
TO: Pamela Shaw
Manager of Community Planning

DATE: March 10, 2003

FROM: Susan Cormie
Senior Planner

FILE: 3320 30 14994

SUBJECT: Request for Park Land Exchange - Fern Road Consulting Ltd. on behalf of R. & L. Todsen & McTay Holdings Ltd.
Electoral Area 'G' - Off Hawthorne Rise and White Pine Way

PURPOSE

To receive the recommendation of the Electoral Area 'G' Parks and Open Space Advisory Committee and consider a request to exchange part of existing park land with a portion of the adjacent property as part of a subdivision proposal.

BACKGROUND

The Electoral Area Planning Committee (EAPC), at its regular meeting held on February 25, 2003 passed the following recommendation with respect to the proposed park land exchange with the neighbouring property legally known as The Remainder of Lot 1 District Lot 49, Nanoose District, Plan 19351 and located off White Pine Way in Electoral Area 'G' (*see Attachment No. 1 for location*):

MOVED That the Electoral Area 'G' Parks and Open Space Advisory Committee be requested to provide further comments and recommendations on the revised park land exchange proposal as suggested by staff prior to the March 11, 2003 Board meeting.
CARRIED

As a result of the recommendation of the Electoral Area Planning Committee and the reconsideration of the application by the Electoral Area 'G' Parks and Open Space Advisory Committee (*on March 5, 2003*) and their subsequent recommendation, the applicants' agent has submitted an amended park exchange proposal (*see Attachment No. 2*). The proposal differs from the request previously considered by the EAPC in that the applicant is now prepared to add an additional 106 m² of park land to compensate for the existing 3.0 metre statutory right-of-way that currently provides access to the park and agrees that White Pine Way should be widened at the frontage of the park. The applicant has also offered to contribute \$7,500 for park works and materials. This proposal is consistent with the recommendation of the Advisory Committee, with the exception of the condition to provide two accesses to the park land if the property is developed in phases. The applicant has indicated that they are prepared to provide one access off the future White Pine Way into the park land either as dedicated road or by a statutory right-of-way over this area as indicated in their letter.

The amended proposal and the recommendation of the Electoral Area 'G' Parks and Open Space Advisory Committee are now being referred to the RDN Board as recommended by the RDN Electoral Area Planning Committee.

ALTERNATIVES

1. To receive the Electoral Area 'G' Parks and Open Space Advisory Committee recommendation, to approve the revised park exchange proposal, give Bylaw No. 1333 1st, 2nd, & 3rd readings, and proceed to counter petition pursuant to section 305.2 of the **Local Government Act**.
2. To receive the Electoral Area 'G' Parks and Open Space Advisory Committee recommendation and to deny the request for park land exchange.

ELECTORAL AREA 'G' PARKS AND OPEN SPACE ADVISORY COMMITTEE IMPLICATIONS

The Electoral Area 'G' Parks and Open Space Advisory Committee has now reviewed the revised proposal and has recommended that the request for the park exchange be approved, subject to a number of conditions, as follows:

MOVED that the Electoral Area 'G' Parks and Open Space Advisory Committee recommend approval of the Park Land Exchange subject to:

- a) *written confirmation from the developer of the offered:*
 - i) *addition of a 3.0-metre wide strip from lots 13 and 14;*
 - ii) *commitment from the developer to provide park improvements of \$7500.00 in kind under the supervision of the Recreation and Parks Department;*
- b) *solution of the engineering and liability issues regarding Alexander Brook at the proposed White Pine Way in consultation with the Regional District of Nanaimo;*
- c) *written confirmation that full park access is to be provided as part of the initial parcel development (access from both White Pine Way and the future Everett Drive/Meadow Way are required). CARRIED*

PUBLIC CONSULTATION IMPLICATIONS

A Public Information Meeting was held February 12, 2003 with respect to this proposed park land exchange (approximately 65 persons in attendance). The minutes and correspondence from this meeting were received for information at the February 25, 2003 Electoral Area Planning Committee (EAPC) meeting. In addition, there were a number of delegations and additional correspondence received at the EAPC meeting on this proposal. Should this bylaw be given three readings, given that this proposal involves an exchange of park land, the RDN Board is required to proceed with a counter petition opportunity pursuant to the **Local Government Act**.

Procedural Implications

The counter petition must be advertised in two editions of a local newspaper and qualified electors must be given an opportunity to file a counter petition if they are opposed to the park exchange. With respect to the counter petition opportunity, the local government must establish a deadline by which the counter petition must be submitted to the local government. This deadline must be at least 30 days following the second newspaper notification of the counter petition. The counter petition advertising must contain a statement that the local government may proceed with the matter unless at least 5% of the electors of the area to which the counter petition opportunity applies sign the counter petition forms and submit them to the local government by the deadline. For this park land exchange proposal, given that the counter petition applies to Electoral Area 'G' in its entirety, 5% of electors would equal 255 (that is, 5% of the 5084 voters pursuant to the 2002 Voters List).

Therefore, if the proposed park land exchange bylaw is given third reading, staff recommend that the counter petition be advertised in 'The News' on March 25th and 28th, 2003 with the counter petition deadline established as May 2nd, 2003. If the counter petition is certified as having been signed by at least

5% of the electors of Area 'G', the local government must not proceed with the proposed bylaw unless it otherwise receives the assent of the electors. If the counter petition is certified as not having been signed by 5% of the electors, the electors are deemed to have approved the proposed bylaw and the local government may proceed with the proposed matter.

A report detailing the results of the counter petition process will be forwarded to the May 13th, 2003 RDN Regular Board Meeting.

VOTING

Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY

The Electoral Area Planning Committee requested the Electoral Area 'G' Parks and Open Space Advisory Committee provide further comments and recommendations on the revised park land exchange proposal as suggested by staff prior to the March 11, 2003 Board meeting. The Parks and Open Space Committee met and has recommended that the proposed park land exchange be approved, subject to the conditions outlined in this report. The applicant is in concurrence to meet the conditions of this Committee with the exception of providing 2 accesses to the park land if the property is developed in phases, but is prepared to provide 1 access off the future White Pine Way into the park land. With respect to the public process, as the park land exchange bylaw is subject to a counter petition opportunity, qualified electors of Electoral Area 'G' may sign the counter petition if they are opposed to this park land exchange. Therefore, staff recommend Alternative No. 1 that Bylaw No. 1333 be given 1st, 2nd, & 3rd readings and proceed to counter petition pursuant to section 305.2 of the *Local Government Act*. Further, staff recommend that the counter petition deadline be established as May 2nd, 2003 to allow adequate time for advertising and elector response. The results of the counter petition process will be forwarded to the May 13, 2003 RDN Regular Board Meeting.

RECOMMENDATIONS

1. That the recommendation from the Electoral Area 'G' Recreation and Parks Advisory Committee be received.
2. That Regional District of Nanaimo Park Land Exchange Bylaw No. 1333, 2003 be given 1st, 2nd, & 3rd readings and proceed to counter petition pursuant to section 305.2 of the *Local Government Act*.
3. That the Regional District of Nanaimo Park Land Exchange Bylaw No. 1333, 2003 counter petition deadline be established as May 2nd, 2003.

Report Writer

General Manager Concurrence

Manager Concurrence

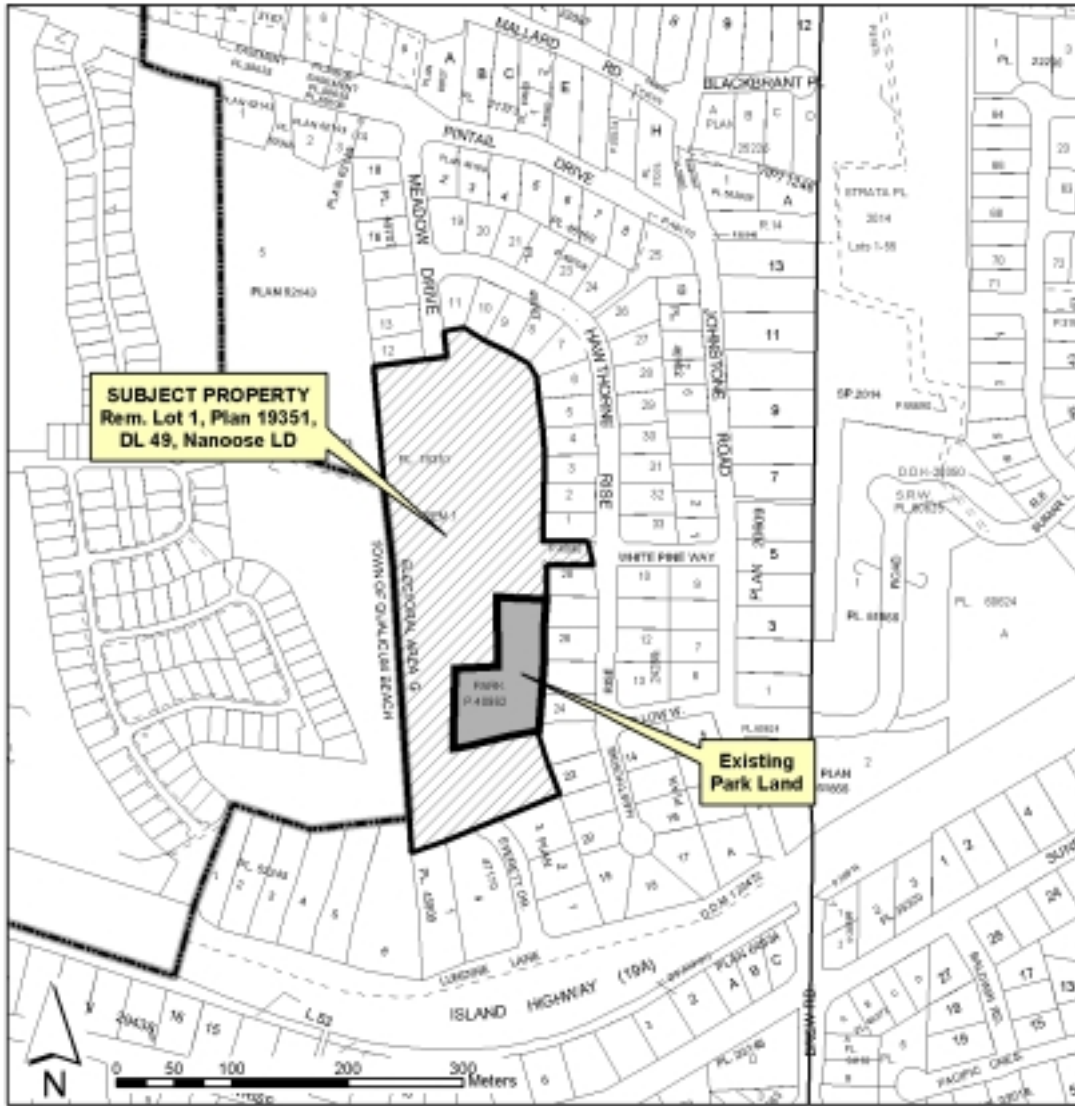
CAO Concurrence

COMMENTS:

Bd/report/2003/park mr brd 3320 30 14994 todsen/fern raod.doc

ATTACHMENT NO. 1

SUBJECT PROPERTY LOCATION



ATTACHMENT NO. 2

LETTER FROM APPLICANTS' AGENT

Mar 07 03 04:10p

Sims Assoc.

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Fern Road Consulting Ltd.

2003-03-07

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B.C.
V9T 6N2

Attention: Susan Cormie

Dear Susan:

Re: Park Exchange – Todsens and McTay Holdings Ltd.

Thank you for arranging the Area G Parks Committee meeting on such short notice.

We have revised the boundaries of the Park exchange to reflect the changes we discussed at the meeting. The items are:

1. White Pine Way

The road dedication for White Pine Way has been widened to 20 m to the west of the drainage course and then it tapers to 16 m in width. The bend of the drainage course will be in Road dedication.

2. Park Calculations

The boundaries of the Park have been revised to reflect the recommendations in the staff report to the Electoral Areas Committee meeting. In addition, we have widened the panhandle of the Park access at White Pine Way an additional four metres so the total width is 17 metres. We have also tapered the east boundary of proposed Lot 14 to give additional width along the drainage course and make the boundary more uniform.

The final areas to be exchanged are:

Park to be closed	824 sq. m.
	<u>483 sq. m</u>
Total	1,297. sq. m.
Park to be dedicated	630 sq. m.
	153 sq. m
	<u>620 sq. m</u>
Total	1,403 sq. m.

This Park exchange will result in an additional 106 sq. m. of Parkland.

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3. Works and Materials Donation

My clients will assist with works and materials to help in the development of the Park. The value of this assistance will be \$7,500.00 and it will consist of works like providing and installing 2 culverts for crossing the drainage course, removing danger trees, constructing walking trail, etc. All works will be done under the approval and supervision of Mr. Jonathan Lobb, RDN Parks Department.

4. Access

My clients intend to complete the subdivision in one phase but if the Park Exchange Bylaw is not completed in time, they will proceed with 11 lots as Phase I. Should the subdivision be completed in 2 phases, access will be provided at White Pine Way by Road dedication if the Ministry of Transportation will accept the dedication. If the Ministry of Transportation will not accept the dedication on Phase I, we will provide a temporary Statutory Right of Way (SRW) for access over a portion of White Pine Way. Ministry of Transportation and/or RDN must accept all liability for the public and access is limited to the portions shown as Park, Road or SRW. Access will not be granted to private land.

For your reference, we are attaching a plan showing the above revisions.

As security for these conditions, my clients are signing this letter agreeing to the outlined conditions.

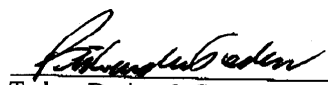
Yours truly,


Helen MacPhail Sims

HMS/tb

Encl.

We agree to the above conditions.


Todsen Design & Construction Ltd., Inc. No. 417475


McTay Holdings Ltd. Inc. No. A58038

c.c. Mr. Nick Vandermolen, Ministry of Transportation
c.c. Mr. Rob Hoffman, Koers & Associates

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