

**VILLAGE OF PEMBERTON
-COMMITTEE OF THE WHOLE MEETING AGENDA-**

Agenda for the **Committee of the Whole** of Council of the Village of Pemberton to be held Tuesday, July 21, 2009 at 12:30 pm (or immediately following Regular Council Meeting) in Council Chambers, 1350 Aster Street. This is meeting No. 0020

Time	Item of Business	Page No.
12:30 pm	1. CALL TO ORDER	
	2. APPROVAL OF AGENDA	
	<p>Recommendation: THAT the agenda be approved as presented.</p>	
	<p>3. Pemberton Industrial Park Overview of Servicing Infrastructure Report</p> <p>Recommendation: THAT Council receives the Pemberton Industrial Park – Overview of Servicing Infrastructure report and direct staff to host a meeting with the Industrial Park owners and businesses to share and receive input on the information contained within the report; and</p> <p>THAT Council confirms that any new significant infrastructure improvements needed for the Industrial Park shall be identified and budgeted through the Development Cost Charge Bylaw update and in accordance with the standards of the updated Subdivision and Servicing Bylaw.</p>	2
1:00 pm	4. UBCM Convention – Minister Request Form	11
	<p>5. DELEGATION</p> <p>Cam McIvor, McIvor Properties – TCUP 001 Application - Update</p>	
1:30 pm	6. Status Update Report - Menzel/Perry Rezoning and OCP Amendment Application (OR 009)	13
	<p>Recommendation: THAT Council support the continued review and consideration of Rezoning Application OR 009 in accordance with the milestones listed below and further detailed within the July 21, 2009 staff report:</p> <ul style="list-style-type: none"> ▪ Neighbourhood Planning ▪ Comprehensive Stormwater Management Plan ▪ Village Pre-Application Discussions ▪ Rezoning Application Submission and Statutory Approval Process 	
	7. ADJOURNMENT	



Date: July 21, 2009
From: Caroline Lamont
Manager of Development Services
Subject: PEMBERTON INDUSTRIAL PARK
OVERVIEW OF SERVICING INFRASTRUCTURE

Received by Council _____
Meeting No. _____
Date _____

RECOMMENDATION

THAT Council receives the Pemberton Industrial Park – Overview of Servicing Infrastructure report and direct staff to host a meeting with the Industrial Park owners and businesses to share and receive input on the information contained within the report; and

THAT Council confirms that any new significant infrastructure improvements needed for the Industrial Park shall be identified and budgeted through the Development Cost Charge Bylaw update and in accordance with the standards of the updated Subdivision and Servicing Bylaw.

REPORT PURPOSE

The purpose of this report is to provide Council will an overview of the existing and proposed servicing infrastructure for the Pemberton Industrial Park.

BACKGROUND

On Thursday, March 12th, 2009 the Village hosted a meeting with owners and interests of the Pemberton Industrial Park. At the meeting, several issues related to the timing of development approvals, Fire and Building Code requirements, water servicing, and the cost of development were identified. The Village has since been reviewing related procedures and introducing proactive initiatives in response to the various concerns that were raised.

Several queries at the meeting involved the various fees and charges required in the Industrial Park for sanitary, water and road works. In an effort to have a greater understanding of municipal requirements within the Industrial Park, on May 19th Council directed staff to prepare an overview of the related infrastructure servicing and fees (recognizing those that have been achieved and those that may be outstanding). This report provides an outline of the following: the status of water, sewer and road works, fees and taxes; outstanding infrastructure improvements that may be appropriate for the Industrial Park; and Pemberton Industrial Park’s infrastructure improvements and charges in comparison with other BC communities. The report does not consider annual

or monthly charges or connection fees related to water or sewer service to individual properties.

EXISTING INDUSTRIAL PARK INFRASTRUCTURE

This section of the report provides a general overview of existing infrastructure works, together with the manner in which the servicing works have been achieved and funded.

1.0 WATER SERVICE

Description - The Industrial Park is serviced by the Mount Currie Indian Band's water system through a bulk water services agreement. The agreement commenced on April 1, 2002 and in addition to other requirements of the agreement, either party may terminate the agreement no sooner than two years following a notice of termination. The Village was responsible for the construction of the system upgrade to allow the required connection to Mount Currie as well as the ongoing maintenance and operations of this connection. The Village pays the Band for the water services in accordance with set fees included in the agreement.

In 2005, there was an initiative whereby Industrial Park owners approved a petition that included support for a Local Service Area for improvements to a 400 mm watermain and 400 mm waterline river crossing to be completed at the same time as the connection to a sewer system. The connection to the municipal water supply, however, was not completed through to the Industrial Park as the estimated cost of construction exceeded the cost set out in the statutorily required petition. A 400 mm watermain, however, was installed from the wastewater treatment plant, under the Lillooet River to DL 214. The funds to complete this improvement came from the Industrial Park Sewer Servicing Project (25%), the Village for airport fire flows (10%) and the DCCs anticipated later in the fiscal year.

Voluntary Cost Charges (VCC) – Certain properties within the Industrial Park (i.e formerly Lot 2, Plan 34734 – the 13 lot Potvin subdivision) undertook certain improvements to site servicing prior to the introduction of the DCC Bylaw. These developers contributed to a Volunteer Cost Charge of \$27,300 for site servicing and also a further \$5750 in lieu of parkland contribution (Subdivision Application #13 Dec 16, 1996 correspondence).

Latecomers Fees – In 2002, the Village adopted Bylaw No. 495, 2002 that imposed a latecomer's fee on properties within the Industrial Park. The fees



were necessary to pay for the cost of connecting the Industrial Park to the Mount Currie water system.

Development Cost Charges – The Development Cost Charge Bylaw requires that \$3,762 be paid per Equivalent Development Unit (EDU). The supporting documentation for the DCCs indicates that the contributions are to include watermains; connection from proposed airport road water main (only partially completed); reservoir; and the share of water supply and treatment systems.

2.0 SEWER SERVICING

Description - The Industrial Park is currently connected to the Village's sewage treatment plant, through a forcemain that travels under the Lillooet River and to the Village's wastewater treatment plant. The sewer line improvements were achieved through a petition of Industrial Park owners (*that was supported by at least 50% of the parcels that would be subject to the local service tax, and the persons signing must be the owners of parcels that represent at least 50% of the assessed value of land and improvements that would be subject to the local service tax*). The portion recovered from the Local Services Tax was \$1,625,120 while the Village contributed \$70,114. The tax assigned was based on the size of each lot (as a portion of the total area serviced).

Local Service Area Tax – The Local Area Tax is collected annually (except for four properties that chose to pay in full) based on the area of the property (approximately \$1500/acre/year). This tax is in addition to municipal property taxes.

Development Cost Charges – The Development Cost Charge Bylaw No. 589 requires that \$2,234 be paid per Equivalent Development Unit (EDU) for sanitary service. The DCCs were reduced in 2007 in recognition of the works completed by the Local Service Area. Certain properties have either already paid either the Volunteer Cost Charges (prior to the DCCs) or the DCCs or were given a refund. Prior to the Local Service Area Tax the DCC charge per EDU for sewer only was \$6,206.



3. ROAD WORKS

Description - It is understood that initially the roads to access the Industrial Park were constructed by the land developer (subdivider) and then the main road was later paved through Development Cost Charges from the Potvin section. Later the subdivision of Lot 1, Plan 34734 improved a portion of Old Mill Road,

Carpenter Road and Artisan Road, including street lighting, curb, gutter and underground services.

Development Cost Charges – There are no specific Development Cost Charge requirements for road improvements within the Industrial Park.

POTENTIAL INDUSTRIAL PARK INFRASTRUCTURE

In addition to the current works, the Village has identified additional servicing improvements at this time related to water servicing and road improvements, notably:

Water The 2009 Strategic Plan identifies “*Industrial Park Water and Service*” as a project which is “*subject to servicing options analysis being conducted by KWL for Hillside developers*”. Further, it is understood that a further watermain connection is required to the Village system and the creation of a reservoir for Industrial Park for fire flows (Associated 2007 report). The funding for these work are part of the existing DCC bylaw.

Roads – The Village Subdivision and Development Bylaw No. 219 indicates that Industrial Way shall be constructed to a “Collector” standard. At this time the Village has not prepared a design to upgrade Industrial Way, although recent subdivision and development permit applications along Industrial Way, are being requested to upgrade half of their frontage to a “Collector” standard.

The Village is challenged as it is understood that in the absence of a Local Area Service charge or DCCs the only way that Industrial Way will be upgraded is through contributions achieved during the development and subdivision review process. The applicants, however, are concerned as there is currently no design for the road improvements or timeline (triggers) for its initiation.

COMMUNITY COMPARISON

Attached as Appendix C is a comparison of the level of service and DCC fees paid for industrial development within similar communities in BC. The communities were selected based on their limited attractiveness for industrial development (i.e. not on major provincial transportation corridor or distance to major industrial centre) and their population size (generally less than 5000). The communities of Whistler and Squamish have also been included. In researching the services provided in these communities, it was evident that there were several different formulas applied in the calculation of DCCs. The analysis standardize the application of the fees for comparative purposes – assuming the development of a 400 m² building on a 2500 m² lot (i.e. a building and lot similar in size to the Distillery). The comparison indicates the following:

The road standards range from local road to collector standards;

- DCCs are collected for water, sewer, roads and drainage (although only Fernie and Gibsons collect for drainage, and only Pemberton does not have a roads contribution)

- Pemberton is the only community that has different DCC rates for different uses (whereby the differential between the uses is significant 5 x greater);
- In consideration of water DCCs when considering the 0.2 EDU uses Pemberton is generally in the range with other communities (although Oliver is significantly lower than all);
- In consideration of sewer DCCs (when considering 0.2 EDU) Pemberton is in the range with other communities;
- Processing, fabricating and manufacturing uses in Pemberton require DCCs that are 5 times greater than the charges for warehouse, wholesale and junk yard uses;
- In consideration of total applicable DCCs for 0.2 EDU uses in Pemberton, the Villages charges are significantly lower yet we do not have road or drainage requirements;
- In consideration of total applicable DCCs for 1.0 EDU uses in Pemberton, the Village charges are lower yet in line with the communities of Gibsons and Fernie yet we do not have road or drainage requirements.
- Pemberton has the lowest DCCs in the corridor in consideration of warehouse, wholesale, junk yards, while for processing, fabricating and manufacturing Whistler has the lowest DCCs.

DISCUSSION

The purpose of this report was to provide Council with an overview of the existing and proposed servicing infrastructure for the Pemberton Industrial Park. It is important to recognize that the various fees and charges that are assigned to development in the Industrial Park directly correspond to the servicing works that exist within the park. The challenge for the owners may be that many of these fees are not readily evident when they are purchasing land and/or planning new development.

There appears to be an opportunity to clearly identify the certain costs of developing within the Industrial Park, in order that the Village and the owners can effectively plan, and budget these necessary infrastructure improvements. At this time there are several initiatives that could assist in this direction, notably:

Review of the Development Cost Charge Bylaw – The Village has recently posted a Request for Proposals to undertake a review of the Development Cost Charges Bylaw. The review is to include:

- Confirm or re-establish future growth and systems demands.
- Evaluate existing wastewater and water systems, park lands, road and Industrial Park components and establish a current list of improvement projects.
- Finalize updated list of infrastructure upgrading projects and establish class and cost estimates.
- Examine the EDU's and modify as required;
- Examine opportunities to promote improvements to the Industrial Park.

Ongoing Consultation with Industrial Park Owners/Businesses and the Village – The Village has hosted several meeting during the past several years with Industrial Park interests. Since the most recent meeting, held in March 2009, the Village has pursued several initiatives in an attempt to work with and

improve relations with the owners/business as well as support new investment within the Industrial Park. It is important that the Village share the recent initiatives as well as the information contained within this report with Industrial Park stakeholders.

Update the Subdivision Servicing Bylaw – The current servicing standards for the Village are contained within the Subdivision Servicing Bylaw that was adopted in 1989. The Strategic Plan identifies that in 2009 the Village will update their Subdivision Servicing Bylaw, although funds have not yet been allocated for the work.

A challenge at this time is during the review of new development applications. Development Services is not confident in identifying future contributions for servicing works unless Council has specifically agreed the new infrastructure is required. The concern is that by the time the Village completes or updates the necessary bylaws, there may be a substantial loss in contributions to certain upgrades.

STRATEGIC PRIORITY

The recommended direction is consistent with the Performance Measures contained within the Strategic Plan (Good Governance) as to review and streamline development and building permit application/review processes

BUDGET IMPACT

The cost of on-going relations with Industrial Park interests will be covered by in-house staff. The update of the DCC Bylaw and Subdivision and Servicing Bylaw, will be addressed as required in the mid-year budget amendment.

RECOMMENDATION

It is recommended that Council receives this report as well as share and receive input on the findings at a future meeting with Industrial Park owners and businesses. Further, it is recommended that Council confirms that any new significant infrastructure improvements needed for the Industrial Park be identified and budgeted through the Development Cost Charge Bylaw update and in accordance with the standards of updated Subdivision and Servicing Bylaw.

Attachments:

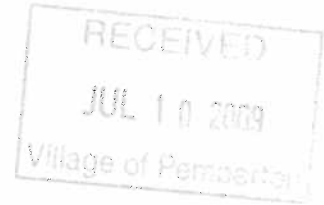
- Appendix A – LSA Paid in Full or Exempt*
- Appendix B – Development Cost Charges/Voluntary Cost Charges*
- Appendix C – Servicing Requirements for Comparable Communities*



STATUS OF SERVICING					DEVELOPMENT COST CHARGES CONNECTION FEES			COMPARISON	
	Water	Sewer	Road Standards	Water	Sewer	Roads	Drainage	Assumes 400 m2 building on 2500 m2 lot	Rank (Less to More)
PEMBERTON				\$3762 per EDU Assume 400 m ² building, but by use generates the following EDU's: <ul style="list-style-type: none"> processing, fabricating, and manufacturing 1.0 EDU/100 m² which would be \$8936 warehouse, wholesale, junk yards use which generates 0.2 EDU/100 m² which would be \$15,048 warehouse, wholesale, junk yards use which generates 0.2 EDU/100 m² which would be \$3020 	\$2,234 per EDU Assume 400 m ² building, but by use generates the following EDU's: <ul style="list-style-type: none"> processing, fabricating, and manufacturing 1.0 EDU/100 m² which would be \$8936 warehouse, wholesale, junk yards use which generates 0.2 EDU/100 m² which would be \$1787 	na	na	Total DCCs: 1.0 EDU (processing) = \$23,984 OR 0.20 EDU (storage) = \$4807	5 3
CASLTEGAR	Municipal	Municipal	Collector	\$5.66 per m2 of disturbed/required lot area (includes footprint, yard and setbacks)				Assume 800 m2 developed footprint = \$4528	2
FERNIE				\$9.50/m ² \$3800	\$6.67 m ² \$2668	\$51.64 \$20,656	0.51 \$204	\$27,328	7
GIBSONS	Municipal	Municipal	Local	\$5.63 m ² of building area 400 m ² equals DCC of = \$2252	\$6.45 m ² of building area = \$2580	\$23.76 m ² of building area = \$9405	\$84,115 per net hectare = \$21028	\$35,265	8
OLIVER	Municipal	Municipal	Collector	\$0.76/m ² =\$304	3.33 m ² =\$1332	\$4.72 =\$1888		\$3524	1
SQUAMISH	Municipal	Municipal	Collector	\$32,955/ha =\$8238	\$28,810/ha =\$7202	\$27,118/ha =\$6780	\$16,117/ha =\$4030	\$26,250	6
WHISTLER	Municipal	Municipal	Collector	\$4.02/m ² of gfa =\$1608	\$17.77 m ² of gfa =\$7108	\$18.83 m ² of gfa =\$7532	-	\$16,248	4



VILLAGE OF PEMBERTON	
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File to Main files
Council Agenda Action
Council Agenda Information
Other	Coal Actions.....



July 8, 2009

Mayor Sturdy and Councillors
Village of Pemberton
Box 100
Pemberton, BC V0N 2L0

Dear Mayor Sturdy and Councillors:

I am pleased to know that this year's UBCM Convention will be focusing on British Columbia as *A Province of Champions*.

As we confront a changing world with global economic challenges, British Columbians continue to show innovation and receive accolades for our collective efforts and initiatives focused on keeping our province strong. Through working together with communities and building partnerships, we have come a long way; but there is an awful lot to do in the years ahead.

I will look forward to seeing you at the Convention, and my caucus colleagues and I look forward to working with you to make your community an even better place to live.

If you would like to request a meeting with a Minister on a specific issue during this year's convention, please fill out the on-line form at www.corporate.gov.bc.ca/UBCM/. The invitation code is **MeetingRequest2009**. If you have any questions, please contact my UBCM Meeting Request Coordinator, Katherine Bergen at 604-775-1600.

I look forward to seeing you at the 2009 UBCM Convention.

Sincerely,

Gordon Campbell
Premier

ps: Please join us at the annual Provincial Government Reception on Wednesday, September 30th at the Vancouver Convention Centre.





Cabinet Minister Meeting Request Form

If you wish to request a meeting with a Cabinet Minister at the 2009 U.B.C.M. Convention, please complete this form before August 14, 2009.

Municipality/Regional District -- Select -- *

Contact First Name *

Contact Last Name *

Contact Title *

Phone *

Fax *

Email *

NOTE: All follow-up communication will be sent via e-mail. Please ensure your address is entered correctly.

Municipality/Regional District Attendees (please list all council members and staff planning on attending U.B.C.M. meetings - as meeting space is based on the number of listed attendees):

Attendee List *

First Name

Last Name

Title

Cabinet Minister: *

Please indicate the order of preference for a meeting with this Minister (i.e. 1, 2, 3, etc): *

Topics to be discussed (please be as specific as possible, this will assist in the scheduling of your meeting): *

(400 chars max)

Additional Information relevant to this request:

(400 chars max)

* Required Fields

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REPORT TO COMMITTEE OF THE WHOLE

Date: July 21, 2009

From: Caroline Lamont, Manager of Development Services

Subject: STATUS UPDATE REPORT
Menzel / Perry Rezoning and OCP Amendment Application (OR 009)

**Applicant/
Owners:** Robert Menzel and Susan Perry

Agent: Cam McIvor

RECOMMENDATION

THAT Council support the continued review and consideration of Rezoning Application OR 009 in accordance with the milestones listed below and further detailed within the July 21, 2009 staff report:

- Neighbourhood Planning
- Comprehensive Stormwater Management Plan
- Village Pre-Application Discussions
- Rezoning Application Submission and Statutory Approval Process

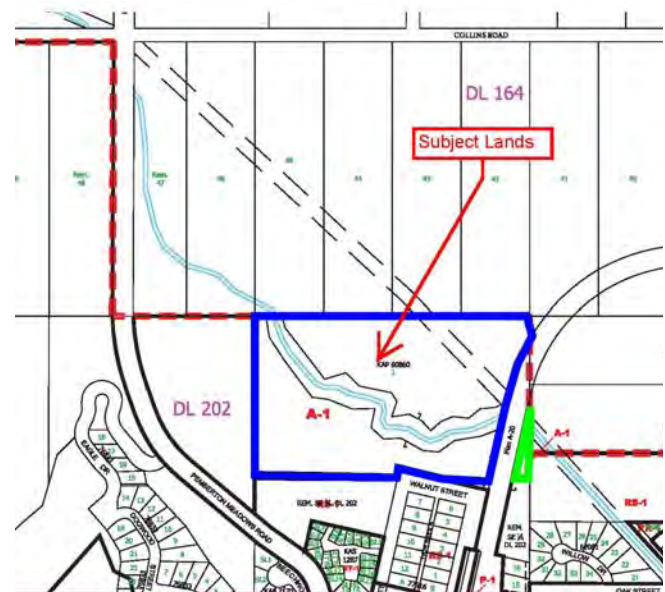
PURPOSE

The purpose of this report is to provide Council information related to the potential development of the Menzel-Perry property, particularly in view of the May 7, 2009 Agricultural Land Commission decision (refer to Appendix A).

SUBJECT LANDS:

The subject lands are legally described as Lot B, DL 202, Plan KAP 73119 and municipally known as 7476 Prospect Street. The property is bound to the south by Walnut Street and the Remainder of the S/E ¼ of DL 202, to the east by the CN Rail right of way (except for a small triangular piece as noted in green on the location plan), to the north by DL 164 and to the west by DL 202.

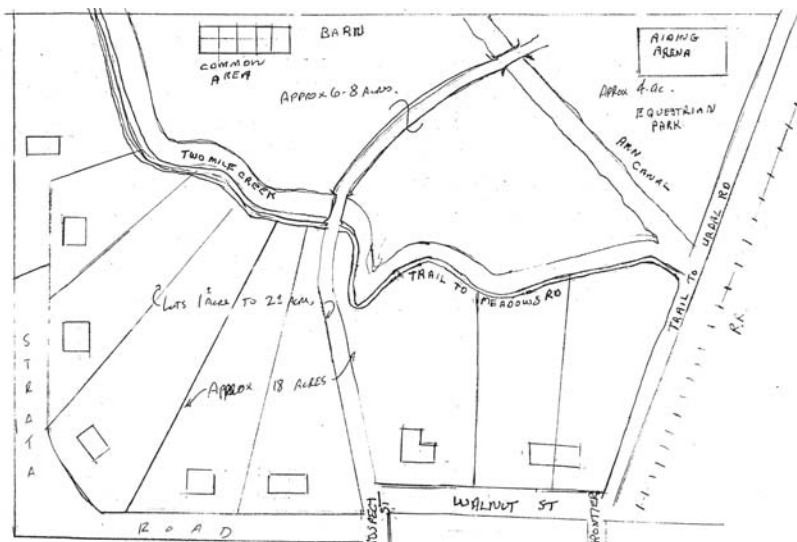
The site comprises approximately 8.1 hectares (20 acres) and is currently used for equestrian uses and the owner's residence. Two Mile Creek bisects the site (flowing west to east) while the Arn Canal traverses the north-east quarter of the property.



Location Plan

BACKGROUND

In late 2007 an application was received by the Village to subdivide the subject lands into nine large lots (approximately 0.9 ha/2.2 ac). The application was reviewed by Council, who in turn directed staff to refer the request to the Agricultural Land Commission (ALC) as well as the Advisory Land Use Committee (ALUC), the Agricultural Advisory Committee (AAC), and the Squamish Lillooet Regional District (SLRD). The Village's ALUC supported the application, yet it was rejected by the AAC and the SLRD Board.



Council considered the application on June 7th and June 18th, 2008. It was finally resolved at their August 12th meeting:

THAT the proposed subdivision of Plan KAP73119, DL202, LLD submitted by Bob Menzel dated 19 November 2007 be forwarded to the Agricultural Land Commission, provided that:

- the lands remain in the ALR,
- the project is stratified,
- there is a covenant restricting the size of the building footprint and total size of homes;
- Drainage is to be resolved to benefit Fisheries and farming;
- Maximize community benefits (trails/park)
- Encourage small lot farming; and
- Minimize the potential impact on farmland.

On April 23, 2009 the ALC met with the Village of Pemberton and conducted a site visit (together with Jeff Westlake of the Pemberton Valley Dyking District). The Village also provided the ALC with written comments that indicated that the Village of Pemberton Council supports consideration of development on the subject lands subject to:

- the enhancement of Two Mile Creek together with effective stormwater drainage (including dewatering) that would establish a more defensible buffer between urban development and agricultural lands while also enhancing the farmability of ALR lands; and
- Increased urban density on the site in accordance with Smart Growth principles.

Upon consideration of the site conditions, agricultural values, and the purpose of ALR lands the Commission concluded that the subject lands (west of the CN Rail right of way):

- have the appropriate ALR designation,
- are suitable for agricultural use, and
- that the proposed subdivision will impact agriculture, as it is inconsistent with the *Agricultural Land Commission Act* and does not accord with the objectives of the Commission or the Village with regard to planning of the urban/agricultural edge.

As a result, the ALC refused the application for the subject lands, however indicated that they are “*prepared to consider an application proposing an alternative subdivision arrangement which embodies a comprehensive drainage plan prepared by an authority having jurisdiction and which enhances agriculture to the north of the urban area of Pemberton, notably on the subject property whereby at this time the Commission will reconsider their decision*”. Further the applicant was advised in the ALC decision that “*a substantially revised proposal would not constitute new information and would not be considered as basis for reconsideration and the time limit for such reconsideration be one (1) year*” (in other words a revised proposal would be reviewed if submitted within one (1) year and considered the alternative subdivision arrangement, and a comprehensive drainage plan).

The owners have since met with Village planning and engineering staff and expressed a desire to address the Village’s and the ALC’s preferred directions.

COMMENTS

In view of the Village’s and the ALC’s directions, the applicant will need to revise their application to include the findings of a comprehensive stormwater drainage study, incorporate a defensible urban/rural buffer and incorporate urban densities (Smart Growth). Staff has since met with the applicant and their agent who have indicated that they are prepared to proceed with undertaking the necessary drainage study, however, they would like to have greater certainty with regard to the Village’s requirements for the project, particularly related to the following:

Smart Growth/Neighbourhood Design – The subject lands are surrounded by privately held yet undeveloped lands both to the west (DL 203 owned by Lilwat First Nations) and to the south (Remainder S/E ¼ of DL 203 owned by BCR Properties). Previous development applications for the subject lands incorporated neighbouring properties into an integrated design at urban densities. The applicant understands the need to coordinate development within an existing and future neighbourhood, but would like to have greater certainty with regard to the degree of integration the Village is looking for. A concern is that the Menzel-Perry development has a desire to move forward sooner than the surrounding properties.



The above site plan is for reference purposes only and has no status. Regardless it shows the relationship with adjacent properties, as it was prepared by the proponents with support from BCR Properties. The parkland use on the Lil'wat Lands (which at that time were Crown lands) responded to the Benchlands Neighbourhood Concept Plan but was never formally designated as park.

Land Use Designation – The proponent has indicated that they are weary to invest in the stormwater drainage study (approximately \$20,000) without some certainty from the Village that they are supportive of the proposed small single family/ duplex/multifamily subdivision. The lands and the BCR Properties' lands have been subject to several other development applications that included extensive site evaluations (thus a considerable amount of supporting documentation already exists), however, these submissions were not successful.

NEXT STEPS

In an effort to address municipal and ALC requirements, as well as the level of certainty required by the applicant, staff has provided the following outline for a development approval process (in order), highlighting certain requirements:

1. **Neighbourhood Planning** – Staff has reviewed the Menzel-Perry file and acknowledge that the Village as well as the future developments will benefit from a comprehensive neighbourhood area design. It is therefore staff's preferred direction, that the adjacent properties be contacted to determine whether they would be willing (in the near term) to work with the proponents and the Village on coordinating certain aspects of the development, notably:
 - Stormwater drainage study;
 - Site access to and through the properties;
 - Shared community amenities such as parks and trails;
 - Environmental Assessment and
 - Off-site Servicing.

If the owners of the two surrounding parcels (Lil'wat and BCR) are unable to commit to this more integrated approach to neighbourhood design in the near future, Council will be asked to reconsider whether it is realistic to require a coordinated approach. It is not the intent that the Menzel-Perry rezoning application be unreasonably delayed by adjacent landowners.

2. **Comprehensive Stormwater Management Plan** – The proponent (hopefully with adjacent landowners) is required to retain a certified professional to complete a comprehensive stormwater management plan that will address drainage issues currently (and in the future) that will affect not only the subject lands, but also the surrounding farmland, the future phases of the Benchlands development, and DL 202 (Lil'wat and the existing diking system (PVDD)). The management plan will then be referred to the appropriate jurisdictions and interests for comments and acceptance. The management plan should identify the urban/rural buffer and the extent of the lands remaining for development. The stormwater drainage plan should uphold environmental best practices.

In addition to the ALC's resolution related to the subject lands, the Commission also mentioned the subject lands in a letter dated May 29, 2009 related to Ravens Crest Development and the proposed private school. Resolution 121/2009 states:

- d) *as part of the very substantial improvements to the agricultural infrastructure in the Pemberton area, justifying conversion of ALR land for school use, the applicant*

- i) must engage in meaningful consultation with the Pemberton Valley Dyking District to ascertain and propose a level of participation in resolution of flood and capacity issues at Two Mile Creek, including engineering, provision and installation of a fish-friendly pump; and*

Staff is unclear how the Ravens Crest Development can be held to participate in the engineering and the provision and installation of a fish-friendly pump for the subject lands. Staff will consult with the SLRD on the manner in which this can be addressed through the respective development review processes.

- 3. Village Pre-application Discussions** – It is understood that the subject lands were subject to a rezoning application in 2004, which although it included development to the north of Two Mile Creek it did provide detailed investigations including a geotechnical study, environmental review, and preliminary servicing. Following some level of understanding of the lands necessary to achieve the required stormwater drainage improvements, staff will meet with the proponent and define the extent of the development lands as well as the status of the supporting documentation currently on file with the Village.
- 4. Rezoning Application Submission** - Submit an amended rezoning application for the revised development for consideration by the Village of Pemberton and their referring agencies.

Staff has advised the applicant that Council can not support a project without first going through the statutory approval process.

BUDGET IMPLICATIONS

The development application fees will cover the costs of the project review.

CONCLUSIONS

This report has been prepared as an update for Council as well as consideration of a proposed process for the review and consideration of Rezoning Application OR 009 in accordance with the milestones listed below and further detailed within this staff report:

- Neighbourhood Planning
- Comprehensive Stormwater Management Plan
- Village Pre-Application Discussions
- Rezoning Application Submission and Statutory Approval Process

Attachment: *ALC's May 7, 2009 Decision*



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on April 23, 2009 in Whistler, B.C.

PRESENT:	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Tony Pellett	Staff

For Consideration

Application: # YY- 38601
 Applicants: Susan Perry and Henry Robert (Bob) Menzel
 Proposal:

1. for that part of the property west of the CN right-of-way and north of the ARN Canal, dedicate the land as PARK;
2. for that part of the property west of the CN right-of-way and south of the ARN Canal, dedicate an extension of Prospect Street to access the PARK, then under the Bare Land Strata Regulations subdivide the balance of the land into 9 parcels and a common area (the common area being that part of the property lying between the ARN Canal and Two Mile Creek on either side of the Prospect Street extension);
3. for that part of the property east of the CN right-of-way, no specific proposal.

 Legal: Lot B, District Lot 202, Lillooet District, Plan KAP 73119
 Location: 7476 Prospect Street, Pemberton

Site Inspection

A site inspection was conducted on April 23, 2009. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Tony Pellett Staff
- Bob Menzel & Susan Perry Applicants
- Jeff Westlake Pemberton Dyking District
- Jordan Sturdy Mayor of Pemberton

The Commissioners and staff began by advising the applicants of a meeting the previous evening with the Pemberton Mayor and Council, at which time the Commission had been presented with further comments regarding the application. The applicants were provided with a written copy of those comments, which supported consideration of development on the subject lands subject to the enhancement of Two Mile Creek together with effective stormwater drainage (including dewatering) that would

- establish a more defensible buffer between urban development and agricultural lands while also enhancing the farmability of ALR lands; and
- increase urban density on the site in accordance with Smart Growth principles.

Those present walked to a location overlooking the point where the waters of Two Mile Creek and the ARN Canal meet and flow under the CN rail grade. The applicants and Pemberton Dyking district representative Jeff Westlake showed the Commission how water collects on the subject property, and described the manner in which Two Mile Creek historically collected runoff from the hillsides prior to the establishment of the railway grade almost 100 years ago. Jeff Westlake explained how the ARN Canal functions and how overflows have threatened parts of the urban area east of the CN right-of-way. He described a proposed solution involving retention ponds near the base of the mountain combined with a fish-friendly lift station (probably on the Archimedes screw principle) which would dewater the subject property and allow water to flow to the Lillooet River through a new canal adjoining the northwest side of the CN right-of-way. Mayor Sturdy reinforced Jeff Westlake's comments, explaining however that there is currently no funding for such a system.

The applicants showed how horses use the property, notwithstanding that for much of the year the land is extremely muddy. They explained that some horses have drowned or suffocated in the mud. They also explained that some of the horses have migrated to their property, generally from lands of the Lil'wat Nation at Mount Currie.

Applicant Bob Menzel explained why the proposal had omitted that portion of the parcel lying to the east of the CN right-of-way. He pointed out that it is physically inaccessible from the rest of the property, and advised that he has received an enquiry regarding possible sale of that area to the owner of one of the adjoining non-ALR parcels.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. In the Pemberton Valley, the ratings are usually taken from the *Soil survey of the Pemberton Valley, British Columbia January 1980* (Resource Analysis Bulletin 16), however for the subject property a larger-scale analysis was done by the author of the original soil survey.

The agricultural capability of the soil of the subject property is dominantly improvable to Class (2) with better drainage. Smaller portions are improvable to Class (3) or have been filled by the owners. The Commission agreed with the Village, the Dyking District and the applicants that drainage is the key issue in determining whether the land can be improved in accordance with the capability ratings.

Assessment of Agricultural Suitability

The Commission assessed whether external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission noted that

- the portion of the property east of the CN right-of-way is separated from any other arable land and immediately adjoins land zoned for urban development; hence that portion of the property is clearly unsuitable for agricultural use;
- the portion of the property adjoining Walnut Street is not physically separated from the urban area, nevertheless much of that frontage is occupied by the farm residence and there is no evidence of direct conflict with the residential area; and
- the portion of the property west of Prospect Street is protected by a required buffer
- The Commission does not believe that there are external factors that would render that portion of the property west of the CN right-of-way unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commissioners also assessed the impact of the proposal against the long term goal of preserving agricultural land.

- The Commissioners considered that the creation of strata lots as proposed would reduce the agricultural potential of the property to an unacceptable level, especially in view of the fact that the proposal is not drawn to scale and grossly exaggerates the area available for the 9 strata lots.
- The Commissioners considered that it would be appropriate to encourage the drainage scheme proposed by the Pemberton Dyking District as a way of enabling agriculture on the site, as part of a more comprehensive agricultural development or in conjunction with sale of parts of the land for consolidation with its adjacent parcels to the north as originally proposed prior to acquisition of the property by applicant Susan Perry.
- The Commissioners considered the potential impact of the proposal previously advanced by the Village of Pemberton and agreed in principle by the Commission, to extend Walnut Street northwestward through the subject property to provide a through route to and from Eagle Drive. The Commission concluded that with proper drainage and a good buffer, the south side of such a road could accommodate urban density on the site in accordance with Smart Growth principles while also enhancing the suitability of ALR lands north of the road for agriculture as proposed by the Village of Pemberton at the meeting of 22 April 2009.

Conclusions

1. That the land under application (i.e. the area west of the CN right-of-way) has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will impact agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.
5. That the current proposal does not accord with the objectives of the Commission or the Village of Pemberton with respect to planning of the urban/agricultural edge.

IT WAS

MOVED BY: Commissioner Tomlinson
SECONDED BY: Commissioner Pranger

- THAT the application to subdivide the property be refused as submitted;
- AND THAT the applicant be advised that the Commission will approve a subdivision which consolidates the area of the property east of the CN right-of-way with one or more of the adjoining parcels;
- AND THAT the applicant and the Village of Pemberton be advised that the Commission is prepared to consider an application proposing an alternative subdivision arrangement which embodies a comprehensive drainage plan prepared by the authority having jurisdiction and which enhances agriculture to the north of the urban area of Pemberton, notably on the subject property;
- AND THAT the applicant and the Village of Pemberton be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant or other "person affected" with the opportunity to submit a request for reconsideration:
- S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available, or*
 - (b) all or part of the original decision was based on evidence that was in error or was false;*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration;*
- AND THAT the applicant be advised that
- a substantially revised proposal (as distinct from a "to scale" version of the current application) does not constitute new information and will not be considered as a basis for reconsideration, and
 - the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter. If, for example, no comprehensive drainage plan is available within one year, then the matter cannot be considered without the submission of a new application.

CARRIED

Resolution #119/2009