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S-03-11 – RTOWN HOLDINGS ULC/  
THREE POINT PROPERTIES (2006) LTD

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, MARCH 20, 2012**

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**SUBJECT      PROPOSED PARK DEDICATION REQUIREMENTS**

**ISSUE**

The applicant is proposing a subdivision to create 4 additional lots under 2ha in size. Section 941 of the *Local Government Act (LGA)*, which pertains to the provision of public park land, applies.

**BACKGROUND**

The 65ha and 28ha properties are located on Parkinson Road adjacent to the Port Renfrew Recreation Centre and Port Renfrew Elementary School (Appendix 1). The properties are designated Residential and zoned CR-1 Community Residential 1 under the Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109. The applicant has submitted a subdivision application to subdivide the lands into 6 lots – 4 new lots and 2 remainder lots (Appendix 2).

The applicant entered into a Memorandum of Understanding (MOU) with the Capital Regional District in recognition of the fact that current services are inadequate to service the scope of the development planned by the applicant. The MOU required that the applicant register a covenant on the title of the property in favour of the CRD prior to adoption of service area establishment bylaws for the provision of community water and sewer services. The MOU directed that the covenant restrict further subdivision and building on the lands considered part of “Phase 2”, of which the subject properties are included, until such time as the applicant submits a Park Plan associated with all the lands in “Phase”. The Park Plan is to incorporate all riparian areas, connective trail elements, public area permits, recreation areas, hazardous areas, and access to significant features and the ocean. The registered covenant (FB320966), however, specifically excludes that part of this application appurtenant to the four proposed lots (shown in the area outlined in black in Appendix 3).

**ALTERNATIVES**

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That the park land dedication be deferred to the remainder parcel of the easterly ½ of the NW ¼ of Section 36, Township 13, Renfrew District, except that part shown coloured red on Plan 346-R, and except those parts in Plans 22475, 24267, 24755, 29515, 41154, 50819 and VIP59967, PID: 000-468-291; and the remainder parcel of the NE ¼ of Section 36, Township 13, Renfrew District, PID: 009-565-752; or
2. That the applicant be required to provide 5% of the lands subject to the current subdivision application as park land dedication.

**LEGISLATIVE IMPLICATIONS**

As per the *Local Government Act*, s.941(1), an owner of land being subdivided must, at the owner's option, a) provide, without compensation, park land of an amount and in a location acceptable to the local government, or b) pay to the municipality or regional district an amount that equals the market value of the land that may be required for park land purposes. Where an official community plan contains policies and designations respecting the location and type of future parks, the local government may determine whether the owner must provide land or cash-in-lieu.

The amount of land that may be required, or used for establishing the amount that may be paid, must not exceed 5% of the land being proposed for subdivision. If an owner is to pay cash-in-lieu, the value of the land is whichever of the following is applicable: a) the average market value of all the land in the proposed subdivision, or b) if the local government and the owner agree on a value for the land, the value on which they have agreed.

The Port Renfrew Comprehensive Community Development Plan, Section 4.8 – Park Land and School Site Dedication Policies, provides direction regarding the location of park land dedication. Specifically, the Plan requires that the provision and type of park land dedicated be in a location that is acceptable to the Capital Regional District. The Plan also states that at its discretion, the Regional District may ask for cash-in-lieu for the future purchase of land for parks.

### **PUBLIC CONSULTATION IMPLICATIONS**

The Juan de Fuca Electoral Area Parks and Recreation Advisory Commission reviewed the park dedication options for this subdivision application at their December 14, 2011, January 24 and February 7, 2012 meetings. The Commission passed a motion at their meeting on February 7 recommending that the 5% park land dedication or cash-in-lieu be deferred to the remainder parcel of the easterly ½ of the NW ¼ of Section 36, Township 13, Renfrew District, except that part shown coloured red on Plan 346-R, and except those parts in Plans 22475, 24267, 24755, 29515, 41154, 50819 and VIP59967, PID: 000-468-291; and the remainder parcel of the NE ¼ of Section 36, Township 13, Renfrew District, PID: 009-565-752 (Appendix 4).

### **PLANNING ANALYSIS**

While the Memorandum of Understanding between RTown Holdings ULC and the Capital Regional District requires that the applicant register a covenant on the title of the subject properties restricting further subdivision until such time as the applicant submits to the Regional District, a Park Plan for the “Phase 2” lands, the registered covenant exempts the subject properties from this requirement.

The Juan de Fuca Electoral Area Parks and Recreation Advisory Commission passed a motion recommending that the 5% park land dedication be deferred to the remainder parcels as the Park Plan to be prepared by the applicant has not been completed. Furthermore, the applicant has not provided a Riparian Area Assessment of the watercourses on these lands which would identify the Streamside Protection and Enhancement Area (SPEA) and the Commission recommends the preparation of this assessment as a condition of the park land deferral. Identification of the SPEA would allow for the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission to identify lands to be protected by covenant as well as areas suitable for streamside trails. The Park Plan will identify the community support for and the location of potential community park land and trails. However, the proposed park land has been in discussion for several years and while the proposed subdivision does not trigger the MOU requirement for a Park Plan they would like the deferral of the park land dedication subject to preparation of the Parks Plan within one year of this approval or earlier upon submission of another subdivision application on these lands. The Commission requests that this condition be secured through a covenant registered prior to the subdivision approval.

### **CONCLUSION**

The subject properties are not subject to the covenant restricting subdivision of the “Phase 2” lands until a Park Plan has been submitted; however, Section 941 of the *Local Government Act* applies. The owner of the lands is, therefore, required to either provide 5% of the land as dedicated park, or pay cash-in-lieu of the value of the land that would otherwise be dedicated. The Juan de Fuca Electoral Area Parks and Recreation Advisory Commission recommends that the park land dedication be deferred onto the remainder parcels pending completion of a Park Plan for the lands. Staff recommends support of the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission recommendation to defer the park land dedication.

### **RECOMMENDATION**

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board that:

1. That the 5% park land dedication or cash-in-lieu be deferred to the remainder parcel of the easterly ½ of the NW ¼ of Section 36, Township 13, Renfrew District, except that part shown coloured red on Plan 346-R, and except those parts in Plans 22475, 24267, 24755, 29515, 41154, 50819 and VIP59967, PID: 000-468-291; and the remainder parcel of the NE ¼ of Section 36, Township 13, Renfrew District, PID: 009-565-752, subject to the following conditions:
  - a. the applicant complete and submit a Riparian Area Report for the remainder parcel of the easterly ½ of the NW ¼ of Section 36, Township 13, Renfrew District, except that part shown coloured red on Plan 346-R, and except those parts in Plans 22475, 24267, 24755, 29515,

41154, 50819 and VIP59967, PID: 000-468-291; and the remainder parcel of the NE ¼ of Section 36, Township 13, Renfrew District, PID: 009-565-752;

- b. the applicant working with the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission, develop a Park Plan for the remainder parcel of the easterly ½ of the NW ¼ of Section 36, Township 13, Renfrew District, except that part shown coloured red on Plan 346-R, and except those parts in Plans 22475, 24267, 24755, 29515, 41154, 50819 and VIP59967, PID: 000-468-291; and the remainder parcel of the NE ¼ of Section 36, Township 13, Renfrew District, PID: 009-565-752; and Parcel A (DD14346I) of Section 97, Renfrew District except part in Plan 15462 and VIP77871 PID: 009-592-423; and westerly ½ of the NW ¼ of Section 36, Township 13, Renfrew District except part in Plans 5109, 24267 and 24755, within one year or upon the submission of a subsequent subdivision application on any of the lands; and
- c. that the park land dedication deferral, the requirement for the immediate completion of the Riparian Assessment, and the agreement to complete the Park Plan within one year be secured by covenant as part of the subdivision approval process.

Original Signed

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Iain Lawrence  
Planning Assistant

Original Signed

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June Klassen, MCIP  
Manager, Local Area Planning Services

Original Signed

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Robert Lapham, MCIP  
General Manager, Planning and Protective Services

Original Signed

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Kelly Daniels  
Chief Administrative Officer  
Concurrence

Attachments:

1. Appendix 1 – Subject Property Map
2. Appendix 2 – Proposed Plan of Subdivision
3. Appendix 3 – Area exempt from Covenant FB320966
4. Appendix 4 – Juan de Fuca Electoral Area Parks and Recreation Advisory Commission's February 7, 2012 motion







**(4) RISE AND REPORT**

**a) Subdivision Referral S-03-11 (Three Point Properties – Port Renfrew)**

That the motion of January 24, 2012 recommending cash in lieu of park land for subdivision application S-03-11 (Three Point Properties – Port Renfrew) be withdrawn.

That the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission recommend to the Juan de Fuca Land Use Committee that:

1. In accordance with Section 941 of the *Local Government Act* 5% park land dedication or cash in lieu of park land dedication for the easterly  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Sec. 36, TP 13, Renfrew District, except that part shown coloured red on Plan 346-R, and except those parts in Plans 22475, 24267, 24755, 29515, 41154, 50819 and VIP59967, PID: 000-468-291; and the NE  $\frac{1}{4}$  of Sec. 36, TP 13, Renfrew District, PID: 009-565-752 (S-03-11) be deferred subject to:
  - i. the applicant completing and submitting a Riparian Area Report for the two remainder lots;
  - ii. the applicant working with the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission, develop a Park Plan within one year or upon the submission of a subsequent subdivision application on any of the lands.