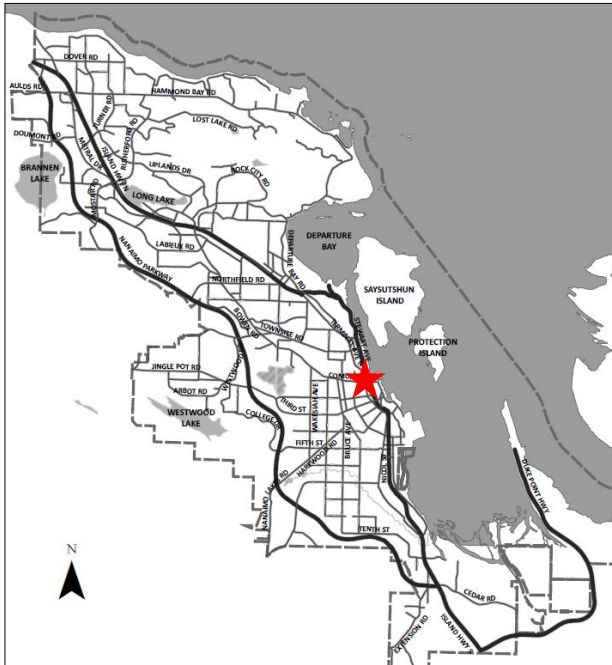


DATE OF MEETING | March 18, 2024 |

AUTHORED BY | JEREMY HOLM, DIRECTOR, PLANNING & DEVELOPMENT |

SUBJECT REZONING APPLICATION NO. RA475 – 444, 450, 500 COMOX ROAD, 55 MILL STREET, AND 1 TERMINAL AVENUE



Current Zoning:

CD7 – Comprehensive Development District Zone Seven;
R8 – Medium Density Residential; and
DT12 - Gateway



Proposed Zoning:

CD7 – Comprehensive Development District Zone Seven

City Plan Land Use Designation:

Primary Urban Centre (Downtown)

Lot Area:

563m² – 444 Comox Road
611m² – 450 Comox Road
1,223m² – 500 Comox Road
1,046m² – 55 Mill Street
2.59ha – 1 Terminal Avenue



OVERVIEW

Purpose of Report

To seek Council direction regarding Rezoning Application No. RA475 (for 444, 450, 500 Comox Road, 55 Mill Street, and 1 Terminal Avenue) and its associated bylaws. |

Recommendation

That Council:

1. rescind Third Reading of “Land Use Contract Discharge Bylaw 2022 No. 7355” (to discharge an existing Land Use Contract from the property title of 500 Comox Road); and,
2. rescind Third Reading of “Zoning Amendment Bylaw 2022 No. 4500.204” (to rezone 444, 450, 500 Comox Road, 55 Mill Street, and 1 Terminal Avenue from Medium Density Residential [R8] and Gateway [DT12] to Comprehensive Development District Zone Seven [CD7] and to amend the CD7 zone with new zoning regulations, to facilitate a mixed-use development and subdivision). |

BACKGROUND

A rezoning application, RA475, was received from Strongitharm Consulting Ltd. on behalf of 490892 BC Ltd. (444, 450, 500 Comox Road and 1 Terminal Avenue), Brad Martin, and Ralston Alexander (55 Mill Street) to rezone the subject properties and amend the City of Nanaimo “Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) to revise Comprehensive Development District Zone Seven (CD7). The proposed rezoning will facilitate a mixed-use residential, commercial, and hotel development and subdivision.

A summary of Council’s consideration of the Land Use Contract Discharge and Zoning Amendment Bylaws is provided below. Links to the 2022-AUG-29, 2023-FEB-27, and 2023-MAY-01 Staff reports to Council on the application are included on Attachment A for convenience.

On 2022-AUG-29, Council passed First and Second Readings of the associated Land Use Contract Discharge and Zoning Amendment Bylaws. A Public Hearing was held on 2022-SEP-29, and Third Reading of the bylaws was passed on 2022-OCT-24. At the In Camera Meeting on 2023-FEB-06, Council directed Staff to:

1. Prepare a report outlining how the proposed rezoning amendment bylaw complies with the policies contained in Section C4.1 Truth and Reconciliation of *City Plan: Nanaimo Reimagined*; and,
2. To place associated “Zoning Bylaw Amendment Bylaw 2022 No. 4500.204” and “Land Use Contract Discharge Bylaw No. 7355” on an upcoming open Council meeting agenda for consideration of rescinding third reading.

The requested report was provided to Council at its 2023-FEB-27 meeting, and a motion was passed to rescind Third Reading of the Land Use Contract Discharge and Zoning Amendment Bylaws.

At its meeting of 2023-MAY-01, Council rescinded Second Reading of the Zoning Amendment Bylaw and passed Second Reading as amended to correct an administrative error in the calculation of density and site coverage included in the applicant's original application. Subsequently, a Public Hearing was held 2023-MAY-18, and Council passed Third Reading of the Bylaws.

At its meeting of 2023-JUL-10, Council received correspondence from Deputy Minister Tom McCarthy with respect to final consideration of the Bylaws. The Deputy Minister advised the Province had appointed an independent fact finder to seek negotiated, mutually agreeable understandings between the Province, Snuneymuxw First Nation, City of Nanaimo, and Oakwood Park Estates on issues associated with the rezoning and proposed development. Council deferred consideration of the Bylaws until the Regular Council Meeting scheduled for 2023-SEP-25.

On 2023-SEP-13, the property owner's representative requested that Council's consideration of the Bylaws be deferred until 2023-OCT-16. At its meeting of 2023-OCT-16, Council received correspondence separately from Deputy Minister McCarthy and Geoff Plant, Gall Legge Grant Zwack LLP (representing the property owner) with respect to final consideration of the Bylaws. Council deferred consideration of adoption of the Bylaws until the Regular Council Meeting scheduled for 2023-DEC-04.

At its meeting of 2023-DEC-04, Council deferred consideration of adoption of the Bylaws until such time as the Province has confirmed that their facilitated process has concluded. |

DISCUSSION

|As a result of concerns raised by Snuneymuxw First Nation (SFN), the Province initiated a facilitated process with an appointed mediator. City staff participated in early portions of the facilitated process, and have engaged in discussions with SFN, the facilitator, and the Province regarding the larger relationship between SFN and the City with respect to land use decision-making. However, discussions involving the Province, SFN, facilitator, and property-owner regarding the property itself have not involved the City. These discussions, leaving aside the requests of the parties noted above, are not relevant to Council's decision.

After receiving a deferral request from the Province, Council's most recent direction, as of 2023-DEC-04, was to defer consideration of adoption of the Bylaws until such time as the Province has confirmed that their facilitated process has concluded. The applicant has recently advised that they have withdrawn from the facilitated process and has requested the Bylaws be returned for Council's consideration of adoption. The City has not received an official communication from the Province with respect to the status of the facilitation.

During the process, and following the last Public Hearing, Staff received an additional submission from SFN with respect to the specifics of the Bylaws. Staff recommend rescinding Third Reading of the associated Land Use Contract Discharge and Zoning Amendment Bylaws to allow Council to consider additional submissions from SFN with respect to the specifics of the

Bylaws. Should the Bylaws be rescinded, the application will be scheduled for an upcoming Public Hearing.

In addition to staff's recommendation, Council also retains the authority to either defer this item further, in accordance with its 2023-DEC-04 resolution, to seek an update from the Province, or to make a final decision on whether or not to adopt the Bylaws. |

OPTIONS

Option 1: Rescind

That Council:

1. rescind Third Reading of "Land Use Contract Discharge Bylaw 2022 No. 7355" (to discharge an existing Land Use Contract from the property title of 500 Comox Road); and,
2. rescind Third Reading of "Zoning Amendment Bylaw 2022 No. 4500.204" (to rezone 444, 450, 500 Comox Road, 55 Mill Street, and 1 Terminal Avenue from Medium Density Residential [R8] and Gateway [DT12] to Comprehensive Development District Zone Seven [CD7] and to amend the CD7 zone with new zoning regulations, to facilitate a mixed-use development and subdivision).

Option 2: Defer

That Council:

1. Defer considering adoption of "Land Use Contract Discharge Bylaw 2022 No. 7355" (to discharge an existing Land Use Contract from the property title of 500 Comox Road) until such time as the Province has provided formal confirmation that its facilitated process has concluded; and,
2. Defer considering adoption of "Zoning Amendment Bylaw 2022 No. 4500.204" (to rezone 444, 450, 500 Comox Road, 55 Mill Street, and 1 Terminal Avenue from Medium Density Residential [R8] and Gateway [DT12] to Comprehensive Development District Zone Seven [CD7] and to amend the CD7 zone with new zoning regulations, to facilitate a mixed-use development and subdivision) until such time as the Province has provided formal confirmation that its facilitated process has concluded.

Option 3: Adopt

1. That "Land Use Contract Discharge Bylaw 2022 No. 7355" (to discharge an existing Land Use Contract from the property title of 500 Comox Road) be adopted; and,
2. That "Zoning Amendment Bylaw 2022 No. 4500.204" (to rezone 444, 450, 500 Comox Road, 55 Mill Street, and 1 Terminal Avenue from Medium Density Residential [R8] and Gateway [DT12] to Comprehensive Development District Zone Seven [CD7] and to amend the CD7 zone with new zoning regulations, to facilitate a mixed-use development and subdivision) be adopted. |

SUMMARY POINTS

- The application is to rezone 444, 450, 450 Comox Road, 55 Mill Street, and 1 Terminal Avenue from Medium Density Residential (R8) and Gateway (DT12) to Comprehensive Development District Zone Seven (CD7) and to amend the CD7 zone with new zoning regulations, to facilitate a mixed-use development and subdivision.
- As a result of concerns raised by Snuneymuxw First Nation (SFN), the Province initiated a facilitated process with an appointed mediator. At its meeting of 2023-DEC-04, Council deferred consideration of adoption of the Bylaws until such time as the Province has confirmed that their facilitated process has concluded.
- The applicant has recently advised that they have withdrawn from the facilitated process and has requested the Bylaws be returned for Council’s consideration of adoption.
- The City has not received an official communication from the Province with respect to the status of the facilitation.
- During the process, and following the last Public Hearing, Staff received an additional submission from SFN with respect to the specifics of the Bylaws. Staff recommend rescinding Third Reading of the associated Land Use Contract Discharge and Zoning Amendment Bylaws to allow Council to consider additional submissions from SFN with respect to the specifics of the Bylaws.
- Should the Bylaws be rescinded, the application will be scheduled for an upcoming Public Hearing.

ATTACHMENTS

- ATTACHMENT A: Links to Past Staff Reports
ATTACHMENT B: “Land Use Contract Discharge Bylaw 2022 No. 7355”
ATTACHMENT C: “Zoning Amendment Bylaw 2022 No. 4500.204”

Submitted by:

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Concurrence by:

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CAO, City of Nanaimo