

Special Council Workshop

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City of Langley Special Council Meeting, May 16, 2022 @ 4:00 pm

1) CALL TO ORDER

- a. Roll Call

2) QUESTIONS AND DISCUSSION

- a. Coles Valley PUD - Meredith Penny, Planning Director
 - Follow up on City Council questions on Coles Valley PUD from 4-11-22, prepared for 5-2-22 "5/32

3) ADJOURNMENT

***Citizen Comments:** We welcome comments on subjects of concern or interest that are not on the agenda. Please state your name and address so this can be recorded and limit your comments to 5 minutes. Questions will be answered immediately if the answer is brief, and the information is available. Otherwise, answers will be provided as soon as possible. Thank you for participating! **If reasonable accommodation of a disability is needed, please contact Darlene Baldwin at (360) 221-4246 at least 48 hours prior to this meeting.**

Statement regarding Potential Conflicts of Interest - Officials, employees, consultants, volunteers and vendors are obliged to withdraw from any involvement in a matter where there is a conflict or perceived conflict, even if they feel certain they can act impartially. If a conflict, or potential conflict exists, the affected party shall declare so at the first public meeting when the matter is being considered. And shall withdraw from the meeting or future meetings for the duration of the discussion of the issue.

Langley is a Civility First City and conducts its governance abiding by the Civility First Pledge:

1. Value honesty and good will while striving to solve problems.
2. Attempt genuinely to understand the point of view of others
3. Model civil behavior and tone, online as well as in public by:
 - a. Being kind while maintaining the right to vigorously disagree
 - b. Acting respectfully toward others, including opponents.
 - c. Listening to those who disagree with us, as well as supporters
 - d. Making only accurate statements when defending a position
 - e. Refraining from characterizing adversaries as evil
 - f. Challenge disrespectful behavior, courteously
 - g. Encourage any person or organization working on our behalf to meet these same standards from civil discourse



City of Langley

Planning Department

To: The Langley City Council

From: Meredith Penny, Community Planning Director

Meeting Date: May 2, 2022

Subject: Follow-up on City Council Questions on Proposed Coles Valley PUD from April 11, 2022 Special Workshop

Council Member Craig Cyr

1. [How can we plan for potential things that could go wrong?](#)

Bonds will be required for infrastructure and landscaping, so in the case something goes wrong, the City can install the needed improvements. Future developers will be beholden to the requirements of the PUD code, the development agreement, and any CCNRs that are developed. The development team is proposing to include their own design standards for the development to ensure a consistent design across sections. The City can require an affordable housing non-profit partner to be signed on, before approving the development agreement.

Council Member Gail Flemming

1. [How will the City keep up with maintenance of the new and upgraded infrastructure?](#)

As each of the homes are developed, participation fees are paid to buy into the existing system, and rates are paid to maintain the current system. The infrastructure would be added to the Public Works maintenance schedule for all assets.

2. [What is the financial impact to the City?](#)

A fiscal impacts analysis can be required by the City. Attached, at the end of this document are example studies from other jurisdictions.

3. [Can we require a lower number of units?](#)

On the one hand, when a particular density is expressly authorized by code, an applicant generally has the right to build to that density. In adopting such an express density provision, the City Council has essentially waived its legislative discretion on that issue.

On the other hand, a development agreement is just that – an agreement. Approval of a development agreement is generally a discretionary legislative decision and neither party can be compelled to enter into an agreement.

Council Member Harolynne Bobis

Staff recorded general comments and concerns from Council member Bobis focusing on the proximity of the proposed development to the old landfill site and the walkability of the proposed development, but staff did not identify any specific questions that required follow-up.

Council Member Rhonda Salerno

1. What infrastructure will the HOA take over vs. what will be dedicated to the City?

Utilities will be turned over to the City and public easements will be required.

The road widths being proposed do not meet public roadway standards and would require a redesign in order to be taken over by the City. Per LMC 15.01.050: Any right-of-way of less than city standards for public roads shall be retained permanently as privately owned and maintained; except when subsequently the street is developed to adopted city standards and specifications, and established as a city road in accordance with the provisions of law.

Also, per LMC 15.01.495, private streets will be allowed only for such streets that have no public interest for traffic circulation and are to be built in accordance with the standards adopted herein for public streets. The roadways within the proposed Coles Valley PUD do not provide public interest for greater traffic circulation.

The open space tracts are negotiable. Ideally, they would remain the responsibility of the HOA (privately maintained) but the CCR's or an easement could require they remain open for public use. The tracts could be dedicated to the City, but it would require that the City maintains those locations.

2. Will there be one HOA or 7 separate HOAs? – where will the responsibility start and end?

From Ali Taysi with AVT Consulting, "So far all of our conversations have revolved around having a single HOA or community association for the entire property, like a master association. Any project wide conditions, requirements, etc... could be addressed in the master association governing documents, CCR's, etc... It is possible that there could be sub associations, for example if one of the MF sites was developed as a condominium, then you would have a condo association (required by law) or maybe the commercial component, which is all on one lot, might have a sub association addressing business owners or something like that. But in terms of the main HOA, this would almost assuredly be over the entire property."

3. What will be the financial impact of the increased population?

A fiscal impacts analysis can be required by the City. Attached, at the end of this document are example studies from other jurisdictions.

4. How many council votes are needed to approve a development agreement?

A simple majority.

5. What will be the impact to parking in the Central Business district of Langley?

A more thorough response can be provided once an updated transportation impacts analysis is complete. It is important to remember that increased traffic will not happen all at once. The development could take 10-15 years to fully build out. Over that time, a number of improvements to pedestrian access, bicycling routes, or bike parking in town may have been completed. The City can also look at other options to reduce impacts on Central Business parking, such as working with the Chamber to encourage business owners and staff to park in the shared use parking lots which are currently underused, or enforce the 4 hour parking limit in the Central Business district.

6. What amount of taxes would be lost and what kind of liability would be associated with accepting the dedication of the open space on the west side of Cole's Rd?

\$143.92 annually.

With the caveat that negligence claims and lawsuits can be highly fact-intensive, most activities that would reasonably occur on dedicated open space would seem to fall within the definition of “purposes of outdoor recreation” under RCW 4.24.210. If so, the City should not be liable for unintentional injuries to users. Note, however, that the statute does not exempt the City from liability in cases of “known dangerous artificial latent condition for which warning signs have not been conspicuously posted,” but it would not seem likely that such conditions would occur on dedicated open space

7. [What will Public Works Director, Randi Perry be presenting to PAB in May? Will she discuss how many sewer hookups are left?](#)

Director Perry will be presenting a similar presentation to one she gave to the PAB in 2017 titled, Utility Capacity and Development. She will be discussing the current capacity of the City’s water and sewer systems and how that relates to development in the City in general.

8. [What are they planning in terms of trails to get to the City?](#)

Trails are required and proposed within the development itself. Trails outside the Coles Valley PUD parcel are not proposed by the developer at this time. The Parks and Open Space Committee has been working on a long-term trail plan for trails from this end of town into the City center, unrelated to the proposed PUD.

9. [What was contained in the original annexation agreement?](#)

- Maximum # of 24 units
- Minimum of 15 acres of open space to be dedicated to the City, including entire west side of Coles Rd
- Minimum of 13 acres of private open space
- 50ft roadway buffer
- 150ft buffer from Canyon Ridge Development to the south
- Trails running along west, north, and east property lines
- Trailhead parking
- Only one single point of entry from Coles Rd serving future development

<https://cms4files1.revize.com/langleywashington/AFN%204124982%20Annexation%20Agreement.pdf>

10. [Sometimes bonding companies won’t payout when a company goes bankrupt?](#)

The City Attorney noted he was not aware of any specific bonding companies that have become insolvent (though such companies certainly could exist), but agrees that an insolvent bonding company would be incapable of honoring prior financial commitments.

Alternatives to bonds, which may provide greater security for the City, would include cash set-aside agreements or letters of credit. Under these forms of security, an applicant’s bank would hold the applicant’s own funds in an amount sufficient to cover the City’s potential liability for which an applicant would otherwise post a bond. The City would retain the authority to direct the bank to release funds to the City if necessary to cover the applicant’s obligations, and otherwise to direct the bank to release the funds back to the applicant once the applicant has satisfied its obligations.

In the case of the development company becoming insolvent, the purpose of the bond or other financial guarantee is to best ensure the City is protected in that scenario.

11. What kind of companies can do environmental testing of the old landfill and current wastewater treatment facility?

There are a variety of companies who can conduct this work. The County contracts with SCS engineers for the monitoring of their old landfill. An option to consider, would be to have the developers contract with a professional to host a meeting with the City Council and community members. Members of the public and City Council could submit questions ahead of time for the professional to respond to, after completing a qualitative analysis of the landfill site and its proximity to the development. This could help narrow down where testing may be appropriate or where it is unnecessary.

Mayor Scott Chaplin

1. Will bonds be required?

Yes, here is what the City code requires:

15.01.055

A. Work performed for the construction or improvement of city roads and utilities, whether by or for a private developer or by a city contractor, shall be done to the satisfaction of the city and in accordance with approved plans. It is emphasized that no work shall be started until such plans are approved and the required bond posted (see Section 15.01.075).

15.01.075

Bonds or other allowable securities may be required by the city to guarantee the performance or maintenance of required work. The type and amount of security shall be per city code, or, if not specified, at the discretion of the city. Types of securities include but are not limited to a bond with a surety qualified to do a bonding business in this state, a cash deposit, an assigned savings account, or a set aside letter. The following are the most frequent bonds required:

A. Performance Bond. No building permit shall be issued until all public improvements are completed and final acceptance granted or, with the approval of the director of public works, the permittee or the contractor for the permittee may post a performance bond naming the city as obligee or a cash surety may be posted with the city in an amount equal to 115 percent of the cost of the public works improvements prior to issuance of a building permit. A certificate of occupancy shall not be issued until all public works improvements are completed in accordance with approved plans and accepted by the city.

B. Maintenance Bond. Prior to final public works approval of any major improvements, the permittee or the contractor for the permittee shall post with the city a maintenance bond warranting materials and workmanship, naming the city as obligee, or a cash surety for the guarantee of the public works improvements in an amount equal to 10 percent of the total cost of the improvements for a period of one year after the completed improvements are accepted by the city.

15.01.715

The city engineer may require, as a condition to the granting of a permit, that the applicant furnish a performance bond, naming the city as obligee. The bond shall secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of his permit and within the term

thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the city engineer.

15.01.730

D. Tree Valuation and Bond Requirement. Each tree designated for preservation shall be assigned a monetary valuation based upon standards available from national arborist associations, such as the ISA Council of Tree and Landscape Appraisers (CTLA). Project proponents are required to submit a bond or other form of surety acceptable to the city equal to the total valuation of the trees designated for preservation.

2. [What will the impacts be to water and wastewater?](#)

The applicants will have to provide an analysis of the development's impact to the City's wastewater treatment plant capacity. Any required improvements needed to accommodate the development, must be paid for at the developer's expense.

3. [Will the proposed development be on top of the old landfill?](#)

No. The location of the landfill is entirely on the City-owned waste water treatment plant site.

4. [How will the air quality from the sewer plant affect the development?](#)

Wastewater treatment plants do not usually cause air-quality issues other than nuisance odor. Nuisance odors are caused by sulfides not pathogens. Pathogens are found within water droplets. The main way an individual would get sick would be if their mouth or eyes came into direct contact with water droplets containing pathogens. In understanding the risk to individuals who could live next to the plant, you can also evaluate the OSHA standards for waste treatment plant operators. When operators take samples, gloves are required but not masks. This is because the primary concern is regarding direct contact with pathogens, not chemical inhalation. Wastewater treatment plants are frequently located adjacent to populated areas (Oak Harbor and Coupeville are examples).

5. [How does this rate of population growth compare to other cities in Washington State?](#)

Historical growth rates can't necessarily be used as a basis for predictions or decision making on this specific project. There are a number of examples of small cities which annexed a large area of population all at once or experienced a large development. This type of growth is outside the normal population growth trends from births/deaths and in-migration/out-migration. For instance, the City of Snoqualmie annexed an area with five-times the population of the City at that time. The City had to weigh the benefits and impacts of such a decision. In contrast to that example, the proposed Coles Valley PUD would occur over a longer period of time, potentially 10-15 years. So, the impacts would not be felt all at once, unlike annexation of an already populated area. Fiscal impacts can be reviewed through a fiscal impacts analysis.

Council Member Thomas Gill

1. [Is it a requirement for them to have an HOA? Can we avoid privately-owned assets?](#)

It is not a requirement to have an HOA, but it can be a useful tool to ensure shared spaces and assets are managed and there is a consistent development scheme across all seven sections. Utilities will be turned over to the City and public easements will be required. The road widths being proposed do not meet public roadway standards would require a redesign in order to be taken over by the City, per LMC 15.01.050: Any right-of-way of less than

city standards for public roads shall be retained permanently as privately owned and maintained; except when subsequently the street is developed to adopted city standards and specifications, and established as a city road in accordance with the provisions of law. Also, per LMC 15.01.495, private streets will be allowed only for such streets that have no public interest for traffic circulation and are to be built in accordance with the standards adopted herein for public streets. The roadways within the proposed Coles Valley PUD do not provide public interest for greater traffic circulation.

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2. Will they need to improve Coles Rd itself?

Per County Public Works staff: If the developer or a Utility disturbs the pavement of Coles Rd, the party may need to repair and resurface the entire lane and shoulder disturbed as part their Work in the Right of Way permit. This was the case for a waterline project on Keystone Hill Rd. A concern with Coles Rd and a large development is the pavement and shoulder width. The traffic study should look as whether the geometry of the road is adequate for the increase in average daily traffic (ADT).

3. Will housing be concentrated in one section?

In their recommendation to the City Council, the ad hoc affordable housing advisory committee advised that: The City's goal is for the PUD to provide a mixed income community with affordable units distributed evenly throughout the project subareas. The City may consider allowing concentration of the affordable units within a minimum of three (3) subareas if the proponents can demonstrate that there are practical reasons related to costs, financing, or administration for such concentrations.

4. What will the impact be to intersections within the City? (2nd & Anthes and 6th & Cascade)

The Coles Valley Transportation Impacts Analysis from September 2021 notes the following: Per scoping discussions, three off-site intersections were identified for existing, baseline, and future with development level of service analysis. The study intersections are:

1. De Bruyn Avenue at Third Street – Two-Way Stop Controlled
2. Coles Road at Third Street – Two-Way Stop Controlled
3. Coles Road at SR-525 – Two-Way Stop Controlled
4. Coles Road at Site Access – Two-Way Stop Controlled

Table 6: Future Level of Service Summary

Intersections	Existing Conditions		2027 Future Conditions			
	LOS (Critical Approach)	Delay	Without Development		With Development	
			LOS/ (Critical Approach)	Delay	LOS (Critical Approach)	Delay
1. De Bruyn Avenue at Third Street	A (SB)	9.9 sec	B (SB)	10.2 sec	B (SB)	10.5 sec
2. Coles Road at Third Street	B (NB)	10.0 sec	B (NB)	10.3 sec	B (NB)	10.9 sec
3. Coles Road at SR-525	D (NB)	30.4 sec	E (NB)	38.8 sec	E (NB)	42.4 sec
Non Critical Approach	C (SB)	23.7 sec	D (SB)	30.5 sec	D (SB)	34.2 sec
4. Coles Road at Site Access	---	---	---	---	A (WB)	9.2 sec

Examples of Fiscal Impacts Analysis

Examples from outside WA that include land within their city limits

- [Fiscal Impact Analysis: Antrim Township Franklin County, Pennsylvania](#) (2006)
- [Dublin Community Plan Projections and Fiscal Impact Analysis](#) (2013) - Includes growth within the city and in potential annexation
- [Economic and Fiscal Impact Analysis of the Proposed Hamilton Fields Sports Park](#) - Analysis on project within city limits

Examples of Comprehensive Annexation Studies and Fiscal Impact Analyses

- [Sammamish Comprehensive Fiscal Study of the Klahanie Area PAA](#) (2014)
- [Bremerton Annexation Fiscal Analysis Studies](#) – Webpage with two different studies one from 2014, one from 2015
- [Covington Northern Gateway Area Study](#) (2012)
- [Kelso Preliminary Research on the Potential for Annexation in South](#) (2015)
- [Burien North Highline Governance Study](#) (2006) and [Fiscal Analysis of a North Highline Annexation](#) (2011)
- [Chehalis South Industrial Area Annexation Fiscal Analysis](#) (2009)
- [Lynnwood Fiscal Annexation Analysis](#) (2009)
- [North Bend Annexation Study](#) (2008)
- [Enumclaw Fiscal Impacts of Annexation Preliminary Discussion](#) (2009)

More examples from WA

- [Bremerton Annexation Analyzer](#)
- [City of Bremerton's Fiscal Impacts of West Bremerton UGA and Gorst UGA Annexation – Final](#) (August, 2015) – A fairly recent annexation study for a Washington city.
- [Enumclaw Fiscal Impacts of Annexation Discussion Draft: February 2009](#)
- [City of Issaquah's Fiscal Analysis of the Proposed Annexation of the Klahanie PAA – Final Report](#) (June, 2013) – This analysis uses a “modular” approach, and provides an interesting contrast to the Bremerton study.
- [RFP for Fiscal Impact Analysis of Annexing the Pacific Trout Lake UGA, the South Trout Lake PAA and Fivemile Lake West PAA to the City of Pacific](#)
- [Fiscal Impact of Renton's Annexation of the Renton Fairwood PAA](#)
- [Fiscal Impacts of Proposed Annexation of Properties West of Tumwater](#) (2007)
- [Vancouver Annexation Analyzer](#)

Additional resources:

- [MRSC - Do Single-Family Dwellings Pay for Themselves?](#)
- [Fiscal Impact Analysis: How Today's Decisions Affect Tomorrow's Budgets](#)
- [Annexation, local government spending, and the complicating role of density](#) (2009) - The abstract from this article highlights the fact that the fiscal impact of annexation is greatly

influenced by the density and type of existing/future land uses within the potential annexation area.

- [The Fiscal Impact Handbook: Estimating local costs and revenues of land development](#)
- [Fiscal Impact Analysis Policies in Rural Communities - Smart Growth America](#) (2017)