

Electoral Area H Official Community Plan Review



Horne Lake

Background Information

April 15, 2016

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Background on the current Official Community Plan

An OCP describes a long-term vision for the future of a community and a course of action to achieve it. The course of action is described in objectives and policies to guide land use, servicing, and physical, social and economic changes in the community over the long term.

An OCP has legal status which requires that all development and use of land is consistent with the policies of the Plan. Implementing the vision of the OCP occurs through zoning and other detailed development-related tools.

The current Electoral Area 'H' OCP was adopted in 2004, and in 2010 the Bowser Village Centre Plan (BVP) was adopted as part of the OCP.

Both the OCP and BVP begin with overall principles for growth and development. In the OCP this is called the Community Values Statement, and in the BVP it is the Sustainability Principles. In both documents, objectives are organized into different topics, and policies are more specific statements of how objectives are intended to be met.

OCP
*An **official community plan** describes a long-term vision for the future of a community and a course of action to achieve it.*

What does the OCP say about Horne Lake?

Horne Lake is part of the largest watershed in the area covered by this OCP, and is home to a recreational community of 400 strata lots. Below are several excerpts from the OCP related to Horne Lake. Refer to the full OCP to read these excerpts in context.

5.7 Recreational Lands

The Official Community Plan designates the Horne Lake Strata property as “Recreational Lands”. The current objectives and policies for this designation are below:

5.7 RECREATION LANDS

The Plan Area includes various Recreation Land uses that may be distinguished from Resort Commercial Land uses by their orientation to recreational-type activities benefiting from rural environmental settings. Such uses may include golf courses, recreational campgrounds, or lakeshore cabin type developments. Such Recreation Land uses provide regular seasonal use opportunities to a longer-term resort population than would normally be associated with hotels, motels, overnight campgrounds or RV parks.

Objectives

1. *Recognize* existing recreation resort uses in the Plan Area.
2. *Ensure* that recreation resort uses are developed in a manner that does not have negative impact on the environment.
3. *Direct* development that is compatible with the Community Values and Development Guideline Criteria Statements.

Policies

1. Lands designated as Recreation Lands are shown on Map No. 5.
2. Lands designated as Recreation Lands shall be within designated Development Permit Areas in order to assure that the type and scale of future expansions or alterations to the recreational development does not impact on the environment or the character of surrounding neighbourhoods.
3. If a proposed development is within a local water utility area, the RDN will require written confirmation from the local water utility that sufficient quality and quantity of potable water before the application will be considered.

Community Values Statement

14. *Recognition of Horne Lake as a unique recreational opportunity*

2.2 Natural Hazard Areas

The **Horne Lake** area also faces the risk of potential flooding as the rate of water released from the Big Qualicum River Dam can modify the level of the lake significantly.

The Plan Area contains a number of areas where mass movements of land are a possibility; including the **Horne Lake** road and Mount Mark slide areas. The highland and mountain areas are particularly

susceptible to mass movements of land, such as rock falls and avalanches, due to the steepness of these areas.

2.3 Freshwater Resources

*The Big Qualicum River and its tributaries, which include Hunts Creek and **Horne Lake**, comprise the largest watershed in the Plan Area.*

3.2 Forestry – Mineral Gravel & Hydrocarbon Resources

*The predominant known mineral resource within the Plan Area is gravel concentrations around **Horne Lake**, Spider Lake, and Nile Creek.*

Why all the restrictions on building and occupancy at Horne Lake?

An OCP is an overarching policy document, and the zoning bylaw includes specific regulations about use of the land. The RDN zoning Bylaw 500 regulates the size of dwellings and decks, number of accessory buildings, and length of occupancy in “Horne Lake Comprehensive Development Zone 9”, in addition to the usual regulations on setbacks, height and flood construction levels found in other areas.

The process to formalize historical cabin use at Horne Lake into current RDN bylaws did not only require RDN approval, but involved Department of Fisheries and Oceans who maintain a hatchery on the Big Qualicum River and are concerned with fish habitat, Ministry of Environment who is concerned with ecosystem health and fish habitat, and the Vancouver Island Health Authority concerned with potable water and wastewater disposal.

The timeline below describes how the specific regulations for building and seasonal occupancy at Horne Lake came about.

1996

The **RDN** received a rezoning application to formally recognize license agreements with Texada Land Corp. for 350 recreational sites on Horne Lake; at the time 280 of the sites had structures of some kind. The developer’s proposal was to recognize the recreational land uses on the non-forest parts of Texada’s Horne Lake property, address sewage and grey water disposal, and convert the recreational licenses into bare land strata lots. The original proposal included the creation of 445 bare land strata lots, installation of a community sewage system and individual withdrawals from the lake for drinking water.

1997

Although the **RDN** recognized the potential recreational opportunities that would result from formally recognizing the licence agreements as bare land strata lots, Horne Lake was not a location identified for a population node or recreation site in the Official Community Plan and the Growth Management Plan still under development. The RDN also expressed concerns that the proposed recreational uses would conflict with the surrounding forestry lands. The RDN denied the application.

The **Department of Fisheries and Oceans (DFO)** expressed concerns that the recreational sites are below the safe flood elevation and pose a threat to water quality and habitat as many of the cabins were in the riparian area of the lake. DFO holds a water license for the use of water in Horne Lake to ensure flow and temperature control in the Big Qualicum River for the purposes of the protection of the salmon spawning channel and hatchery along the river. In order to control the water supply for the hatchery, a dam and spillway were constructed across the former Big Qualicum outflow channel at the easterly end of Horne Lake. The safe flood construction level for building would be above the dam at 420 feet above sea level; however, most of the land surrounding Horne Lake was below this elevation. DFO also expressed concern that permitting the recreational sites would encourage more non-recreational development around Horne Lake. For these reasons, DFO opposed recognizing the existing development.

The **Ministry of Health** generally would support sewer servicing for the strata to resolve the illegal methods of sewage and grey water disposal. However, the Ministry was concerned that the strata was using separate water intakes not considered to be a safe supply of potable water.

Approval by the **Ministry of the Environment** was required prior to the adoption of any bylaw or permit for land subject to flooding. The Ministry could not allow for the development proposal below the flood elevation for the lake, and required resolution of the flooding threat prior to consideration of the rezoning. The Ministry also opposed the rezoning because of the small size of the lots, which increased density and did not allow room for riparian habitat. The Ministry also expressed concern with impact on water quality due to the density of the proposal and the difficulty with enforcing the seasonal use of the cabins.

Ministry of Transportation expressed that they cannot approve a subdivision that does not comply with flood construction levels. Alternately, the applicant explored other options for common property ownership that would make some form of subdivision or divided interests possible.

1999

Texada Property Management requested support in principal from the RDN Board for a new proposal, while litigation commenced between Texada Property Management and DFO and Ministry of the Environment related to establishing a lower flood construction level for Horne Lake. Texada made changes to the original 1996 proposal including a reduction in the number of bare land strata lots. The property owner's revised proposal also included: significant parkland dedication to ensure public access to the lake; a restrictive covenant to secure the seasonal recreational nature of the lots; a pump and haul system for sewage disposal; and, individual water supply intakes to reinforce the seasonal and recreational nature of the development.

The **RDN** Growth Management Plan was amended in 1999 with a new policy that would support tourism activities on lands outside of the Growth Containment Boundary. The new policy allowed for tourism activities provided it contributed to economic well-being of the region, included non-permanent residential development and complemented the environment and rural area. However, the RDN

position was that the rezoning could not proceed until the court challenge was resolved with DFO, specifically to establish a safe flood construction level. Staff continued to review the options.

2000

The Horne Lake Licensee Holders Association agreed to purchase the land from Texada Land Corporation as a 'Shared Interest' sale of the land at Horne Lake, under Section 60 of the Real Estate Act which required approval of the Regional Board. The Board has the discretion to consider whether matters are relevant to the RDN's jurisdiction and the public interest. Staff recommended that the sale not be approved unless a disclosure to future property owners was registered to confirm the land use is contrary to current zoning and development permit guidelines, and that on completion of the sale the Association will agree to rezoning of the lands. The rezoning would deal with issues like park dedication, flood elevations, pump and haul, and land use issues (i.e. seasonal occupancy, size, setbacks).

2001

The property owner initiated the rezoning process again, initially on the premise of recognizing 400 recreational residences registered as individual building leases. Following the public hearing, the property owner amended the proposal to 400 bare land strata lots instead of building leases. The applicant identified concerns with registering the leases with the Land Titles Office, and resumed the original proposed bare land strata.

RDN and referral agencies continued to work with the property owner to prepare a zoning amendment application and development agreement that would achieve the goal of recognizing existing use and restricting development around Horne Lake to recreational use. To maintain the recreational use of the cabins, the proposed zoning amendment and agreements limit the cabin size, restrict siting and height, ensure full collection of wastewater and sewage by pump and haul, and regulate the length of occupancy. The bylaw amendment contained these provisions to regulate the land use around Horne Lake for a more secure tenure for cabin owners. The amendments were also seen by the RDN as a means to facilitate a resolution to the litigation between the property owner and DFO and the Ministry of the Environment. The RDN adopted the zoning amendment for the Horne Lake Strata in 2001.

The RDN also adopted a pump and haul establishment service bylaw for the Horne Lake subdivision on December 11, 2001.

Through the litigation, **DFO** agreed to a lowered dam spillway, resulting in a lower flood construction level on Horne Lake. As a means to protect habitat and water quality, DFO recommended that the footprint of the cabins should be minimized. The recommendation was 750 ft² for the cabin and 250 ft² for decks. DFO also recommended a maximum 1.9 m foundation height. For existing cabins that do not meet the regulations, DFO supported a 25% addition to allow for a washroom to accommodate the pump and haul service. Cabins not complying with setbacks and flood construction level are required to prove flood damage insurance.

The **Ministry of Environment** approved the rezoning bylaw in regards to the flood prone lands, under the assumption that DFO was lowering the dam spillway. The Ministry accepted the flood proofing requirements for a flood construction level of 121.7 m Geodetic Survey of Canada Datum and a

minimum setback of 8 metres. One condition was also a covenant to save harmless the Province, RDN and DFO from any future flood damage.

2002

The applicant submitted an application for subdivision to the RDN and Ministry of Transportation.

As part of the subdivision, the RDN Board approved a frontage relaxation for the bare land strata. As per RDN requirements for potable water supply for each bare land strata lot, the RDN accepted a Conditional Water License for water intake from the lake for each lot. Parkland was also secured for Horne Lake Regional Park, as was agreed on through the zoning amendment.

Input from the Horne Lake community to the OCP Review so far

Between January 14 and February 10, 2016 an online survey was live and advertised to community members in Electoral Area 'H'. The purpose of the survey was to gain an understanding of how the community has changed and how it has stayed the same over the past 12 years since the current Official Community Plan was adopted, to gain a preliminary understanding of what are the community values about the area, and to learn how people would like to be engaged and informed about the project as it moves forward. There were 205 survey responses, 62 of which were from Horne Lake property owners.

There is a separate report on the results of the Community Survey with a full list of written responses, and a short summary of input from Horne Lake is included here.

Question: Understanding that all of these issues are important to planning for a community's future, of the following, which would you say is the most important issue for this community right now?

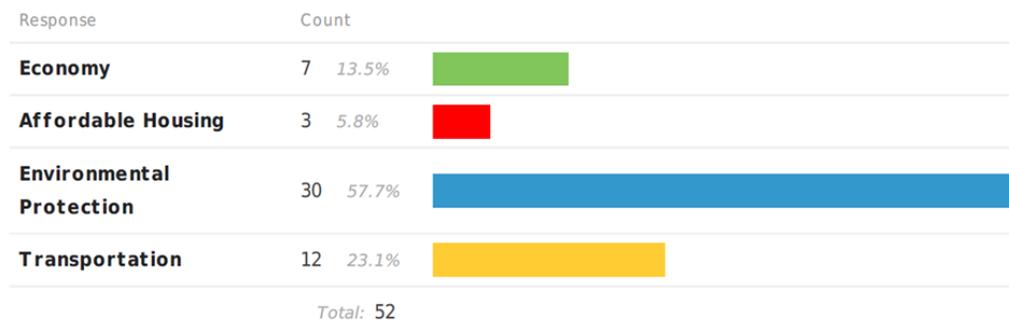


Figure 1 Horne Lake responses to question about the most important issue for the community right now

Other issues mentioned in the written responses to this question include:

- Allowing full time residency
- Restrictive building regulations
- Poor condition of roads
- Desire for hydro / telephone / fire department

Question: Thinking of the past 10 years (since approximately 2005), how would you say the community has changed?

Themes emerging from responses to this question include:

- Greater investment in cabins through new construction and renovation
- More traffic
- Better lake level control
- Generally busier
- Younger people are buying properties

Question: And how has the community stayed the same?

Themes emerging from responses to this question include:

- Poor road conditions
- Rustic lifestyle due to no hydro or paved roads
- No young people moving to the area
- Lack of business development
- Horne Lake is still a beautiful, family oriented area
- Laid back community
- Environmental focus is maintained

For more information and to have your say

For more information about this project and upcoming engagement events and surveys, visit the website at www.rdn.bc.ca/areahocpreview

Don't hesitate to contact us to provide input or ask questions. We are pleased to meet with you or a group of community members to discuss this OCP review as well.

Questions and comments can be directed to:

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