

MINUTES OF THE PLANNING, ENVIRONMENT AND DEVELOPMENT  
STANDING COMMITTEE MEETING HELD IN THE BOARD ROOM, CITY HALL,  
ON THURSDAY, 2004-FEB-26, COMMENCING AT 3:30 P.M.

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PRESENT: Councillor L. J. Sherry, Chair

Members: Councillor R. A. Cantelon  
Councillor W. J. Holdom

Staff:	B. N. Mehaffey	A. Tucker
	E. C. Swabey	J. T. Bowden
	T. P. Seward	K. L. Burley
	D. Lindsay	C. Hambley

1. ADOPTION OF MINUTES:

- (a) Minutes of the 2004-FEB-03 Meeting of the Planning, Environment and Development Standing Committee held in the Board Room, City Hall at 3:32 p.m.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the Minutes be adopted as circulated. The motion carried.

2. INTRODUCTION OF LATE ITEMS:

- (a) Mr. B. N. Mehaffey, General Manager of Development Services advised that Mr. Jim Barnstead and Mr. Rick Rispin were in attendance and wished to address the Committee as late delegations regarding Storage Containers.

Moved by Councillor Holdom, seconded by Councillor Cantelon that Mr. Barnstead and Mr. Rispin be permitted to address the Committee as late delegations with five-minute time limitations. The motion carried.

3. RECEIVING OF DELEGATIONS:

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Delegations be permitted to address the Committee. The motion carried.

- (a) Mr. David Elmore and Mr. Glenn Carey, Glencar Consultants, 1386 Rose Ann Drive, Nanaimo, B.C. speaking in support of the application to change the designation of the Cattrall property to "Woodgrove Regional Shopping Town Centre" in the Official Community Plan.

Mr. Elmore was previously authorized to address the Committee.

Mr. Elmore stated that:

- he began working with the owner of the subject property, Mr. Dan Cattrall, regarding issues related to his property in January, 2002 and met with the City in July, 2002.
- the subject property is approximately 6.12 acres and is located behind the Petcetera store off Mary Ellen Drive.
- the purpose of this application is to change the designation of the subject property to "Woodgrove Regional Shopping Town Centre" in the Official Community Plan.
- in 1996, the original version of Plan Nanaimo had identified the property as "Woodgrove Regional Shopping Town Centre".
- every document shows that this property will eventually be designated "Woodgrove Regional Shopping Town Centre".
- there are three different organizations which need to give their approval: the City of Nanaimo; the Ministry of Transportation; and the District of Lantzville.
- they are trying to proceed with the redesignation but there are two issues which need to be dealt with before the application can go forward.
- the first issue is that the City of Nanaimo requires that the part of the property outside the Parkway, located in the District of Lantzville, be subdivided away from the part annexed into Nanaimo.
- an application for subdivision was made to the City of Nanaimo in November, 2003, and a second application to the District of Lantzville in December, 2003.
- the second issue is the access to the property; currently the access to the subject property is restricted to right in, right out, off Highway 19A.
- they have been in negotiations with the owner of the adjacent property to discuss the access from Mary Ellen Drive.
- to redesignate the property would be of benefit to the City and the owner.
- the owner is committed to resolving all issues related to this property during the rezoning process.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the presentation be received. The motion carried.

- (b) Mr. Jim Barnstead, Highway Tire, 1260 Island Highway South, Nanaimo, B.C., regarding storage containers.

Mr. Barnstead was previously authorized to address the Committee.

Mr. Barnstead stated that:

- he has been in business in Nanaimo for four years and in Duncan for 12 years.
- his business in Nanaimo is located at 1260 Island Highway South.
- he has just renewed his lease for a further three-year term.
- the landlords are unwilling to sell the property at this time and they also do not want alteration or construction of buildings at this time.
- he currently has a 45 foot storage container on his premises that is used to store 120 truck tires for his customers.
- the container has been cleaned and painted to tie in with the existing building.
- he has been very satisfied with his business in Nanaimo.

- at his location in Duncan, he purchased two portable classrooms from the local School District and two ½ storage containers to provide storage.
- there are no bylaws in Duncan to prevent him from having this type of storage on his property and he was not aware that the City of Nanaimo did not want these types of containers.
- the container is currently hidden behind landscaping and he believes this is the best location.
- the container has been inspected and is insured.
- he believes that 120 tires hidden inside a container look better than 120 tires stored out in the open on his lot.
- to date, there have been no complaints regarding the appearance of his lot.
- once he has found affordable storage space, he will move the container to his Duncan location.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the presentation be received. The motion carried.

- (c) Mr. Rick Rispin, Anchorage Marina, 1520 Stewart Avenue, Nanaimo, B.C., regarding Storage Containers.

Mr. Rispin was previously authorized to address Council.

Mr. Rispin stated that:

- he is upset that the City is concerning itself with the matter of storage containers.
- his storage containers have been located on his property for over ten years.
- rather than a consultation with the City, he was sent a letter asking him to remove the containers forthwith.
- every property within two blocks of his property is using these containers.
- the City tries to regulate things such as fabric covered buildings, when the City has the largest fabric covered building in Nanaimo at its Public Works yard.
- these containers provide him with a waterproof and secure area to store boat motors, paint and fuel tanks.
- they have had over \$50,000. worth of stolen equipment taken from their yard in the last two years which is why they have storage containers.
- their fences are cut as least once a month.
- they spend \$55,000. in insurance costs per year.
- the only time their yard was safe was when they had a guard dog, but because of all the people walking along the waterfront walkway the dog would bark, resulting in noise complaints; they subsequently had to get rid of the dog.
- due to Regional District right of ways and setbacks, they are unable to build a permanent storage building.
- they are able to make their containers look better esthetically, but why should he have to because in the yards of some of the houses in the area there are derelict trucks and houses boarded up.
- florists, gas stations, and schools are all currently using containers.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the presentation be received. The motion carried.

4. REPORTS OF ADVISORY BODIES:

Advisory Committee on Environmental Issues:

(a) Implementing the Partners for Climate Protection Program

At the Regular Meeting of Council held 2002-OCT-21, Council agreed to participate in the Federation of Canadian Municipality's "Partners for Climate Protection" (PCP) Program. The program was established to help municipalities prepare and implement local Climate Change "Sustainability" plans.

The program is broken up into a series of milestones that offer Council and Staff the opportunity for ongoing input and direction into the implementation of the program.

- Milestone One: Creating a Greenhouse Gas Emission Inventory and Forecast
- Milestone Two: Setting an Emissions Reduction Target
- Milestone Three: Developing a Sustainability Plan
- Milestone Four: Implementing and monitoring the Sustainability Plan

As part of implementing the PCP Program, the Advisory Committee on Environmental Issues would like to sponsor one training session and two follow-up meetings on the issue of climate change to build support and awareness about the program with Staff and Council.

Recommendations: That the Planning, Environment and Development Standing Committee recommend that Council:

1. endorse the Partners for Climate Protection Implementation Framework;
2. request that the Advisory Committee on Environmental Issues proceed with an educational workshop on Climate Change for Staff; and,
3. request that Staff complete a Greenhouse Gas Emission Inventory and Forecast for the Corporation of the City.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the recommendations of the Advisory Committee on Environmental Issues be adopted. The motion carried.

5. CITY MANAGER'S REPORT:

DEVELOPMENT SERVICES:

PLANNING:

(1) Official Community Plan Amendments Review Period November 2003 – May 2004

The following Official Community Plan (OCP) amendment applications are being forwarded to the Planning, Environment and Development Standing Committee (PEDSC) for review and consideration as part of the current OCP amendment round. As part of the review there is one external application; one corporate initiated amendment; and, three housekeeping amendments.

The details of these OCP amendment applications, along with Staff and the Plan Nanaimo Advisory Committee's (PNAC) recommendations, are outlined in this report. Based on PEDSC's recommendation for each application, Staff will prepare the associated OCP amendment bylaws for Council's consideration at its next Regular Meeting.

External Application

1. 6975 Island Highway North (Cattrall Property)

The applicant wishes to redesignate the subject property from Lantzville Official Community Plan "Gateway Lands" designation to City of Nanaimo "Woodgrove Regional Shopping Town Centre" designation. The applicant's stated intention for this amendment is to provide for rezoning of the property to permit uses similar to what is permitted on adjacent lands.

This property was recently brought into the City of Nanaimo and was the subject of an OCP Urban Containment Boundary amendment application which, if adopted, will amend the City of Nanaimo Urban Containment Boundary to include the subject property and the Jeffs' property (6950 Island Highway North). The bylaw remains at third reading pending registration of a restrictive covenant on the Jeffs' property.

At the time of the Urban Containment Boundary amendment application, it was determined that the subject property should not be redesignated until such time as access issues have been addressed and the portion of the property within the District of Lantzville has been severed. To date, these issues remain unresolved.

Access – Nanaimo Portion of Property

The current access to the subject property is restricted to right-in, right-out on Highway 19A. In order to secure access to the City portion of the subject property from Mary Ellen Drive, an access easement would need to be negotiated between the applicant and the owner of the neighbouring property.

Ministry of Transportation staff have indicated that, although they are not opposed to the change in OCP designation, issues such as use; access design; and traffic implications, must be dealt with before any firm decision can be made to allowing access onto Highway 19A.

#### Access – Lantzville Portion of Property

There is currently no access to the portion of the property within the District of Lantzville. Ministry of Transportation staff have indicated that they will require a covenant to be registered on title restricting any development on the Lantzville portion until access through adjacent lots has been secured. The District of Lantzville has indicated that they will not approve subdivision of the subject property until such time as access from Lantzville through adjacent lots has been secured.

PNAC Recommendation: At the Plan Nanaimo Advisory Committee Meeting held 2004-JAN-29, PNAC supported the subject amendment and recommended that access issues be referred to the Rezoning Advisory Committee.

Staff Recommendation: In Staff's opinion, designation of the land to "Woodgrove Regional Shopping Town Centre", which is the most intensive commercial designation in the OCP, is premature until such time as the access issues on both portions of the Lot are resolved and the Lot is subdivided along municipal boundaries, and as such are recommending that the PEDSC not support the application at this time.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the Planning, Environment and Development Standing Committee not support the application until such time as access to Mary Ellen Drive is secured and the two properties have been successfully severed. The motion carried.

#### Corporate Amendment

##### 2. 221 Commercial Street (Modern Café Building)

The purpose of this amendment is to recognize the heritage value of this building through its inclusion on the schedule of heritage buildings for Heritage Conservation Area (HCA) No. 1.

This parcel was previously included on a list of properties proposed as additions to the schedule of buildings for HCA No. 1. Although the building was deemed to have sufficient heritage value to warrant inclusion, the parcel was not added to the schedule at that time at the request of the previous owner. The current owner has now requested that the building be added to the schedule. The Nanaimo Community Heritage Commission evaluated and recommended inclusion of this building.

If the building is included on the schedule of heritage buildings for HCA No. 1, a Heritage Alteration Permit may be required for any subdivision, building additions, new construction and alteration of the existing structure, building, land or feature.

PNAC and Staff Recommendation: At the Plan Nanaimo Advisory Committee Meeting held 2004-JAN-29, PNAC recommended that PEDSC support the subject amendment to the OCP. Staff concurs with PNAC's recommendation.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Planning, Environment and Development Standing Committee recommend that Council direct Staff to amend subsection 8.3.1.(5), *Schedule of Buildings for Heritage Conservation Area No. 1* of the Official Community Plan by adding "Modern Café Building 221 Commercial Street". The motion carried.

#### Housekeeping Amendments

##### 3. Urban Containment Boundary (UCB) Amendment Clarification

The purpose of this amendment is to clarify the year and OCP amendment round in which UCB amendments will be considered. The OCP currently states that: "Council will only consider amendments to the UCB every three years thereafter". The way it is worded leaves a lack of clarity as to when UCB amendments will be considered.

At the time of adoption of the OCP, the policy stated that UCB amendments would be considered two years after adoption of the OCP and every three years from that point on. Based on this policy, UCB amendments should be considered every three years from 1998-NOV-01.

PNAC and Staff Recommendation: At the Plan Nanaimo Advisory Committee Meeting held 2004-JAN-29, PNAC recommended that PEDSC support an amendment to the OCP subject to a clarification of the correct date. Following the meeting, Staff confirmed that the correct date is 1998-NOV-01 and as such recommend that the UCB amendments be considered every three years from 1998-NOV-01.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the Planning, Environment and Development Standing Committee recommend that Council direct Staff to remove the text in subsection 3.1.2.(4) Urban Containment Boundary (UCB) – Policies with the following text: "Council will only consider amendments to the UCB every three years from 1998-NOV-01". The motion carried.

##### 4. Downtown Town Centre General Policy Clarification

The purpose of this amendment is to clarify that the general policies for Growth Centres apply to the Downtown Town Centre. Current OCP policy states that: "Development within the Downtown Town Centre is regulated by the policies of the Downtown Plan". This statement is true, but does not

reflect the fact that general policies related to Growth Centres still apply to the Downtown Town Centre both within and outside the Downtown Plan area. As such, it is proposed that this text be amended to state: "In addition to the general policies for Growth Centres (see Section 1.1 – Growth Centres), development within the Downtown Plan Area of the Downtown Town Centre is subject to the policies of the Downtown Plan (see Section 7.0)."

PNAC and Staff Recommendation: At the Plan Nanaimo Advisory Committee Meeting held 2004-JAN-29, PNAC recommended that PEDSC support the subject amendment to the OCP. Staff concurs with PNAC's recommendation.

Moved by Councillor Holdom, seconded by Councillor Cantelon that the Planning, Environment and Development Standing Committee recommend that Council direct Staff to remove text in subsection 1.1.2.2.(28) and replace with the following: "In addition to the general policies for Growth Centres (see section 1.1 – Growth Centres), development within the Downtown Plan Area of the Downtown Town Centre is subject to the policies of the Downtown Plan (see section 7.0)." The motion carried.

#### 5. Schedule 'A' Clarification

The purpose of this amendment is to better differentiate between properties with "Suburban Neighbourhood" and "Rural Resource Lands" designations by recolouring the properties to provide greater contrast. This is a routine mapping amendment simply intended to help users of the Official Community Plan more easily differentiate between various land use designations.

PNAC and Staff Recommendation: At the Plan Nanaimo Advisory Committee Meeting held 2004-JAN-29, PNAC recommended that PEDSC support the subject amendment to the OCP. Staff concurs with PNAC's recommendation.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Planning, Environment and Development Standing Committee recommend that Council direct Staff to amend Schedule 'A', A7-3 and associated map legends so the properties with "Suburban Neighbourhood" and "Rural Resource Lands" designations are identified as shown on the map. The motion carried.

#### (2) Regulation of Storage Containers

At the Regular Meeting of Council held 2001-FEB-05, Council adopted amendments to the City Zoning Bylaw which had the effect of adding "Storage Containers" as a permitted form of "Outdoor Storage" in the Light Industrial 2, Industrial 3, Heavy Industrial 4 and Public Institution 3 zones.

In recent months, Staff has been faced with several enforcement issues associated with the expanding use of containers into commercial areas. The placement of containers on properties does not trigger a requirement for a building permit and



therefore the expanding use of this form of storage is a growing concern as it relates to the visual impact on our community, equity of costs associated with other forms of storage that requires building permits, and the potential fire hazard associated with the separation and density of the use. As a result of these issues and the expanding use of containers, the issue was brought back to the Planning, Environment and Development Standing Committee for review.

#### What is a "Container"?

The City's Zoning Bylaw defines a "Container" as *"a non-combustible portable unit used for storage of transporting of goods"*.

Containers have taken on three different forms, which Staff are confident will continue to change as people find different uses for, reusable products. Currently containers primarily take the following forms:

1. "Metal Boxes" – previously used on container ships or rail freight cars.
2. "Metal and Fiberglass Boxes" – previously used as transport truck trailers.
3. Purpose-built stick frame boxes (i.e.: those used in Budget Mini-Storage).

#### Emerging Issues Associated with Containers

##### 1. Building Permits

Containers are not "buildings" and cannot be regulated by the Provincial Building Code. To establish any form of equivalency to evaluate them as buildings would, in Staff's opinion, be potentially disastrous. Containers are not certified as structures and cannot be certified in any logical fashion after the fact through equivalencies.

##### 2. Visual Impact

With respect to the shipping and transport truck trailer containers, you cannot regulate what these look like. They are what they are in terms of existing structures taken off of a rail freight car or transport truck trailer. These boxes do not contribute whatsoever esthetically to the community.

##### 3. Equity

Because the City cannot regulate containers through Building Permits, the City is unable to collect Development Cost Charges (DCC's), require fire protection or regulate on-site servicing, similar to a way a permanent "Mini-Storage" would undertake. This creates a significant inequity between the use of containers and purpose-built mini-storage.

4. Fire Protection

The issue of fire separation and protection cannot be addressed, as the containers do not have any form of certification with respect to construction standards and fire spread. As their primary use is now for storage of materials and goods, the City has no way of regulating what is put into the containers and therefore has no idea how significant the fire potential is.

5. Tax Assessment

Although the Assessment Authority is assessing containers as an improvement on the land, their involvement is not formal and is strictly on a "hit and miss" approach (i.e.: whether or not an inspector notices containers in the community). The assessment is not equivalent to a purpose-built structure regulated through a Building Permit.

Planning, Environment and Development Standing Committee Review

The Planning, Environment and Development Standing Committee has attempted to find a way to equitably integrate containers as a permitted storage option.

The Committee's latest review involved two seminar sessions by Staff and a half-day tour of businesses offering storage containers for sale and rent in the community. The Committee investigated several options including the elimination of containers altogether, status quo, and complete legalization of them.

After an extensive review of the expanding use of containers, the Committee has concluded that they cannot be regulated by Building Permits and therefore are not a form of storage that benefits the community positively or equitably. Therefore, the Committee is recommending that "Containers" no longer be permitted as a storage use. Any change in regulations would recognize that existing "legal containers" could remain, pursuant to the regulations of the Charter which protect non-conforming uses.

The Committee believes that the current "temporary" use of containers by contractors for storing equipment on a construction site remains as a valid use of containers. Any other outright use of containers would be prohibited.

Recommendation: That the Planning, Environment and Development Standing Committee recommend that Council direct Staff to make the necessary amendments to the City's Zoning Bylaw to prohibit the use of "Containers" as a form of storage.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the recommendation be adopted. The motion carried.

6. INFORMATION ONLY ITEMS:

- (a) Report from the Nanaimo Community Heritage Commission re: Heritage Commission's Annual Workplan.

Moved by Councillor Cantelon, seconded by Councillor Holdom that the Information Only Item be received. The motion carried.

7. ADJOURNMENT:

Moved by Councillor Cantelon, seconded by Councillor Holdom at 4:24 p.m. that the meeting terminate. The motion carried.

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CHAIR

CERTIFIED CORRECT:

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SENIOR MANAGER,  
CORPORATE ADMINISTRATION