

STAFF REPORT

Date: Oct 3, 2014

File No.: SS-SUB-2011.5

To: Salt Spring Island Local Trust Committee, for the meeting of October 16, 2014

From: Jason Youmans, Planner 1

Re: **Exemption from the 10% lot frontage provisions of Section 994 of the *Local Government Act* and Section 5.3.1 of Salt Spring Island Land Use Bylaw No. 355**

Owner: Ron Stepaniuk and Peter Stepaniuk

Location: **Lot 1**, District Lots 14 and 15, North Salt Spring Island, Cowichan District, Plan 14508, Except That Part In Plans 22745 and 47167

Address: 820 Mt. Maxwell Road, Salt Spring Island

PROPOSAL

This exemption request accompanies subdivision application SS-SUB-2011.5 to subdivide the subject property into 6 lots. The proposed layout requires the Local Trust Committee to waive Section 944 of the *Local Government Act* and Section 5.3.1 of Salt Spring Island Land Use Bylaw No. 355, both of which mandate 10% of the perimeter of all lots to front on a highway or strata access route. Within the proposed subdivision, one lot (proposed Lot 3) will require a waiver to the 10% perimeter requirement.

SITE CONTEXT

The subject property is located on Mt. Maxwell's northern slope. The parent parcel is split- zoned Rural Upland 1 (RU1), Agriculture 1 (A1) and Agriculture 2 (A2).

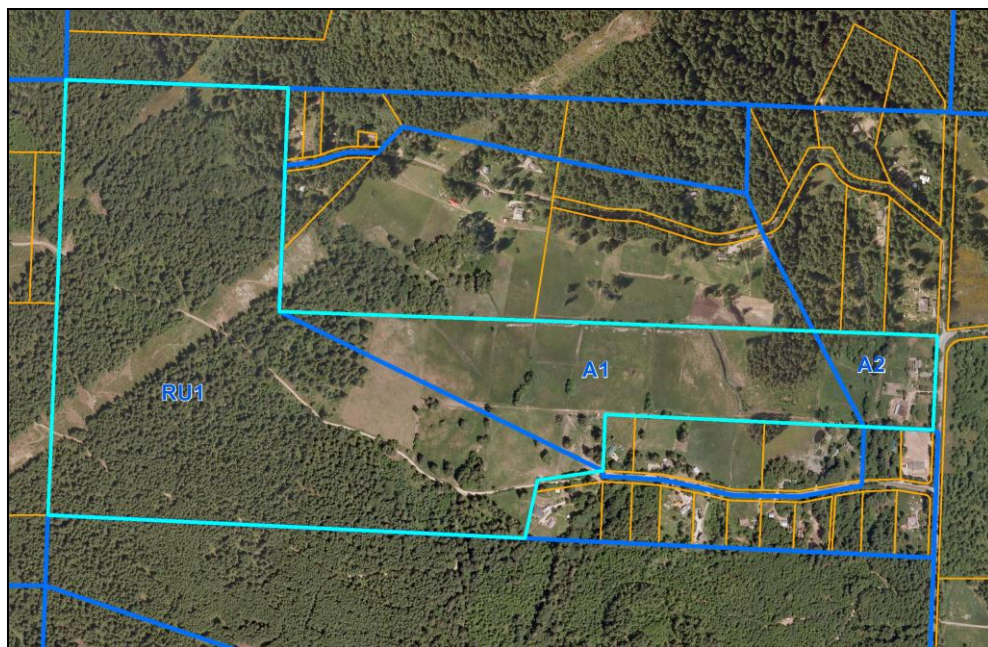


Figure 1: Orthophoto and zoning of subject property

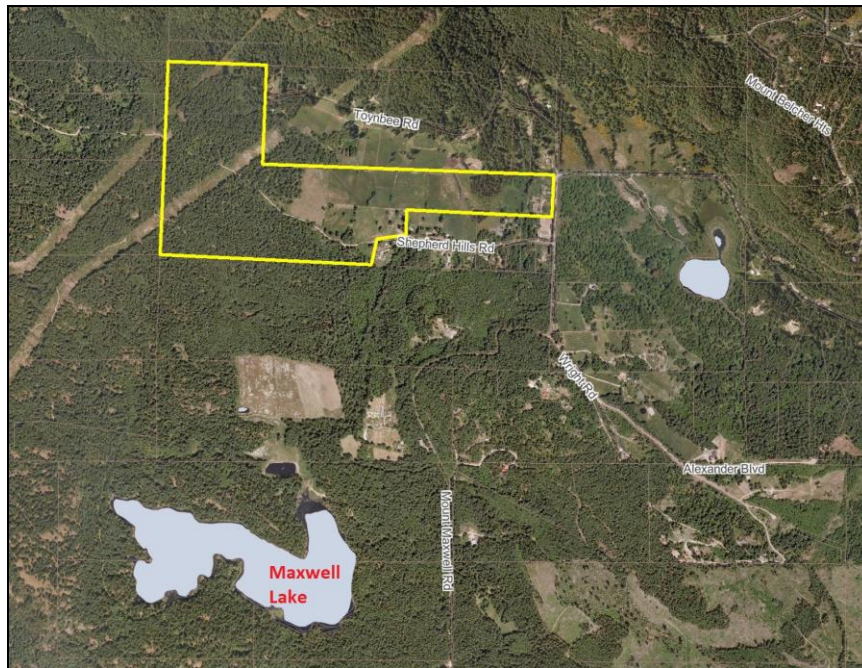


Figure 2: Subject lot in area context

Proposed lot sizes are as follows (see Appendix 1 for expanded subdivision plan):

- Lot 1: 9.80 ha (A1/A2)
- Lot 2: 36.90 ha (RU1/A1)
- Lot 3: 5.55 ha (RU1)
- Lot 4: 2.61 ha (RU1)
- Lot 5: 2.80 ha (RU1)
- Lot 6: 4.54 ha (RU1)

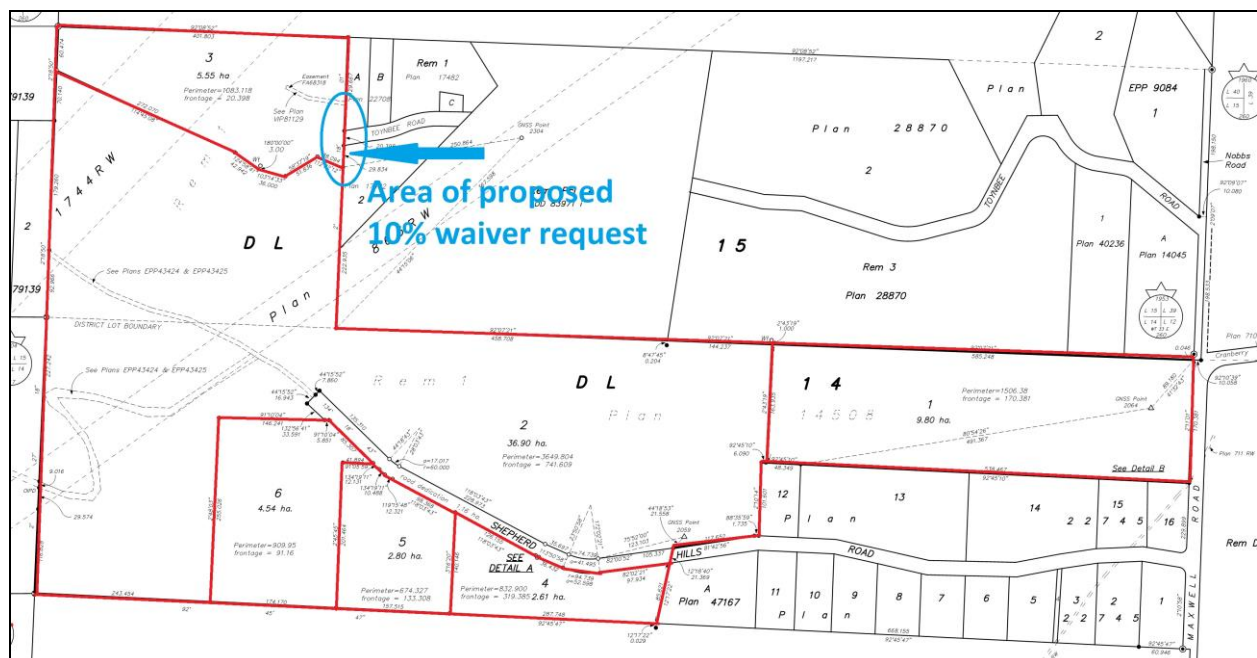


Figure 3: Proposed subdivision lot configuration with indication of 10% waiver requirement highlighted

CURRENT PLANNING STATUS OF SUBJECT LANDS

Local Government Act

Section 944 of the Local Government Act states:

- (1) If a parcel being created by a subdivision fronts on a highway, the minimum frontage on the highway must be the greater of:
 - (a) 10% of the perimeter of the lot that fronts on the highway, and
 - (b) the minimum frontage that the local government may, by bylaw, provide.
- (2) A local government may **exempt** a parcel from the statutory or bylaw minimum frontage.

Land Use Bylaw No. 355

Frontage: Section 5.3.1 of the Land Use Bylaw requires that 'the frontage of any lot in a proposed subdivision must be at least 10 per cent of its perimeter, provided that in no case may the frontage be less than 10 m.' The proposed subdivision creates one parcel with the following layout (all lots conform to the 10 meter minimum):

Proposed Lot 3: Frontage= Apprx. 20 m (Required 110 m)

Proposed lot 3 does not meet the 10 per cent frontage requirement and thus requires a waiver to comply with the Land Use Bylaw.

Official Community Plan Bylaw No.434

A portion of the subject property is in Development Permit Area 4: Lakes Streams and Wetlands. Islands Trust conditions of subdivision approval require development permit or conservation covenant satisfactory to DPA requirements.

A portion of the subject property is also in Development Permit Area 6. Applicant has submitted a geotechnical report sufficient that an exemption to the permit requirement can be granted under OCP S. E.6.1.3. However, MOTI has nonetheless indicated requirement for a geotechnical covenant.

The Official Community Plan designation of the subject lot is Upland, Agriculture (A) and Watershed Agriculture (WA).

Riparian Area Regulation

Islands Trust has required as a condition of subdivision that the applicant obtain a Riparian Areas Regulation assessment. This has been brought to the attention of the Provincial Approving Officer.

Notations on Title

- EB73987 (restrictive covenant) in favour of Crown prohibiting subdivision of subject property into greater than 7 lots.
- EX81286 (easement) guaranteeing driveway and servicing access across subject lot to 230 and 232 Shepherd Hills Road.
- FA68318 (easement) guaranteeing access and servicing rights to a pond on subject lot that is sole source of drinking water for 401 Toynbee Road.
- Assorted rights-of-way in favour of B.C. Hydro and North Salt Spring Water District.

- A portion of the subject property (all of proposed Lot 1 and portion of proposed Lot 2) is within the BC Agricultural Land Reserve.

STAFF COMMENTS

The northern portion of the subject property is currently accessed where Toynbee Road terminates at the lot line. This location will provide access to proposed Lot 3 if the subdivision is approved. Toynbee Road is 20 metres wide where it intersects with the subject lot, thus achieving the 10 metres minimum frontage width requirement of Section 5.13 of the Land Use Bylaw. This 20-metre wide frontage, however, does not constitute 10 per cent of the perimeter of proposed Lot 3. Staff do not believe that the inability to meet the 10 percent perimeter frontage requirement should represent a barrier to subdivision, as the subject location already provides an access point to the parent parcel, and the shape of proposed Lot 3 is not irregular (i.e. meets the depth-to-width ratio demanded by S. 5.3.2 of the Land Use Bylaw). The applicants have provided written confirmation from a B.C. Land Surveyor that a driveway compliant with Section 5.17 of the Land Use Bylaw can be constructed to access the subject lot from Toynbee Road.

Granting an exemption from the frontage provisions of the *Local Government Act* and the Land Use Bylaw does not relieve the property owners from complying with all Ministry of Transportation and Infrastructure subdivision requirements, and all bylaws and policies of the Islands Trust.

OPTIONS FOR LTC CONSIDERATION

1. If the LTC grants the 10% exemption, staff would inform the Ministry of Transportation and Infrastructure (MOTI) that the frontage waiver has been granted.
2. If the LTC denies the exemption request, staff would inform MOTI that the waiver has not been granted, and the applicants may subsequently amend their application to extend Toynbee Road westward, thereby increasing the frontage of proposed Lot 3.

RECOMMENDATION

THAT the Salt Spring Island Local Trust Committee **EXEMPT** Lot 3 of proposed subdivision of Lot 1, District Lots 14 and 15, North Salt Spring Island, Cowichan District, Plan 14508, Except That Part In Plans 22745 and 47167, from the 10% minimum lot frontage requirements of Section 5.3 of Salt Spring Island Land Use Bylaw No. 355 and Section 944 of the *Local Government Act* (SS-SUB-2011.5, 820 Mt. Maxwell Road).

Respectfully submitted by:

Jason Youmans

October 3, 2014

Planner 1

Date

Concurred by:

Leah Hartley

October 3, 2014

Regional Planning Manager

Date

Appendix 1

Proposed Subdivision Plan, 820 Mt. Maxwell Road (SS-SUB-2011.5)

