



# STAFF REPORT

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**Date:** October 13, 2011

**File No.:** DE-RZ-2011.1 (Denman  
Community Land Trust Association)

**To:** Denman Island Local Trust Committee  
For meeting of October 25, 2011

**From:** Courtney Campbell, Island Planner

**CC:** Chris Jackson, Regional Planning Manager

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**Re:** **Affordable Housing Application**

**Owner:** Ilsa Pamela Brons

**Applicant:** Harlene Holm, Denman Community Land Trust Association (DCLTA)

**Location:** Lot 1, SW ¼ of section 21, Plan 32301, Denman Island, Nanaimo District  
2016 Northwest Road

## 1. THE PROPOSAL

This is the second staff report on this application. The first staff report can be referred to for a thorough review of the proposal's conformity with the Islands Trust Policy Statement and the Official Community Plan policies and Land Use Bylaw regulations. The purpose of this report is to provide a summary of issues raised at the community information meeting on October 4, 2011 and to provide advice on how this application could proceed.

The Denman Community Land Trust Association (DCLTA) proposes to increase the density on the subject property by one, possibly through transfer from the density bank, and rezone a 2.0 ha (5.0 ac) portion of the 11.37 ha (28.09 ac) lot to a new zone for affordable housing. This project is called their "Keystone" project as it is their first.

Based on conditions of the donation, the affordable housing will be on a separate lot with one dwelling limited in square footage, for a maximum of one tenant and for a period of 99 years. .

## 2. CURRENT PLANNING STATUS OF SUBJECT LANDS

### 2.1. Islands Trust Policy Statement

The proposal is not at variance with the Islands Trust Policy Statement.

### 2.2. Denman Island Official Community Plan, 2008

See the first staff report for a thorough review.

### 2.3. Denman Island Land Use Bylaw, 2008

See the first staff report for a thorough review.

#### 2.4. Islands Trust Fund

The Islands Trust Fund Board will receive a referral of the proposed bylaw for this application.

#### 2.5. Sensitive Ecosystems and Hazard Areas

The Sensitive Ecosystem Mapping (SEM) identifies areas of young forest and mature forest on the subject property. The mature forest area is within the Development Permit Area (DPA) for steep slopes and is protected from development in that area. The young forest covers the rest of the portion of the parcel proposed for the affordable housing dwelling unit.

There is a steep slope hazard which is protected by the DPA.

#### 2.6. Climate Change Adaptation and Mitigation

The proposal includes alternative energy technologies that would reduce greenhouse gas emissions, which is part of climate change mitigation.

The subject property is not in any areas known to be subject to increased hazards due to climate change, such as sea level rise.

A new affordable housing development closer to downtown may have a greater climate change mitigation effect as the resident may more likely be able to live without a vehicle. This can be weighed against other factors in a rural context.

#### 2.7. Archaeological Sites

There are no recorded archaeological sites on or in the vicinity (within 50 m) of the subject property. The BC Archaeology Branch recommends local governments notify property owners if an archaeological site is within 50 m of a property subject of a development proposal.

#### 2.8. Covenants

There are no covenants on the subject property.

#### 2.9. Other

The property is partially within the Agriculture Land Reserve (ALR). The proposed lease area would follow the boundary of the ALR and would not be within the ALR.

### **3. SITE CONTEXT**

There is one dwelling currently on the property, close to Northwest Road. The majority of the property is forested, aside from a cleared area around the existing dwelling. The proposed lease area is at the opposite end of the property, on the eastern side, and would be accessed from Chickadee Place, not to be confused with the Ministry of Transportation right-of-way with the same name to the west of Chickadee Lake.

### **4. RESULTS OF CIRCULATION/COMMUNITY INFORMATION MEETINGS**

The DCLTA held a public meeting on Tuesday, July 19, 2011. The notes are attached to the first staff report.

The LTC hosted a community information meeting (CIM) on Tuesday, October 4, 2011. Thirty-five people were in attendance. Staff provided a presentation that described the proposal, and the rest of the meeting was open to questions and comments from the audience. There was general support for the proposal. The issues summary section below addresses comments made at the CIM.

## **5. ISSUES SUMMARY**

- a) Form of land tenure
- b) Protection of mature trees
- c) Location
- d) Wind turbine
- e) Limit of one person
- f) Requirement for tenant to be working
- g) Riparian Areas Regulation
- h) Land Use Bylaw amendment
- i) Tenant selection criteria

## **6. STAFF COMMENTS**

### **a) Form of land tenure**

The donation of the land is for a term of 99-years. The earlier staff report stated that the land would be leased to DCLTA for 99 years. However, since that report this has changed and the land will be transferred to DCLTA, fee simple, with a separate legal agreement or mechanism for the land to revert back to the donor or her heirs after 99 years. These technicalities do not influence the zoning amendments to be made. However, there is no mechanism in the zoning to extinguish this density after 99 years. The density would remain, but would still be zoned for affordable housing.

### **b) Protection of mature trees**

Given that the sensitive ecosystems of young forest and mature forest are identified by the SEM on the subject property, consideration should be given to protection of these ecosystems. Concern was raised at the CIM that required protection not be too onerous or costly to DCLTA. It was noted that registering a conservation covenant can be a long and costly process.

Development Permit Area No. 2: Steep Slopes, covers much of the subject area and requires a development permit for tree cutting where the quantity of cut removed is to exceed four trees smaller than 30 cm dbh (diameter at breast height), and one tree equal to or larger than 30 cm dbh in any period of five consecutive calendar years. A requirement of the development permit application is an environmental impact assessment, and a plan certified by a Registered Professional Forester or Registered Professional Biologist to maintain, enhance, or restore a well-developed forest ecosystem.

A development permit area and a conservation covenant are different mechanisms for protecting the natural environment with different pros and cons. The Steep Slopes Development Permit Area provides protection for mature trees and their associated ecosystems. A conservation covenant is unlikely to provide much additional protection and given that the ecosystem is not especially rare or endangered, in the opinion of staff it may not warrant additional protection beyond the development permit area. In terms of

enforcement, a development permit is more readily enforceable by the Islands Trust than a covenant.

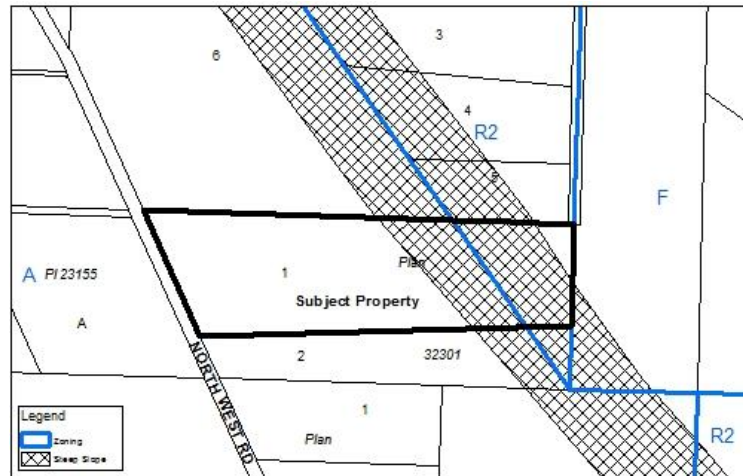


Figure 1 Development Permit Area No. 2 on subject property

### c) Location

The proposed site is approximately 6 km from the downtown area by road, and several comments were made at the CIM that it is too far from “anything”, especially for a person of limited means who may have limited transportation options. It was suggested that a trail through to Northwest Road would make the distance less of an obstacle for non-vehicular transportation, and make the location more suitable for affordable housing, as the distance would be reduced to approximately 1.5 km. However, this has been considered by DCLTA, and the steep slope between the subject area and Northwest Road make a trail impractical. Another consideration could be that the affordable housing lot be located in a different place on the subject property, close to Northwest Road. We understand this was not offered as part of the donation and may not be suitable to the donor, but offer it as an alternative if the goal is to provide a more suitable location for affordable housing.

### d) Wind turbine

Several comments were made at the CIM regarding the proposed wind turbine. There was concern that the cost of installing a wind turbine would be very high, and that it is much more cost effective to connect to the grid when it is available at the lot line. It was commented that for an affordable housing project funded by grants and volunteers it may not be appropriate to pay the high cost for a wind turbine.

There was also concern about the effects of a wind turbine on wildlife such as bats, and the need for studies to evaluate the potential impact to wildlife. As well, there was concern about the visual impact of a wind turbine, and concern that many trees would have to be cut to install the turbine and have it functioning properly.

DCLTA clarified that installing a wind turbine is not likely to happen at the time of construction of the dwelling due to limited funds, but is a hope for the future.

Given the concerns heard at the CIM, and staff's earlier advice in the preliminary report that research will have to be done to determine an appropriate upper limit for the size of the turbine permitted in the zone, this part of the application represents a significant

amount of staff work as well as current uncertainty regarding the effects on wildlife. In addition, with the technology changing rapidly, there is a risk that the zoning regulations created for this application may be out-of-date by the time DCLTA is able to build a wind turbine.

The LTC and DCLTA should weigh the benefit of including regulations to allow a wind turbine in this rezoning with the potential cost of studies evaluating the impact to wildlife and delays to the processing of this application due to the extra work involved. Given that the wind turbine is unlikely to be built at the same time as the dwelling, staff recommends that the wind turbine is removed from the application and applied for at a later date through a development variance permit. Or, the LTC may have developed regulations for wind turbines by that time, as that work is listed on the projects list.

**e) Limit of one person**

Concern was raised at the CIM that the limit of one person for the dwelling may create problems for a tenant as life events happen such as children or relationships. Although the donor cited the unsafe slope as a reason for not wanting children to live on the lot, there was a comment at the CIM that that safety concern was considered minor compared to other unsafe conditions children may live in normally in other locations.

In the long-term, there will hopefully be a range of affordable housing options on Denman, so that if a tenant's family situation changes, they could move to another home suitable for their family size.

It was also commented that not only could the limit of one person be problematic as family situations change, but that a dwelling of even 500-600 square feet (the likely size DCLTA is planning) could accommodate more than one person comfortably, so to limit it to one person is a waste of resources and a missed opportunity to house more than one person in need. However it was acknowledged that it may not be possible to have the donor change this condition, and that this project still had merit and was supported as a first project with the hope that there would be more to come.

**f) Requirement for tenant to be working**

There was a comment that it is too limiting to require someone to be working in order to qualify for the housing, as someone in real need may not be able to work. That the tenant is working is a condition of the donor, and it is also in the DCLTA's tenant selection criteria that the person be contributing to Denman Island via paid or volunteer work. Whether or not a person has to be working to be eligible for the housing can be built into a housing agreement.

**g) Riparian Areas Regulation**

The subject property is within a watershed designated as applicable to the Riparian Areas Regulation (RAR) of the *Fish Protection Act* meaning that the watershed contains streams that are fish-bearing or capable of being fish-bearing. This was not noted in the preliminary staff report. The LTC has on their work program mapping of streams within the RAR-designated watersheds, and has submitted a budget request, but has not completed this work yet. In advance of this mapping, in order to be compliant with this provincial legislation, the LTC must require a RAR assessment for the property to ensure

that the proposed rezoning will not negatively impact fish habitat. The applicant has been advised.

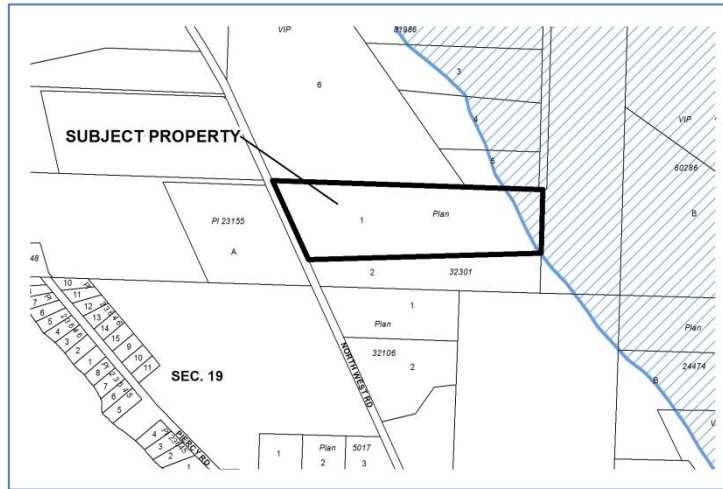


Figure 2 RAR-designated watershed on subject property

#### h) Land Use Bylaw amendment

The DCLTA has proposed that in addition to rezoning the subject property, a general affordable housing zone is created that will apply to future projects. In the preliminary staff report, staff advised that the approach seems suitable given that DCLTA feels a general zone will assist them in making grant applications for future projects. Upon further consideration, however, this approach is problematic from a technical point of view. It is unusual to create a “ghost” zone that applies to no property, but only may apply to properties in the future. The more common and more appropriate way of doing this is to create a policy or policies in the OCP that speak to what a new zone should or should not include. For example, if the DCLTA wants the LTC to adopt an intent or guidelines that future affordable housing for a single person should have units not greater than 400 square feet, home occupations should be limited, and lot coverage can be up to 40%, this is most appropriately done through an OCP policy rather than through a zone that does not yet apply to any lands. Such policies would provide direction and focus but also allow for flexibility to meet the challenges of each proposal.

Staff requires direction on this work. Having a discussion about future zoning for potential future affordable housing projects is likely to delay this application and adoption of the necessary bylaw amendments for the Keystone Project. Although it may be an opportunity to consider these future regulations, on the other hand it is impossible to predict the exact parameters of future projects given the unknown location, budget, funding constraints, and other factors, and the zoning for future projects may be best dealt with when there is a proposal before the LTC. In addition, any new policies should be reviewed by the community and a community consultation process on affordable housing should be undertaken over and above the consultation on this specific project. The existing policies do ensure that applicants for affordable housing projects must demonstrate the need for the type of affordable housing, and the rezoning process allows for public scrutiny of the application.

#### i) Tenant selection criteria

DCLTA's tenant selection criteria were not attached to the preliminary staff report but were presented at the CIM and are attached to this report. These criteria are intended to apply to all DCLTA's affordable housing projects. For the housing agreement for this specific project, staff advises that more specific criteria are developed. For example, "no evidence of personal assets sufficient to secure a mortgage through a registered bank" could be clarified to a specific monetary value that personal assets cannot be above. As well, the family status should be clarified to say that the accommodation is for a single person with no children.

## 7. SUMMARY OF OPTIONS

In summary, staff recommends approaching the remaining work on this application in phases by drafting the bylaw amendments first, then drafting a housing agreement when it is clear what elements can and cannot be regulated in the LUB and will need to be in the housing agreement.

Staff could draft an amending bylaw to be presented in the next staff report. Also in the report, staff would explain what additional elements need to be in a housing agreement, such as rent prices, criteria for tenancy, etc.

Regarding work on a general affordable housing zone or OCP policies, staff is seeking direction. If the LTC does wish to consider affordable housing in general as part of this application, it is recommended the best way is through a new OCP policy or policies. However, it is cautioned that this would delay the bylaw amendment and take time away from other work program priorities.

## RECOMMENDATIONS

Based on the above considerations, staff recommends THAT the Denman Island Local Trust Committee direct staff to draft bylaw amendments for DE-RZ-2011.1 (DCLTA).

Respectfully submitted by:

*Courtney Simpson*

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Courtney Simpson MCIP, Island Planner

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Date of signature

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*Chris Jackson*

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Chris Jackson MCIP, Regional Planning  
Manager

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*October 11, 2011*

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Date of signature

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### Attachments:

1. Tenant Selection Criteria



## Denman Community Land Trust Association

3900 Lacon Road, Denman Island, B.C. V0R 1T0

[www.denmanaffordablehousing.org](http://www.denmanaffordablehousing.org)

BN 84223 0898 RR0001

### Tenant Selection Criteria

#### A. Essential Criterion:

- 1) The Low Income Cut-off as currently established by Revenue Canada with previous 3 years' Income Tax Returns as proof of low income.
- 2) A minimum two year residential attachment to Denman Island.
- 3) A potential tenant's age, family/single status, skills/interest, health, and, if need be, gender should match the focus of the project (e.g. seniors' affordable housing, single mothers' collective house, farm collective, housing for the working poor).

#### B. Rated Criterion:

- 1) Tenancy history (includes an interview with at least one past landlord and at least one written reference (e.g. Pacifica Housing — Landlord Reference Verification Form)).
- 2) No evidence of personal assets sufficient to secure a mortgage through a registered bank.
- 3) Work history as indicated in the previous 3 years' Income Tax Returns.
- 4) Contribution to Denman Island via paid and/or volunteer work.
- 5) Family status wherein poverty is exacerbated by factors such as composition, number and age of family members.
- 6) Special needs with care support network.
- 7) Selection Committee flexible rating based on tenant interview and committee judgment.

**Approved by DCLTA August 3, 2011** (subject to a refined rating formulation and, in part, the judgment of a Committee operating at arms-length from the Board of the Association and comprising representatives of Denman Island organizations and groups such as Denman Island Women's Outreach Society (DIWOS), the Health Society, the medical practitioners, Denman Island Seniors' Housing Society (DISHS), the Triple Rock Co-housing group, members-at-large from the Community, and -in future- DCLTA tenants).