

PLANNING AND DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

**SUBJECT: RIVERBEND BUSINESS PARK PUBLIC AMENITY PIER
8340 AND 8351 FRASER REACH COURT
BIG BEND DEVELOPMENT PLAN AREA**

RECOMMENDATIONS:

1. THAT Council authorize staff to submit an application to the Province for a Nominal Rent Tenure (NRT) Lease under the Province's Crown Land Use Operational Policy - Community-Institutional Land Use, for the purposes of constructing a public amenity pier in a Provincial water lot on the Fraser River, as described in Section 4.2 of the report.
2. THAT Council authorize staff to submit a Change Approval application to the Province under the Water Sustainability Act (WSA), in connection with the works required to construct the public amenity pier, as described in Section 4.3 of the report.
3. THAT Council authorize staff to prepare and enter into a Construction, Operation and Maintenance Agreement between the City and the property owner of 8340 and 8351 Fraser Reach Court (8360 Wiggins Holdings, Inc.) based on the Business Terms, as described in Section 5.0 of the report.
4. THAT Council authorize staff to develop a detailed process for the City's review and approval of the construction, inspection and ongoing maintenance of the amenity pier, as described in Section 6.0 of the report.
5. THAT the report be forwarded to the Parks, Recreation and Culture Commission for information purposes.

To: His Worship, the Mayor and Councillors
From: Planning and Development Committee
Re: Riverbend Business Park Public Amenity
Pier 8340 and 8351 Fraser Reach Court
Big Bend Development Plan Area
2021 December 13 Page 2

REPORT

The Planning and Development Committee, at its meeting held on 2021 December 08, received and adopted the attached report seeking Council authorization for staff to submit the necessary applications to the Province and enter into an agreement with the property owner required for the construction and operation of the identified Riverbend Business Park amenity pier within the Big Bend Development Plan.

Respectfully submitted,

Councillor P. Calendino
Chair

Councillor S. Dhaliwal
Vice Chair

Copied to: Chief Administrative Officer Deputy CAO / CFO Director Corporate Services Director Engineering Director Parks, Recreation and Cultural Services Director Planning and Building Director Public Safety and Community Services City Solicitor

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2021 December 01

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 61100 20
*Reference: Riverbend Business Park
Amenity Pier*

**SUBJECT: RIVERBEND BUSINESS PARK PUBLIC AMENITY PIER
8340 AND 8351 FRASER REACH COURT
BIG BEND DEVELOPMENT PLAN AREA**

PURPOSE: To seek Council authorization for staff to submit the necessary applications to the Province and enter into an agreement with the property owner required for the construction and operation of the identified Riverbend Business Park amenity pier within the Big Bend Development Plan.

RECOMMENDATIONS:

1. **THAT** Council authorize staff to submit an application to the Province for a Nominal Rent Tenure (NRT) Lease under the Province's *Crown Land Use Operational Policy - Community-Institutional Land Use*, for the purposes of constructing a public amenity pier in a Provincial water lot on the Fraser River, as described in Section 4.2 of this report.
2. **THAT** Council authorize staff to submit a Change Approval application to the Province under the *Water Sustainability Act* (WSA), in connection with the works required to construct the public amenity pier, as described in Section 4.3 of this report.
3. **THAT** Council authorize staff to prepare and enter into a Construction, Operation and Maintenance Agreement between the City and the property owner of 8340 and 8351 Fraser Reach Court (8360 Wiggins Holdings, Inc.) based on the Business Terms, as described in Section 5.0 of this report.
4. **THAT** Council authorize staff to develop a detailed process for the City's review and approval of the construction, inspection and ongoing maintenance of the amenity pier, as described in Section 6.0 of this report.
5. **THAT** this report be forwarded to the Parks, Recreation and Culture Commission for information purposes.

To: Planning and Development Committee
From: Director Planning and Building
Re: Riverbend Business Park Development Plan Public Amenity Pier
8340 and 8351 Fraser Reach Court
Big Bend Development Plan

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REPORT

1.0 INTRODUCTION

On 2016 July 25, Council granted Final Adoption to Rezoning Reference #12-18, which established a multi-phased Conceptual Master Plan and design guidelines, for the Riverbend Business Park, located at 8211, 8220, 8340 and 8351 Fraser Reach Court (see *attached* Sketch #1). The Conceptual Plan included a detailed Public Open Space concept that centres around the site's adjacency to the Fraser River, with the goal of providing numerous points of access to the foreshore and an amenity pier on the Fraser River.

One of the requirements of the Riverbend Business Park Master Plan, and Phase 4 of the development (Rezoning Reference #18-33) was the construction and operation of an amenity pier in the Fraser River to connect to and complement the riverfront trail, which is linked to the broader Burnaby Fraser Foreshore Park. The water lot in which the identified amenity pier is to be located is owned by the Province, and as such, the approval of a Crown Land Tenure Lease by the Province is required in order to construct, operate and maintain the amenity pier.

This report provides information regarding the Land Tenure application process and recommends that staff be authorized to submit a Nominal Rent Tenure (NRT) Lease application to the Province, on behalf of the subject site's property owner, in order to obtain the necessary approvals for the construction and operation of the amenity pier, as identified in the Riverbend Business Park Conceptual Master Plan. In addition, this report provides information regarding a Construction, Operation and Maintenance Agreement that is proposed between the City and the property owner of 8340 and 8351 Fraser Reach Court in order to delegate the responsibility of all costs, submission requirements of the Provincial approval process, construction, and ongoing maintenance associated with the amenity pier to the property owner.

2.0 POLICY FRAMEWORK

The proposed Nominal Rent Tenure (NRT) Lease application to the Province and construction of the identified amenity pier is in line with the site's Conceptual Master Plan. The proposed application and amenity pier also aligns with the following City policies: Corporate Strategic Plan (2017), Regional Context Statement (2013), Official Community Plan (1998), Economic Development Strategy (2007), Social Sustainability Strategy (2011), and Environmental Sustainability Strategy (2016).

3.0 BACKGROUND AND BUSINESS PARK DEVELOPMENT TO DATE

3.1 Conceptual Development Plan

On 2016 July 25, Council granted Final Adoption to the rezoning amendment bylaw for the Riverbend Conceptual Development Plan (Rezoning Reference #12-18). The purpose of the Conceptual Development Plan was to establish a multi-phased master plan and design guidelines for the Riverbend Business Park, located along the north arm of the Fraser River, within the Big Bend area of Burnaby. The Plan also addresses permitted light-industrial land uses, infrastructure and servicing requirements,

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Re: Riverbend Business Park Development Plan Public Amenity Pier
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landscape treatment, architectural form, environmental goals, and open space concepts, with the purpose of guiding future individual site specific Comprehensive Development rezoning applications for the development of this multi-phased industrial business park and riverfront amenity area.

3.2 Fraser River Foreshore Trail and Amenity Pier

An Open Space Concept is an integral part of the Riverbend Business Park Conceptual Master Plan. The Open Space Concept is intended to provide passive and active recreation opportunities for business park employees and the general public. It centres around the site's adjacency to the Fraser River and includes new urban trail connections throughout the site, with the goal of providing numerous points of access to the foreshore. Some of the key elements include a 30m riparian zone from the Fraser River top of bank, which is to be naturally vegetated to provide wildlife habitat. *Figure 1* indicates the approved open space concept and linkages for the Riverbend Business Park Development Plan.

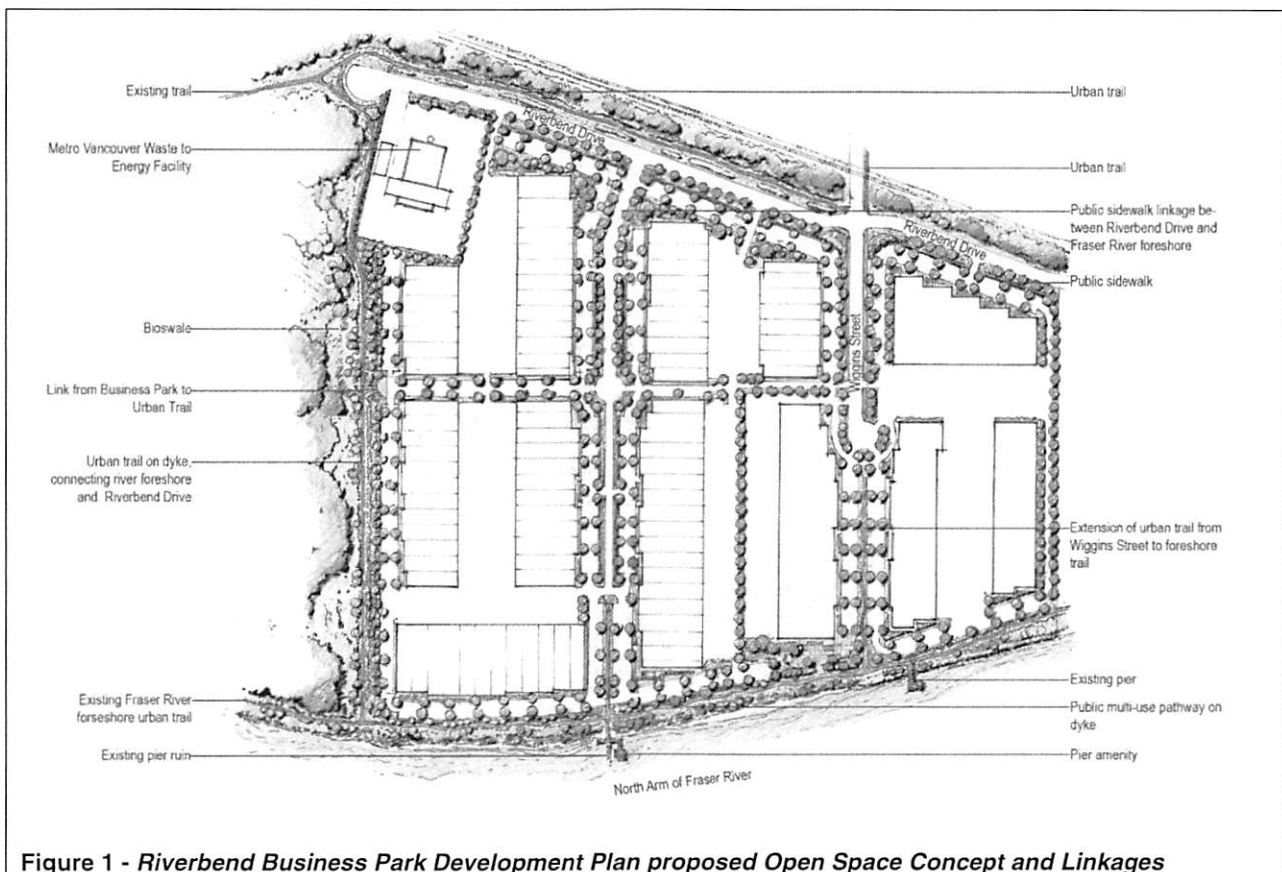


Figure 1 - Riverbend Business Park Development Plan proposed Open Space Concept and Linkages

Atop a flood proofing dyke will be a 4.0m crushed granite trail that will link into a future boardwalk through the Burnaby Fraser Foreshore Park to the west and crushed granite trail to the east. This riverfront trail and riparian area, as shown in *Figure 2*, will allow for both pedestrians and cyclists. Furthermore, three urban trail connections are located within the Industrial / Business Park linking the proposed riverfront trail and existing trail within Burnaby Fraser Foreshore Park to the constructed

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urban trail along Wiggins Street. The three urban trail connections are located along the north side of Riverbend Drive, within the Wiggins Street right-of-way, and along the western edge of the site in-line with the former Wheaton Street right-of-way.

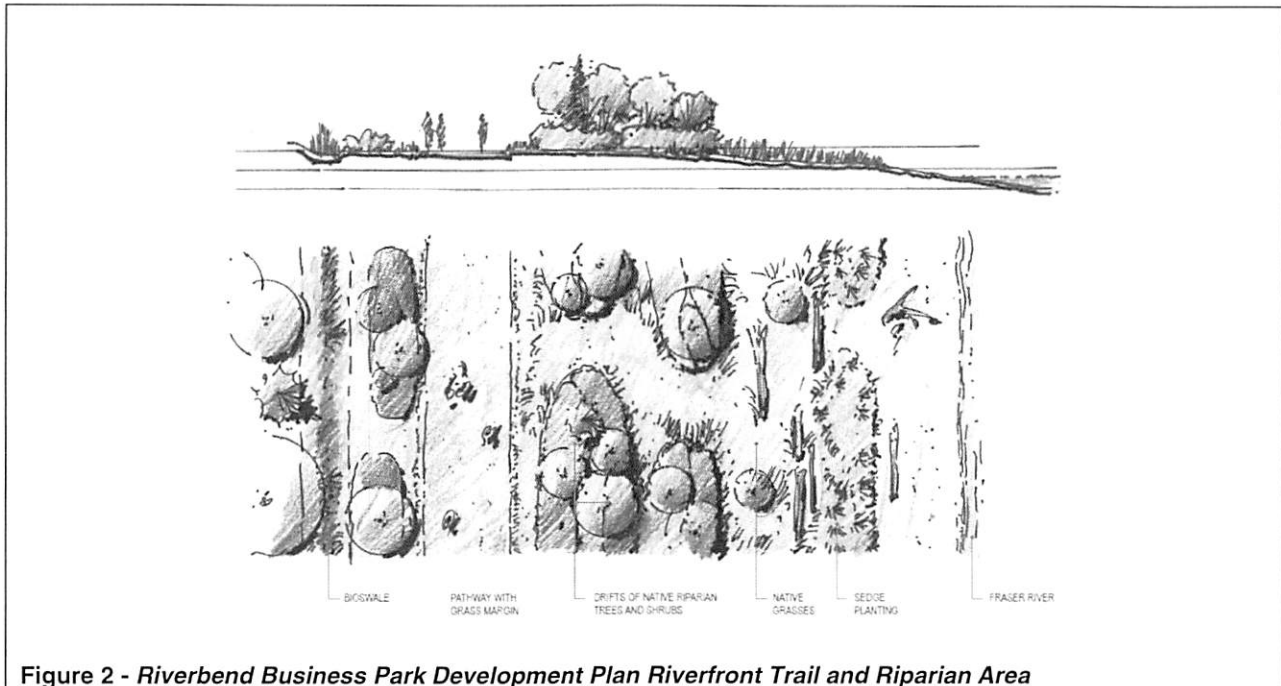


Figure 2 - Riverbend Business Park Development Plan Riverfront Trail and Riparian Area

At the midpoint of the Fraser Foreshore Trail is the amenity pier which will allow for a public outlook and seating area. A former pier was already located in this area; however, it was not suitable for public access. The specific location of the proposed amenity pier within the Fraser River, adjacent to the Riverbend Business Park, was determined based on the presence of the former pier and its impact on the foreshore, existing erosion protection works and the lack of a functional riparian area. The proposed new amenity pier is directly linked to the broader Big Bend area through the main access into the business park via the proposed new road off Riverbend Drive. *Figure 3* indicates a concept of the amenity pier.

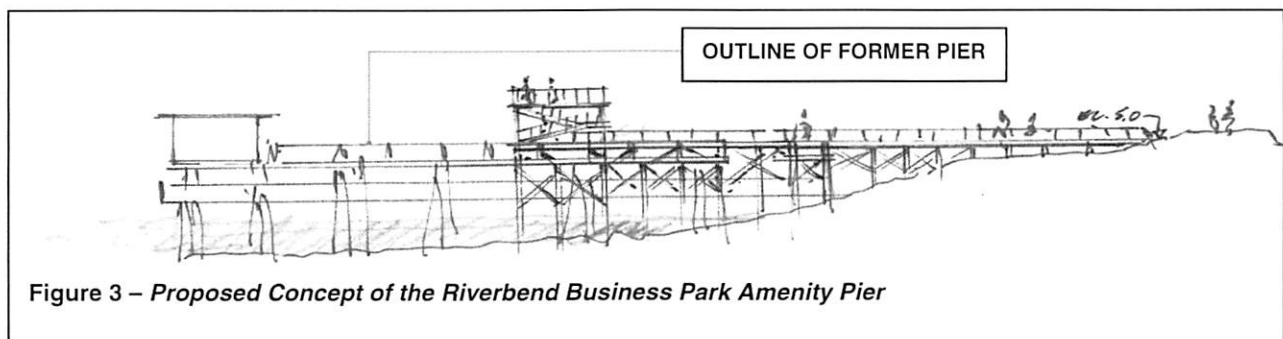


Figure 3 – Proposed Concept of the Riverbend Business Park Amenity Pier

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3.3 Development of the Riverbend Business Park to Date

Since the adoption of the Riverbend Conceptual Development Plan in 2016, there have been three site specific Comprehensive Development rezoning applications that have been processed for the development of this multi-phased industrial business park and riverfront amenity area (see *attached* Sketch #2):

- Rezoning Reference #14-31 received Final Adoption on 2016 December 05, which created the four existing properties (8211, 8220, 8340, and 8351 Fraser Reach Court) and included three buildings on three of the properties;
- Rezoning Reference #16-50 received Final Adoption on 2019 March 25 and included five buildings on three of the properties. The construction of the new amenity pier was identified as a prerequisite requirement of the rezoning application. While advanced construction of the amenity pier was not feasible at this time, it was determined that the property owner would be required to seek the required Provincial approvals for the construction of the amenity pier; and,
- Rezoning Reference #18-33 was submitted in 2019 for 8351 Fraser Reach Court in order to permit the construction of a single two-storey light-industrial manufacturing, warehouse and office building in place of three buildings previously approved under Rezoning Reference #16-50. The prerequisite requirement was again established in this rezoning for the developer to construct the amenity pier, once the above-noted Provincial approvals were secured. On 2019 December 16, Council granted Final Adoption for Rezoning Reference #18-33. As part of the rezoning approval, a Section 219 Covenant was registered on Title, restricting Final Occupancy for the new two-storey light-industrial building until the identified amenity pier is constructed.

4.0 PROVINCIAL APPROVAL PROCESS FOR CONSTRUCTION AND OPERATION OF THE AMENITY PIER

4.1 Overview

As previously noted, the identified amenity pier location is within a water lot that is owned by the Province. Therefore, both a Crown Land Tenure application under the *Land Act* and a Change Approval application under the *Water Sustainability Act (WSA)* are required in order to obtain the necessary Provincial approvals for the construction and ongoing operation of the amenity pier within this water lot. These applications will be referred accordingly to relevant Federal and Provincial agencies for review and will require First Nations consultation. This referral, review and consultation process will be managed by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.

4.2 Nominal Rent Tenure (NRT) Lease Application

The Province has two options for form of Crown Land Tenure to make the water lot available for the amenity pier:

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- Option 1: A Nominal Rent Tenure (NRT) Lease to the City of Burnaby under the Province's *Crown Land Use Operational Policy - Community-Institutional Land Use*; and,
- Option 2: A Private Lease of the water lot between the property owner and the Province under the Province's *Crown Land Use Operational Policy - Commercial-General*.

Option 1 serves to support the community, social and economic goals of the Province by making parcels of Crown land available for community and institutional uses. An NRT Lease is intended for institutional uses that benefit the public or community uses that help local government provide valuable services. The identified pier is considered to have significant benefits for the general public, forming part of the City's overall public access trail network along the riverfront adjacent to the Riverbend Business Park, and in the future, the proposed riverfront trail connections to the east and to the west through Burnaby Fraser Foreshore Park. Therefore, staff consider Option 1 to be the appropriate form of tenure to support a public amenity pier. In addition, the overall costs associated with a Private Lease (Option 2) between the property owner and the Province are not considered in keeping with the original intent of the requirement for the construction and operation of an amenity pier that would serve the general public.

As part of the NRT Lease application process, a Management Plan will need to be submitted, outlining the purpose and intent of the amenity pier, the details of the community and public benefit, the party responsible for its construction, and confirmation that the private property owner/developer will not receive any financial gains from this proposed amenity pier. Once the application is received, Provincial staff will complete a land valuation of the subject water lot to determine if Ministry Sponsorship (i.e. Ministry of Municipal Affairs and Housing) of the Lease through a Sponsored Crown Grant is required. A Sponsored Crown Grant, which is available to local governments, is a written instrument issued by the Province pursuant to Section 51 of the Land Act, which conveys Crown land in fee simple and free of charge to the City in order to undertake the public benefit.

The NRT Lease application requires Council resolution as part of the application process. Therefore, Council authorization is requested for staff to submit the necessary application to the Province.

4.3 Change Approval Application

In addition to the Nominal Rent Tenure (NRT) Lease application, a Change Approval application to the Province under the *Water Sustainability Act* will be required. A Change Approval is an authorization under the *Water Sustainability Act* in order to make modifications to a stream or conduct any activity or construction works within a stream channel.

This authorization includes, but is not limited to, any necessary site survey work, environmental studies, engineering studies, and ultimate construction works of the pier (including vegetation clearing and installation of pier pilings and support piers). As part of the authorization, terms and conditions will be outlined by Federal and Provincial agencies that will relate to the time of year in which the work is undertaken, as well as measures that protect the aquatic ecosystem, the hydraulic integrity of the stream channel and the rights of water users and landowners downstream. Council authorization is

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requested for staff to submit the necessary application to the Province. The owner/developer will be responsible for all costs related to the Change Approval application.

5.0 CONSTRUCTION, OPERATION AND MAINTENANCE AGREEMENT BETWEEN THE CITY AND PROPERTY OWNER

As noted, upon authorization from Council, the City will be the applicant of record for the above-noted applications to the Province. However, as the construction of the amenity pier is a prerequisite condition of rezoning, the property owner of 8340 and 8351 Fraser Reach Court (8360 Wiggins Holdings, Inc.) will be responsible for the construction and ongoing operation and maintenance of the amenity pier. As such, a Construction, Operation and Maintenance Agreement between the City and the property owner is proposed, in order to properly outline the property owner's responsibility (on behalf of the City) of the Provincial application requirements, the amenity pier construction works, and all maintenance obligations associated with the pier, for the duration of the Provincial Land Tenure Lease term.

Staff have prepared the Business Terms as the basis for the preparation of the Construction, Operation and Maintenance Agreement between the City and property owner (see *Attachment #1*). The Business Terms stipulate that the property owner will be responsible for all costs, bonding, and insurance associated with the property owner's requirement to construct, operate and maintain the amenity pier for the duration of the 30 year lease term granted by the Province under the NRT Lease. The property owner has agreed to these Business Terms as the basis for the preparation of the Construction, Operation and Maintenance Agreement with the City for the Riverbend Business Park Amenity Pier. It is recommended that Council authorize staff to prepare and enter into a Construction, Operation and Maintenance Agreement with the property owner, based on the Business Terms, prior to submitting the NRT and Water Change applications, as this is a requirement of the Province.

6.0 NEXT STEPS

If authorized by Council, staff will work with the City Solicitor to prepare and enter into the Construction, Operation and Maintenance Agreement with the property owner. Staff will then work with the property owner to submit the applications for the NRT Lease and Change Approval to the Province. As the Provincial applications proceed, any pertinent information that requires Council notification or requirements of the applications that require Council authorization, such as potential local government advertising requirements of the NRT application, will be outlined in a future report to Council.

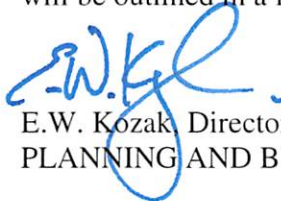
7.0 CONCLUSION

On 2016 July 25, Council granted Final Adoption to Rezoning Reference #12-18, which established the multi-phased Conceptual Master Plan and design guidelines for the Riverbend Business Park. The Conceptual Plan's Public Open Space concept centres on the site's adjacency to the Fraser River and includes a proposed amenity pier on the Fraser River. Given that the Conceptual Master Plan's identified amenity pier is to be located within a water lot that is owned by the Province, the approval of a Crown Land Tenure Lease by the Province is required in order to both construct the Conceptual Master Plan's amenity pier and operate it on an ongoing basis.

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This report provides information on the land tenure application process and recommends that staff be authorized to submit a Nominal Rent Tenure (NRT) Lease application to the Province, on behalf of the subject site's property owner, in order to obtain the necessary approvals for the construction and operation of the amenity pier. This report also recommends that Council authorize Construction, Operation and Maintenance Agreement that is proposed between City and the property owner of 8340 and 8351 Fraser Reach Court in order to outline the responsibility of all costs, submissions requirements of the Provincial approval process, the construction works, and ongoing maintenance associated with the amenity pier to the property owner. It is further recommended that Council authorize staff work towards the development of a comprehensive City process for the review, construction, inspection and ongoing maintenance and operation of the amenity pier by the owner/developer for the duration of the Nominal Tenure (NRT) Lease from the Province, in order to ensure that City standards are met. The details of this City process, as well as pertinent information or additional Council authorization that is required in association with the Province's application process will be outlined in a future report to Council.

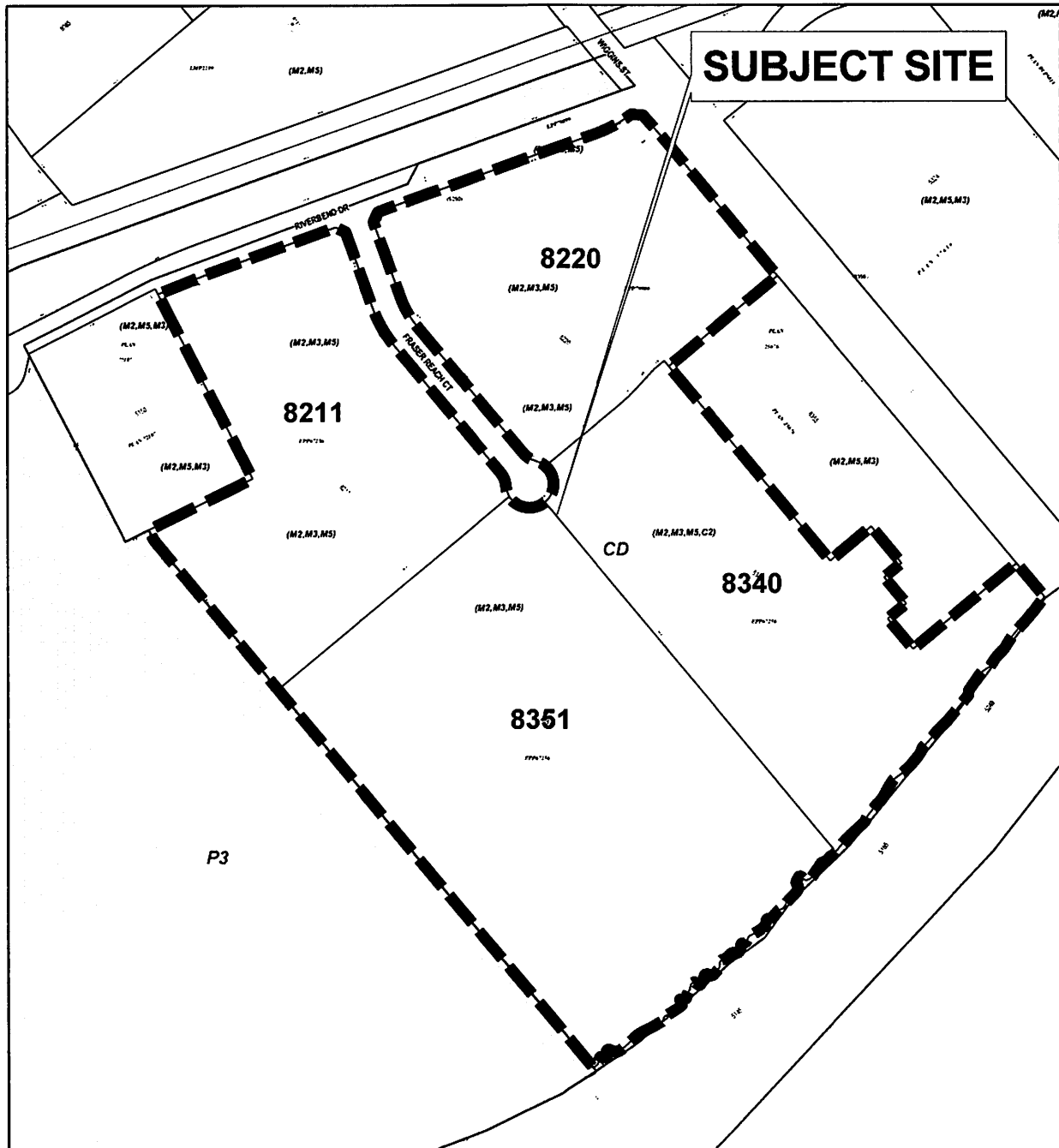


E.W. Kozak, Director
PLANNING AND BUILDING

GT:spf

Attachments

cc: Chief Administrative Officer
Deputy Chief Administrative Officer and Chief Financial Officer
Director Corporate Services
Director Public Safety and Community Services
Director Parks, Recreation and Cultural Services
Director Engineering
City Clerk
City Solicitor



PLANNING & BUILDING DEPARTMENT



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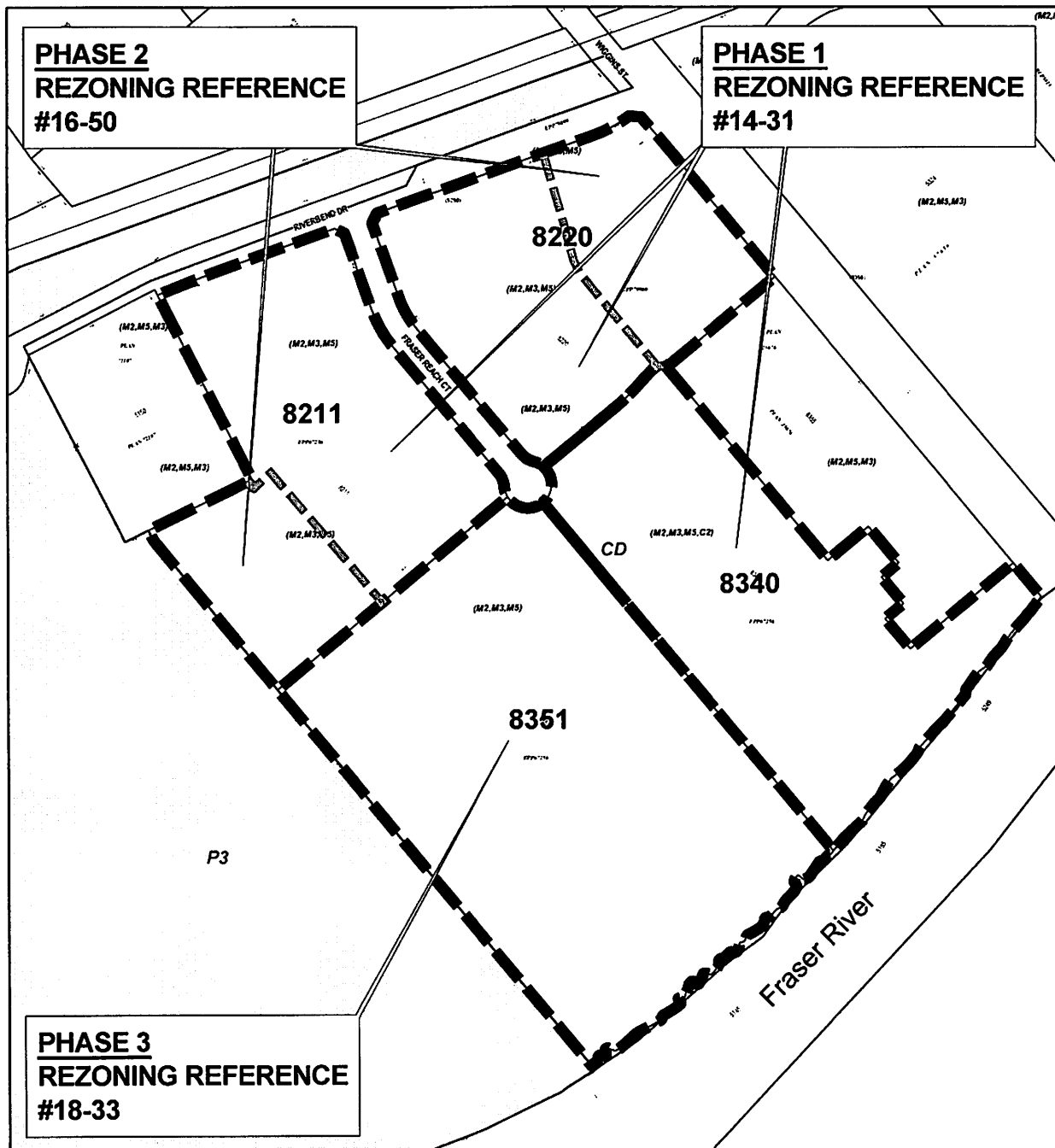
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**RIVERBEND BUSINESS PARK CONCEPTUAL
DEVELOPMENT PLAN
8211, 8220, 8340, AND 8351 FRASER REACH COURT**

 Subject Site

**PHASE 2
REZONING REFERENCE
#16-50**

**PHASE 1
REZONING REFERENCE
#14-31**



**PHASE 3
REZONING REFERENCE
#18-33**



PLANNING & BUILDING DEPARTMENT

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JS

**RIVERBEND BUSINESS PARK CONCEPTUAL
DEVELOPMENT PLAN
SITE-SPECIFIC REZONING APPLICATIONS
8211, 8220, 8340, AND 8351 FRASER REACH COURT**

 Conceptual Development Plan Properties

BUSINESS TERMS

Construction, Operation and Maintenance Agreement between City of Burnaby and 8360 Wiggins Holdings, Inc. ("Oxford Properties") for Riverbend Business Park Amenity Pier

Term:

- 30 years with option for a further 30 year renewal (if a further Lease term is granted by Province to the City)

Define the Pier Improvements:

- Oxford Properties to submit design drawings and construction/building drawings to define the improvements and components of the Pier to be constructed

Comply with Lease Obligations

- Oxford Properties will comply with the City's obligations as Lessee under the Lease

Property Taxes:

- To be paid by Oxford Properties, including all electricity, gas, water, and other utilities supplied to the land. Receipts of payments to be submitted to the City

Security:

- Oxford Properties to Bond/Letter of Credit for operation and maintenance for 5 years
- A Operation and Maintenance Report to be submitted at the 5 year mark, assessing financial obligations and outlines repairs, maintenance, etc.
- Renewal of Bond/Letter of Credit for the next 5 years, including increase for inflation

Insurance and Indemnity:

- Oxford Properties will maintain insurance in accordance with the terms and conditions set out by the City's Risk Manager and all insurance clauses from Lease, including, without limitation, Article 6 (see ***attached*** guide for liability and construction insurance clauses set by City's Risk Manager)
- Oxford Properties to indemnify City in respect to all losses, damages, costs, etc. relating to Construction, Operation and Maintenance Agreement, including without limitation, design, construction, operation and maintenance of the Pier and any breach or non-compliance with the agreement

Submission of updated Management Plan

- Every time lots change ownership, update to Management Plan
- If no ownership change, update Management Plan at least every 5 years

Submission of any required Hazardous Substance Certificates

- At Oxford Properties's cost
- Submitted by the City for Province review/approval

Operation:

- For use for public access for enjoyment
- Oxford Properties (and other third parties) cannot financially benefit from the Pier (ie. charging of fees for entrance, permit/host vendors that would have a financial benefit, etc.)

Maintenance:

- Oxford Properties, at its sole cost and expense, to maintain and repair the Pier to City standard and satisfaction
- Oxford Properties to provide an Operation and Maintenance Report every 5 years (at time of bond/Letter of Credit renewal)
- Report outlines, condition of structure, any maintenance that took place in the past 5 years, any repairs that are forecasted for the next 5 years, costs incurred for the past 5 year period with respect to maintenance, and costs estimates for any repairs forecasted for next 5 year period
- In the event of an Act of God (fire, flood, earthquake, etc.), Oxford will be responsible for reconstruction and repair of the Pier
- Oxford Properties will be responsible for demolition of the Pier at the end of Term or any extension term

Construction:

- Pier to be constructed to current Associated Engineers (AE) Pier Design criteria standards (for all new piers on the Fraser River) – 75 years lifespan and a 200 year flood event (to be provided Supervisor Parks Operations)
- Oxford Properties to determine the required Provincial ministry(ies) and/or authority(ies) that are to provide approval for the construction of the Pier [Note: City PPA and Building Permit not applicable since water lot is not City-zoned land.]
- Construction of Pier to commence within 5 years of executing the City/Province Lease and City/Oxford Construction, Operation and Maintenance Agreement
- Construction of Pier to be completed no later than 2 years after relevant Provincial authorities issue Building Permit (equivalent) and other approvals for the construction of the Pier
- Oxford Properties to provide design and construction drawings of Pier for acceptance by the City. Drawings to be included as a Schedule to the Construction, Operation and Maintenance Agreement
- Current security and inflation cost Letter of Credit for construction (or new Security based upon an updated, Cost Estimate for construction that has been thoroughly reviewed by a third party) will be held until construction is completed and the Pier is accepted by the City