

Special Council Workshop

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City of Langley Draft Special Meeting Agenda

May 2, 2022 @ 4:00 pm

1) CALL TO ORDER

- a. Roll Call

2) QUESTIONS AND DISCUSSION

- a. Affordable Housing Subcommittee recommendations that were presented at the 4/18/2022 Council Meeting – Rose Hughes, Committee Chair
 - Affordable Summary Report to 4/18/2022 Council..... 3-10
 - Coles Valley PUD Affordability Requirements..... 11-13
- b. Follow up on Council’s questions from 4/11/2022 Special Workshop on the proposed Coles Valley PUD– Meredith Penny, Planning Director
 - Follow up on City Council Questions..... 14-21

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 Monica Felici 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

Date: April 18, 2022
To: Langley City Council
From: Affordable Housing Sub-Committee
RE: Coles Valley PUD Housing Affordability Recommendations

Purpose

To provide Council with recommendations related to the inclusion of affordable housing units in the proposed Planned Unit Development (PUD) application by South Whidbey LLC. While specific recommendations are outlined in the attached document “PUD affordability requirements v.2022-04-08”, this memo lays out the general reasoning behind the recommendations. Many of these recommendations are interrelated and dependent upon each other for effective results, but for the purposes of readability, they are delineated by specific topic.

Background

When the Planned Unit Development (PUD) ch. 18.26 was being prepared the Planning Advisory Board (PAB) and Council wanted to take a proactive approach regarding how affordable housing units will be incorporated into the anticipated Coles Valley development application. The PUD code requires that Council and the developer enter into a Development Agreement, a legal contract between the City and developer that runs with the land. [RCW 36.70B.170](#) details the development standards that may be contained in this contract and affordable housing is one of these elements.

As part of the adoption process the PAB recommended to Council that an ad-hoc committee be established to guide the affordable housing requirement. On April 5, 2021, Council adopted the Planned Unit Development (PUD) Code, Ch. 18.26 and Council gave direction to establish a committee to define appropriate levels of affordable housing and the criteria that would be used in negotiations with a developer as part of any development agreement and PUD application. PAB recommended that the ad hoc advisory committee should consist of individuals from the following groups or areas of expertise.

- Council Member
- Planning Director
- Planning Advisory Board Member
- Representative with experience in residential construction and development costs
- Representative with expertise in affordable housing development and incentives
- Representative from the Dismantling Systemic Racism Advisory Group
- Community representative involved in affordable housing advocacy or provision
- City Attorney to be consulted on an as needed basis

The purpose of the committee is outlined above, and part of its remit was to identify specifics that the affordable housing requirements would include:

- Income level (% of Area Median Income);
- Tenure (ownership vs. rental);
- Size (number of bedrooms);
- Minimum number of housing units; and
- Phasing provisions.

At the City Council's July 6, 2021, meeting, the Council approved the proposed skill set and purpose of this Ad Hoc Advisory Committee. At the October 4 meeting Council approved the committee membership. The committee met the first time on October 22, 2021 and met an additional eleven times up to April 1.

Discussion

At its November 2, 2021, meeting the Committee reviewed research about Inclusionary Zoning¹ (IZ) to provide guidance. Best practices on IZ identifies some specific questions that are important to contemplate when considering an IZ program. Most IZ programs are adopted by an ordinance that applies to more than one project. This is not the case here, however the work completed by the Committee will be helpful for future discussions. The Committee also reviewed IZ programs adopted by Washington State cities with similar characteristics to Langley. Council will recall that two affordable housing events took place in May and September 2021. Following the May event the committee prepared a detailed summary report that also helped guide the committee's deliberations.

A few elements of inclusionary zone programs that warrant mention did not form part of the Committees recommendations for reasons outlined below.

Strong Housing Market - Best practices reveal that IZ programs, which are usually based on incentives rather than mandates, are most successful where there is a 'significant and sustained level of market-rate development in the local market'². This criterion was not discussed by the Committee as the code requires affordable housing units be provided regardless of the market and it's the developers responsibility to determine the viability of a project.

Voluntary or mandatory program - Best practices show that voluntary programs are often not utilized by developers. Langley has voluntary provisions in two chapters, Ch. 18.04 Innovative Affordable Housing Projects and Ch. 18.13 Multi-Family Infill Form-Based Code. Ch. 18.04 was used by Upper Langley for their community and the City has received one application submitted

¹ Inclusionary zoning refers to a range of policies and practices that mandate or provide incentives for the inclusion of affordable housing units in new developments to encourage mixed-income neighborhoods and increase the supply of affordable housing. [What Is Inclusionary Zoning? | Planetizen Planopedia](#)

² Urban Land Institute. The Economics of Inclusionary Development, 2016, IX

pursuant to Ch. 18.13 but it does not include any affordable housing units. The PUD code requires affordable units and is therefore a mandatory program.

Incentives - These may be regulatory incentives, such as increased building height or density or financial, like reduced impact or utility fees. The new Planned Unit Development code has considerable incentives baked into it.

Recommendations

The Committee spent the next nine meetings discussing these questions or criteria with the goal to make recommendations to Council. The Committee's deliberation was detailed, intentional and made the recommendations on a consensus basis. The document "2022-04-12 draft Coles Valley PUD Affordability.doc" gives the precise recommendations, the following is a summary of the major provisions.

1. Definition of Affordable Housing Units

The following is the definition in the Langley Municipal Code: affordable housing units are those for which monthly housing costs including utilities do not exceed 30% of household monthly income for households with incomes at or below the following levels of area median income (AMI), adjusted for household size. Housing costs includes mortgage principal and interest, mortgage insurance, real property taxes, utilities, and hazard insurance, and, if applicable, homeowner's dues and assessments. For rental units, housing costs include utilities, such as water, sewer, garbage and other standard services, as well as any additional recurring assessments or fees associated with occupying the unit. Utility cost allowances shall be determined by average/base rates per unit and utility type. The Committee recommends the definition of affordability per Langley PUD code be changed to align with the definition used by the State Housing Trust Fund. At the time of recommendations, that definition as provided in the Housing Trust Fund Glossary is as follows:

Affordability is achieved when a household's rent and utility costs (other than telephone) do not exceed 30 percent of the monthly income for the targeted income group as adjusted for household size. In the context of homeownership, affordability occurs when a household's monthly housing costs are generally no more than 38% of monthly household income and total debt is no more than 45% of monthly household income. Housing costs include mortgage principal, interest, property taxes, homeowner insurance, homeowner association fees, and land lease fees, as applicable. Total debt includes other debt and utilities.

Typically, funding programs stipulate targeting households earning from $\leq 50\%$ AMI (Area Median Housing Income) for rental units and $\leq 80\%$ AMI for home ownership, and most IZ programs reflect these targets. There are provisions in State law that these levels can be increased based on localized conditions. The Committee based its

recommendations on the fact that there are a relatively large number of rental units in Langley available to households earning no more than 50% AMI (68 units, of which 49 are limited to age 55+.)

The Committee recommends that the rental AMI limit by 80% and ownership AMI limit by 100%. They also recommend that these are the AMI targets are the upper limit.

The Committee wants to see 75% of the affordable units be rentals, due to this being the type of housing that seems most needed to meet the City's housing goals (Housing Action Plan data not yet available to confirm.) However, there was concern that with the proposed sub-divisions amongst seven different developers, that would limit any one developer having sufficient units to qualify for rental construction subsidy programs. Due to this concern, the committee decided to provide flexibility, but to state a strong preference for rentals.

The Committee recommends that affordable units be available as both rental and home ownership and that priority be given to rental units. But that at no point should rentals be less than 50% of the affordable units unless the Housing Action Plan indicates otherwise.

2. Required Number of Affordable Units

This is about establishing the minimum number of affordable housing units that must be included in the development. Examples of inclusionary zoning programs that were reviewed ranged from 10 to 30 %.

The Committee discussed this requirement at length, seeking to balance the needs of the City with realistic considerations around financial feasibility and developer expectations for return on investment. Research was done on likely subsidy funding opportunities and their requirements. The committee determined that a larger number of affordable units would actually increase the likelihood of subsidization awards and private equity incentives, which would in turn make affordable unit construction financially feasible.

At the same time, the Committee recognized that this would be the largest single development opportunity for the City, and therefore the best chance of achieving measurable impact on the lack of housing for the local workforce.

While this work was underway, the City submitted an application to the Dept. of Commerce from South Whidbey LLC which stipulated approximately 50% of the total

PUD units would meet affordability requirements if a CHIP (infrastructure cost offset) award were granted.

The Committee recommends that 30% of all residential units be affordable to income levels stipulated under the separate but interrelated recommendations.

3. Location of units

Best practices suggest that affordable housing units should be scattered around the neighborhood, so they are indistinguishable from market units and reduces the potential for stigmatization, as well as disproportionate distribution of common benefits and maintenance.

The Committee recommends that affordable units be distributed throughout the PUD, in a mixed-income configuration.

The Committee's recommendation recognizes that the details of the application are still unknown and there may be circumstances, due to subsequent subdivisions within the PUD, where concentration of affordable units may be advisable.

The Committee recommends that variance from this recommendation could be identified as a minor amendment per Ch. 18.26 and can be stipulated in the development agreement, but that in no case should the affordable units be distributed through less than three sub-area developments (of the currently proposed 7 sub-area developments.)

4. Term of affordability

Most existing affordable housing programs are required to conform to affordability terms of from 8 to 40 years. While some incentive programs, for example Low Income Housing Tax Credits, have required minimum 12 year terms for the sake of attracting private equity partners, most jurisdictions have recognized a significant loss of units when terms expire and units are converted to market rate. As such, many government programs are now requiring "permanent" affordability, as does LMC Ch. 18.04. The Committee identified the goal that regardless of funding tools the units should stay affordable for as long as possible. The committee did not have enough data to set a recommendation for price appreciation of homeownership units, but a limit must be set to make this provision practicable, and 3% was suggested. Both Habitat for Humanity and Upper Langley have established an appreciation factor in their covenants. As follows, Habitat uses 1.5% compound interest per year based on the initial contribution by the homeowner. This is calculated on the home only as the land is owned by Habitat. Upper Langley also has an escalating appreciation factor.

The Committee recommended that the term be 99 years for rental units and in perpetuity for ownership units. The Committee recognized that for this to be achieved strong legal tools including recorded deed restrictions as well as ongoing management and monitoring to assist in keeping families in their homes are key elements are required components of a program.

5. Program Administration

This criterion is closely tied to the one above in that beyond the construction phase, there is a necessity to provide ongoing resident income qualification and, in the case of ownership, price appreciation compliance, to achieve affordability goals for the long term.

The Committee recommends that identification of contractually-engaged, qualified affordable housing owner/operator(s) be required. The Committee further recommends that for such organization(s) to be considered qualified they shall generally align with those defined under HUD rules for Community Housing Development Organizations (CHDOs).

6. Type and size of units

Ideally there is a mix of single and multi-family units that are suited to households of various sizes. The Committee discussed that much of the new single family homes being built, and that have been built within subdivisions for the past two decades have only two bedrooms. The Committee reflected upon the unmet housing needs of larger families, as well as the ability for young singles entering the workforce to form shared households which provide social and financial mutual aid. Market rate housing that has been developed in Langley over the past two decades has predominately been two-bedrooms or less.

The Committee recommends that 75% of affordable units must have at minimum 3 bedrooms.

7. Non-discrimination

The state mandates that historical policies that led to disparate racial and ethnic outcomes be concretely addressed within jurisdictional Housing Action Plans. Also, with a median age of 64, Langley has an unsustainable demographic tilt, with local employers reaching crisis staffing levels, unable to find housing for a younger workforce, often with children. At the same time, current residents have few options to change housing, due to extremely low inventory. The committee recognized the need to proactive address these dynamics.

The Committee recommends a requirement that all units within the PUD be rented or sold using an affirmative marketing program to current residents of South Whidbey

Island and also to communities which are under-represented in the Langley housing market, such as ethnic and racial minorities.

The Committee expressly recommends that HOA's and rental operators shall not adopt policies that disproportionately affect resident children, or are based on familial status (e.g. restricting use of open spaces by age, or by activity beyond reasonable safety measures.)

8. Quality

Affordable units shall be comparable in terms exterior materials and appearance as the market rate units in the project.

This reflects the committee recommendation that there should be no discernable difference between market and affordable units.

9. Phasing

This element recognizes that the proponent intends to apply for a long plat and develop the underlying infrastructure and then sell of each of the sub-areas or blocks that will be developed by others over unknown time frames. The Committee recognized it is critical to ensure that the affordable housing units are built at the same time as the market units and aren't left until the end.

The Committee recommends that at no time during development, can the number of completed designated affordable units in receipt of certificate of occupancy be less than 30% of all completed units in the project.

10. Bond

Due to the complexity of the South Whidbey LLC proposal, there is significant risk that the PUD will be approved but that the affordable housing unit construction does not proceed, for many foreseeable reasons. Requiring a construction bond is a common method to insure that if a developer does not follow-through on requirements, the jurisdiction can at least recoup funds to provide for the un-completed obligations through other means. Other sections of the Municipal Code identify 110% of the value of the work as a performance bond. However, in terms of what the bond requirement should be in this instance of a specific number of residential units, it was beyond the expertise of the committee to determine how to reasonably value "the work", per typical Langley construction bond requirements. In addition, the committee was unclear whether any bond payment should be remitted to the City, thus mandating the City to fund construction of affordable units elsewhere, or to the County's housing trust fund, which is only now being initiated, or other options not yet defined.

The Committee recommends requirement of a bond against development of affordable units, the terms of which to be determined by more qualified agents on behalf of the City.

11. Short term rentals

Due to the impacts that short term rentals to housing availability in the City as a whole, the Committee recommends that no short-term rental units be permitted in the PUD, the prohibition applicable for both market and affordable units.

The Committee further recommends that HOA policies and/or fees for market-rate PUD units disincentivize purchase or rental as anything other than primary residences.

**COLES VALLEY PLANNED UNIT DEVELOPMENT
AFFORDABLE HOUSING REQUIREMENTS
RECOMMENDATIONS TO CITY COUNCIL ON 4/18/2022
BY LANGLEY AFFORDABLE HOUSING SUB COMMITTEE V. 2022-04-12**

We recommend that any approved development agreement reflect the following goals and expectations of the City of Langley.

Definition of Affordable Unit. Affordable rental units are defined as those for which monthly housing costs including utilities do not exceed 30% of household monthly income for households with incomes at or below the following levels of area median income (AMI), adjusted for household size. Affordable homeownership units are defined as those for which monthly housing costs including utilities do not exceed 38% of household monthly income for households with incomes at or below the following levels of area median income (AMI), adjusted for household size. For ownership units, housing costs includes mortgage principal and interest, mortgage insurance, real property taxes, hazard insurance, utilities such as water, sewer, garbage, electricity, and other standard services, and, if applicable, homeowner's dues and assessments. For rental units, housing costs include rent and utilities, such as water, sewer, garbage, electricity, and other standard services, as well as any additional recurring assessments or fees associated with occupying the unit. Utility cost allowances shall be determined by average/base rates per unit and utility type.

Required Number of Affordable Units. 30% of the number of units in the project must be affordable at the defined income levels:

Rental units at 80% of AMI
Ownership units at 100% of AMI

The City has a strong preference for affordable rental units and recommends 75% of the affordable housing units be rentals.

At no point shall the number of affordable rental units represent less than 50% of the total number of affordable units.

Location of Affordable Units. 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.

Term of Affordability. Affordable rental units must remain affordable at specified income levels for the life of the units or 99 years, whichever is longer.

A deed of trust shall be recorded for ownership units that will require the units remain affordable in perpetuity. The deed shall additionally stipulate resale price restrictions based on Island County Tax Assessment at time of initial sale, with annual appreciation limits as agreed upon by the City and the Developer, but in no case to exceed ___ % appreciation, compounded per assessment year. Proponent will provide an acceptable monitoring and verification process to fulfill income limit requirements for all subsequent purchasers or assignees.

Program Administration. Proponent will provide evidence of contractual relationship with qualified affordable housing developer/rental operator partner(s) to develop units, and to provide ongoing resident income qualification and rental management, as appropriate. Qualifications shall generally align with those defined under HUD rules for Community Housing Development Organizations (CHDOs).

Units shall be bound by recorded covenants, which will include provisions requiring long-term (greater than 30 day) rental terms, prohibiting sublet of rental units, and requiring primary residency for homeownership units. Covenants shall specify specific remedies for non-compliance.

Size of Units. In order to encourage demographic diversity, a minimum of 75% of all affordable units will be 3 or more bedrooms. Income-restricted units shall be targeted toward household sizes at time of purchase or residency application that are commensurate with number of bedrooms. (E.g. minimum 3 people for a 3 bedroom unit.) Maximum occupancy shall be based on bedroom square footage area, per current Washington State Human Rights Commission occupancy guidelines, rather than a 2 person per nominal bedroom standard.

Non-discrimination. HOA's and rental operators shall not adopt policies that disproportionately affect resident children, or are based on familial status (e.g. restricting residents to legally-bound familial structures.)

All units within the PUD will be rented or sold using an affirmative marketing program to current residents of South Whidbey Island and also to communities which are under-represented in the Langley housing market, such as ethnic and racial minorities.

Quality. Affordable units will be comparable in terms exterior materials and appearance as the market rate units in the project.

Phasing. The affordable housing units must be constructed over the same time period as the market rate units in the development. At no time during the development can the number of completed affordable units in receipt of certificate of occupancy be less than 30% (the agreed upon requirement) of total units completed to date.

Bond. Proponent shall provide bond of _____% of _____ payable to _____ (either the County Housing Fund, or to the City with proceeds restricted to affordable housing construction or acquisition,) in the event of default or failure to perform the affordability requirements contained within the final development agreement.

Reporting. During the residential buildout period, the Developer shall submit a report annually, by December 15, documenting the progress over the calendar year toward meeting the affordability requirements. Each report will include a tally of the total number, type and location of affordable units constructed over the same period. The report will also include a description of anticipated efforts for the coming year for overall housing development and for meeting the housing affordability requirements.

For ownership housing, the developer will also specify, at a minimum, any executed sales price, the purchaser's income and proof of notice receipt regarding the resale restrictions. For rental housing, annual reports subsequent to build-out will report number of renters by household size and type, and household income range.

Short Term Rentals. Type IV short term rentals shall not be permitted within the PUD, regardless of whether the units are affordable or market rate.



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.

The open space tracts are negotiable. Ideally, they would remain the responsibility of the HOA (privately maintained) but the CCR's or an easement would 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 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)