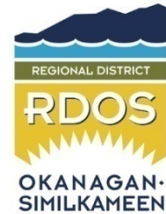


ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: July 21, 2011
RE: Naramata Benchlands Zoning Bylaw Amendment Application – Electoral Area ‘E’

Administrative Recommendation:

THAT the Regional District Board rescind resolution number B201/11 from the minutes of the April 7, 2011, Board meeting and replace the requirement for a transfer agreement with a statutory right-of-way and covenant on the lands south of Arawana Road.

Reference:

[April 7, 2011 – Resolution B201/11](#)

[Naramata Benchland Properties Letter of Request](#)

Background:

At its meeting of March 17, 2011, the Regional District approved first and second reading of OCP Amendment Bylaw No. 2458.03, 2011, and Zoning Amendment Bylaw 2459.06, 2011 requiring, among other things:

- the continuation of the proposed wildlife corridor through the property at 3480 Arawana Road (with the subdivision of this property into 41 parcels restricted until such time as the wildlife corridor was established); and
- that prior to adoption, the property owner enter into a transfer agreement with the Regional District requiring “that the area to be zoned Conservation Area [3440 Arawana Road] is transferred to a conservation organization and/or local government within 24 months (with an option for a 12 month renewal) of the rezoning being adopted.”

On March 22, 2011, the proponent formally requested that the Board revisit Resolution No. B155/11P on the basis that it was “not practical as it will result in requiring [Naramata Benchland] NB to conduct premature land use planning and subdivision design work ...” At issue was the subdivision restriction on the proposed 41 parcels until such time as a conservation corridor was established through part of 3480 Arawana Road.

At its meeting of April 7, 2011, the Regional District Chair exercised his authority under Section 131 of the *Community Charter* to “require the council to reconsider and vote again on a matter that was the subject of a vote” in order to consider the applicant’s request. The Board resolved to revisit Resolution No. B155/11P, and subsequently determined to amend the restrictive covenant in accordance with the applicant’s request by only applying it to a 3.66 ha area situated on the north side of Arawana Road.

Request:

On June 6, 2011, a formal request was submitted to the Regional District asking the Board to remove a requirement contained in Resolution No. B155/11P that an approximately 14.85 hectare (ha) area to be zoned Conservation Area (CA) is transferred to a conservation organization and/or local government.

The proponent has advised that the basis of this request is that no conservation organisation is willing to accept this area, and there is little or no prospect of that happening in the near future. NB was willing to transfer the land to a conservation organization in exchange for an eco-gift. Local

Governments can't provide eco-gifts and NB objects to the execution of the transfer agreement to the RDOS for \$1.00.

Options:

1. Status Quo (maintain the current resolution)

A fundamental aspect of this rezoning proposal has been the idea of a “swap” or “exchange” whereby the applicant offered to donate the lands to be rezoned Conservation Area (CA) in exchange for receiving a Small Holdings (SH) designation on an adjacent parcel of land that would allow for the creation of upwards of 41 parcels.

In its report to the Board of March 17, 2011, Administration highlighted the central crux of this “swap” proposal: is the ability to create upwards of 41 parcels an appropriate return to the applicant for setting aside approximately 14 ha of land as a potential public amenity (i.e. wildlife corridor)?

Although the opportunity to acquire a concurrent “eco-gift” from a conservation organisation would be of undoubted benefit to the proponent, this was not raised or pursued by the proponent prior to making application. The surest method of protecting the wildlife corridor is by transferring the area to either a conversation agency, the Crown or the RDOS.

The use of a transfer agreement is one approach to ensuring that the lands are eventually transferred in a timely manner and as originally proposed by the applicant, while retention of the proposed conservation area by private interests creates uncertainty regarding long-term ownership and maintenance of the wildlife corridor.

2. Amended Resolution (Covenants and Statutory R/W)

The Board could replace the transfer-of-ownership condition with several options as follows:

- Lands South of Arawana Road. For the large 14.85 ha parcel proposed to be zoned Conservation Area, the owner supports the provision of a statutory right-of-way (r-o-w) in favour of the RDOS for wildlife habitat and corridor purposes. The proposed r-o-w would encompass the entire parcel. It is acknowledged that there will be a future need to extend utilities through the conservation lands to service the new subdivision farther to the east – the r-o-w document can provide for this. It is also agreed that a no-build covenant be registered on the property. Both the statutory r-o-w and covenant will be given priority on the title.

The applicant has stated that “Naramata Benchland Properties Ltd. will continue to pursue all options for the transfer of the subject lands to an appropriate organization that could and would provide an eco-gift or equivalent compensation for the transfer of the land.” At that time, the RDOS can consider releasing the r-o-w and covenant documents. This option provides public control over the wildlife values of the site, while providing the owner time to seek out a suitable conservation organization to take over management of the lands. There may be responsibilities for the RDOS to undertake some management of the wildlife values which are to be determined.

- Lands North of Arawana Road. It is proposed to maintain the same conditions as in the April 7, 2011 resolution for the area north of Arawana Road. This includes provision of a restrictive covenant, with priority on title, that prohibits subdivision on the 3.6 ha area until a wildlife corridor is established in consultation with a qualified wildlife professional; that the said corridor occurs prior to rezoning or subdivision into two (2) or more lots; and that the corridor will be subject to an application for zoning to Conservation Area. In the meantime, the covenant protects wildlife movements through the site.

These amended requirements appear to protect wildlife values of the subject properties, while retaining the private ownership interests at this time. This provides long term protection of conservation values and the option of future transfer to a conservation organization is maintained.

Respectfully submitted:

Donna Butler

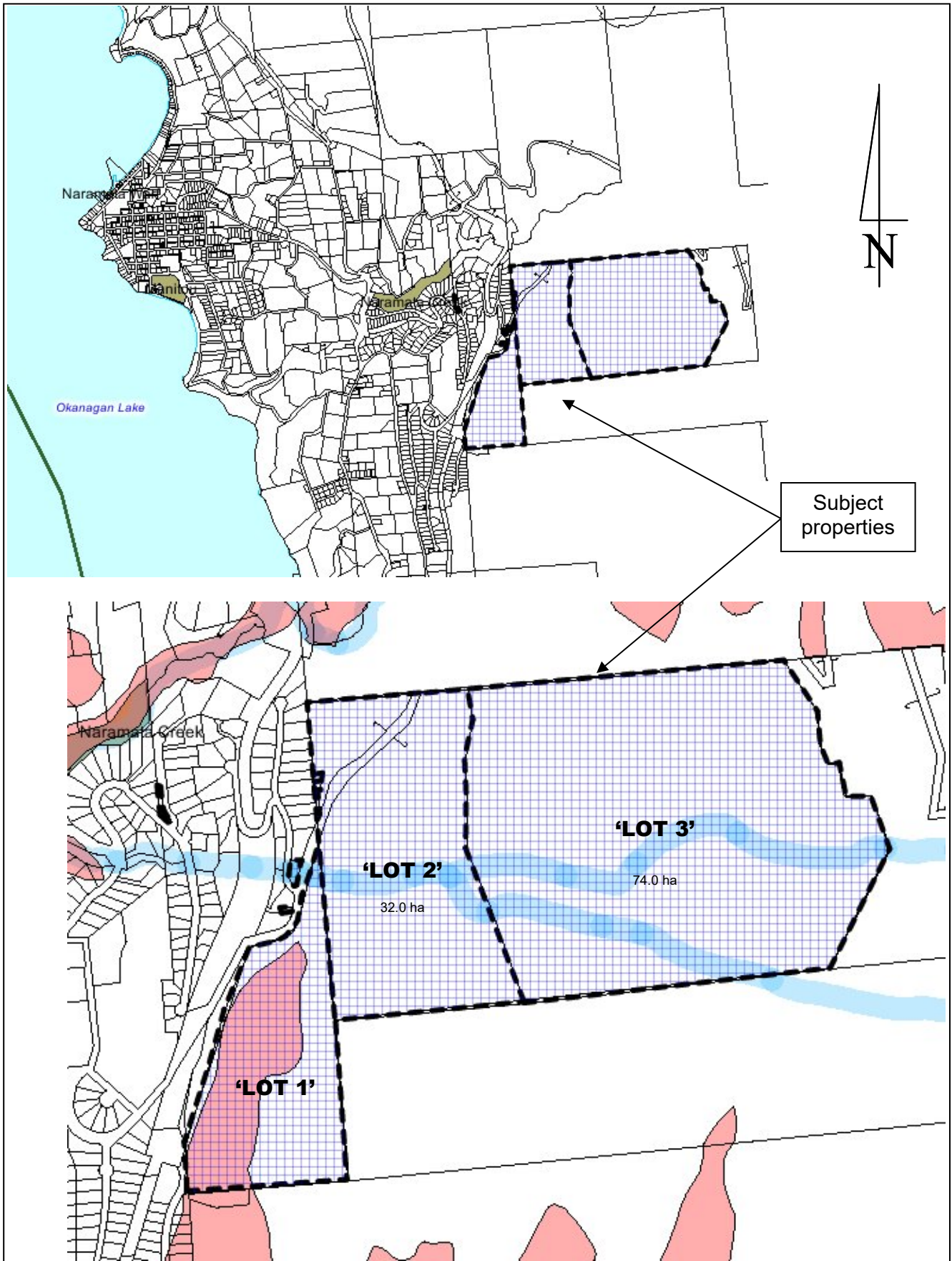
Donna Butler, Development Services Manger

Attachments: Attachment No. 1 – Context Maps

Attachment No. 2 – Aerial Photo

Attachment No. 3 – [Amended Resolution](#)

Attachment No. 1 — Context Maps



Attachment No. 2 — Aerial Photo

