Insight - 6201 Oliver Road - Nanaimo

Planning Framework: Opportunities and Constraints Report



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March 15, 2018

Lainya Rowett, Manager, Current Planning & Subdivision City of Nanaimo 455 Wallace Street Nanaimo, BC V9R 5J6 Lainya.Rowett@nanaimo.ca

Attention: Lainya Rowett

Re: Request for Covenant Removal

MacDonald Gray Consultants has been retained by Insight Holding Ltd. to facilitate the removal of Section 219 Covenant FA9239 from the 'the land' described as LOT 2, DISTRICT LOT 14, WELLINGTON DISTRICT, PLAN VIP81792 (6201 Oliver Road), Nanaimo, British Columbia. The intent of this application is fourfold:

- 1. Mitigate the lack of clarity in interpreting the covenant language and schedules;
- 2. Remove redundant covenant requirements that have now been completed;
- 3. Remove redundant covenant requirements that are now entrenched in City Bylaws and Application process requirements;
- 4. Facilitate a pending land sale to a developer who intends to build a multi-unit residential building under unencumbered COR1 Zoning District regulations.

The lands fall within the City of Nanaimo (City) Municipal boundary and Urban Containment Boundary, as well as the Regional District of Nanaimo (RDN) Growth Containment Boundary. The current Residential Corridor (COR1) Zoning District is aligned with the City of Nanaimo Official Community Plan Bylaw Future Land Use Designation for the land. Permitted land uses and allowable density under the COR1 Zone mimic the policy direction of the OCP Designation which is also 'Corridor'.

The professional opinions of City Staff and the consulting team differ in relation to permitted uses and the interpretation of the covenant language in Section 2. There is a quantifiable lack of clarity in both the language and reference schedules that must be resolved in order to provide assurance to prospective purchasers and facilitate a pending land sale.

We support the vision for this corridor property and consider the COR1 land uses appropriate for the intersection of Oliver Road and Uplands Drive. This request for a covenant removal is a logical and pragmatic housekeeping item that is clearly aligned with goals, objectives, and policies of the community.

Sincerely,

Nigel Gray, MCIP, RPP, MBCSLA

Principal Planner / Project Manager

TABLE OF CONTENTS

1.0		RODUCTION	
2.0	SITE	DESCRIPTION	3
	2.1	TOPOGRAPHY3	
	2.2	SERVICING3	
	2.3	GEOTECHNICAL DATA3	
	2.4		
3.0	LOC	CATION IN RELATION TO COMMUNITY FACILITES	4
	3.1	FIRE PROTECTION4	
	3.2	POLICE4	
	3.3	HEALTH4	
	3.4	TRANSPORTATION ROUTES4	
	3.5	PUBLIC TRANSPORTATION4	
	3.6	COMMERCIAL SERVICES5	
	3.7	RECREATIONAL5	
4.0		sting use	5
	7,035	CITY OF NANAIMO ZONING BYLAW NO. 45005	
5.0		JACENT USE	. 5
	5.1	CITY OF NANAIMO ZONING BYLAW NO. 45005	
	5.2	CITY OF NANAIMO OFFICIAL COMMUNITY PLAN (OCP)6	
	5.3	DEVELOPMENT PERMIT AREAS (CITY)8	
6.0	TITL	E – CHARGES, LIENS AND INTERESTS	. 8
	6.1	RIGHT OF WAYS:8	
		COVENANTS:8	
7.0	CO	NCLUSIONS	11
	7.1		
	7.2	CONSTRAINTS12	
	7.3	MULTI-UNIT RESDIDENTIAL DEVELOPMENT SCENARIO12	
8.0		PENDIX 'A' - TOPOGRAPHIC - CITY MAP	
9.0		PENDIX 'B' - WATER SERVICE - CITY MAP	
		PENDIX 'C' - STORM SEWER - CITY MAP	
		PENDIX 'D' - SANITARY SEWER - CITY MAP	
		PENDIX 'E' - OCP LAND USE - CITY MAP	
		PENDIX 'F' - DPA9 - CITY MAP	
		PENDIX 'G' - OCP MOBILITY - CITY MAP	
		PENDIX 'H' – ZONING MAP	
		PENDIX 'I' - AIRPHOTO - CITY MAP	
		PENDIX 'J' - TRANSIT ROUTES	
		PENDIX 'K' - DEVELOPMENT SCENARIO	
		PENDIX 'L' - SITE STATISTICS	
20.	O API	PENDIX 'M' - LAND USE COMPARISON	25

1.0 INTRODUCTION

The following report is a high level analysis of the current and long range planning framework applicable to 'the land' described as LOT 2, DISTRICT LOT 14, WELLINGTON DISTRICT, PLAN VIP81792 (6201 Oliver Road), Nanaimo, British Columbia.

This report has been prepared based on an initial review of the planning framework currently in place for the project site. Opportunities and constraints have been listed based on an overlay of available local government information and relevant consultant reports to the date of this report.

High-level land use exhibits have been prepared at this stage to illustrate the findings of the opportunities and constraint analysis and a proposed development framework. The intent of these exhibits is to assist the owners in determining whether or not it is viable to move the project forward and as a talking point for discussions with the consulting team and Local Government Staff.

2.0 SITE DESCRIPTION

2.1 TOPOGRAPHY

Topography varies from moderately sloping to relatively flat with slope ranging from 0.01% to 7.00%. Elevations range from a high point of 130.9 metres near the southwest corner of the lands to a low point of 127.3 metres near the northwest corner. Detailed site topographic information has been undertaken. Please refer to an **Excerpt from City of Nanaimo Map, attached as Appendix 'A'**. Please also refer to the submitted <u>Topographic Drawing</u>, dated October 16, 2017 as prepared by Williamson & Associates Professional Surveyors.

2.2 SERVICING

Servicing is currently in place for the property based on the COR1 Zone. No other off site services are required or proposed at this time. Please refer to Excerpts from City of Nanaimo Map, attached as Appendices 'B','C' and 'D'.

Servicing requirements were secured under a Section 219 Covenant FA9239, Sections 6 & 8. Works included a re-profiled and constructed Oliver Road in substantial compliance with the Oliver Road Re-Profiling Plan, which included:

- Full works and services fronting the Land to the centre line of Oliver Road;
- Full works and services, but not including curb gutter and sidewalk from the centre line of Oliver Road to the side opposite of the land.

2.3 GEOTECHNICAL DATA

A Geotechnical Evaluation was prepared by Lewkowich Geotechnical Engineering Ltd., dated September 15, 2005. The report is included as Schedule 'B' of the Section 219 Covenant FA9239. The 'Intended Use' as defined for the purposes of the report was for a multi-phase

residential structure up to four storeys high with associated parking. Site conditions have not changed. The report remains valid.

As a Geotechnical Report is currently required for future permitting processes, there is no further need to retain this as a covenant on title.

2.4 SITE HISTORY

The lands have remained unimproved with the exception of civic infrastructure works within the area.

3.0 LOCATION IN RELATION TO COMMUNITY FACILITES

3.1 FIRE PROTECTION

Nanaimo Fire Station 3 is located at 4701 Uplands Drive. The Fire Hall is 2.2km or a 4min drive from the lands.

3.2 POLICE

A Royal Canadian Mounted Police detachment is located at 303 Prideaux Street. The Detachment is 16km or a 16min drive from the lands.

3.3 HEALTH

The Nanaimo Regional General Hospital is located at 1200 Dufferin Crescent. The Hospital is 8.0km or a 11min drive from the intersection of Northfield Road and the Nanaimo Parkway at the northwest corner of the lands.

3.4 TRANSPORTATION ROUTES

The lands are located directly adjacent to Uplands Drive and Oliver Road. Oliver Road connects to Island Highway 19, which is a primary northwest - southeast arterial through Nanaimo.

3.5 PUBLIC TRANSPORTATION

BC Transit operates several bus routes (25,40 and 50) in close proximity to the lands and has adopted plans for future service expansion in the surrounding neighborhoods. Please refer to an **Excerpt from City of Nanaimo Map**, attached as **Appendix 'J'**.

The Transit Future Plan – Regional District of Nanaimo (February 2014), prepared by BC Transit, considers current population density and housing stock, and the effect of land uses proposed in the City of Nanaimo's Official Community Plan (OCP). The site is clearly identified as a corridor area for higher residential densities.

3.6 COMMERCIAL SERVICES

The land is ideally located directly cross Oliver Road from the Nanaimo North Town Centre (mall) services and is a 5min walk to Longwood Station.

3.7 RECREATIONAL

The land is a 4min walk from Oliver Woods Park and Community Centre along Oliver Road.

4.0 EXISTING USE

The lands fall within the City of Nanaimo (City) Municipal boundary and Urban Containment Boundary, as well as the Regional District of Nanaimo (RDN) Growth Containment Boundary. The current land use framework is described in the following sections.

4.1 CITY OF NANAIMO ZONING BYLAW NO. 4500

An underlay of existing zoning is included in an **Excerpt from City of Nanaimo Map, attached as Appendix 'H'.**

The Zoning District is:

COR1 - Residential Corridor

"This zone provides for residential, street-oriented, medium density, and office development along or near major roads."

5.0 ADJACENT USE

Land use adjacencies within City are described in the following section.

5.1 CITY OF NANAIMO ZONING BYLAW NO. 4500

An underlay of adjacent zoning is included in an **Excerpt from City of Nanaimo Map, attached as Appendix 'H'.**

The adjacent Zoning Districts include:

Townhouse Residential (R6)

"This zone provides for a mixture of low density townhouse-form multiple family developments on lots compatible with the residential areas of the community."

Density: The maximum Floor Area Ratio shall not exceed 0.45.

Medium Density Residential (R8)

"This zone provides for medium-density, multiple family developments on specific lots that are compatible with other residential and neighboring commercial land uses."

Density: The maximum Floor Area Ratio shall not exceed 1.25.

City Commercial Centre (CC3)

"This zone provides for the shopping needs of the community at large, as well as medium to high density residential development."

5.2 CITY OF NANAIMO OFFICIAL COMMUNITY PLAN (OCP)

An underlay of OCP Future Land Use Designations is included in an **Excerpt from City of Nanaimo Map**, attached as **Appendix 'E'**.

The proposed land use is **Corridor** which reflects the current COR1 Zoning District in place for the property.

With the exception of the 'commercial centre' (Nanaimo North Town Centre) to the south, surrounding properties share the 'corridor' land use designation.

5.2.1 RELATED OCP CORRIDOR OBJECTIVES:

To support higher intensity land uses in Corridors, planNanaimo supports the focus of medium to high density residential, mixed use commercial / residential, and office land uses in Corridors.

To increase residential densities and the mix of land uses. Opportunities to increase the mix and intensity of uses along Corridors will be supported through development and redevelopment opportunities.

To encourage sensitivity in the form of residential densities. Corridors shall be the future focus of mid to high residential densities that recognize a human scale and pedestrian oriented form of development.

To provide public places and spaces. Each Corridor shall contain or provide access to public places and spaces appropriate to the mix of uses and range of services available in each Corridor.

To encourage sustainability in transit and other alternative modes of transportation. The primary role of Corridors for automobiles shall be expanded to recognize Corridors as the linkage between Urban Nodes and Neighbourhoods for transit routes and as opportunities for walking and cycling.

To protect the environment. Environmental features such as watercourses or habitat areas within these medium density, medium intensity land use centres shall be protected through the development of policies that respect the environment and the integration of land uses, and new uses shall be considered against their impact on air, water, and land quality.

To reduce consumption. Whenever possible, new and existing development will implement measures to reduce consumption through increased recycling, decreased water use, the use of alternative energy sources, or other innovative techniques and practices.

5.2.2 RELATED OCP CORRIDOR POLICIES:

- Development in Corridors will be characterized by a mix of residential, commercial, professional, and service uses, with residential developed at medium to high level densities. Residential densities of 50 to 150 units per hectare in two to six storey building forms shall be supported for Corridors.
- 2. Uses in Commercial Centres will include community services and facilities, and personal service, commercial and retail facilities. Local service, institutional (including schools) and higher density residential uses shall also be supported in the Commercial Centres designation.
- 3. For Commercial Centres City, residential densities of >150 units per hectare in high rise building forms is permitted. For Commercial Centres Neighbourhood, residential densities of 50 to 150 units per hectare in two to six storey building forms is permitted.
- 4. Stand alone commercial services shall be supported in the Commercial Centres designations. Higher density stand alone residential uses shall be supported in both Corridors and Commercial Centres.
- 5. Commercial services within mixed use developments shall be supported in the Corridors designation. In mixed use developments, ground floor uses will be retail, office, or community uses that invite public activity. Residential and/or professional uses will be encouraged in upper storeys.
- 6. Public parks and open spaces in the form of urban plazas, community gardens, and landscaped boulevards and open spaces are encouraged in Corridors.
- 7. The importance of Corridors as connectors between Urban Nodes and Neighbourhoods is recognized in this Plan. The development of these connections for the safe movement of pedestrians, cyclists and transit shall be a priority in any new development proposal.
- 8. The redevelopment of any Corridors to improve automobile travel shall also consider improvements that add to the human scale of the corridor, increase the proportion of landscaping and green space, and improve safety for non-motorized travelers. Sidewalk and landscaping design will enhance pedestrian and vehicle separation.
- 9. The development of primary parking areas between the front face of the buildings and the street in Corridors is not permitted.
- 10. Development in the Corridor designation will address the interface between Corridors and Neighbourhoods. Design elements of building siting, height and massing (including stepped back upper floors) will be used to ensure a transition from the Corridor to the adjacent Neighbourhood scale.
- 11. Ecological features, such as steep slopes, watercourses, riparian areas, significant trees, and environmentally sensitive lands are recognized as attributes and development shall proceed only where the impacts on these features are minimized and can be mitigated.
- 12. Energy efficient building design and practice will be promoted. Green Building strategies will be encouraged for all commercial, professional, or institutional facilities to

reduce the use and waste of water and energy resources and to reduce greenhouse gas emissions.

- 13. Future social and community services appropriate to the mix of land uses and demographics both within and surrounding the node shall be encouraged to locate within Corridors. This Plan supports the development of Corridors with a broad social mix and access to adequate housing at all income levels.
- 14. Area Plans, including urban design guidelines, shall be developed for Stewart Avenue and Third Street Corridors within the timeframe of this Plan. The Bowen Corridor, the Northfield Corridor, and other corridor designations will likely require Area Plans beyond the timeframe of this Plan.

5.3 DEVELOPMENT PERMIT AREAS (CITY)

The following City of Nanaimo Development Permit Area (DPA) is applicable to the lands:

5.3.1 AREA 9 – COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, MULTIPLE FAMILY AND MIXED COMMERCIAL/RESIDENTIAL DEVELOPMENT (DPA9)

DPA9 designation applies to all lands within the City of Nanaimo. Rapid growth, infill redevelopment pressures in existing neighbourhoods and increasing design expectations of the City's residents require development permit regulations of the form and character of all commercial, industrial, institutional, multiple family and mixed commercial/residential development within City boundaries.

Development permits issued in DPA9 will follow City of Nanaimo General Design Guidelines, October 1992.

6.0 TITLE - CHARGES, LIENS AND INTERESTS

6.1 RIGHT OF WAYS:

FA115712 - BC Hydro and Power Authority

FA115712 - Telus Communications Inc.

6.2 COVENANTS:

R35024 – Section 219 Restrictive / City of Nanaimo. Unknown covenant from 1986.

FA9239 – Section 219 Restrictive / City of Nanaimo:

6.2.1 DISCUSSION:

1. Covenant FA9239 references a "Conceptual Site Plan" dated 2005, which is attached to the Covenant as Schedule 'A'.

- It should be noted that the referenced plan does not include or make any reference to this specific property.
- 2. Covenant FA9239 references a "Geotechnical Report" dated 2005, which is attached to the Covenant as Schedule 'B'. Furthermore, the covenant restricts the ability to apply for a Subdivision, Development Permit, or Building Permit until an updated Geotechnical Report has been undertaken.
 - The provision for an updated Geotechnical Report is redundant as this is currently a standard application submission requirement in the City.
 - The purpose of the report was to determine whether the property is geotechnically safe for the intended use. The "intended use" as defined in the report includes a "multi-phased residential structure up to four storeys high with associated parking".
- 3. Covenant FA9239 references an "Oliver Road Reprofiling Plan" dated 1999, which is attached to the Covenant as Schedule 'C'.
 - Oliver Road has since been re-profiled and constructed;
 - Full works and services fronting the Land and non-frontage 'amenity works' as required under the covenant language along Oliver Road have since been completed.
- 4. Covenant FA9239 references a stand-alone definition / interpretation for "tree". Furthermore, the covenant restricts the trimming, pruning, damaging, defoliation, or removal of any tree until a Development Permit is secured.
 - This provision is now redundant;
 - The City has since established a Development Permit Area (No.9) designation for the property, and
 - established a stand-alone Tree Protection Bylaw (No. 7126). The definition / interpretation of "tree" is more onerous than the covenant language.
- 5. Section 2 of the Covenant seeks to restrict the use and regulatory framework for the Land in general compliance with the Development Plan as follows:
 - Section 2, a), The commercial development of the land shall be limited to one professional office building:
 - i. No greater than 550 square metres in gross floor area,
 - ii. No higher than two storeys above underground parking,
 - iii. Providing no less than 57% of required parking underground, and
 - iv. Having no surface parking between the building and adjacent streets, being Uplands Drive and Oliver Road.
 - Section 2, b), the residential development of the land shall be limited to two buildings providing no less than 50% of required parking underground.

- The Development Plan does not include or make any reference to this specific property;
- The Development Plan clearly illustrates a single residential building on the adjacent property (Origin at Longwood), which has since been built;
- A direct interpretation of the covenant language and the associated Development Plan indicates that:
 - i. Section 2, a) remains applicable to commercial development of the property;
 - ii. Per Section 2, b), a single residential building is permitted on the subject property with no less than 50% of required parking underground.
- City Planning Staff have provided an alternate interpretation based on a review of Council Reports associated with the 'intent' of the original rezoning application (2004), where:
 - i. The covenant would not allow a mixed use building on the subject property (6201) Oliver Road – Only a two-storey office building no greater than 550sq.m. in GFA with 57% of parking underground and no surface parking located between (the building) Uplands Drive and Oliver Road.
- 6. Use and regulatory restrictions buried within vague Covenant language and map schedules can be problematic for the following reasons:
 - On the surface, the direct professional interpretation provided above would be used as the basis for a land sale;
 - The only way to truly discern the clear intent of the Covenant language is through an exhaustive review of 15-year old Council meeting agendas and minutes:
 - Ultimately the final interpretation would be determined through a legal judgement in the Courts;
 - Use and regulatory restrictions are better suited to a site-specific section of the COR1 Zoning District within the City Zoning Bylaw. This would remove any hidden restrictions and facilitate clear interpretation of bylaw language. This appears to be current City practice.

7.0 CONCLUSIONS

7.1 OPPORTUNITIES

7.1.1 APPROPRIATE OCP LAND USE DESIGNATION IN PLACE

The proposed OCP land use is 'Corridor' which reflects the current COR1 Zoning District in place for the property. Removal of Covenant FA9239 would have no effect on conformity with the OCP objectives and policies under the Corridor designation.

7.1.2 APPROPRIATE CORRIDOR ZONING IN PLACE

The properties are already zoned 'COR1 – Residential Corridor'. This zone provides for residential, street-oriented, medium density, and office development along or near major roads. This Zoning District is appropriate to the site and aligns with the community vision as expressed in the OCP.

7.1.3 ACCESS EASEMENT IN PACE

An Access Easement (Plan VIP81794) has been established to provide vehicular access across Lot 1, Plan VIP81792 to the western boundary of the lands. No further driveway access or modifications to the newly constructed street frontage work will be required to facilitate development of the site.

7.1.4 COVENANT FA9239 REQUIRES RESOLUTION

Section 2 of the Covenant seeks to restrict the use and regulatory framework for the Land in general compliance with the Development Plan. However, the Development Plan does not include or make any reference to this specific property. The Development Plan clearly illustrates a single residential building on the adjacent property (Origin at Longwood), which has since been built.

The opinions of City Staff and the consulting team differ in relation to permitted uses and the interpretation of the covenant language in Section 2. There is a quantifiable lack of clarity in both the language and reference schedules that must be resolved.

Section 3 through 5 contain restrictions and reporting requirements that are entrenched in stand-alone City Bylaws and application submission requirements. These sections are now redundant and should be removed from title.

Sections 6 through 8 describe required works and amenities that have been completed and should be removed from title.

7.2 CONSTRAINTS

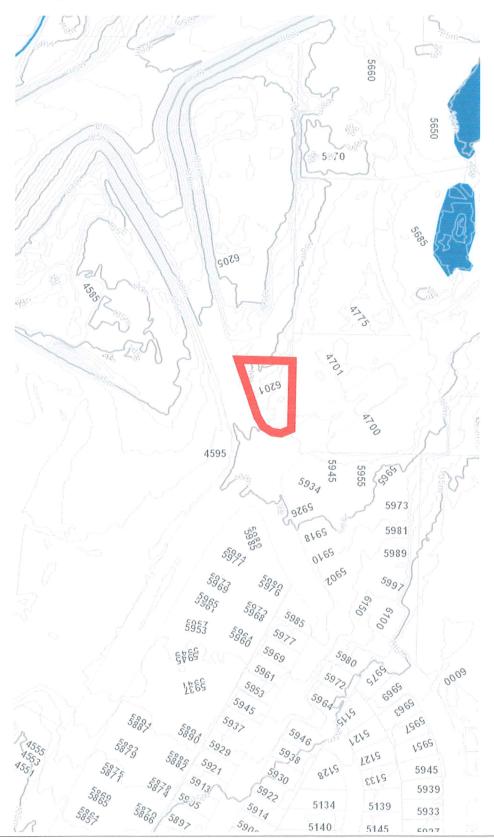
7.2.1 COVENANT REMOVAL / ZONING AMENDMENT

Removal of the Covenant will require a Public Hearing as it was established as a part of a previous rezoning process. This process may take several months to complete. Given the current land use adjacencies and neighbourhood configuration public opposition to the removal is not expected. As the covenant contains use and density restrictions a Zoning Amendment Process is likely required.

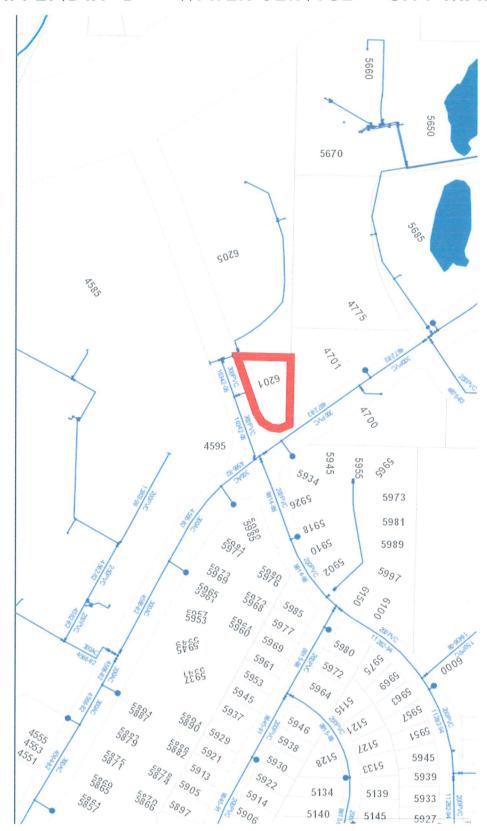
7.3 MULTI-UNIT RESIDENTIAL DEVELOPMENT SCENARIO

A multi-unit development scenario, based on the pragmatic realities of the COR1 Zoning regulations is included as **Appendix 'K'**. This scenario is only intended as a 'proof of concept' to illustrate the potential build out of the site under the base COR1 Zone after removal of Covenant FA9239. Parking requirements and the maximum floor area ratio limit the residential development of the site to a 3-storey, 24 unit (89.5sq.m.) apartment building.

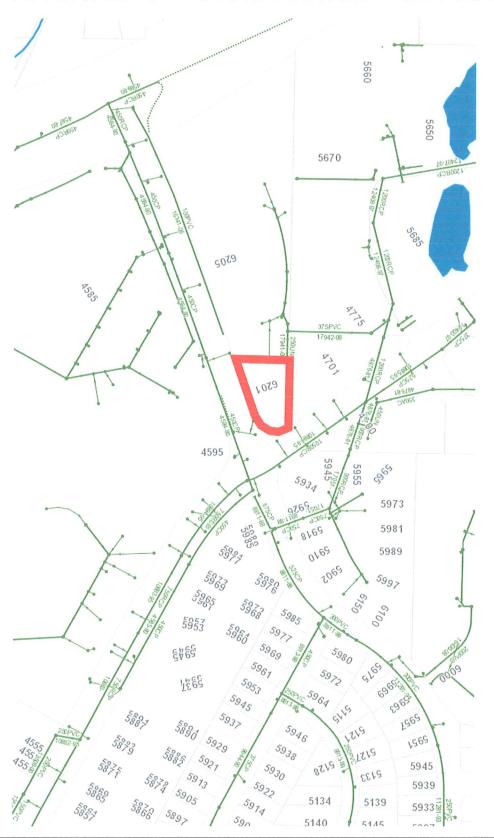
8.0 APPENDIX 'A' - TOPOGRAPHIC - CITY MAP



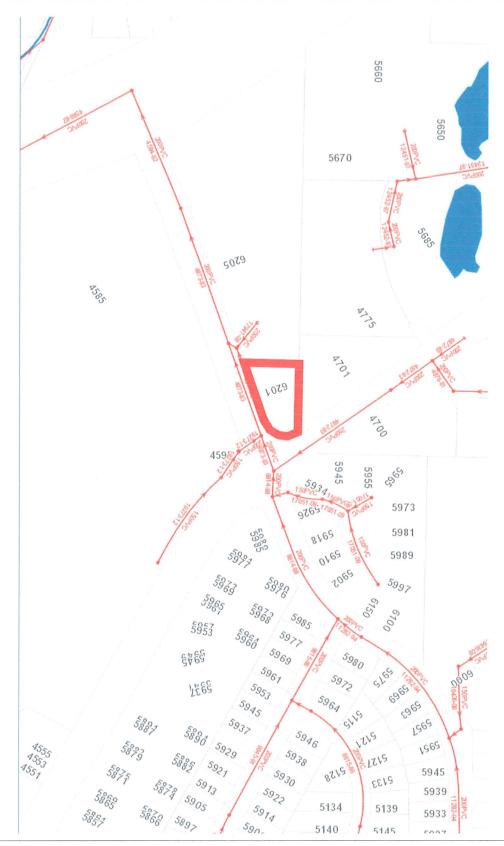
9.0 APPENDIX 'B' - WATER SERVICE - CITY MAP



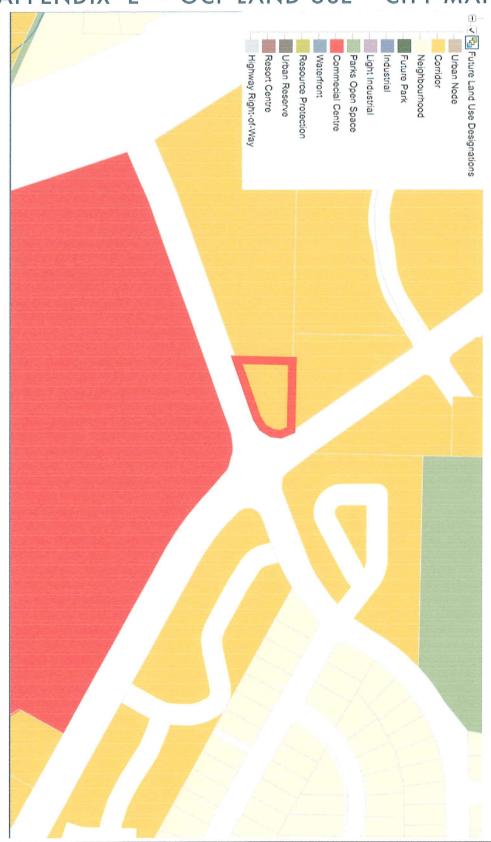
10.0 APPENDIX 'C' - STORM SEWER - CITY MAP



11.0 APPENDIX 'D' - SANITARY SEWER - CITY MAP

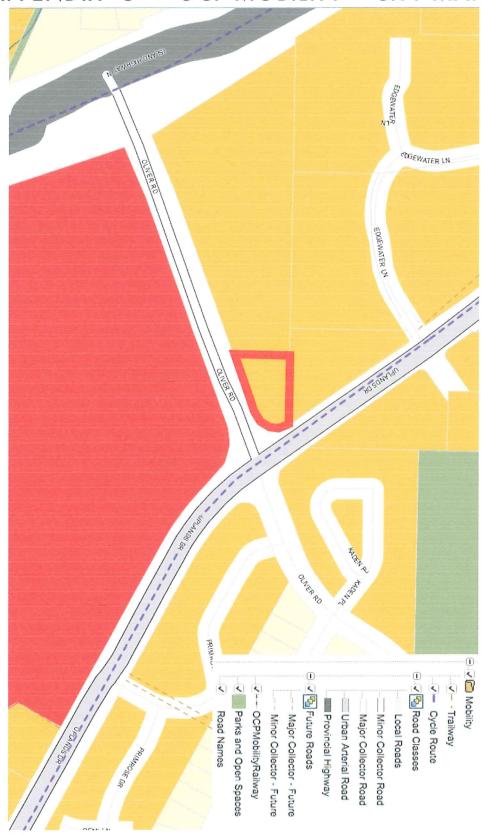


12.0 APPENDIX 'E' - OCP LAND USE - CITY MAP

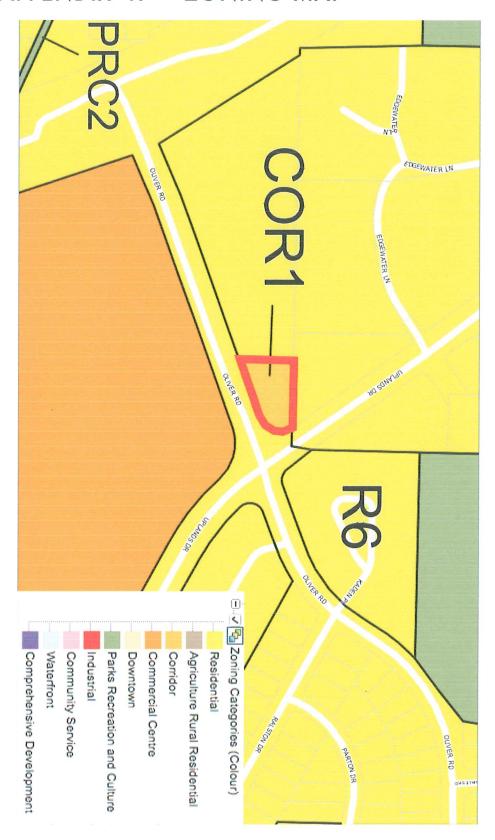


13.0 APPENDIX 'F' - DPA9 - CITY MAP Development Permit Areas DPA Text Leaders Pa Development Permit Area (DPA) Steep Slope DPA Significant Ridgelines HCA1 Downtown / Fitzwilliam Corridor DPA2 Environmentally Sensitive Areas DPA4 Nanaimo Parkway Design DPA3 Natural Hazard Lands DPA8 Old City Neighbourhood DPA6 Stewart Avenue Corridor DPA5 Steep Slope Development DPA7 North Terminal Avenue Area DPA9 All land within the City of Nanaimo OLIVER RD QUESTINE REMI LA

14.0 APPENDIX 'G' - OCP MOBILITY - CITY MAP



15.0 APPENDIX 'H' - ZONING MAP



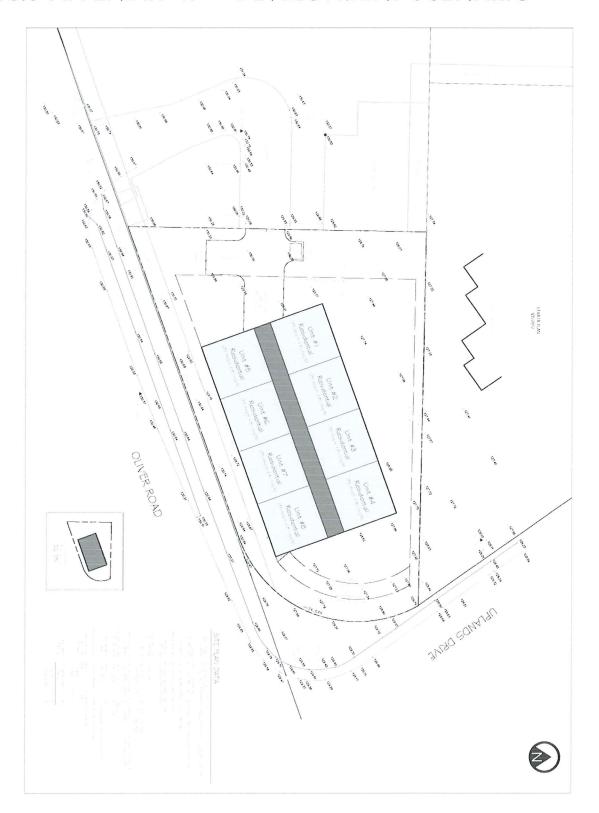
16.0 APPENDIX 'I' - AIRPHOTO - CITY MAP



17.0 APPENDIX 'J' - TRANSIT ROUTES



18.0 APPENDIX 'K' - DEVELOPMENT SCENARIO



19.0 APP

Totals:

2,148

23,121

24

39.8

1.8

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3rd Floor	2nd Floor	Ground Floor	Multi-Unit Residential	Scenario	Potential Development	Maximum Floor Area	Maximum Lot Coverage		Built Form / Development Potential	Maximum Density Potential:	Tier 2 (Bonus Density)	Tier 1 (Bonus Density)	Maximum Floor Area Ratio:		Lot Coverage:		Building Height:		Zoning District	Site Summary:	Project Number: 18-0198	6201 Oliver Road - Insight Holdings
									Potentia	1.50	0.25	0.25	1.00		60% Maximum	4-5 storey	14m. Max		COR1 - Residential Corridor	LOT 2, DIS	Ö	Indings
716	716	716		sq.m.		2,150	1,290	sq.m.					Ū		mum	building	imum (:		sidential	TRICT LO		
7,707	7,707	7,707		sq.ft.		23,143	13,886	sq.ft.			(amenity required)	(amenity required)				4-5 storey building (dependant on design)	14m. Maximum (18m. With 75% underground parking)		Corridor	LOT 2, DISTRICT LOT 14, WELLINGTON DISTRICT, PLAN VIP81792	(;	クバナロ クナコ
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811	811	811		(sq.ft.)	Unit Size												und parking)			RICT, PLAN V	City of Nanaimo, BC	l Inroctrict
00	8	8		(sq.ft.) Unit Count																,	o, BC	Site Statistes - Unrestricted COR1 Zening
13.3	13.3	13.3		Requirement	Parking					Total		Useable Area:		Total		Leave Areas:		Total		Site Area:	ď	ning
0.6	0.6	0.6		Visitor Stalls						2,150	2,150	sq.m.		0	0	sq.m.		2,150	2,150	sq.m.		
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20.0 APPENDIX 'M' - LAND USE COMPARISON

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	Single Residential Dwelling	Seniors Housing	Religious Institution	Personal Care Facility	Office	Multiple Family Dwelling	Live/Work	Hotel	Electric Vehicle Charging Station	Daycare	Boarding & Lodging	Bed & Breakfast	Assembly Hall	Artist Studio	Q		Permitted Land Uses
	1-1.5	1-1.5	1-1.5	1-1.5	1000sq.m.	1-1.5	1-1.5	11.5	1-1.5	1-1.5	1-1.5	1-1.5	1-1.5	1-1.5	OR1 - Corrido	(FAR)	Maximum Density
	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	- Zone	(%)	Maximum Lot Coveraae
	14 - 18	14-18	14-18	14-18	14-18	14-18	14 - 18	14-18	14-18	14-18	14-18	14-18	14 - 18	14-18		(m)	Maximum Allowable Heiaht
	Single Residential Dwelling	Seniors Housing	Religious Institution	Personal Care Facility	Office	Multiple Family Dwelling	Live/Work	Hotel	Electric Vehicle Charging Station	Daycare	Boarding & Lodging	Bed & Breakfast	Assembly Hall	Artist Studio	Сочела		Permitted Land Uses
	1 - 1.5	1 - 1.5	1 - 1.5	1 - 1.5	550sq.m	1-1.5	1-1.5	1 - 1.5	1-1.5	1 - 1.5	1 - 1.5	1-1.5	1 - 1.5	1-1.5	nt Restrictions	(FAR)	Maximum Density
	60.00	60.00	60.00	60.00	n/a	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	(FA009239)	(%)	Maximum Lot Coverage
	14-18	14-18	14-18	14 - 18	2-Storeys	14-18	14-18	14-18	14-18	14-18	14-18	14-18	14-18	14-18		(m)	Maximum Allowable Heiaht