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## MEMORANDUM

To: Electoral Area Services Committee and Regional Board of Directors  
From: Lisa Grant, Planner 1  
Date: February 25<sup>th</sup>, 2010  
Subject: Hemlock Valley OCP Amendment Bylaw No. 0994, 2010  
File No.: 6480-30-039

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### **RECOMMENDATION**

That:

1. Pursuant to section 882(3) of the Local Government Act, the Regional Board determine that Bylaw 0994, 2010 as amended is consistent with FVRD's current Waste Management Plan and Financial Plan;
2. Pursuant to section 865(1) of the Local Government Act, the Regional Board determine that Bylaw 0994, 2010 as amended is consistent with the FVRD's Regional Growth Strategy; and
3. The Regional Board give second reading to Official Community Plan Amendment Bylaw 0994, 2010.

### **ISSUE**

This OCP amendment bylaw has changed since first reading to address two issues. The first is to provide policy supporting accommodation uses in Hemlock Valley, in which overnight guests may rent entire dwelling units with restrictions to areas located outside of the snow avalanche hazard zone. A second amendment is proposed to address the need for a comprehensive snow avalanche management plan to assist in the long term management and reduction of snow avalanche hazards.

### **BACKGROUND**

At present there are no commercial accommodations available for overnight visitors in Hemlock Valley. Accommodation use is currently provided through the rental of individual dwelling units to overnight guests. In early consultation sessions, residents advised that overnight rental of dwelling units is a normal use within the resort development and that the zoning bylaw amendment should address this issue.

Accordingly, staff recommends an amendment to the Hemlock Valley OCP to include policy that supports accommodation uses in Hemlock Valley as an 'auxiliary residential accommodation'. This would pave the way for auxiliary residential accommodation to be incorporated into the zoning bylaw amendment as a permitted use. Although staff is proposing to permit this use throughout residential

areas in Hemlock Valley, it would be restricted to areas outside of the snow avalanche hazard zone as shown on schedule 3-HV of the OCP.

The snow avalanche hazard has been discussed in several memos to EASC and the Regional Board in the past year, beginning with the notation of interest applied to the forested slope above Edelweiss Drive and most recently as part of the discussion on appropriate density thresholds in an avalanche area. Discussions have ensued concerning an appropriate long term solution for properties located in this hazard area. As a result, staff is proposing to amend the OCP to include a policy supporting the development of a hazard management plan to address this issue over the long term.

## **DISCUSSION**

### *Accommodation Uses*

During the initial consultation with local ratepayer groups, the issue of accommodations was raised. Hemlock Valley owners commonly rent their dwelling units to overnight visitors. The OCP provides some general guidance concerning auxiliary residential accommodation uses. Staff is proposing that a new policy be introduced that provides more specific guidance. The proposed policy states:

“To provide a range of accommodation uses in Hemlock Valley for overnight visitors, temporary tourist accommodation use is permitted in the COTTAGE RESIDENTIAL designation areas, except in areas of avalanche hazard. This land use is referred to in this Plan as AUXILIARY RESIDENTIAL ACCOMMODATION.”

To coincide with the proposed zoning bylaw amendment, staff is proposing to restrict temporary tourist accommodation in areas susceptible to potential snow avalanche hazard. Unlike a property owner who has the benefit of knowledge of potential snow avalanche hazards through either geotechnical studies or a covenant registered on title of a property and understanding the topography, a third party renter does not have the same knowledge of the hazards, nor the ability to make informed decisions. With an expectation of safety by renters and the lack of understanding the nature of snow avalanche hazards, staff is proposing to restrict this use to areas located out of the snow avalanche hazard area as shown on Schedule 3-HV (Development Permit Area 2-HV) of the OCP.

Property owners located in the snow avalanche hazard area who have rented their units prior to the adoption of the zoning bylaw will be protected under section 911 of the Local Government Act providing legally non-conforming status to these uses. Provided that they continue to meet the criteria set out by section 911, the use may continue.

In situations where a property owner is proposing to undertake temporary tourist accommodation as a new use the OCP (if this amendment is approved) would provide guidance stating:

“Overnight accommodation uses should be directed away from snow avalanche areas, located in Development Permit Area 2-HV as shown on Schedule HV-3, to avoid hazard exposure to third parties users unaware of the risk. However, a property owner may undertake a site specific geotechnical study by a qualified professional engineer or geoscientist to determine on an individual basis if a property is suitable for overnight accommodation use and if the land is safe for the intended use.”

This policy provides a framework for permitting the use in areas that are designated as snow avalanche hazard where a site-specific hazard review has determined that the site is safe for the accommodation use.

### Comprehensive Snow Avalanche Approach

At the time the OCP was developed, the Regional District undertook an overview evaluation of the snow avalanche hazard. Currently, the OCP identifies lands that require site specific evaluation to determine mitigative measures that may be required for the safe use of the property. Several properties are impacted by snow avalanche hazards, specifically along Edelweiss Drive and Snowmist Place/Drive.

The forested mountain slope is important for snow avalanche protection. During a development permit and building permit approval process it came to light that the forested area is located in the active logging forest. To obtain a level of protection the Regional District through the Ministry of Tourism, Culture and the Arts (the resort development branch) and working with Ministry of Forests and Range secured a notation of interest for this slope. The Board of Directors passed a resolution that this is an acceptable interim measure to protect this slope from forest activities and therefore, the issuance of development and building permits.

In recent years it has become increasingly clear that a comprehensive management plan may be required for these areas in Hemlock Valley. This would address not only a long term solution to protect forested slope, but also, potential community works to reduce the threat of snow avalanche for all properties located in the snow avalanche hazard area. The scope and scale of the project would require a partnership between senior government, the Regional District and local community groups. Staff is proposing that the OCP be amended to include the following policy:

“Where existing development is located in Development Permit Area 2-HV, Schedule HV-3 and is affected by a potential snow avalanche hazard, a comprehensive snow avalanche hazard management plan should be undertaken. The Regional District should work in partnership with senior governments and community groups towards a coordinated approach to manage and reduce the hazard affecting all residential lands.”

The ability to undertake this project will depend on the involvement of senior government and available funding to complete the required studies to re-evaluate the snow avalanche hazard and design potential protective works to mitigate the hazard.

As a second interim measure and as a response to questions from community members concerning the magnitude and run-out zone of the snow avalanche hazard, staff will be contacting a local snow avalanche expert to determine the feasibility of undertaking a review. It will determine if the forest cover has changed the run-out zone and reduce the magnitude of the snow avalanche hazard (i.e. reduced it from a ‘red’ zone to a ‘blue’ zone). Two factors will determine if this work is completed prior to a public hearing for the proposed zoning bylaw amendment and OCP amendment. The first is cost and the second is timing to complete the study. If both of these are achievable, an update study will be undertaken. However, preliminary indications from an engineering consultant involved in the original hazard study are that avalanche hazard areas are unlikely to change.

### Financial Plan

The proposed additionally amendments to Bylaw 0994, 2010 require the Regional Board to reconsider the amendment in conjunction with the current Financial Plan. Comments by the Director of Finance were given on the initial amendment. At that time, he determined the proposed amendment was in keeping with the current Financial Plan.

Please note that the proposed OCP policy advocating for a snow avalanche management plan does not commit the Board to undertaking this initiative. Board approval – including any approval of any costs or budgetary impacts - is required prior to any work being undertaken.

### Waste Management Plan

Similar to the consideration of the Financial Plan, section 882(3) requires the same consideration be given to the Regional District's Waste Management Plan. The Manager of Environmental Services and Operations advised that the OCP amendment is consistent with the Waste Management Plan.

### Regional Growth Strategy

Section 865(1) of the LGA requires that an OCP amendment bylaw be consistent with the Regional Growth Strategy. Staff sent a second referral to Regional Planning to obtain comment on the consistency of the proposed bylaw amendment with the Regional Growth Strategy. The following comment was provided:

“In addition to previous comments in my email of January 25<sup>th</sup> to you on the same bylaw, the amendment you provided serves to further reinforce the bylaw's consistency with the Regional Growth Strategy. Inclusion of the clauses requiring attention to hazards and a snow avalanche management plan are encouraging and provide further support for Action 3.6 in the RGS to *“minimize development costs to communities and the risks associated with geotechnical and environmental constraints.”*

In general the RGS supports the efficient use of existing developed land in the region and also economic development in recreational areas, and while it may be somewhat too “broad brush” to comment on specifics in the amendment, in terms of the planning approach that this bylaw amendment has taken there is a high level of consistency with the intent of the RGS. Also encouraging is the commitment within the bylaw amendment to liaise with senior levels and government and other stakeholders to achieve sustainable development in Hemlock Valley, which the RGS fully supports through Action 4.6.”

### **COST**

The OCP amendment forms part of the zoning bylaw amendment which is a 2009 priority project. No additional cost for this OCP amendment.

### **COMMENT BY DEPARTMENT HEAD**

Reviewed and supported.

### **COMMENT BY DIRECTOR OF FINANCE**

Reviewed and supported.

### **COMMENT BY CHIEF ADMINISTRATIVE OFFICER**

Reviewed and supported.

Attachment