

TO: Lorraine Hilton
Chief Administrative Officer

DATE: August 30, 2022
FILE: RZ-01-21

FROM: Laura Beckett
Municipal Planner

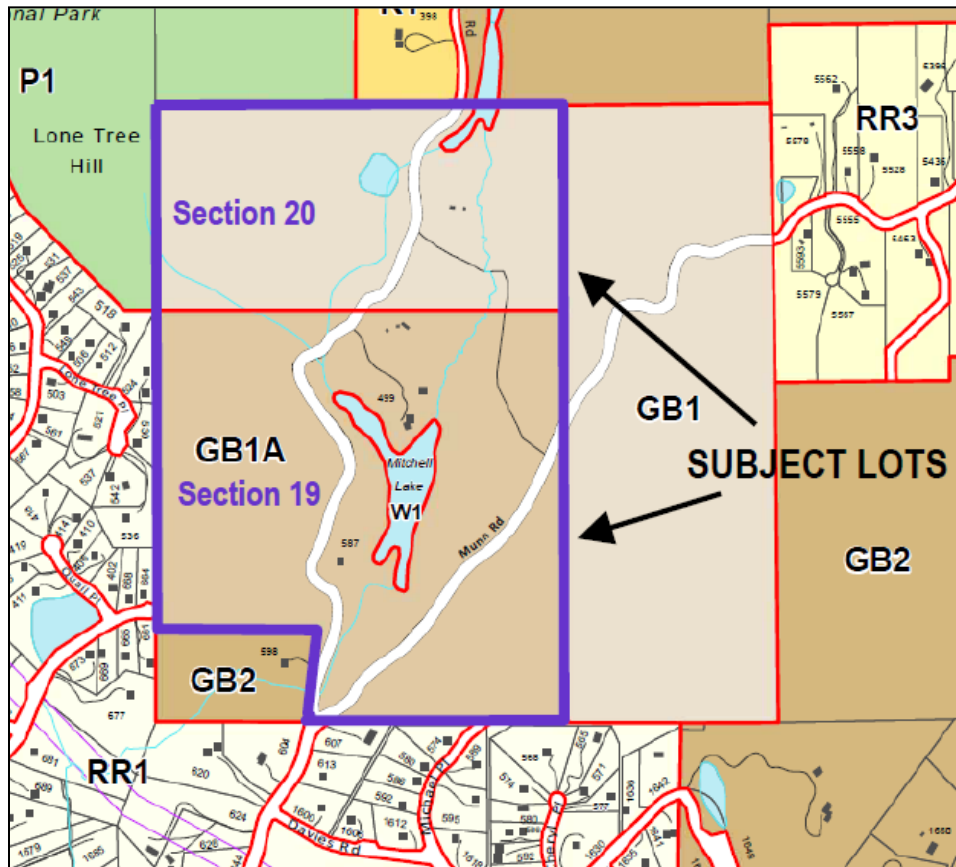
To Council
September 6, 2022

RE: APPLICATION RZ-01-21
587/499 and Unaddressed Millstream Lake Road

PURPOSE

The purpose of this report is to provide Council with the results of the OCP amendment referrals and options for next steps.

LOCATION MAP



BACKGROUND

Previous staff reports regarding this application can be found at these links:

<https://www.highlands.ca/AgendaCenter/ViewFile/Item/7074?fileID=6716>

<https://www.highlands.ca/AgendaCenter/ViewFile/Item/7257?fileID=6798>

At its June 20, 2022 meeting, Council resolved for the application to be referred to the Board of School District 62, the Forest Tenures Branch of the BC Ministry of Forests, Lands, Natural Resources Operations and Rural Development and the Managed Forest Council for comment as to whether each objects or does not object to the application based on each agencies' mandate.

Results of Referrals

For ease of reference, results from the Select Committees' referrals from the June 20, 2022 staff report are reproduced.

Agency	Comments	Potential Consequences for District
BC Hydro	May require major modifications to the BC Hydro system. Any modifications would be at the customer's cost.	If properties are rezoned and BC Hydro required works are left incomplete, subdivision would not be finalized and road dedication would not occur.
Highlands Building and Subdivision Departments	No objections at this time.	None anticipated.
Highlands Fire Department	No objection subject to meeting fire safety and bylaw requirements.	None anticipated.
Managed Forest Council	No objection subject to... ...Any parcel or portion of any parcel within Managed Forest 221 that becomes subject to a covenant or zoning that would not allow the owner to produce and harvest timber in accordance with the <i>Private Managed Forest Land Act</i> or regulations should be removed from Class (07)-Managed Forest prior to this proposal being accepted by the District of Highlands. The managed forest owners can submit an amendment to their current Management Commitment that removes any parcels or portion of parcels that would be subject to a covenant or zoning that would not allow them to produce and harvest timber in accordance with the <i>Private Managed Forest Land Act</i> or its regulations.	Any eco-forestry/forest preservation requirement that the District imposes whether through bylaw or covenant will not be enforceable.
School District No. 62 (Sooke)	No concerns at this time.	None anticipated.
RCMP – Westshore	No objections.	None anticipated.
Forest Tenures Branch	No objection. (No jurisdiction because land is private. Jurisdiction is with Managed Forest Council.)	None anticipated.
Heritage Select Committee	<ol style="list-style-type: none"> 1. HSC supports the application and recommends acceptance of the offer to include the Mitchell Cottage on the Highlands Community Heritage Register. 2. HSC requests referral regarding Second Lake Dam and Millstream Lake Road / Ross Durrance Road at the time of subdivision if the application proceeds. (Reference: Statements of significance in September 2011 Heritage Task Force Report, attached for ease of reference.) <p>Both the Second Lake Dam and Millstream Lake Road / Ross Durrance Road are on the District of Highlands' Community Heritage Register (link: https://www.highlands.ca/DocumentCenter/View/6929/APPROVED-Community-Heritage-Register_Dec-2013) and are on the Canadian Historic Places Register.</p>	
Sustainable Land Use Select Committee	<ul style="list-style-type: none"> • "That SLUSC recommend approval with condition that a District no-build covenant be placed on lots 8-12." • The applicant has offered to enter into a no-build covenant with the District. Proposed lots 8-12 are proposed to have an eco-forestry and conservation covenant through Habitat Acquisition Trust that is intended to also be consistent with the property owners' commitment to the Managed Forest Council. 	

OPTIONS

The following options are available for Council's consideration:

1. That further consideration of application RZ-01-21 be paused pending an approved amended Management Commitment between the applicants and the Managed Forest Council that is reflective of the application.
2. That the application be denied.
3. That alternative direction be given.

DISCUSSION

Bylaw / Regulatory

- The District only has control over the residential density component of the application due to provincial legislative paramountcy and the applicants' choice to classify the land as Managed Forest with BC Assessment. There are tax benefits for classifying land as Managed Forest.
- If the applicants remove the lands from the Managed Forest classification, bylaws and covenants that limit forestry uses approved by the District would be enforceable. However, a future land-owner could apply to change the classification of the lands back to Managed Forest. This could affect the District's ability to enforce any forestry-limiting activities.
- The applicants wish to maintain the Managed Forest BC Assessment classification. Because of this, an eco-forestry covenant held between the applicants and Habitat Acquisition Trust is expected to form the basis of an amended Management Commitment that the applicants would make with the Managed Forest Council. These two agreements that are outside of the District's control are expected to be the link between the residential density and eco-forestry/forest preservation components of the application. It is also expected that a covenant not held with the District in regards to forestry-limiting activities may offer long term protection for the eco-forestry/forest preservation component of the application.
- If Council is supportive of the application, the best course of action from the staff's perspective is to postpone further consideration until the applicants and the Managed Forest Council have agreed to an amended Management Commitment that would be based on the proposed eco-forestry/forest preservation covenant between the applicant and Habitat Acquisition Trust. These actions collectively are expected to provide reasonable assurance to the District that the eco-forestry/forest preservation aspect of the application can be accomplished.

CONCLUSION AND NEXT STEPS

Review of the application has advanced. Referral from the Managed Forest Council confirms that District approval of any bylaws or covenants limiting forestry activities would not be enforceable while the property is classed as Managed Forest.

Staff recommends that further consideration of the application be paused pending the outcome of the proposed Management Commitment amendment between the applicants and the Managed Forest Council.

Alternatively, Council could give other direction or, if Council is not supportive of the application, it would be appropriate to deny it.

RECOMMENDATION

That further consideration of application RZ-01-21 be paused pending an approved amended Management Commitment between the applicants and the Managed Forest Council that is reflective of the application.

Respectfully submitted

CAO Concurrence



Laura Beckett, MCIP, RPP

Lorraine Hilton, CAO