

MINUTES OF THE MEETING OF THE PLANNING AND DEVELOPMENT STANDING
COMMITTEE, HELD IN CONFERENCE ROOM 2, CITY HALL ANNEX,
ON THURSDAY, 2001-OCT-11, COMMENCING AT 4:04 P.M.

PRESENT: Councillor L. J. Sherry, Chair

Members: Councillor W. J. Holdom
Councillor L. D. McNabb

Staff:	B. N. Mehaffey	J. T. Bowden
	E. C. Swabey	K. L. Burley
	S. E. Fletcher	D. Bryce
	R. Lawrence	

1. ADOPTION OF MINUTES:

- (a) Minutes of the Meeting of the Planning and Development Standing Committee held Thursday, 2001-AUG-30 at 4:00 p.m. in the Board Room, City Hall.

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

2. CITY MANAGER'S REPORT:

DEVELOPMENT SERVICES:

PLANNING:

(1) Lease of Railway Right-of-Way for Vehicle Display and Parking

The City recently received a complaint regarding the use of the railway right-of-way for vehicle display associated with Steve Marshall Ford (3851 Shenton Road). The dealership has recently extended its display lot across Shenton Road onto the railway right-of-way adjacent to the Island Highway. Rail America has confirmed that they are in the process of finalizing a lease agreement with the automobile dealership to utilize this area. The current zoning (RS-1) does not permit vehicle sales, storage or display in this area.

As with road rights-of-way, the railway right-of-way is subject to a number of zones as it passes through different parts of the City. As railways are permitted in all zones, this split zoning does not impact or limit the operation of the railway.

The railway has leased out portions of the right-of-way for use by neighbouring landowners. Rail America has recently indicated the following leases are now in place:

1. Southam Newspaper for additional parking in the right-of-way opposite their site on McCullough Road.

2. Nanaimo Chrysler (Wellington Road/Jingle Pot Road) to allow the display of vehicles in the right-of-way.
3. Tom Harris Motors (Bowen Road/Island Highway) to allow the display of vehicles in the right-of-way.
4. Christensen Motors (Bowen Road/Island Highway) to allow the display of vehicles in the right-of-way.
5. Doug Cunningham Motors (Northfield Road/Island Highway) to allow the display of vehicles in the right-of-way.

In addition to the above, Rail America has indicated it is in the process of finalizing two additional leases:

6. Steve Marshall Motors (Shenton Road/Jingle Pot Road) to allow the display of vehicles in the right-of-way.
7. Westwood Power and Marine Ltd. (Shenton Road) for display of boats in the right-of-way.

All existing lease areas currently used for the display of vehicles are physically adjacent to the lot on which the principle uses are found. The two proposed lease areas (Steve Marshall Motors and Westwood Power and Marine Ltd.) are separated from the principle use by a City road right-of-way.

At present, two of the five existing lease areas, Christensen Motors and Tom Harris Motors, pay tax on their lease areas. Should Council elect to permit the use of lease areas in the right-of-way, B.C. Assessment will be notified in order to include all lease areas for taxation purposes; however, as evident by the taxes paid on the Christensen Motors/Tom Harris lease (\$49.00) this is not a significant financial factor for the City.

The OCP recognizes that the railway corridor offers a significant long-term opportunity for multiple forms of transit and trailway travel and needs to be protected for those uses in both the long and short terms. The Plan designates the railway as a Transportation Corridor and identifies permitted uses as train, cycle, pedestrian ways and other uses that compliment the primary transportation function.

Given the number of lease areas and potential for additional leasing of the right-of-way and given the potential for land use conflicts, Staff believe that maintaining the current policy of non-enforcement is no longer an option. As such, Council's direction is sought. To assist Council, Staff has outlined three possible options.

Option #1 – Enforce Current Bylaw

By enforcing the current City Zoning Bylaw, all uses which are conducted in lease areas in railway right-of-way which do not conform with current zoning would be required to be removed.

If Council was to adopt this Option, the use of all existing and proposed lease areas would be discontinued. Given the long-standing nature of some of these leases (and the fact that the land has been taxed as such), Staff believe this Option is neither practical nor desirable.

Option #2 – Develop a Policy to Permit Limited Use of the Railway Right-of-Way

Should Council adopt a policy on permitting limited use of the railway right-of-way, Staff recommend that the lease areas satisfy all of the following criteria in order to be permitted:

- (a) The lease area is used only for vehicle display or parking;
- (b) The lease areas used for vehicle display are adjacent to the principal use;
- (c) The lease area is clearly secondary in scale to the principal use; and
- (d) There are no structures or signage of any kind within the lease area.

Option #3 – Create A New Transportation Corridor Zone

Under this option, Council would utilize this opportunity to protect this corridor for the long-term community interests. As stated above, the existing right-of-way carries with it a number of different zones which has in certain areas permitted portions of the right-of-way to be subdivided and sold off. By adopting a Transportation Corridor Zone, the subdivision of the right-of-way could be controlled and acceptable uses, such as parking or vehicle display, could be identified as permitted uses.

Recommendation: That Council proceed with Option #2 in the short term and direct Staff to include Option #3 in the next round of general Zoning Bylaw amendments.

Moved by Councillor Holdom, seconded by Councillor McNabb that the report be received and that:

1. Council adopt a policy to permit limited use of the railway right-of-way and that the lease areas satisfy all of the following criteria in order to be permitted:
 - (a) The lease area is used only for vehicle display or parking;
 - (b) The lease areas used for vehicle display are contiguous;
 - (c) The lease area is clearly secondary in scale to the principal use;
 - (d) There are no structures or signage of any kind within the lease area; and,
2. that Staff be directed to include a new Transportation Corridor Zone in the next round of general Zoning Bylaw amendments.

Moved by Councillor Holdom, seconded by Councillor McNabb that the motion be amended to stipulate that the policy be subject to the negotiation of a significant public amenity by the railway. The amendment carried.

Moved by Councillor Holdom, seconded by Councillor McNabb that the motion be amended further to stipulate that the policy be limited to a six-month period. The amendment carried.

The main motion, as twice amended, carried.

COMMUNITY PLANNING:

(2) Steep Slope Development Policy

At the time of amalgamation, Council made a decision to apply single-family zoning to much of Nanaimo. In the time since, Nanaimo has experienced substantial growth, much of which was concentrated in the more easily developed areas. Much of the remaining vacant zoned land is located on areas which are more difficult to develop and in particular, areas where some or all of the vacant parcels have a slope in excess of 20 percent.

In the past, development has been successfully undertaken in steep slope areas; however, the combination of smaller lot sizes and increased municipal standards have resulted in some of the more recent developments having a less satisfactory result. Lands with slopes in excess of 20 percent make up over 14 percent (1200 ha) of the City's total area. Of this 1200 ha, approximately one-fifth are zoned vacant lands with the remainder either already developed or not appropriately zoned for development.

In 1996, Council accepted that protecting steep slopes is important to the City's environment and livability, and adopted the following objectives as part of Plan Nanaimo:

- to protect the natural character of hillsides: preserve and enhance the visual and natural quality of Nanaimo's hillsides; and
- to "design with nature" in steep slope development: promote forms of development such as clustered housing that minimize soil disturbance, maximize retention of trees and vegetation, and complement the steep slope character.

As part of the ongoing OCP implementation program, Steep Slope Guidelines have been drafted with considerable input from the development community and the general public. It is important to recognize however, that regardless of how much input is received, a reduction in density and/or increased regulation will not be welcomed by the development industry. The issues involved are complicated and the impact of proposed regulations often overlap. Unfortunately, there is no easy route available to deal with the problem in a way that addresses the goals set out in the OCP.

Concerns about the implications of building conventional subdivisions on steep slopes was an issue which was the subject of much discussion during the Rocky Point, Hammond Bay and Stephenson Point Neighbourhood Planning process. The neighbourhood plan Steering Committee heard from their neighbours that steep slope development was important and required policy direction since a

third of the vacant land in that neighbourhood area is zoned single-family and on slopes greater than 20 percent. As part of developing the neighbourhood plan, policies were included that would require a change in density to be implemented and it was originally thought that the draft guidelines would be considered by Council at the same time as the plan.

At the Regular Meeting of Council held 2001-AUG-13, Council gave first and second reading to a number of policies from the Plan document. The steep slope policies were not however, included and Staff was directed to bring forward a report on the work done to date by Staff and as part of the neighbourhood planning process.

Most of the perceived problems with current development trends stem from the difficulties associated with developing standard size residential lots on steep slopes. There are two somewhat separate areas where change to the regulating framework would deal with these issues. The first deals with design guidelines and this is an area where the Steering Committee and Staff are generally in agreement. The second deals with density and housing form and is the area in which the Neighbourhood Steering Committee recommendations focused.

Given that the design issues are involved regardless of which option is chosen for dealing with density, it is the first area to be addressed in this report.

Design Issues - Steep Slope Development Permit Area:

Attached to the report were draft guidelines for dealing with development on steep slopes. The guidelines have been the subject of several workshops, as well as having been tested on several local sites to determine their practicality. The following is a summary of the key elements:

The Steep Slopes Development Permit Area (DPA) created under the OCP will affect all properties 0.5 ha or larger which have slopes 20 percent or greater. The guidelines will form the basis for issuing Development Permits for subdivisions and multi-family developments in the DP area.

A DP would not be required for building a single family house. Those parts of the guidelines dealing with building design that would apply to multi-family development, will be voluntary for single-family houses.

The Steep Slope Development Permit Area Guidelines change the approach for assessing development applications. Currently, an applicant applies a subdivision plan to the property and works with Staff to mitigate the impact on unique and significant environmental features. Following the adoption of the Guidelines, an applicant would be required to identify the unique features and topographical constraints first, and then, fit the development onto the site in a way that protects the slope and its unique features as proposed under the Steep Slope Development Permit Area Guidelines. With environmental protection as the priority, the Guidelines address the following topics:

1. Site and subdivision design for large lot subdivisions and cluster or open space development.

2. Ridgeline development for preserving visual character by allowing only small interruptions on those ridgelines that have been identified as having a significant visual impact on the community at-large.
3. Road and services that rethink standards.
4. Architectural character for designing on sloped sites which include implementing the design and height principles discussed as part of the Monster Home issue.

While the Guidelines could function as a voluntary document, changes to the existing Zoning Bylaws and Engineering Standards would ensure more effective use of the Guidelines. Changes that could be introduced include amending and clarifying the Engineering Standards or the Subdivision Control Bylaw where needed to reflect the intent of the Steep Slope Development Guidelines, such as:

- Allow road design speeds of less than 50 km/h on local roads on steep slopes.
- Revise the minimum pavement width for local roads on steep slopes to 8.5m.
- Allow sidewalks on both sides to be relaxed on steep slope local roads.
- Allow up to a maximum grade of 15 percent for common access driveways on steep slopes, depending on the number of lots being served.
- Allow variation in common trench locations, gas, streetlight and power pole offsets.

The Guidelines are currently in a form which would allow Council to consider them as part of the upcoming round of OCP amendments. Amendments could be completed during the planned update of Engineering Standards in March 2002.

Density and Housing Form Policy Issues:

The most difficult (and contentious) decision facing Council involves the issue of density and housing form. Three options have been developed and are included in this report for dealing with density and housing form policy changes as they relate to development on steep slopes. All of the options have benefits and challenges, and therefore, require some consideration by Council to determine which option provides the most community benefit and the least challenge to individual property owners. (All three options assume that Council is willing to adopt the draft guidelines substantially as presented.)

Option 1 – Adopt DPA Guidelines and revise standards.

Council could decide to adopt the Steep Slopes Guidelines into the OCP as a DPA and not make any supporting zoning changes. This would limit opportunities for Council to influence development on steep slopes and would likely result in minimal change from the current development trends. This would see single-family neighbourhood densities with existing road standards applied to subdivisions regardless of the slope. The implications of adopting this Option include:

- Minimal loss of development rights.
- No additional policies or change to existing process.
- Steep driveways and roads with high infrastructure costs.
- Imposing cut and fill areas.
- Massive retaining walls.
- Negative building impact on downslope residents.
- Significant site disturbance, minimum tree and vegetation retention.
- Increased impervious surface area leading to more run-off.
- Downslope silting.
- Lower summer stream flows.
- Altered natural waterflow patterns.

Option 2 Adopt the Variable Lot Size approach as recommended by the Neighbourhood Plan Steering Committee.

As part of the Hammond Bay, Rocky Point, Stevenson Point (HBRPSP) Neighbourhood Plan, a formula for determining the minimum size of lots in a new subdivision based on gradient was developed. In order to implement this approach a new Residential Steep Slopes Zone would need to be developed and applied to all properties over 1 hectare with slopes 20 percent or steeper. This option would greatly reduce allowable densities for many existing single-family properties. Staff has been reluctant to propose such a strong approach given past Council direction however, following the neighbourhood planning process, considerable neighbourhood support was expressed for this approach to protecting steep slopes from the impact of traditional single-family development practices.

To implement this Option, Council would need to create a large lot single-family Steep Slope zone and apply it to all properties >1 ha with slopes 20 percent or greater.

The variable lot size zoning would include the following:

- RS1 properties with slopes from 20 percent up to 35 percent and having a minimum lot size of 1,200 sq. metres.
- RS2 properties with slopes from 20 percent up to 35 percent and having a minimum lot size of 1,400 sq. metres.
- RS1 properties with slopes from 35 percent and having a minimum lot size of 2,400 sq. metres.
- RS2 properties with slopes from 35 percent and having a minimum lot size of 2,800 sq. metres.

The implication of adopting this Option include:

- Large lots could allow more building site options on flatter land and enable more natural vegetation to be retained on each lot.
- Prezoned land provides the greatest level of comfort to the neighbourhood for future land use.
- Reduces hazards created by extensive site manipulation.
- Increases the visual aesthetics of the hillside, thereby raising lot values.

- Some limitations on building location due to restrictions not to place building sites on slopes >35 percent.
- Large lot option lowers the lot yield compared to subdivisions using the minimum lot size under existing zoning, creating more expensive lots.
- Rezoning all sloped lots reduces opportunities to negotiate public open space and green corridor amenities.

Option 3 Allow developers to choose either Large Lot or Cluster Housing development.

To encourage the alternative subdivision designs envisioned in the Guidelines, a new Residential Steep Slope zone could be created that would apply to any undeveloped properties greater than 1 ha in size that are currently zoned single-family and contain slopes 20 percent or greater. This zone would give a developer the choice of designing a large-lot subdivision that excludes 30 percent slopes from lot size calculations (similar method used for protecting leave strips) or to maintain density through a cluster or open space development. Comments received as part of the neighbourhood planning process has made it clear that support for this type of option would only be considered if strong guarantees were in place as to the overall quality of cluster housing.

To implement this Option for large lots, Council would need to create a Development Permit Area where Steep Slope Guidelines would apply on all properties 1.0 ha or greater and amend Engineering Standards to reflect decreased road/utility standards on steep slopes. It should be noted that large lots where slopes are greater than 30 percent are not included in the lot size calculation; however, no restriction is placed on building sites located on slopes that are greater than 30 percent. The guidelines would not apply to single-family house on a single lot.

The implications of adopting this option for large lots includes:

- A similar method currently used for protecting watercourses and leave strips.
- Allows development to adapt to the terrain
- Enables more natural vegetation to be retained on sloped lots.
- Large lots reduce hazards created by extensive site manipulation.
- Increases the visual aesthetics of the hillside, thereby raising lot values.
- Large lot option lowers the lot yield compared to subdivisions using the minimum lot size allowed under existing zoning likely creating more expensive lots.
- HBRPSP Neighbourhood is not supportive of rezoning to allow choice between large lot and cluster or open space due to the level of uncertainty about the type of development that could occur.

Implementing this option for Cluster Housing Developments would be the same as for larger lots with the addition of an OCP amendment to allow cluster or open space development on sites greater than 1 ha. and adjacent to other multi-family development sites. Council would also need to create a new cluster development zone or require a covenant to limit the number of units under existing multi-family zones.

The implications of adopting this option for cluster housing includes:

- The provision for opportunity to negotiate community amenities through rezoning.
- No loss of density for the developer using multi-family form.
- Significant reductions in site grading and manipulation.
- Greater potential to retain natural features and vegetation, and provide more open space.
- Potentially reduced servicing costs; fewer or shorter servicing lines are required.
- Rezoning creates challenges for developers. A major disincentive due to the time, expense and uncertainty involved with the rezoning process.
- Cluster housing forms perceived to be less marketable and profitable than single-family housing.
- Neighbourhoods concerned about impacts on their investment and change to the character of their neighbourhood.

Conclusion

There is no question that all of the options outlined in this report are complicated and controversial. Nonetheless, if Council is to meet its goals as set out in the OCP, it needs to change its regulatory framework. This includes implementing the changes to the OCP that identify steep slopes as a Development Permit Area and making a determination of how it wishes to address the issue of form and density. *Option 1* is not particularly effective however, it is the only avenue available if Council is not prepared to reduce densities and/or provide for cluster housing.

As previously stated, there is strong neighbourhood support for regulatory policy changes as outlined in Step 2. This Option would protect steep slopes by imposing large lot single-family development on steep slopes and would likely result in developments similar to what exists in the Sherwood Forest subdivision. The reduced density would either result in less intrusive single-family development or an incentive to property owners to apply for a cluster or open space zone to regain their original density. This second option would of course alternatively provide Council the ability to influence the form and character of the development project under the Steep Slope Development Permit Area Guidelines, as well as achieve some community amenity as part of the rezoning negotiation. The last option may well provide the best balance of meeting the needs of all stakeholders. This is however, a real concern on the part of the Hammond Bay Neighbourhood Group that this could lead to a deterioration of neighbourhood character and/or values of existing properties. If support were to be forthcoming from neighbourhood groups, it would be based on strong regulations protecting neighbourhood character and design standards.

In summary, none of the options as presented will be acceptable to all stakeholders. Nonetheless, Council needs to determine which approach is most appropriate given the range of stakeholders. This will likely involve some changes and "fine tuning" as the review of options takes place however, there needs to be a starting point from which to proceed.

Recommendations: That Council:

1. direct Staff to bring forward the OCP amendments to:
 - (a) attach the Steep Slope Guidelines to the OCP using a Development Permit Area, and
 - (b) amend the Neighbourhood Designation Area to ensure rezoning of properties larger than 1 ha which may be adjacent to other multi-family projects for cluster or open space development on steep slopes;
2. direct Staff to bring forward amendments to the Engineering Standards to reflect the Steep Slopes Guidelines; and,
3. provide direction on the preferred options for steep slope zoning policy to deal with the issue of density and housing form.

Mr. B. N. Mehaffey, General Manager of Development Services, apprised the Committee of the complexity of this issue and Mr. Rob Lawrance, Environmental Planner, presented a PowerPoint presentation outlining the need to develop Steep Slope Development Permit Area Guidelines within the City. The Committee requested that the issue be again placed on the agenda of the next Planning and Development Standing Committee meeting to be held 2001-OCT-18, to allow the Committee time for further deliberation before forwarding a recommendation to Council.

3. ADJOURNMENT:

Moved by Councillor Holdom, seconded by Councillor McNabb at 5:30 p.m. that the meeting terminate. The motion carried.

CHAIR

CERTIFIED CORRECT:

CITY CLERK