

South Cowichan Joint Advisory Planning Commission Chairs and Members
Minutes - June 26, 2012
Mill Bay Community Hall

Meeting called to order at: 6:03 PM

Present:

Committee Members:

Area A: Cliff Braaten, Margo Johnston, Ted Stevens, Glenn Terrell, Ron Parsons

Cobble Hill: Jens Liebgott, Rod de Paiva,

Area B: Sarah Middleton, Graham Ross-Smith

Also Present:

Alison Garnett, CVRD Planner

Mike Walker, Area A Director

David Crowe, Area A Alternate Director

John & Andrea Phillips (applicant)

Chair – Ted Stevens

Secretary – Glenn Terrell

New Business:

Rezoning application No. 1-A-10 RS Phillips for Jackson

Applicant present.

The chair invited Alison Garnett to provide an overview of the application.

Ms. Garnett advised that the zoning of the subject property is currently W2 (water recreation) that does not permit docks. A dock was built in 2008 resulting in a non-conforming structure. The applicant has made application to rezone to permit the use of an existing dock. This use is also not supported in the OCP (Marine Conservation section).

Questions were raised by members re the current zoning and permitted use in the area.

Ms. Garnett advised that if rezoning were granted, the applicants would also need a lease from the province and a development variance permit for the structure.

The Chair asked the applicant for comments.

The applicant stated that the construction and project was done in a manner designed not to harm the ocean and eco-system. The shoreline is the longest private shoreline in the area. They wanted a safe place to access the water; the local marina was on its last legs so

they decided to put in a float in front of the property. It was built with wire cables from the road so that no trees were damaged. He understands that the committee has read the application and they are here to respond to any questions. He also advised that four committee members had completed a site visit. This is not the only private dock in the designated area. There is a residential dock in a W1 area, two private docks in Mill Bay and others. They have submitted the application so the dock would conform to the CVRD zoning bylaws.

The Chair then asked for comments from the members.

A number of members expressed the opinion that there was nothing wrong with the construction of the facility. In fact, several compliments were given with the type of construction. However, considerable concern was expressed that the application was now forthcoming after the dock had been built and what the impact would be if this precedent were established. Questions were raised about how many other applications would be submitted if this rezoning were granted. Would this then result in a string of docks being built along the Mill Bay shoreline?

The applicant responded that it was unlikely that other docks would be built due to the nature of the shoreline (high bank) and the exposure to the weather. The applicant further clarified in response to a question, that the dock is not intended to be used by the public.

A member stated that they were not opposed to the rezoning but asked why the application was submitted now?

The applicant stated that someone had complained which resulted in a visit from the CVRD bylaw officer and the resulting requirement for an application.

In response to a question about proceeding with Provincial approvals, Ms. Garnett advised that the Province would require a lease but does not normally proceed until the local government has granted the necessary zoning or permits.

The applicant was asked about input from the neighbours. In response, the applicant advised that there were no neighbours to consult with due to the size of the property. He also raised the issue of what would happen to other non-conforming docks in the event that his application was denied.

Discussion ensued and some members suggested that perhaps a new zoning be created that would allow such a float but with restrictive requirements to protect the habitat, foreshore and marine environment. Also, the restrictions would have to ensure that access to the public would not be obstructed.

In response to the question of why the applicant did not apply in advance, he stated that he was not aware that the CVRD had control on zoning in front of his property. He also stated that the builder of the dock (who passed away suddenly) normally dealt with the

issue of permits. He further stated that he thought there were much worse examples of destruction to the eco-system in the area such as stripping the property to the water line.

In response to a question regarding the timing of the process, the applicant advised that they have not held up the process and that they made the application for rezoning in 2009 as soon as the CVRD advised that they were non-conforming.

The Chair advised that there may be some legal issues to consider and that we are waiting for the applicant's lawyer to submit some documents.

The Chair asked if the committee had any further questions.

Ms. Barnett was asked to restate what was defined by the term "water recreation" in the OCP. She read the pertinent paragraphs and advised that the use of a dock or float was not included in the definition.

12.2 W-2 ZONE - WATER RECREATION

Subject to compliance with the general requirements detailed in Parts 4 and 5 of the Bylaw, the following regulations shall apply in the W-2 Zone:

(a) Permitted Uses

The following *uses* and no others are permitted in a W-2 zone:

- (1) Activities directed towards environmental protection and habitat enhancement;
- (2) Management of a waterbody, lake or reservoir, by an improvement district, municipality or regional district for use as a community water supply;
- (3) *Passive recreation*;
- (4) Seawall, breakwater.

(b) Conditions of Use

For any *parcel* in a W-2 zone:

- (1) No building or structure shall exceed a height of 4 m above the high water mark;
- (2) No residential use of floats, piles or vessels of any kind is permitted.

The Chair advised that it was time for the committee to deliberate and vote on the matter before us. He thanked the applicant for their participation.

The Chair asked for a motion.

Motion:

It was moved and seconded that: The committee recommends to the CVRD that application No. **1-A-10 RS Phillips for Jackson** to re-zone be denied.

After discussion on the motion, the chair called for the vote.

In Favour of the motion: 6

Against the motion: 2

The motion carried.

There being no further business; it was Moved, Seconded and Carried

That the meeting be adjourned.

Meeting adjourned at 6:51 PM