residential Corridor [COR1]) pass third reading. The motion carried unanimously.

7. CALL THE PUBLIC HEARING TO ORDER FOR REZONING APPLICATION NO. RA461 - 1100 CEDAR ROAD, 1505 & 1605 FIELDING ROAD, 1759 RAJEENA WAY, ZONING AMENDMENT BYLAW 4500.215 (SANDSTONE)

- a. Rezoning Application No. RA461 - 1100 Cedar Road, 1505 & 1605 Fielding Road, and 1750 Rajeena Way (Sandstone)

Mayor Krog called the Public Hearing to order at 8:01 p.m.

Caleb Horn, Planner, introduced the application and noted that thirty-eight (38) written submissions and one (1) petition were received prior to the start of the Special Council Meeting (Public Hearing), 2023-NOV-16 with respect to Rezoning Application No. RA461 - 1100 Cedar Road, 1505 & 1605 Fielding Road, and 1750 Rajeena Way (Sandstone).

Mayor Krog called for submissions from the Applicant:

1. Georgia Desjardins, Director of Development, Seacliff Properties Ltd., the Applicant, stated that she was available to respond to questions about the Sandstone rezoning application.

Councillor Armstrong requested clarification regarding mitigating traffic issues.

Georgia Desjardins, Director of Development, Seacliff Properties Ltd., noted that Seacliff Properties Ltd. has dedicated extensive resources to traffic mitigation with a particular focus on the west side of the road where Cranberry Avenue meets the Trans-Canada Highway. She also noted there have been specific concerns regarding Roberta Road East and that development will be limited to up to 20 lots, or 20 units, connected to Roberta Road East or as determined in connection with an updated traffic impact assessment that is acceptable to the approving officer.

Councillor Hemmens requested clarification regarding how traffic will be encouraged to use the proposed access at 1618 Extension instead of Roberta Road East.

Georgia Desjardins, Director of Development, Seacliff Properties Ltd., spoke regarding the interconnectivity between Roberta Road East and the main access road Extension Road. Determining whether or not there is interconnectivity between these roads will be reviewed at a more detailed design phase to avoid adverse vehicle impacts to residents and improve active transportation.

Councillor Manly requested clarification regarding the investment being made to improve the Cranberry Avenue and Trans-Canada Highway intersection.

Georgia Desjardins, Director of Development, Seacliff Properties Ltd., noted that Seacliff Properties Ltd. is making an estimated \$20 million investment into improving the Cranberry intersection and up to 1618 Extension Road. She noted that in response to community concerns the majority of the roadway improvements will be implemented concurrently with the first phases of development of DA6 and before the 50th lot is occupied.

Councillor Manly requested clarification regarding how the new provincial announcement will impact the plan for the development and if the number of units will be impacted.

Georgia Desjardins, Director of Development, Seacliff Properties Ltd., noted that Seacliff Properties Ltd. are committed to building based on the Sandstone Master Plan.

Councillor Eastmure requested clarification regarding the decrease in amenities and retail areas in the plan.

Georgia Desjardins, Director of Development, Seacliff Properties Ltd., stated that the zoning of the Sandstone Master Plan is intended to align with the Official Community Plan (OCP) and noted areas where commercial amenities will be included in the plan.

Mayor Krog called for submissions from the Public:

1. Greg Stolz spoke in favour and stated that the Sandstone development plan provides housing and opportunities for growth in the south end of Nanaimo which will draw more retail and add vigor to the community.
2. Michael Bassili, Strong Towns Nanaimo, spoke in support of DA5 and the comprehensive mixed-use zone, but opposed to DA1 and DA6 steep slope residential as it encourages urban sprawl.
3. Dave Hammond spoke in favour and noted that the rezoning application conforms with the City's new OCP. He also noted that this is probably one of the last large pieces of land in Nanaimo that is able to provide for the type of growth that Nanaimo is experiencing, and that this development provides much needed commercial zoning in the area.
4. Pat Hyslop spoke in opposition and stated that he does not object to the Sandstone project but raised concerns about the potential subdivision of the planned houses and the lack of infrastructure in the area to support increased demand/use. He also noted safety concerns related to the lack of sidewalks and streetlights.
5. Keith Jones spoke in opposition and stated traffic and safety concerns especially in school zones.
6. Curt McDonald spoke in opposition and stated concerns about the word "or" in the mitigation recommendation for a limit of 20 units to be connected to Roberta Road East, or as determined with an updated traffic assessment and as acceptable to the approving officer. Noted connections proposed off Beetle Road and Trofton

Road which can only be accessed off Roberta Road; however, there are no restrictions on those connections. The petition submitted notes residents' concerns regarding access in and out of the valley; however, no solutions are being offered by the Sandstone proposal.

7. Dale Porter spoke in favour of the proposed project but stated concerns regarding three neighbourhoods in the Chase River area that are single entry and exit points. Expressed the need to tie these neighbourhoods together to reduce risks in the event of an emergency.
8. Joe McDonald spoke in opposition and stated concerns regarding traffic and the lack of infrastructure changes planned for Roberta Road East.

Mayor Krog called for submissions from the Public for a second time:

9. Trent Whaley spoke in favour of the project, but noted the recent provincial announcement could significantly impact the density for the residential zoning and noted concerns about the lack of transportation making the area reliant on vehicles.
10. Michael Nygren spoke in favour, noting the large size of the project and the opportunity to work with a reputable developer to impact housing supply, commercial land, and industrial land supply in alignment with the new OCP.
11. Mike Parker spoke in favour, noting that the plan for this development has changed over recent years and although the plan isn't perfect some action needs to be taken.
12. Brian Hodson spoke in opposition and stated concerns regarding the single entry and exit access to the area and the lack of infrastructure needed to support growth in the area.
13. Camilla McGuire spoke in opposition and stated concerns about increased traffic and speeds on Cedar Road. Requested a plan that is safer, less focused on vehicles, and that will consider multiple points of access to and from the community.
14. Joe McDonald spoke for a second time asking if there had been any attempt by the developer to run a road from the west side of the development to the Trans-Canada Highway to alleviate traffic along Extension Road.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Rezoning Application No. RA461 - 1100 Cedar Road, 1505 & 1605 Fielding Road, and 1750 Rajeena Way (Sandstone).

Mayor Krog announced that following the close of a Public Hearing, no further submissions, or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for Rezoning Application No. RA461 - 1100 Cedar Road, 1505 & 1605 Fielding Road, and 1750 Rajeena Way (Sandstone) be closed at 8:52 p.m.

Council discussion took place. Highlights included:

- Concerns regarding provincial announcement to eliminate single family zoning
- Objections heard have been related to access points and safety concerns which may be addressed more quickly due to the development
- Clarification that the Sandstone Master Plan is included in the OCP
- Snuneymuxw First Nation is supportive of the Sandstone development project
- A development of this scale will draw much needed amenities to the area

Councillor Manly requested clarification regarding plans for improvement on Roberta Road East to facilitate this development.

Jeremy Holm, Director, Planning and Development, noted that no improvements are planned for Roberta Road East or secured through the development and the City has not identified this road as a capital improvement project.

Councillor Manly requested clarification regarding a timeline for improvements to the Cranberry Connector.

Jeremy Holm, Director, Planning and Development, noted that the Cranberry Connector is a development cost charge project and not within the five-year budgeting window of the capital plan. The project is planned for 2032 and would require land acquisition and budget approval through Council to bring it into the capital plan.

Council discussion continued. Highlights included:

- Project is within the urban containment area
- Importance of unlocking industrial lands
- Impacts of the provincial announcement on residential zoning numbers
- Clarification that commercial designation and regional retail have been removed from the plan

Councillor Geselbracht requested clarification regarding the rationale for reviewing the rezoning of the whole project rather than individual pieces.

Caleb Horn, Planner, noted there could be pros and cons of doing individual pieces separately; however, reviewing all of the rezoning together provides a more comprehensive planning process for the Sandstone Master Plan.

Council discussion continued. Regarding urban sprawl and traffic concerns.

It was moved and seconded that “Zoning Amendment Bylaw 2023 No. 4500.215” (to rezone 1100 Cedar Road, 1505 & 1605 Fielding Road, and 1750 Rajeena Way from Rural Resource [AR1] and Parks, Recreation, and Culture One [PRC1] to Steep Slope Residential [R10], Highway Industrial [I1], Light Industrial [I2], and Comprehensive Development District Zone Thirteen [CD13]) pass third reading. The motion carried.

Opposed: Councillors Brown and Geselbracht

Council discussion took place. Highlights included:

- Intention behind Bill 44 is to achieve densities that build community and could trigger and pay for the infrastructure needed by residents
- No current or future plans in place to address traffic issues
- Developer’s intention is to continue to develop the project as outlined in the Sandstone Master Plan
- Concerns with density in DA6 due to traffic issues
- Provincial implications providing a blanket approach that could have significant impacts on the feasibility of a project like this
- Provincial government taking away the discretion of the local governments

Dale Lindsay, Chief Administrative Officer, noted that the changes from the Provincial government are very new and Staff are trying to digest the information and understand the impacts. These changes will impact more than just the Sandstone development and Staff will be considering these

impacts on other projects as they come forward. He clarified that the challenge currently is that much work has gone into ensuring the servicing capacity (both in the ground and on roadways) is sized and appropriately funded by the developer for 600 units in DA6; however, now Staff don't know if this number may potentially be changing.

It was moved and seconded that Council direct staff to confirm, prior to bringing "Zoning Amendment Bylaw 2023 No. 4500.215" forward for consideration of adoption, that either:

1. Bill 44, Housing Statutes (Residential Development) Amendment Act, 2023, would not result in residential density on the Sandstone lands greater than proposed through this rezoning, or
2. An alternative mechanism is in place to ensure that development of the Sandstone lands does not result in residential density greater than proposed through this rezoning.

The motion carried.

Opposed: *Councillors Brown, Manly and Perrino*

Council recessed the meeting at 9:38 p.m.

Council reconvened the meeting at 9:50 p.m.

8. REPORTS:

- a. Bylaw Contravention Notice - Construction Started Without A Building Permit - 3459 Tunnah Road

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 3459 Tunnah Road for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried unanimously.

- b. Bylaw Contravention Notice - Construction Started Without A Building Permit - 1050 Cedar Road

Introduced by Darcy Fox, Manager, Building Inspections.

1. Kim Gino, Owner, spoke regarding deconstructing the garage and requested a time extension to complete deconstruction.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 1050 Cedar Road for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried unanimously.

c. Bylaw Contravention Notice - Construction Started Without A Building Permit - 46 Pirates Lane

Introduced by Darcy Fox, Manager, Building Inspections.

1. Paul Ferguson, Owner, stated that a building permit had been acquired to complete the work and a building inspection is scheduled for 2023-NOV-21. He requested that Council postpone placing a bylaw contravention on the property title.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 46 Pirates Lane for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried.

Opposed: *Councillor Geselbracht*

d. Bylaw Contravention Notice - Construction Started Without A Building Permit - 458 Stirling Avenue

Introduced by Darcy Fox, Manager, Building Inspections.

Delegation:

1. Meenu Bala, Owner, joined the meeting electronically and requested additional time to go through the process.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 458 Stirling Avenue for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried unanimously.

e. Bylaw Contravention Notice - Construction Started Without A Building Permit - 17 - 111 Wall Street

Introduced by Darcy Fox, Manager, Building Inspections.

Delegation:

1. Sonja Killoran-McKibbin, spoke on behalf of strata council, and noted that the strata had intervened to remove the contraventions as the previous owner had passed away and the issues were in contravention of their strata bylaws. Requested that the stop work order be removed.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at #17 – 111 Wall Street for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

f. Bylaw Contravention Notice - Construction Started Without A Building Permit - 6220 Icarus Drive

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 6220 Icarus Drive for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

g. Bylaw Contravention Notice - Construction Started Without A Building Permit - 5353 Dewar Road

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5353 Dewar Road for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

h. Remedial Action Requirement - 30 Robarts Street

Introduced by David LaBerge, Director, Bylaw Services.

It was moved and seconded that Council:

1. issue a Remedial Action Requirement at 30 Robarts Street pursuant to Sections 72 and 73 of the *Community Charter*;
2. direct Staff to advise the owner(s) that they may request Council reconsider the Remedial Action Requirement by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent;
3. direct Staff or its authorized agents to take action in accordance with Section 17 of the *Community Charter* without further notice and at the owner's expense if the said remedial action is not undertaken within 30 days of Council's resolution; and,
4. direct the remedial action require the removal of the failed retaining wall, completion of a full geotechnical review, and installation of a new retaining wall engineered to Engineers and Geoscientists BC (EGBC) guidelines with an approved building permit.

The motion carried unanimously.

9. ADJOURNMENT:

It was moved and seconded at 10:25 p.m. that the meeting adjourn. The motion carried unanimously.

MAYOR

CERTIFIED CORRECT:

CORPORATE OFFICER