

REVIEW OF COMMUNITY PLANNING AND DEVELOPMENT REGULATION IN SUNSHINE VALLEY

FINAL REPORT

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July 8, 2005

Notice to Reader

This report describes the hypothetical implications of potential re-introduction of Regional District community planning and development regulation in Sunshine Valley. The purpose is to provide background information for residents and property owners. The report does not address current or potential development opportunities in Sunshine Valley and should not be used in any way for property investment decisions or legal purposes.

SUMMARY

This study is intended to provide impartial background information on the two options for community planning and regulation that are to be considered by Sunshine Valley owners:

Option A: to maintain the status quo – no Regional District regulation related to community planning, zoning and building inspection; and

Option B: to re-introduce Regional District planning, zoning and building inspection similar to other areas of Electoral Area ‘B’.

A summary of the key differences is presented below. A separate report has been submitted to Fraser Valley Regional District discussing the community's comments on the options.

	Private Regulation	Public Regulation (FVRD)
General	<ul style="list-style-type: none"> ▪ Regulation through various land title restrictions & sales agreements ▪ Less regulation; more local flexibility; more dependence on community cooperation and self-management; informal decision making rules 	<ul style="list-style-type: none"> ▪ Regulation through standard local government processes ▪ More regulation; stronger enforcement; more legal rigor in applying the regulations and ensuring procedural fairness in decision making
Subdivision	<ul style="list-style-type: none"> ▪ MOT Approval – no difference 	<ul style="list-style-type: none"> ▪ MOT Approval – no difference
Planning	<ul style="list-style-type: none"> ▪ Private development plans of owners 	<ul style="list-style-type: none"> ▪ Official Community Plan under Local Government Act
Land Use Regulation	<ul style="list-style-type: none"> ▪ Regulations established by land title restrictions and sales agreements and community consensus 	<ul style="list-style-type: none"> ▪ Regulations established through zoning, building and other local government bylaws
Building Regulation	<ul style="list-style-type: none"> ▪ Permits issued by private company as per individual property title restrictions and sales contracts 	<ul style="list-style-type: none"> ▪ Permits issued by local government as per Community Charter and Local Government Act
Public Input	<ul style="list-style-type: none"> ▪ Strata Council/corporation bylaws and articles and the Review Council procedures 	<ul style="list-style-type: none"> ▪ Public consultation and public hearing requirements under the Local Government Act
Community Representation	<ul style="list-style-type: none"> ▪ Community associations (e.g., Review Council) and FVRD Electoral Area Director 	<ul style="list-style-type: none"> ▪ Community associations, Advisory Planning Commission and FVRD Electoral Area Director
Property Taxes	<ul style="list-style-type: none"> ▪ Currently: \$2.51 per \$1000 value (residential rate, 2004), assuming all other services the same 	<ul style="list-style-type: none"> ▪ With Regulation: \$2.69 per \$1000 value (residential rate, 2004), assuming all other services the same

The major questions that are addressed by the study are as follows:

1. What are the main differences between the Status Quo and the proposed Regional District Regulation of land use and development?

The basic choice is between a private and a public regulatory system. The Status Quo involves specific land use rights and obligations that vary between villages and that depend upon effective cooperation between the developer and the owners. Various forms of overlapping regulatory authority exist with both the developer and the property owners/strata councils. The Regulation Option would impose more land use regulations but with greater legal certainty and consistency associated with authority and due process provided under the *Community Charter* and the *Local Government Act*. Currently, the Fraser Valley Regional District is the local government for Sunshine Valley but this does not preclude future municipal village status.

2. What would be the effects of Regional District regulation on existing development?

Existing, legally established land uses that occur prior to any new zoning or building regulation would not be significantly affected even if they do not conform to the new regulations. The *Local Government Act* provides for non-conforming uses to continue, although they may not be extended or altered unless a board of variance approval is obtained. Development variance permits and board of variance approvals can be used to approve certain non-conforming siting and setbacks. If a building containing a non-conforming use is damaged or destroyed by more than 75% its value above the foundation, subsequent re-building must meet the current bylaw, except where a building is non-conforming as to siting only (see the *Local Government Act*).

3. What would be the potential effects of introducing an Official Community Plan?

Under the Regulation Option, an Official Community Plan pursuant to the *Local Government Act* would be prepared with the assistance of a local Advisory Planning Commission. This plan provides a legal framework to guide long-term land use and development in a community. Zoning and other bylaws are subsequently adopted to implement the overall policy direction that is set by the plan. An informal, development plan has been prepared by the developer and discussed with some members of the community, but there are no legal requirements to ensure residents/owners' inputs into the long term future of the valley and such a plan has no legal effect.

4. What would be the potential effects of re-introducing Zoning and Building Bylaws?

The Regulation Option would likely result in low density residential zoning (RS) over most of Cedar, Parkhill and Meadow villages and potentially Alpine Village, mobile home park (MHP) zoning over Sumallo Village, and campground holiday park (CHP) zoning over Huckleberry Village. A general comparison with the Status Quo suggests that the permitted uses, site coverage, setback and separation distances and similar regulations would not be substantially different, although the overall set of regulations would become more comprehensive. The same BC Building Code would be applied, but with greater force of law and legal assurance than currently exists. The major effect would likely be on new development in areas potentially subject to natural hazards, where geotechnical studies would be required and development restrictions could be imposed. (If Regional District bylaws were adopted, owners could withdraw many existing private controls.)

5. How would natural hazards be addressed under the Regulation Option?

The Regulation Option would involve preparation of an Official Community Plan and mapping of areas that are potentially subject to flooding and geological hazards. Development Permit Areas would be established which define the site or area-specific measures required to protect new development, usually based on reports from professional geotechnical engineers. In general, the profile of natural hazards in the Sunshine Valley would increase under the Regulation Option.

6. How would the Regulation Option affect the current property taxes?

The re-introduction of planning, zoning and building inspection bylaws would have few direct effects on property taxes. All property owners currently pay for the general level of Regional District services as required under Provincial legislation. The provision of Regional District building inspection would impose additional taxes of about \$0.18 per \$1000 in assessed value. If additional services were requested by Sunshine Valley property owners, additional tax burdens would be created. Taxes will likely increase once the new Provincial standards for water utility systems management take effect, and demand increases for upgrading the volunteer fire protection services. The Regulation Option would provide lower financing costs for capital works projects and reduced liability insurance costs through local government associations.

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1. INTRODUCTION

This study was commissioned by the Fraser Valley Regional District (FVRD), with support from the Provincial Government, in order to provide independent, technical advice to residents and property owners in the Sunshine Valley on the potential effects of the proposal to re-establish community planning, zoning and building inspection services by the regional district in the Sunshine Valley area. These services were withdrawn in 1984 at the request of property owners in Sunshine Valley.

The objectives of this study are:

- To assess the effects of proposed re-introduction of community planning, zoning and building inspection (“regulation option”) on existing development approval processes.
- To assess the property tax implications of the “regulation option” versus the “status quo option”.
- To provide independent information that will facilitate informed discussion of the benefits and costs of the two options for community planning and development regulation.

This study is intended to provide impartial background information on the two options that are to be considered by Sunshine Valley residents and property owners:

Option A: to maintain the status quo – no Regional District regulation related to community planning, zoning and building inspection; and

Option B: to re-introduce Regional District planning, zoning and building inspection similar to other areas of Electoral Area ‘B’.

It is assumed that the regulation option (Option B) would involve the development and adoption of several bylaws:

- Official Community Plan Bylaw
- Subdivision Control Bylaw
- Zoning Bylaw
- Building and other related Bylaws

The study provides a comparison of the two options. The study is **not** intended to recommend one option over the other, but simply to provide background technical information to facilitate public understanding of the implications of the two options related to planning and development regulation services in Sunshine Valley.

Proposals for village municipal incorporation are not considered in this report, although there is support for this concept. The process for deciding on the options through referendum or other means is also not addressed by the report.

2. CONTEXT

Community planning and development in British Columbia is governed by Part 26 – Planning and Land Management of the *Local Government Act*. All local governments, which include Regional Districts, have authority (a) to establish Official Community Plans by bylaw, (b) to regulate land use and development through zoning, subdivision, building and servicing bylaws, and (c) to provide a wide range of local services to communities. Official Community Plans set the policy framework and long-range direction to guide community development. Once adopted, future development is required to comply with the OCP, with provisions to protect existing, legally established land uses. Within the context of the OCP, regulatory bylaws (zoning, subdivision, building, etc.) provide one of the means of implementing the long-term vision for the community, along with infrastructure investment and other development services and community facilities provided by the local government.

Regional Districts organize and deliver services in unincorporated areas (“Electoral Areas”), depending on the particular needs and priorities of local property owners. The general services of a Regional District are financed through property taxes that apply to all property owners in the district, while other services are financed on an area by area basis (all or part of an electoral area) and funded directly by the property owners that receive these services. Taxation levels depend on tax rates set by local government and assessed property values that are established by the BC Assessment Authority.

Regardless of local government regulation, land development in unincorporated areas is also required to comply with applicable Federal and Provincial legislation, such as the Federal Fisheries Act, the Provincial Land Title Act, Local Services Act, Water Act, Environmental Management Act, Fish Protection Act, etc. In the absence of local government regulation, the Approving Officer in the Ministry of Transportation is responsible for ensuring that the standards for rural subdivision under the *Local Services Act* and the approval requirements of the *Land Title Act* and *Strata Property Act* are being met.

The Fraser Valley Regional District currently provides or organizes financing for over twenty types of community services in the region. It maintains planning, zoning and building inspection functions in all settled areas of the district with the exception of Sunshine Valley. There are various regional services currently provided by FVRD plus two specific functions that apply to Sunshine Valley - financing of electrification and garbage collection at a waste transfer station.

At its discretion, the Regional District can also decide not to provide certain services to specific areas, which is what has occurred at Sunshine Valley in the case of planning and development regulation. Since the withdrawal of these functions, Sunshine Valley community organizations have provided their own services – land use control (through restrictive covenants, registered building schemes, strata bylaws, lease agreements and other means), building inspection, water supply, fire protection, etc.

3. COMMUNITY DEVELOPMENT

3.1 Background

Sunshine Valley is a recreational and rural residential community set in the scenic Nicolum and Sumallo River Valley, 22 km east of Hope. **Figure 1** shows the current Sunshine Valley villages. The valley has been a recreational haven for many property owners for over thirty years. The owners and their guests have access to extensive trails for both winter and summer recreation and a variety of recreational facilities on private lands. They are principally organized on a community cooperative club basis, operating a community centre with pools, tennis courts and other facilities.

The valley was first settled in 1930 when Amos Bliss Trites was granted 360 acres for a homestead and ranch. During the 1940s, it was acquired by the Canadian government and became a Japanese internment camp called Tashme. In 1970, Sunshine Valley Developments Ltd. purchased 514 hectares (1270 acres) and created a recreational resort community.

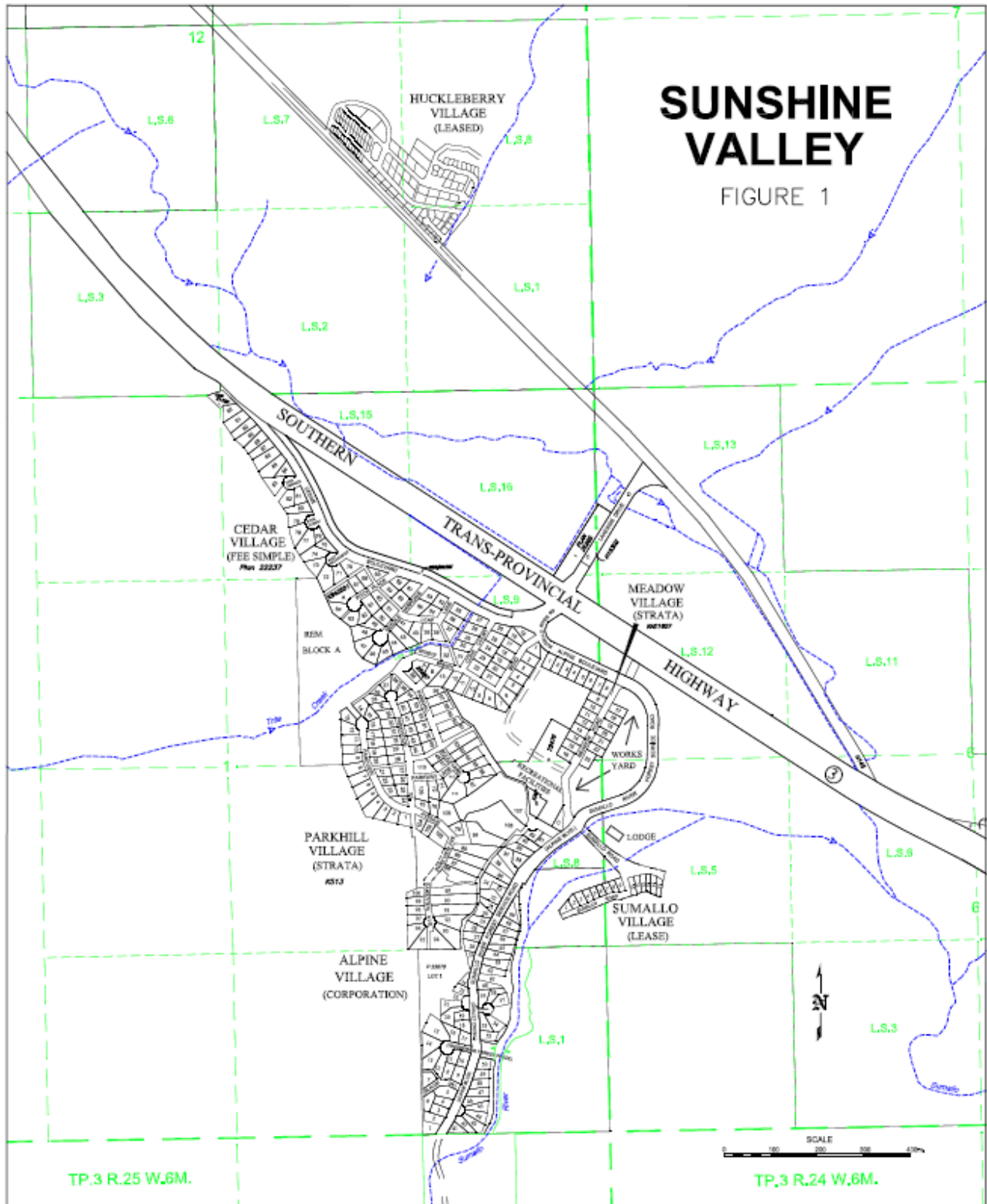
The first area to be developed was Cedar Village in the early 1970s. This was followed by Sumallo Village and Meadow Village, and in the early 1980s by Parkhill Village (See Figure 1). By 1983, there were about 192 lots in Sunshine Valley. Today there are about 389 lots/sites involving six distinct villages covering about 38 ha in total. Only one of the subdivisions – Cedar Village, is held in fee simple lots; the others are strata corporations (Parkhill, Meadow), a private corporation (Alpine) and leasehold interests (Sumallo, Huckleberry).

Fraser Cheam Regional District established zoning, subdivision control and building inspection services in Sunshine Valley in 1977. Between 1978-1983, the Regional District issued 51 building permits, 34 of which were for dwellings (cabins, single family residences, mobile homes). In September 1984, after a lengthy review of an application for de-regulation by the owners, Bylaws 490, 491, 492, 493 and 856 removed the ‘Sunshine Valley area’ from the area of application of Regional District zoning, subdivision, mobile home park and campground/holiday park bylaws and the building bylaw.

Following deregulation, the developer, Sunshine Valley Development Ltd. and Sunshine Valley Community Co-operative Club, with encouragement from the Regional District planning staff, established a local ‘Review Council’ to oversee the application of local Land Use and Building Regulations associated with the private land development controls.

The 2004 BC Assessment Authority’s property assessment roll records 315 legal properties, some of which may contain several undeveloped and unregistered ‘lots’. The property values at Sunshine Valley totaled \$ 28.1 million in 2004, with about \$ 17.9 million in improvement values.¹

¹ BC Assessment Authority, 2004; may not include all of the rural lands outside of the villages.



3.2 Population and Development

Sunshine Valley is largely a recreational community, although the 2001 Census indicates a population of 165 residents and 213 dwelling units. The community has grown significantly. In June 1978, there were 76 buildings constructed or under construction and 61 campsites developed.² A 1979 map showed 85 occupied lots in Sunshine Valley.³ This has increased over three-fold in the past 25 years. Today, there are approximately 388 lots/campsites that are privately held in one form or another. Of these, 231 have some form of building/structure improvements, plus about 95 developed (unsubdivided) campground sites at Huckleberry Village that are occupied by small cabins and recreational vehicles.⁴

Table 1 summarizes the current status of development in Sunshine Valley. There are approximately 320 lots or sites with permanent or temporary dwellings, most of which are used for recreational purposes during weekends year round.

Table 1: Status of Development based on BC Assessment Authority data, 2004/05

Developments:	Number of Lots/sites⁵	Number of Lots with Improvements⁶	Property Values – Land only⁷	Property Values – Developed Lots
Cedar Village - fee simple subdivision established in 1971; 8.3 ha	91	82	\$ 44,500	\$ 56,600-201,000
Sumallo Village - a mobile home park established in 1977; 0.93 ha	14	13	\$ 16,000	\$ 9,800-36,200
Meadow Village - a strata subdivision established in 1978; 2.2 ha	23	22	\$ 17,600-26,000	\$ 70,500-161,000
Parkhill Village - strata subdivision approved in 1980; 13.8 ha	99	53	\$ 30,200-90,700	\$ 114,000-239,000
Alpine Village - a recreational cooperative approved in 1982; 8 ha	67	61	\$ 25,000-56,000 ⁸	\$ 28,100-157,000
Huckleberry Village - a private campground; 4.5 ha	95	-	\$5,400-13,900 ⁹	campground
Total	389	231		

² Sunshine Valley Developments Ltd., Letter to Davies, Baker and Co., June 23, 1978.

³ Sunshine Valley Developments Limited, Map SV-09A, Oct. 24, 1979

⁴ BC Assessment Authority 2005 property records. There are 223 water connections (excluding Huckleberry).

⁵ Includes fee simple and strata lots, and lease and campground sites

⁶ Improvements as identified by BC Assessment Authority 2005 data on property improvement values; Huckleberry Village is an unsubdivided campground and does not have recorded BCAA 'improvements', although most of the sites have small structures/shelters and therefore may be considered as developed.

⁷ The property values are based on the range of values in BC Assessment Authority 2005 data, except Sumallo

⁸ 2004 BCAA data

⁹ 2004 BCAA data

3.3 Overall Development Plan

An Official Community Plan has never been prepared for Sunshine Valley area. However, Sunshine Valley Developments Limited has established an overall development plan (SV-09) that envisions a further series of villages with condominiums, chalets and cluster cabins, a retirement complex, campsites and a commercial area. The expansion of the existing settlement in Sunshine Valley, as in all unincorporated areas, requires the approval of the Approving Officer of the Ministry of Transportation as per the *Land Title Act*.

3.4 Land Use and Building Regulations

Table 2 summarizes the key features of land use regulation and services at Sunshine Valley. Some aspects of regulatory authority are under dispute in the community. The regulation of land use and development at Sunshine Valley, based on the information provided, involves four types of regulations:

- Restrictive covenants imposed by Ministry of Transportation, Ministry of Water, Land and Air Protection and the Regional District of Fraser Cheam (or their predecessors) at the time of subdivision that set out access and road standards, approval requirements for water systems and sewage disposal, and flooding and environmental protection standards.
- Restrictive covenants associated with the Building Schemes and Land Use and Building Restrictions of Sunshine Valley Developments Ltd. that are registered on the titles of properties at Cedar Village under the *Land Title Act*, and similar regulations that form part of the bylaws of the strata corporations at Parkhill Village and Meadow Village under the *Strata Property Act*, as amended by the strata councils from time to time.
- Lease Agreements which include Land Use and Building Regulations of Sunshine Valley Developments Ltd. that form part of the contracts between the developer and the lessees at Sumallo Village mobile home park and Huckleberry Village campground.
- Articles of Alpine Park Estates, Inc. under the *Company Act* that establish the basis for corporate approval of Improvements and Construction (Article 23-2) and the power of the company directors to make General Rules regarding Land Use and Building Regulations (Article 23-7).

Despite the differences in land tenure, the land use regulations have a similar goal – to ensure a safe, attractive environment with neighbourly land uses and to protect the quality of the natural environment, development and services for the common interest. A brief description of these regulations is summarized below.

Table 2: Status of Land Use Regulation and Development Services

Land Use Regulation*	Roads	Water Systems	Sewage Disposal	LPG
Cedar Village <ul style="list-style-type: none"> ▪ Schedule of Land Use and Building Restrictions, Schedule 'A', registered in 1972 as part of Plan 22237 ▪ Restrictive covenants under the Land Title Act 	- public roads of 50 ft right of way width, maintained by Ministry of Highways	- private utility operated by Sunshine Valley Development Ltd. ('Parkhill system') - hydrant/ standpipe located within 500 ft of all lots	- septic disposal fields for 93 lots approved in 1973 by Ministry of Health as part of subdivision approval	Propane gas service (metered)
Parkhill Village <ul style="list-style-type: none"> ▪ Schedule of Bylaws for Strata K513 (Parkhill Village), as amended and registered on land title under Strata Property Act ▪ Restrictive covenants under the Land Title Act 	- private access roads owned and maintained by Strata K512 owners - gated	- private utility operated by Sunshine Valley Utilities Ltd. ('Parkhill system') - hydrant/standpipe located within 500 ft of all lots	- community sewage disposal system (owned by SVDL) approved in 1980 under waste management permit for max discharge of 114m ³ /day	None
Alpine Village <ul style="list-style-type: none"> ▪ Restrictive covenants under the Land Title Act ▪ Articles of Alpine Estates, Inc.: Part 23 – Additional Provisions Pertaining to the Use, Occupation, Beneficial Ownership and Enjoyment of a Lot; and General Rules with respect to land use and buildings 	- private local roads with access from Sumallo Forest Service Road (Alpine Blvd), provincial forest road	- private utility operated by Sunshine Valley Utilities Ltd. ('Parkhill system') - hydrant/standpipe located within 500 ft of all lots	- septic disposal fields for 69 lots; 1982 subdivision approved by Ministry of Health - some fields may not meet the current required setbacks from Sumallo River	Propane gas service (metered)
Meadow Village <ul style="list-style-type: none"> ▪ Schedule of Land Use and Building Restrictions, Schedule 'E', Schedule of Bylaws KAS 1607 under the Strata Property Act ▪ Restrictive covenants under the Land Title Act 	- private Meadow Road owned and maintained by Strata KAS 1607, access from Sumallo Forest Service Road (Alpine Blvd)	- private utility operated by Sunshine Valley Utilities Ltd. ('Parkhill system') - hydrant/ standpipe located within 500 ft of all lots)	- septic disposal fields for 23 lots approved by Ministry of Health by Ministry of Health as part of subdivision approval	Propane gas service (metered)
Sumallo Village <ul style="list-style-type: none"> ▪ Restrictive covenants under the Land Title Act ▪ Land use and development in accordance with "Lessee Benefits and Guidelines" issued by Sunshine Valley Developments Ltd. 	- private access road off of Sumallo Forest Service Road (Alpine Blvd)	- water system extension from Parkhill system approved in 1977 to serve up to 19 m.h.s - hydrant/standpipe located within 500 ft of all lots	- community system under waste management permit from Ministry of WLAP for max discharge of 17 m ³ /day, first issued in 1979	Propane gas service (metered)
Huckleberry Village <ul style="list-style-type: none"> ▪ Land use and development in accordance with "Lessee Benefits and Guidelines" issued by Sunshine Valley Developments Ltd. 	- private access road owned and maintained by Sunshine Valley Developments Ltd.	- private utility operated by Sunshine Valley Utilities Ltd. - hydrant/standpipe located within 500 ft of all lots/sites	- community system waste management permit from Ministry of WLAP for max. discharge of 15.9 m ³ /day, issued 1987	Private propane tanks

* summary only - actual restrictions may vary by property title; not for legal purposes

It should also be noted that, while the individual owners may have various degrees of control over land use and development on individual lots, most of the services that are provided (water, sewer, and propane) and much of the surrounding recreational land are solely owned by the developer, access to which is granted by individual sales agreements in cooperation with Sunshine Valley Community Cooperative Club who pay a user fee.

3.4.1 Subdivision Approvals and Restrictive Covenants

The Ministry of Transportation (previously Ministry of Highways) is responsible for approving subdivisions, subject to minimum development standards in rural areas as prescribed by the *Local Services Act*. As outlined on Table 3, various restrictive covenants have been established by the developer, the Provincial agencies and the Regional District with regard to natural hazards, flood protection, environmental protection, water supply and sewage disposal.

3.4.2 Cedar, Parkhill and Meadow Land Use and Building Regulations

In the case of Cedar Village, the "Land Use and Building Restrictions", Schedule 'A' (32 clauses) form part of the restrictive covenants that are registered on the land title of each lot. Development is subject to the written approval of the developer and the covenants established at the time of subdivision approval, although aspects of these restrictions have been disputed.¹⁰

In the case of Parkhill Village, the Schedule of Bylaws for Strata K513 (Parkhill Village) contain the relevant land use and building regulations. Development is subject to the written approval of the strata council and the covenants established at the time of bare land strata subdivision approval.

In the case of Meadow Village, the Schedule of Bylaws for Strata KAS 1607 (Meadow Village) contain the relevant land use and building regulations. Development is subject to the written approval of the strata council and the covenants established at the time of bare land strata subdivision approval.

The individual regulations that apply to each village are also linked to other approvals imposed by the developer or by the Sunshine Valley Community Cooperative Club. The current regulations issued by the developer, Sunshine Valley Developments Ltd., state that the developer can withhold approval of development if it is in the common interest. For example, the Cedar Village regulations state:

“Wherever and whenever the approval of the Developer is required to be obtained, such approval or consent may be given by an Officer or Agent of the Developer or an Approval Committee appointed for that purpose, as may be from time to time appointed by the Developer and any such approval shall be in

¹⁰ The enforceability of this scheme, and of new regulations that were added by the developer after the registration of the original scheme in the Land Title Office, were considered in *Lebeau et al v. Low et al*, 2002 BC SC 687, Reasons for Judgement, Supreme Court of British Columbia.

writing and the Developer shall be entitled to withhold approval if it is deemed to be in the common interest.”¹¹

Table 3: General Summary of Land Use Restrictive Covenants in Sunshine Valley

Properties	Holders	General type of restrictions
Cedar Village 1972 covenant	Sunshine Valley Developments Ltd.	<ul style="list-style-type: none"> • Building Scheme - Developer must give written approval to proposed developments; - 32 clauses outlining building, servicing and other restrictions
Parkhill Village Strata lots 1-104 July 1982 covenant	Sunshine Valley Developments Ltd.	<ul style="list-style-type: none"> • Building Scheme - Strata Corporation must give written approval to proposed developments; - 20 clauses outlining building, servicing and other restrictions - amended in 2003 by the Strata Council
Parkhill Village Strata lots 1-104 Jan. 1982 covenant	SVDL and Strata Plan K513 owners and Ministry of Highways and Ministry of Environment and Regional District of Fraser Cheam	<ul style="list-style-type: none"> • Roads - Strata Corporation to carry out winter maintenance of road - Developer and strata corporation to post signs warning of avalanche hazard at specified locations where directed by Ministry of Highways • Hazards and Buildings - Specified avalanche hazard area not to be used for recreational purposes from Nov 15 – April 15 - No logging or clearing permitted on Lot “A” lands which are subject to potential natural hazards - Specific separation and setbacks standards established for buildings - Flood elevation standards established for Strata Lots 81 and 82: min. 3m elevation above the natural boundary of the Sumallo River • Save Harmless clause - developer and owners of Strata Lots agree not to claim damages and the Province and the Regional District are not responsible for any damages caused by flooding and erosion
Parkhill Village Strata lots Mar. 1982	SVDL and Strata Plan K513 owners	<ul style="list-style-type: none"> • Sewer system - establishes utility right-of-way over certain lots and road right of way
Alpine Village Lot 1 Plan 33678 and parts of LS 8 Sept. 1982 covenant	SVDL and Ministry of Highways and Ministry of Environment and Regional District	<ul style="list-style-type: none"> • Environmental Protection - no construction, clearing of vegetation or other creek bank disturbances within bed of or 15m from the natural boundary of the Sumallo River without the proper consent in writing from the Regional Manager of Fish and Wildlife Management, Ministry of Environment
Alpine Village July 1983 covenant	Alpine Park Developments Ltd, Alpine Park Holdings Ltd and Regional District	<ul style="list-style-type: none"> • Flood Protection - min. building elevation no lower than 3m elevation Geodetic Survey Canada datum • Save Harmless clause: - owners indemnify, release and forever discharge the Regional District from and against any actions or claims related to any damage being caused directly or indirectly by flooding of lands or improvements

¹¹ Schedule “A”, Land Use and Building Regulations, Sunshine Valley Development Ltd., 1983 edition.

<p>Sumallo Village - specified mobile homes sites 1984 covenant</p>	<p>Ministry of Environment and Regional District of Fraser Cheam and SVDL</p>	<ul style="list-style-type: none"> • Flood Protection - no building to be located within 15.2m of a watercourse [high water mark] - building elevation no lower than 3m above the natural boundary of the Sumallo River
<p>Meadow Village April 1995 covenant</p>	<p>Sunshine Valley Developments Ltd.</p>	<ul style="list-style-type: none"> • Building Scheme - Strata Corporation must give written approval to proposed developments; - development approval and permits required from the ‘authority having jurisdiction’ – the Strata Council and its Building Inspector acting as agent for the Developer and the Strata Council, as may be amended from time to time - 81 clauses outlining building, servicing, approval, inspection and other restrictions
<p>Meadow Village and Sumallo Village Plan KAP 54580 April 1995 covenant</p>	<p>Sunshine Valley Developments Ltd and Ministry of Environment</p>	<ul style="list-style-type: none"> • Flood Protection - owner recognizes that there is a potential flood danger to the lots - min. building elevation no lower than 0.6m above the finished grade elevation surround the building and mobile homes to be installed per specifications • Save Harmless clause: - owners indemnify, release and forever discharge the Province from and against any actions or claims related to any damage being caused directly or indirectly by flooding of lands or improvements (Note: the original covenant included the Regional District but this was subsequently removed from the title)
<p>Lake area and other lands “Commercial Lot Plan 35265 and “Remaining Lands” involving L.S. 9, 16 and 13. Nov. 1984 covenant</p>	<p>Ministry of Transportation and Highways and SVDL Ministry of Environment and Regional District of Fraser Cheam and SVDL</p>	<ul style="list-style-type: none"> • “Commercial Lot” servicing standards; - no development until serviced by a community sewer system and an approved community water system - water utility owner agrees to apply for a Certificate of Public Convenience and Necessity when water service is required to be extended to the “Commercial Lot” • “Commercial Lot” floodproofing standards: - setbacks of 1m from proposed bank protection works of the unnamed [Cedar] lake and 10m from top of the bank of proposed bank protection works of Ferguson Creek - min. building elevation of 1.5m above the natural boundary of the unnamed [Cedar] lake or Ferguson Creek - etc. • “Remaining Lands” floodproofing standards: - setbacks of 7.5m from natural boundary of unnamed lake - min. building elevation of 1.5m above the natural boundary of the unnamed lake • Save Harmless clause: - owner agrees not to claim damages and the Province and the Regional District are not responsible for any damages caused by flooding and erosion
<p>Huckleberry Village</p>		<p>None identified</p>

Not for legal purposes; may not include all restrictions; key aspects of covenants are summarized based on available information from property title search in June 2005.

According to the regulations issued by the developer, SCCC, the Review Council and the building inspector are the primary agents delegated to determine when a development is unacceptable. But the authority of these agents is constrained by the rights of owners to participate in decisions about the regulatory framework as owners (Cedar) and members of a strata corporation (Parkhill, Meadow) and as the beneficiaries of the registered building schemes.

3.4.3 Sumallo and Huckleberry Land Use and Building Regulations

In the case of Sumallo Village, mobile homes only are permitted, subject to the terms and conditions of the lease agreements with Sunshine Valley Development Ltd. These are specified in "Lessee Benefits and Guidelines – Sumallo Village", issued by Sunshine Valley Developments Ltd.

In Huckleberry Village campground, sites are leased on a 999 year term. Huckleberry East (60 sites) provides for recreational vehicle/trailer camping, while Huckleberry West (35 sites) provides for small cabins or small structures often built around recreational vehicles/trailers. Improvements are subject to the "Lessee Benefits and Guidelines – Huckleberry Village", issued by Sunshine Valley Developments Ltd.

3.4.4 Alpine Land Use and Building Regulations

Alpine Village has a different set of tenures because it is owned in common by the shareholders of Alpine Park Estates, Inc. The regulations originally issued by the developer, Sunshine Valley Developments Ltd., indicate that the "authority having jurisdiction" is the Developer and/or the Review Council of the Sunshine Valley Community Co-operative Club.¹² However, these regulations are not registered on title and their legal status is in dispute. The two corporations that originally owned Alpine Village were dissolved in 1983 and replaced by the current company, whose articles of incorporation set out a basic 30% lot coverage maximum, give the directors of the company an approval role with respect to proposed development, and authorize the directors to make land use and building regulations for Alpine Village.¹³ The directors have adopted most of the regulations originally issued by the developer. Thus, despite the land tenure differences at Alpine Village, the general regulations over land use and building are similar to the other villages, whether administered by the developer or by strata councils/private companies.

Development at Alpine Village is also subject to the covenants established at the time of subdivision approval (see Table 3).

3.5 The Role of the Review Council

In 1984, Sunshine Valley Developments Ltd. and the Sunshine Community Cooperative Club Association signed an agreement establishing the Review Council. The Council is

¹² Sunshine Valley Developments Ltd., Alpine Village Land Use and Building Restrictions.

¹³ "Company Act" Articles of Alpine Estates, Inc., Part 23.

comprised of six representatives, one per village each serving a two-year term, who are appointed by the SCCC Board. According to the original agreement, the Council is to appoint a Building Inspector who is to “uphold the Building Codes now in place in Sunshine Valley, and the National Building Code as amended to suit Sunshine Valley conditions, and any other guidelines as approved by the S.C.C.C. Board of Directors.” The ‘Building Code’ is the same as the Land Use and Building Regulation described above.

The functions of the Review Council as outlined in the 1984 agreement are, in summary:

- (a) To review, with the Developer, all new proposals made by the Developer to the [Highways Department] Ministry of Transportation approving officer. Procedures are established to resolve any objections, but if this is not possible and the Developer receives approval from all of the Provincial agencies, he retains the right to proceed with development.
- (b) To review the overall proposed Valley Development Plan.
- (c) To appoint the Building Inspector who will perform duties in a similar manner as presently performed by the Building Permit Inspection Department of the Regional District.

In 1993, the Sunshine Community Cooperative Club Association withdrew from the Building Inspection functions due to liability concerns and Sunshine Valley Developments Ltd. established a new company, Sunshine Valley Services Ltd., to provide building inspection. In 2004, about 30 building permits were issued by Sunshine Valley Services Ltd. This company provides inspection in accordance with the BC Building Code and supplemental regulations for snow loads established by the developer. Although this service may meet or exceed the Code, it is a private arrangement and local government does not certify or endorse the service.

In 2003, the agreement between Sunshine Valley Developments Ltd. and the Sunshine Community Cooperative Club Association was modified slightly to expand the functions to include review of all ‘rezoning applications’ in the valley.

In the past two decades, the Review Council has met officially as a complete council on the following occasions:

June 27, 2004	May 4, 2003	April 11, 1987
Aug. 4, 2003	Nov. 30, 2002	May 17, 1986
June 28, 2003	Dec. 27, 1999	Aug. 31, 1985

The primary role of the Review Council has been to review, discuss and to address:

- bylaw and zoning compliance; and
- licensing of Bed and Breakfast operations as a zoning issue.

The Review Council is a sub-committee of the Sunshine Community Cooperative Club Association. It has no legal authority but serves as a means of consultation between

representatives and owners of each of the villages and the developer. (The authority to enforce covenants and bylaws depends upon the powers authorized under the *Land Title Act* (restrictive covenants), the *Strata Property Act* (strata bylaws), the *Business Corporations Act* (Articles of Alpine Estates Inc.) and the purchase agreements with the developer). The developer has attempted to keep the Council and SCCC apprised of its overall development plan for the valley, and their plan was “accepted as to Concept” by SCCC in 1984 and subsequently by Review Council members.

The Review Council has been able to maintain some degree of land use control and has prevented certain proposals that could have adversely affected neighbourhood quality. However, despite these achievements and the good intentions and commitment of the representatives, the Review Council is an informal advisory group that does not have a legal mandate to directly guide development and infrastructure at Sunshine Valley. It has served as a legitimate means of communication between owners and lessees and the developer, but it is in effect an advisor to the developer and owners and has not been delegated authority to discharge responsibilities of the holders and beneficiaries of legal covenants, or the strata corporations and private corporations holding land in Sunshine Valley.

The informal practices of the Review Council do not appear to meet the normal tests of procedural fairness that are required in local government, particularly after the enactment of the *Community Charter* which requires a high degree of transparency and public access to information and decision making. The Council members are, of course, not politically accountable to the community as are municipal councilors and regional directors. Moreover, in the absence of legal rules, the Council has imposed certain requirements in its recommendations that may be beyond the scope of land use regulation.

3.6 Planning and Development Regulation Issues

The issues that are foremost for the owners and residents of Sunshine Valley, as expressed during interviews, an open house and various meetings, include the following:

- Many residents feel that the current regulations are working effectively, while others point to confusion over who has authority to make and enforce regulations.
- While the property owners Strata Councils/Corporations have revised their bylaws to assume more authority over development without final approval by the developer, the actual regulations are not substantially changed.
- Building permits are issued by Sunshine Valley Services Ltd., a private company that applies the BC Building Code. It is not a government-endorsed approval; private companies issuing building permits may not be insured against liability claims to the same degree as local governments.
- Some community members expressed trepidation about how the Regional District might impose and enforce new regulations, and the potential costs associated with a new system of development approvals.

- Other community members expressed frustration about the perceived discretionary authority of the developer and the lack of appeal mechanisms except through the courts.
- Some concerns relate to the potential for delays in obtaining building permits and future development approvals and a perceived loss of local control under a Regional District regulation option.
- The potential availability, convenience and cost of building inspection (weekends) by the Regional District was questioned.
- The developer is concerned about maintaining the quality of development and property values and the potential loss of control over development standards.
- The apparent inability of the community to access Regional District grants for the volunteer fire department and other services is resented by some of the community, who expect more return on their property tax payments to the Regional District.
- Many residents regret what they perceive as ongoing, intense animosity between the various factions within the community and want a new form of governance arrangement, if necessary but not necessarily involving the Regional District.
- There is substantial support for an independent municipal village in Sunshine Valley, although the viability of this proposal is uncertain.
- The developer is looking for a more receptive approach to future development on the part of the Regional District.

Further discussion of these issues is presented in the separate Public Consultation Report.

As the development of Sunshine Valley has evolved over the past 35 years, property owners and lessees have taken on greater responsibility for land use and development regulation through strata councils and other self-governing bodies, in addition to the Sunshine Valley Community Cooperative Club to which all owners are expected to hold membership. This is in line with the intentions of the developer: to eventually establish an incorporated village for Sunshine Valley with full local autonomy. However, regardless of who regulates development in the future, the discord over the role of the Club and regulatory authority suggests that the informal rules that were sufficient for a small weekend, recreation community managed by Sunshine Valley Developments Ltd. And the Club may not be adequate for a larger community with a resident population and many more owners.

The current situation can be summarized as a conflict between the interests of the private developer and the Club to guide development under a common set of rules, and the rights of certain individual owners to have a greater voice in the rules that are applied to

development and services. The increased challenges to the private regulatory system, and the complex legal relationships between the developer and the various village strata councils, corporate directors and fee simple lot owners has led to a high level of discord.

It is therefore important to recognize that the development rules at Sunshine Valley are under pressure to change, with or without the help or interference (depending on your point of view) of the Regional District. Enforcement of a system of restrictive covenants and building schemes is a community endeavor that requires effective collaboration between the developer and the property owners. Such collaboration is difficult to maintain, in part due to the reluctance to modernize the institutions responsible for managing the community's affairs.

The community institutions in Sunshine Valley, most notably the Review Council and the Cooperative Club, have not been able to establish the governance credentials to resolve the various disputes and uncertainties over land use, development and recreation services. Whatever the form of regulation that property owners choose to support, they will need to somehow find an appropriate path toward better representation, accountability, transparency and consensus-building.

4.0 EFFECTS OF DEVELOPMENT REGULATION

4.1 Comparison of Local Regulation vs FVRD Regulation

The primary difference between the Status Quo Option and the Regulation Option is that the current system is based on contractual agreements between the developer and the property purchasers in cooperation with a community association, while the other is based on the authority provided under the *Local Government Act* and the *Community Charter*. These distinctions may be generally summarized as follows:

	<u>SVDL (status quo)</u>	<u>FVRD (regulation)</u>
Subdivision:	Ministry of Transportation subdivision approvals	Ministry of Transportation subdivision approvals
Community Plans:	As per overall development plan prepared by the developer and subject to provincial approvals; endorsed by SVCCC	As per the requirements of Division 2, Part 26 of the <i>Local Government Act</i> regarding Official Community Plans
Zoning:	As per the plan prepared by the developer and the 'Land Use and Building Regulation' that is implemented at the discretion of the developer and possibly the 'Review Council'	As per the requirements of Division 7, Part 26 of the <i>Local Government Act</i> , regarding zoning bylaws including the rights of existing uses that may be non-conforming under a new bylaw
Building:	As per the Land Use and Building Regulations of the developer and strata councils; building permits issued by a private company, with no status under the <i>Community Charter</i> .	As per the requirements of Section 694 regarding building bylaws and Division 7, Part 26 of the <i>Local Government Act</i> , and building inspector responsibilities under Division 8 of the <i>Community Charter</i>
Advisory Commissions	Review Council operating under agreement with Sunshine Valley Cooperative Club Association	Advisory Planning Commission appointed under the <i>Local Government Act</i> .
Public Consultation:	Procedures adopted by the community association (SVCCC) and the 'Review Council'	Public hearings and consultation requirements as per requirements of Section 879 and Division 4-5, Part 26, <i>Local Government Act</i>

The main distinction in the above comparison is in the legal framework for development controls and the degree of formality, certainty and transparency in the decision making processes. The Status Quo Option involves some degree of uncertainty about the enforceability of the regulations being applied, variation in their application between villages depending upon ownership status, and the issuance of a building permit by a private company. But it also provides flexibility, for better or worse, for the developers and owners/lessees to establish local regulations through land tenure agreements and through

the cooperative club rules, all of which are intended to guide orderly development and to protect property values with a minimum level of regulation.

The Regulation Option would result in more rigorous standards being applied, including potential requirements for development permits and engineering assessments in approvals for new development in certain areas subject to flooding or geotechnical hazards. However, these standards would have greater force in law, carry an endorsement by government, and would provide more transparent and consistent procedures.

4.2 Potential Effects of an Official Community Plan

An Official Community Plan, prepared and adopted in accordance with Part 26 of the *Local Government Act*, provides a legal framework to guide future development and services in a community. An OCP Plan is to contain:

- (a) the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years;
- (b) the approximate location, amount and type of present and proposed commercial, industrial, institutional, agricultural, recreational and public utility land uses;
- (c) the approximate location and area of sand and gravel deposits that are suitable for future sand and gravel extraction;
- (d) restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development;
- (e) the approximate location and phasing of any major road, sewer and water systems;
- (f) the approximate location and type of present and proposed public facilities, including schools, parks and waste treatment and disposal sites;
- (g) other matters that may, in respect of any plan, be required or authorized by the minister.

The purpose of the OCP is to anticipate long-term growth and development, and to direct it in a manner that is efficient, safe, compatible with environmental and natural hazard conditions in the area, and responsive to the aspirations and priorities of the owners and residents. Extensive public consultation is required to adopt and to amend an OCP, including public hearings held by the local government.

It would likely be necessary for the plan to include riparian area protection provisions required under the *Fish Protection Act* and the new Riparian Areas Regulation, including the designation of riparian development permit areas and requirements for developers of those areas to engage a qualified environmental professional to assess the effects of the proposed development on the riparian area.

Under the Regulation Option, an OCP at Sunshine Valley would in effect, identify those elements of current Sunshine Valley Development Plan (SV-09) that are acceptable under the *Local Government Act*. It would define long term growth potential and provide more formal, legal certainty about the form and character of future development.

Existing, legally established land uses, are considered to be in conformance with an OCP if they existed prior to the date of adoption of the plan. Zoning would be re-established consistent with the OCP. In Sunshine Valley, the earlier zoning suggests that this would likely be a combination of Single Family Residential, Mobile Home Park and Campground Holiday Park zoning, surround by Limited Use zoning on the steep hillsides and environmentally sensitive areas.

4.3 Potential Effects on Future Subdivision

The Ministry of Transportation maintains the rural subdivision approval authority under both of the options. Under the FVRD Regulation Option, the Regional District would likely introduce the “Subdivision and Development Control Bylaw No. 1110, 1992” which currently applies to the entire regional district outside municipalities except Sunshine Valley. This bylaw, which an Approving Officer is required to enforce, regulates the dimensions and configuration of lots, road access and the standards for works and services. This regulation would affect the design and development of any new subdivisions.

4.4 Potential Effects of Zoning and Building Bylaws

New development, under the Regulation Option, would need to comply with a Zoning Bylaw and a Building Bylaw that would be designed to reflect Sunshine Valley conditions. This would, in effect, supersede the current “Land Use and Development Regulations” of the developer and the strata councils. Zoning bylaws are intended to regulate the use and density of land, buildings and other structures, and the related siting, size and dimensions of development, not unlike aspects of the existing Regulation. However, a zoning bylaw is a legal instrument that carries a set of land use restrictions as specified in the bylaw. More restrictions would likely occur but this would also provide a higher level of security in the land use rights attached to each property.

The *Local Government Act* also allows for designation of floodplains and enactment of bylaws that specify:

- (a) the flood level for the floodplain, or different flood levels for different areas of the flood plain, and
- (b) the setback from a watercourse, body of water or dike of any landfill or structural support required to elevate a floor system or pad above the flood level, which setback may be different for different areas of the floodplain and for different flood levels.

Development is then regulated in relation to these specifications. The existing regulation and building inspection service reportedly already takes these restrictions into account in a standardized manner consistent with the restrictive covenant that was established at the time of subdivision.

Local governments are also empowered to require a geotechnical study from the applicant for a building permit if a building inspector considers that construction would be on land that is subject to or is likely to be subject to flooding, mud flows, debris flows, debris torrents, erosion, land slip, rockfalls, subsidence or avalanche, the building inspector may

require the owner of land to provide the building inspector with a report certified by a professional engineer with experience in geotechnical engineering that the land may be used safely for the use intended (see Section 5 below). This is not currently done under the existing Regulation, although applicants are sometimes required to obtain approval of structural designs by a professional engineer.

A Building Bylaw, similar to the one currently existing in the regulated portions of the Regional District would likely be introduced under the Regulation Option. Such a bylaw would provide a more comprehensive set of rules than currently exists, with tailor-made provisions for Sunshine Valley snow loading and wind factors. It would also enhance the legal status of building permits because permits issued by local government are backed by authority of the *Community Charter* and *Local Government Act* and the Regional District is insured for errors and omissions through the Municipal Insurance Association. The inspection services could be provided directly by the Regional District, or potentially, in partnership with the developer.

An important distinction between the use of local government regulations and private law land use controls such as building schemes and covenants arises at the enforcement stage. As a general rule, the courts will order compliance with a government land use or building regulation as a matter of course, once a contravention is proven. By contrast, an owner who is the subject of proceedings to enforce a covenant or buildings scheme may raise certain defences that are not available when a local government bylaw is being enforced. These defences include delay in enforcement, which is often a problem where private land use controls are concerned, and acquiescence in the breach of the regulations (which means tolerance of the breach to the point that it is no longer fair to the owner to insist on compliance with the regulation.) In essence, the private system has more constraints on the ability to enforce compliance with land use controls.

It should also be noted that there is a host of other provincial and federal regulations that already apply to Sunshine Valley and that will not be altered by the Regulation Option. For example, the *Drinking Water Protection Act*, *Health Act*, *Water Act*, federal *Fisheries Act*, etc.

4.5 Existing Development and Non-conforming Uses

Under the Regulation Option, existing development that does not conform to a new zoning bylaw is recognized and protected in law, provided that it was legally established in the first place. Section 911 of the *Local Government Act* states that when a zoning bylaw is adopted land, buildings or structures that are lawfully used but do not conform to the bylaw, may be continued as a non-conforming use under the bylaw.

Non-conforming land uses may not be expanded without a board of variance approval, and non-conforming buildings may not be extended or altered in further contravention of the bylaw unless a development variance permit is issued or a board of variance approval obtained. If the non-conforming use of a building is discontinued, or if the building is

damaged or destroyed by more than 75% its value above the foundation, subsequent use of the building must meet the current bylaw.

Development variance permits can be used to approve certain non-conformities. There are provisions to vary the site-specific application of regulations related to the siting and dimensions of buildings that do not conform with a zoning bylaw by issuing a development variance permit under the *Local Government Act*. A Board of Variance must also be established by local government, usually made up of local volunteers, to consider applications for variance or exemption to relieve individual hardship that may be caused by certain aspects of bylaws (as described in Section 901 of the *Act*).

5.0 GEOTECHNICAL AND FLOOD HAZARD ASSESSMENTS

5.1 Geotechnical Studies and Mapping

Ministry of Highways subdivision approvals in Sunshine Valley in the 1970s and early 1980s were based on studies which indicated that geological risks were low and that site development and building restrictions could sufficiently avoid unacceptable risk from flooding and geological hazards. Provincial legislation provides for subdivision and development approvals to take account of natural hazards and allows local government officials to obtain advice from qualified geotechnical professionals in determining the nature and acceptability of these risks and the conditions necessary to protect development. Subsequent geological investigations over the years have added to the knowledge base about how the Hope Slide occurred and the landslide potential in the area.

Geotechnical studies of Sunshine Valley have been undertaken by Sunshine Valley Developments Ltd. in 1975¹⁴, Ministry of Highways and Public Works in 1977¹⁵, and Fraser Valley Regional District in 2003.¹⁶ Also, various research studies into the Hope Slide have been undertaken by Geological Survey of Canada. The focus of these studies has been on:

- (a) flooding and erosion hazards on the Sumallo River alluvial fan and floodplain, and localized debris flow, rock fall and snow avalanche hazards from steep slopes at the margins of this fan and the Cedar [Trites] Creek fan; and
- (b) geological instability around the Hope Slide and a suspected potential instability of the mountain slope southeast of the Hope Slide and west of Huckleberry Creek.

A preliminary geologic hazard assessment and mapping was completed by FVRD for the Sunshine Valley area. The study identifies certain concerns based on a review and update of geological information. It recommends more detailed mapping, aerial photo interpretation and selective field work to delineate area hazards and risks.¹⁷

The current mapping identifies the areas within which site geotechnical reports would likely be required for development applications. This is a cautious approach which recognizes the general area of hazard, and where risk acceptability and mitigation measures are determined on a site-specific basis with professional advice. Table 4 identifies the general extent of areas affected by potential natural hazards. Geotechnical assessments would likely be required for any new subdivision or development in these areas. The preliminary hazard mapping recommended a minimum safeline of 60 m from the base of the slope for new areas of development.

¹⁴ Golder Brawner & Associates Ltd., Report of a Geotechnical Investigation of Sunshine Valley, BC, 1975.

¹⁵ BC Ministry of Highways and Public Works, Geological and Avalanche Hazards in Sunshine Valley, 1977.

¹⁶ Thurber Engineering Ltd., Sunshine Valley Area, Near Hope, BC: Preliminary Geologic Hazard Assessment, Report to FVRD, 2003.

¹⁷ Thurber Engineering, op.cit., 2003.

Table 4: Geotechnical and Flooding Hazards Area Classification

Potential hazard areas	Developed area	Potential Implications
Sumallo River alluvial fan	Most of Meadow, Sumallo and Alpine Villages and portions of Cedar Village	- continue to apply current flood elevation levels and river setbacks
Trite (Cedar) Creek alluvial fan and snow avalanche tracks	Central portions of Cedar Village	- apply existing restrictive covenants and recognized hazard protection measures
Huckleberry Creek alluvial fan and an apparent 'debris lobe' in east Huckleberry	Most of Huckleberry Village	- further assessment of hazard mitigation measures is warranted
Other debris fans in unsettled areas – Ferguson Creek and 14 Mile Creek	None	- no future development in these alluvial fan areas
Various snow avalanche tracks on both sides of the valley	Portions of Parkhill Village and Alpine Village	- apply existing restrictive covenants and recognized hazard protection measures
Hope Slide south-east slope suspect potential hazard area	Potential areas of Huckleberry Village affected	- further investigation of geological hazard potential

Source: based on overlay of potential hazard areas from Thurber Engineering Ltd. on to the cadastral and orthophoto mapping.

Under the Regulation Option, the Regional District would consider natural hazards in any future development land use approvals and permits, and ensure that information about natural hazards and risks is available to the public. The recent study also suggests a need for more detailed assessment, which would likely be given greater priority if the Regional District had regulatory responsibilities in the area. Regardless of the outcome of the referendum, the recommendations of the Thurber study warrant follow-up investigation by both the provincial and local governments.

5.2 Sumallo River Flood Protection

In the early 1980's the Ministry of Environment indicated that the Sumallo River has shown an active pattern of movement across alluvial fan and therefore precautions are needed to protect development from flooding. The Provincial and Regional District setback standards were discussed in detail. After several site development reviews, a building setback of 15m from the natural boundary of Sumallo River and an elevation of 3m above the natural boundary (high water mark) of the river were deemed to be acceptable from the perspective of the provincial government and the Regional District during the years that development regulation occurred in Sunshine Valley.

In the mid 1980s, the Sumallo River experienced severe river bank erosion. The developer and the property owners, with approval of the Ministry of Environment, undertook river bank armoring works to restrain portions of the channel. The residents themselves spent substantial money on the river training works in 1981.

Although no setback or floodproofing measures are included in the local regulations, the flood protection covenants are well recognized. It was stated by the developer that the Sunshine Valley building inspector ensures that the setbacks, flood elevation and other flood protection covenant standards are applied during the approval of new construction.

5.3 Implications for Potential Regulation of Development

How would the re-introduction of FVRD regulation affect current and potential development in relation to flooding hazards?

- Existing development would not normally be affected and the rules regarding non-conforming uses would apply (see Section 4.5). New developments would be required to meet the setback and elevation and other standards, with the opportunity to apply for a Variance Permit if such standards cannot be met. A development permit area could be designated covering the areas that are subject to potential hazards. Applicants for development within the designated potential hazard areas would likely be required to provide a hydrotechnical and/or geotechnical report indicating that the site is safe for the intended use.

How would the re-introduction of FVRD regulation affect current and potential development in relation to geological hazards?

- Existing development would not be affected and the rules regarding non-conforming uses would apply (see Section 4.5). A development permit area could be designated covering the areas that are subject to potential hazards. Applicants for development within the designated potential hazard areas would likely be required to provide a geotechnical report indicating that the site is safe for the intended use.

6.0 TAXATION ISSUES

6.1 FVRD Services in Electoral Area 'B'

Regional districts in British Columbia have the authority to provide a wide range of local services and to establish regulatory activities such as planning, zoning and building inspection. The FVRD is the local government responsible for all unincorporated areas in the region including Sunshine Valley, even though the Regional District provides only a limited number of services compared to other electoral areas.

Although the regional district decided in 1984 to withdraw from provision of planning, zoning and building inspection services in Sunshine Valley, the authority to regulate land use and development nevertheless remains with the regional district. The general costs of planning and development regulation services are recovered from all electoral areas, including Sunshine Valley property owners. In 2004, for example, the FVRD planning and zoning functions imposed a property tax cost of \$ 121,219 for the entire Electoral Area 'B' or about \$ 0.35 per \$1000 of assessed property value.

The annual FVRD general tax requisition from Electoral Area 'B' was \$883,393 in 2004. About 77% of property taxes are derived from railway, pipeline and electricity utilities. Sunshine Valley properties fund 8% of the total tax requisition and 41 % of the residential tax base in Electoral Area B. The 2004 assessed value of properties at Sunshine Valley was \$ 28.095 million, which resulted in total property tax payments to FVRD of approximately \$ 74,000.¹⁸

In the electoral areas, excluding Sunshine Valley, owners have voted to have certain specific services provided by the Regional District and the costs of these services are borne only by the area property owners directly receiving the specific services.

What Regional District services do Sunshine Valley property owners currently pay for?

Table 4 summarizes the general services provided by FVRD, the tax requisitions for Electoral Area 'B' (including Sunshine Valley), and the cost for a residential property assessed at \$ 100,000. These services are paid for by all owners in the electoral area at a 2004 rate of \$ 2.521 per \$ 1000 of assessed residential property value. A typical \$100,000 property, therefore, pays \$ 252.10 to the Regional District for this set of general services listed in Table 4. The largest proportion is for the Hope aquatic centre, the Hope arena, FVRD planning and zoning services, general administration and garbage collection, which in total make up 58 % of the FVRD tax requisition for Electoral Area 'B'.

In addition to these general services, the FVRD has administered financing of the Sunshine Valley Electrification Project. In 2004, there was an outstanding amount owing on this loan of \$ 5,527 which is to be paid off by 2006. (Property owners pay a rate of \$ 0.2029 per \$ 1000 of assessed property value for the electrification loan).

¹⁸ BC Assessment Authority 2004 data, based on residential tax rate of 2.521/\$1000 assessed value and commercial rate of 9.90/\$1000 assessed value.

Table 4: FVRD Electoral Area 'B' General Taxation

	Services provided to Electoral Area B	2004 Tax Requisition	% of total	Typical cost for \$ 100,000 property
1	General government and administration	28,753	3.3	\$ 8.23
2	EA administration	117,650	13.3	\$ 33.58
3	Grants in Aid	10,000	1.1	\$ 2.77
4	EA feasibility studies	10,000	1.1	\$ 2.77
5	911 Emergency services	38,326	4.3	\$ 10.84
6	EA Emergency response and recovery	11,174	1.3	\$ 3.28
7	House numbering	9,538	1.1	\$ 2.77
8	Emergency program	8,900	1.0	\$ 2.52
9	Hope Airport	10,852	1.2	\$ 3.03
10	Mosquito control combined function	4,507	0.5	\$ 1.26
11	Air quality management	5,179	0.6	\$ 1.51
12	Regional solid waste	614	0.07	\$ 0.18
13	Area B garbage collection	111,991	12.7	\$ 32.02
14	Regional development services	2,712	0.3	\$ 0.76
15	Regional mapping	14,221	1.6	\$ 4.03
16	Electoral area planning and zoning	121,219	13.7	\$ 34.54
17	Soil deposit and removal	5,680	0.6	\$ 1.61
18	Fraser Valley Regional Library	40,804	4.6	\$ 11.60
19	Regional Parks	8,998	1.0	\$ 2.52
20	Hope and District Arena	125,913	14.3	\$ 36.05
21	Hope Recreation	33,843	3.8	\$ 9.65
22	Dan Sharrers Aquatic Centre (Hope Pool)	159,519	18.1	\$ 45.63
23	Area 'B' community parks	3,000	0.3	\$ 0.86
	Total	883,393	100%	\$ 252.10

6.2 Status Quo and Regulation Options Tax Implications

The preceding analysis indicates that, with regard to the general services, there are no property tax consequences from the proposed Regulation Option because all property owners currently pay for the general level of FVRD services as required under Provincial legislation.

However, in addition to these general services, there are other services that FVRD provides in response to particular local demands for specified services in the electoral areas such as sewers, street lighting, fire protection, water supply, drainage control works, building inspection, etc. If additional services were requested by Sunshine Valley property owners, additional tax burdens would be created.

To illustrate some of the differences between Sunshine Valley (Status Quo Option) and a scenario where Sunshine Valley might adopt additional services (under a Regulated Option), the cost of services at Sunshine Valley can be compared to services that are provided at nearby communities. For example, the residential tax rate for local service levies for fire protection and building inspection at Yale is \$5.79 per \$ 1000 in assessed property value, compared to \$ 2.51 at Sunshine Valley which does not include these FVRD

services. However, these differences are due to the substantial certification standards that are met at the Yale fire department in terms of certified equipment, training, alarm systems, and water supply which have been financed through the Regional District.

At Sunshine Valley, owners are provided water supply and fire protection based on a flat rate of \$14.50/mth for water and approximately \$50 per year for fire protection. These costs will likely increase once the new Provincial standards for water utility systems management take effect, and demand increases for upgrading the fire protection services.

As noted in Section 6.1, the general FVRD services are funded by all properties. If Building Inspection services are introduced in Sunshine Valley, as proposed under the Regulation Option, the additional annual tax, at 2004 residential rate, would be approximately \$0.1810 per \$1000 assessed value, or \$18.10 per year for a residential property that has an assessed value of \$100,000 in Sunshine Valley.¹⁹

Any additional taxes would be linked to additional services that property owners jointly decide to request from the Regional District, such as upgrading of fire protection, etc. Increases in taxes could be offset somewhat to lower financing costs through the Municipal Financing Authority and better access to a limited number of available community grants from local and senior levels of government (such as planning grants, etc.). During the first few years under the Regulation Option, the actual costs of planning and regulation would likely be disproportionately higher in Sunshine Valley and these costs would be spread across all taxpayers in the region. The Regulation Option would also provide access to liability insurance through the BC Municipal Association in relation to building regulation errors and omissions. This is generally considered to be more economical and on better terms than equivalent insurance provided through private sector insurers.

¹⁹ Based on the 2004 rate and adding the assessed values for Sunshine Valley to the same requisition of \$232,670 for building inspection services within the Regional District.

7.0 CONCLUSIONS

A basic question associated with re-introduction of local government planning, zoning and building bylaws is whether the residents and owners want a more formal and secure framework for guiding land use and development, at the imposition of some additional government regulation.

On the one hand, the developer and the Sunshine Valley Community Cooperative Club strive to maintain a self-regulating community with a simple set of rules and services that make for an affordable recreational property investment. This appears to work adequately where the developer is providing leased land to weekend residents (Huckleberry Village). On the other hand, the authority over approval of development is being questioned in parts of the valley where lands are more directly owned, where individual investments are more substantial and where there are a growing number of full time residents. While some of the village councils are assuming more responsibility for development control, the substance of local regulations has not changed. They common aim to ensure orderly, safe, attractive, neighbourly development in keeping with the natural environment.

Due to the complex mix of land tenures in Sunshine Valley, there is some inherent element of uncertainty in the current framework for self-regulation of land use. Most of the 500+ hectares of private land in the valley is owned by one development company which, over the past thirty years, has sold about 6.5% of the land for fee simple, strata and owner-corporation lots and leased another 1% of the land for mobile home and campground sites, with conditional rights to utilize much of the remaining lands for recreational purposes and contractual agreements to provide various services on a monthly or annual fee basis. This layering of land use rights and obligations, involving overlap of the developer's authority through restrictive covenants, leases and sales agreements with the individual rights of the village strata councils/boards and property owners, creates a complicated environment for managing development, especially where much of the surrounding land base and most of the services are privately owned and operated. In some cases where strata council bylaws conflict with the developer's restrictions, it is not apparent who has final authority.

The developer has attempted to maintain the quality of development and community environment through a regulatory regime that relies on private services and community cooperation. But a private development and building approval system, no matter how well it may comply with the BC Building Code and acceptable planning and engineering practices, is not the same as a regulatory system empowered and guided by the *Local Government Act* and the *Community Charter*. Thus, the residents and owners are being asked to make a fundamental choice between a private and a public regulatory regime.

Taxation impacts of potential Regional District regulation are insignificant. An increase in taxes may occur regardless of the Regulation Option if new infrastructure investment is demanded (e.g., fire protection upgrade) or required by provincial law (e.g., drinking water regulation requires more rigorous operational standards). So taxation is not a critical factor in the choices facing the community.

Regional District regulation would impose more comprehensive land use and development standards for new subdivision and development. Some opportunity exists to custom-design these to local circumstances, and any new regulations would not substantially affect existing land uses due to legal provisions for non-conforming land uses that exist prior to any introduction of new local government bylaws. However, more significant regulatory impacts may occur for future developments (existing lots or new subdivision) that are proposed in riparian areas or areas considered subject to natural hazards, requiring studies and development permits that specify the engineering or other measures required to protect proposed developments or the environment.

Proposals for new subdivisions are handled by the Approving Officer of the Ministry of Transportation, regardless of which regulatory option is selected. They would not be substantially affected by potential Regional District regulation, except in regard to possible standards for subdivision design.

A change from the status quo to a new framework involving planning, zoning and building inspection by the Regional District would alter the decision making structure in Sunshine Valley by making development control subject to the provisions of the *Local Government Act* and the *Community Charter*. Local input to development decisions would be primarily through an Advisory Planning Commission, a Board of Variance and representation on the Regional Board through the Electoral Area 'B' Director. An Official Community Plan for Sunshine Valley would be prepared, setting out local objectives and policies that are then implemented through zoning, building and other bylaws. Under the Regulation Option, more vigilant enforcement of bylaws is also likely to occur.

Regardless of the choice between private or public regulation, the conflict over community development in Sunshine Valley is unlikely to subside unless there is a concerted effort to define a long term future for the valley that the majority of community members can endorse. Currently, there is no legal means of public input into long term development planning for Sunshine Valley. The apparent lack of consensus about a return to Regional District regulation is part of the legacy of conflict between the developer, the Club and local government. The major concern of the developer and the supporters of the status quo is that local owners will lose control of decision making if regulations of the Regional District are introduced. The local political divisions, personal animosities, court actions and absence of communication channels only aggravate this conflict and reduce the potential for consensus.

To date, there has been an inability to find the basis for a governance model that suits the special resort/residential characteristics of Sunshine Valley and that is satisfactory to all of the community. Whatever choice that emerges, the residents and owners will need to re-examine the institutions that govern their community if they want to rediscover the peace and tranquility that so attracted them to Sunshine Valley.