

Memo



To: Committee of the Whole
From: **Corporate Services**
Date: 2024-02-12
Subject: Boundary Extension – Update February 2024

Purpose

For Council to receive an update regarding the Boundary Extension project and upcoming milestones.

Background

As part of the Boundary Extension project, Council has been receiving updates on a continuous basis and has provided direction to staff on various items such as tax rates and land use.

At the Committee of the Whole (COTW) on December 11, 2023, Council reviewed a memorandum regarding a timeline update and the open house format. Staff also indicated that they were following up with the developer to discuss several of the concerns raised by residents.

Staff provided the developer with various questions and the corresponding answers are listed below. Where relevant, staff comments have been added below the developer's comments *in italics*.

Question	Developer Response / <i>Staff Comments</i>
As the development would require a sewer treatment plant to be functional before any houses are connected – who will pay for the initial construction, ongoing operations and maintenance, and future replacement cost? Is it anticipated that this will be a user-pay utility or will the taxpayers within the current boundary end up subsidizing this development?	The developer will pay for the cost of installing a “state of the art” wastewater treatment system with the in-ground disposal of treated effluent. The homeowners of Copper Sky will be on a user-pay system, the collected fees from this system will pay both operation and maintenance costs. Who the owner of the system will eventually be is to be determined, but current City taxpayers are not expected to subsidize any portion of the system’s construction, operation or maintenance. <i>Staff notes: At the time of subdivision, Council has various legislative tools (listed below) available to ensure infrastructure remains the responsibility of the new development and future owners.</i>

Question	Developer Response / Staff Comments
<p>One First Nation so far has requested that an archeological assessment is performed before any development occurs – It is expected that Copper Sky will be fully responsible for any costs associated with any required assessments – please confirm.</p>	<p>When Copper Ridge was developed an archaeological investigation was undertaken by a professional. Copper Sky is in possession of a letter from this individual stating that nothing of archeological significance was detected on the site. As the study was done 15+ years ago by a firm that is no longer in business we will have to search for a copy of the original.</p>
<p>Residents of Copper Ridge are still concerned about where and when the second road would be built – could you provide any current plans/maps/etc. with details of a second proposed road.</p>	<p>Our investigations of the site suggest that there are likely three (3) possible routes for a secondary road up to the developable area of Copper Sky; one to the west, one to the east and one to the south. All three need to be explored in more detail with MOTI and civil engineering consultants. There is, at this time, no timetable for construction as none the three routes has been explored in detail.</p>
<p>Concerns have been raised about the use of Prospect Drive as a main access and the potential for additional traffic related issues with bikes and pedestrians along the road – What do you propose to ensure safe sharing of Prospect Road?</p>	<p>Prospect Drive appears to have been constructed in a standard 20m road right of way (ROW). Depending on where the Drive located in the ROW it may be possible to add pathway along the boundary of the Drive if potential traffic conflicts seem to warrant this expenditure. That said, it appears from our site visits and our encounters with walkers, cyclists, horseback riders, ATV riders, etc. that access and egress from Copper Sky from a variety of directions is already happening. Construction may temporarily impact those accesses, but our intention is respecting the location and availability of routes to the highest degree possible.</p>
<p>Other residential developments in Grand Forks have been proposed but not much “action” has occurred – what would be the timeline for construction to start if the extension is approved, and what’s the timeline for the first units being ready to move in. Please also provide details regarding proposed timelines for phasing for the overall development.</p>	<p>If the boundary extension is approved by the Province in 2024, then we would anticipate initial construction taking place in late Winter or early Spring 2025. Everyone needs to understand that significant design work needs to be done prior to construction and there is no merit in starting that work until we know what development the City will allow to build in Copper Sky. Those land use discussions and approvals have just barely begun and will move slowly until we know about the boundary extension.</p>

Question	Developer Response / Staff Comments
<p>Are there any costs assumed for current taxpayers to install/maintain the road/sidewalk/storm sewer (roads related) systems? If so, please provide justification for and estimated costs expected to be borne by the current taxpayers.</p>	<p>We anticipate that NO costs associated with the above cited systems/utilities will be passed along to current taxpayers.</p> <p><i>Staff notes: Council can utilize various legislative tools including Local Area Services and Works and Service Agreements to keep responsibility for installation and maintenance these assets funded by the development and future owners therein. Seasonal work such as snow plowing, street sweeping, and mowing of public greenspaces would be costs to the City offset by tax revenues from the area properties.</i></p>
<p>Are there any costs assumed for current taxpayers to install/maintain any piping or infrastructure relating to the water infrastructure? If so, please provide justification for and estimated costs expected to be borne by the current taxpayers.</p>	<p>We anticipate that NO costs associated with the above cited systems/utilities will be passed along to current taxpayers.</p> <p><i>Staff notes: Council can utilize various legislative tools including Local Area Services and Works and Service Agreements to keep responsibility for these assets funded by the development and future owners therein.</i></p>
<p>Are there any costs assumed for current taxpayers to install/maintain any piping or infrastructure relating to the wastewater infrastructure including the proposed treatment facility? If so, please provide justification for and estimated costs expected to be borne by the current taxpayers.</p>	<p>We anticipate that NO costs associated with the above cited systems/utilities will be passed along to current taxpayers.</p> <p><i>Staff notes: Same as above.</i></p>
<p>Some questions were received regarding setbacks from the edge of the mountain overlooking the residences currently in place along Coalshute and North Fork road. – What's your plans regarding setbacks along the ridge and limiting potential privacy concerns?</p>	<p>A geotechnical analysis for slope stability and appropriate setback distances will be undertaken as part of the design process for all phases of the Copper Sky project. Those will be recognized by covenant on the titles of properties that may abut the edge of the plateau. In addition, it is anticipated that the steeper slopes that are within the Copper Sky project boundaries will be placed in a Development Permit Area that will be enforced by City staff through the Building Permit approval process.</p>

Question	Developer Response / Staff Comments
Any comments from you on how quickly you anticipate the development to have 800 additional residents for Grand Forks? 10 years? 20 years? 50 years?	The local housing market, as best we can tell, has not seen a project with the potential magnitude of Copper Sky in a number of years. The length of time it will take to build out Copper Sky to 800 addition residents is entirely unpredictable. That said we do know that there is interest from current residents and from persons who reside in other municipalities, some as far away as Ontario.

Legislative Tools

Based on the above responses, the proposed development is intended to not impact current City taxpayers financially. Staff also reviewed various legislative tools that this Council (or future Councils) could use as the development progresses.

The Boundary Extension is the first phase of a multi-phase process. More detailed plans regarding the City’s specific use of these tools will be confirmed as the process progresses, and staff will advise Council in due course of more concrete recommendations around using these pieces of legislation to secure commitments from the developer.

In this context, it is important to recall that the lands within the proposed boundary expansion area are currently zoned for low-density development under the regional district zoning bylaw, and that zoning will continue to apply to those lands following a boundary extension, until Council amends or repeals it through a rezoning process.

Staff identified numerous sections of the Local Government Act (LGA), Community Charter (CC), and the Land Title Act (LTA), which either relate to municipal boundary extension, or the land use planning process more generally, and the various tools available. Staff attached the 8 most applicable sections regarding the City’s current boundary extension project.

Provincial Powers

In October 2023, Council has already reviewed S.29 of the LGA which provides one of these tools regarding Tax Rate Limits, which ultimately requests of the Province to establish a rate. As such, the ultimate authority is with the Province in this matter.

S.31 and S.33 of the LGA provides similar powers to the Province when a boundary extension occurs. S.31 would allow the Province to establish a Local Area Service without the need for elector approval, while S. 33 provides the Province with broad power to include provisions addressing “transitional difficulties”, and broad power to establish “terms and conditions”. As both of these would have to occur at the Boundary Extension stage, these legislative options are most likely not ideal for the proposed project as the extension would have to occur first, before the details of the development proposal can be finalized. That said, there is much discussion

and detailed analysis yet to occur, and opportunities may arise to utilize these powers, so the possibility remains open.

At this stage, it appears some of the more likely tools to be used for regulating the development would be S. 503, S. 516, S.559, and S. 570 of the LGA; S.210 of the CC; and S.219 of the LTA.

Council Authority

S. 503 of the LGA gives Council its basic zoning power. The power is legislative in nature and discretionary, creating the opportunity to negotiate terms and conditions, including the provision of amenities.

S. 516 of the LGA provides guidance and powers to Council on the establishment of phased development agreements. This type of agreement can include cost-related terms and conditions, as well as amenity provisions.

S.559 of the LGA provides guidance and powers to Council to establish a Development Cost Charges (DCC) bylaw which would be applicable for any subdivision or building construction; where circumstances justify, DCC's can discriminate on basis of area, type and scale of development.

S.210 of the CC allows for the establishment of Local Area Service for the development area to establish a service or cost recovery methods; however, this Bylaw would require additional processes before being established of either being proposed via petition, proposed via Council initiative, or the bylaw received assent of the electors.

S.570 outlines Development Works Agreements, which would require a Bylaw to be established, and has similar processes as the CC S.210 discussed above for establishing such a bylaw.

Finally, S.219 of the LTA allows for covenants to be placed on title. This tool would be available for example to secure the developer's commitments promised during a rezoning process.

Summary

Overall, Council has a wide variety of tools to choose from when working with the developer to ensure that the development meets or exceeds Council's expectations. Council could ask the Province to apply certain powers now; however, there are various unknown variables with this approach. The more appropriate solution may be to work with the developer at the time of subdivision/zoning to establish Phased Development Agreements or Development Works Agreements.

Tentative Timeline

The below tentative timeline has been updated to reflect the Open House date. We've also adjusted the order so that the "What We Heard" summary would be provided at a later date to ensure that the feedback from the Open House can be captured. (changes are highlighted in yellow)

Activity	Public Engagement	Tentative Date
Kick off Meetings		August 2023 - complete
Develop Communications and Engagement Plan		August 2023 – complete – will continue to evolve
Develop Communications Materials		August / September 2023 complete – will continue to evolve
Landowner Resident Information Package – Initial contact		September 2023 - complete
Engagement with Local Governments / Indigenous Communities / etc. as per provincial requirements in Step 1 – First Nations engagement extended by 60 days	Yes (specific)	September / October / November / December 2023 / January 2024
Landowner Resident Information Package – Full package		October 2023
Landowner Interviews (for affected property owners)	Yes (specific)	November / December 2023
Deadline for written feedback for first phase of engagement		December 14, 2023
In Person Open House	Yes	February 21, 2024
What we heard Summary		March 2024
Council Meeting to determine if all information has been collected for submission to the Province		March 2024
Combine all information and Submit to the Province (Step 2 of Provincial Guide)		March / April 2024
Ministry Review (Step 3) – unknown time frame, reaching out to the Province for feedback on that timeline		TBD
Communications Material Update		Continuous
Virtual Information Session	Yes	TBD
Prepare Information Packages for electoral Approval		TBD
Electoral Approval Process (timeline depending on Ministry Review) (Step 4)	Yes	TBD
Prepare Package for final Provincial Approval		TBD
Submission to the Province (Step 5)		TBD

Attachments

1. N/A