

CAPITAL REGIONAL DISTRICT
Regional Planning Services Department

Staff Report to the Regional Planning Committee
Meeting of Wednesday, November 17, 2004

SUBJECT:

Comments on Draft Otter Point Official Community Plan

BACKGROUND:

August 13, 2003: CRD Regional Growth Strategy (Bylaw No. 2952) approved by the Board.

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, and reference to the RGS in all CRD comprehensive plans, including official community plans for the Juan de Fuca Electoral Area.

October 27, 2004: The Board tables an application to extend CRD water services, on the grounds of providing fire suppression, to De Mamiel Estates site at 2900 block Otter Point Road, to be reconsidered following adoption of the new Otter Point OCP.

DISCUSSION:

The *Local Government Act*, section 876 gives local governments the authority to adopt OCP's by bylaw. Section 877 (1) & (2) sets out the required content of an OCP, including under subsection 1 (a) "the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years;" and, under subsection (1-e) "the approximate location and phasing of any major road, sewer and water systems."

Section 878 identifies the policy statements that an OCP may include, notably in subsection 1-b, "a regional context statement, consistent with the rest of the community plan, of how matters referred to in section 850 (2) (a) to (c) [related to the content of a regional growth strategy], and other matters dealt with in the community plan, apply in a regional context."

With regard to RGS conformity, *Local Government Act* section 865 (1) states that “All bylaws adopted by a regional district board after the board has adopted a regional growth strategy, and all services undertaken by a regional district after the board has adopted a regional growth strategy, must be consistent with the regional growth strategy.”

The RGS Policy Context

The RGS contains four specific policy areas of importance to the JDFEA:

(1) *The long-term rural vision:* Under the strategic direction, “Keep Urban Settlement Compact”, the RGS states (action 6): “The jurisdictions responsible for administering the Juan de Fuca electoral area, within two years of adopting the Regional Growth Strategy, agree to update current Official Community Plans in a manner that maintains a long term rural vision for the Electoral Area.”

(2) *The Containment Boundary:* Should communities within the JDFEA wish to change the rural designation to either accommodate urban-style growth or to include lands within the Regional Urban Containment and Servicing Policy Area (RUCSPA) it must do so through a RGS amendment. The RGS provides the electoral area with a two-year time frame to define such a boundary. The RGS states:

To support quality of life and community character in rural areas, the Regional Growth Strategy proposes that rural communities (and contained urban areas) in the Saanich Peninsula, rural Western Communities, Sooke and the Juan de Fuca Electoral Area grow moderately and slowly consistent with existing official community plans. Due to the recent incorporation of the District of Sooke, the regional urban containment and servicing area has not been defined for the District of Sooke and the Juan de Fuca Electoral Area. The CRD Board intends to work with the District of Sooke Council and jurisdictions responsible for land use planning in the Juan de Fuca Electoral Area, to define the regional urban containment and servicing area in Sooke/Juan de Fuca as official community plans are reviewed and updated. (RGS, page 6).

Currently, all of the JDFEA is situated outside the RUCSPA.

(3) *The Servicing Policy:* The policies for compact urban form and protecting rural character include a policy which restricts the extension of piped services beyond the regional urban containment boundary. RGS initiative 1.1, Action 5 states: “The CRD and member municipalities agree not to further extend urban sewer and water services, or increase servicing capacities to encourage growth beyond designated official community plan limits at the time of adoption of the Regional Growth Strategy bylaws, outside the Regional Urban Containment and Servicing Policy Area generally described on Map 3, except to address pressing public health and environmental issues, to provide fire suppression or to service agriculture. Where expansion or increased

capacity of existing sewer and water services is proposed beyond the RUCS boundary, member municipalities agree to comply with the requirements of the Master Implementation Agreement prepared as required under Implementation measure 2, and to include guidelines for service expansion and extension in their Regional Context Statements, required by Implementation measure 4.”

(4) *The Growth Projection*: Table 1 in the RGS identifies the projected level and distribution of growth in the region to 2026. The JDFEA is projected to grow from a 1996 population of 4,140 to a 2026 population of 6,500. The strategy also anticipates an additional 820 dwelling units over the next 25 years (from 1,680 to 2,500)

Comments on the Draft Otter Point Official Community Plan

Reference to the RGS: The RGS is not referenced either in the preamble or in any of the text of the draft OCP, as required by the CRD’s Corporate Implementation Strategy for the RGS. Appropriate RGS reference would include acknowledgement of the CRD’s statutory responsibility to conform to the RGS under *Local Government Act* section 865 (1), and through the provision of a section in the OCP that places the JDFEA within the policy context of the RGS, as summarized above.

Recommendation 1: That the draft OCP be amended to include reference to the RGS as noted above.

Long term rural vision: The draft OCP sets out a long term rural vision for the Otter Point area. Under part 3.1, Goal of the Plan, the draft OCP states: “The overall goal is to develop a community plan that is respectful of both the natural and the current man-made environments. The desired settlement pattern consists of the following:

- Clustered growth into one of the three designated settlement containment areas. Within these areas lot sizes may vary according to the requirements of the community. Development located outside these areas will be maintained as large lots for agricultural, renewable resource and residential purposes.
- Compatible land uses and comparable lot sizes are highly desirable.
- Maintain as much land as possible in its current natural state, in order to protect and enhance the present diversity of plant and animal life.
- Establish a pattern of land use that would retain both the rural and natural character of the area.”

The containment boundary: The draft OCP identifies (on Map 2 – Attachment A) three settlement areas, comprising approximately 3,151.2 hectares (7,783.5 acres), or about 82.5 % of the plan area. Section 4.1 (Settlement Areas Policies) states that the settlement designation “...signifies that the predominant land use is for residential

purposes.” Additional uses permitted within the designation include: neighbourhood commercial activities; tourism development activities, such as but not limited to bed and breakfasts and agro-tourism uses; and, small-scale industrial uses such as but not limited to auto repair and body shops, sawmills, and outside storage facilities. The OCP does not include, however, either in section 4.1 or elsewhere, any indication of the density of residential development proposed, as required by *Local Government Act* section 877 (1-a). Without this information, it is impossible to determine if the settlement containment areas included in the draft OCP are comparable to urban containment and servicing policy areas under the RGS. From the information presented in the draft OCP, the settlement containment areas do not appear to be intended to fall within the RUCSPA under the RGS.

Recommendation 2: That the draft OCP be amended to clarify the residential density proposed for the settlement containment policy areas, and whether the intent is that they remain outside, or be contained within, the RUCSPA.

The servicing policy: There has been significant public discussion on the question of providing regional water service to the Otter Point Road area. The Board has tabled the DeMamiel Estates application to extend the regional waterline to the 2900 block Otter Point Road, pending clarification of the servicing policy intent for the area through the OCP process. The draft OCP sets out in section 4.7, a roads and servicing policy, which states:

“The provision of roads and services of the land could play a role in shaping the land use development patterns in the Otter Point plan area. Currently, no major roads, sewer or water systems are planned for the Otter Point area, at the time of preparation of this plan.”

The policy statement is silent on long term servicing objectives for the settlement containment areas in particular. As such, it would appear that the intent of the draft OCP is for the settlement containment areas to develop on private water and waste treatment services, and that there is no intent to extend regional water or sewer service to the plan area, and to the settlement containment areas in particular. As such, under the draft OCP, the CRD could only extend regional water and sewer services to the plan area following a RGS amendment, or following board approval of a request based on the criteria related to human and environmental health, fire suppression or agriculture set out in the RGS.

The growth projection: Draft OCP section 1.1 sets out population estimates to 2011 for the plan area, forecasting a modest 4.7% (69 people) increase in population from 2001 (1,470) to 2011 (1,539). This modest rate of growth is consistent with the RGS growth projection for the JDFA.

Other Issues – Wildfire Hazard Management: The Board has tabled an application by DeMamiel Estates Ltd., to extend regional water service to the 2900 block Otter

Point Road on the grounds that this is necessary for fire suppression purposes, pending clarification of the servicing intent for the area through the OCP process. The draft OCP, on Map 3d (Attachment B) and in section 4.11.6 (Development Permit Area No. 4 – Wildfire Development Permit Area) designates as a development permit area portions of the plan area that are identified as falling within a high wildfire hazard rating in a 1996 Ministry of Forests assessment. The objective of this designation is:

“To ensure that development within wildland-urban interface areas rated high is managed in a way that minimizes the risk of damage to property or people from wildfire. In addition, development within this development permit area must be managed in a way that mitigates wildfire hazards while still addressing site-specific environmental issues.”

The guidelines under this section require the applicant to provide a report to the CRD, prepared by a registered professional with expertise in wildland-urban interface hazard assessments, which undertakes an assessment of the property from a wildfire hazard management perspective and includes a recommended mitigation strategy. There is no reference in this section or elsewhere in the draft OCP, to the RGS servicing policy, and the exception provided to extend regional water services for fire suppression purposes provided for under RGS initiative 1.1, action 5.

Recommendation 3: That the draft OCP be amended to include a section that provides policy guidance related to the consideration of wildfire hazard assessments and mitigation strategy recommendations required under draft OCP section 4.11.6, particularly any mitigation strategy recommendations related to the extension of regional water services.

Conclusion: The draft Otter Point OCP is inconsistent with the RGS and the Corporate Implementation Strategy as noted in the comments above. Revising the draft OCP to take into account the comments and recommendations noted is needed before RGS consistency can be confirmed.

RECOMMENDATION:

That Regional Planning Committee forward the comments and recommendations included in the body of this report to the Juan de Fuca Electoral Area Land Use Committee for information and consideration.

RGS CONSISTENCY

The proposed Otter Point Official Community Plan is inconsistent with the Regional Growth Strategy and the Corporate Implementation Strategy.

FINANCIAL IMPACT OF THE RECOMMENDATION:

Mark Hornell, MCIP
Director - Regional Planning Services

EXECUTIVE DIRECTOR'S COMMENTS:

W.M. Jordan, Executive Director

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