

**REPORT TO THE
PLANNING, TRANSPORTATION AND PROTECTIVE SERVICES COMMITTEE
MEETING OF WEDNESDAY, OCTOBER 26, 2011**

SUBJECT

North Saanich Official Community Plan (OCP) and Rezoning Amendment: Proposed OCP Amendment Bylaw No. 1280 – Lots 2, 3, 4 and 5 and Part Lots 6, 7 and 8, Section 14, Range 2 East, North Saanich District, Plan 6103 and Part Lot 2, Sections 13 and 14, Range 1 East, North Saanich District, Plan 8126 – Sandown Raceway Proposal.

PURPOSE

This report responds to a request from the District of North Saanich to consider the above-noted application, as it pertains to the District's Regional Context Statement.

BACKGROUND

The District of North Saanich has referred a proposed OCP amendment to the Capital Regional District (CRD) for review and consideration with regard to their regional context statement (RCS).

Correspondence was received from the District of Central Saanich, dated September 13, 2011, containing the amending by-laws for the OCP and zoning bylaw as well as a staff report with a request for consideration under Section 866 of the *Local Government Act*. Section 866 provides for the regional Board's consideration of acceptance of any new or revised Regional Context Statement (RCS). The by-laws have received first and second readings by District Council.

The letter and Bylaw No. 1280 are included in Appendix 1.

North Saanich staff have worked with the owners of the Sandown Raceway to develop a proposal whereby the 38.5 ha (95 ac) property currently held in 8 titles would be consolidated into two titles – one of 33.6 ha (83 ac) for agriculture and one of 4.9 ha (12 ac) for commercial use. The proposal also involves a parcel of land approximately 4.9 ha (12 ac) in size that is currently owned by the municipality. Figure 1, based on Schedule 1 of Bylaw 1280, shows the subject lands by parcel.

Currently, the Sandown Raceway property is within the Agricultural Land Reserve (ALR). The proposal involves removing the proposed commercial parcel (Parcel A) from the ALR and replacing it with 4.9 ha (12 ac) of municipal lands in the immediate vicinity (Parcel B) resulting in no net loss of ALR lands. The municipal parcel (Parcel B) is located to the immediate north of the District municipal office, adjacent to Parcel C. The owners of the Sandown Raceway have also agreed to convey the 33.6 ha (83 ac) parcel (Parcel C) to the municipality to be used for agriculture into perpetuity. This would be facilitated by the municipality entering into a memorandum of understanding with the Agricultural Land Commission (ALC) to make a policy commitment to fund agricultural improvements using 50 percent of the incremental increase in tax revenue for a minimum period of 5 years.

The Sandown lands are designated 'Agricultural' in the OCP and the affected municipal lands are designated 'Community Uses'. The subject lands are designated as 'Renewable Resource Lands' within the CRD Regional Growth Strategy (RGS) in recognition of their ALR status. They are identified as 'Rural Protection Area' on the Regional Context Statement Map (Bylaw 1280, Figure 2) of the OCP.

The subject lands are outside the Regional Urban Containment and Servicing Policy Area (RUCSPA) in the RGS as the RUCSPA was not applied in the District of North Saanich. North Saanich does not recognize settlement areas within its OCP. Instead, it delineates a 'North Saanich Servicing Area' to serve a similar purpose to the RUCSPA, within which residential, commercial and industrial uses are permitted. Currently, only the municipal lands (Parcel B) are within the 'North Saanich Servicing Area' boundary. Parcel A is currently serviced by municipal water only.

The OCP amendment application is to change the land use designations such that:

- Parcel A will be removed from 'Parcels within the ALR', 'Rural Protection Area' and 'Agricultural' and added to 'North Saanich Servicing Area', 'Commercial' and 'New Sewer Area'.
- Parcel B will be removed from 'North Saanich Servicing Area' and 'Community Uses' and added to 'Rural Protection Area', 'Agriculture' and 'Parcels within the ALR'.
- Parcel C will be removed from 'Agriculture' and added to 'Special Agricultural'.

Current zoning of the Sandown lands is 'Exhibition (P-6)' and 'Agricultural Rural 3 (A-3)'. A concurrent zoning amendment application seeks to re-zone the lands that will remain in agricultural use (Parcels B and C) to 'Sandown Community Agriculture (P-6)' and Parcel A to 'Sandown Commercial (C-5)'.

The Sandown lands currently contain a number of dilapidated barns that are to be removed, as well as a cell tower. The subject lands are not currently in agricultural use. To the north, west and south are lands within the ALR. Lands to the east are within the Town of Sidney and are used for commercial purposes.

ALTERNATIVES

1. Notify the District of North Saanich that the proposed Regional Context Statement amendments pertaining to the referred development proposal described in Report No. PPS/RP 2011-13 are not accepted at this time, for the reasons that said amendments are not consistent with the following parts of the Regional Growth Strategy:
 - a. the Regional Urban Containment and Servicing Policy Area (RUCSPA) and the Renewable Resource Area indicated on Map 3 (Growth Management Concept Plan),
 - b. the servicing policies of Section 1.1, Action 5 and Section 1.2, Action 3,
 - c. the renewable resource policies of Section 1.2, Action 2.

Further that the CRD Board initiate an amendment to the RGS that would:

- a. provide a text edit in the RGS to recognize the exception in service extension for new development on Parcel A, as identified on Schedule 1 of Bylaw 1280,

- b. remove Parcel A and add Parcel B, as identified on Schedule 1 of Bylaw 1280, from/to the Renewable Resource designation on Map 3, and
 - c. provide a corresponding text edit in the RGS to permit the swapping of land between the ALR and other uses, subject to no net loss in quantity or quality of land.
2. Notify the District of North Saanich that the proposed Regional Context Statement amendments pertaining to the referred development proposal described in Report No. PPS/RP 2011-13 are not accepted at this time, for the reasons set out in Alternative 1;

Further that the CRD Board initiate a minor amendment to the RGS as per the amendments proposed in Alternative 1.

3. Notify the District of North Saanich that the proposed Regional Context Statement amendments pertaining to the referred development proposal described in Report No. PPS/RP 2011-13 are not accepted, for the reasons set out in Alternative 1.

Further that the CRD Board resolve to defer the amendments for the development proposal to the Regional Growth Strategy review process.

4. Notify the District of North Saanich that the Board has reviewed the referred development proposal described in Report No. PPS/RP 2011-13 and accepts the Regional Context Statement, as amended.

GROWTH STRATEGY IMPLICATIONS

Regional Context Statement (RCS) Requirements: the RGS is guided by the provisions of the *Local Government Act* (LGA). Section 866 of the LGA requires member municipalities to prepare a RCS following adoption of the RGS. A RCS forms part of a municipal OCP and addresses how local planning and land use policy will work towards the goals and objectives established in the RGS to achieve consistency. RCSs are the key implementing mechanism of the RGS. According to the LGA, the context statement must:

1. Identify the relationship between the OCP and the content of the RGS;
2. If the OCP is not consistent, indicate how the municipality intends to bring itself into consistency with the RGS over time, and
3. Be consistent with the rest of the OCP.

The RCS is subject to acceptance by the Regional Board to ensure that an appropriate level of consistency exists between the local land use plan and the RGS.

The District of North Saanich's RCS was accepted by the Board in May 2007.

Regional Context Statement Consistency Considerations:

The lands are designated as Renewable Resource Lands in the RGS; such designation applies to lands within the ALR which are also typically designated in OCPs for agricultural purposes. The RGS proposes that these areas remain in agricultural production over the long term. On the OCP land use schedule, the subject lands will be designated Agriculture or Special Agricultural, with the exception of Parcel A, which is proposed for Commercial designation. On the RCS

schedule (Figure 2 of Bylaw 1280), Parcels B and C are proposed for designation to Rural Protection Area.

The North Saanich RCS is somewhat unorthodox in that it does not have a Regional Urban Containment and Servicing Policy Area (RUCSPA) delineation nor does it recognize urban or settlement areas. Rather the RCS provides for residential, commercial and industrial uses within a North Saanich Servicing Area, which prevents the extension of services into the Rural Protection Area to service new development. Non-agricultural commercial uses are not supported in the Rural Protection Area.

The District is seeking to accommodate this proposal through amendments to the OCP and RCS that would:

- Create a new commercial area to accommodate non-agricultural commercial uses in an area currently within the ALR;
- Create a new area of North Saanich Servicing Area for Parcel A and retract this designation from Parcel B;
- Necessitate an exception to established servicing policy regarding extensions to service new development;
- Require the extension of municipal sanitary services to Parcel A;
- Remove lands from the ALR (Parcel A) and replace them with an equivalent area (Parcel B);
- Restore 38.5 ha (95 ac) of land to long-term agricultural use within the ALR.

In their report, District of N. Saanich staff anticipate that an amendment to the RGS is also required to facilitate this proposal and favour the option of a minor amendment process.

Under usual circumstances, a proposal of this nature would require extension of the RUCSPA to include the parcel proposed for new serviced development (Parcel A). This would involve an amendment to the RGS, not just the context statement. Without a RUCSPA, the District uses the North Saanich Servicing Area boundary to the same effect, including policies that would preclude extension of services beyond this boundary for new development. The North Saanich RCS indicates that:

“Any change to the boundary of the North Saanich Servicing Area will require the approval of the CRD Board through the acceptance of a revised regional context statement.”

However, this proposed change in the boundary of the North Saanich Servicing Area also necessitates a change to established servicing policy to make several exceptions for new fully serviced development on Parcel A. Parcel A was not designated for growth and development in the 1998 North Saanich OCP. The agreement reached in the RCS was that the North Saanich Servicing Area would contain growth, in a similar fashion to the RUCSPA, by not expanding services beyond the limits designated in the 1998 OCP. The proposed change in the North Saanich Service Area boundary is equivalent to a change to the RUCSPA and therefore, should only be done with an amendment to the RGS itself.

Since the lands are not located within the RUCSPA as outlined on RGS Map 3: Growth Management Concept Map (Appendix 2) and an exception to the servicing policies would be required to accommodate new development outside of the North Saanich Servicing Area as it existed in the 1998 OCP, Section 1.1, Action 5 and Section 1.2, Action 3 of the RGS cannot be satisfied by only amending the RCS. In order for there to be consistency with the OCP and the RCS, the ideal solution would be to revise RGS Map 3 to designate Parcel A to be within the

RUCSPA. As Parcel A is immediately contiguous to the RUCSPA that corresponds to the Town boundary of Sidney, an extension is possible. However, as N. Saanich has opted not to apply the RUCSPA and this was accepted by the Board in the original RCS, the amendment to the RGS would take the form of a text edit that would recognize the exception in service extension to permit new development on Parcel A.

Municipal staff contend that the proposal will be a net benefit to the agricultural community of the District through the future intended use and improvement for agricultural purposes of lands that are currently zoned for commercial exhibition purposes. Part of the OCP amendment involves providing for a swap in ALR land where it can be demonstrated that there is a “*clear overriding benefit to agriculture and the community*”. The RGS provides for the long-term protection of Renewable Resource Lands through designation; specifically, Action 2 of Section 1.2 indicates that:

“The CRD, member municipalities and the Province agree to establish or strengthen policies within Official Community Plans, that ensure the long-term protection of Renewable Resource Lands depicted on Map 3 & 4. This would include policies aimed at buffering Renewable Resource Lands from activities in adjacent urban areas, and policies that support farming within the Agricultural Land Reserve, and forestry and silviculture within the Forest Land Reserve.”

While there is no outright prohibition to removing lands from the Renewable Resource Lands designation, the intent of the policy is clear that such lands should remain in agricultural production, not be taken out for non-agricultural commercial purposes. However, the RGS also does not anticipate the notion of swapping ALR lands such that there is no net loss of area within the ALR, as is proposed by North Saanich. Regional planning staff concur that this proposal has merit that can be applied to support an amendment to the RGS to remove Parcel A from the Renewable Resource designation on Map 3 and add Parcel B to said designation. To further support the RGS policy intent above, the District of North Saanich also included wording in the RCS ensuring that any lands proposed for addition to the ALR in exchange for an exclusion should be of an equivalent area, in an appropriate location and have suitable agricultural potential in comparison to the lands proposed for exclusion.

MINOR OR MAJOR AMENDMENT

The *Local Government Act (LGA)* provides for a minor amendment process for RGSs in Section 857.1. Ideally, there would be a policy framework established in the RGS for determining what constitutes a minor amendment, and such a policy framework is anticipated for the Regional Sustainability Strategy. However, one does not exist in the current RGS and Subsection 3 of the *LGA* permits a regional district to undertake a minor amendment in the absence of such a policy framework where the Regional Board determines that an amendment is minor in nature. The process for a minor amendment is summarized in Figure 2 and as follows:

- 1) The Regional Board gives notice to each affected local government, specifying that the amendment is minor, 30 days prior to the Board meeting where the amending bylaw would be considered for first reading;
- 2) Before first reading, the Board must allow affected local governments to make representations to the Board;
- 3) If at first reading, the amending bylaw is supported by all Board members attending the meeting, i.e. a unanimous vote, the bylaw can be adopted in accordance with the Board's procedures for adopting an RGS under S. 791 and the Board's procedural bylaw;

- 4) If at first reading, the amending bylaw is not supported by all board members in attendance, the amendment must proceed through the usual amendment process (Figure 3), which includes a 60-day referral to all municipalities and unanimous acceptance of the bylaw by all municipalities prior to the Board's re-consideration. Where unanimous acceptance cannot be achieved, the dispute resolution processes of the *LGA* may be employed.

From the perspective of the RGS, the two primary policy areas at issue with the North Saanich proposal are:

- Extension of services beyond the current containment boundary to provide for new development that was not anticipated at the date of adoption of the RGS, in this case through the municipality's 1998 OCP; and
- The removal of ALR land from the Renewable Resource Area designation, in exchange for an area equivalent in area and quality and preferably in the immediate vicinity.

As the servicing policies of the RGS are fundamental to the initiative of "Keeping Urban Settlement Compact" and the designation of Renewable Resource Area is the primary instrument in protecting ALR lands from removal from agricultural production, it is difficult to qualify amendments to these policy areas as minor. However, in this case, the removal of ALR lands is compensated by the proposed swap of an equivalent amount of land, resulting in no net loss, which may, on balance, be considered minor even though there is no policy framework to provide for acceptable land swapping practices. Regarding servicing, the current policy framework in North Saanich is somewhat unorthodox, as previously indicated. A more fulsome review of the servicing policies for North Saanich is warranted, and will be undertaken as part of the RGS review.

A full debate on these major policy areas will occur as part of the RGS review and transition to the Regional Sustainability Strategy (RSS). This amendment is instrumental in illustrating that the policy framework for major policy areas of the RSS needs to provide flexibility for local circumstances or conditions without undermining regional planning principles. Further, by addressing these circumstances in policy, the difference between a minor or major amendment or whether an amendment is necessary at all will be clarified. Another solution for this application is to defer consideration of the RGS amendment to the RSS review process, although that would not be the most expedient solution.

FINANCIAL IMPLICATIONS

N/A

CONCLUSION

The application seeks to amend the RCS to accommodate the creation of a new non-agricultural commercial area consisting of 4.9 ha (12 ac) adjacent to the Pat Bay Highway in North Saanich. In order to do this, adjustments are required to several OCP and RGS designations. In addition, the extension of services to the new commercial block requires an exception in the RGS policy as there is no RUCSPA. While the municipality has submitted a bylaw amending the RCS, what is also required is an amendment to the RGS to accommodate the proposal. The municipality has acknowledged the need for an RGS amendment in their staff report. There is merit in considering the RGS amendment as the municipality has identified several benefits to agriculture that would arise from this proposal.

Four alternatives are advanced, three of which reject the recommended amendments to the RCS proposed in the bylaw, at least for the time being while an amendment to the RGS is processed. The proposed RCS amendments will need re-consideration by the Board for acceptance, should the RGS be amended as described in this report.

Of the first three alternatives, one proposes that the Board initiate an amendment to the RGS using the usual process set out in the *LGA*, another proposes that the RGS be amended using the minor amendment process and the third suggests that the proposal should be deferred to the RGS review process and addressed in the RSS. It is questionable whether the amendment of key servicing and renewable resource policies affected by this application could be considered minor. On the other hand, if the Board determines that the circumstances associated with the amendments proposed by N. Saanich are minor, the minor amendment process could be initiated and, subject to the vote on first reading, may revert to the usual process if it is not unanimously supported. Therefore, staff recommend Alternative 2 to proceed with the amendment.

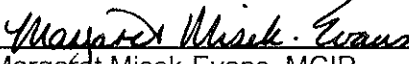
RECOMMENDATION


That the CRD Board notify the District of North Saanich that the proposed Regional Context Statement amendments pertaining to the referred development proposal described in Report No. PPS/RP 2011-13 are not accepted at this time, for the reasons that said amendments are not consistent with the following parts of the Regional Growth Strategy:

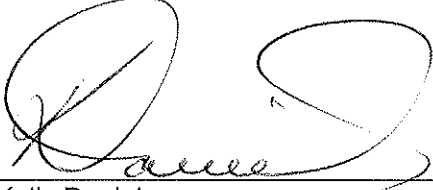
- a) the Regional Urban Containment and Servicing Policy Area (RUCSPA) and the Renewable Resource Area indicated on Map 3 (Growth Management Concept Plan),
- b) the servicing policies of Section 1.1, Action 5 and Section 1.2, Action 3,
- c) the renewable resource policies of Section 1.2, Action 2.

Further that the CRD Board initiate a minor amendment to the RGS that would:

- a) provide a text edit in the RGS to recognize the exception in service extension for new development on Parcel A, as identified on Schedule 1 of Bylaw 1280,
- b) remove Parcel A and add Parcel B, as identified on Schedule 1 of Bylaw 1280, from/to the Renewable Resource designation on Map 3, and
- c) provide a corresponding text edit in the RGS to permit the swapping of land between the ALR and other uses, subject to policies requiring addition of lands of equivalent area, in an appropriate location and with suitable agricultural potential in comparison to the lands being excluded.


Margaret Misek-Evans, MCIP
Senior Manager,
Regional and Strategic Planning


Robert Lapham, MCIP
General Manager,
Planning and Protective Services


Kelly Daniels
Chief Administrative Officer

- Appendix 1: District of North Saanich Letter of August 9, 2011 and proposed Bylaw No. 1280
- Appendix 2: RGS Map 3 Growth Management Concept Map
- Figure 1: Sandown Development Proposal
- Figure 2: RGS Minor Amendment Process
- Figure 3: RGS Amendment Process