

FOR CITY MANAGER'S REPORT

REPORT TO: G.D. BERRY, CITY MANAGER

FROM: B.N. MEHAFFEY, GENERAL MANAGER, DEVELOPMENT SERVICES

RE: PROVISION OF SERVICES OUTSIDE THE URBAN CONTAINMENT BOUNDARY
(UCB)

RECOMMENDATIONS:

It is recommended that Council direct Staff to:

1. Bring forward amendments to the Official Community Plan (OCP) to clarify that:
 - (1) full municipal services are available to developments on lands located outside the UCB, which are designated and zoned for heavy industrial uses;
 - (2) municipal roadways can be extended (at the developer's cost) to service new developments on lands located outside the UCB;
 - (3) municipal services (other than roads) will not be extended to rural lands zoned A-2 or A-3; and
 - (4) municipal water service will be available to lands zoned A-1, subject to a limit of one dwelling unit per new parcel created.
2. Ensure that any agreement to provide water to Lantzville does not allow for service extensions beyond its UCB.
3. Refer the following issues to the 10-year OCP review to be undertaken in 2006:
 - A. relocate the UCB to include all heavy industrial designated parcels; and
 - B. determine the number of dwelling units permitted on residential and rural residential properties over one acre in size.

BACKGROUND:

The adoption of Plan Nanaimo in 1996 provided a much stronger Urban Containment Boundary (UCB) for Nanaimo, as well as expanded policies for dealing with same. The bylaw states that "the primary purpose of the UCB is to clearly define those areas of the City where urban growth is expected and where urban services will be available."

The Official Community Plan (OCP) also goes on to set out three primary objectives for the UCB as follows:

- separate rural and urban uses and in doing so, stop the gradual spread of urban development into rural areas;

- stop sprawl and contain growth by directing future urban development into areas within the UCB; and
- minimize the requirement for future tax increases by reducing the cost of providing road, sewer, water and storm water services in making no new commitments to provide services of this nature outside the UCB.

At the time the OCP was adopted, there were municipal services in place in areas outside the UCB (primarily roads and water) and the Plan does not specify how these situations are to be addressed in light of the policy limiting service extensions. As is the case in a number of areas, zoning in place outside the UCB at the time of the adoption of the OCP does not always fully support the new direction of the OCP. There is a strong link between control of sprawl and the availability of municipal services and although new policies were adopted dealing with municipal services, no changes to zoning were contemplated to address changing goals of the Plan.

The nature of municipal services currently existing outside of the UCB varies from virtually non-existent (in the case of the Linley Valley), to the provision of roads, water and storm sewer (the East Wellington/Jingle Pot area). Since the adoption of the OCP, there has been limited development pressure in areas impacted by the UCB and for the most part, it has been limited to relatively small one-lot splits of existing rural parcels.

In recent months there has been increasing interest in the development of lands outside the UCB which if acceded to, could see considerable development taking place outside of the UCB. Two development inquiries in particular [(approximately 400 acres of former forest reserve land in the Harmac area and a parcel in the East Wellington area which (although well outside the UCB) carries residential zoning] led Staff to seek legal advice on the exact nature of the impact of the OCP wording. The advice received from the solicitor was that in his opinion, Council had made a commitment that no services would be extended to parcels outside of the UCB. This creates a very strong impediment to new development outside the UCB and in fact, it would appear that the several small subdivisions which have taken place during the past decade should not have been supported.

In response to the solicitor's opinion, Staff has placed a halt on any development approval located outside the UCB which would require additional services to proceed. (This in effect, covers all applications.) This has obviously not been well received by affected property owners.

The issue in itself is extremely complicated and Staff has been working for some time to find a way to present options to Council which would best assist in resolving the issues at hand. Resolution will require an OCP amendment regardless of what direction is provided.

DISCUSSION:

As can be expected, the opinion from the solicitor is of a "one size fits all" nature. As previously noted, there are a large number of components which make up this issue. The following is a list which summarizes the primary questions which need to be considered in dealing with the larger policy issue:

- The possibility of dealing with the various types of services in different manners (i.e. providing sewer outside the UCB is clearly not acceptable, given the connection with urban densities. Is the same true for water? Does it make a difference if densities increase when water is provided? What about similar impacts for municipal roads?) It's also important to note that in areas where waterlines currently exist outside the UCB, there may be system advantages in terms of water quality and fire flows in allowing additional piping to be constructed. Additionally, lack of municipal water services in areas such as the Harmac lands may lead to increased difficulties in providing fire suppression services.
- How to deal with industrial lands? (The OCP encourages the development of heavy industrial uses outside the UCB based on the theory that these uses are not compatible with urban densities. Obviously, this is a land use which would be extremely difficult to support without high levels of municipal services and the OCP does not address the question.)
- How does Council's recent decision to enter into an agreement to consider providing water to Lantzville impact on the question? (Is this a UCB issue or a cross-jurisdictional consistency issue?)
- How does Council's decision to provide water to Snuneymuxw IR#2 impact on its decision? (Parcel sizes on IR#2 are large and certainly not urban in nature however, Council's decision was based largely in recognition of groundwater pollution problems and the lack of potable water on IR#2.)
- What is Council's long-term vision for the UCB? Is it in place to accommodate demonstrated development demands in future or to provide a permanent boundary between urban and rural development? (Extension of services to allow "estate" development at densities of approximately one unit per acre will likely guarantee that future redevelopment of areas outside the UCB to meet future community growth needs will not be possible.)

Issues and Options

The OCP is due for its ten-year review in 2006 and some of the larger issues (such as clarifying the long-term goal of the UCB) are probably best dealt with through that process. Accordingly, the range of options available to Council can be broken into short term (what do we do until the ten-year OCP review is complete) and long term (changes made with the benefit of the review). For obvious reasons, property owners will be seeking a quick decision which provides the greatest potential for development.

The following is a summary of the issues under discussion and the considerations for each:

1. Zoning – The lands lying outside the UCB are primarily designated as either rural resource or industrial. The industrial is relatively straight forward however, there is a slightly wider variation in the resource lands' zoning which may result in different approaches for different zones.
 - Industrial – Staff is of the opinion that the policies supporting heavy industrial development outside the UCB cannot be carried out unless the full range of municipal services are available. In many respects, this issue would have been less confusing if the UCB had been extended to include those parcels

which are designated as industrial (Staff will ensure that this option is considered as part of the 10-year review). Nonetheless, the simplest solution in the short term would be to amend the OCP to clarify that services are available to heavy industrial developments regardless of their location in relation to the UCB. This will require some liaison with the RDN to ensure that the Regional Growth Strategy is in concurrence however, Staff is recommending that policy changes be made to clarify that services are available to industrial lands outside the UCB. It's important to note that this not only involves land zoned heavy industrial at the time the OCP was adopted (Duke Point, Harmac, etc.) but also those properties designated for this use. Although not zoned heavy industrial at present, this designation provides clear support for this to occur at a future date.

- Rural Resource Lands – Lands carrying this designation typically carry one of three zoning classifications:
A-2 / A-3 Rural Residential, no services, five acre minimum parcel; or
A-1 Rural Residential, with limited services, five acre minimum parcel without water and two acre with.

(The A-3 Zone originally provided for a ten acre minimum parcel size however, this was reduced to five in accordance with the recommendation of Council's Campground Committee.)

A-2 / A-3 The A-2 and A-3 Zones are difficult to address with one solution as this zone applies to a wide variety of situations. Sites range from the 400± acre Harmac lands, 200+ acres DL 56, to smaller 5 acre parcels in the Westwood Lake, Lost Lake areas.

Given the size of some of the larger parcels, there is a strong argument that the public interest would be best served in areas such as access, integration of development, etc., through the development of public roads. (An alternate argument could also be made that lands such as the Harmac lands and DL 56 should be downzoned to provide for a much larger parcel size to reduce the likelihood of inappropriate development in the short term. This option was not however, considered as part of this report.) Staff is recommending that road extensions be permitted, but that no other service extensions be considered in these two zones.

A-1 The A-1 Zone is the more problematic as it is primarily located in an area (East Wellington) which has an extensive water system in place. Additionally, the zone provides for different minimum parcel sizes dependent on whether or not a municipal water connection is available (5 acres without municipal water – 2 acres with water). As such, a decision on water has a major impact on density.

When the relatively small minimum parcel size of 2 acres is combined with zoning which allows 2 units per lot, the result is a relatively high density for a rural area. This is particularly the case if the long-term plan is to utilize the land to accommodate future growth needs, as densities in the range of one

unit per acre are not easily redevelopable to more traditional residential densities of 4 to 6 units per acre. Options identified for this area include:

- No service connections (result is 5 acre minimum parcel size, 2 homes per parcel).
- Allow service connections and limit the number of units (result is 2 acre parcels with one home per parcel).
- Allow service connection with no further restrictions (result is 2 acre minimum parcel size with 2 homes permitted per parcel).

Staff is recommending the middle option with a proviso that the issue of density be referred to the 10-year OCP review.

2. Sanitary Sewer – As the treatment function service is actually provided by the Regional District of Nanaimo (RDN), the addition of properties to the service area requires Board approval. Staff does not believe that either municipal or regional policy would support extension of sewer to allow development outside the UCB. Staff does however, believe that this service is essential for industrial uses and that the City's OCP should be amended to clarify that this is the case.
3. Roads – Owners of large parcels (DL56, Harmac lands) do have some rights to develop under existing zoning (5 acre minimum parcel size, two homes per lot). If the City's Approving Officer took the position that no new municipal roads could be supported, the only option remaining would be to develop property as a bare land strata with private roads. This would obviously ease the impact on the City's operational budget for services such as road maintenance and snow clearing however, it would create fairly large private enclaves and potentially limit public access to some sites.

In addition to the previous support for new roads as part of rural residential development, Staff believes that municipal roads are also a key element in industrial developments and that would recommend that the OCP be amended to clarify that this is the case.

4. Storm Sewer – This function is closely tied into the City's road network and as such, any decision on extension of storm drainage systems to facilitate development need to be considered in concert with the issue of roads (i.e. if road extensions are permitted, storm sewer extensions are a necessity).
5. Water – Water is the biggest single issue. Firstly it embodies the question of whether Council is prepared to provide water to other jurisdictions while at the same time refusing to do so in some areas of Nanaimo. Also, it is provided outside of the UCB in many areas already. Additionally, extensions to existing mains are favoured by the Fire Department as a means of providing better coverage and in some cases extensions result in system improvements to flows, water quality, etc. The City has however, experienced numerous situations in past (Protection Island, Cinnabar Valley) where the provision of municipal water services to lands unserved by sewer has resulted in sufficient failures of private disposal systems that sewer extension has been required to address public health problems.

Staff recommends that Council support provision of this service to industrial development and that rural residential properties outside the UCB be dealt with as covered earlier in this report.

6. Fire Services – Although not a “hard” service, the City’s policies for servicing rural areas not only have an impact on issues such as quality of access roads and quantity of water for fire fighting, but also has long-term implications for meeting service targets. As an example, the Harmac lands cannot be readily accessed from any existing fire halls and the addition of a further 160 units in this area will increase the pressure on Council to add another station to its long-term plan. Although beyond the scope of this report to deal with this specific issue, it provides an excellent example of how rural development increases municipal operational costs through sprawl.

The recommendations contained in the report are an attempt to address the rights of existing owners which at the same time adhere to the spirit of the OCP and the Regional Growth Strategy. Nonetheless, if Council adopts the OCP amendments as the recommendation of the report, some owners will be dissatisfied as it will limit development potential of lands outside the UCB. Alternatively, Staff is not of the opinion that Council can do otherwise without losing the intent of the OCP and the Regional Growth Strategy.

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Respectfully submitted,

Brian Mehaffey, General Manager,
DEVELOPMENT SERVICES

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Council: 2005-Dec-19