

DATE OF MEETING JULY 29, 2024

AUTHORED BY KRISTINE MAYES, PLANNER, CURRENT PLANNING

SUBJECT REZONING APPLICATION NO. RA498 – 5360 BERGEN-OP-ZOOM DRIVE

## **OVERVIEW**

### **Purpose of Report**

To seek direction from Council regarding Rezoning Application No. RA498 to correct an administrative error.

### **Recommendation**

1. That Council rescind the conditions related to “Zoning Amendment Bylaw 2024 No. 4500.227” as presented on 2024-JUL-08; and,
2. That Council direct Staff to secure the conditions related to “Zoning Amendment Bylaw 2024 No. 4500.227” as outlined in the “Conditions of Rezoning” section of the Staff Report dated 2024-JUL-29 prior to final adoption.

## **BACKGROUND**

A rezoning application, RA498, was received from Tony Harris Developments Inc., on behalf of Bozd (Land Development) Nominee Ltd., to amend the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) to rezone the subject property at 5360 Bergen-Op-Zoom Drive from Single Dwelling Residential (R1) to Medium Density Residential (R8) to facilitate a multi-family development.

At the regular meeting on 2024-JUL-08, Council passed three readings of “Zoning Amendment Bylaw 2024 No. 4500.227” and directed Staff to secure the conditions of approval as outlined in the “Conditions of Rezoning” section of the Staff Report dated 2024-JUL-08 prior to final adoption. Following bylaw introduction, an administrative error in the Community Amenity Contribution (CAC) was identified as described in the conditions of rezoning. In order to correct this error, and ensure that the intended CACs are secured, Staff recommend rescinding the resolution to secure the conditions of rezoning and passing a new resolution to secure the amended conditions.

## **DISCUSSION**

The CAC proposal as described in the conditions of rezoning includes road dedication, trail improvements, and future off-site road improvements along Bergen-Op-Zoom Drive. The 2024-JUL-08 Staff Report conditions described:

*“construction of the south side of Bergen-Op-Zoom Drive between the subject property and Arnhem Terrace, and both sides of Bergen-Op-Zoom Drive between Arnhem Terrace and Metral Drive to Urban Local design standard (UL-XS1);”*

The CAC was intended to secure the construction of the south side of Bergen-Op-Zoom Drive between the subject property and Metral Drive, and construction of the north side of Bergen-Op-Zoom Drive between the subject property and Arnhem Terrace to Urban Local design standard (UL-XS1) as shown on Attachment A.

No change to the proposed CAC or the associated amendment bylaw is proposed. This is a minor correction that staff recommend be addressed with a new resolution for clarity to reference the conditions of rezoning as outlined in the Staff Report dated 2024-JUL-29. The amended conditions of rezoning capture the intended in-kind CAC, as well as road dedication and trail improvements previously discussed in the 2024-JUL-08 staff report, which will support an improved road network with active transportation connections in the neighbourhood.

### **Conditions of Rezoning**

Staff recommend the following items be secured prior to final adoption of the bylaw:

1. *Community Amenity Contribution* – an in-kind amenity contribution as follows:
  - construction of a 3m wide publicly accessible pathway between Dublin Way and Bergen-Op-Zoom Drive with lighting built to City Standard CS-21 (with access secured by an SRW);
  - a blanket SRW to secure a future connection from the publicly accessible pathway to Amsterdam Park (to be reduced to a specific SRW once constructed);
  - construction of the south side of Bergen-Op-Zoom Drive between the subject property and Metral Drive, and construction of the north side of Bergen-Op-Zoom Drive between the subject property and Arnhem Terrace to Urban Local design standard (UL-XS1) as shown in Attachment A; and,
  - If applicable, any monetary contribution to supplement the value of the proposed in-kind amenity based on a CAC rate of \$41 per m<sup>2</sup> of gross floor area is to be directed towards local parks and trail improvements within the City of Nanaimo.
2. *Road Dedication* – 358.3m<sup>2</sup> triangle shaped road dedication along the Island Highway prior to final adoption of the bylaw.
3. *On-site & Off-site Improvements* – registration of a Section 219 covenant to secure the following prior to building permit issuance:
  - the design and construction of an onsite roundabout to be secured by a statutory right-of-way for use by the public and service vehicles as a turnaround;
  - construction of environmental protection fencing along the watercourse setback; and,
  - vehicle access to the proposed development restricted to Bergen-Op-Zoom Drive. |

### **SUMMARY POINTS**

- At the meeting held 2024-JUL-08, Council passed three readings of “Zoning Amendment Bylaw 2024 No. 4500.227” related to Rezoning Application RA498 – 5360 Bergen-Op-Zoom Drive.
- Following the meeting on 2024-JUL-08, an administrative error was identified in the Community Amenity Contribution as described in the conditions of rezoning.
- To correct the error, Staff recommend rescinding the previous resolution regarding conditions of rezoning and passing a new resolution to secure the amended conditions.
- This change will not affect the associated amendment bylaw and the proposed CAC will support the intended road improvements and active transportation connections in the neighbourhood.

### **ATTACHMENTS**

ATTACHMENT A: Community Amenity Contribution In-Kind Amenity Proposal |

#### **Submitted by:**

Lainya Rowett  
Manager, Current Planning |

#### **Concurrence by:**

Jeremy Holm  
Director, Planning & Development |