

Date: June 20, 2016

File No.: SS-RZ-2013.7

To: Salt Spring Island Local Trust Committee for meeting of June 29, 2016
From: Jason Youmans, Planner 2, Local Planning Services

Re: Application to Amend the Land Use Bylaw

Owner: Salt Spring Ventures Inc.

Applicant: Eric Booth

Description: Lot 10, Section 2, Range 3 East, North Salt Spring Island, Cowichan District, Plan 14710

PID: 004-255-500

Civic Address: Park Drive, Salt Spring Island

PRELIMINARY REPORT 2

THE PROPOSAL

The purpose of this application is to amend Land Use Bylaw (LUB) for Lot 10, Plan 14710, on Park Drive in the Ganges Village.

This application revises one originally made in 2013 wherein the applicant sought an increase of 50 units beyond that permitted by current zoning. At its October 24, 2013 meeting the LTC asked the applicant to bring the application into greater conformity with the Salt Spring Island Official Community Plan (OCP). The applicant believes he has done so (see Appendix 2), and is now seeking:

- An increase in the permitted density, from 33 units to 49 units (16 additional units), 8 of which are proposed to be *affordable housing dwelling units* provided as an eligible community amenity under OCP Section H.3;
- An increase in the permitted building height from 7.6 metres to 11 metres, and an increase in the permitted number of storeys from 2 to 3;
- An increase in the permitted total lot coverage from 25 percent to 33 percent; and
- A more limited range of home-based businesses than permitted under current zoning.

The applicant's written submission (Appendix 2) includes a proposal to amend the OCP to remove Development Permit Area 4 from the subject property. However, the applicant has since verbally committed to forego the OCP amendment, and instead states he will apply for a development permit under DPA 4 when site design is complete.

The purpose of this preliminary report is to introduce the application to Local Trust Committee (LTC). It does not provide a complete analysis of all applicable land use bylaw regulations and OCP policies as they relate to the requested height and lot coverage increases or the home-based business reduction, as staff feel these are relatively minor when viewed alongside the question of how water will be supplied to the proposed density.

Given the North Salt Spring Water District's ongoing moratorium on new connections, and in the absence of further servicing details from the applicant, at the present time staff consider the application to contravene Islands Trust Policy Statement Section 4.4.2: "Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure: neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater."

SITE CONTEXT

The subject property consists of a 1.326-hectare lot located in Upper Ganges Village, as shown in Figure 1 below. The property is bound by Park Drive to the north, Gustaf Road to the east, Kanaka Road to the south and residential lots to the west.

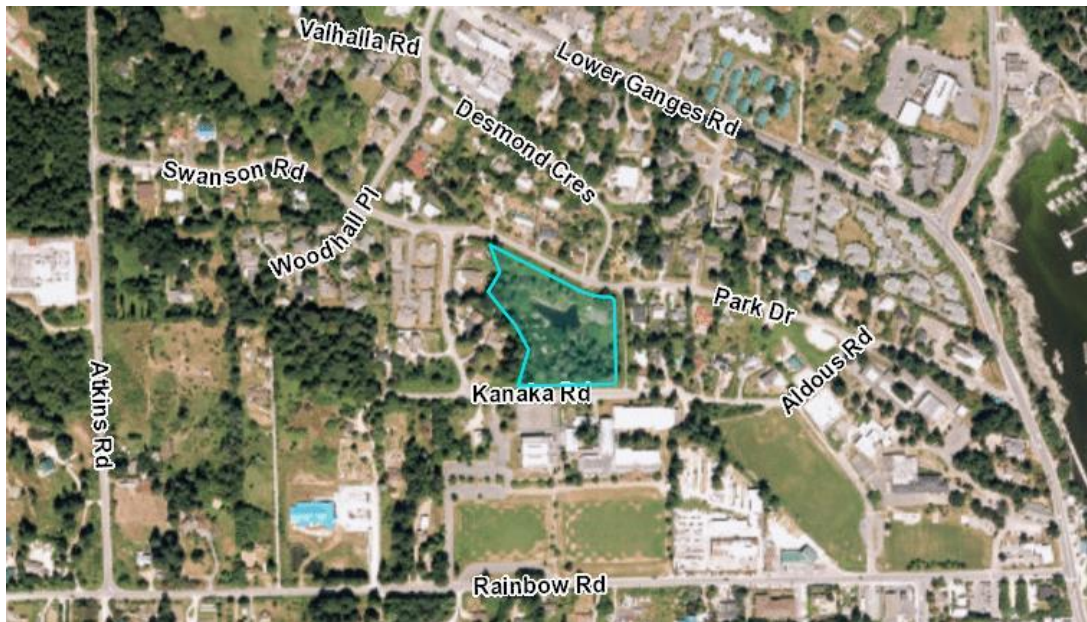


Figure 1: Orthophoto of subject property, in context of Ganges village

The zoning on three sides (west, north and east) is the Residential 6 Zone, permitting single-family and duplex dwellings. The Community Facility 1-zoned property to the south accommodates Gulf Islands Secondary School.

The centre of the property contains a pond, locally known as Swanson's Pond. The applicant has cleared a portion of the property in anticipation of development. The ditches that frame the perimeter of the property along its north, east, and south boundaries are characterized as fish habitat under the Riparian Areas Regulation (see Figure 4).



Figure 2: Orthophoto of neighbourhood, subject property outlined in yellow

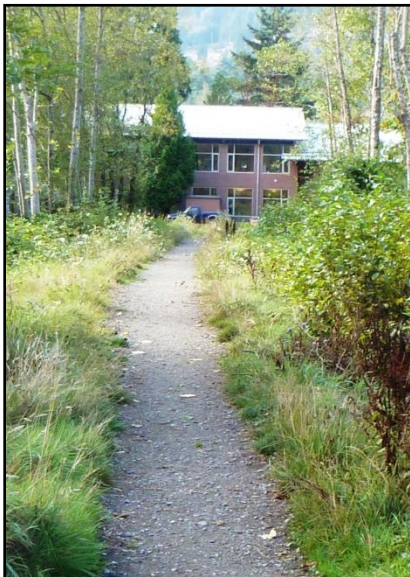


Figure 3: Gustaf Road, which forms the eastern boundary of the subject property, is a dedicated but unopened road right-of-way that is a well-used pedestrian connection between Park Drive and the Gulf Islands Secondary School, seen in the background.



Figure 4: Development Permit Areas 4 (Water Protection) and 7 (Riparian Protection) as they appear on the subject property. The lot is also within Development Permit Area 1 (Island Villages).

BACKGROUND

The subject property was rezoned from Residential 6 (R6) to Residential 2 (R2) in the late 1980s. In 2013 the applicant submitted a rezoning application seeking 83 densities on the property. At its October 24, 2013 meeting, the LTC passed the following resolution related to the application:

SSI-250-13

It was MOVED and SECONDED that the Salt Spring Island Local Trust Committee direct that this application proceed no further until such time as the applicant submits a revised application more in conformance with Official Community Plan guidelines. (SS-RZ-2013.7, Park Drive, Salt Spring Ventures Inc.). **CARRIED**

The applicant submitted a revised rezoning application in March 2016, which is the subject of this report.

Several development permit applications have been made for the subject lot over the years, in 1995, 1996, 2005 and 2011. The latest, application SS-DP-2011.6, was declared a dormant application by the LTC at its June 2, 2016 meeting and subsequently closed.

CURRENT PLANNING STATUS OF SUBJECT PROPERTY

Islands Trust Policy Statement

As noted in the introduction above, because of the North Salt Spring Water District's ongoing moratorium on new connections and the subject lot's location within the District boundaries, staff consider this application to contravene Islands Trust Policy Statement Section 4.4.2: "Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure: neither the density nor intensity of land use in increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater."

Furthermore, Chapter 5, Section 9, Subsection i, of the Islands Trust Policy Manual states that "Local Planning Services staff will not spend time on regulatory amendments that are inconsistent with the Islands Trust Policy Statement without the prior approval of Trust Council."

The applicant has proposed servicing the proposed density through a combination of groundwater and rainwater and is of the opinion that the subject lot does not constitute an area "known to have problems with the quality or quantity of the supply of freshwater." He has provided a well log from 2008 indicating a well on the property that at that time was capable of pumping 12 gallons per minute, which could, provided the yield is sustainable, potentially service approximately half the total number of units being proposed. See staff comments below for further discussion of this matter.

Official Community Plan Bylaw No. 434 (OCP)

See Appendix 1 for OCP policies staff consider relevant to the LTC's early consideration of this application.

Land Use Bylaw No. 355

Current Residential 2 (R2) zoning on the lot would permit the construction of up to 33 dwelling units at a density of 25 units/ha.

Staff will provide a complete assessment of current zoning regulations as they apply to the lot in a subsequent staff report.

As the applicant has proposed the provision of affordable housing dwelling units as an amenity contribution in exchange for increased density, it is important to note the Land Use Bylaw definition of affordable housing dwelling unit:

“dwelling unit, affordable housing” is a deed-restricted and/or a rent-controlled *dwelling unit* that is secured by a housing agreement registered on title, and may include *special needs housing* and *seniors dwelling units*.

Owing to the above definition, an affordable housing agreement between the owner of the property and a public agency (other than the Local Trust Committee) will have to be registered on title to the property for the 8 proposed affordable housing dwelling units.

SITE/DEVELOPMENT PLANS

The applicant has not provided site or building plans related to the proposed rezoning. The applicant suggests that rezoning is simply a question of whether the community accepts a density increase at a particular location, and that the form and character that density takes is a matter to be addressed at the development permit stage. See staff comments below for further discussion of this matter.

COMMUNITY INFORMATION MEETING(S)

No community information meeting has been scheduled.

RESULTS OF CIRCULATION

The application has not yet been circulated, as this is a preliminary report.

STAFF COMMENTS

Density

Upon preliminary review, the application has merit for consideration, particularly as the requested density does not exceed the 37 units/ha maximum established in the Ganges Village Upper land use designation under OCP policy B.5.1.2.2. It may also help advance the community's affordable housing objectives as reflected in OCP Section B.2.2.

Water

As noted above, the applicant has indicated that in light of the ongoing North Salt Spring Water District moratorium on new connections he intends to service the proposed density through a combination of groundwater and rainwater catchment.

The OCP is open to this possibility, as policy C.3.2.2.1 related to Community Water Systems states that, “Should such zoning changes be proposed, the applicant could be encouraged to suggest other water supplies so that the application could be considered. Examples are rainwater catchment, groundwater use or a water conservation program.”

If the LTC is willing to entertain consideration of this application based on an alternative servicing plan, staff recommend that the LTC demand a high standard of proof that whatever plan is proposed is sufficient to meet all uses on the lot. This plan should be prepared by a

qualified engineer in consultation with other professionals expert in the areas where the LTC seeks information. For example, if groundwater is proposed, the applicant should present information that meets the conditions of OCP policy C.3.3.2.2 which states that, “. . . the Local Trust Committee should consider the impacts of the proposed new use on existing wells, springs, or other water supplies. If the proposed use is expected to need more water than the uses already allowed on the property, then the Committee should ask for evidence that wells or other water supplies in the neighbourhood would not be depleted. The Committee should also consider whether water use would affect agricultural activities or deplete any springs necessary to maintain fish habitat.”

Furthermore, depending on the ownership model of the ultimate development, servicing it outside of a North Salt Spring Water District connection may require a Certificate of Public Convenience and Necessity from the British Columbia Utility Regulation Section, a groundwater license from the Crown, and an operating permit from the Vancouver Island Health Authority. Preliminary conversations with these agencies indicate that servicing the proposed density through a private water system may be possible, though not assured. These agencies note that there can be significant costs related to the ongoing operation and maintenance of such systems, which are passed on to individual unit owners/tenants. Staff recommend that any water servicing plan supplied by the applicant be referred to the above agencies to determine whether such a servicing configuration is possible within their respective regulatory frameworks. It would not be a prudent use of the LTC's time to consider a density increase for which it would be impossible to obtain necessary authorizations.

Staff recognize that any water plan provided by the applicant at this stage will be largely conceptual, being done as it is in the absence of an actual plan of development. However, staff feel it is necessary both to demonstrate that the requisite volume of water required to service the density could be available at the site, and to provide it to regulatory agencies for comment about the viability of servicing a multi-family development from groundwater, rainwater catchment, or other means exclusive of the North Salt Spring Water District.

The applicant has suggested that rezoning is simply a question of whether a certain density of development is appropriate for a particular area, and that provision of water is ultimately dealt with at the time of building permit application, and therefore not a matter for consideration at time of rezoning. Staff do not concur with this perspective, as the first objective within the OCP section addressing potable water quantity and supply objectives and policies is C.3.1.1.1: “To apply the precautionary principle in ensuring that the density and intensity of land use is not increased in areas which are known to have concerns with the supply of potable water.”

Should the LTC be open to an alternative servicing plan for the lot, the LTC may wish at a later date to seek a restrictive covenant registered on title so that, in the event the property is sold, future owners are made aware that approval for increased density was granted on the condition of alternative servicing and not piped water from the North Salt Spring Water District.

Amenity Zoning/Affordable Housing/Housing Agreement

The applicant proposes the provision of 8 affordable housing units in addition to 8 units of market housing as part of the proposed density increase. In the absence of resolution of the water question, staff have not done a detailed analysis of the proposal's consistency with the amenity zoning guidelines of Section H.3 of the OCP. However, initial evaluation suggests that it is reasonably consistent with those guidelines such that it warrants the LTC's consideration.

The Land Use Bylaw is prescriptive that affordable housing is a “deed-restricted and/or a rent-controlled *dwelling unit* that is secured by a housing agreement registered on title, and may include *special needs housing* and *seniors dwelling units*.” Section 9(1) of the *Islands Trust Act* limits LTCs’ ability to enter into housing agreements for private developments with any body other than government or first nations. Typically, the LTC has looked to the Capital Regional Housing Corporation (CRHC) to administer housing agreements on its behalf. Preliminary conversations with the CRHC suggest they may be willing to administer a housing agreement for 8 affordable housing units on behalf of the LTC in this instance.

The applicant has indicated he wishes to provide the LTC with a letter of undertaking to enter into a housing agreement at the time of bylaw adoption. Additionally, the applicant proposes a bylaw amendment such that for every six dwelling units constructed, one must be an affordable housing dwelling unit. It is unclear whether the CRHC would be willing to administer a housing agreement where all affordable housing units are not constructed simultaneously. Furthermore, staff do not support proceeding on the basis of a letter of undertaking and recommend to the LTC that a housing agreement to which all parties are amenable be drafted as early as possible for registration before bylaw adoption.

Staff do not recommend that the LTC direct staff to work with the applicant and CRHC on the development of an affordable housing agreement until greater clarity is achieved on whether there is sufficient water available to service the proposed density.

Site/Development Plans

There is no requirement that an applicant submit a concurrent development permit application at time of rezoning. However, as the applicant is requesting an increase in both density and height, which also trigger a need for increased parking, the LTC may wish to require the applicant to submit plans that demonstrate how possible massing configurations on the property may impact adjacent lots, particularly those abutting its western edge. Additionally, submission of a concurrent development permit application at the time of rezoning can be seen to demonstrate that the rezoning underpins a genuine intention to develop, rather than a speculative exercise.

OPTIONS

Staff do not recommend that the LTC proceed with this application unless it is confident that sufficient potable water can be provided as is suggested by both OCP policies and the Islands Trust Policy Statement. Rather, staff recommend that LTC seek further information on the applicant’s intended water servicing plans and refer those plans to relevant regulatory agencies for review. Nonetheless, if the LTC wishes to advance the application at the current time—in possible contravention of the Policy Statement—it could make the following resolutions:

- 1) **THAT** the Salt Spring Island Local Trust Committee direct staff to prepare a draft bylaw to amend Salt Spring Island Land Use Bylaw No. 355, 1999 to rezone Lot 10, Section 2, Range 3 East, North Salt Spring Island, Cowichan District, Plan 14710 from Residential 2 (R2) to a Residential zone variant.
- 2) **THAT** the Salt Spring Island Local Trust Committee direct staff to work with the applicant and the Capital Regional Housing Corporation on the development of a draft housing agreement related to the provision of 8 affordable housing dwelling units.

RECOMMENDATIONS

- 1) **THAT** the Salt Spring Island Local Trust Committee request that the applicant provide a water servicing plan prepared by a professional engineer that contains the following related to the provision of potable and non-potable water to the subject lot:
 1. Confirmation that potable water in the amount required to obtain occupancy permits can be provided under the plan for all proposed units and that water in the amount required for fire suppression and irrigation can also be provided;
 2. Where potable water is to be supplied by groundwater, a pump test(s) conducted by a professional engineer and containing supporting documentation that the test was of sufficient duration to establish the long-term reliability of the water supply in accordance with generally acceptable hydrological engineering practices;
 3. Where potable water is to be supplied by groundwater, a water quality analysis that demonstrates that the groundwater from each proposed water supply source or well is potable or can be made potable with a treatment system; and
 4. Where potable water is to be supplied by groundwater, assessment of how groundwater use on site will impact:
 - a. Nearby wells or other neighbourhood water supplies
 - b. Agricultural activities
 - c. Springs necessary to maintain fish habitat

- 2) **THAT** the Salt Spring Island Local Trust Committee direct staff, upon receipt of a water servicing plan from the applicant, to refer the plan to the Secretary to the Comptroller of Water Rights, Island Health, CRD Building Inspection and the North Salt Spring Water District for review and comment.

Prepared and Submitted by:

Jason Youmans, Planner 2

June 21, 2016

Concurred in by:

Stefan Cermak
Regional Planning Manager

June 21, 2016

ATTACHMENTS

- Appendix 1: Applicable OCP Policies
- Appendix 2: Applicant Submission

RELEVANT OCP OBJECTIVES AND POLICIES FOR PRELIMINARY LTC CONSIDERATION OF FILE SS-RZ-2013.7

Housing Quantity

Relevant objectives as they relate to housing quantity are as follows:

- B.2.1.1.2 To develop zoning that allows many different types of housing and accommodates a diverse population.
- B.2.1.1.3 To acknowledge that a framework that limits growth may restrict housing choices as supply is limited; to respond to the challenge of fostering socioeconomic diversity within such a framework

Relevant policies as they relate to housing quantity are as follows:

- B.2.1.2.1 Zoning changes should be avoided if they would likely result in a larger island population than is expected under the development potential zoned in 2008. Exceptions to this policy are to be few and minor and only to achieve affordable housing and other objectives of this Plan.

Land Use Designation

The OCP designation for the property is Ganges Village – Upper (GVU). The objectives of the Ganges Village designation include the following:

- B.5.2.1.2 To encourage some additional residential use of Ganges Village in a way that adds vitality to the village. To allow more islanders to live close to village services and employment.
- B.5.2.1.6 To maintain the economic viability of Ganges Village by guiding development into a compact, pedestrian-friendly form within a defined containment boundary with a broad variety of complementary uses.

Relevant policies in the Ganges Village – Upper designation as they relate to this application are:

- B.5.1.2.2 Zoning in Village Designations will continue to allow the mix of commercial, institutional, cultural, and multi-family land uses that are currently allowed. Commercial zoning should be simplified with fewer zones and a broader range of uses allowed in each. The maximum residential density allowed on any single property will remain at 37 units per ha. However, where a multifamily development is comprised of special needs housing or affordable seniors' supportive housing, the density of development may exceed 37 units per ha, provided it does not exceed a floor space ratio of 0.6, a site coverage of 33 percent, a maximum of two storeys and a maximum of 50 units in any one development.
- B.5.2.2.3 The Local Trust Committee should consider rezoning applications that would allow the addition of some affordable and special needs housing in the Ganges Village Designation, as outlined in Section B.2.2.2.

- B.5.2.2.4 The Local Trust Committee could consider rezoning applications to allow a slightly higher density of residential development than permitted by current zoning as part of a proposal that provided an eligible community amenity (see Appendix 3) or as part of a proposal to transfer development potential (see Section B.2.3.2 and Appendix 4). The Ganges Village Designation is a Development Potential Receiving Area. However, development potential should only be transferred to the North Salt Spring Waterworks District if the District can establish that any incremental demand can be met through water conservation or expansion of licensed supply capacity, or if water is to be supplied from another source.

Community Water Systems

Relevant objectives as they relate to community water systems are as follows:

- C.3.2.1.1 To ensure that the potential water demand of development within community water systems does not exceed the licensed capacity, or the amount of water that can be safely withdrawn from each system's water source.
- C.3.2.1.2 To reduce, delay or avoid the impacts of withdrawing additional water from surface water bodies.
- C.3.2.1.3 To ensure that zoning changes in the North Salt Spring Waterworks District do not result in such a level of development that water cannot be supplied to needed public facilities or would not be available for firefighting purposes. In particular, to ensure that water remains available for hospital and school expansion, and affordable housing.
- C.3.2.1.4 To encourage a variety of conservation methods in all community water systems
- C.3.2.1.5 To ensure that zoning changes within the boundaries of water systems do not result in such a level of demand on island water sources that agricultural activities cannot obtain water.

Relevant policies as they relate to community water systems are as follows:

- C.3.2.2.1 When the Local Trust Committee receives rezoning applications for land inside the boundaries of a community water system, it will refer the application to the operators of the affected system. They will be asked if water could be supplied to the proposed new development, considering the needs of their existing customers and the provision of water for firefighting, and any properties already zoned for further development. When it considers zoning changes within a community water system, the Local Trust Committee will also consider the amount and percentage of any remaining supply capacity that would be used by the proposed new use. The Committee will not make zoning changes within a community water system if the change would mean water could not be supplied (under the existing license) to existing customers. It should not normally make zoning changes if the change would mean water could not also be supplied to vacant or underdeveloped properties already zoned for further development. Should such zoning changes be proposed, the applicant could be encouraged to suggest other water supplies so that the application could be considered. Examples are rainwater catchment, groundwater use or a water conservation program.

The Local Trust Committee could make an exception to the above policy within the North Salt Spring Waterworks District to allow community facilities or affordable housing projects to proceed. However such changes should only be made if the

Committee is satisfied that the District is likely to receive a sufficiently larger water license.

- C.3.2.2.2 In addition to policy C.3.2.2.1, the Local Trust Committee should not make zoning changes within the North Salt Spring Waterworks District that could mean that water will not be available (under the District's existing license) for the following projects (in order of priority):
- a. essential services such as hospitals and schools needed within the district to serve the island's projected population.
 - b. special needs and affordable housing needed by the community.

The Local Trust Committee could make an exception to this policy so that one of the above projects could proceed before another of higher priority. However, it must be satisfied that the District will receive a sufficiently larger water license in time to serve the higher priority project when it is needed.

Private Surface Water and Groundwater Supplies

Relevant objectives as they relate to private surface and groundwater supplies are as follows:

- C.3.3.1.1 To avoid zoning changes that result in the depletion of existing wells or springs of water bodies used as water supplies.
- C.3.3.1.2 To preserve known groundwater recharge areas.

Relevant policies as they relate to private surface and groundwater supplies are as follows:

- C.3.3.2.2 When considering rezoning applications, the Local Trust Committee should consider the impacts of the proposed new use on existing wells, springs, or other water supplies. If the proposed use is expected to need more water than the uses already allowed on the property, then the Committee should ask for evidence that wells or other water supplies in the neighbourhood would not be depleted. The Committee should also consider whether water use would affect agricultural activities or deplete any springs necessary to maintain fish habitat. Should a zoning change be proposed where groundwater supplies are not adequate, the applicant could be encouraged to find other means of supplying water. Rainwater catchment or a water conservation program could be considered.
- C.3.3.2.3 The Local Trust Committee should continue to require proof of adequate potable water supply for each new lot created by subdivision.

Affordable, rental and special needs housing

Relevant objectives related to the provision of affordable, rental and special needs housing include the following:

- B.2.2.1.1 To provide opportunities for the creation of affordable, rental and special needs housing.

B.2.2.1.2 To integrate affordable, rental and special needs housing into appropriate residential areas where community services are most accessible.

B.2.2.1.5 To cooperate with senior governments, the Capital Regional District, housing industry, funding sources and community organisations to provide affordable, rental and special needs housing on Salt Spring Island.

Relevant policies related to affordable, rental and special needs housing include the following:

B.2.2.2.3 All rezoning applications for affordable housing projects should include evidence of:

- a. need for the housing.
- b. an adequate water supply for potability and for fire protection.
- c. means of sewage disposal.
- d. energy and water efficient building design.
- e. not degrading a sensitive ecosystem.
- f. not being sited in an area subject to hazardous conditions.

Amenity Zoning

“Amenity zoning is the granting of additional development potential by the Local Trust Committee in exchange for the voluntary provision of a community amenity by the land owners.”

Among the OCP’s eligible community amenities are:

- b. land for, or construction of, affordable or special needs housing.

Applicant Submission

Amendment to SS-RZ-2013.7

The proposed zone variation is as follows –

Zone Variation R1(b)

- (1) Despite all other regulations of this bylaw:
 - (a) the only principal use permitted within lands zoned R1(b) is not more than 49 *dwelling units*, 8 of which must be *affordable housing dwelling units*.
 - (b) for every 6 *dwelling units* proposed to be developed in this zone, at least one must be designated as an *affordable housing dwelling unit*.
- (2) Despite all other regulations of this bylaw, the maximum *height* of a *structure* is 11.0 metres, provided that not more than three *storeys*, are permitted in the *structure*.
- (3) *Home-based businesses* are permitted as an *accessory use*. Despite Section 3.13, only the following occupations may be conducted as a *home-based business* within lands zoned R1(b):
 - (a) Production of arts, crafts, music, fabric items, jewellery and other comparable products.
 - (b) Sales of products manufactured elsewhere, provided persons employed in the *home-based business* carry out all distribution of such products offsite.
 - (c) Business and professional offices.
 - (d) *Child day care*, limited to a maximum of two children, exclusive of the operators' children.

Rationale for Rezoning

OCP

B.5.1.2.2 Zoning in Village Designations will continue to allow the mix of commercial, institutional, cultural, and multi-family land uses that are currently allowed. Commercial zoning should be simplified with fewer zones and a broader range of uses allowed in each. **The maximum residential density allowed on any single property will remain at 37 units per ha...**

Density of Development Proposed

The subject property is located in the GVU Neighbourhood Designation

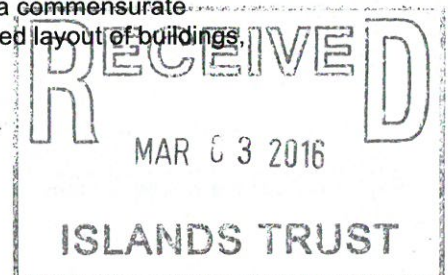
Ganges Village Upper's ("GVU") Neighbourhood Designation allows for high density residential use.

The proposal meets the OCP's 37 units per ha maximum density.

GVU currently includes 9 multi-family developments and one apartment building.

A note about rezoning and development permits

This application is for an amenity rezoning for an increase in density. There has been some debate whether a rezoning application should either (a) be considered with a commensurate development permit application, or (b) contain a detailed design and proposed layout of buildings, servicing, etc.



A rezoning, with an attached design proposal, such as the recent Drake Road application for affordable housing, does not, in any way, bind a property owner to the continuation or completion of the design as proposed.

The following example illustrates the reality:

Mr. Smith applies to rezone his property using the amenity provisions of the OCP. He brings forward detailed designs, showing the layout of the buildings on the land, the massing of the buildings, the exterior finishes, etc.. He provides numerous reports detailing how the design will be serviced.

The rezoning is passed and given final adoption by the LTC.

Mr. Smith then applies for and is granted a development permit for his design.

The day following the issuance of the DP, Mr. Smith is unfortunately hit by a speeding bus and killed. His estate puts his newly zoned property, complete with the newly issued DP, up for sale and Mr. Jones buys it.

Mr. Jones doesn't like Mr. Smith's vision for the project, and, subsequently hires an architect to create an entirely new vision for the property, one that is dramatically different than Mr. Smith's. He then applies for a new development permit, meets the DP guidelines and is issued with his new DP.

Thus, all of Mr. Smith's costly submissions to the Trust, as to how wonderful his project was going to be, were eradicated, effectively in a split second, by the speeding bus.

The "moral" of the story is that rezoning decisions should be based on whether or not the land in question is suitable for the proposed rezoning, not whether any one particular owner's vision for the property is acceptable.

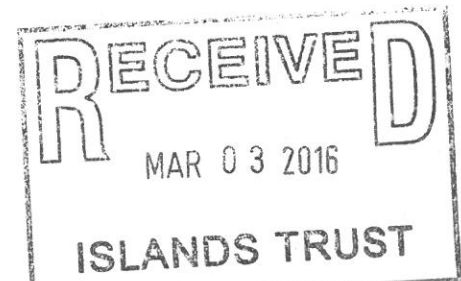
Any proposed zoning is either acceptable, or its not. In that context, any one particular owner's vision for a property should be viewed as simply that – one person's dreams that may or may not ever come to fruition for any one of a multitude of reasons such as changes in ownership of property, market forces, financial capacity, servicing (e.g. water, sewer, etc.), or even changes to Development Permit Area conditions.

The past has seen a number of failed rezonings of property on the island – Ganges Marina, Salt Spring Roasting Company, Salt Spring Metal Recycling. The combined dollar value of those detailed, rezoning proposals are in the hundreds of thousands of dollars, and the hundreds of hours of staff time, with the vast majority of the requested/required design parameters being completely unnecessary expenditures.

To simplify, my application is asking the questions:

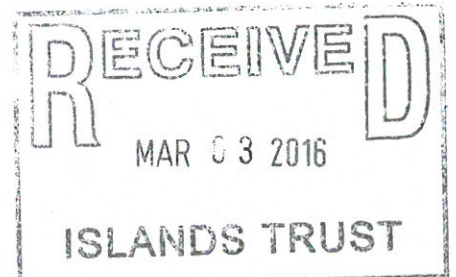
1. According to the OCP, is the subject property suitable for the requested increase in density?
2. Is the requested density increase, at a ratio of 8 to 8 (8 market units to 8 affordable housing units) fair and acceptable under the OCP's amenity guidelines?
3. Is the height request reasonable, given the subject property's location?

All other questions regarding any proposed development on the property can be asked and answered at:



(a) the Development Permit application stage, which must deal with (i) form and character, and (ii) drainage, and

(b) the building permit stage, which necessarily must address detailed architectural plans and servicing requirements - water, sewer, drainage, hydro, etc..



Requested Amendment for Height and Storeys

The proposed height (11m) and number of storeys is supported by:

B.5.2.2.9 The Local Trust Committee may consider changing zoning to permit some 3-storey buildings in areas away from the shoreline, the Ganges Village Core and established view corridors.

The subject land is away from the shoreline, on the outskirts of the Ganges Village core and away from established view corridors.

There has been a good deal of discussion over the past decade regarding the potential benefits of density transfer into, or densification of, Ganges. The benefits range from:

- creating a more vibrant residential area around, and in, the core area,
- reduction in reliance upon automobiles,
- reduced carbon footprints,
- savings in servicing costs, and,
- the provision of more affordable housing.

Three storey buildings are not an uncommon sight in most residential neighbourhoods in, or near, villages in other near jurisdictions, such as Chemainus, Sidney or Duncan. With extremely limited land space, such as is the case in Ganges, there are two choices for increasing density – “go up,” or “go out.”

The requested height of 11.0 metres and number of storeys not to exceed 3, is the same as allowable in the Murakami Gardens zoning – Residential 1 (a), which is one block to the south of the subject property:

(6) Despite all other regulations of this bylaw, the maximum height of a structure is 11.0 metres, provided that not more than three storeys are permitted in the structure.

The OCP provides the following:

B.2.2.2.8 Zoning could be changed to allow small, affordable homes to be located above commercial buildings in villages. Existing zoning (that only allows two storeys) could be relaxed to allow such homes to occupy a third storey, provided that impacts on view corridors are taken into account.

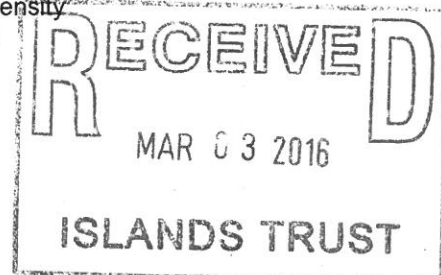
The most recently constructed 3 storey building on Salt Spring is Braehaven.

The second most recently constructed 11.0 metre building is the Gulf Island Senior Secondary High School Gymnasium, which is directly across the street (Kanaka Road) from the subject property.

While current bylaws allow for two stories, plus a basement level, the requirements to meet the LUB definition of basement, while achievable, necessarily decrease the basement level's exposure to sunlight, access, and greatly restrict the layout of basement suites due to building regulations regarding secondary access (e.g. windows or exterior doors) to bedrooms.

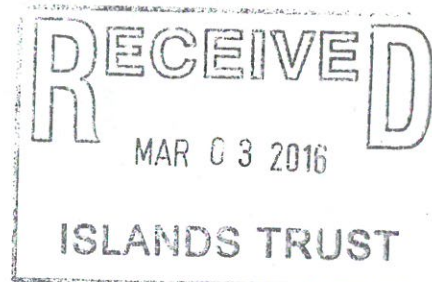
My request for 3 storeys would allow greater flexibility of planning, and would also:

1. help to limit potential site coverage while providing the increase in density
2. increase energy efficiency (each storey adds mass to the structure)
3. provide more daylight and livability to lower units



4. reduce overall building cost of housing units, thereby increasing efficiency
5. help to maintain open space by potentially reducing overall footprint
6. make the provision of elevators financially feasible, which, in turn, would make all floors equivalent to ground level access, noting also that all proposed floor plans of dwelling units could be single level living.

NOTE - Any proposed design, after rezoning approval, would necessarily include approval of a development permit to meet the DP Area 1 guidelines.



OCP Development Permit Area 4

I am requesting the removal of the designation of Development Permit Area 4 from the property by way of an OCP amendment to the DPA 4 mapping.

Having previously examined, and, having firmly established, through an Islands Trust engineering peer-review, the Riparian Areas Regulation, the Riparian Area Assessment Methodology, and a Supreme Court of BC action, that the stormwater, surface runoff ditch (the "MoTI Ditch") which travels along the south side of Park Drive, and then down the middle of Gustaf Road to Kanaka Road:

1. is a manmade, constructed ditch,
2. is not part of a natural watercourse,
3. historically did not exist prior to development of the upper watershed area,
4. has been recognized by the Crown as not being a "stream" under the Water Act of BC,
5. has been agreed upon by the Crown during Court proceedings that it is not a "natural" watercourse;
6. has no presence of fish (Reimer 1995, Reimer 2001, Reimer 2007, Balanced 2007), and is therefore "non-fish bearing,"
7. has permanent barriers (long culverts and a manhole drop) between it and the nearest reported presence of fish (tidal/estuary area of downtown Ganges) as determined by an environmental report (Balanced 2007), and, that those permanent barriers have been recognized and confirmed by the Ministry of Environment Habitat Management Branch (the authors of the RAR) in 2007,
8. has been confirmed by Aqion Water Technologies Ltd., in 2009, it is not a "waterbody" as defined by Land Use Bylaw 355,
9. has been recognized, confirmed and accepted by the Islands Trust, in 2009, it is not a "waterbody" as defined in Land Use Bylaw 355,
10. has been reconfirmed by Rescan Environmental Consulting Ltd., in 2009, as not meeting the definition of "waterbody" in Land Use Bylaw 355,
11. has been confirmed by Mainstream Biological Consulting as a "non-fish bearing, constructed ditch" as defined within the Riparian Area Assessment Methodology (Mainstream Biological Consulting Report February 19, 2014)
12. the "natural boundary" of the MoTI Ditch, by easily taken, on site, linear measurements, is a minimum of 6 metres from the property boundary of Lot 10,
13. the Maximum SPEA under RAR for a manmade, **constructed**, non-fish bearing ditch (e.g. no fish present) is 2 metres (see Table 3-7 from the RAA Methodology below)
14. SPEA widths under the RAR have been, and are, accepted by the Local Trust Committee as acceptable protection for riparian areas,

the RAR is evidently not applicable to the subject property, since the Mainstream GPS'ed mapping clearly shows the ditch is at least 2 metres away from the property line.

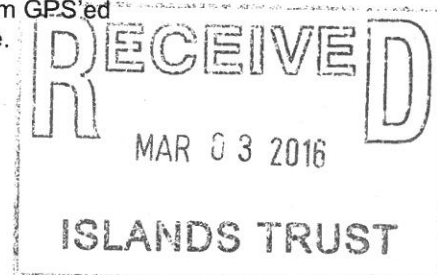


Table 3-7: SPEA widths for ditches

Function	Constructed Ditch	
	Fish	No Fish
LWD for maintenance of channel morphology and provision of fish habitat	2 times channel width max 10 m min 5 m	n/a
Vegetation to assist in controlling localized erosion		2 m
Suitable area to allow for lateral channel movement	n/a	n/a
Litter Fall and Insect Drop	2 times channel width max 10 m min 5 m	2 m
Shade		

It is notable a major change occurred in 2010, when the MoTI relocated the pre-existing, constructed ditch on the west side of Gustaf Road to the center of Gustaf Road, thereby increasing the distance between its "natural boundary" and Lot 10's property line to a minimum of 6 metres.

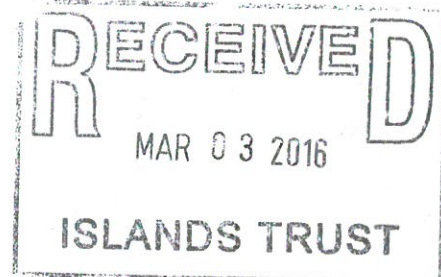
With regards to the DPA 4 area on the property, the shifting of the constructed ditch to the east has effectively eliminated the requirement for a SPEA on the subject property.

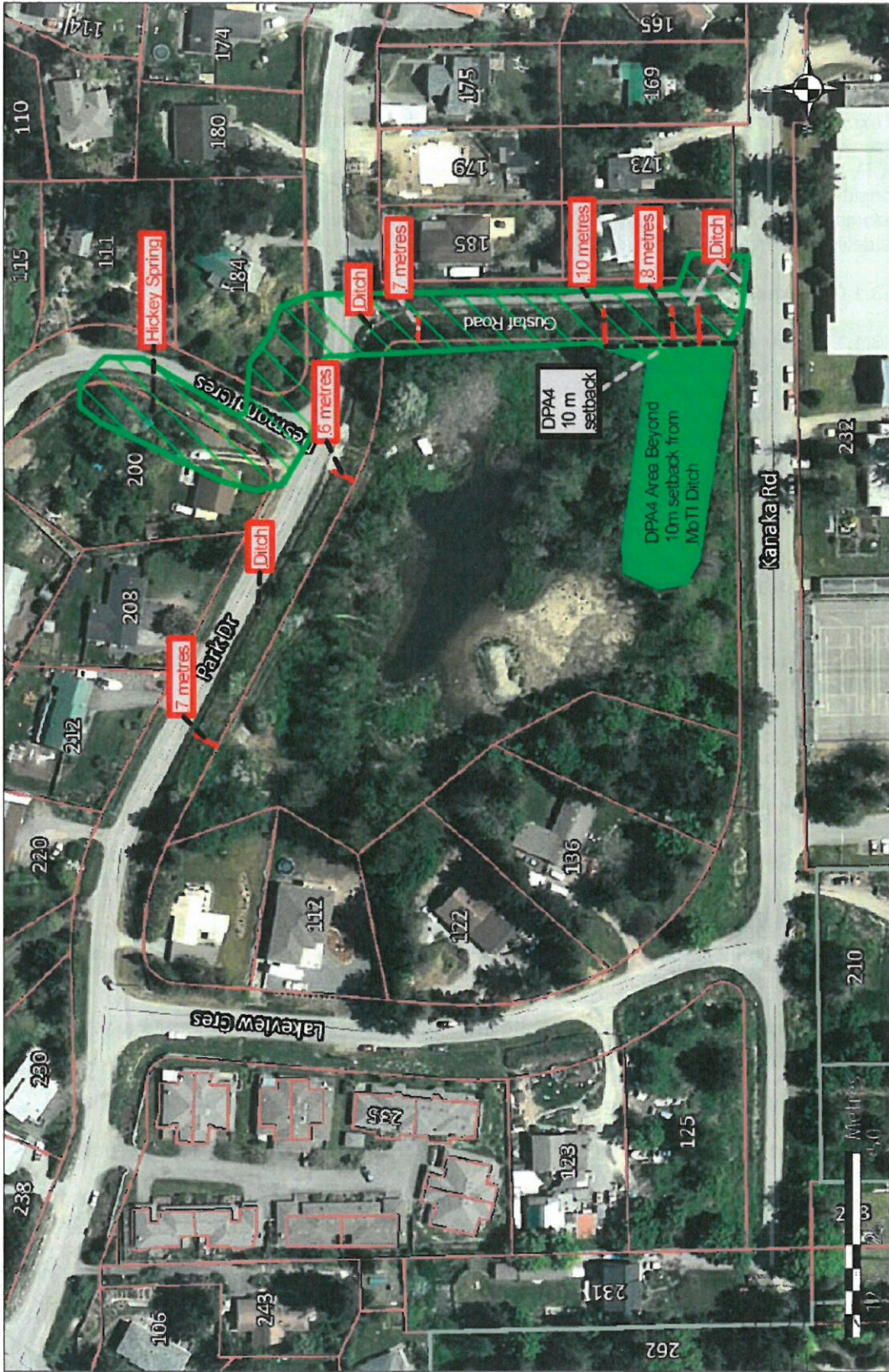
Given no development is proposed, or would occur within the 2m SPEA of the constructed ditch, it is reasonable to remove the mapped DPA4 area from the property.

The Madrone report of September 18, 2014 (letter to Stefan Cermak) confirmed none of the subject property should be included in the Riparian Area mapping.

The following aerial view of the neighbourhood shows:

1. the location of the constructed ditch on Park Drive and Gustaf Road,
2. the distances (6-8m) from the "natural boundary" of the constructed ditch from the property line,
3. the DPA 4 area (in green and green hatching) transposed from Map 21 of the OCP'
4. the 10 metre assessment setback area from the "natural boundary" of the constructed ditch that is within the DPA4 area,
5. the DPA4 area (shown in solid green) which is 10m beyond the "natural boundary" of the constructed ditch, and therefore exempt from DPA4 requirements.





DPA4 overlay in green, showing (a) location of "constructed" MoTI Ditch on Park Drive and Gustaf Road, (b) setbacks from property line, (c) 10m setback from natural boundary of MoTI Ditch in DPA4 area on Lot 10, (d) the DPA4 area beyond the 10m setback from MoTI Ditch

This map is provided for informational purposes only. The Capital Regional District does not warrant the accuracy or completeness of the information shown on this map. The CRD will not be liable for any errors or omissions. The CRD will not be responsible for any loss or damage, including consequential, special, or exemplary damages, arising out of the use of this map or the information contained therein. The map may be changed by the CRD at any time.

MAR 03 2016

ISLANDS TRUST



Notes on Amenity Zoning as it applies to this application

H.3 APPENDIX 3 - AMENITY ZONING

Amenity zoning is the granting of additional development potential by the Local Trust Committee in exchange for the voluntary provision of a community amenity by the land owner. Any amenity rezoning should advance the Object of the Islands Trust and the goals and objectives of this OCP, and should be consistent with the following guidelines. Amenity rezoning may be considered on a case-by-case basis, upon application for rezoning. The approval of an amenity rezoning should be conditional on compliance with the following policy guidelines. These guidelines do not pre-determine a favourable outcome for any particular application.

H.3.1 Guidelines for Amenity Zoning Applications

H.3.1.1 Where appropriate, applications for amenity zoning should propose a density level that does not exceed the target density levels outlined in this Plan for the applicable Land Use Designation. For example, an application in the Rural Neighbourhoods Designation should propose a density level no greater than 1 lot per 1.2 ha, as outlined in the policies for that Designation (See Policy B.2.5.2.3).

Note - This application proposes a density level that does not exceed the target density levels outlined in the OCP.

H.3.1.2 Applications for amenity zoning should propose that one of the eligible community amenities listed in Section H.3.2 will be provided in exchange for the higher density level being requested.

Note - The proposed amenity – affordable housing (7 units) – is one of the eligible community amenities listed in Section H.3.2

H.3.1.3 Increased density may take the form of additional lots or additional dwelling units. The Local Trust Committee should ensure the total number of additional dwelling units allowed in exchange for community amenities on Salt Spring Island does not exceed 40. This maximum number of total additional dwelling units should be reviewed each time that the OCP is reviewed.

Note - The increased density takes the form of additional dwelling units, and does not exceed 40.

H.3.1.4 It is intended that applications should be for relatively modest increases in density, consequently the Local Trust Committee should not consider applications in which more than 10 additional dwelling units are proposed in exchange for any one community amenity.

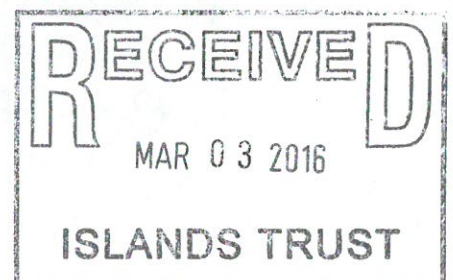
Note - The application is for a moderate increase in density (8) in exchange for the creation of 8 affordable housing units.

H.3.1.5 Amenity Zoning Applications should be consistent with other policies of this Plan.

Note - The application is consistent with other policies of the OCP. (See Appendix 1)

H.3.1.6 Prior to approving any amenity zoning application, the Local Trust Committee should give consideration to the appropriateness of the land for the increased density. The following factors should be considered where relevant:

- a. environmental values are identified prior to site clearing and design.



Note - The land was originally cleared well over 60 years ago. It has recently been modified to create a more healthy environment through the construction of a large 9-10 deep pond. The land is in the Ganges Core and has been previously approved for development.

b. development is located away from areas with high environmental values, and natural buffers are placed between the development site and sensitive features.

Note - All but one of the adjacent properties is developed with residential dwellings.

c. development is concentrated in areas with lower environmental values.

Note - The land is in the urban area of Ganges. There are no nearby areas identified with high environmental values.

d. site plans protect biodiversity, clean air, and clean water.

Note - Site plans will be developed and approved through the Development Permit Area 1, permit application process.

e. development is located away from areas that may be subject to erosion, flooding, wildfires, and wildlife conflicts.

Note - The land is located in the Ganges Upper Village Area and is not subject to erosion, flooding, wildfires or wildlife conflicts.

f. the impacts of roads are minimized and development is located in proximity to and accessible to existing services, constructed roads, and transit, and the development should have the potential to contribute to reducing community dependence of travel by automobile

Note - There are no additional roads needed or proposed. The land is proximate to and accessible to existing services, constructed roads and transit. As it is within easy walking distance of both Upper Ganges Village and the Ganges Core Area, it necessarily reduces community dependence of travel by automobile.

g. the fragmentation of habitat is minimized.

Note - There is no fragmentation of habitat.

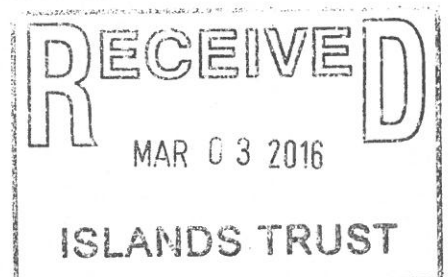
h. potable water quality is maintained and an adequate supply is available to support the permitted level of development.

Note - Rainwater catchment and/or ground water will be developed onsite and proven prior to the issuance of a building permit. There is an existing well, with a reported flow of 12 gallons per minute.

i. air quality is maintained and energy efficient design, greenhouse gas emissions and climate change adaption are considered.

Note - The proposed addition of 16 units to the existing 33 units, with an increase in allowed height, has the potential to increase the energy efficiency of design and decrease the overall carbon footprint.

j. energy- and water-efficient development is designed to conserve natural resources.



Note - At the development permit stage, all considerations of energy and water efficiency, including the possibility of grey water recycling will be taken into account to conserve natural resources.

k. development minimizes waste, and manages waste in an environmentally sound manner.

Note - Densification of the land will minimize waste and manage it in an environmentally sound manner.

l. that the development would not compromise archaeological, First Nations cultural, historical, heritage sites or significant or outstanding landscape features.

Note - The land is not (a) a First Nations cultural site, (b) a historical site, or (c) a heritage site. It has no significant natural landscape features.

m. that the development would be located away from community water system supply watersheds and community well capture zones.

Note - The land is not located in a community water system supply watershed or community well capture zone.

The Local Trust Committee should request that the applicant provide reports and other information satisfying concerns that the Local Trust Committee considers relevant, including provision of a site plan that shows how additional lots, building sites and accesses will be designed to minimize negative impacts. The Local Trust Committee may consider the use of site-specific zoning, covenants, designation of development permit areas, or a combination of tools to implement these criteria.

Note - The land is already in the DPA1 area, and any development is subject to obtaining a development permit for form and character and drainage. Thus, the LTC has the tools necessary to ensure the implementation of the DPA1 criteria.

H.3.2 Eligible Community Amenities

H.3.2.1 The Local Trust Committee could consider Amenity Zoning applications that would provide the following eligible community amenities:

(Note: the amenities within this list are not in order of priority)

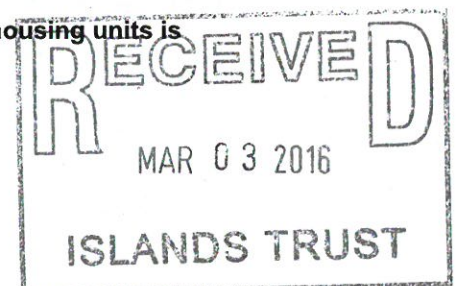
b. land for, or **construction of, affordable or special needs housing.**

H.3.3 Guidelines for Amenity and Density Valuation

H.3.3.3 Where the proposed community amenity includes areas of land and valuation of the amenity is difficult or impractical, the Local Trust Committee may consider an alternative to undertaking financial appraisal of the value of the amenity. In such instances, the Local Trust Committee may consider permitting a maximum of one additional parcel or one additional dwelling unit for each parcel of dedicated land that is equal to the base minimum average parcel size for the Land Use Designation where it is located. For example, if land in the Uplands Designation is dedicated, a maximum of one density could be exchanged for each 8 ha dedicated or protected.

Note - The proposed 1:1 ratio of additional market units for affordable housing units is analogous to the above guideline.

H.3.4 Application Procedures



H.3.4.1 Applications to exchange higher density levels for community amenities should be considered by the Local Trust Committee on a case-by-case basis upon application for rezoning by the landowner.

H.3.4.2 Detailed specifications of the community amenity to be provided are to be included in the rezoning application.

H.3.4.3 Where a community amenity is to be provided to a third party for operation and maintenance, the application should be accompanied by a written agreement from that party to accept and maintain the amenity for the intended use. Covenants, housing agreements, or other tools should be used to ensure the amenity is used as intended. Parties chosen to hold an amenity should be public bodies or well-established non-profit groups with a mandate consistent with the amenity provided.

H.3.4.4 When a community amenity is provided in exchange for extra density, the amenity must be provided or legally guaranteed at the time of adoption of the rezoning.

Note – I am prepared to provide a legal guarantee for the provision of 8 affordable housing units at the time of adoption of the rezoning. A previous rezoning application (SS-RZ-2007.5 - 1223 Mt. Maxwell Road - Damien Barstead) was approved using a “Letter of Intent” from the property owner stipulating he would enter into a “housing agreement.”

H.3.4.5 Community amenities provided in exchange for a higher level of density should be identified with a plaque that outlines the nature of the amenity/density exchange. If the amenity is intended for public use, then the hours of operation and the body responsible for operation and maintenance should also be identified.

H.3.4.6 The Local Trust Committee shall request that the applicant provide reports prepared by a qualified licensed or registered professional satisfying any of the above concerns that the Local Trust Committee considers relevant. The Local Trust Committee may consider requiring development information through adoption of a development approval information bylaw.

