

POSNA SUMMARY OF SIGNIFICANT HISTORY OF COMMONAGE LANDS

The opportunity to purchase precious grasslands on the Commonage, came in June, 2000 when Pike Anderson, owner of approximately 2,200 acres, indicated an interest in selling the property and favoured its being protected as a park. Pike had generously shared this property with many recreational users – hikers, horseback riders, cyclists, school children and North Okanagan Naturalist club members who held several field days there. He also allowed a bluebird trail to be established on his property and, still today, the highest annual count of successful bluebird hatchings are found on these lands. In addition, it is home to many other valuable species of fauna and flora, including the endangered Western Meadowlark, the American Pipit and the rare and beautiful bitterroot.

In the fall, Stan Field, then chairman of NORD, negotiated a tentative agreement with the Andersons, City of Vernon, Coldstream and NORD to purchase the property for \$3,000,000. The three corporations would provide \$1,000,000 and the North Okanagan Naturalists' Club was approached to help find the remaining \$2,000,000. A committee was formed, consisting of six NONC members, Stan Field and Al McNiven (GVPRD). Various Trusts and Nature Conservancies were approached for funding. In June, 2001, NORD sent an offer of \$3,000,000 to the Andersons. The offer went back and forth between lawyers for Andersons and NORD for various minor changes. Towards the end of August, Andersons' lawyers advised the committee that the property had been sold to another purchaser. The purchase price is not known for sure, but it is believed to have been \$3,800,000. The purchaser was Bob Armstrong, an Armstrong rancher and resident. Shortly afterwards, the land was annexed into the City on December 2nd, 2004. Bob Armstrong then sold about half this property to numbered companies with Chilliwack addresses. Sean Harvey was Mayor at this time.

On July 25th, 2005, a public hearing was held to consider a proposal “to have the annexed Commonage Area lands governed by the City of Vernon’s Official Community Plan (OCP) policies and land use designations rather than those in NORD’s Rural Vernon OCP”. This would re-designate the land from non-urban to urban growth. The community rose up in opposition to this proposal and a petition was circulated, garnering a considerable number of signatures. These people believed that, by opposing this proposal, development could not occur on these lands. However, this is an erroneous belief, as owners of private property can still submit plans for development, as long as they are in accordance with the current zoning. At a Council meeting in August, 2005, Council rejected four options for 4,500 acres of Commonage lands, all of which were variations on the same theme – houses with some green space. Staff were redirected to present a wider range of options. Residents at public hearings called for the completion of environmental studies of the impact development will have on surrounding species of fauna and flora. This also included doing computer generated traffic models to assess how increased housing and commercial operations will clog existing arteries and factoring this impact into a long-term transportation plan. Also, a portion of the road

construction costs for new thoroughfares would be billed to the developers. It also included conducting research on how many people the North Okanagan's water supply can support, where the increased garbage will be dumped, and how the spike in sewage will be treated.

Then followed the development of Vernon's Official Community Plan, presented in 2008. Residents spoke out strongly against more housing development on our surrounding hillsides, and these wishes were incorporated into the Plan, along with many other important guiding principles.

Three days before the June 27th, 2011 Council meeting, an email was sent out by Linda Kennedy to various NONC members and others from environmentally oriented groups in Vernon, informing us that Bob Armstrong had applied for a variance in developing a 480 acre portion of the property that he still owns on the Commonage. This had been brought to Linda's attention by a resident of Sunset Properties, who had been an instigator of the petition in 2005, and who was concerned about Armstrong's proposal to access this land via Chum Road from Sunset Properties. It seems that only those residents who live within so many metres of this access were notified of this application, in accordance with the relevant by-laws. They, also, had received very short notification. Between 20 and 30 people who were concerned about this latest development attended the Council meeting to learn more. Several made presentations protesting any development of this valuable natural area. After the presentations, Mayor Wayne Lippert declared "closure", which meant that no further input to City Council or Staff was permitted. However, a decision regarding the variance application was postponed until the July 25th meeting, with directions to Staff to make up a report in consideration of the presentations that had been made. After this meeting a small group of us in attendance considered the idea of a committee to pursue this matter further, and an inaugural meeting was held at which it was proposed to name this committee "NONAP" – North Okanagan Natural Areas Preservation (Committee).

NONAP researched the implications of granting a variance to Bob Armstrong and, in doing so, decided that it was a gross distortion of the lot averaging clause of the RDNO bylaw, which is designed to allow better utilization of difficult sites. (City of Vernon does not allow any lot averaging). Armstrong's application distorted this purpose by seeking to increase the multiplier from 1.5 to 11.3, thereby allowing a grotesque range of lot sizes, completely contrary to the intent of the bylaw. His tentative development proposal consisted of 24 lots varying from 5 to 27 acres (the minimum lot area in Non-urban zoning is 17.79 acres) plus a single lot of 200 acres. It thus provides lots of three different zoning categories without going through the rezoning process requiring, among other things, a public hearing. There are 13 lots of 7 acres or less, which comprise 50% of the NU section. Also, the City cannot acquire wild life corridors and environmentally sensitive areas through dedication at the time of subdivision, as none of the lots are 2 hectares. If any of the lots are two hectares, the city could take 5% for parks, but the

developer has made the lots larger in order to avoid that requirement. In lieu of purchasing them, the only way they can be protected is through some form of conservation covenant. NONAP was also concerned that, if this variance is approved, it will set a precedent that other landowners on the Commonage can reference.

Despite our opposition to granting this variance, no communication with Council or Staff was possible, due to Lippert's having declared closure. Contact was made with the media, and our concerns were published in The Morning Star and on a couple of local radio stations. We were interviewed by a representative from CHBC and appeared on the evening T.V. news.

A Sensitive Ecosystems Inventory (SEI) was initiated in 2004 by Allan Brooks Nature Centre in conjunction with the Okanagan Cooperative conservation Program (OCCP) to provide inventory information on rare and fragile ecosystems and wildlife habitat in regions around Vernon, including the Commonage. The Vernon Commonage area (6,728 ha) is a vital portion of the north-south corridor in the Okanagan valley. Many of the species that occur here are considered at risk in both British Columbia and Canada due to their rarity and declining populations. This decline has resulted from extensive agricultural conversion, intense human settlement pressure, noxious weed invasion, uncontrolled motorized recreation, and forest in-growth and encroachment associated with fire exclusion.

This SEI project followed accepted methods used in other regions. Provincially standardized methods for Terrestrial Ecosystem Mapping (TEM) were used as a base to develop a Sensitive Ecosystems theme map, and wildlife habitat mapping was conducted for eleven species-at-risk. The inventory was compiled through aerial photograph interpretation (1:15,000 scale) and field sampling in the summer of 2005 by professional plant and wildlife biologists and a professional geoscientist. However, no field sampling was permitted on the land owned by Armstrong, so the photographic interpretation is not verified. The SEI was incorporated into Vernon's Official Community Plan (2008) and the incomplete and unverified information submitted by a biologist contracted by Armstrong was shown on the plans of the 480 acres presented to Vernon City staff and Council with his request for a variance.

Our committee and some of our supporters attended the July 25th, 2011 Council meeting to see how they would vote on the Variance application. Staff had advised Council that they had two options:

1. Council may support the application subject to certain conditions being satisfied
2. Council may deny the application. The owner may apply to rezone the area where the larger lot is proposed in order to allow for the approximate 200 acres lot to be created rather than approve a variance to the maximum lot area provision.

Staff had drawn up a report in answer to the points raised in the presentations made by citizens at the June 25th meeting. In our opinion, this report did not do a very good job of

responding to the issues raised. Staff continued to recommend that Council approve the variance on the following grounds: “The proposed large lot encompasses the ALR areas within the property, as well as a significant amount of very high environmentally sensitive area. Staff support the variance as it would preserve the integrity of the ALR area and a large environmentally sensitive area by having those areas in one large lot. As part of the lot averaging provision, there would be a covenant registered on the titles of the applicable lots which prohibit further subdivision, until such time as a rezoning permits additional subdivision.” In addition, the Vernon Planning Board (with the exception of one representative) had also recommended approval of the variance. There was some discussion, which ended in Mary-Jo O’Keefe speaking out strongly in defense of the rights of private property owners and moving that the variance be approved. This was seconded by Buffy Baumbrough, who added that two covenants be registered on the NU zoned property “to prohibit further subdivision based upon the lot averaging and maximum density provisions of the applicable RDNO zoning bylaw and to protect the environmentally sensitive areas on that same property.” The motion was carried, with only Bob Spiers voting against it, due to concerns about the cost to City taxpayers of servicing such a development. Buffy declared that OCP issues would be protected in any proposed subdivision by its having to follow the Hillside Guidelines and EMA’s (Environmental Management Areas strategies).

NONAP was disappointed at this outcome and has concerns about how these covenants will be monitored. There is also the possibility that other owners of Commonage lands may apply for similar variances, using this as a precedent. There are also some concerns about the validity of the SEI (Sensitive Environmental Inventory) mapping presented by Armstrong in his application. It is highly unlikely, in our opinion, that Armstrong made his proposal in the interests of preserving environmentally sensitive areas. It is much more likely that he sees it as a way of garnering a greater profit and easier sale from dividing the land up into smaller lots (and more than would have been allowed if he had had to follow the minimum requirement of 17.79 acres), as well as avoiding the requirement of giving up 5% for parks or trails.

In preparation for a presentation we were scheduled to make to Council on August 8th, we met with Dale Rintoul, City Planner, and Cleo Corbett, Long Range Planner. They were both very supportive of our goals. It was suggested that, if the Commonage lands could be brought under City zoning instead of the old RDNO zoning, they could be zoned Agricultural, where the minimum lot size is 30 acres and no lot averaging is allowed. However, it is questionable whether private property owners who have purchased lands on the Commonage with a view to future development or investment would be in favour of what would amount to a “downsizing” of the value of these properties.

At the August 8th Council meeting, Rod Drennan made a presentation on behalf of NONAP in which we asked “that Council direct that a Commonage Area Plan be developed that would eventually be incorporated into Vernon’s Official Community Plan

(OCP). An Area Plan would involve an open and frank consultative process between land owners, appropriate government agencies (Land Commission, city planning staff), professionals in the various scientific fields of interest – botany, biology, entomology, water resource management etc., and, of course, the public.”

This bears a striking resemblance to a Media release dated September 7th, 2005 under acting Mayor Barry Beardsell in which he stated that “I share the concern raised by the community that the Commonage is a very special place that does have sensitive environmental areas that need to be protected. I am also concerned that any development proposals for the area are considered in the context of the long term development and growth needs of the City.” He called for a public process that should take 6 to 12 months to complete, stressing that “this is not a detailed plan for zoning and development. In fact, he noted that the Area Structure Plan is a first for Vernon – an overall area plan of this magnitude has never been prepared before by the City. The Commonage Area Structure Plan is not a developer’s plan, it is the City’s plan undertaken to address the precise types of concerns that are now being raised by members of the community. The Plan was initiated by the City to provide a high level plan for the whole area, including an environmental overview that will identify sensitive areas to be protected across the whole site; it will include an archaeological overview; and it will set out strategies to deal with parks, water, sanitary sewer servicing, and roads. The Plan will also determine how much of Vernon’s long term growth can be accommodated in this area. This means that the Community has input on how the area is to be developed before any developers come forward with more detailed proposals. The Area Structure plan will be proposed as part of the Official Community Plan, and will become the framework within which any development plans are being proposed by the private sector must fit before they will be considered by the City.”

Whatever happened to this proposal? One can only assume that the Mayor and Council elected in November, 2005, did not pursue this plan. Why not?

Our committee has concerns that not all lands within Vernon boundaries are subject to the goals and principles stated in the OCP. We are also concerned that there is inconsistency between the OCP and the zoning bylaw, both of which are bylaws adopted by the City of Vernon. The City has neglected to remove this inconsistency, creating confusion amongst the public and interest groups such as ours. It would appear that, almost three years after the city approved the current OCP, it has not brought the zoning into line with the OCP. As there is no rush to develop the area, and, as there is no plan in place, the prudent course of action would be to bring appropriate zoning into place AND develop a plan for this large area of land. We strongly suggest that **the city must set the course for development and not just have the developer set the course.**

We would also like the City to set up a committee to look into Parkland Acquisition Funding and report back on the matter within 6 months. Note that the Parks and Rec. Master Plan made this recommendation approximately 4 years ago.

In response to our presentation to Council on August 8th, Mayor Lippert directed that staff provide reports to council on the implications of changing the zoning on Commonage lands. Cleo Corbett and Brooke Marshall were to draw up these reports; however, although completed, they have not yet been presented to Council, and Brooke has informed us that they probably will not be until late January/early February, 2012! We shall certainly be following up on this closely.

Meantime, NONAP has changed its name to POSNA (Preservation of Open Spaces and Natural Areas) due to possible confusion with another group named NOPNAT, which concerns itself with lands to be placed into Trust agreements. Under this name, we shall continue to pursue our goals of working with the City, private property owners, the appropriate government agencies, environmental, professional, and water resource management personnel to promote sustainable development of the City's remaining natural areas, **in accordance with the Official Community Plan**. Where possible, we shall also endeavour to solicit funds to purchase suitable lands for the future preservation of valuable fauna and flora and the recreational use of Vernon and district residents and visitors to our beautiful area.

September, 2011