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## MEMORANDUM

To: Electoral Area Service Committee & Fraser Valley Regional District Board of Directors  
From: Lisa Grant, Planner  
Dawn Smith, Planner  
Date: September 10<sup>th</sup>, 2009  
Subject: Hemlock Zoning  
File No.: 3360-22-2009-01

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### **RECOMMENDATION:**

**THAT** the Fraser Valley Regional District's Board of Director authorize staff to begin preparation of a draft Zoning Bylaw Amendment to "Zoning By-law for Electoral Area "F", 1978, of the Regional District of Fraser-Cheam" Bylaw No. 100, with respect to establishing zoning on those parcels not currently designated in Hemlock Valley.

### **ISSUE:**

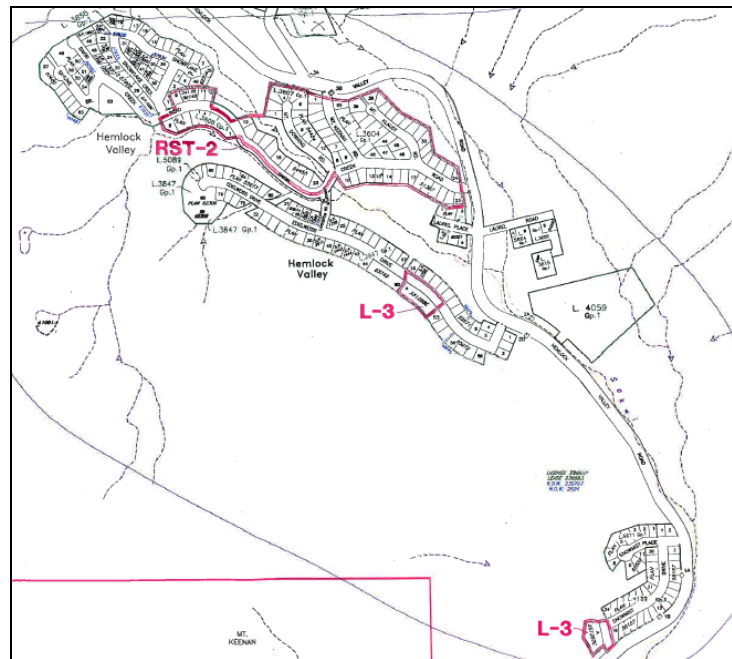
In 2003 the remaining 8 building schemes expired for lands located in Hemlock Valley. Previously, the building schemes regulated permitted uses and siting. As a result of the expired building schemes, these lands are currently unregulated. As an identified planning project for 2009, the planning department is proposing to have zoning in place for the 2010 building season in Hemlock.

### **BACKGROUND:**

Hemlock Valley is one of the few remaining FVRD settlement areas which include un-zoned private lands. Up until 1996, private lands within the settlement areas were regulated by the developer (Hemlock Valley Resort) using building schemes registered on each property title. The building schemes were a form of land use regulation established by the resort at the time of subdivision to manage setbacks, building height and permitted uses, etc – each specified an expiry date. As a result, the FVRD building permit process sought to ensure new construction satisfied the Resort's building schemes.

While most of Hemlock Valley is un-zoned, there are a few small sections of private land regulated by FVRD "Zoning By-law for Electoral Area "F", 1978 of the Regional District of Fraser-Cheam" – see map inset. Zoning for these parcels was completed in 1996 after the first phase of the building schemes expired, and the FVRD introduced zoning regulations to ensure land use regulation continued for these lands. However in 2003 the last phase or remaining building schemes expired, which again created a need for introduction of zoning regulations. Currently only 92 lots of the 259 lots in Hemlock are zoned.

## Map of Hemlock Valley – Areas currently zoned



The Hemlock Valley Official Community Plan<sup>1</sup> was completed in 2000, and recognized the approaching building scheme expiry by providing policy which will guide development of new zoning regulations. All of the lands subject to the building scheme are designated Cottage Residential by the OCP, and the following policy is of note:

### Cottage Residential Land Use

- 3.4.1.B Zoning be introduced which will distinguish areas designated for single family, duplex and multiplex residential development. The zoning regulations shall be in accordance with the building schemes which have been registered on title since the initial development of the community.

Clearly the new zoning for Hemlock will need to be consistent with the OCP. As guided by Official Community Plan policy, the Regional District wishes to work with the community and stakeholders to address the current gap in land use regulations in Hemlock Valley. Since the expiry of the building schemes in 2003, the FVRD has been contacted by numerous property owners who raised concerns about the lack of controls on permitted uses or setbacks, etc. These comments reflected concerns about the potential for inappropriate development to occur, and no ability for recourse.

The Regional District Board included the preparation of zoning for Hemlock Valley as a Planning Department project for 2009. As a result, it will be important to focus our attention on completing this project in an efficient manner, and ensure the gap in regulation is addressed.

### **DISCUSSION:**

#### *Official Community Plan guidance*

The Fraser Valley Regional District adopted the Hemlock Valley OCP in 2000. While nine years has passed since the Plan adoption, relatively little has changed in the community; there has been no

<sup>1</sup> Officially cited as “Fraser Valley Regional District Official Community Plan for a Portion of Electoral Area. “C”, Hemlock Valley, Bylaw No. 0030. 2000”

large scale development or new servicing infrastructure. This is often the scale of change which prompts amendments or updates to a Plan.

Policy from the OCP continues to be pertinent. The Plan anticipated expiration of the building schemes and provides guidance for the introduction of zoning regulations to the expired building scheme areas.

#### *Building schemes & servicing considerations*

The preparation of draft zoning regulations is anticipated to be a relatively straightforward process. While the building schemes are the basis from which the new zones will be drafted, as per OCP policy direction. It will also be important to balance the introduction of new zoning for increased density with practical considerations such as the ability to provide infrastructure services (ie. fire protection, water supply and sanitary treatment) and geotechnical/environmental constraints. A servicing study was completed for Hemlock Valley in the early 1990's by the Regional District. This study will be useful along with consultations with the Resort (the service provider), provincial regulators (ie. Comptroller of Water Rights, Fraser Health Authority, Ministry of Environment – Waste Management section).

There were 8 building schemes in Hemlock, with a range of residential uses and densities permitted depending on the lot – from single family, duplex to multiple family structures (ie. condominiums). The building scheme documents prescribed setback and building height requirements which may require fine tuning given recent local concerns over side lot snow shedding and sufficient road lot line setbacks to safely accommodate snow plow corridors.

The introduction of new zoning also presents an opportunity to broaden the number of uses permitted in a zone to reflect OCP policy, and general community desires. This means zones which may have been predominantly single family dwellings may permit expanded accessory uses to include tourist accommodation or local service businesses. However, the scale and type of commercial and accommodation uses need to be analyzed to determine if they are an accessory use or a principal use. If the proposal is a commercial or accommodation use that is a principal use, rather than an accessory use, this application should be treated as a site specific proposal and dealt after the completion of the project.

#### *Site specific zoning*

It is recognized that there are a number of development interests in Hemlock Valley at the moment which may not be consistent with the Official Community Plan or expired building schemes. These interests range from site specific development ideas by individual property owners to larger scale concepts by the Resort. While these ideas or proposals may be worthwhile exploring, these development concepts have the possibility of delaying the introduction of zoning to the expired areas. The consideration of the site specific or large scale proposals bring issues unique to each proposal (ie. parking, servicing, land use, etc), and opens up the possibility of amendments to the OCP. By including site specific proposals it may complicate or impede the process for both the developer and the Regional District.

Therefore should site specific applications or proposals arise in the meantime, it would be practical to hold these applications in abeyance pending completion of the zoning. It is expected that the introduction of zoning will be finalized in mid 2010, after which the Regional District can better consider these site specific proposals brought forward by a developer.

#### *Lawful non-conforming uses*

The introduction of zoning to areas previously un-zoned will inevitably create lawfully non-conforming situations. Section 911 (1) of the Local Government Act (LGA) provides that lawful use of land, or use of a building or structure, existing at the time a bylaw under Division 7 of Part 26 is adopted may be continued as a non-conforming use, unless it is discontinued for a continuous period of six months after which it would be subject to the bylaw.

The new zoning will attempt to minimize the number of lawful non-conforming properties. Those parcels with current uses inconsistent with the proposed new zone will be considered on a case by case basis. For example, the current land use may be an eight unit condominium, but the new zone contemplated a six unit condominium. The Regional Board and staff will consider minor amendments where possible to avoid lawful non-conforming situations.

### *Consultation*

The introduction of zoning to 164 (approximately 2/3 of private parcels) lots in Hemlock Valley is a significant decision which will be of interest to property and business owners, provincial and federal agencies, and the wider community in general. Clearly those persons who feel they are affected by the decision to introduce zoning have a right to be involved in the decision making process. Identifying an effective means of consulting with each group will be important.

In a typical zoning bylaw amendment process, referrals are forwarded to affected agencies and a public hearing is held pursuant to Section 890 of the Local Government Act. However this is larger scale zoning amendment and warrants a consultation program which exceeds the legislative requirements to ensure improved understanding, a co-operative process and support for the amendment. A suggested consultation program includes:

- Initial agency & stakeholder contact, introduce project and how we will consult
- Introductory community meeting – discuss situation and possible approaches
- Newsletter and electronic updates – mail out and use of website / email list subscription
- Discussion with agency stakeholders – see referral list
- Meet with community groups - Hemlock Valley Homeowners Association and Action Hemlock
- Open House & draft zoning presentation
- Public hearing (statutory requirement)
- Referrals to agencies & stakeholders (see Appendix C for list)

### Resources/Budget

As part of the Planning Department's 2009 work plan staff resources have are allocated for the zoning amendment project. Based on the scope and limitations detailed in this paper, it is not anticipated any consultant services will be required. Refer to Appendix A for a detailed listing of proposed expenses.

### **COST:**

**COMMENT BY DEPUTY PLANNER:** Review and concur.

**COMMENT BY DIRECTOR OF FINANCE:** Reviewed and supported. This is one of the 2009 Planning initiatives approved by EASC in 2009 and reaffirmed at the recent EASC 2010 Planning & Priorities session.

**COMMENT BY CHIEF ADMINISTRATIVE OFFICER:** Reviewed and supported.

### Appendix A

	Total Cost	Notes
<b>Mail outs</b>		
Newsletter	\$322.38	A newsletter will be published for local residents and property owners in Hemlock Valley notifying them of the proposed zoning amendment.
Open House(s)	\$322.38- one open house \$644.76- two open houses	This cost figure could double if two open houses are held prior to the public hearing.
Public Hearing	\$322.38	
<b>Hall Rental</b>		
Open Houses	\$?	Location will have to be determined, whether the open house(s) will be held in Hemlock or Mission.
Public Hearing	\$?	Location will have to be determined, whether the public hearing will be held in Hemlock or Mission.
<b>News paper Ad</b>	\$570.64 (Agassiz) \$805.84 (Abbotsford)  \$1445.30 *includes GST and 10% discount	Pursuant to section 892 of the LGA notice of the public hearing must be advertised for two consecutive editions in a local paper. To cover the local area two newspapers are distributed in the vicinity- Agassiz-Harrison Observer and Abbotsford News. This quote provides for a 4x7 ad.
<b>Miscellaneous Costs</b>	\$500.00	Miscellaneous costs include supplies required to prepared and print mail-outs, open house and public hearing as well as other incidental costs that may arise.

<b>Total</b>	<b>\$3,234.82</b>	This total cost estimate does not include hall rentals for 3 evenings (2 open houses and 1 public hearing) nor does it include staff resources
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## Appendix B

Provided below is a proposed timeline for the Hemlock zoning project. The goal of the project is to have an adopted zoning bylaw ready in time for the 2010 construction year starting in last spring/early summer. Although timelines are detailed below this is a general timeline and may be subject to change as new information is obtained or as issues arise. The purpose of the project is to achieve zoning for previously un-zoned areas as guided by the OCP and expired building schemes.

	July- September 2009	October- December 2009	January- March 2010	March- ? 2010
<b>Phase 1</b>				
Scope and Limitations paper				
Review and compile background data including but not limited to: - OCP policies - Zoning Bylaw - Hazard Information - Servicing report - Other ski resort zoning bylaws				
Site Visit				
Meeting with Director Bales				
Meeting with Rate Payer Groups				
<b>Phase 2</b>				
Consultation - Letter to local residents, First Nations, Provincial Ministries and stakeholder groups - Open house(s)				
Final Draft Bylaw with permitted uses, siting and lot coverage ect.				
<b>Phase 3</b>				
Initial report to EASC/Board				
First reading				
Public hearing				
Second and third reading				
Ministry approvals - Ministry of				

transportation - Municipal services				
Adoption				

## Appendix C

Stakeholders are identified as the following groups:

- Ratepayers- Hemlock Valley Homeowners Association and Action Hemlock
- Chehalis First Nations
- Sto:lo First Nations
- Kwantlen First Nations
- Hemlock Valley Resort, Berezan Management Ltd.
- Brent Hartley from Brent Hartley and Associates
- Ministry of Transportation and Infrastructure- Jon Crump
- Ministry of Forest and Range, Chilliwack Branch
- Ministry of Tourism, Culture and the Arts, Resort Development Branch- Terry Pratt, Manager
- Fraser Health Authority
- Ministry of Environment- Waste Management Section
- Comptroller of Water Rights

\*It should be noted that this list may be expanded as the process moves forward and other groups are identified.