

Sunshine Coast Conservation Association (SCCA)
and
Friends of Gospel Rock Society (FoGRS)

April 29, 2020

Trails for Block 7 in the
Gospel Rock Neighbourhood Planning Area:
History, Perspective and Explanations

Executive Summary

The green space lands on Block 7 of the Gospel Neighbourhood Plan (above and below Gower Point Road) have a rare and highly sensitive ecology. The idea of a covenant for these lands is primarily for the purpose of protecting this ecology while maintaining the public's traditional access.

By late July of last year, The SCCA, FoGRS, The Land Conservancy (TLC) and the owners, represented by MODUS, had tentatively agreed on an approach to trails that did not degrade sensitive habitats or deny reasonable public access. Subsequently, there was an unfortunate lack of communication between our organizations and the Town of Gibsons. Recently we were informed that the Town had required (in a development agreement) the owner to build a multi-use trail for pedestrian and bike traffic through extremely sensitive ecological habitat directly above Gower Point Road.

We are appearing before Council today to ask Town Council to amend the development agreement such that there will be foot traffic but no mechanical traffic through the covenant area. In a meeting on April 2, 2019, about the Town becoming a partner in the covenant, CAO Emanuel Machado said:

“The SCCA are the experts, Town will take your lead on the covenant.”

That's what we are doing here today: giving advice on maintaining the ecological integrity of the Gospel Rock covenant area based on our experience as a charity holding ecological covenants.

Introduction

The Friends of Gospel Rock Society (FoGRS) have a long history of engaging on development issues at Gospel Rock, particularly Block 7. In 2005, the Town initiated a public neighbourhood planning process for this area. FoGRS asked the SCCA for assistance going through this process. I was the SCCA's Executive Director at the time and this task fell to me. In this brief paper I will outline how we came to be working on a covenant with the owners and particularly with Modus, the owner's consultants. As well, this paper will outline the intentions for public access and trails that the SCCA, FoGRS, TLC and Modus (with the support of the owner) agreed on.

Public access

The SCCA and FoGRS have always supported public access to Block 7. We believe, and have confirming legal advice, that where private owners have tolerated public access over time, a new owner does not necessarily have the right to bar established public access. This is not in dispute at the moment but we want it clearly understood that barring public access has never been our intention.

The Tetrahedron experience

The public process that created Tetrahedron Provincial Park (TTP) and guides the park management process has had a major influence on how we think about trails at Gospel Rock.

The Tetrahedron Park was created to preserve ecological features, protect the region's most important water source area and maintain low-impact recreation while also considering hazards to public health and safety.

How to integrate these 'conflicting' purposes

Trails are the answer, not the problem. Trails are designed to confine people into small areas while keeping them away from danger and out of hydrologically or ecologically sensitive terrain. The park also has four overnight cabins and this allows managers to prohibit random camping, and thereby enhance public safety while reducing ecological and hydrological risks from recreational users.

These strategies have been efficient and not controversial. This is the experience that we brought into the conversations with Modus about the trail plan for Block 7. As it turned out, Modus consultant Edward Porter was thoroughly familiar with these concepts.

Working with Modus

In the beginning, Modus approached us (and others) in a series of meetings where they presented the owner's vision to protect the green space of Block 7. We brought forward our vision of a covenant to make protection of the green spaces permanent. The owner agreed and so Edward Porter and I began searching for a second partner in the covenant. The idea was that the SCCA would be the on-the-ground partner coordinating annual inspections and general monitoring, while the second partner would provide expertise in drafting the covenant agreements and handling the cash and be available if the covenant were ever to be challenged in a court of law. Eventually, we invited The Land Conservancy (TLC) to consider being a partner in holding the covenant. Much later, the Town also expressed an interest in being a partner in holding the covenant, which we also agreed to.

Working with TLC

There are several considerations that TLC needed to make before they could commit to being co-covenant holders: does the land have ecological value? Will the public appreciate an ecological covenant on the land? After a review of the scientific information (see below) TLC determined that the first criteria were met. TLC then proceeded to review the history of the public's engagement in the Gospel Rock Neighbourhood Plan process and all of the SCCA's documentation as well. Subsequently, TLC agreed to begin negotiating the covenant agreement with us (the SCCA and its member group FoGRS) and the owner.

Getting close to closing the covenant agreement

By late July 2019 the covenant agreement was very close to final draft approval. Only a few details from 'lawyer land' and also the issue of the trail map remained. At that point, the SCCA, FoGRS and TLC agreed that the trail layout needed to be "light touch". We had been clear from the start that mechanized travel in the covenant area was not acceptable. Inquiries were made to the owner and he indicated that he was not concerned or opposed to our views about the layout of the trails.

An email from Edward Porter (Modus)

On July 28, 2019 Edward sent an email to all parties in which he warned the Town that proceeding with a multi-use trail built for bicycle traffic could easily result in the loss of a partnership and "all that it stands for". He drew attention to the fact that the covenant holders had consistently objected to mechanized traffic in the covenant area. He also outlined a way for the development agreement to go forward without having to first resolve the issue of the different visions for a trail network. It appears that the Town

decided to ignore Edward and the TLC and the SCCA (and the SCCA's member group FoGRS).

At a meeting of Town staff, Mayor, one Councilor and representatives of SCCA, FoGRS, and TLC on February 27 of 2020, we were presented with a trail map. The map requires, as part of the development agreement, the land owner to build a trail for bicycles and hikers across the covenant area and through highly sensitive habitat.

Edward's entire email is provided in an Appendix A. Here is the most salient point in this email;

"At this point I would emphasize that: 1) time is of the essence; and 2) the development agreement does not require the conservation partner and can proceed with a no build covenant in its place. I reiterate this last point because - **after so much hard work together - I don't want to lose this partnership opportunity...and all it stands for.** " [bold is mine, DB]

An awkward position

Having two (or three) covenant holders is a standard feature of eco-covenants: one party is the local "eyes and ears" of the covenant and the other party has the financial resources and legal expertise to defend a covenant if such were ever to be necessary. If TLC were to withdraw from this project, on the grounds that the covenant agreement fails to genuinely protect the ecological assets of the site, the SCCA would not be able to continue without them. Also, if this covenant is established it will mean that the SCCA is committed to many volunteer hours every year indefinitely. We can't make this commitment if the other parties are less than genuinely committed to ecological preservation of the covenant area.

As mentioned previously, the Town approached us asking to be a partner in the covenant. We discussed this at a meeting with the Mayor and some Town staff on April 2, 2019. It was clearly stated at this meeting that all activities in the covenant lands need to be viewed through the lens of maintaining the ecological integrity of the land. There was no disagreement and so we agreed to the Town's request to become partners in the covenant.

A quick review of Gospel Rock history

Block 7 became controversial about 1990 when Town citizens successfully obstructed drilling and blasting of the Rock itself. FoGRS successfully opposed several 'monster house' estate development schemes until 2005 when the Town initiated a neighborhood planning process. This process went on for many years but finally concluded (without much controversy) in

2013. The current deal is basically half for development and half for nature. Three conservation organizations and the property owner had reached a common understanding last summer which is now threatened by the Town's imposition of mechanical transportation in the covenant area. Wouldn't you agree that it's time to join with us in gaining a genuine conservation covenant agreement?

Viewed in the simplest possible way, this is a problem that can easily be fixed. The development agreement can be amended to not require provision for bicycle traffic in the covenant area. This would also be a good step toward a better relationship between the covenant partners and the Town as we go forward with development on Block 7.

Thank you for your attention to this matter.

Daniel Bouman, Chair
Friends of Gospel Rock Society

Appendix A: Email from Edward Porter, Modus

From Edward Porter edward.ca@thinkmodus

To carmstrong@conservancy.bc.ca

Lesley-Ann Staats

Yijin

Daniel Bouman

Jessica@thinkmodus.ca

Robert Barrs

July 18, 2019 5:18 pm

Hello All - having received no response from this distribution regarding the last email reply and trail plan revisions, I am sending this note as a reminder/to confirm that we need to advance the trail plan as a part of the covenant and PLA.

ToG can please respond to this email indicating that the trail plan is satisfactory as the last remaining component of the Town's park plan and particularly as related to Town park land and plan principles;

JYWA can please respond indicating that the trail plan satisfies the developer with respect to neighborhood amenity and pedestrian connectivity within the neighborhood; and,

TLC/SCCA please respond indicating that the trail alignments have been sufficiently revised/minimized within the greenbelt lands so as to proceed with the covenant registration. (Discussion re: pedestrian facility within the Gower Point Rd public ROW is beyond the scope of this specific process)

At this point I would emphasize that: 1) time is of the essence; and 2) the development agreement does not require the conservation partner and can proceed with a no build covenant in its place. **I reiterate this last point because - after so much hard work together - I don't want to lose this partnership opportunity...and all it stands for.** [bold mine-DB]

If there are outstanding issues, please respond in detail and in a timely manner and we will do so in kind. We're standing by to assist.

Best regards,

Edward

Appendix B Ecological documentation.

In the Province's *Biogeoclimatic Ecological Classification* system (BEC), Block 7 is classified as Coastal Western Hemlock Zone and is in the *extra-dry maritime* Sub-zone (CWHxm) . Approximately half of this subzone has been converted to non-forestry uses: residential, industrial and agricultural. The other half is mostly timber harvesting land base and has been or will be extensively logged. (*Green and Klinka, A Field Guide to Site Identification and Interpretation for the Vancouver Forest Region* and *FLNRO&RD: Chapman Landscape Unit Plan*). *Site Types*. The specific site types for the ecology of the Block 7 side hill and waterfront are numbered as 02 (rocky, dry with a poor nutrient regime) and 03 (rocky, dry with medium nutrient regime). These site types are naturally rare, fragile and sensitive to disturbance. Douglas Fir is the pioneer species in this ecology. There are major components of *Arbutus* as well (Ibid).

Letters. Thomas Plath, BC Ministry of the Environment Non-game Wildlife Biologist, to Town of Gibsons, June 25, 1995 and October 12, 1995. Plath asked the Town to establish a protective covenant over the forests above and below Gower Point Road. (These letters are in the Town's archives.)

Letter. Carmen Cadrin, BC Conservation Data Center, CDC Program Ecologist, to Daniel Bouman, June 24, 2010. Submitted to the Gospel Rock

Neighbourhood Plan process. In this letter Cadrin describes the Sensitive Ecosystem Inventory (SEI) process and states that this process identifies the mature forest of Block 7 as *Sensitive Ecosystem*. She also explains that the BC CDC has recorded the occurrence of two Red-Listed (Imperiled) ecological communities. One is located above Gower Point Road and the other is below the road. In both of these designations, removal of vegetation is not recommended. This letter is on the SCCA website https://www.thescca.ca/documents/CDC_Response.pdf and was submitted to the GRNP process.

The BC Ministry of Environment Ecosystems Branch has developed a Conservation Framework (<http://www.env.gov.bc.ca/conservationframework/>) to assist in prioritizing species and ecosystems most in need of conservation action, and recommendations for the most needed conservation actions. Both of the above ecosystems are identified as Priority 2 (out of 6 classes) with recommended actions including Private Land Stewardship, Ecosystem Protection, Planning, Inventory and Monitoring.

The SCR D's *Habitat Atlas – Community Mapping Network* recognizes Block 7 (sidehill above and below Gower Point Road) as ecologically valuable and sensitive to disturbance. (www.cmnbc.ca)

Additional Information available on the SCCA website Gospel Rock page.

www.thescca.ca



Sea Blush blossoms, 4/2019, TLC



Fawn lilies above road



Gower Point Rd with fawn lilies in bloom in moss above rock



View up hill from Gower Point Rd showing sky between trees at top