



RDN REPORT	
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COW	<input type="checkbox"/>
AUG 21 2013	
RHD	<input type="checkbox"/>
BOARD	<input checked="" type="checkbox"/>

## MEMORANDUM

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**TO:** Jeremy Holm  
Manager, Current Planning

**DATE:** August 21, 2013

**FROM:** Lainya Rowett  
Senior Planner

**FILE:** PL2012-096 / PL2012-097

**SUBJECT:** Lakes District & Schooner Cove Zoning Amendment Application Updates

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### PURPOSE

To provide a status update on the zoning amendment application reviews for the Lakes District and Schooner Cove developments on the Nanoose Bay Peninsula.

### BACKGROUND

In July 2013, staff provided a report to the Board on the status and next steps in the zoning amendment application reviews for the long term phased development of the Lakes District and Schooner Cove Neighbourhood Plan areas. The report highlighted the RDN's progress in completing a comprehensive technical review; negotiating the phasing of park and trail amenities (both dedication and improvements), initiating public consultation, and, seeking support in principle from the Ministry of Transportation and Infrastructure (MOTI) with regards to servicing in the road rights-of-way including sidewalks. The staff report also included a tentative timeline for the applications review and critical milestones necessary to achieve the timeline.

Subsequently, on July 26, 2013, the applicant submitted a revised Implementation Framework (i.e. the terms which will be used to inform the draft Phased Development Agreement (PDA), draft zoning regulations, and additional information in support of their applications for review. The following discussion provides an update to the Board on key aspects of the applications review and project timeline.

### DISCUSSION

#### *Inter-governmental Implications*

The proposed developments include an urban level of services with the road rights-of-ways including: parking bays, curbs, gutters, boulevards, rain gardens, sidewalks and streetlighting. On July 10, 2013, staff received correspondence from MOTI, the approving authority, confirming its support *in principle* to consider the proposed Project Specific Street Standards through a future subdivision application in connection with the proposed developments (see Attachment 1). This correspondence also references MOTI's previous communications (June 3 and 4, 2013) in which MOTI advised that it will maintain, repair and rehabilitate constructed sidewalks that are situated, with MOTI approvals, in the road rights-of-way.

### ***Project Phasing & Zoning Implications***

The PDAs will outline the provision of amenities and future works and services for the phased developments in accordance with the Neighbourhood Plan (NP) policies, and as agreed through the zoning amendment process. Staff have been working with the applicant to ensure the draft terms (Implementation Framework) address the commitments as expressed in the Plan policies. The applicant provided a draft of the Implementation Framework to the RDN on Friday July 26, 2013 and this document was circulated internally to RDN departments and reviewed for compliance with the Official Community Plan, related RDN policies and bylaws as well as the *Local Government Act*.

Staff provided detailed comments on the proposal to the applicant on Friday August 16, 2013. At the time of writing this report, staff is scheduled to meet with the applicants and their consultants to discuss RDN comments and issues related to the proposed Implementation Framework on Thursday August 22, 2013. At this time, there remain some critical items under discussion with regard to the project phasing; local service areas required to implement the development proposal; water service; the provision of parkland and amenities; draft zoning regulations; environmental monitoring; and management of stormwater all in compliance with the policies in the Lakes District and Schooner Cove Neighbourhood Plans.

In order to ensure timely review and concurrence on the zoning regulations and draft terms for the PDA, it will be critical that the scope of the PDAs focus on matters that relate to the zoning amendment applications and amenities in accordance to the applicable sections of the *Local Government Act*. Staff will continue to work with the applicant to determine a path forward in drafting the PDAs in accordance with the Neighbourhood Plan policies.

### ***Applications Review & Timeline***

In the July report to the Board it was noted that the property owner British Columbia Investment Management Corporation (BCIMC) has sent correspondence to the Fairwinds Community Association (FCA) expressing concerns about the timeline for the applications review. In accordance with the Board's direction, correspondence was sent to the property owner expressing support in principle of implementation of the Neighbourhood Plans policies through the proposed zoning amendments and a commitment to finalize application review and presentation of bylaws to the Board for consideration in a timely manner (see Attachment 2). We have received correspondence on behalf of the property owner reiterating their request for a Public Hearing in November 2013.

As discussed in the staff report from July 2013, the tentative timeline for application review (see Attachment 3) represents an achievable schedule that allows staff to address the outstanding items and ensure the public interest is protected as well as meeting Board policy and legislative approval requirements. This timeline anticipates introduction of the proposed amendment bylaws and phased development agreements in November of 2013, pending the submission and review of the PDAs and related legal instruments. A critical factor in achieving this timeline is a resolution on any issues surrounding the PDA terms, such as the phasing of amenities and provision of services as discussed above. Once these outstanding issues are resolved, staff will bring forward the applications for the Boards' consideration.

**Public Consultation Implications**

Staff will continue to work with the applicant to resolve these matters in order to proceed with a Public Information Meeting (PIM), tentatively scheduled for September 2013. The formal public process and statutory hearing will be scheduled once the zoning amendment bylaws and phased development agreements have been drafted by the applicant and reviewed by the RDN.

**ALTERNATIVE**

Receive this report for information only.

**SUMMARY/CONCLUSIONS**

In July 2013, staff provided an update to the Board on the progress of the zoning amendment application reviews for Lakes District and Schooner Cove. Following this update, the applicant provided new information for review, and MOTI confirmed its support in principle to consider the proposed project specific street standards through a future subdivision application. MOTI also confirmed that it will maintain and repair proposed sidewalks as constructed, with MOTI approvals, in the road rights-of-ways for these developments. Staff continue to work with the applicant to resolve the remaining issues in relation to the project phasing and zoning requirements, such as parks phasing and the provision of community amenities in accordance with the Neighbourhood Plan policies.

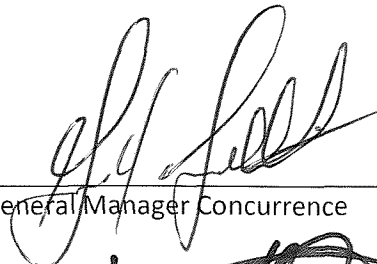
A tentative timeline for the applications review has been communicated with the applicant and anticipates introduction of the proposed amendment bylaws and phased development agreements in November of 2013, pending the drafting and review of the phased development agreements and zoning regulations. This information is provided to the Board as a status update and summary of the next steps in the applications review.

**RECOMMENDATION**

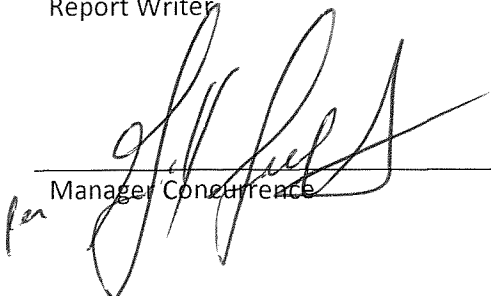
That the Board receive this report for information.



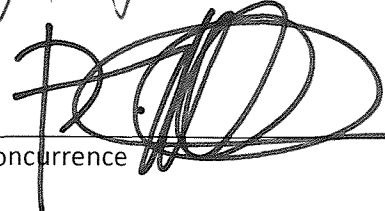
Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

**Attachment 1 – Ministry of Transportation & Infrastructure Correspondence**



File: Fairwinds

July 10, 2013

Bentall Kennedy (Canada) LP  
**Attention: Russell Tibbles**  
3455 Fairwinds Drive  
NanOOSE Bay BC V9P 9K6

Dear Russell Tibbles:

**Re: Lakes District & Schooner Cove – Project Specific Street Standards**

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I write further to your letter dated June 23, 2013. I understand your purpose in providing the letter was to consolidate your understanding of the responses, comments and input that MoTI staff have provided to you in connection with the captioned matter in the interim period since your receipt of my letter dated April 30, 2013.

I've had an opportunity to review your June 23, 2013 letter and my comments follow. You will note that a number of my comments build on or refer to my comments set out in my letter to you dated April 30, 2013. Accordingly I am attaching a copy of the April 30, 2013 letter for purposes of greater certainty and ease of reference.

In considering these comments please bear in mind that these comments supplement and are not intended to supersede the actual responses, comments and input that have been provided to you and your staff and consultants by MoTI staff. Should you have any questions or concerns regarding any of the comments set out in this letter or in the actual responses, comments and input provided by MoTI staff please do not hesitate to let us know.

We understand that the captioned matters remain subject to ongoing planning, change and development as part of your firm's (you describe as the "Fairwinds team") ongoing internal decision-making processes and as part of the various iterative processes involved in land developments and subdivision processes, including with applicable regulatory and governmental agencies.

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In your June 23, 2013 letter you state that a number of items in the August 13, 2012 Street Standards package are concepts which your firm (the "Fairwinds team") intends to apply to specific sites within the Lakes District and the Schooner Cove neighborhood plan areas in subsequent applications for subdivision. You explain that such applications are intended to be submitted over a number of years as each phase of the project proceeds.

With respect to your stated intention to apply such concepts going forward, you should have regard to my letter of April 30, 2013, the various responses, comments and input that have been provided by MoTI staff. Moreover, as you may be aware, in context of provincial subdivision review, the approving officer is appointed by order in council and is required by law to carry out the functions and duties of an approving officer and administer the subdivision review process, as an independent statutory decision – maker. The Legislature has enacted and the law has developed numerous criteria and considerations which are relevant to the approving officer's exercise of decision-making authority in respect of applications for subdivision. Accordingly, as further referenced at the end of this letter, the relevance or applicability of any such concepts at any point in the future in context of a proposed subdivision will be subject to the discretions, principles and requirements (including legal, technical and regulatory discretions, principles and requirements) that govern the subdivision review process.

**1.(a) Lakes District & Schooner Cove Project Specific Street Standards & Detailed Cross Sections**

Please have regard to the design criteria sheets dated June 25, 2013 and our comments set out in our letter dated April 30, 2013 in respect of these matters. The design criteria sheets are not comprehensive of technical requirements and considerations but have as their purpose to provide a reasonable measure of guidance around reasonable design parameters for these projected developments as they progress and their components continue to be identified, defined or modified, as the case may be. We understand that you intend the "Project Specific Street Standards" booklet" which formed part of the August 13, 2012 Street Standards package to illustrate conceptual parameters for the amenities described in the booklet. I would anticipate that to the extent relevant and applicable and in conformance with the requirements of a particular proposed development, MoTI would review and consider information set out in the booklet together with all relevant information and requirements that are defined and implemented, including the design criteria sheets, as the projected developments further progress. Ultimately submission for approval and full review and consideration of all such parameters would occur during the course of any subdivision applications that may be submitted in connection with the projected developments.

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**1.(b) Schooner Cove Drive Alignment Plan and Vertical Profiles**

Please have regard to our April 30, 2013 letter. While MoTI is prepared to consider, in conceptual form, the alignment and profile as set out in Section 3 of the August 13, 2012 Street Standards package these are subject to detailed engineering design proving viability, which we anticipate would be progressed during any future subdivision application process.

**1.(c) Schooner Cove Drive Cross Sections**

Please have regard to our April 30, 2012 letter. While MoTI is prepared to consider, in conceptual form, the cross sections as set out in Section 3 of the August 13, 2012 Street Standards package, these proposed cross sections remain subject to detailed engineering design proving viability. We anticipate that such detailed engineering would be progressed during the course of any future subdivision application in connection with the projected development.

**1.(d) Schooner Cove Drive Cedar Creek Bridge Crossing (section 6 of the August 13, 2012 submission to MoTI)**

Please have regard to the email communication exchanges between Allan Galambos of the MoTI and Rob Warren of Kerr Wood Leidal of June 14<sup>th</sup>, June 18<sup>th</sup> and June 19<sup>th</sup> 2013 regarding structure types and related matters for the Cedar Creek Crossing. In particular you will note that while MoTI is prepared to consider the multiplate option providing longevity, design code and environmental issues are addressed to the reasonable satisfaction of the MoTI and the applicable regulatory agencies, we anticipate that during the detailed engineering phase geotechnical and hydraulic considerations will be required to be addressed including by the commissioning and provision of appropriate assessments and reports and implementation of appropriate measures.

**1.(e) Integrated Stormwater Management Plan**

Please have regard to our letter of April 30, 2013. As you are aware the integrated stormwater management plan and resulting design strategies described in the August 13, 2012 Street Standards package continue to be subject to ongoing consideration and detailed review with MoTI staff, your team and the RDN to identify and address the varying requirements and interests of the MoTI, the projected developments and the RDN. Generally speaking, MoTI permits would be issued to permit third parties to undertake certain functions in regard to such works situated within highway lands and the terms of such permits would be subject to discussion and modification to ensure that the permits are tailored to reflect the particular circumstances. The issuance of such permits, if any, in connection with the projected developments would be subject to satisfactory conclusion of the above noted ongoing consideration and detailed review. It is anticipated that

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progression of and conclusion of such review and considerations would be part of future subdivision applications submitted in connection with the projected developments.

**1.(f) Boulevards, Landscaping and Streetlights**

As regards the boulevards, landscaping and streetlights amenities described in the August 13, 2012 Street Standards package, MoTI is prepared to favourably consider the siting of such amenities within highway lands, subject to considerations similar to those set out above in regard to the integrated stormwater management plan.

**1.(g) Operation and Maintenance of Sidewalks**

Please have regard to my email communications of June 3 and June 4, 2013 addressed to you and others. Any sidewalks that are situated in accordance with MoTI approvals within highway lands would form part of the MoTI's operations, including maintenance and repair/rehabilitation, on completion of construction. The level of and delivery mechanisms for maintenance would form part of the usual policy considerations of the MoTI, taking into account a number of factors including budgets and resourcing.

**1.(h) Lakes District and Schooner Cove Infrastructure Phasing Plans (section 9 of the August 13, 2012 submission to MoTI)**

Please have regard to our letter of April 30, 2013. As noted in that letter, given the projected developments continue to be structured, we anticipate that phasing strategies for the developments also remain subject to planning and we anticipate would be considered during any future subdivision applications in connection with the developments.

**2.(a) Phased development of the Schooner Cove Parkway**

Please have regard to our letter of April 30, 2013. While MoTI considers the proposed alignment reasonable in concept, the proposed alignment will be subject to detailed design which is anticipated to be progressed and considered as part of subdivision applications which may be submitted in connection with the developments.

**2.(b) Phased development of the Schooner Cove Parkway – statutory right of way for construction traffic until publicly dedicated**

Please have regard to our letter of April 30, 2013. While the MoTI considers a statutory right of way over the anticipated alignment to be acceptable in concept, the requirements of any such statutory right of way including terms, and scheduling of dedication etc., would be reviewed and determined as part of a subdivision process. Should your team wish to forward its proposed form of statutory right of way to MoTI, we are prepared to receive it and forward to our legal advisors for general comment. Any such comments

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and review would not in any way fetter or derogate from the considerations and review that would be required in connection with any proposed statutory rights of way which may be included as part of any subdivision applications submitted in connection with the developments.

**2.(c) Phased development of the Schooner Cove Parkway – Phased construction**

Please have regard to our letter of April 30, 2013.

**3 MoTI designation of Fairwinds Growth Containment Boundary and contiguous Dolphin Beach area as a designated low speed vehicle (LSV) area**

Please have regard to our letter of April 30, 2013 and the email communication exchanges between you and Janelle Erwin of the MoTI May 22, 2013 regarding the designated low speed vehicle matter. I understand that the current intention is for MoTI staff to undertake over the course of the summer the appropriate assessments of constructed highways within the Fairwinds Growth Containment Boundary and within the contiguous Dolphin Beach area. The intention is to have such assessments completed by the end of the summer and forwarded to the appropriate offices of the MoTI, including that of the Chief Engineer for review and consideration. We anticipate that as part of that process, the considerations contemplated under the *Motor Vehicle Act Regulations* will also follow. As to timing for responses, while we are not in a position to presume the timing of regulatory authorities, we would anticipate that these matters would be reviewed and considered and responses issued in an expeditious manner, given other urgent matters that may be before such authorities, as is the normal course.

**4. Design Criteria Sheets dated June 25, 2013, MoTI letter dated April 30, 2013, MoTI Email Communications and Input, August 13, 2012 Street Standards package, other letters, communications and email exchanges referenced in this letter**

We understand that you will provide our office with certain material in hard copy binder and electronic form. While we are prepared to receive such material, we would note that you remain mindful that the receipt and consideration of such material will neither derogate from or fetter nor be considered to derogate from or fetter the exercise of lawful discretions and decision making powers of the provincial approving officer or any other legal authority. The relevance and applicability of such material and any part of such material in connection with any subdivision, regulatory, technical or other approval or authorization would be subject to the particular site – specific and issue – specific matters and input, considerations, laws, and requirements of stakeholders, government authorities and regulatory agencies relating to the specific application, development, plan, structure or other thing that is subject to the approval or authorization. Moreover, to the extent applicable and relevant, such material and any part of such material would be subject to

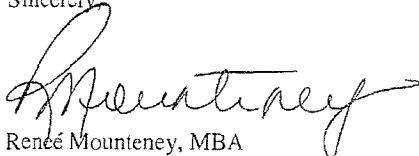


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ongoing modification and supplement to take into account the passage of time, particular site – specific and issue – specific matters and input, considerations, laws, and requirements of stakeholders, government authorities and regulatory agencies.

I look forward to continuing to work with you on the Lakes District and Schooner Cove developments. Should you have any questions or would like to discuss further, please do not hesitate to contact me at Renee [Mounteney@gov.bc.ca](mailto:Mounteney@gov.bc.ca) or at (250) 751 – 3282.

Sincerely,



Renee Mounteney, MBA  
District Manager, Transportation  
Vancouver Island District

Encl: April 30, 2013 letter Renee Mounteney to Russell Tibbles

Cc: Geoff Garbutt, Regional District of Nanaimo  
Debbie O'Brien, Ministry of Transportation & Infrastructure  
Dave Edgar, Ministry of Transportation & Infrastructure  
Janelle Erwin, Ministry of Transportation & Infrastructure

## Attachment 2 – RDN Letter to BCIMC



REGIONAL  
DISTRICT  
OF NANAIMO

July 30, 2013

Mary Garden  
Senior Vice President, Real Estate  
British Columbia Investment Management Corporation  
301-2940 Jutland Road  
Victoria, BC V8T 5K6

Re: Lakes District and Schooner Cove Zoning Amendment Applications  
PL2012-096/097

Please be advised that the Board of the Regional District of Nanaimo (RDN) passed the following motion at its regular scheduled meeting of July 23, 2013:

*"that the Board send correspondence to the property owner expressing support in principle of implementation of the Neighborhood Plans policies through the proposed zoning amendments, and a commitment to finalize application review and presentation of bylaws to the Board for consideration in a timely manner."*

Please find attached a copy of the staff report and recommendations regarding these important applications.

Through the adoption of the Lakes District and Schooner Cove Neighbourhood Plans as amendments to the Nanoose Bay Official Community Plan Bylaw No. 1400, the RDN recognized and acknowledged the importance of revitalization of the development program at Fairwinds both in economic development terms and in terms of its support for the RDN's regional growth management initiatives.

Your correspondence to the Fairwinds Community Association and subsequent comments by your manager, Bentall Kennedy, has outlined concern with the pace of the development review process for this project. Please be assured that staff are meeting on a very regular basis with your manager and their consultants to address all outstanding issues to support the consideration of these bylaws and phased development agreements in a timely manner. It is our understanding that the majority of the outstanding issues, have been addressed or will be addressed very shortly. As outlined in the staff report, resolution of these issues is critical to addressing the timeline that has been received by our Board.

The RDN is committed to moving these applications forward for Board consideration as expeditiously as possible. To that end, we have directed staff that, when the applications are ready for introduction and outstanding issues have been addressed, we are prepared to hold special scheduled Board meetings in relation to these applications. We trust that your concerns regarding the process timeline has been addressed and it is clear that from a policy perspective

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RDN Website: [www.rdn.bc.ca](http://www.rdn.bc.ca)

BCIMC Correspondence Re: PL2012-096 & PL2012-097

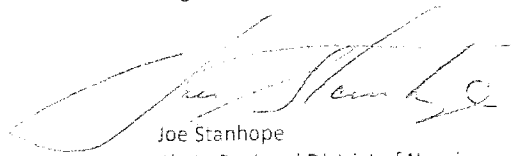
July 30, 2013

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there is support for the two zoning amendment applications and the approval process will unfold subject to the legal requirements of the *Local Government Act*.

If you have any questions or if we can provide you with any additional information please do not hesitate to contact Geoff Garbutt, General Manager of Strategic and Community Development directly at 250 390-6510 or by email at [gearbutt@rdn.bc.ca](mailto:gearbutt@rdn.bc.ca).

Regards,



Joe Stanhope  
Chair, Regional District of Nanaimo

cc: RDN Board Directors  
Paul ThorkeIsson, Chief Administrative Officer, RDN  
Geoff Garbutt, General Manager of Strategic & Community Development, RDN  
Russell Tibbles, Vice President, Development & Operations - Fairwinds

**Attachment 3 - Tentative Timeline for Zoning Amendment Applications**

<b>Project Task</b>	<b>Tentative Timeframe</b>	<b>Resources</b>
Initial Application Submission & Review	July – October 2012	Applicant/RDN
Revised Application Submission & Review	December 2012 – May 2013	Applicant/RDN
Agency Referrals	October 2012 – June 2013	RDN/External Agencies
First Nations Outreach	May – July 2013	Applicant/RDN
Public Open House	June 26, 2013	Applicant-led
Integrated Stormwater Management Plan and Local Service Area Implications Review	July – August 2013	Review by Independent Consultant
Phased Development Agreement (PDA) Draft & Review	July – November 2013	Applicant/RDN
Public Information Meeting	September/October 2013	RDN-led
Zoning Amendment Bylaws and PDAs introduced for 1 <sup>st</sup> and 2 <sup>nd</sup> Reading	November 2013	RDN
Public Hearing on Zoning Amendment Bylaws and PDAs	Subject to Board approval	RDN
Zoning Amendment Bylaw considered for 3 <sup>rd</sup> Reading	Subject to Board approval	RDN
Legal & Statutory Approvals by Provincial Ministries	Ministerial approval process 2014 (the proposed twenty year PDA term requires Provincial approval)	RDN/Provincial Ministries
Zoning Amendment Bylaw considered for 4 <sup>th</sup> Reading/Adoption & PDA signed	Subject to Board approval	RDN