

To: CAO for the Electoral Area Services Committee

Date: 2019-11-14

From: David Bennett, Planner II

File No: 3320-20-2018-02238

Subject: Development Servicing Covenant associated with the Subdivision Boundary Adjustment proposal for Lot 20 Thompson Road, Electoral Area "D" and 51995 Nevin Road City of Chilliwack.

RECOMMENDATION

THAT the Fraser Valley Regional District Board consider the following options for a development servicing covenant associated with the proposed subdivision of Lot 20 Thompson Road, Electoral Area "D" and 51995 Nevin Road City of Chilliwack as outlined in the corporate report dated November 14, 2019.

OPTION 1 Accept

THAT the Fraser Valley Regional District Board authorize its signatories to execute a development servicing covenant relating to Subdivision File 3320-20-2018-02238 – two lot boundary adjustment of Lot 20, Thompson Road, Electoral Area "D";

OPTION 2 Refuse

THAT the Fraser Valley Regional District Board refuse to authorize its signatories to execute a development servicing covenant relating to Subdivision File 3320-20-2018-02238 – two lot boundary adjustment of Lot 20, Thompson Road, Electoral Area "D";

OPTION 3 Refuse with comment to the Provincial Approving Officer

THAT the Fraser Valley Regional District Board refuse to authorize its signatories to execute a development servicing covenant relating to Subdivision File 3320-20-2018-02238 – two lot boundary adjustment of Lot 20, Thompson Road, Electoral Area "D";

AND THAT the Fraser Valley Regional District Board reply to the Ministry of Transportation and Infrastructure's referral of the proposed subdivision of Lot 20 Thompson Road, Electoral Area "D" and 51995 Nevin Road City of Chilliwack with concerns regarding the appropriateness of approving a cross-jurisdictional parcel.

STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

BACKGROUND

The FVRD received a subdivision referral from the Ministry of Transportation and Infrastructure by the owner of 51995 Nevin Road (City of Chilliwack) and Lot 20 Thompson Road (Electoral Area D).

The FVRD does not have subdivision approving authority. The Approving officers of the City of Chilliwack and the Province are responsible for this subdivision proposal.

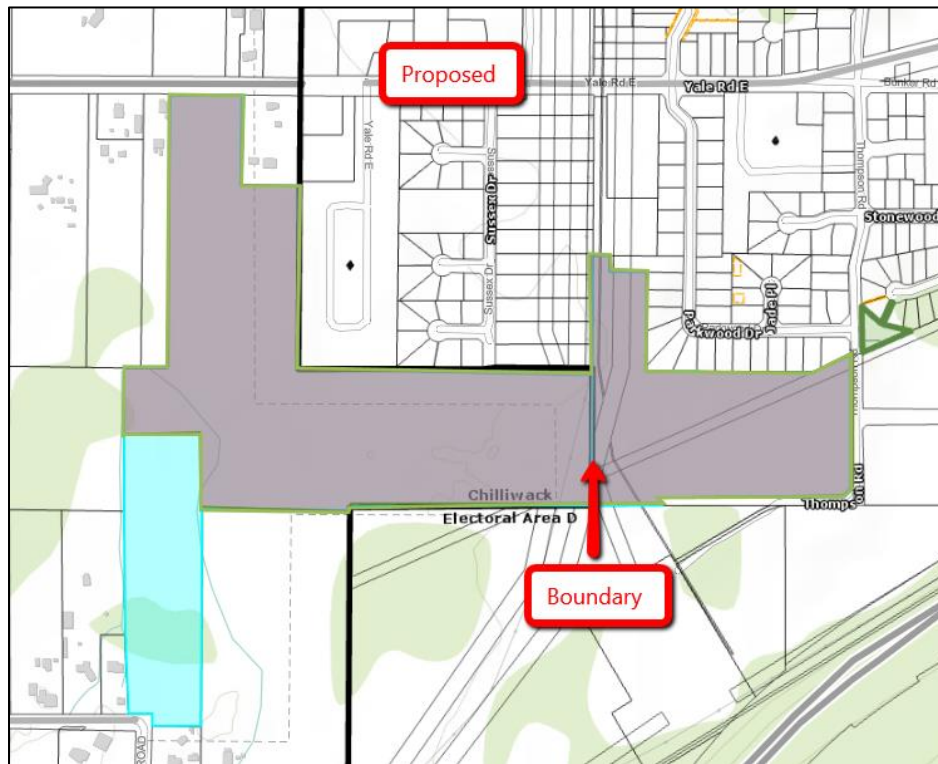
The proposed subdivision is not conventional, in that it would create a new cross-jurisdictional parcel. The parcel is proposed to be part within the City of Chilliwack and part within FVRD Electoral Area "D". The proposal involves a boundary adjustment between adjacent parcels, one on each side of the Electoral Area "D" and City of Chilliwack Boundary. The resulting subdivision would be that one parcel would straddle the City/FVRD boundary and the other would be entirely within the City of Chilliwack.

PROPERTY DETAILS			
Electoral Area		D	
Address		Lot 20 Thompson Road	
PID		007-310-854	
Folio		733.06635.040	
Lot Size		18.433 acres	
Owner	Nu-Found Ventures Ltd.	Agent	John Rimschneider
Current Zoning	Rural (R)	Proposed Zoning	No change
Current OCP	Suburban Residential (SR) & Agricultural Large Holding (AG-L)	Proposed OCP	No change
Current Use	Vacant land	Proposed Use	No change
Development Permit Areas		DPA 4-D	
Agricultural Land Reserve		Yes	
ADJACENT ZONING & LAND USES			
North	^	Suburban Residential 2 (SBR-2), Single-family Residential	
East	>	Country Residential (CR) & Rural 2 (R-2), Single-family Residential	
West	<	City of Chilliwack boundary & Single-family Residential	
South	v	Rural (R), BC Hydro Land	

The map displays a residential area with the following features:

- Streets:** Sussex Dr, Parkway Dr, Woodgrove Pl, Jade Pl, and Thompson Rd.
- Lot Numbers:** Various lot numbers are scattered throughout the map, such as 10025, 10030, 10001, 9991, 9981, 9971, 9960, 10031, 10021, 10011, 10004, 9994, 9984, 9974, 9993, 9983, 9973, 9983, 9955, 9949, 9941, 9931, 9921, 9911, 9901, 9891, 9881, 9871, 52392, 52393, 52394, 52395, 52396, 10015, 9985, 9995, 9985, 9995, 52613, 52623, 10029, 52622, 52632, 10009, 9919, 9909, 9986, 9976, 9874, 9889, 52689, 52707, 52719, 52725, 52688, 52694, 52700, 52706, 52712, 52779, 52770, 52764, 52758, 52773, 52775, 52785, 52789, 52795, 52799, 52809, 10033, 10029, 10023, 10019, 10013, 10009, 10003, 9997, 9991, 9985, 9979, 9973, 9862, 9818, 9808, 9962.
- Stonewood Park:** Located on the right side of the map, with the number 9868.
- Red Outline:** A large, irregular red outline encloses a significant portion of the map, likely indicating a project area.
- Phone Number:** 007-310-854 is printed in the center of the map.

PROPOSED SUBDIVISION LAYOUT



DISCUSSION

The proposed subdivision is not conventional, it involves the creation of a new split-zoned cross-jurisdictional parcel. The parcel is proposed to be part within the City of Chilliwack and part within FVRD Electoral Area "D".

The creation of parcels crossing the jurisdictional boundary is of concern because:

- It poses challenges for the administration of property assessments, taxation and regulation;
- It creates the potential for:
 - construction across the jurisdictional boundary;
 - confusion over which bylaws (with different regulations and administered by different jurisdictions) apply to different parts of the property; and,
 - FVRD or municipal services inadvertently crossing the jurisdictional boundary.
- In 1972, the township-electoral area boundary, as it was at the time, was adjusted to address problems with properties crossing the jurisdictional boundary in this location. At this time, there are no private properties that straddle the Area D-Chilliwack boundary.

- The creation of a parcel crossing the boundary may lead to more subdivisions crossing the boundary.
- The creation of properties that straddle the boundary may lead to calls for future boundary adjustment. These processes involve significant commitment of public resources and they should be driven by public considerations and not by private boundary adjustments.

The purpose of the Section 219 RESTRICTIVE covenant is to mitigate some of these issues.

Challenge created by a cross jurisdictional parcel	Solution
Buildings or Structures located over/across jurisdictional boundaries	Restrictive s.219 Covenant to prohibit construction within 7.6m (25ft) of the jurisdictional boundary.
Taxation	Creating two roll numbers, two assessments and two tax bills (solution from BC Assessment staff)
Cross-Jurisdictional water/sewer servicing	Restrictive s.219 Covenant to prohibit the extension of FVRD services (community water or community sewer) to any portion of the lands outside the FVRD jurisdictional boundary, prior to obtaining any required approvals or agreements for said service provisions from the City of Chilliwack.

Subdivision Preliminary Layout Approvals

Ministry of Transportation and Infrastructure

The Ministry of Transportation and Infrastructure issued a Preliminary Layout Approval letter dated October 1, 2019 for the proposed subdivision. The Provincial Approving Officer did not require a Municipal Boundary Adjustment to support the proposal.

City of Chilliwack

The City of Chilliwack issued a Preliminary Layout Approval letter dated August 13, 2019 for the proposed subdivision. The City's Approving Officer did not require a Municipal Boundary Adjustment to support the proposal.

FVRD Subdivision Review and Comment

The FVRD's role in subdivision approvals is to provide comments to the Approving Officer regarding compliance with FVRD bylaws and regulations. The proposed subdivision is consistent with FVRD bylaws and regulations. However, FVRD regulations don't anticipate the creation of a parcel across the electoral area-municipal boundary and this situation isn't contemplated by the regulations.

The FVRD provided referral comments to the Ministry of Transportation and Infrastructure in a letter dated September 24, 2019 in which FVRD staff recommended that a Municipal Boundary Adjustment should occur prior to the approval of the proposed subdivision. The Provincial Approving Officer did not make a Municipal Boundary Extension a condition of subdivision approval.

Review of Options:

Option 1. Accept. The FVRD accepts the offer of a covenant and partly mitigates the challenges of a cross jurisdictional parcel through restrictive covenant.

Option 2. Refuse. The FVRD does not accept the offer of a covenant and the subdivision may be approved as proposed by the Approving Officers.

Option 3. Refuse with Comment. The FVRD does not accept the offer of a covenant and responds to the Provincial Approving Officer with the concerns outlined in this report.

If the FVRD refuses the covenant, either the City's approving officer or the Provincial approving officer could be party to a similar agreement. Refusal of the covenant does not mean that the subdivision will be automatically refused by the approving officers.

COST

The costs associated with the registration of a restrictive covenant are borne by the developer.

CONCLUSION

FVRD staff outlined concerns with the creation of a cross jurisdictional parcel to the Provincial Approving Officer. A preliminary layout approval was issued and a Municipal Boundary Extension was not a condition of subdivision approval.

Subdivision Approval without a Municipal Boundary Extension or Covenant:

The Approving Officers may approve the proposed subdivision without requiring a Municipal Boundary Extension or the subject covenant. After the subdivision is approved, the City of Chilliwack may not initiate the Municipal Boundary Adjustment, or the Province may refuse a Municipal Boundary Adjustment. In either case, the City and the FVRD will be left with a split jurisdictional parcel.

There are no extenuating circumstances or public benefits associated with the proposed subdivision and it is therefore difficult to justify undertaking a Municipal Boundary Extension and the challenges created by a cross jurisdictional parcel may be partly mitigated through covenants.

COMMENTS BY:

Tareq Islam, Director of Engineering & Community Services	Reviewed and supported
Graham Daneluz, Director of Planning & Development	Reviewed and supported
Mike Veenbaas, Director of Financial Services	No further financial comments
Jennifer Kinneman, Acting Chief Administrative Officer	Reviewed and supported.