



DATE OF MEETING: May 1, 2020
TO: Hornby Island Local Trust Committee
FROM: Heather Kauer, Regional Planning Manager
Northern Team
SUBJECT: Consideration of R3A zoning for 5040 Central Road

RECOMMENDATION

1. That the Hornby Island Local Trust Committee request staff to prepare draft amendments to the Hornby Island Land Use Bylaw that will:
 - a. Rezone LOT 1, SECTION 11, HORNBY ISLAND, NANAIMO DISTRICT, PLAN VIP 87990 (PID 028-221-401) from Residential 3 – Community Housing (Elder Housing) (R3) to Community Housing Zone (ISLA) (R3A) and by making such alterations to Schedule “B” of Bylaw No. 150 as are required to effect this change.
2. That the Hornby Island Local Trust Committee request staff to notify the Comox Valley Regional District that the Hornby Island Local Trust Committee is considering an amendment to the Land Use Bylaw, and request feedback on the proposed amendments and their involvement in the bylaw amendment process.

REPORT SUMMARY

The purpose of this report is to provide information about R3A zoning as it relates to 5040 Central Road and options for changing the zoning of the property to R3A.

Staff recommends that the LTC request that staff proceed with draft amendments to the Hornby Island Land Use Bylaw No. 150 (LUB).

BACKGROUND

When the most current version of the Hornby Land Use Bylaw was adopted on February 12, 2016, the text of the R3A zone, also known as “Community Housing (ISLA),” was included in the language of the Land Use Bylaw. However, the adoption of the bylaw did not include a provision for applying R3A zoning to the zoning map, also known as “Schedule B” of the Land Use Bylaw. 5040 Central Road was zoned R3 (Community Housing – Elder Housing) at that time and that has been the zoning designation of the property ever since.

At the January 24, 2020 Local Trust Committee meeting, Michael McNamara appeared as a delegation for the Hornby Island Housing Society (HIHS) to speak about the zoning of 5040 Central Road. The draft minutes from that meeting indicate that:

Michael McNamara spoke for the Hornby Island Housing Society (HIHS) in JoAnn Harrison's absence. He provided background and explained that it is HIHS' understanding that the (R3A) zone (ISLA) had been approved, however they have learned that this zone is not included in Schedule B. He submitted supporting documentation and requested that the LTC assist in expediting resolution of the question of their current zoning to allow them to move forward as a delay will jeopardize funding of this housing project.

During that delegation Mr. McNamara indicated that he understood that an Islands Trust Planner had said that the lack of R3A zoning on the property was an "error."

In the minutes of the September 28, 2018 Hornby LTC meeting, Islands Trust Planner Rittemann is quoted as having said:

... it has come to her attention that there is an error on the LUB zoning map affecting the Beulah Creek project that might be corrected at this time with the LUB Technical Amendments project.

The LTC adopted this recommendation through resolution HO-2018-059 at that September 28, 2018 meeting which stated:

that the Hornby Island Local Trust Committee request staff to amend the Project Charter for the Land Use Bylaw Amendment Project to include an amendment to the zoning for the Beulah Creek Project from R3 to R3A on the zoning map.

The minutes of the September 28, 2018 meeting do not indicate what Planner Ritteman thought the nature of the error was or how it occurred. In order to determine what the nature of this "error" might have been, or if there was, in fact, an error made, staff reviewed documents on file and then discussed the matter with Local Planning Services (LPS) Director David Marlor who was Director at the time the project was being considered.

Records show that bylaw 150 included R3A zoning as a designation to the land use bylaw text, but there was no bylaw that applied R3A zoning to the property in question. Often when the text of a zoning designation such as the R3A is adopted, the zoning map is also updated to reflect that zoning designation on particular pieces of property. In the case of R3A, this did not occur. Staff concluded that it was unclear that this was an error or whether it was intentional.

After searching the record, staff spoke with Director Marlor who indicated that this situation was intentional due to the changing nature of the intended development. The R3A zoning text was adopted but not applied to 5040 Central Road on purpose.

ANALYSIS

Given the above, it is clear that In order for R3A zoning to be applied to 5040 Central Road, a bylaw amendment to the zoning map must be initiated, reviewed and processed; also known as a rezoning. Currently the LTC has indicated that it will consider applying R3A zoning to the subject property through a bylaw amendment process during Phase 2 of its OCP-LUB review project as reflected in resolution HO-2018-059 quoted above. This assumes that Islands Trust would bear the costs of the rezoning process and not HIHS. It also assumes that the only change to the land use bylaw would be changing the zoning of 5040 Central Road from R3 to R3A.

Typically, a change in zoning is initiated by development proponents. There is an application form and fee associated with this type of application. It is unusual for an LTC to absorb the costs of rezoning individual pieces of property that benefit only one party. However, it appears that the LTC in 2018 may have been under the impression that if there had been an error on the part of Islands Trust, it was fair to “correct” the error by taking on the cost of the rezoning. As the above analysis details, a thorough investigation of the file leads staff to believe that an error did not occur in the application of the zoning. However, the 2018 LTC agreed to initiate and bear the costs of the rezoning of the property when it passed the resolution to add the work to its OCP-LUB Review project.

Staff would normally do a substantial review of the impacts that a zoning change would have on the property itself as well as the surrounding properties. We would also consider whether or not the text of the land use bylaw would need to be changed to accommodate a proposed project on a piece of property. If the LTC moves forward with a change in zoning without thorough review of the project proposal there is a risk to the project proponents that there might be other changes that need to be made to the zoning designation, requiring another bylaw amendment process. However, at a meeting with staff on March 11, 2020, the project proponents indicated that the most recent iteration of their project was designed to meet the provisions of R3A zoning and they do not anticipate any other land use bylaw changes that would need to be made to accommodate their project. There may, however, be amendments needed to the Official Community Plan, which would require an application from them. Their project as described would also need a Development Permit.

If the rezone continues to be included in the scope of the Project Charter for the OCP/LUB review, the soonest completion date is anticipated to be summer or fall of 2022. Staff are recommending that the rezoning be treated as a separate, Top Priority project and that processing begin immediately. If the LTC chooses this option, there will be no information available from staff about any specific projects that might be anticipated on the property. The rezone would be contemplated to accommodate any project that meets the requirements of R3A zoning as it currently exists.

Alternatively, the project proponents could be asked to submit a rezoning application. The LTC can request that the Trust Council sponsor the application, essentially waiving the application fees for the project, but other expenses would be borne by the applicant. Since the application package would include drawings and narrative explaining the proposed project, the LTC would have more information to inform their decision.

Rationale for Recommendation

Staff recommend that a rezoning of 5040 Central Road be removed from the scope of the Hornby Island Local Trust Committee OCP-LUB Project and be added as a separate project to the Top Priorities List. Staff further recommend that the LTC request staff draft a bylaw that will rezone 5040 Central Road to R3A. The Hornby Island Housing Society has indicated that R3A zoning in its current iteration is the zoning needed to accommodate a project they will be proposing through future permit applications.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

- 1. Wait to make a decision until the project proponents apply for a rezoning;**

The LTC may choose to remove rezoning of 5040 Central Road from the scope of the OCP-LUB Review project and wait for an application from the proponent. A decision about sponsoring the fee could be made at time of application. Recommended wording for the resolution is as follows:

That the Hornby Island Local Trust Committee request that map amendments related to 5040 Central Road be removed from the scope of the Hornby Island Local Trust Committee OCP-LUB Review Top Priority 1 project charter.

2. Ask for more information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the Hornby Island Local Trust Committee request that staff provide [specify requested information]...

3. Receive for information

The LTC may receive the report for information.

NEXT STEPS

Subject to concurrence with the staff recommendation, staff would prepare a draft bylaw for a rezone of 5040 Central Road for LTC consideration at a future meeting.

Submitted By:	Heather Kauer, RPP, MCIP, AICP Regional Planning Manager	April 22, 2020
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ATTACHMENTS

1. N/A