



Corporate

NO: L101

Report

COUNCIL DATE: July 22, 2002

REGULAR COUNCIL – LAND USE			
TO:	Mayor & Council	DATE:	July 19, 2002
FROM:	General Manager, Planning and Development	FILE:	7902-0182-00
SUBJECT:	Proposed Agricultural Land Reserve Exclusion, Official Community Plan Amendment and Rezoning - 40 Avenue Between 152 Street and Highway 99 - Ocean Park Developments Ltd.		

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information; and
2. Consider the options outlined in this report.

INTENT

The intent of this report is to provide Council with an overview of the relevant Official Community Plan (the "OCP") policies that form the basis for consideration of the development application by Ocean Park Developments Ltd. (the "Applicant") to:

- (a) exclude an approximate 128 acre site located south of 40 Avenue between 152 Street and Highway 99 (the "Site") from the Agricultural Land Reserve (the "ALR");
- (b) redesignate the Site in the OCP from Agricultural to Industrial; and
- (c) rezone the Site from General Agriculture Zone (A-1) to Business Park Zone (IB) to permit development of a business park.

This report also provides an outline of the relative merits and issues pertaining to this application and options available to Council to consider this application, including the process to be followed in order to forward ALR exclusion applications to the Land Reserve Commission (the "Commission").

BACKGROUND

On July 8, 2002, Council passed the following motion:

"That staff bring forward to the next Regular Council Land Use meeting, an information report that documents the merits and issues in relation to the City's Official Community Plan policies of the application by Ocean Park Developments Ltd. for the development of a business park south of 40 Avenue between 152 Street and Highway 99, and the process that such applications need to follow in order to receive consideration by the Agricultural Land Commission."

This report responds to Council's request that staff provide information on the merits of and the issues generated by the application and has been prepared prior to staff completing an evaluation and submitting a Planning Report, through the normal project review process.

DISCUSSION

The Site

The Site consists of three properties located at 3817 – 152 Street, 15062 – 40 Avenue and 14718 – 40 Avenue and comprises an approximate area of 51.5 hectares (128 acres). The Site is bounded by 40 Avenue to the north, 152 Street to the east, the Nicomekl River to the south and Highway 99 to the west and is located within the ALR (Appendix I). The majority of the Site is vacant and unused. No agriculture of any kind is currently being carried out on the Site.

The Land Capability for Agriculture Maps show the unimproved rating of most of the soils as "Class 4". A relatively small area (approximately 10% of the Site) is shown as "60% Class 3". Limitations for agriculture include wetness, structure, permeability, salinity and topography. The improved rating of the soils is mostly Classes 2 and 3, with similar limitations, but reduced wetness.

The Site is located adjacent to the Nicomekl River and various drainage channels are located on the Site. The Site is located within the Serpentine – Nicomekl floodplain area and any development would be subject to minimum floor elevations and setback requirements for buildings. The Environmentally Sensitive Areas Map, contained within the OCP, shows a portion of the Site as having a high environmental sensitivity, as a large great blue heron rookery, situated in mature coniferous forest, is located on the adjacent property along the northern property line of the eastern half of the Site.

Applicant's Submission

After several preliminary discussions with staff over the past few months, the Applicant submitted applications for rezoning, OCP amendment and ALR exclusion on June 18, 2002. The Applicant has also submitted a series of consultant studies in support of this proposal, as follows:

- A mitigation strategy to compensate for the exclusion of the subject site from the ALR;
- A preliminary traffic impact assessment to confirm that the proposal can be accommodated within the

existing road system and to assess, at a preliminary level, what improvements may be required to the road network if the proposal was to proceed;

- An environmental study to identify important or sensitive environmental resources and recommendations for environmental mitigation;
- A preliminary servicing review of the proposal; and
- A market study to investigate the light industrial and business-park related opportunities offered by the Site.

Planning and Development Department and Engineering Department staff have not reviewed these studies in detail and, in particular, Engineering Department staff have not provided comments on transportation, traffic, servicing and environmental issues at this early stage. The Applicant has indicated that these studies are preliminary in scope and will submit a more detailed analysis, if the application proceeds. The Applicant realizes that the decision from the Commission, regarding the request to exclude the Site from the ALR, is crucial and, therefore, requested that the application be referred to the Commission for consideration now. If the Commission allows the exclusion, the Applicant will undertake additional and/or detailed studies for submission to the City.

Applicant's Rationale

The Applicant's rationale for the proposed development is based on a number of policy and site specific factors. From a policy perspective, the Applicant believes that this proposal responds positively to the various goals and policies in the OCP, pertaining to business development, job creation and increasing the assessment base for the City. While the proposal requires excluding land from the ALR, it also proposes to mitigate the loss of agricultural land by improving the agricultural capability of two other properties with a total land area of 72 hectares (180 acres) located within the Nicomekl - Serpentine basin of the City (Appendix II).

From a site specific land use perspective, the Applicant feels that the Site is ideally suited for use as a business park as its location, adjacent to Highway 99 and the existing traffic linkages to Highway 99, together with its outstanding visibility and exposure to major traffic arteries, make the Site very attractive to potential users. The Applicant also believes that this location enhances a key gateway to the City and, if properly developed, would demonstrate the City's support for an important sector of the economy.

As this proposal entails a major OCP amendment, the Applicant is proposing a community benefit "package". This package includes:

- Donation of land to the City to contribute to the linear park which is developing along the shores of the Nicomekl River;
- A comprehensive environmental enhancement program to protect the fisheries and heron habitats; and
- A site at 150 Street and 36 Avenue (2.5 to 3.0 acres of useable land) in the West Rosemary Heights Neighbourhood Concept Plan, to be provided, at no cost, to a non-profit or charitable society to construct an affordable housing project.

The Policy Context

The application has generated considerable discussion and debate between staff and the Applicant and among staff members, as it involves major policy decisions at both macro and micro levels. At the macro policy level (or the "big picture"), the application will stimulate debates over such issues as the Provincial interest of agricultural land reserve,

the Regional Strategy relating to Green Zone protection, the City's economic development policy and the City's agricultural policy. At the micro policy level (or the specific site issues), the issues of environmental protection, location and land use, servicing priorities and strategy, comprehensive planning and approval process are among those that must be considered. These policy considerations are discussed below.

A. Macro Level Policy Considerations

1. Provincial ALR

The *Agricultural Land Reserve Act* was first introduced in 1972 and has since become one of the most significant pieces of legislation affecting land use decisions in the Province. After the Core Review of the Government, Bill 21, the *Agricultural Land Commission Act*, 2002, which passed third reading on May 14, 2002 and is expected to be brought into force by regulation in September, 2002, introduces a number of provisions to implement the Government's direction to make the Commission more regionally responsive to community needs. However, the Core Review direction confirmed that the ALR program to protect agricultural land serves a compelling public interest and should be maintained (refer to the Commission's Information Bulletin in Appendix III).

2. Regional Green Zone Policy

The Liveable Region Strategic Plan adopted on January 26, 1996 includes a set of Green Zone Policies to identify and protect the "remarkable natural heritage" throughout the region. The Green Zone was established on the submissions endorsed by each member municipality and, in the City's case, it included all of the lands within the ALR. As part of the Green Zone Policies, the GVRD Board will seek "increased protection for Green Zone areas at risk from urban development" (Green Zone Policy 4.3), and seek "viability of agriculture as part of the region's economic base, improved communication of the importance of agriculture for the region's liveability and other actions" (Green Zone Policy 4.4).

3. Surrey's OCP Policy on Protection of Agriculture and Agricultural Areas

The protection of farmland as a resource for agriculture, a source of heritage and distinct landscape defining communities, is a key future direction contained within the OCP. Relevant policies include:

- Maintaining the integrity of the ALR and its existing boundaries;
- Ensuring that all land uses within the ALR conform to the policies and regulations of the *Agricultural Land Commission Act* and the *Farm Practices Protection Act*; and
- Supporting the Agricultural Advisory Committee and its undertakings (Policy F-1.2).

In addition, policies promoting compatibility between agriculture and non-agricultural land uses and, in particular, encouraging adjacent land uses to be compatible with existing farm use and ensuring that the impacts on agricultural lands will be minimized, are relevant City policies to be considered in the evaluation of the application (Policy F-1.1).

4. Surrey's Policy on Promotion of Business Development and the Building of a Sustainable Local Economy

The OCP promotes the concept of a complete city, balancing a high quality residential environment with a strong and sustainable local economy. The OCP anticipates the City's long term needs for business land and provides policies to ensure that there is a sufficient supply of developable land

available in appropriate locations to facilitate opportunities for business growth. Of specific relevance to this application are the policies to:

- Balance residential and economic development and to achieve a strong fiscal base (Policies B-1.1 and B-1.2);
- Facilitate the location of new business parks in appropriate and strategic locations within the City (Policy B-2.1); and
- Balance the distribution of economic development among the City's towns and neighbourhoods (Policy B-7.1).

On the other hand, as part of the economic policies, the OCP also recognizes the economic value and potential of the City's agricultural sector and includes a policy to promote agriculture as an economic growth sector (Policy B-8.1).

The OCP also includes specific objectives to increase the number of local jobs and to achieve a balanced assessment and revenue base between residential and business development. The OCP development scenario estimates that between 1,000 to 1,500 acres of additional business park/industrial land is required to meet the City's long term economic development objectives.

To meet these objectives, the land use strategy includes a new business designation and provides flexibility to provide for a range of business uses in any of the land use designations where a proposal meets certain specific performance criteria (Policies B-3.1 and B-3.2). It should be noted, however, that this flexible policy framework is not intended to compromise quality of life, environmental goals and farm protection policies.

B. Micro Level Policy Considerations

1. Protect Natural Areas

In dealing with site specific issues, the OCP contains policies to protect and enhance the natural environment, including significant fish, wildlife and bird habitats. Of specific relevance are the policies to recognize the need to minimize hazards of floodplains on development by locating low intensity land uses (e.g. agriculture, parks, etc.) in the floodplains and regulating any development in the floodplains in accordance with the Provincial regulations (Policy G-1.1) and to identify significant natural habitats for protection and to conserve, enhance, and promote wildlife corridors, thereby increasing the variety of wildlife and availability of wildlife throughout the City (Policy G-1.3).

It should be noted that buildings constructed on the Site would have to be raised by three to nine feet in order to meet floodproofing requirements and this may have a negative visual impact on the surrounding rural and farm landscapes.

2. Location and Land Use

The Agriculture Designation of the OCP allows agricultural zones as the predominant use. In addition, it also allows religious facilities, personal care facilities, local commercial and recreational uses intended to provide support services to the local (mainly farm) communities. The OCP also provides for the allocation of lands within the Suburban Designation to reserve areas for future urban, commercial or industrial growth and to create buffers along the agricultural fringe (Policies A-3.2 and A-3.3).

3. Servicing Priorities and Strategy

In order to manage future growth for compact communities, the OCP identifies "co-ordinate plans and services for orderly and cost-effective development" as one of the key future directions (Policy A-4). To prioritize future developments and to ensure strategic capital investment, the City should give priority to development in those areas where major infrastructure services, transportation systems and public amenities are already in place and can most effectively meet the additional demand created by development or where those services, systems and amenities are consistent with plan implementation and can be provided in a timely and cost effective manner (Policy A 4.2).

4. Comprehensive Planning

Although the application involves business park development only, the extent of the Site, the potential for the adjacent properties to be included in the development of business park and related uses, and the need to consider buffering and edge conditions, if the project is approved to proceed, would necessitate a comprehensive planning process involving a larger area. The OCP does require development within specified neighbourhoods to be contingent upon and subject to a secondary planning process to determine such matters as detailed land use, density, infrastructure services, public amenities and financing strategies (Policy A-4.3).

5. Approval Process Involving ALR Exclusion

The *Agricultural Land Reserve Act* and its Procedure Regulation (BC Reg. 425/98) stipulate that an applicant proposing to exclude lands from the ALR that is zoned to permit agricultural uses, or when an amendment to the OCP is required in order to proceed, must have obtained a resolution from the local government to authorize the application. The municipal council that receives such an application must review the application, may hold a public information meeting and must forward the application to the Commission, together with the council's comments and recommendations concerning the application, unless the municipal council refuses to authorize the application.

The City's normal process in dealing with ALR exclusion applications, where rezoning and/or OCP amendment are also required, is that applicants are required to submit all of the relevant applications at the same time and the Planning Reports contain full evaluations on the matter of ALR exclusion as well as rezoning and/or OCP amendment. Depending on the specific situations, some projects would proceed with the public hearing process while awaiting for the Commission's decision and some projects may not proceed to the public hearing stage until the Commission's decisions are provided.

Therefore, the first decision that needs to be made by Council, is whether the proposal to exclude the Site from the ALR has merit. Should Council decide that the proposal for exclusion has merit, Council can then pass a resolution to authorize the application to proceed to the Commission.

If the Commission allows the exclusion, the proposal would go through the detailed rezoning and OCP amendment process. To ensure that Council can consider the full extent of the proposal (over and above the proposal to exclude the lands from the ALR), the Applicant has submitted all of the necessary applications.

If the Commission does not allow the exclusion, the application cannot proceed any further. It is for this reason that the studies submitted by the Applicant, in support of this application, are not in depth. If the Commission allows the exclusion, the Applicant will be required to provide more detailed studies; particularly, a comprehensive servicing plan including environmental mitigation and transportation and traffic studies and a more in depth market study.

The Merits of the Proposal

The City strives to promote business development in order to meet its long term economic and employment objectives and one of the implementation measures is to increase the supply of lands for commercial, industrial and business developments. The proposal will, no doubt, present an "easy" solution to provide some 120 acres of land with excellent accessibility and visibility for business park development. The direct and indirect economic benefits to the City, in terms of construction values, employment and tax base are expected to be very significant. It will help achieve the City's economic objective of creating a balanced residential and economic development. Due to its proximity to the South Surrey community, it will also balance the distribution of economic development among the City's towns and neighbourhoods.

This proposal presents an opportunity to achieve community benefits in the form of a linear park along both shores of the Nicomekl River, a comprehensive environmental enhancement program to protect fisheries and heron habitats and the provision of land for affordable housing.

It should be noted that the linear park contribution and the environmental enhancement program offered by the Applicant do not constitute a significant "additional" value to the community, as these amenities would be a normal requirement, even in non-ALR land, in a development application involving an environmentally sensitive area. The Applicant's proposal to provide land for affordable housing is clearly a positive community contribution, but would require the City to consider a program to deliver affordable housing.

To compensate the loss of agricultural lands, the Applicant proposes to improve and increase the agricultural capability of two properties within the Nicomekl – Serpentine basin of Surrey, totalling approximately 72 hectares (180 acres) (Appendix II).

The Issues

To assist Council in evaluating this project from the policy perspective presented earlier in this report, in order to make a decision whether or not Council should pass a resolution to authorize the ALR exclusion application, the following important issues are identified to form the basis on which the decision of this application may rely.

1. Is Fulfilment of the Economic Development Objectives Sufficient to Justify a Significant Departure from the Agriculture Protection Objectives?

It is quite clear that the justification for the proposed business park development within the ALR is fulfilment of most, if not all, of the City's established economic development objectives. This application provokes a debate involving two important policies: economic development versus agriculture protection. There is a long standing Provincial interest in preserving and protecting the limited agricultural land resources; there is a Regional interest to define the limit to urban expansion and to protect the region's remarkable natural heritage; and there is the City's commitment to protecting and enhancing agriculture, ensuring farm viability, strengthening the farm community and maintaining agricultural boundaries, just to mention a few. In fact, the City has had significant achievements in this regard, with the on-going promotion of farm produce, annual farm tours, the establishment of the Agricultural Advisory Committee and the consistent efforts in ensuring proper interface and buffering along the agricultural boundaries, to mention just a few. On the other hand, economic development is vital to the overall fiscal health of the City and it is only through promotion and expansion of the business sectors, that it will be possible to achieve a balanced and sustainable local economy.

Is business development within the agricultural areas the only option to achieve economic expansion?

The answer is no, but, of course, it is the cheapest option. The City has over 2,200 acres of vacant industrial land. Although much of this land is constrained by poor location or lack of services, it is questionable, from public policy perspective, whether the City should consider additional industrial lands within the ALR, without having exhausted all other options. For this reason, the OCP anticipates the identification of additional lands for business development in existing suburban areas such as Grandview Heights, Clayton, etc. and requires that all new secondary plans (i.e., Neighbourhood Concept Plans, Local Area Plans, etc.) include adequate consideration of business and employment. It is recognized that identification of additional business development lands in the existing suburban areas is not an easy task, but the Highway 99 Corridor Study is a prime example of such an effort anticipated by the OCP and it would create some 200 acres of industrial/business lands.

Although the Site is not actively farmed at this time, as with most lands within the ALR in the City, the Site could become productive farm land if it is improved. The Applicant attempts to mitigate the concern of loss of agriculture land by proposing drainage improvements to enhance the agricultural capability of two nearby properties. This proposal is, indeed, a genuine effort from the Applicant to address the concern and it may appear to be quite tempting. However, the Agricultural Advisory Committee passed the following recommendation, after a lengthy discussion of the proposal, on July 4, 2002 (Appendix IV):

"That the Agricultural Advisory Committee recommends to the General Manager, Planning & Development that it is in order to follow the current OCP designation for the subject lands; that there be no net loss of agricultural land; and that this Committee does not consider mitigation by improving other lands for productivity."

Although the notion of "no net loss of agricultural land" is not included in any of the agricultural policies of the OCP, staff would agree with the Agricultural Advisory Committee's position, that the mitigation measures proposed by the Applicant to improve the farm productivity of other lands, cannot adequately compensate the loss in overall agricultural land resources. It is believed that, as long as the lands are protected, they will eventually be improved and become productive. Non-productivity of some of the existing farm lands is temporary, but taking the lands out of the ALR for non-farm uses, in this case a business park development, is permanent and the loss is irreversible.

It should be noted that staff have consistently advised prospective applicants and inquirers that staff would not support applications for ALR exclusion, based on the City's agricultural protection policies.

2. Will this be the Last Track of Lands Taken Out of the ALR for Business Development?

During the course of discussion with the Applicant, staff repeatedly raised the issue of setting a precedent. The Applicant indicated the uniqueness of the Site, having the freeway and the interchange to provide accessibility and form the west boundary, the Nicomekl River to form the south boundary, 152 Street to form the east boundary and 40 Avenue to limit future expansion to the north. However, since the City has over 45 miles of agricultural boundaries, it would be very difficult to tell others not to exclude lands from the ALR for business development or similar purposes once the "floodgate" is opened. The 128 acres of land, proposed to be excluded, may be seen as minimal in itself in light of the large amount of lands in the ALR, but the cumulative effect in the City and in other parts of the region and the Province, would be significant.

Excluding land from the ALR for business development is a major public policy issue. Due to the overwhelming economic gains by creating development sites from the ALR, it is anticipated that similar requests will be submitted for consideration in the future. Therefore, it would be desirable to formulate, in conjunction with the Agricultural Advisory Committee and the Commission, policies and criteria with which future ALR exclusion requests may be considered and evaluated. However, in the absence of such policies and criteria, the existing policies on agricultural land protection should form the basis for decision making.

On a micro scale, the Applicant's claim that the Site could be well isolated by the freeway, the Nicomekl River, 152 Street and 40 Avenue, cannot be supported. It is only logical to anticipate that the existing campground/recreational vehicle park, which is on the north side of 40 Avenue and is directly opposite to the proposed development, would most likely come forward with a similar proposal. The adjacent and nearby lands would likely follow, as well. This then brings up the next issue of growth management.

3. Should We Plan Ahead or Just Respond to Developers' Demands?

In a statement of principle, the OCP promotes planned community development that brings together business, residents and City resources, for policies to guide growth in a manner consistent with City and regional goals for complete and sustainable communities. This can only be achieved by good planning and sound capital investment strategy to provide, in the most cost effective way, the major infrastructure services, transportation systems and public amenities to support the future growth.

Although the Applicant has submitted preliminary servicing and traffic studies, due to the preliminary nature of the application and the submission, the City has not been able to evaluate the various technical issues and implications. One factor to be considered is the City's infrastructure investment and priorities (for example, the City is considering pre-servicing investment Campbell Heights).

The project cannot be viewed as an isolated undertaking. It must be considered in the context of a secondary plan so as to ensure that the issues of land use, interfacing, buffering, open space preservation, circulation and amenities are well thought out and coordinated within and beyond the Site. Such evaluation cannot be undertaken without going through a public process of secondary plan preparation. The industrial/business development initiative along the Highway 99 Corridor is undergoing such a planning process. It is appropriate that the subject project should go through a similar process, which should involve the Commission, if it proceeds further.

Options Available to Council

1. Instruct staff to continue to evaluate the proposal and to work with the Applicant and to prepare a Planning Report to Council, with appropriate recommendations, when all necessary work has been completed.

As noted above, the Applicant has submitted a series of consultant reports in support of this proposal. Planning and Development Department and Engineering Department staff are currently reviewing these studies and continue to compile the necessary information to prepare a Planning Report to Council. It is anticipated that this report will be brought forward for Council's consideration in mid-September/early October, 2002. The Applicant has indicated he would like the application forwarded to the Commission so that he can determine whether the application should proceed further, based on the Commission's decision. However, if Council decides that, before making the decision to authorize the application to proceed to the Commission stage, more information pertaining to detailed project proposal, site specific planning and engineering issues, results of the pre-notification process and the referral to the Commission and other outside agencies, etc, are needed, Council should refer this application back to staff to process through the normal course.

2. Deny the application to exclude the subject site from the ALR.

If Council considers that fulfilment of economic objectives does not constitute sufficient grounds to exclude lands from the ALR and that the agriculture resources and the farm community must be continuously protected, Council should deny the application and not authorize the application to proceed to the Commission. The process of this application will then discontinue.

3. Authorize the ALR exclusion application to proceed to the Commission.

If Council believes that the proposed business park development is a significant project worthy of further consideration and that the decision of the Commission would serve to clarify the Provincial interest, Council may authorize the application to proceed to the Commission. The process of the rezoning and OCP amendment application would be withheld pending the outcome of the Commission's consideration.

CONCLUSION

The application for rezoning, OCP amendment and ALR exclusion has not been fully evaluated by staff. At the request of Council, this report has summarized the various policies at the Provincial, regional and local levels of government that should be considered by Council in dealing with the Applicant's request to forward the ALR application to the Commission. This report has presented several important policy issues to form the basis for Council deliberation. In summary, the project will have significant economic benefits, but requires resolution of issues related to ALR exclusion.

Several options are also presented in this report for Council's consideration.

Murray D. Dinwoodie
General Manager
Planning and Development

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Appendix I Subject Site

Appendix II Agricultural Mitigation Strategy Properties

Appendix III Land Reserve Commission: Information Bulletin #1, May 23, 2002

Appendix IV Agricultural Advisory Committee Minutes of July 4, 2002

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