
MEMORANDUM

To: Chair and members of the Regional Board
From: Lisa Grant, Planner 1
Date: May 2, 2011
Subject: Alternative approaches for Hemlock Valley's Zoning Bylaw
File No.: 3920-20-Bylaw 0993, 2010
3920-20-Bylaw 0994, 2010

RECOMMENDATION:

THAT the bylaw cited as "Fraser Valley Regional District Official Community Plan Amendment Bylaw No. 0994, 2010" be given third reading.

THAT the Regional Board adopt the bylaw cited as "Fraser Valley Regional District Official Community Plan Amendment Bylaw No. 0994, 2010".

THAT the bylaw cited as "Fraser Valley Regional District Zoning Amendment Bylaw No. 0993, 2010" be given third reading as amended.

THAT the Regional Board adopt the bylaw cited as "Fraser Valley Regional District Zoning Amendment Bylaw No. 0993, 2010".

AND THAT upon completion of a detailed snow avalanche hazard study the Regional Board review the zoning of properties in the Hemlock Valley snow avalanche hazard area and undertake any zoning and community plan amendments necessary to reflect new hazard information and, if appropriate, development densities formerly permitted under expired building schemes

SUMMARY OF ISSUE(S):

At the March 8th, 2011 Community and Regulatory Services Committee meeting, staff was directed to explore alternative approaches for the Hemlock Valley zoning bylaw and report back to the May CARS meeting.

BACKGROUND:

Staff met with the local area Director on four occasions (two formal meeting and two impromptu meetings) to discuss alternative approaches for Hemlock Valley's zoning bylaw.

Director Bales expressed a desire to provide a fair solution and identified the following concerns:

- the Province may be less willing to resolve issues for property owners in the avalanche hazard area once zoning has been applied
- need to consider the safety of visitors and tourists, not just owners

- avalanche hazard warning signs should be posted to notify people of the hazard
- property owners purchased with the belief that they could develop in accordance with expired building schemes
- not in favour of the “should vs. shall” amendment to the OCP
- some property owners not in support of proposed zoning
- unlikely that much development will occur before the avalanche hazard is further assessed
- preference is to leave properties in ‘blue’ avalanche hazard area unzoned and retain the current policy in the OCP that says “zoning shall follow building schemes” (rather than the proposed “should follow building schemes”)
- not in favour of rental restrictions
- second preference is to adopt zoning bylaw that reflects the expired building scheme in ‘blue’ avalanche hazard area and post a sign notifying residents and visitors of the hazard

DISCUSSION:

Properties outside the avalanche hazard are proposed to be zoned for development densities consistent with the expired building schemes. Nineteen lots are located in the ‘blue’ snow avalanche zone. They are summarized in the table below.

# Lots	Status	Zoning Density follows Building Schemes?
3	Developed	YES
5	Vacant	YES
11	Vacant	No

As the table illustrates, only 11 of the 268 parcels in Hemlock Valley would not be zoned for densities the same as in expired building schemes. Rental restrictions would apply to all 19 parcels except where such use is ‘grandfathered’. Expired building schemes did not permit overnight rentals.

Funding from the Ministry of Transportation & Infrastructure has been secured for approximately \$20,000 and an early cost estimate indicates Phase 2 of the snow avalanche study can be completed in this cost range. Staff hope to have the study completed by the end of August 2011.

If this detailed study concludes that properties currently in the ‘blue’ zone are in fact safe for residential use or overnight accommodation use, the Regional Board should initiate zoning and OCP amendments to permit these uses at densities in keeping with the expired building schemes. If properties are deemed unsafe for residential use, the Province should either buy them out, relocate them, or provide works to protect them.

Whatever actions the Province decides to take upon completion of the detailed study, hazardous properties should be zoned (at a minimum) for low density uses. Properties without hazards should be zoned for development densities in keeping with expired building schemes.

In the interim, the issue remains - what is the best zoning approach for the 11 vacant lots in the ‘blue’ snow avalanche hazard area?

Staff identified 8 potential options. They are detailed in the appendices, and range from applying zoning as currently proposed to leaving the properties un-zoned. With each approach staff created a pros and cons list so trade-offs can be understood.

Memo dated May 2nd, 2011 to Corporate and Regional Services Committee regarding Hemlock Valley Zoning Bylaw 0993, 2010

After reviewing the alternative approaches, staff recommends the Regional Board adopted zoning as originally drafted along with a resolution stating:

THAT upon completion of a detailed snow avalanche hazard study the Regional Board review the zoning of properties in the Hemlock Valley snow avalanche hazard area and undertake any zoning and community plan amendments necessary to reflect new hazard information and, if appropriate, development densities formerly permitted under expired building schemes

This approach provides appropriate signals to the market (based on current information), prevents potentially inappropriate development (or commitment to use) and prevents any long-term negative implications. On the other hand, it gives impacted property owners the comfort that the Regional District will initiate zoning and OCP amendments to allow development densities in line with the expired building schemes if the properties are deemed safe for the use by the detailed avalanche hazard study.

The benefits of leaving 11 properties unzoned until the hazard study is complete are very limited and are of short duration while the drawbacks are potentially significant (though perhaps unlikely, depending on the timeframe). A level of uncertainty remains concerning a timeframe when these 11 properties will be resolved. The longer properties remain unzoned the more likely a use will be proposed that have long term impacts.

COST:

Identified as a 2010 priority project and budgeted for accordingly in the 2010 budget.

COMMENT BY CHIEF ADMINISTRATIVE OFFICER:

Reviewed and supported.

COMMENT BY GENERAL MANAGER OF COMMUNITY AND REGULATORY SERVICES

Reviewed and supported.

COMMENT BY GENERAL MANAGER OF REGIONAL AND CORPORATE SERVICES

Reviewed and supported.

Appendix A

Option 1:		
Apply zoning as recommended by staff with a resolution by the Regional Board to amend zoning bylaw to reflect densities in expired building schemes at the completion of a snow avalanche study completed in partnership with the Province.		
Pros	Cons	<i>Notes</i>
<p>Regional Board committed to introduce zoning to un-zoned portions of Hemlock Valley at a density equivalent to expired building schemes where deemed safe.</p> <p>Consistent with Regional Board policies (OCP hazard policies, Regional District's Hazard Acceptability Thresholds policy)</p> <p>Directs density away from hazards.</p> <p>Smaller building footprints provide flexibility for protective works.</p> <p>Protects future purchasers from buying land that is not likely to support medium density.</p> <p>Most efficient approach, does not require a second public hearing at an approximate cost of \$1200.00.</p> <p>Represents and protects future purchasers by creating realistic development potential expectations.</p> <p>Reflects more accurately what is possible on the land base.</p> <p>This approach is a compromise from the beginning (permitting duplex density in 'blue' snow avalanche hazard area.</p> <p>Minimizes risk.</p>	<p>Opposed by a few property owners.</p> <p>Not consistent with expired building schemes in 100% of cases- 92% consistent.</p> <p>Perceived to de-value properties, rather it is the location in a snow avalanche hazard area that de-values properties.</p> <p>Differs from development expectations, fostered by expired building schemes.</p>	<p>Regional Board could pass a resolution when adopting zoning and OCP amendments to amend zoning once snow avalanche issue is addressed.</p> <p>It is likely amendments will be required to reflect phase two snow avalanche assessment.</p>

Option 2: Leave 11 'blue' zone snow avalanche properties un-zoned		
Pros	Cons	<i>Notes</i>
Supported by a small number of property owners.	<p>Not consistent with the OCP policy 6.1.A Geotechnical and other Hazards.</p> <p>Timelines are uncertain when the issue will be resolved, could remain un-zoned for a period of years.</p> <p>No ability to prohibit incompatible land uses and not able to ensure servicing capacity is adhered to.</p> <p>Uncertain affect on property owners and property values.</p> <p>Procedurally inefficient- requires a 2nd public hearing at a cost of approximately \$1200.00.</p>	

Option 3: Apply zoning reflecting expired building scheme densities		
Pros	Cons	<i>Notes</i>
Consistent with policy 3.4.1 of the OCP.	<p>Inconsistent with other OCP policies, specifically 6.1.A.</p> <p>Likely have to down-zone at a later date based on the results of the phase 2 snow avalanche hazard assessment.</p> <p>Zoning does not reflect hazard.</p> <p>Not consistent with Regional Board policies.</p> <p>Future purchasers make decisions based on current zoning; this approach does not convey actual development constraints on the property.</p>	

Option 4:

Zone 11 'blue' zone snow avalanche properties but do not provide a density

Pros	Cons	<i>Notes</i>
<p>Addresses siting issues such as setbacks, lot coverage and snow storage.</p>	<p>Requires another public hearing.</p> <p>New zones will have to be drafted (time delay and additional resources will be required).</p> <p>Cannot ensure servicing thresholds are adhered to. Servicing capacity could be used by these properties and leave other owners with no ability to connect and therefore sterile lots.</p> <p>Is this fair to other property owners?</p>	

Option 5: Only apply the OCP amendments, do not adopt draft zoning bylaw 0993, 2010 (Hemlock Valley)		
Pros	Cons	<i>Notes</i>
Revises existing development permit area HV-3, long term snow avalanche hazard.	<p>Procedurally inefficient- requires second public hearing and another public consultation process to apply zoning.</p> <p>Uncertainty concerning servicing capacity. Cannot ensure capacity is maintained.</p> <p>Regional District is not responding to hazard.</p>	

Option 6:

Remove proposed OCP amendment policy 3.4.1 from OCP amendment Bylaw 0994 and obtain legal opinion if proposed zoning bylaw is consistent with the OCP, if policy 3.4.1 is not amended to state 'zoning should be applied to reflect (expired) building schemes registered on title of properties.

Pros	Cons	<i>Notes</i>
Reflects comments from opposed property owners.	Not consistent with other OCP policies. Public has wanted zoning since building schemes began to expire. Procedurally inefficient- requires a 2 nd public hearing.	

Option 7: Zone all 'blue' zone properties as duplex		
Pros	Cons	<i>Notes</i>
<p>Reduce issue to 4 properties from 11 properties.</p> <p>Only 4 properties would not be consistent with expired building schemes.</p>	<p>Previously, duplex lots have developed at a single family dwelling density because properties have other challenges when developing such as hazards, topography, slope and soil conditions.</p>	

<p>Option 8: Install an avalanche warning sign in avalanche hazard area (along Edelweiss Drive)</p>		
Pros	Cons	Notes
<p>Notifies residents and visitors of the snow avalanche hazard.</p> <p>Canadian Avalanche Association recognizes this as a temporary mitigative measure used in combine with other more permanent measures.</p>	<p>Posting a sign alone does not address the main issue- what is a reasonable land use for lots located in the 'blue' snow avalanche zone.</p> <p>Potential for the sign to be knocked down during peak hazard time due to snow clearing</p>	<p>The phase 2 avalanche study could recommend this as a mitigative measure. The Regional District will suggest this to the snow avalanche engineer.</p> <p>While it seems like a simple solution, it raises many practical problems.</p>