

CAPITAL REGIONAL DISTRICT
Regional Planning Services Department

Staff Report to the Regional Planning Committee
Meeting of Wednesday, October 20, 2004

SUBJECT:

Proposed Waterline Extension to the De Mamiel Estates Development, Section 6, Otter District (2900 block Otter Point Road)

BACKGROUND:

- August 13, 2003: CRD Regional Growth Strategy (Bylaw No. 2952) approved by the Board.
- October 22, 2003: DeMamiel Estates application to amend (Z-08-03) the Sooke Electoral Area Official Community Plan (Bylaw No. 1645) and zoning bylaw introduced to Land Use Committee "A".
- Nov. 14, 2003: CRD Water Department establishes conditions for supplying water to the site if the Juan de Fuca Water Distribution Commission approves an application to amend the local service area bylaw to include the proposed subdivision.
- February 18, 2004: Land Use Committee A gives consideration to amendments Z-08-03.
- March 24, 2004: The Board receives a legal opinion from the regional solicitor (dated March 1, 2004 – Attachment A) on the extension of regional services and land use decision making in the Juan de Fuca Electoral Area (JDFEA) under the CRD's regional growth strategy bylaw. Further, the Board approves by resolution the RGS Corporate Implementation Strategy, which requires servicing extension requests to be forwarded through Regional Planning Services to Regional Planning Committee (RPC) and the Board for consideration.
- April 21, 2004: RPC receives as information a legal opinion by Mr. Peter Klassen, Crease Harman and Company, council for De Mamiel Estates Limited, regarding service extensions and land use decision making in the JDF EA under the RGS bylaw (Attachment B).
- June 8, 2004: Public hearing held on amendment Z-08-03.

- July 28, 2004: Public meeting sponsored by De Mamiel Estates Limited held at Otter Point Fire Hall on their proposal to extend CRD water 1.5 km. on Otter Point Road.
- August 11, 2004: Amendment bylaws adopted by the Board.
- October 5, 2004: Application to extend CRD water services to De Mamiel Estates site at 2900 block Otter Point Road considered by the Juan de Fuca Land Use Committee and referred to Regional Planning Services and Water Services for comment (Attachment C).

DISCUSSION:

Summary of the Proposal

On August 11th the Board approved OCP and Zoning Bylaw Amendments to permit the subdivision of lands adjacent to DeMamiel Creek in the 2900 block Otter Point Road. During consideration of the application two options were discussed for the provision of water: either by individual wells or by an extension of the existing CRD waterline that terminates approximately 1.5 km. east of the subject property. Because the site is outside the Regional Urban Containment and Servicing Policy Area (RUCSPA) as defined on Map 3 in the RGS, extending regional water services to the site would put the CRD in non-compliance with the RGS in the view of the regional solicitor, and would require an RGS amendment to be permitted.

An October 5, 2004 staff report from JDF EA Planning Department outlines a proposal to permit extension of CRD water to the site, on the basis of an RGS provision that would permit the extension of water service outside the RUCSPA to provide fire suppression. The report includes as well public submissions of support for the proposal (Attachment D). The Juan de Fuca Land Use Committee reviewed the proposal and passed a recommendation that the Board grant permission to extend the waterline on the basis of public safety related to potential interface wildfire hazard.

The RGS Policy Context

1. The RGS Growth Management Strategy

The long term land use vision in the RGS is one where the bulk of future regional growth is accommodated within existing designated urban and suburban areas, and the rural areas of the region remain rural for the long term. To ensure that this happens over time, the RGS contains two complementary growth management strategies: keep urban settlement compact, by focusing growth on a pattern of nine major centres within a stable urban containment boundary; and, protect the integrity of rural communities, by limiting the amount of growth and development in rural areas to that permitted in existing official community plans (OCP's).

These growth management strategies are supported by a regional servicing strategy that seeks to prevent the extension of water and sewer services beyond the RUCSPA. These three strategies work together to achieve the overall regional growth management vision. This intent is given bylaw expression in RGS Initiative 1.1 (Keep Urban Settlement Compact), Action 5 which states:

“The CRD and member municipalities agree not to further extend urban sewer and water services, or increase servicing capacity to encourage growth beyond designated official community plan limits at the date of the adoption of the Regional Growth Strategy bylaw [August 13, 2003], outside the Regional Urban Containment and Servicing (RUCS) Policy Area generally described on Map 3, except to address pressing public health and environmental issues, to provide fire suppression or to service agriculture.”

2. Servicing Beyond the Regional Urban Containment and Servicing Policy Area (RUCSPA) in the Juan de Fuca Electoral Area (JDFEA)

The RGS currently defines the entire JDF EA as outside the RUCSPA. The RGS gives the CRD two years from the date of RGS adoption (that is, until August 13, 2005), to update the official community plans for the JDF EA in “...a manner that maintains a long term rural vision for the Electoral Area (RGS Initiative 1.1, Action 6).” The OCP’s for the JDF EA are in process of being updated and on October 5, 2004 the JDF Land Use Committee considered recommendations to refer draft OCP’s for Malahat, East Sooke, Shirley/Jordan River, and Otter Point to agencies for comment.

The CRD’s RGS Corporate Implementation Strategy, approved by the Board on March 24, 2004, confirms the RGS policy to restrict the extension of piped services beyond the RUCSPA. Regional service extensions beyond the RUCSPA require either an amendment to the RGS, or approval of the Board on the basis of the exceptions noted above in Initiative 1.1, Action 5. The three exceptions are:

- I. To address pressing public health and environmental issues;
- II. To provide fire suppression; or,
- III. To service agriculture.

The RGS calls for (implementation action I-2) the establishment in a Master Implementation Agreement, of criteria to guide the extension of services beyond the RUCSPA within two years of the adoption of the RGS (ie: by August 13, 2005). Criteria to help the Board in evaluating requests to extend piped service extensions beyond the RUCSPA are scheduled for preparation in 2005.

Consideration of the Proposal

The proposed DeMamiel Estates subdivision can proceed to development as approved on the basis of private wells, although it has been noted that this may result in a drawdown of groundwater that could negatively affect minimum stream flows in DeMamiel Creek, a salmon-bearing stream. CRD water on-site would provide a reliable source of water for fire suppression. However, the risk of hazard due to wildfire could also be addressed through the use of fire-resistant building materials, removal and ongoing suppression of flammable vegetation, and building separation along with the installation of on-site holding tanks specifically constructed to provide a reserve supply of water for fire suppression.

Although the risk of wildfire hazard is no doubt real, this is a general hazard facing all un-serviced parts of the Capital Region, including the electoral area and rural municipalities. From the perspective of RGS policy, extending regional waterlines in an effort to pre-emptively address wildfire risk attendant upon residential development in forested areas, runs the risk of supporting the ongoing spread of partially-serviced, suburban density development further into the countryside, contrary to the growth management intent of the RGS. While it takes urban sewer services to support higher density urban development, water services are sufficient to enable the extension of large lot suburban style development (with septic tanks) across the water service area.

At the same time however, the Otter Point OCP update is currently in progress and is expected to conclude by year-end. Although Regional Planning Services has not yet received a review copy of the draft Otter Point OCP, we understand that it may include defined settlement areas, including in the Otter Point Road area, which would permit limited water service extension in a manner that maintains rural character. The applicant would like to proceed to construction and argues that if servicing will be permitted by year-end, that common sense would indicate that an exception should be made to permit him to extend the waterline to his site now at his cost.

Options for Consideration

There appear to be four options available to the Committee and Board for consideration:

1. Refuse the request and let the subdivision proceed on the basis of private wells.
2. Approve the request on the basis of an exception under RGS Initiative 1.1, Action 5 for fire suppression purposes.
3. Entertain an amendment to the RGS bylaw to include the 2900 block Otter Point Road within the RUCSPA (this would require the unanimous approval of all member municipalities).

4. Table the request and reconsider following review and adoption of the new Otter Point OCP.

It is the view of Regional Planning Services that the argument that water service should be extended to this site (and by extension similar sites elsewhere and in future) on the grounds that a) it is situated in an area of potential wildfire hazard, and b) the developer is prepared to extend the service at his cost, sets an unwise policy precedent that has the potential to undermine the intent of the RGS growth management strategy if applied over time. The updated Otter Point OCP is at draft stage and may include provision for some extension of water services in the area. This creates the unusual situation for the applicant whereby what is not permitted now, may be permitted in a few months time. Nevertheless, to approve the extension of CRD water service to the 2900 block Otter Point Road would have the affect of prejudging, and perhaps pre-determining the outcome of the public review and approval process for the draft Otter Point OCP.

RECOMMENDATION:

That Regional Planning Committee recommend to the Board that the application to permit the extension of CRD water services to the 2900 Block Otter Point Road on the grounds of providing fire suppression as permitted under RGS, be tabled and reconsidered following the adoption of the new Otter Point OCP.

RGS CONSISTENCY

The proposed waterline extension beyond the regional urban containment and servicing policy area is inconsistent with the Regional Growth Strategy.

FINANCIAL IMPACT OF THE RECOMMENDATION:

Mark Hornell, MCIP
Director - Regional Planning Services

EXECUTIVE DIRECTOR'S COMMENTS:

W.M. Jordan, Executive Director