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Final Proposal Arbitration:

Capital Regional District (CRD) and the District Of Central Saanich (District) in the matter of Bylaw 1736 to amend the District's Official Community Plan (OCP) to accommodate a 40,000 sq. ft. supermarket on lands in the vicinity of the Keating Cross Road and West Saanich Road intersection

Summary of District Final Proposal Submission

The final proposal submission of the District of Central Saanich (District) finds the matter a simple minor local issue that requires an amendment to the Regional Context Statement (RCS) that is very narrow in scope. The amendments stem from the proposed relocation of a co-op grocery and accessory offices to a location requiring an adjustment to the District's Urban Settlement Area. With respect to the Region's urban containment boundary, the District describes its Urban Settlement Area as generally corresponding with the Region's Regional Urban Containment and Servicing Policy Area (RUCSPA). The proposed Bylaw No. 1736 would amend its Urban Settlement Area including changes to general policy statements relating to zoning and servicing in the Official Community Plan (OCP).

LEGISLATIVE

In response to the Capital Regional District's (CRD) position on consistency, the District's submission finds the proposed amendment meets the "consistency" test as applied in the recent case law *Residents and Ratepayers of Central Society v. Central Saanich (District)*, [2011] B.C.J. No. 708. Furthermore, the District notes the Board was incorrect to assume the proposal had to be consistent with the RGS. Referring to the specific language of the *Local Government Act*, the District explains that Section 865(2)(a) requires a RCS to "identify" the relationship between the OCP and the RGS. The District's submission also notes the legislation allows for the RCS and RGS to be inconsistent provided the OCP is made consistent over time as outlined Section 866(2)(b). The District asserts the board has very broad discretion to accept a RCS or amendment; and, provided consistency is the measure for settling this dispute, the District's submission argues the proposal is consistent.

LOCAL AND REGIONAL CONSIDERATIONS

With regards to the land under consideration, the District submission notes the site has been held for the development of a co-op grocery store since 1994. The District adds that although the land is not inside the Urban Settlement Area, none of the surrounding commercial and institutional zoned properties are either. Moreover, the District describes the West Saanich Road location as an existing commercial node operating as a regional node.

The District contends that the proposed amendment achieves the goals and objectives of the RGS compared to the alternate planned site. The District suggests a failed proposal would move the development to a site in the Tsartlip Indian reserve outside the jurisdiction of the District and the CRD, and outside the areas under the Regional Growth Strategy. The Tsartlip First Nation has been approached by co-op proponents regarding the alternate site. The District indicates that, although it



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has service agreements with the Tsartlip First Nation, it would not be able to enforce land use planning policies.

With regards to maintaining its existing commitments to the RGS, the District disagrees that this proposal symbolizes less of a commitment from it to the RGS while weakening the RGS. The District notes its ongoing commitment to the RGS and highlights its role as a champion of RGS policies regarding maintenance of a strong agricultural base and allocating the majority of future housing needs in existing urban areas. The District also submits that it reduced the area in its Urban Settlement Area in 2008 without a RUCSPA amendment. In addition, if the proposed site was included when the District submitted its RCS in 2003, it would have met the criteria for the inclusion within the RUCSPA. Moreover, the District concludes that the business plans of a longstanding local enterprise cannot await a review of the RUCSPA and the District should be free to initiate an amendment to its OCP, even though it involves an expansion of the Urban Settlement Area, and have the amendment considered on its own merits.

The District outlines the real issue as a question of whether the RCS allows the District to rezone the site of the proposed co-op grocery store.

CONSIDERATIONS FOR RCS CONSISTENCY

The District considers the political climate supporting regional planning in the region will be directly affected by the outcome of this dispute. The District argues acceptance of the proposal “best ensures” political support in the Capital Region for the RGS model to continue. The District also asserts the decision will affect its autonomy over local land use decisions and any outcome will affect municipal support of regional planning. The District argues a failed proposal would impact the future commitment of municipal support for regional planning.

Finally, the District remarks that the Regional Board directed by staff are focusing too narrowly and not considering the broader political context and a range of other considerations in the Board’s deliberations. Such considerations include the prospect of having the proposal re-located to lands outside of the CRD or District’s jurisdiction, the aforementioned political considerations and broader economic development considerations. The submission concludes that the weight the Board attaches to these considerations relative to the site-specific nature of the proposed amendment is at the Board’s discretion.

The District recommends that the arbitrator select the RCS and consequent changes to Schedule A resulting from Bylaw No. 1736 to settle the dispute thereby enabling the District to rezone the land in the 6700 block of West Saanich Road to accommodate the proposed development. Notwithstanding these site-specific exemptions, the RCS would continue to maintain consistency with the RGS.

The District has also noted in its submission that the District of North Saanich supports its position.