

July 7, 2006

CRC Joint Venture
Box 228
Bowen Island, B.C.
V0N 1G0

Attention: Wolfgang Duntz

Dear Wolfgang:

**Re: Subdivision Application – Preliminary Layout Review
District Lot 1548, NWD
File No: SUB – 2004-15 (Cape Roger Curtis)**

Further to CRCJV's subdivision application of 4 September 2004, a copy of which is attached, the following comments are provided for your consideration:

1) Subdivision Layout

The proposed subdivision would create a total of 60 – minimum 10 acre size parcels. Road access would be provided by the extension of Whitesails Drive and the extension of Thompson Road through adjacent Crown Land. Three beach access points would be provided on the west side of the property. Water would be supplied by private wells and sewage would be disposed of by way of private individual septic systems. It is understood that first phase of the subdivision would be 10 lots, referred to as Lots 20-29.

2) Bowen Island Bylaws

The Planner has provided the following comments:

a) Official Community Plan 139, 1995

One of the Residential Objectives in the OCP (Section 3.1(2)), is “to encourage residential cluster development rather than large lot subdivision, with areas of green space between clusters set aside by suitable legal instruments in perpetuity for both common and private neighbourhood use.”

Sections 3.9.7 and 3.9.10 address the creation of trails and the accompanying Schedule “C” clearly identifies numerous trails through the subject property that should be preserved at the time of subdivision.

Notwithstanding that the proposed subdivision is consistent with the OCP from a density perspective, on the basis of these other considerations, the Planner has concluded that the application in its current form does not comply with the overall vision and specific policies of the OCP.

The subject property is located within the Cape Roger Curtis Development Permit Area. Prior to final approval of the subdivision, CRCJV will be required to obtain a Development Permit from the Planner. Please note that in order for a Development Permit to be issued, the proposed subdivision must satisfy all the guidelines that are articulated on pages 63 – 65 of the OCP. In submitting the material in support of the DP, please forward a copy of a biophysical report, and provide an explanation as to how the subdivision plan satisfies each of the DP guidelines. It is recognized that DP 05-2005 issued in September 2005 only authorizes the construction of a driveway for a single family dwelling and that the alignment of the driveway does not coincide with the alignment for the proposed extension of Whitesails Drive.

b) Land Use Bylaw – Minimum Lot Size

The subject property is zoned RR1 (Rural Residential 1), a zone in which the permitted minimum lot size is 4 ha. According to the Preliminary Plan dated 7 September 2004, all 60 residential lots would meet these requirements. Should the lot layout be revised, please ensure that the lot size for all lots complies with the minimum lot size requirements of the Land Use Bylaw in the final Plan of Subdivision.

All uses and buildings on the subject property shall be required to comply with the applicable provisions of the Land Use Bylaw.

3) Road and Driveway Access

a) Public Roads

According to the proposed layout, a series of new public roads would be dedicated and constructed to serve the subdivision. As a condition of subdivision approval, CRCJV will be required to:

- i) submit for review and approval by the Public Works Superintendent a set of design drawings for all public roads, including the on-site public roads and the upgrading of Thompson Road from the Crown land to Sunset Drive, prior to constructing any works. The road works shall be designed in accordance with the requirements of the Land Use Bylaw and the draft Municipal Infrastructure Design Bylaw; and
- ii) undertake the road works or arrange for a letter of credit for said works to the satisfaction of the Public Works Superintendent. A Subdivision Servicing Agreement will be required to be entered into with the Municipality.

Prior to undertaking any construction activity on the site or the existing road allowances, the Municipality expects that CRCJV will consult with the affected neighbourhood and provide information on the timing and scheduling of the activity and will explore measures to minimize the impact of the construction on the residents.

Please note that it is imperative that the Municipality's roads be maintained in their original state, affects of construction minimized and the roadways kept clean during the construction

period. Should any portion of the existing public road system be damaged during the construction period, CRCJV will be required to repair same.

The Municipality will monitor construction debris on the roadway and whether additional measures may need to be taken.

A meeting between the Municipality, the developer, and the contractor must be scheduled before any on-site construction begins to further address construction impact on the current residents. The Municipality reserves the right at its own discretion to engage a full time construction inspector to monitor compliance with the above noted items, costs of which will be paid for by the developer.

Please note that all road works shall comply with all Provincial and Federal regulations and guidelines, including the *Wildlife Act* and the *Fisheries Act*.

In reviewing the proposed road network, Municipal Staff have identified the following issues that are brought to CRCJV's attention:

- i) While it is noted that a Driveway Access Permit has been issued for private driveway works within the Whitesails Drive road allowance, this work shall not suffice for the extension of the existing Whitesails Drive as a public road.
- ii) The Approving Officer will require that this subdivision be served with two access points as proposed in the Preliminary Plan. Since the proposed access via Thompson Road passes through Crown Land, CRCJV will be required to secure such access from the Integrated Land Management Bureau (ILMB). The Municipality is aware of CRCJV's previous application to ILMB, and prior to review of detailed design drawings, the Public Works Superintendent will require evidence that ILMB is prepared to approve the dedication of a road allowance through Crown Land. Should CRCJV not be able to secure the land for this secondary access or provide for an alternative access link to Thompson Road or Sunset Drive to the satisfaction of the Municipality, then the Approving Officer will not be prepared to approve the subdivision plan.

The proposed access road via Thompson Road passes through Crown Land in the vicinity of an environmentally sensitive area, referred to as the Fairy Fen. Given that this environmental feature is currently the subject of an initiative of the Islands Trust Fund for its protection, CRCJV will be required to submit a report from an environmental consultant that demonstrates that the proposed road alignment will not impact the fen.

- iii) The Preliminary Plan indicates that a common driveway will be utilized as physical access for Lots 22-29. Utilizing a shared driveway for that many lots is not considered acceptable. An alternative approach would be to convert the driveway to either a public road (Byway standard) or a strata road.

- iv) It would appear that CRCJV is proposing to construct a portion of the road allowance for each of the three beach access points. Should this be the case, the road design should accommodate turn-arounds or hammer-heads to enable vehicles to turn around.
- v) The Whitesails neighbourhood has raised concerns regarding the traffic impacts associated with the subdivision. Accordingly, as a condition of subdivision approval, CRCJV will be required to incorporate traffic calming measures into the Tunstall Bay neighbourhood. Please provide the Public Works Superintendent with some ideas as to how this may be achieved. May we suggest that CRCJV consult with the local neighbourhood regarding this matter.

b) Driveway Access

Please note that obtaining a Driveway Access Permit from the Municipality will ultimately be required prior to constructing any new houses on the lots. The location of the specific driveway locations should be determined based upon further investigations on site with municipal staff. Given terrain considerations, may we suggest that CRCJV consider utilizing shared driveways where possible.

c) Frontage Requirements

Other than Lots 19, 20, 30, 31, 32, 34, 35, 36, 37, 40, 41, 42, 44, 47, 51, 54, 55, 56, 57, 58, 59, and 60, the remainder do not appear to satisfy the minimum 10% perimeter frontage requirement. While the Approving Officer may be willing to grant relief for some lots (with a probable maximum of 6 – 9 lots), she will not grant relief to that many lots. Please revise the layout accordingly.

4) Access to Lands Beyond

Given the existing and proposed development adjacent to the subject property and their respective road patterns and accesses, providing access to lands beyond will not be required for this subdivision, other than for the Lunn property (Lot 1, District Lot 1549, RPBCP 926, 928, 929) immediately to the east of the lower cul de sac road. The road allowance shall be dedicated but not constructed.

5) Public Access to the Unnamed Creeks and the Sea

The Preliminary Plan identifies two unnamed creeks that traverse the property. As no details have been provided on the creeks, it is not possible to assess whether providing public access to them pursuant to Section 75(1)(c) of the *Land Title Act* would apply to this subdivision. Please provide the necessary details on the width and depth of the creeks from CRCJV's surveyor.

Regarding access to the sea, Section 75(1)(c) of the *Land Title Act* requires that a 20 meter wide public access strip be provided to the sea every 400 meters for a subdivision of this type. The Preliminary Plan identifies three such public access strips to three important destinations on the west side of the property – Arbutus Point viewpoint, Pebble Beach, and the Lighthouse. While the Approving Officer appreciates these access points and CRCJV's

proposal to provide additional land in the vicinity of the water, the Preliminary Plan does not meet the requirements of Section 75(1)(c) of the *Land Title Act*, and as such the Approving Officer will require that the Preliminary Plan be revised so that it in fact does satisfy the *Land Title Act* requirements. In revising the Plan, the Approving Officer is hopeful that CRCJV will retain the widened access strips for the three access points as initially proposed.

6) **Water Supply**

According to the application, CRCJV is considering a variety of options with regards to supplying water. Should CRCJV proceed with individual well option, then as a condition of final subdivision approval, CRCJV will be required to provide evidence that all lots have been served with a supply of potable water confirmed by a qualified professional to the satisfaction of the Municipality and in accordance with the requirements of Section 6 of the Land Use Bylaw. Driller well logs will be required to be registered with Integrated Land Management Bureau (ILMB) and submitted to the Municipality's Public Works Department. All work must be completed in conformance with the Provincial Groundwater Protection Regulation.

Please note that the Public Works Superintendent has provided the following comments:

- i) Based on the lack of success of deep well drilling in similar geological areas on the south side of Bowen Island, there may be difficulty in providing potable water in sufficient quantity from individual wells. Given the considerable expense that would be required for a communal water supply and distribution system for the proposed layout, alternate means of providing (de-centralized) water supply, such as rainwater harvesting, should be explored.
- ii) With regards to the proposed other options for water supply for the subdivision, without any firm plans, comments cannot be provided at this time due to the lack of detailed information, and final selection of the water source.
- iii) In the interests of long term water system infrastructure planning, any community water system should be designed for hydraulic compatibility with the adjacent municipal water system. This issue will be addressed at the time of more formal planning for the water system infrastructure.
- iv) Recent development projects elsewhere on Bowen Island attempting to receive provincial Ministry of Health approval to construct and establish a new Water Utility to serve the development were not successful. The Ministry of Health may require assurances from the Municipality that it will take ownership and responsibility of any future water systems constructed by a developer, and prior to considering the provision of such assurances, the Municipality will require evidence of the benefit of such for existing tax payers and residents.

Any proposed water system must conform to the requirements of the draft Municipal Infrastructure Design Bylaw, *Land Use Bylaw* and *Official Community Plan* for provision of potable water in quantity. The requirements of the *Water Act*, *Drinking Water Protection Act*, and other legislative documents will also apply depending on the final proposed source and supply system. A permit to construct, and also to operate a water system, issued by the Ministry of Health, will also be required.

7) Sewage Disposal

It is CRTCV's proposal that each of the lots would be serviced with individual private in ground septic systems. The Vancouver Coastal Health Region has not yet submitted its comments on the proposed reviewed the proposed subdivision. Prior to final approval, the Approving Officer will require written evidence from the Health Region recommending approval of the subdivision.

In accordance with Reg. 326/204, being the new *Sewerage System Regulation* under the *Health Act* that came into force on 1 June 2005, there is a new administrative procedure with respect to the installation of septic fields. It will be CRTCV's responsibility to be aware of and adhere to the new requirements of the Regulation.

8) Drainage

Given the size and inaccessibility of the subject lands, the Public Works Superintendent has noted that this matter cannot be fully reviewed at this time. To address this matter, CRTCV will be required to provide the Public Works Superintendent with a conceptual storm water management plan prepared by a Professional Engineer with relevant experience in accordance with draft Infrastructure Design Bylaw and Best Management Practices. The Plan shall identify the design criteria for storm water runoff and the capacity of all proposed and existing conveyance systems, including identifying overland overflow paths. It shall also demonstrate how on-site drainage from the subdivision will be handled, including an assessment of the impacts on the downstream system and properties. Of particular importance is minimizing impacts on the adjacent properties and natural watercourses. The Plan will be used to determine whether specific drainage works, covenants, easements, and rights of way will be required.

As a condition of subdivision approval, CRTCV will be required to:

- i) submit for review and approval by the Public Works Superintendent a set of design drawings for all drainage works prior to constructing them. The works shall be designed in accordance with the requirements of the Land Use Bylaw and the draft Municipal Infrastructure Design Bylaw; and
- ii) undertake the drainage works or arrange for a letter of credit for said works to the satisfaction of the Public Works Superintendent. A Subdivision Servicing Agreement will be required to be entered into with the Municipality.

The Public Works Superintendent has also noted that consideration should be given to installing stream flow monitoring stations for the two major creek systems.

9) Unnamed Creeks and the Sea

There are two unnamed creeks that traverse the property as shown on the Preliminary Plan. As a condition of subdivision approval, CRCJV will be required to:

- i) enter into a non-disturbance covenant with the Municipality for the protection of the riparian area of both creeks and the sea on the basis of the biophysical reports. It is understood that such reports have been prepared and should be submitted to the Approving Officer. The Municipality will require that the author of the reports confirm that the recommendations outlined in the report have been respected in the final plan of subdivision, and in the letter confirm that the boundaries of the covenanted area satisfy either the *Streamside Protection Regulation* or the *Riparian Area Regulation*; and
- ii) enter into a flood protection covenant with the Municipality if deemed necessary on the basis of a flood hazard assessment of both creeks and the sea prepared by a qualified engineer. The engineer will also be required to confirm that the recommendations outlined in the report have been respected in the covenant document.

Prior to executing either of these covenants, please provide the Municipality with draft copies to review.

Please note that it is CRCJV's responsibility to maintain compliance with all Provincial and Federal regulations and guidelines, including the *Wildlife Act*, *Water Act*, and the *Fisheries Act*.

Prior to undertaking any work within or around the creek CRCJV will be required to obtain the necessary approvals. No work should be commenced without securing the necessary approvals.

10) Coastal Bluff Habitat

A biophysical report will need to be prepared to identify the presence of coastal bluff habitat. Based upon the findings of the report, a restrictive covenant will be required to protect this habitat. Please provide the Municipality a copy of a draft copy of the covenant to review.

11) Park Land Dedication

Given that the smallest parcel is greater than 2 ha, no dedication of park land is required. This item will be further addressed in a subsequent section of this letter.

12) Development Cost Charges - Parks

Development Cost Charges in the amount of \$1100.00 will be payable to the Municipality for the 59 new lots being created in accordance with the Development Cost Charge Bylaw. This fee will be payable to the Municipality as a condition of final subdivision approval.

13) Geotechnical Considerations

Based upon a site visit and a review of the Preliminary Plan, there are portions of the site that have extremely steep slopes. Notwithstanding that some portions of the property may be the subject of a non-disturbance covenant, to ensure that houses are sited on these lots in a safe manner, as a condition of subdivision approval CRCJV will be required to provide the Municipality with an overview type report prepared by a geotechnical engineer certifying that all lots are safe for development, and if necessary identifying any measures that may need to be undertaken to address any hazard areas i.e. no build areas, building setbacks, etc.

14) Fire Protection Considerations

Please note that the Fire Chief has indicated that all houses will need to be sprinklered due to the absence of a water system, and as such a covenant will need to be registered on title of all lots requiring same as a condition of subdivision approval. He has also indicated that due to the exposure, topography, vegetation and lack of water in this part of the Island, construction and landscaping should adopt FireSmart principles that include such measures as roof materials and clearance from highly combustible vegetation. FireSmart manuals are available from the Fire Department.

15) Existing Buildings

There are no existing buildings on the subject property.

16) Compliance with Council's Public Interest Statement

As CRCJV is aware, the Municipal Council has adopted a statement of public interest in February 2006 with regards to the use and development of the Cape Roger Curtis land. The Approving Officer is not bound by that resolution and does not consider herself limited by it. Nevertheless, as part of the process of hearing from those who might be affected by the subdivision, it is certainly a statement that she will take into consideration and weigh in the balance. The Approving Officer will ultimately have to make a determination as to whether a final plan of the proposed subdivision is contrary to the public interest. That will be a decision for her to make but certainly the failure to comply with Council's public interest statement will be a factor or consideration in making that decision. The current proposal as depicted on the Preliminary Plan has been assessed on the basis of the public interest statement, and the following comments are provided for CRCJV's consideration:

- i) Conserving the majority of the coastline for eco-system protection
Other than the three public access points, the land along the coastline is proposed to be retained in private ownership. Evidence should be provided outlining the manner in which the ecosystem of the coastline will be protected. The use of non-disturbance covenants is suggested.
- ii) Where there are no adverse ecological impacts, develop public, waterfront, walking trails along the majority of the coastline, connecting to the cross-island greenway
The Preliminary Plan does not identify any public trails. The Approving Officer would like to work with CRCJV in an attempt to devise an off-road trail system that provides pedestrian opportunities for both residents of the

Cape Roger Curtis lands and the overall community while at the same time respecting the lifestyle of the future Cape Roger Curtis residents. The OCP does provide direction for a desired trail network for the Cape Roger Curtis lands.

- iii) Environmental protection of the land including environmentally sensitive areas and rare species
Although not outlined on Preliminary Plan nor in the supporting documentation, it is our understanding that a significant environmental study has been conducted. Implementation of the findings of that study may work towards meeting this component of the public interest statement.
- iv) Clustering of homes and any other structures in any new development to reduce land disturbance, maximize green space and the opportunity for trails, and facilitate transportation alternatives
By subdividing the land as depicted in the Preliminary Plan, it will not be possible to satisfy this component of the public interest statement. Should CRCJV continue to want to subdivide the land at this density (4 ha), an alternative layout will need to be considered to better address this component.
- v) Minimizing and mitigating any negative impacts from any Cape Roger Curtis development on the adjacent neighbourhoods and on the Bowen Island community as a whole
At this point, no significant analysis of neighbourhood impacts has been conducted by either CRCJV or the Municipality. Having said that, some obvious ones can be identified such as increased traffic flow and impact upon existing water supply of nearby residents. The Approving Officer would like to work with CRC JV in devising measures to minimize impacts.

17) Approving Officer to Seek Public Input

Given the size, location, and physical attributes of the property, the Approving Officer has decided that she will engage in consultation with the public to further advance Council's public interest statement and to become better acquainted with issues important to the public. Prior to initiating this process, the Approving Officer will meet with representatives of CRCJV to discuss the best way to approach this matter.

The Approving Officer is committed to working with CRCJV to find solutions that benefit not only the public interest, but also the interests of CRCJV.

18) Freedom of Information and Protection of Privacy

As part of the public process, it is anticipated that a proposed release of your application and this response would be referred to you under the FOI legislation and in all likelihood the documents would be releasable based on the FOI Commissioners' earlier rulings.

We believe that it would be preferable, in building the relationships we have discussed, if CRCJV were to simply consent to release of the application and this PLR now and we would ask that you respond to this request as soon as possible.

If we do not hear from CRCJV within 7 days, it is understood that the Municipality will institute a formal third party notice process under the legislation and give CRCJV the opportunity to seek the FOI commissioner's review of any proposed release.

For further information on this matter, please contact our Municipal Solicitor, Mr. Chris Murdy at 604-689-5263.

19) Taxes

Evidence shall be provided that there are no outstanding taxes.

20) Site Contamination

CRCJV has completed the Site Contamination Declaration Form acknowledging that the site has not been used for commercial or industrial purposes in the past as best as can be determined.

21) State of Title Certificate

Please provide a current (within 30 days) State of Title Certificate when submitting the Plan of Subdivision for final approval.

22) Final Subdivision Plan

When submitting the Plan of Subdivision for final approval, please provide enough copies so that the municipality can retain 1 paper print. Once approved by the Approving Officer, it will be CRCJV's responsibility to register the Plan and any other documents with the Land Title Office. We would expect that upon registration of the subdivision, that CRCJV's solicitor will provide the municipality with copies of all registered documents, including 1 reproducible copy and 2 paper prints of the Plan of Subdivision. Please provide a cheque payable to the Bowen Island Municipality in the amount of \$6100.00 (\$100.00 plus \$100.00 per lot) for a final examination fee.

23) Concluding Comments

The Approving Officer's review of CRCJV's subdivision application and the associated Preliminary Plan has identified a number of issues. Taken as a package, the proposed plan will need to be revised. As CRCJV works through the issues and identifies a new layout, municipal staff will provide guidance and direction as needed.

These comments are valid for a period of 180 days. Extensions may be applied for. Any changes to legislation, bylaws, or policies may affect the final approval of the Plan of Subdivision.

Should you have any questions, please do not hesitate to contact me.

Yours truly,

Michael Rosen
Deputy Approving Officer

*Attachments: Copy of Proposed Layout
 Comments from Community Planner
 Letter from Fire Chief*

cc: Dan Grimble - CRCJV
 Isabell Hadford - Approving Officer
 Jason Smith – Planner
 Brad Hawthorn – Public Works Superintendent
 Collene Huskisson – Parks and Recreation Department
 Konrad Jaschke – Building Inspector
 Chief Brian Biddlecombe - Fire Department
 Rod Schluter – Vancouver Coastal Health Region
 Chris Murdy - Murdy McAllister
 Andrew Upper - Integrated Land Management Bureau