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Hot Coffee by Sam Lightman

'I knew it wasn't a done deal'—McLeod

Rejection of the proposal by the Salt Spring Coffee Company (SSCC) to rezone 1501 Fulford-Ganges Road from rural-residential to commercial (C6) continues to reverberate across Salt Spring and throughout the Gulf Islands.

Feelings about the issue both pro and con are strong, and Salt Spring's Islanders for Self-Government (SSISG) has been using it to fuel the flames of discontent with local government. Their latest move was a July 4 event on Salt Spring in support of a demand for a review of the *Islands Trust Act*. Among those on the speaking agenda was Mickey McLeod, CEO of Salt Spring Coffee.

McLeod has vowed to move his operation to Vancouver. 'Vancouver embraces us, they really want us,' he said in an interview at the end of June, 'We almost had a deal, but it crumbled this week.'

So it now appears that his original intention to move SSCC to Vancouver by the end of the summer will have to wait until another Mainland property can be located. 'Certainly we'll do it before the end of the year,' he says. The company's Ganges café will, of course, remain.

Surprising Agreement

There is surprising agreement between McLeod and the current Local Trustees, George Ehring and Christine Torgrimson, about the details of the matter. But two questions keep recurring for which no clear answers have been forthcoming: why did McLeod choose that particular Salt Spring property; and why did the Trustees allow the process to drag on as long as it did when the question of the rezoning of that particular property was so controversial?

McLeod sidesteps the first question. 'Mr Ehring told us there were three things we could do: buy an already appropriately zoned piece of property, but there was nothing available; lease a property from someone who had already got his property rezoned; or apply for rezoning, which everyone has the right to do.'

McLeod says he tried the first two options and came up empty. Then he found 1501 Fulford-Ganges Road. 'We talked to the trustees [Ehring and Peter Lamb at the time],' he says. 'We talked to Mac Fraser, the Trust's Director of Planning in Victoria. Told him the plan, where and when. He didn't say 'go' but he sort of gave us a nod, because he said the Trustees wanted us to stay and would help.' But McLeod never revealed why he chose that particular property, on the edge of an environmentally sensitive area, in a quiet rural neighbourhood. It apparently never occurred to MacLeod to consult with the neighbours before he bought the property, and no one seems to have suggested it.

On the subject of support for the coffee company's proposal, however, Ehring concurs. In his statement on the rezoning application, he says, 'I've spent far more time on this than on any other single application that I've ever had to deal with in my nearly four years as a trustee—because it is no secret that I would like this project to succeed. I hope it does.'

It didn't succeed, at least not at 1501 Fulford-Ganges Road. McLeod is not amused. 'I'm totally fine with 'no' or 'yes', he says. 'I'm not fine after 18 months and \$200,000.'

Read the OCP

Many years ago, when Linda Adams was the only planner here, she told the Advisory Planning Commission (APC) that she was dealing with something like one application a week from would-be rezoners who walked into the Trust office with some exciting new proposal. 'I'd give them a copy of the Official Community Plan (OCP) and tell them to go away and read it,' she said at the time. Few ever returned.

So what happened this time? If McLeod selected a totally inappropriate property to hang the local fate of his company on, what took the trustees so long to reject it?

Some delay is attributable to the intervention of an election right in the middle of the process. Two of the three

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trustees were new faces at the table, and to this application.

But more importantly, no one—not the Trust, not the Advisory Planning Commission, not all the people and agencies who were peripherally involved, and certainly not the company principals—wanted to see the Salt Spring Coffee Company located anywhere but on Salt Spring Island. (Disclosure: this writer was a member of the Advisory Planning Commission when the coffee company's application came before it.)

The company is seen as a desirable 'green' business, and the jobs it provides create a powerful incentive to local government to cooperate in keeping it happy—and on Salt Spring. This is commonplace everywhere in the world, as any jurisdiction which has ever competed for the location of a new factory can attest.

But a zoning change takes the form of an amendment municipal bylaw, and there is this other bylaw—the OCP—with so many subsections standing in the way of the application. Trustee Torgrimson did a review of the OCP and found more than a dozen different sections that militated against approving the application, and only one or two that supported it. It is worth noting that the OCP is a community-developed document; hundreds of residents were involved in its development and subsequent reviews, and it endured several public hearings and revisions before its passage.

The Islands Trust's planners and the trustees tried to find ways to mitigate the negativity of the community towards this proposal as expressed in the OCP. Hoping to provide some clarity, they requested more studies and the coffee company complied and provided them. The Trust also commissioned one of its own.

In addition, the company risked a substantial amount of money on architectural designs for its new headquarters, believing it would eventually get to build the structure. It all added up to that \$200,000 McLeod alluded to, but what proportion of it was related to Trust demands is still unclear.

Complications

The complications surrounding approval of this proposal kept mounting as more objections surfaced. Two in particular were onerous:

- odour control, and enforcement of compliance; and
- spot zoning, where neighbourhoods that believe themselves safe from objectionable development suddenly discover they aren't.

Regarding the first, McLeod is adamant he can avoid odour problems. Regarding his Vancouver proposal, he says, 'We're 100% in compliance with Vancouver's emission standards.' But the nose is a lot more sensitive than the best instruments available, and people's noses are seriously offended by the odours emitted by the coffee roasting process. Ehring: 'We have visited a number of other coffee-roasting operations. They are modern, efficient plants, and they all smell.'

Admittedly, when Ehring visited the SSCC's Richmond operation, he detected no smell. But an article in the *Richmond Review* on May 21, 2010 quotes a nearby businessman with a different experience. '...Darryl Segal, president of International Cosmetics, questions Salt Spring Coffee's commitment to Mother Nature... He said he, his father, and their employees have been subjected to headache-inducing, foul-smelling fumes and bone-rattling noise from the first, since it moved in 16 months ago.'

McLeod scoffs at the complaint. 'Segal couldn't prove anything,' he says. 'He and [Salt Spring's] Friends of Ford Lake were trying to squash the thing at both ends, the elite at Ford Lake and the neighbours.' He reiterates his compliance with Vancouver emission standards.

Nevertheless, the argument about odours rages on. What represents an objectionable odour? If you prohibit it, how do you measure it, and how do you enforce compliance?

Four to One Against

But it isn't only the OCP that seems to be weighted in opposition to the proposal. At the August 2009 Local Trust Committee meeting, Torgrimson noted, 'In the last month alone, I received over one hundred letters and comments, and they ran four to one against the application. But this is not a popularity contest. It is an important land use matter...'

By the time the Trustees pulled the plug on the proposal, they had in their hands recommendations for some 17 covenants to be placed on the property in order to make it less objectionable to the surrounding neighbours and the wider community. The sheer weight of enforcement issues alone would have made the whole proposal unworkable.

So the Trustees came down with what is essentially a conservative decision—not to approve a 13,000 square-foot coffee roasting plant, educational facility, greenhouses and farmgate sales facility; with an indeterminate number of employees, parking area, lighting, numerous customers,

visitors, and deliveries; and the attendant potential for sprawl, odours, and impact on that quiet rural neighbourhood.

Had they done otherwise, two immediate consequences were likely: the precedent would have immediately brought other applicants to the Trust's doorstep with similar rezoning proposals and strong cases; and complaints about the sanctity of Salt Spring's rural way of life and the potential for its disruption would have been long and loud. In this respect, the Salt Spring Coffee Company's proposal clearly put the Trustees in a no-win situation.

The Heart of the Matter

Spot zoning considerations go to the heart of the Trust Object, the 'preserve and protect' mandate. Should a property be rezoned to a new level so that previously prohibited activities can take place there? If so, under what circumstances?

Jobs and economic diversity remain important factors in the Trust's consideration of rezoning applications. But clearly, with the Islands Trust mandate as its touchstone, they cannot be the overriding concern.

At the end of a long and thoughtful analysis of the entire proposal, Torgrimson summed up her concerns last July. 'When SSCC purchased these lands they knew the zoning did not meet their need and they decided to take the risk,' she wrote. 'I encourage them to go back to the drawing board and find another property on SSI. They are a great business, and I want to see them nestled into a site with fewer conflicts. If they truly love the island, treasure their Salt Spring Island brand, care about their island workers and families and are sincerely committed to doing the right, green thing in as many ways as possible, they will work to find another property here that is more suitable to their needs and desires and more compatible with the nature of that particular place on the island.'

One question remains: can the folks who are so outraged at the rejection of SSCC's rezoning application come up with a suitable property for the company that the neighbours will embrace and the Trust can accept?

After all, McLeod hasn't found his Vancouver property yet. It's not a done deal.✍

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