

Meeting Date of: June 3, 2010

File No.: HO-RZ-2009.2 (Hornby Island Resort Ltd)

To: Hornby Island Local Trust Committee

From: Brodie Porter, M.C.I.P.
Island Planner
Local Planning Services

Copy: Chris Jackson, Regional Planning Manager

Re: Application to amend the Hornby Island OCP and LUB

Owner: Hornby Island Resort Ltd.

Applicant: John Ross

Location: Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913 Except Part in Plan 2638 RW (The 'Thatch Resort', Hornby Island)

Supplemental Report

The purpose of this supplemental staff report is to introduce draft Bylaws No. 140 and 141 for discussion and consideration prior to public input and consultation. The drafts have been prepared based on the information provided in the rezoning application and in consultation with the applicant.

BACKGROUND:

A comprehensive preliminary background staff report on this application was presented to the Local Trust Committee (LTC) in November 2009 and is available on the website or by request. The following resolution was passed during the regular LTC business meeting on March 17, 2010:

***HO-016-2010** It was **MOVED** and **SECONDED** that the Hornby Island Local Trust Committee request staff to prepare amending bylaws for application HO-RZ-2009.1 (Hornby Island Resort Ltd.) and that the amending bylaws be returned to the Local Trust Committee for review prior to consideration of early agency or Advisory Planning Commission referrals or a Community Information Meeting.*

DRAFT BYLAW NO. 140

A copy of draft Bylaw No. 140 is attached. The purpose of this draft bylaw is to amend the Hornby Island Official Community Plan (OCP) in order to allow attached or joined dwelling units and permit facilities zoned for the provision of accommodation of the travelling public to be converted to privately owned residences by amending the policy that currently prohibits such a use. (policy 6.5.2.8). It should be noted that it is the nature of occupancy of a building, rather

than the form of ownership that is subject to zoning regulation. A building can be owned by multiple owners but use of the building must be authorized by zoning. The applicants seek authorization for occupancy by the owners during the peak summer season of June – September and to allow short term rental outside of those months.

DRAFT BYLAW NO. 141

A copy of draft Bylaw No. 141 is attached. The purpose of this draft bylaw is to amend the Hornby Island Land Use Bylaw (LUB) in order to: (1) permit up to fifteen privately owned residences to be rented out as short term vacation rentals within the Comprehensive Commercial (C3) Zone; (2) amend the parking requirements for the proposed land uses by reducing the number of required parking spaces; and (3) waive the required setback of the pub/restaurant from the high water mark of the sea.

A definition for short term vacation rentals (STVRs) has not been included in bylaw 141 as the topic of STVRs is being addressed as a separate initiative. For reference however, a current draft STVR proposal suggests the following definitions in the STVR initiative that would have a bearing on this proposal and notations are provided following each definition as to possible amendments that may be required for this application to proceed:

accessory use means a use of land which is commonly associated with and secondary in purpose and scale to a principal use located on the same lot and includes in the R3, LR/WSPA, UP and AG zones and no other zones, accessory vacation rental use of a residential dwelling unit.

The definition for accessory use as proposed would have to be amended to also reference the C3 zone if this application proceeds.

accessory vacation rental use means the use of a residential dwelling unit for the temporary accommodation of paying guests during the months of May, June, July, August and September only, in accordance with Section 3.23.

The definition for accessory vacation rental use would have to be modified to read as follows: means the use of a residential dwelling unit for the temporary accommodation of paying guests during the months of May, June, July, August and September only, in accordance with Section 3.23 or for property described as Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913 Except Part in Plan 2638 RW, for the temporary accommodation of paying guests during the months of October, November, December, January, February, March, and April.

The reference to Section 3.23 is to a section that is proposed as part of the STVR initiative.

visitor accommodation unit means a room or a set of rooms used to provide, for a fee, temporary overnight accommodation to transient guests and does not include a dwelling unit used for accessory vacation rental uses.

PARKING

The applicant has submitted a revised parking plan for the proposed redevelopment of the subject property. A total of 48 spaces are proposed for the following uses and in the following locations:

<u>LAND USE</u>	<u>NUMBER OF REQUIRED PARKING SPACES as per Section 5 LUB</u>	<u>NUMBER OF PROPOSED PARKING SPACES</u>
Residential (15 units)	2 per dwelling unit = 30	1 per dwelling unit = 15
Restaurant/pub (60 seats)	1 per 2 seats = 30	1 per 2 seats = 30
Liquor store (40 m2 floor area max)	1 per 20m2 of floor area = 2	1 per 20m2 of floor area = 2
Caretaker Residence (1 unit)	2 per dwelling unit = 2	1 per dwelling unit = 1
TOTAL	64	48 allocated between the subject property and a leased lot across Shingle Spit Road

The difference between the required number of parking spaces as outlined in section 5 of the Land Use Bylaw and that which is proposed by the applicant is addressed in the draft C3 zone as a parking exception.

The following requirement of the Hornby Island Land Use Bylaw, 1993 for a restrictive covenant to secure the use of the parking spaces on the adjacent leased lot must be met prior to final adoption of any proposed bylaws related to this application:

“5.5 All required motor vehicle parking spaces must be located:

5.5.1 on the same lot as the use for which they are provided; or

5.5.2 on another lot within 100 m (328 ft) of the use, provided that a restrictive covenant in favour of the Hornby Island Trust Committee is registered against the other lot restricting the use of the lot or a portion of it to motor vehicle parking in compliance with the requirements of this bylaw with respect to the lot on which the use is located, and the owners of the two lots execute and register in the Land Title Office an easement agreement satisfactory to the Hornby Island Trust Committee securing the use of the parking spaces for the owner of the lot on which the use is located.”

There is an existing covenant between the owner of the property and the Hornby Island Local Trust Committee that provides that there be a lease on some nearby lands for parking to serve the needs of the resort. It also provides that if the lease terminates or is modified that the owner agrees that they will not use the resort for any dining facilities. The Covenant also requires that the owner deliver to the Committee on an annual basis a signed statement from the grantor of the lease certifying that the lease is in good standing and in full force and effect and that the owner has not breached any provision of the lease. At the time of drafting of this report, the applicant has been asked to provide evidence of the status of the lease.

STAFF COMMENTS:

The draft bylaws have been prepared as attached. The recommended next steps are:

1. The Local Trust Committee must, pursuant to s. 879 of the *Local Government Act*, consider what opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected by the OCP amending bylaw and specifically consider whether consultation is required with:
 - (i) the board of the regional district in which the area covered by the plan is located, in the case of a municipal official community plan,
 - (ii) the board of any regional district that is adjacent to the area covered by the plan,
 - (iii) the council of any municipality that is adjacent to the area covered by the plan,
 - (iv) first nations,
 - (v) school district boards, greater boards and improvement district boards, and
 - (vi) the Provincial and federal governments and their agencies.

It is recommended that the following agencies be consulted through a bylaw referral process:

- BC Ferries
 - Comox Valley Regional District
 - Hamatla Treaty Society
 - Hornby Island Volunteer Fire Department
 - Integrated Land Management Bureau
 - K'omoks First Nation
 - Kwakiutl Laich-Kwil-Tach
 - Laich-Kwil-Tach Treaty Society
 - Ministry of Community and Rural Development
 - Ministry of Environment
 - Ministry of Tourism, Culture and the Arts
 - Ministry of Transportation and Infrastructure
 - Qualicum Indian Band
 - School District 71
 - Sliammon First Nation
 - Vancouver Island Health Authority
2. The Local Trust Committee may wish to consider a referral of the draft bylaws to the Advisory Planning Commission for comment and seek specific comment on the residential/STVR concept and the requested reduction in parking.
 3. The Local Trust Committee may wish to consider holding a community information meeting to outline the draft bylaws to the public. Given the reference in this application to an STVR proposal, the LTC may wish to consider discussion of the STVR project in July, 2010 and the discussion regarding this specific application in August, 2010. This scheduling would also allow time to receive agency and APC comment. It is recommended that the LTC provide direction to staff on the preferred

date and time for a Community Information Meeting for draft bylaws No. 140 and 141 and request that staff prepare a notice and advertise for the meeting

RECOMMENDATIONS:

1. **THAT** the Hornby Island Local Trust Committee, pursuant to s, 879 of the *Local Government Act*, refer draft bylaw 140 to the following agencies together with draft bylaw 141 for comment:
 - BC Ferries
 - Comox Valley Regional District
 - Hamatla Treaty Society
 - Hornby Island Volunteer Fire Department
 - Integrated Land Management Bureau
 - K'omoks First Nation
 - Kwakiutl Laich-Kwil-Tach
 - Laich-Kwil-Tach Treaty Society
 - Ministry of Community and Rural Development
 - Ministry of Environment
 - Ministry of Tourism, Culture and the Arts
 - Ministry of Transportation and Infrastructure
 - Qualicum Indian Band
 - School District 71
 - Sliammon First Nation
 - Vancouver Island Health Authority

2. **THAT** the Hornby Island Local Trust Committee refer draft bylaws 140 and 141 to the Hornby Island Advisory Planning Commission for comment, with a specific request for comment on the proposal for short term vacation rental and reduced parking standards in bylaw 141 and with a request to receive comment prior to July 31, 2010.

3. That the Hornby Island Local Trust Committee request staff to schedule a Community Information Meeting for draft bylaws No. 140 and 141 in late August, 2010 and request that staff prepare a notice and advertise for the meeting.

Prepared and Submitted by:
Brodie Porter, MCIP
Island Planner
Local Planning Services
DATE: May 18, 2010

Concurred in by:

Chris Jackson, MCIP
Regional Planning Manager
Northern Office
DATE May 19, 2010

Attachments:

1. **Draft Bylaw No. 140 (OCP)**
2. **Draft Bylaw No. 141 (LUB)**
3. **Revised parking plan**