



REPORT

District of Highlands
1980 Millstream Road
Victoria, BC V9B 6H1
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To: C. D. Coates, Chief Administrative Officer
From: Laura Beckett, Planner
Date: November 17, 2011
SUBJECT: Rezoning Application RZ-02-11
(1150 Bear Mountain Parkway)

File: RZ-02-11

To Council
November 21, 2011

RECOMMENDATION

THAT Council refer application RZ-02-11 to the APC and Advisory Committees, and

FURTHER THAT Council considers the consultation plan regarding the application as contemplated at the November 21, 2011 Council Meeting to be appropriate.

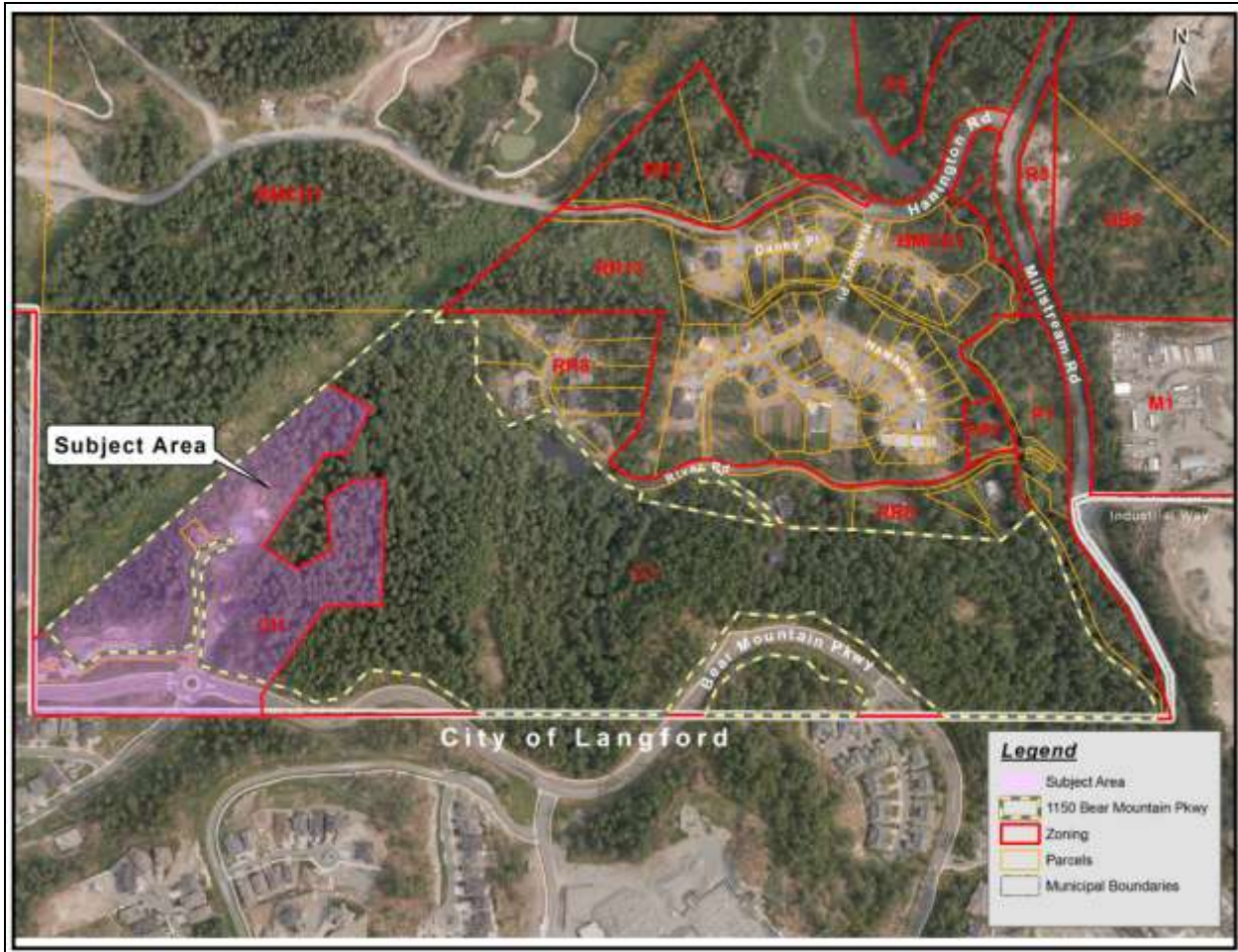
PROPOSAL SUMMARY

AMENDED

Proposal:	<i>In area currently zoned C11 only:</i> <ul style="list-style-type: none">• Total of 52 single family dwelling equivalents – 40 single family dwellings, 10 smaller, cottage-like houses, 1 duplex (proposed lot 3).• Anticipated upper-end size of houses to be 233m² (2,500 square feet)• In exchange for change of use and increase in residential density, the applicant is offering the following amenities in addition to those previously provided:<ul style="list-style-type: none">○ \$550,000 toward the community hall/centre○ Donation of existing mechanical water pump system at 1150 Bear Mountain Parkway to community hall/centre. If pump system is inappropriate for that building, pump system would be sold and all proceeds donated toward community hall/centre.
Applicant:	Roger Tinney, Tinney and Associates
Location:	1150 Bear Mountain Parkway
Approximate Size:	4 hectares (10 acres)
Legals:	<ol style="list-style-type: none">1. Strata Lot 1 Section 4 Range 3 West and Sections 4 and 5, Range 4 West, Highland District, Strata Plan VIS6103 Together with an interest in the Common Property in proportion to the unit entitlement of the strata lot as shown on form V2. Strata Lot 2 Section 4 Range 3 West and Sections 4 and 5, Range 4 West, Highland District, Strata Plan VIS6103 Together with an interest in

	<p>the Common Property in proportion to the unit entitlement of the strata lot as shown on form V</p> <p>3. <i>Portion within CI1 zone of:</i> Lot D Section 4 Range 3 West and Section 4 and 5 Range 4 West Highland District Plan VIP76077, Except part in Strata Plan VIS6103 (Phase 1)</p>
Current	
Current Zone:	Community Institutional 1 (CI1)
Current OCP Designation:	Recreation Tourism
Current Density and Uses:	One single family dwelling (occupied), one building for assembly use (vacant), driveways, gardens
Proposed – *AMENDED*	
Proposed Zone:	New zone to achieve proposal
Proposed OCP Designation:	New designation to achieve proposal
Proposed Uses:	Residential (40 single family dwellings, 1 duplex [proposed lot 3], 10 cottages), home-based business, looped trail system, children's play area and garden plots
Proposed Density:	13 units per hectare (5.2 units per acre) (52 single family dwelling equivalents over 4 hectares (10 acres))
Adjacent Land Use/Zoning	
...to North:	'Residential Area' within the Bear Mountain Comprehensive Development (GB2 Zone)
...to East:	TLC (The Land Conservancy) conservation land (C1 Zone) <i>*NB: Same parcel – 1150 Bear Mountain Parkway*</i>
...to South:	Residential, City of Langford
...to West:	Residential, City of Langford

LOCATION MAP



PROPOSAL MAP



RECENT COUNCIL RESOLUTION

Council most recently reviewed this proposal at the October 11, 2011 Committee of the Whole meeting. The following motion was passed at the October 17, 2011 Council Meeting:

1. That Council refer the application back to the applicant to further clarify the following points:
 - i. Is this site within an Archaeological site (Spirit Ridge Place)
 - ii. Could providing a sanitary sewer service cause a liability to the District
 - iii. Impact the development may have on wildlife and the covenanted lands;
2. That staff report back to Council on the impact the dwelling unit increase would have on financial contributions to regional services;
3. That staff arrange for a site visit with the applicant; AND
4. That the application be referred to the Fire Department for preliminary comments and that these comments be included with the Committee referrals.

RESULTS

Archaeological Overview Assessment

After speaking with a consultant hired to study archaeological resources on a nearby property, the proponents advise that there are no archaeological sites based on the Provincial Archaeological Overview Assessment.

Potential for Sanitary Sewer Service Liability to the District

Please see the attached letter dated November 17, 2011 from J.E. Anderson and Associates Surveyors and Engineers, explaining the unlikelihood of this occurring. Please also see staff comments below regarding an anticipated intermunicipal agreement and local area service.

Potential Impact on Wildlife and Covenanted Lands

Council visited the site on November 4, 2011 with the proponents, an ecologist, and staff. There was discussion regarding both natural and engineered drainage patterns, rationale behind the proposed covenanted land swap (improved ecological integrity and maintenance of existing stormwater treatment), and preferred conservation subdivision design. The latter sought to respond to the overall impact on the environment for this property. Essentially, the proposed development area is the least ecologically significant area on the property and also serves to treat stormwater runoff. It was also explained that, while impossible to verify, it is certainly expected that the proposed density will have less impact on the land than that achievable under current zoning. Thus, the proposal is the preferred scenario from an ecological perspective.

Fire Department Comments

From Chief Brisebois, Highlands Volunteer Fire Department:

After discussions with the developers, it is evident to me that they are planning to accept all recommendations made by the Fire Department, mainly:

- the use of sprinklers in all structures
- connection to the pressurized water system in place within Bear Mountain
- use of non-flammable building materials, i.e. fire rated drywall, and fire rated roofing material

The only unanswered concern at this time is the simple fact of the distance between the Fire Department and the development itself. I should note though that the time to get from the firehall to the stated address is approximately the same as responding to an incident at the end of Ross Durrance Road. In addition, the mutual aid agreement in place can and will be used whenever deemed necessary, and their response time will be much greater than anywhere else in our District. Run time can be provided as required.

Based on the information provided above, I see no major concerns, except for distance, fire prevention wise.

As a result of these comments, staff recommends that the use of sprinklers and the use of non-flammable building materials be secured via covenant. Such a covenant would be contemplated and drafted prior to the application proceeding to bylaws stage.

Further Comments – Intermunicipal Agreement and OCP Direction

Council has expressed concern regarding potential liability to the District in the event that sanitary sewer service to the subject property should fail. Further to the attached letter from

J.E. Anderson and Associates and as Council is aware, an intermunicipal agreement and the establishment of a local service area (sewer specified area) have been contemplated for this property. This is consistent with OCP Land Use General Policy 2.2.23 that states:

When properties develop, the full cost of extending services shall be borne by the development. Where the services are primarily for the direct benefit of the property being developed, the ongoing costs to operate and maintain those services should be borne by the land owners through the establishment of local service areas.

An intermunicipal agreement defines responsibilities for costs and maintenance of the system. It is formalized through a bylaw. For certainty that the area would only receive sewer service through an intermunicipal agreement and establishment of a local service area, the intermunicipal agreement bylaw should accompany any amendment bylaws through their readings including public hearing. This then unequivocally ties all concepts together, to the point that any deviation from the intermunicipal agreement would actually necessitate a public hearing.

NEXT STEPS AND CONSULTATION PLAN

Staff sees merit in furthering this application. Should Council wish to further the application, the next step is to refer the application to the APC and select committees. As a matter of course, staff would carry out internal (Fire Department already completed) and external referrals as consultation. Certainly, the new Sustainability Appraisal Form Policy will be applied, and the results would be presented to Council.

Since the application was received, it has been expected that an OCP amendment would be required to accomplish the proposal. Because staff is now prepared to recommend furthering the application, and also that staff has a better idea of what the OCP amendment would look like, consideration of consultation opportunities are recommended should Council wish to advance the application. The OCP amendment would be similar to recently-approved Bylaw No. 330 (York property), in that it would establish an amenity area (the subject parcel) to which an increase in residential density could be contemplated in exchange for amenities. This amendment, to provide certainty, would also state that sewer service would be provided through the establishment of a local service area and an intermunicipal agreement.

For Council consideration, staff suggests the following standard list of referrals for consultation:

- CRD Board
- Councils of City of Langford, Town of View Royal, District of Saanich, and the CRD Juan de Fuca Electoral Areas (specifically the communities of Willis Point and Malahat)
- School Districts 61, 62, and 63
- Songhees First Nation
- Malahat First Nation
- Te'mexw Treaty Association
 - Members: Malahat First Nation, Scia'new First Nation (Beecher Bay Indian Band), Snaw-naw-AS First Nation (Nanoose First Nation), Songhees First Nation, T'sou-ke First Nation
- Pauquachin First Nation
- Tsartlip Indian Band
- Tsawout First Nation
- Tseycum Indian Band
- BC Ambulance

- BC Assessment Authority
- BC Hydro and Power
- BC Transit
- Canada Post
- Fortis BC
- Highlands Building and Subdivision Departments
- RCMP – West Shore
- Shaw Cable
- Telus

In addition to this list, for this application, staff suggests the following:

- CRD Water
- Highlands Community Centre Task Force, and
- TLC The Land Conservancy.
- West Shore Environmental Services (Corix).

Staff requests that Council put its mind to whether a single opportunity for consultation is appropriate or if more opportunities are required. Staff is of the opinion that the consultation as recommended is appropriate for this proposal.

OPTIONS

1. *(Recommended.)* Council may wish to further the application. This option could take the form of the following motion:

THAT Council refer application RZ-02-11 to the APC and Advisory Committees, and

FURTHER THAT Council considers the consultation plan regarding the application as contemplated at the November 21, 2011 Council Meeting to be appropriate.

2. Council may wish to reject the application.
3. Council may to request more information.

Original Signed

Respectfully submitted by Laura Beckett, MCIP

CAO Concurrence

Original Signed

C. D. Coates, CAO

LEGAL SURVEYS
MUNICIPAL ENGINEERING
LAND DEVELOPMENT AND MANAGEMENT



November 17, 2011

District of Highlands
1980 Millstream Road
Victoria, BC
V9B 6H1

Attention: Laura Beckett

Re: Inter-municipal Agreements - Opinion

It is my understanding that there may be some concern regarding servicing of the proposed subdivision at 1150 Bear Mountain Parkway. Specifically, the provision of sanitary sewer service to be provided by Corix (West Shore Environmental Services), via an inter-municipal agreement with Langford.

I am not an expert on municipal law, however, in my forty years of experience as a planner/surveyor, I have never heard of a municipal service, once agreed upon, and implemented, being withdrawn. I am advised that an inter-municipal agreement is accompanied by contracts which cannot be defaulted upon without the consent of both parties. I cannot conceive of a circumstance when a municipality would be permitted, by the Ministry of Municipal Affairs, to withdraw an agreed upon essential service to an existing community.

I hope this brief summary, based on my experience and the advice I have researched, provides some degree of comfort to you and members of council.

Yours truly,

J.E. Anderson and Associates

A handwritten signature in black ink, appearing to read 'D. R. Carrier'.

D. R. Carrier, B.C.L.S.
DRClem

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