



**HORNBY ISLAND
LOCAL TRUST COMMITTEE
AGENDA**

Revised – May 17, 2011

AGENDA
Business Meeting
Wednesday, April 27, 2011 at 12:15 pm
in the Hornby Island Community Hall
Central Road, Hornby Island, BC

		<i>Page No.</i>	<i>Approx. Time</i>
1.	CALL TO ORDER		12:15 pm
2.	APPROVAL OF AGENDA		
3.	MINUTES		
3.1	Local Trust Committee Meeting Minutes dated March 23, 2011– <i>for adoption</i>	1-12	
3.2	Local Trust Committee Special Meeting Minutes dated March 29, 2011– <i>for adoption</i>	13-15	
3.3	Local Trust Committee Community Information Meeting Notes dated April 2, 2011– <i>for receipt</i>	16-33	
3.4	Local Trust Committee Community Information Meeting Notes dated April 4, 2011– <i>for receipt</i>	34-44	
3.5	Local Trust Committee Community Information Meeting Notes dated April 6, 2011– <i>for receipt</i>	45-52	
3.6	Section 26 Resolutions Without Meeting Log dated April 18, 2011 – <i>for information - attached</i>	53	
3.7	Advisory Planning Commission Minutes - <i>none</i>		
4.	BUSINESS ARISING FROM MINUTES		1:00 pm
4.1	Follow-up Action List dated April 18, 2011 – <i>attached</i>	54-56	
5.	CORRESPONDENCE <i>“Correspondence specific to an active development application and/or project will be received by the Hornby Island Local Trust Committee when that application or project is on the Agenda for Consideration”</i>		
6.	TRUSTEES’ REPORT		
7.	CHAIR’S REPORT		

8. DELEGATIONS

9. TOWN HALL SESSION

10. APPLICATIONS AND PERMITS

- 10.1 HO-RZ-2009.2 Hornby Island Resort Ltd.
Staff Report dated April 27, 2011 - *attached*
- 10.1.2 Proposed Bylaw No. 141 cited as "Hornby Island Land Use Bylaw No. 86, 1993, Amendment No. 1, 2010." – *attached for information* 57-59
- 10.2 HO-DVP-2011.1 (Wai and Van Gelder -) 60-65
Staff Report dated April 7, 2011 - *attached*
- 10.3 HO-DVP-2011.2 (Costello) 66-72
Staff Report dated April 7, 2011 – *attached*
Compilation of Correspondence received from April 18 to April 26, 2011

11. LOCAL TRUST COMMITTEE PROJECTS

2:30 pm

- 11.1 HO-OCP-2009.2 Vacation Home Rental – *update and discussion*
- 11.1.1 Compilation of Correspondence to April 18, 2011 - *attached* 73-253
- 11.2 HO-OCP-2009.1 – Draft Official Community Plan – *update and discussion*
- 11.2.1 Compilation of Correspondence from March 18 to April 18, 2011 254-326
- 11.3 HO-LUB-2011.1 – Land Use Bylaw Review – *work program discussion*

12. REPORTS

3:30 pm

- 12.1 **Strategic Plan for Local Trust Committees** (updated April 4, 2011) - *attached* 327-342
- 12.2 **Work Program Reports**
Top Priorities Report and Projects List Report dated April 18, 2011 - *attached* 343-344
- 12.3 **Applications Log**
Report dated April 18, 2011 - *attached* 345-348
- 12.4 **Trustee and Local Expenses**
- 12.4.1 Expenses posted to February 23, 2011 - *attached* 349
- 12.4.2 Expenses posted to March 22, 2011 - *attached* 350

13. NEW BUSINESS

- 13.1 Letter dated March 3, 2011 to Hornby Local Trust Committee from Sheila Malcolmson, Chair of Islands Trust Council regarding Food Security in the Islands Trust Area and Report - *for information and discussion* 351
- 13.2 Annual Meeting with Ministry of Transportation and Infrastructure and Emcon Services
- 13.3 Climate Change Communications
- 13.4 Trust Council Request to Local Trust Committees and Bowen Island Municipality - Working Sheet for Regional Conservation Plan Goals - *attached* 352-355
- 13.5 Comox Valley Regional District and Islands Trust Protocol Agreement – Staff Memorandum dated April 15, 2011 - *attached* 356-361
- 13.6 Memorandum from Nuala Murphy regarding Information Item for Proposed Natural Area Protection Tax Exemption Program (NAPTEP) Covenant on the Howard Property - *attached*
- 13.7 Memorandum from Nuala Murphy regarding Information Item for Proposed Natural Area Protection Tax Exemption Program (NAPTEP) Covenant on the Tsurumi Property - *attached*

14. BYLAWS - *none*

15. ISLANDS TRUST WEBSITE

15.1 Hornby Page - *attached* 362-364

16. NEXT BUSINESS MEETING DATE

Wednesday, June 1, 2011 at 12:15 pm in In the New Horizons
1765 Sollans Road, Hornby Island, BC

17. ADJOURNMENT

4:30 pm

*Approximate time is provided for the convenience of the public only and is subject to change without notice.

**MINUTES OF THE HORNBY ISLAND LOCAL TRUST COMMITTEE
BUSINESS MEETING
WEDNESDAY, MARCH 23, 2011 AT 12:15 PM
AT NEW HORIZONS
1765 SOLLANS ROAD, HORNBY ISLAND BC**

PRESENT:	Louise Bell	Chair
	Fred Hunt	Local Trustee
	Tony Law	Local Trustee
	Brodie Porter	Island Planner
	Vicky Bockman	Minute Taker

There were thirty-five (35) members of the public in attendance.

1. CALL TO ORDER

Chair Bell called the meeting to order at 12:21 pm. She introduced the Local Trustees, Island Planner and Minute Taker and acknowledged that this meeting is being held in the traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The following items were added to the agenda:

Correspondence regarding Short Term Vacation Rentals:

- Item 5.8, Email dated March 16, 2011 from Helen Grond
- Item 5.9, Email dated March 16, 2011 from Russel Roy
- Item 5.10, Email dated March 17, 2011 from Stephen McGrath
- Item 5.11, Email dated March 18, 2011 from Patrick Lavin
- Item 5.12, Email dated March 18, 2011 from Walt, Jane, Gord, Jake, Krissy Kamlade
- Item 5.13, Email dated March 17, 2011 from Elspeth Armstrong
- Item 5.14, Email dated March 17, 2011 from Frances Millan
- Item 5.15, Email dated March 17, 2011 from Barbara Baird
- Item 5.16, Email dated March 17, 2011 from Karen Ross
- Item 5.17, Emails dated March 19, 2011 and March 22, 2011 from Randy Wunderlich
- Item 5.18, Email dated March 22, 2011 from Judi Stransman
- Item 5.19, Email dated March 21, 2011 from Tina and Wayne Wai
- Item 5.20, Email dated March 21, 2011 from Robert Gee
- Item 5.21, Email dated March 21, 2011 from Gina Rae
- Item 5.22, Email dated March 20, 2011 from Nola and Andrew Jackson
- Item 5.23, Email dated March 20, 2011 from Karin Ristau

- Item 5.24, Email dated March 20, 2011 from Christian Weixelbaumer
- Item 5.25, Email dated March 19, 2011 from Dianne Cox
- Item 5.26, Email dated March 20, 2011 from Dale Chase
- Item 5.27, Letter dated March 20, 2011 from John and Doreen Cooper
- Item 5.28, Email dated March 19, 2011 from Margaret Sinclair
- Item 5.29, Email dated March 19, 2011 from Elena Feder
- Item 5.30, Email dated March 19, 2011 from Michelle Easterly
- Item 5.31, Email dated March 19, 2011 from William Thomas
- Item 5.32, Letter dated March 17, 2011 from Joyce Denton

Other additions to the agenda:

- Item 11.2, Staff Report dated March 21, 2011 regarding Short Term Vacation Rentals
- Item 11.3, Staff Report dated March 21, 2011 regarding Hornby Island OCP Review
- Item 11.4, *Community Information Meetings of April 2, April 4 and April 6, 2011 – discussion of process*

The agenda was approved as amended by consensus.

3. **MINUTES**

3.1 *Local Trust Committee Meeting Minutes dated February 18, 2011*

The minutes were amended as follows:

1. Page 5, Item 9, Paragraph 5, Second line: Change text from “Local Trust Committee can hear new facts, however, cannot hear opinions.” to “Local Trust Committee cannot hear new facts and cannot hear opinions.”
2. Page 5, Item 9, Paragraph 8: Change text from “meeting” to “hearing”
3. Page 3, Item 6, Paragraph 1: Change text to: “Trustee Hunt reported that he and Trustee Law were observers at a meeting of Planner Porter, Bylaw Enforcement Coordinator Drew and community members interested in short term vacation rental issues. He was impressed with the information that was exchanged.”
4. Page 3, Item 6, Paragraph 2, Second sentence: Change text to: “He noted that Margaret Sinclair, island archivist, is willing to take part and that the filmmakers have been advised Andrea Lebowitz is presently organizing Hilary Brown’s papers.”
5. Page 8, Item 11, Paragraph 3: Change text from “questions in community meetings regarding” to “questions in the community regarding”
6. Page 10, Line 1: Change text from Trustee Law and staff for” to “Trustees Law and Hunt, and staff for”

7. Page 13, Item 12.2, Line 3: Insert "completing work on" after "Review prior to"
8. Page 1, Item 2, Third bullet: Insert "from Nicky Johansen" between "Email" and "received as late"
9. Page 2, Item 3.2, Paragraph 3, Line 1: Change "Michelle" to "Michele"
10. Page 4, Item 7, Line 7: Change text to: "She also reported that the Financial Planning Committee had passed a resolution..."
11. Page 9, Last Paragraph, Line 1: Change text to: "Trustee Hunt said that he recognized the importance..."
12. Page 10, Paragraph 1, Line 2: Change "community" to "committee"
13. Page 11, Item 11.2, Second bullet: Remove "please"
14. Page 11, Item 11.2, Fourth bullet: Delete "The Local Trust Committee requested"
15. Page 10, Resolution HO-002-2011: Correct by a resolution

- HO-013-2011** It was **MOVED** and **SECONDED** that the minutes of the February 18, 2011 meeting of the Hornby Island Trust Committee be amended as follows:
1. by deleting the words "DEFEATED, Chair Bell and Trustee Law opposed" after HO-002-2011 on page 10;
 2. by replacing the text near the top of page 11 that reads "The final wording of the amended Motion is as follows;" with "The vote was called on Resolution HO-002-2011 as amended, the final wording being as follows:"
 3. by deleting "**HO-005-2011**" on page 11; and
 4. by changing the numbering of all subsequent resolutions in the remainder of the minutes, starting with the first resolution on page 12, which changes from HO-006-2011 to HO-005-2011.

CARRIED

The minutes were adopted as amended by consensus.

3.2 *Section 26 Resolutions Without Meeting Log dated March 15, 2011*

Received.

3.3 *Advisory Planning Commission Minutes*

None.

4. **BUSINESS ARISING FROM MINUTES**

4.1 Follow-up Action List dated March 15, 2011

Planner Porter presented the Follow-up Action List with updates.

5. **CORRESPONDENCE**

5.1 *Letter dated February 21, 2011 to School District No. 71 Board from Louise Bell, Local Trustee regarding Bussing School Children from Denman Island*

Received.

5.2 *Email dated February 24, 2011 from Michael Berman regarding Short Term Vacation Rentals*

Received.

5.3 *Letter dated February 28, 2011 from Doug Christie regarding Short Term Vacation Rentals*

Received.

5.4 *Email dated March 2, 2011 from Walter and Jan Kamlade regarding Short Term Vacation Rentals*

Received.

5.5 *Email dated March 3, 2011 from Bob Henderson regarding Short Term Vacation Rentals*

Received.

5.6 *Email dated March 4, 2011 from Wayne Wiens, Andrea Lebowitz, Charles Western and Phyllis Western regarding Short Term Vacation Rentals*

Received.

5.7 *Email dated March 12, 2011 from Wendy Edwards regarding Short Term Vacation Rentals.*

Received.

Received as Late Correspondence regarding Short Term Vacation Rentals:

5.8 *Email dated March 16, 2011 from Helen Grond*

5.9 *Email dated March 16, 2011 from Russel Roy*

5.10 *Email dated March 17, 2011 from Stephen McGrath*

5.11 *Email dated March 18, 2011 from Patrick Lavin*

5.12 *Email dated March 18, 2011 from Walt, Jane, Gord, Jake, Krissy Kamlade*

5.13 *Email dated March 17, 2011 from Elspeth Armstrong*

5.14 Email dated March 17, 2011 from Frances Millan
5.15 Email dated March 17, 2011 from Barbara Baird
5.16 Email dated March 17, 2011 from Karen Ross
5.17 Emails dated March 19, 2011 and March 22, 2011 from Randy Wunderlich
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5.30 Email dated March 19, 2011 from Michelle Easterly
5.31 Email dated March 19, 2011 from William Thomas
5.32 Letter dated March 17, 2011 from Joyce Denton

Trustee Law requested that the correspondence regarding Short Term Vacation Rentals received to date and up until April 18, 2011 be consolidated and presented to the Local Trust Committee at the April 27, 2011 meeting.

The Trustees thanked all those who corresponded.

6. TRUSTEES' REPORT

Trustee Hunt reported on the Future of Farming workshop that he attended last week. The workshop, organized by the Hornby Island Community Economic Enhancement Corporation, was well attended and very informative. He noted that MLA Don McRae has been appointed to the Provincial Cabinet as Minister of Agriculture and extended his congratulations to him. Mr. McRae has made himself available for informal discussions on Hornby, stating that he hopes to meet again in June or September to expand upon items of interest.

Trustee Hunt said he met with John Snyder of Coalwatch, discussing the proposed Raven Coal mine and community process. He also reported that he attended a Trust Council meeting on March 8-10, 2011 which was mainly focused on the budget.

For the information of the public attending today's meeting, Trustee Hunt read out the names of the writers of the six pieces of correspondence which were included and received as a part of the agenda.

Trustee Law reported on his work as a member of the Comox Valley Regional District Committee on Homelessness and Housing, stating that the work will be extended for another three months. Additionally, he stated he has been involved with the working group of the environment assessment process for Raven Coal mine and reported there will likely be public meetings in the spring or fall which will be well publicized.

Trustee Law provided British Columbia Ferries repair and service updates. He said that at the end of this month the British Columbia Ferry Commissioner will make recommendations for provisional price caps with funding and service decisions provided in a report by the end of June. He stated it is important to watch for this report and to advise MLA Don McRae of concerns.

7. CHAIR'S REPORT

Chair Bell reported on the Trust Council meeting this month on Galiano Island and provided information regarding results of the public consultation period held prior to that meeting. She reported that in response to those results the Islands Trust budget for 2011-2012 retained the Trustee remuneration at a slighter reduced level and set the property tax increase at just 1%.

Chair Bell commented on a presentation of MapIT that was made at a Trust Council meeting. She reported that this is a comprehensive interactive program which will allow the public to obtain information on any property within the Trust area, and it should be available in April.

Chair Bell reported that she attended two Executive Committee meetings in the past month and stated that members of the Executive Committee will be attending the annual Association of Vancouver Island and Coastal Communities conference in April.

8. DELEGATIONS

None.

9. TOWN HALL SESSION

Chair Bell prefaced the Town Hall Session by stating that this is an opportunity for the Local Trust Committee to hear constituents' views. She said that the Local Trust Committee will be working further on the approach to Short Term Vacation Rentals and feedback from this session will be included in three planned Community Information Meetings on this subject scheduled for April 2, 2011 on Hornby, April 4, 2011 in Vancouver and April 6, 2011 in Victoria.

Dale Chase asked if the Temporary Use Permits would, in fact, be less costly and if the process would be streamlined. He also inquired as to how many Short Term Vacation Rental complaints were actually received last year.

Chair Bell advised that the Local Trust Committee realized there were discrepancies between the Official Community Plan and Land Use Bylaw starting in 2002 and that the matter is being looked at from a planning point of view, not from a complaint standpoint.

Trustee Law responded that the bylaw relating to Short Term Vacation Rentals has not been enforced while the issues are being sorted out. He stated that information on the proposed Temporary Use Permit cost and process will be presented at Community Information Meetings which will be held in April.

Kevin Woods expressed his view that the economic effect of reducing Short Term Vacation Rentals would negatively impact the island artisans and operators. He stated that he doesn't feel represented in this process.

Donna Tuele stated the Residential zoning on Hornby should be refined to allow Short Term Vacation Rentals as that zone was originally intended to accommodate them.

Helen Grond said that in her view there has been poor planning in the proposed Short Term Vacation Rental process, with no reports or studies completed as to what the effects of the proposed approach would be. She expressed her belief that this needs to be done.

Stephen McGrath commented that the Island Trust's mandate "to preserve and protect" also means to preserve and protect the economics of the island by not decreasing the economic viability. He said the constituency needs to be heard.

Katherine Ronan recalled that in the 1980's when she was a member of the Advisory Planning Commission, it was felt that it was better to accommodate off-island guests in locations around the Island rather than concentrating them into large hotels or resorts and that was reflected in the Official Community Plan at that time.

Karen Ross stated that this is an opportunity to show leadership and to treat Hornby differently than other islands. She said that a local group has been working to address possible solutions to the Short Term Vacation Rental issue and she asked the Local Trust Committee to consider the suggestions of this group.

Michelle Easterly said that she does not favour the Temporary Use Permit approach. She said a new working group, tentatively named Hornby Island

Home Rental Association, is currently seeking input from the community about home rental complaints and compliance.

Barbara Baird distributed a hand out on the Hornby Island Rental Association. She stated this could be a framework that addresses Short Term Vacation Rental concerns such as water use, density and long term renting. She is hoping the Local Trust Committee will consider a limited legalization of Short Term Vacation Rentals which is what the group believes the home occupation reference in the Official Community Plan intended to allow.

Judy Cross stated that she had been on the committee that revised the Official Community Plan (OCP) in 2001. At that time it was known that the OCP and Land Use Bylaw (LUB) were not in sync but said they had been assured it would be interpreted in terms of the OCP.

Bob Gee shared his observations and belief that the housing approach, amenity trade offs, increased densities and restriction of Short Term Vacation Rentals are meant to stop the Short Term Vacation Rentals operations.

David Cloud commented that the implementation of the proposed Short Term Vacation Rental policy would negatively impact the island activities that have been fostered such as the festival, co-op and artisans. He questioned the system of elected officials being able to decide on a direction that is not supported by the community.

Planner Porter responded by stating that Islands Trust staff are based in Victoria; however, direction is provided by the Local Trust Committee in conjunction with public consultation and Advisory Planning Commission advice as well as through advice from staff. He stated that the laws of British Columbia, Trust Policy Statement and Islands Trust Act provide a framework on which advice and policy are constructed. He explained the home occupation principal in the Official Community Plan, noting that the current situation does not give the Short Term Vacation Rental operators certainty that the operation can be carried on. Planner Porter said that the Land Use Bylaw crafts the appropriate language in order to give those protections. He stated that the concept of a home rental association could be a valuable forum to voice positions and advance dialog.

Chair Bell encouraged those who are interested in the Short Term Vacation Rental issue to stay to hear more discussion about the Short Term Vacation Rental Enforcement Policy and Draft Official Community Plan/Land Use Bylaw proposals that will be presented later in the agenda. She stated she hopes that prior to the Community Information Meeting on April 2, 2011 the community will look at the materials from today's meeting which will be on the website after today in order to be more informed for that meeting.

10. APPLICATIONS AND PERMITS

10.1 HO-RZ-2009.2 Hornby Island Resort Ltd.

Chair Bell reminded members of the audience and the applicant that there has been a Public Hearing on the two proposed bylaws that address this issue and because it is now post Public Hearing the Local Trust Committee cannot receive any new information on the subject.

Planner Porter presented an overview of the status of the application and the proposed two bylaw amendments that were presented at the Public Hearing. He reported that staff has received communications from members of the community on this matter recently, however staff has not given this information to the Trustees. He advised that the Local Trust Committee can either proceed based on the public representation it has received or can decide if it needs additional discussion by the Local Trust Committee and if so, that would trigger another Public Hearing. Planner Porter outlined possible timeframes and options should that be required.

The applicant stated that he has not changed any development plan details and that he would like to begin construction in September or October, build over the winter and be ready for the summer season. He confirmed that he will be in a position to submit the Development Permit Application soon.

The subject of parking was addressed and it was determined that while some aspects of the parking plan have changed, this will be addressed in the Development Permit Application and does not constitute new information for purposes of requiring an additional Public Hearing.

The Trustees discussed the options of holding another Public Hearing now for further discussion or receiving the details in the Development Permit application process and addressing questions and concerns at that point.

Chair Bell expressed her opinion that she does not believe there is more information that would be sufficiently valuable at this point in the proposal to warrant more discussion. Trustee Law expressed his desire to address the concerns of the public however acknowledged the limitations of being post Public Hearing and stated he does not see much that could be achieved by further discussion at this time. Trustee Hunt stated he prefers to address the questions and issues through the Development Permit Application process rather than through additional discussion and a second Public Hearing.

Chair Bell confirmed that the executed Covenant for the project has been received and will be presented at the next Local Trust Committee business meeting.

Chair Bell recessed the meeting at 2:30 pm and reconvened the meeting at 2:41 pm.

10.1.1 Proposed Bylaw No. 140 cited as "Hornby Island Official Community Plan Bylaw No. 104, 2002, Amendment No. 2, 2010"

Received and discussed earlier in the meeting.

10.1.2 Proposed Bylaw No. 141 cited as "Hornby Island Land Use Bylaw No. 86, 1993, Amendment No. 1, 2010"

Received and discussed earlier in the meeting.

11. LOCAL TRUST COMMITTEE PROJECTS

11.1 HO-OCP-2009.2 Enforcement Policy – Communications Plan

Planner Porter presented an overview of the bylaw enforcement policy adopted at the February 18, 2011 Local Trust Committee Meeting. The Enforcement Policy Communication Plan was not available for presentation in the Bylaw Enforcement Coordinator's absence.

Trustee Law stated he would like Resolution HO-007-2011 to be rescinded as he wants further community consultation prior to consideration of this policy. The Trustees discussed the previously adopted policy and enforcement criteria. Chair Bell said that she sees value to wanting to share this with the community; however, she expressed her opinion that the resolution adopted was a good approach and there has been considerable audience with concerned community members on this issue. Trustee Hunt stated he believes that technically the approach is fine, but that he feels it needs to be reintroduced to the community for discussion prior to going forward. Planner Porter advised that if the resolution is rescinded then the Islands Trust Enforcement Policy will prevail.

HO-014-2011 It was **MOVED** and **SECONDED** that Resolution HO-007-2011 be rescinded.

In discussion it was noted that the number of the resolution being rescinded was changed by Resolution HO-013-2011 earlier in this meeting, therefore a friendly amendment was requested to change the number of that resolution from "HO-007-2011" to "HO-006-2011".

The motion as amended then reads as: "It was **MOVED** and **SECONDED** that Resolution HO-006-2011 be rescinded."

CARRIED
Chair Bell opposed

There was further discussion on enforcement of Short Term Vacation Rentals. Trustee Law requested a resolution that would be simple and clear be moved to address the implementation of the enforcement of Short Term Vacation Rentals.

HO-015-2011 It was **MOVED** and **SECONDED** that no enforcement be carried out on Short Term Vacation Rentals for the rest of this term unless a new Bylaw Enforcement Policy is adopted.

There was discussion on the motion. Planner Porter advised that the motion as put forth would be interpreted that the Bylaw Enforcement Coordinator could not act on any health and safety concern or complaint and there may be legal implications with that approach.

HO-016-2011 It was **MOVED** and **SECONDED** that the Local Trust Committee motion be tabled.

CARRIED
Trustee Law Opposed

Trustee Hunt requested that material that is included in the draft Short Term Vacation Rental Bylaw Enforcement policy HO-006-2011 be included for discussion in the upcoming Community Information Meetings.

11.2 HO-OCP-2009.2 Short Term Vacation Rental Official Community Plan/Land Use Bylaw Draft Bylaw Proposals

Planner Porter summarized the information presented in the Staff Report dated March 21, 2011 regarding Short Term Vacation Rentals. This report includes proposed amendments to the Hornby Island Official Community Plan and/or policies regarding Short Term Vacation Rentals and makes suggestions as to how the Temporary Use Permit process can be streamlined and less expensive. He stated that the draft bylaws will then be presented in the Community Information Meetings for comments and suggestions.

The Local Trust Committee discussed the various issues involved and made several changes to the staff report recommendations. Additionally, Trustee Law recommended that terminology be agreed upon that is consistently used when referring to vacation rentals. It was agreed that the phrase "Short Term Vacation Rental" is to be replaced with "vacation home rental".

H0-017-2011 It was **MOVED** and **SECONDED** that the Hornby Island Local Trust Committee request staff to make changes to the Draft Official Community Plan regarding the subject of Short Term Vacation Rentals as presented in the March 21, 2011 Staff Report and discussed at the March 23, 2011 meeting.

CARRIED

11.3 HO-OCP-2009.1 Draft Official Community Plan Reflecting Recent Amendments

Planner Porter presented the Staff Report dated March 21, 2011 regarding Hornby Island OCP Review. The Trustees discussed the Draft Official Community Plan labeled "Draft for Comment April 2011" and requested several changes to the text.

H0-018-2011 It was **MOVED** and **SECONDED** that the Hornby Island Local Trust Committee request staff to make changes made to the Draft Official Community Plan at the March 23, 2011 Hornby Island Local Trust Committee meeting during discussion of Agenda Item 11.3

CARRIED

11.4 Community Information Meetings of April 2, April 4 and April 6, 2011 – discussion of process

There was a brief discussion about the process involved in the Community Information Meetings which will be held in April, 2011 on Hornby Island, in Vancouver and in Victoria.

The Local Trust Committee agreed by consensus to defer Agenda Items 12 - 16 for another meeting.

17. ADJOURNMENT

Chair Bell adjourned the meeting at 5:35 pm.

Minute Taker

Chair

**MINUTES OF THE HORNBY ISLAND LOCAL TRUST COMMITTEE
SPECIAL BUSINESS MEETING
TUESDAY, MARCH 29, 2011 AT 3:30 PM
AT ROOM TO GROW, HORNBY ISLAND COMMUNITY SCHOOL
SOLLANS ROAD, HORNBY ISLAND BC**

<u>PRESENT:</u>	Tony Law Fred Hunt Brodie Porter	Local Trustee and Acting Chair Local Trustee Island Planner and Recorder (via telephone)
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There was one (1) member of the public in attendance and Hornby Island Local Trust Committee Chair Louise Bell listened by telephone but did not participate in the meeting.

1. CALL TO ORDER

Acting Chair Law called the meeting to order at 3:30 pm. and advised that minutes were recorded via a telephone link,

2. APPROVAL OF AGENDA

The agenda was approved by consensus with the following additions:

- Add 3.2 Official Community Plan Review
- Add 3.3 HO-RZ-2009.2 Hornby Island Resort Ltd.

3. NEW BUSINESS

3.1 Preparations for Upcoming Community Information Meetings

13.1.1 Options to Present at Community Information Meetings

The Local Trust Committee discussed options for the upcoming community information meetings to be held on April 2, 4 and 6th, 2011 regarding Vacation Home Rentals and the review of the Official Community Plan. Discussion focused on community comment about perceptions of the Vacation Home Rental review including:

- Questioning why there is need to change the status quo;
- Options to enhance the status quo; and

- Role of home occupations, bylaw enforcement policy and other policies and regulations in addressing vacation home rentals.

Discussion then focused on presenting information at the upcoming community information meetings on background leading to the current discussions and options to enhance the status quo. A draft information sheet was reviewed and edits suggested. The document was approved by consensus for use at the community information meetings.

HO-014-2011 It was **MOVED** and **SECONDED** that the Hornby Island Local Trust Committee present the following suggested approach to vacation home rentals at the upcoming community information meetings and to solicit comments from the community:

1. to amend the Official Community Plan to better reflect the community's relationship with vacation home rentals while retaining a policy to enable vacation home rentals as a home occupation;
2. to amend the Land Use Bylaw to allow vacation home rentals as a home occupation where a resident is living on the lot;
3. to amend the Official Community Plan and the Land Use Bylaw to include designations and guidelines to enable consideration of temporary use permits for vacation home rentals; and
4. that given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities vacation home rentals that have one or more of the following characteristics will be subject to enforcement:
 - a. where there is a written complaint of a health, safety or nuisance issue;
 - b. where renters are being accommodated other than in a dwelling unit; and
 - c. where more than one dwelling on Hornby Island is being used by the same owner as a vacation home rental.

CARRIED

3.2 *Official Community Plan Review*

The Local Trust Committee reviewed the final edits and by consensus requested staff to identify in the covering Note To Reader that there is a separate discussion process with respect to vacation home rentals. Staff was requested to prepare a clean draft without tracking changes or comment boxes for presentation on the website.

3.3 *HO-RZ-2009.2 Hornby Island Resort Ltd.*

It was noted that Trustees had received some additional information from the public since the public hearing had been held regarding proposed bylaws 140

and 141 and that such information has influenced some of the thoughts of at least one Trustee with respect to proposed bylaw 141. The Local Trust Committee asked staff for further advice on a process with respect to this rezoning application given these circumstances.

4. **ADJOURNMENT**

Acting Chair Law adjourned the meeting at 5:05 pm.

Minute Taker

Chair

**MINUTES OF THE HORNBY ISLAND
LOCAL TRUST COMMITTEE
SPECIAL MEETING
TO HOLD A COMMUNITY INFORMATION MEETING
HELD ON SATURDAY, APRIL 2, 2011 AT 10:30 AM
AT THE HORNBY ISLAND COMMUNITY HALL
CENTRAL ROAD, HORNBY ISLAND BC**

PRESENT:	Louise Bell	Chair
	Fred Hunt	Local Trustee
	Tony Law	Local Trustee
	Brodie Porter	Island Planner
	Miles Drew	Bylaw Enforcement Coordinator
	Vicky Bockman	Minute Taker

There were approximately fifty (50) members of the public in attendance.

1. CALL TO ORDER

Chair Bell called the meeting to order at 10:36 am. She welcomed the public and introduced herself, Local Trustees, Island Planner, Bylaw Enforcement Coordinator and Minute Taker.

2. COMMUNITY INFORMATION MEETING

Chair Bell explained the purpose and process of the Hornby Island Local Trust Committee Special Business Meeting, stating that the Community Information Meeting will share the current thinking of the Local Trust Committee regarding vacation home rentals and the ongoing review of the Official Community Plan. She said that this meeting is intended to ensure that community members understand the particulars and have a chance to ask questions for clarification as well as to voice comments and suggestions. She acknowledged the effort, expertise, and time that Local Trustees Hunt and Law have dedicated to this community and to these issues.

2.1 *Vacation Home Rentals*

Trustee Hunt provided a brief history of efforts to address vacation home rentals on Hornby. He acknowledged the difficulties and unique circumstances that arise from a population that increases from 1,000 in the winter to 5,000 in the summer and the tradition of housing those visitors. He stated it has been a long process and the Local Trust Committee, with input from the community, continues to explore ways to conclude the work on this issue that began in 2003.

Trustee Law stated that he and Trustee Hunt recognize the importance of vacation home rentals to the community. The Local Trust Committee is looking at a way to enable them, and will not make a decision without consulting with the community. He emphasized that he wants to reach a solution that works for the community and that it is possible within the provincial legislative framework constraints. He stated that the model being proposed for discussion today is intended to provide clarity and allows the process to continue in a way that can be fine tuned in the future. He encouraged those present to use this opportunity to ask questions and hopes to explore this option together.

Chair Bell expressed her view that the proposed Home Rental Association is a very positive response to the work that is being done and could provide an opportunity to liaise with the Local Trust Committee and the community on vacation home rental issues. She stated that this type of association could fill an important role in communications and could provide continuity which would be a benefit to the community over time.

2.1.1 Enhancing the Status Quo

Planner Porter presented the document “Vacation Home Rentals on Hornby Island – Enhancing the Status Quo” which was distributed as a handout for discussion of the concepts being suggested. He identified the tools available to the Local Trust Committee to address vacation home rentals: Official Community Plan, Land Use Bylaw, Temporary Use Permits and Bylaw Enforcement Policy. He presented an overview of the current policies, the difficulties, and proposed solutions for discussion today.

Planner Porter stated that the approach which will be presented today is the result of an attempt by the Local Trust Committee to give recognition to community input and that the Trustees are interested in hearing community comments on the proposals.

2.1.2 Community Discussion

Chair Bell opened the meeting to comments from the public.

Elsbeth Armstrong asked if all property owners or residents will be informed of proposed changes to the Official Community Plan.

Chair Bell explained the process, noting that we are at the point of community discussion.

Planner Porter provided more information on the stages of communication

and the formal procedure of a public hearing which comes later in the process.

Christa Yeomans asked if by coming to this meeting the community agrees to a motion passed on March 29, 2011 and if there will be further resolutions today reflecting the input from the community. Also she asked who needs to be informed of the process.

Planner Porter stated that the resolution made on March 29, 2011 allowed concepts to be brought forward to the Community Information Meeting for comment and are reflected in the handout discussed today. He confirmed that it would be a requirement of the Local Trust Committee to adopt a resolution at some point that states a particular position that it would like to take forward.

He clarified that if a proposed bylaw affects ten or more property owners, the only form of notification that is required for a public hearing is advertising in the local newspaper; however, general practice is to ensure as broad based a notification process as possible.

Trustee Law stated that the purpose of this meeting today, as well as the future meetings in Vancouver and Victoria is to hear from property owners who live in these areas.

Trustee Hunt stated that correspondence on the subject up until April 18, 2011 will be included for consideration at the April 27, 2011 Local Trust Committee meeting and will be available for viewing on the Islands Trust website prior to that meeting.

Jo Lechay requested clarification of the phrase “where there is a resident living on the property...”

Les Brown requested clarification on the bylaw enforcement policy trigger “if more than one dwelling is being used by the same owner as a vacation home rental”.

Marilyn Kopasky asked if the current Official Community Plan specifically states that rental of dwellings is disallowed.

Kevin Woods asked if there is a way to be creative in our consideration of possible options before consideration of the legislative limitations.

Helen Grond stated her objection to keeping the status quo, which is not a lawful recognition of vacation home rentals, preferring to change the bylaws to reflect what was originally intended.

Since these questions and comments were generally related, Planner Porter

addressed them together. He defined the present parameters for what constitutes a home occupation as requiring that the operator must be there on the property and renting a second dwelling on the property. He added that variations from this would not be enforced under the current proposal provided there are no complaints of health, safety or nuisance issues. Planner Porter described the differences between vacation rental and residential use in their impact on the community. He clarified that a home owner can have more than one residence on Hornby Island; however, the proposed policy suggests that a property owner can only have one vacation home rental available for rent on Hornby Island.

Judith Lawrence said that the definition of home occupation has meant people with an art studio, metal shop or other business in their home and that this is trying to include vacation rentals in same category. She believes the intent was to restrict the building of dwellings only used for rental units. She recalled that the Sandpiper subdivision originally included a covenant that the properties were to be used only for seasonal residences.

Sabina Fullborn expressed concern about the proposed Temporary Use Permit process and asked what is going to be done to enhance the trust between the Local Trust Committee and those in the community trying to keep their livelihoods.

Trustee Law responded that the Local Trust Committee is listening and having dialog and is proposing to not enforce the bylaw policy except for health and safety and nuisance concerns until there is a degree of comfort in the community. He explained the proposal includes the use of Temporary Use Permits as a specific option for operators. He stated that the proposed concept would allow the continuation of vacation rentals that are not currently a permitted use in zoning regulations and that through continued dialog and discussion and perhaps with the help of the proposed Home Rental Association the work can continue toward permitted use status.

Trustee Hunt concurred with Trustee Law and added that the prior suggested use of Temporary Use Permits as an approach was unpopular. This proposal suggests Temporary Use Permits for very specific uncommon situations. He stated that making vacation home rentals a permitted use would be a lengthy process while this concept sets a threshold for enforcement that creates a status quo effect.

Peter Walford said he does not want to lose sight of the fact that what is wanted is legitimization of vacation home rentals and to have them made a definite permitted use with specific restrictions.

Elsbeth Armstrong stated that vacation home rental situations vary from some people going away for a few months to others who rent out their homes but never come to Hornby.

Chair Bell stated that the Local Trust Committee cannot make bylaws intended for certain owners.

Planner Porter advised that provincial legislation determines that the Local Trust Committee can define the use of the property but cannot regulate the user.

Trustee Law added that regulations cannot be tied to the framework of other entities such as using homeowner grants as a way to define a type of user.

Bylaw Enforcement Coordinator Drew stated that when trying to identify solutions to vacation home rental issues it is important to recognize that unintended consequences may occur resulting, for example, in residential zones being used for commercial use. He said that the approach being presented today represents a possible solution that gives operators status quo and the Local Trust Committee time to have secondary discussions.

Frances Millan stated that as a property manager on Hornby Island she needs to reassure her clients that they will not be fined for continuing operations and expressed her opinion that vacation home rentals need to be legalized.

Kevin Woods said he would like to see the Land Use Bylaw changed to reflect the intent of what is stated in the Official Community Plan (OCP) regardless of the time it takes to attain that end. He said the Islands Trust Act does provide for non-conforming OCP provisions.

Dan Bruiger stated that the term “permitted” as it refers to a home occupation in the Land Use Bylaw is ambiguous and could mean allowed or only through the use of a permit. He said the proposal presented today restricts the legitimacy of vacation home rentals to those with two dwellings on the property and he would rather address the issue through changing the Land Use Bylaw definition of “permitted”.

Carol Quin stated that when creating the Official Community Plan and zoning regulations, the carrying capacity of the land to support water and sewage treatment on small lots was considered to be a single family dwelling. Over time people starting renting other buildings on those lots for income and while multiple dwellings on lots is a problem that has not been addressed, home occupations were intended for home owners to have an occupation without having the property being zoned commercial and that is still supportable.

Doug Christie stated that he doesn’t believe there is a problem that has been defined, there have been no supporting surveys, and that nothing has

to be done. He would like the Local Trust Committee to direct staff to find a way to make it work that is fair.

Michelle Easterly reported that an association of owners and managers of homes on Hornby for long and short term rentals is being founded to benefit the wider community, renters and operators. She stated she would like to find a way to make vacation rentals legal to ensure that this approach does not shift over time.

Karen Ross stated that she believes what is needed is: 1) to redefine home occupation and to give vacation rentals a definition of their own and 2) to state in the Official Community Plan that in theory Hornby supports vacation home rentals with the bylaws providing the limitations. She supports making it legal now.

Trustee Law responded to community input by saying that this process is trying to resolve the discrepancies between the Official Community Plan and Land Use Bylaw which does not permit vacation home rentals. He said that if the approach proposed today is adopted it can give assurances that the practice can continue, we can work with the home rental association that is forming, and continue to carefully address how to make it a permitted use. He stated he is hearing that the audience today would like to make vacation home rentals a permitted use in the Land Use Bylaw, however there are challenges to doing that and it would mean forgoing the work being done on the Official Community Plan amendment and other issues to continue to give this attention. He also commented that viewpoints which may differ from those expressed today also need to be taken into consideration.

Trustee Hunt responded to those that wished to know why this is being addressed by saying that he ran for election as a trustee on the basis of his understanding that there was a problem with the Official Community Plan (OCP) and Land Use Bylaw (LUB) not being in sync, that the OCP and LUB need to be updated, and that now is the time. He stated that the approach being presented today continues to acknowledge the importance of vacation home rentals and is an attempt to solve the problems while limiting the enforcement to health, safety and nuisance concerns. He stated that the best interest of the community is his motivation; however the larger concern is that views expressed today suggest that the audience would like to see vacation home rentals as a recognized legal use. He stated he believes the home rental association being developed is a positive initiative.

Chair Bell commented that this issue is about planning and the Local Trust Committee has the responsibility to project into the future and plan accordingly. She said that in November local governments across British Columbia will be holding elections and this includes the election of Hornby Island's two local trustees. The goal of the Local Trust Committee is to work through items identified at the beginning of the term that need to be

addressed and to put in place provisional, if not permanent, solutions within the term; however she stated that it is difficult to continue to work on big issues during elections. She also advised that there is a part of the community that is unhappy with vacation home rental nuisance issues but have not been officially complaining which is the responsibility of the constituents.

Planner Porter stated that there is a need to recognize that there is a current set of regulations and policies in place and to understand that the fact is that there is not a lawful entitlement for vacation home rentals. He said that the approach currently being proposed recognizes the importance to the community while allowing the practice to continue until it can be resolved in a more detailed fashion. He advised that further investigation and work is required to consider legalizing vacation home rentals. Planner Porter also said that his advice to the Local Trust Committee has been to resolve the vacation home rental issues prior to addressing the Official Community Plan review because it is central to the Hornby Island community. He said that the proposal presented today would allow that work to carry forward and work on refining the approach to vacation home rentals could be continued subsequently.

Bylaw Enforcement Coordinator Drew stated that he feels it is important to resolve the vacation home rental issue because this is a law in the community and unless the law is reflective of what is happening in the community and is agreed with, the whole process is delegitimized as are all other aspects of the bylaw with which the community does agree.

Trustee Hunt asked if the bylaw enforcement policy approach being suggested is a not an unusual approach used by local governments.

Bylaw Enforcement Coordinator Miles stated that bylaw enforcement policy is a standard approach especially when the issue is complicated. He said that it is a way to give the community comfort statements built into the law. These policies cannot be changed without public awareness.

Arnie Sharein asked if the Trust has completed studies on what the economic impacts would be to the island businesses if the bylaws are amended.

Trustee Hunt stated that the Trust has not completed formal studies; however informal studies have convinced Trustees that the effect would be significant if a policy was chosen that would shut down rentals or reduce employment and they do not wish to put policies in place that would have that effect.

Trustee Law stated that there are no new bylaws being contemplated, and the intent of the proposed changes is not to try to stop something that is

currently permitted.

Chair Bell thanked the public for their comments and encouraged them to return for discussion on the Draft Hornby Official Community Plan revisions which will be addressed after the break.

The Chair recessed the meeting at 1:10 pm and reconvened at 2:00 pm.

2.2 *Official Community Plan Review* ***Draft Hornby Official Community Plan Revisions April 2011***

Trustee Law provided a brief history of the evolution of the Official Community Plan (OCP) and stated that these proposed revisions are the result of the need to update the Official Community Plan. Housing and economic opportunities are being addressed. Recommendations from an Advisory Planning Commission, surveys, open houses, community round tables and forums and the results of a housing needs assessment have been received and incorporated into new provisions including opportunities for rental housing: secondary suites as well as the beginning of a re-writes on vacation home rentals. There is also a proposed policy to allow Temporary Use Permits as a solution to accommodate temporary housing needs. The purpose of the discussion today is to give an overview of the draft proposed policies and to hear community responses.

Trustee Hunt briefly highlighted two sections of the draft OCP: commercial and economic opportunities. He extended thanks to the Advisory Policy Commission for their work and recommendations. He stated that the provincial government has required all local governments to include a section in their OCP that discusses climate change so after community consultation the resulting draft includes a change to the prior amendment to the OCP on that topic.

Kevin Woods said the Islands Trust promotes encouraging local and public consultation in these processes and asked why the community has not been asked for guidance in these documents.

Trustee Hunt responded that there has been a lot of community discussion and suggestions and that this meeting is another opportunity for dialog.

Kevin Woods said that there is a new vacation home rental organization that could provide suggestions as well.

Trustee Law replied that input from the community and Advisory Planning Commission has been gathered and the proposed document has now been drafted into a form to take to the public to solicit constructive input.

Judith Lawrence observed that those at today's meeting seem to be primarily those with a vested interest in vacation home rentals; however, there are others

who do not have vacation home rentals that are not here. She expressed her concern that the Trust is being unfairly criticized.

John Wells asked why there has not been a judicial opinion to decide if vacation home rentals are legal or illegal.

Planner Porter responded that there have been legal opinions obtained; however, the issue has not been addressed in the courts.

John Wells replied that it is legal in the Hornby Official Community Plan (OCP) and if that is changed, Hornby will be dependent on decisions that are made in the Victoria office.

Katherine Ronan asked if there is any recourse to the community if, after the fact, something in the OCP is not transferred into the Land Use Bylaw.

Planner Porter replied that if a Land Use Bylaw is taken forward and the public feels it is not reflecting the wording of the OCP accurately, there is a process for stating this.

Trustee Law responded that we are undertaking this OCP review before the Land Use Bylaw work in order to see if there are clarifications or changes that need to be made.

Planner Porter commented that this process has been a targeted review rather than a comprehensive review of the OCP and he summarized the types of changes that have been made in the draft. He proposed outlining the changes being proposed section-by-section and allowing the public to ask questions or provide input as the sections are addressed.

Planner Porter outlined the changes being proposed to each of the following sections of the (OCP), followed by comments from the public.

Section I

Janet LeBlancq stated she would like to see the Comox First Nations' name for Hornby Island, Jai dai aich, be included in this section.

Section II

Dan Bruiger asked what is the intention regarding mining of water on Hornby Island.

Planner Porter responded that there is a policy that there should be no mining of groundwater off of a lot unless there is consideration of a Temporary Use Permit.

Katherine Ronan asked if ecosystem mapping will impose restrictions on certain pieces of land.

Planner Porter responded that the mapping will identify areas of sensitivity and this information may be utilized to assist the Local Trust Committee in land use decisions.

Section III

Katherine Ronan asked if an amenity is required as a condition of upzoning.

Planner Porter responded that this creates the opportunity not the requirement for amenities. He said that dialog between the Local Trust Committee and the community may be desirable to clearly identify what amenities the community would like to see in place and to determine if there are particular properties that are suitable.

Helen Grond said that amenities should be part of the picture when rezoning is suggested and established somewhere in the Official Community Plan (OCP).

Chair Bell asked if the OCP can actually state that an amenity must be a requirement as this kind of zoning is done at the discretion of the Local Trust Committee.

Planner Porter replied that an OCP can identify amenities that are of value to the community and is meant to provide guidance. The definition of the amenity and which property should be provided would be established through the Land Use Bylaw and would be clear when the change in zoning is requested.

Trustee Law stated that this conversation is useful and perhaps the issue can be addressed as a subsequent task.

Kevin Woods asked if it is possible to state in the OCP that British Columbia Parks must provide active and effective enforcement of nuisance, liquor and parties in the parks.

Planner Porter advised that the OCP must receive approval from Ministry of Community, Sport and Cultural Development and it is unknown whether the Minister would give approval to that provision.

Trustee Law stated that we do have an Advocacy Policy regarding policing and perhaps we can address it there.

Dan Bruiger asked if it is possible to specify in an advocacy policy what type of road service we would like the Ministry of Transportation and Infrastructure to provide or to request consultation.

Planner Porter said that an advocacy policy could be considered or alternatively, the Road Standards Agreement is due for review and it could be considered in that agreement.

Katherine Ronan asked if there is a way that the community can be informed by Islands Trust when properties often used as footpaths and right-of-ways are being considered for purchase by neighboring properties so that use of those existing foot passages may not be lost.

Trustee Law said the OCP does address this in Section V.

Carol Quin noted that the Ford's Cove hill road has not been specifically identified in the Heritage Features section and asked if it is listed somewhere else in the OCP.

Trustee Law responded that yes, it is identified in the Heritage Road Locations Map.

Carol Quin asked if it should be stated in the section on Heritage Features as well.

Chair Bell stated that this is an important issue and that the compilation of a list of all heritage roads would be useful.

Trustee Law advised that both the Department of Transportation and Infrastructure and BC Hydro do call for consultation on Ford's Cove hill road and are aware of its Heritage status.

Kevin Woods asked if Section 3.6 Marine Conservation could include an advocacy policy to the appropriate ministry to designate the full depth of the bay as a five-knot zone suggesting that it would not be an appropriate place for Sea-Doos.

Trustee Law responded that over the years many approaches to advocating for similar restrictions have not been successful.

Section IV

Ruth Goldsmith stated that the use of solar energy could be increased.

Kevin Woods stated he would like to see the issue of light pollution addressed.

Planner Porter responded that there is a policy however the most effective way to implement it is through the Development Permit Application guidelines especially on commercial properties.

Dan Bruiger commented that sodium vapor lighting is less intrusive.

Judith Lawrence stated she would like to change the word “requested” to “required” or “strongly urged” on item 4.5.13.

Planner Porter advised that the Local Trust Committee has no authority to require this information to be disclosed.

Section V

Dan Bruiger said that policy 5.1.4 seems to legitimize the extraction of ground water.

Trustee Law referenced the previous policy on this issue, stating that it is now stronger, permitted by zoning regulation or Temporary Use Permit.

Elsbeth Armstrong observed that there is an element of hypocrisy here because in the summer, those with water may not be able to sell it but people whose wells are dry will need to buy it from the Co-op who will have purchased it from someone else.

Judith Lawrence said that the statements in this Section are not strong enough; lots should be self sufficient in water and water storage capacity should be increased. She asked if it is permitted to extract water even with the Temporary Use Permit if the property is not lived on.

Planner Porter replied that it is possible that a Temporary Use Permit could be issued on a vacant property.

Chair Bell said that the value of requiring a Temporary Use Permit is that as a part of the process neighbors are notified and given opportunity to comment, staff reports are presented, and the Local Trust Committee makes the decision based on the information gathered.

Trustee Law commented that this issue has been addressed before and this draft is attempting to provide more clarity. It recognizes that some see it as a legitimate potential source of water and it provides accountability. He invited the public to provide feedback in order to help further shape this policy.

Ruth Goldsmith said that the two known public water supplies have been capped making them unavailable which makes item 5.1.10 contradictory.

Trustee Law stated this policy has given us foundation for advocacy policies with pertinent agencies and we have been able to reference the OCP so it is valuable to include it. The agencies that regulate well issues are circumspect due to safety issues.

Trustee Hunt said that there was a study completed previously which looked at

the potential for establishing community managed water sources and found the cost, which would be funded by increased taxes, would be high. He stated it is an important issue to the community and one that could be continued to be explored.

Carol Quin commented that a potential public well project was not taken up by the Regional District due to liability and safety concerns.

Judith Lawrence stated she does not believe public, taxpayer money should be used for public wells used by a few people, when there are other solutions available that require a little more effort and a small amount of money.

Karen Ronan asked if item 5.1.4 could put a purveyor of water out of business or would it be considered legally non-conforming.

Planner Porter responded that an OCP does not render something conforming or non-conforming; a land use bylaw changes a land use. He stated that generally, if the use is lawfully established and a bylaw subsequently removes the right to use it, then it would be legally non-conforming.

Dan Bruiger commented that a possible advocacy policy regarding road servicing could be addressed in Section 5.8.

Section VI

Elsbeth Armstrong asked what is meant by the term “displaced year round residents” in item 6.2.6.

Kevin Woods expressed his view that the conclusion of a rental contract does not mean being displaced.

Jo Lechay said that it is her view that renters are displaced when vacation home owners come home for two months.

Trustee Law commented that the use of rental contracts are limited on Hornby and that this situation needs additional thought.

Chair Bell said the Local Trust Committee would welcome suggestions for terminology that provides more clarity to this situation

Janet LeBlancq advised that several names have changed in the section on Community Service Use and she will email the information to the Island Planner.

Planner Porter summarized policy 6.3.3.2 and encouraged community input on this item which speaks to subdivision of jointly owned property.

Karen Ross asked if policy 6.3.3.6 is new.

Planner Porter replied that this is not new.

Trustee Law highlighted two new policies regarding secondary suites on which the Trust would like to receive community input: 6.3.5.12 and 6.3.5.13.

Helen Grond asked why it was decided to limit locations in 6.3.5.12.

Trustee Law responded that the issue of climate change was a factor in attempting to keep it in the central part of the island to limit travel.

Carol Quin asked if the two kilometers reference in 6.3.5.12 is linear or within a radius?

Chair Bell commented on the difficulties of using a radius-based approach and suggested that feedback from the community on how they would like this to be defined would be helpful so that the language can be clarified.

Ruth Goldsmith asked what is the intent of putting a limitation on area and size of property in this policy.

Kevin Woods asked if Hornby has a target of how many people are wanted on the island.

Chair Bell replied that some communities choose to put density caps in their OCPs, however there is no such provision in this plan. She asked Trustee Law to provide an explanation for the intent of this proposed policy, such as for affordable housing if that is the case.

Trustee Law stated this policy is presented for discussion purposes and input is valuable. He said that Hornby is lacking population in the age group from 25-45 and that this is a very important age group that is having difficulty finding housing. Year around rental units are limited and declining. He said that the Housing Needs Assessment showed a desire of seniors to age at home. These two policies provide housing for the younger people who can assist the seniors to stay at home.

Jo Lechay stated she doesn't understand why the location needs to be limited for this purpose. She also requested a definition of non-permanent accommodation.

Trustee Law explained that this policy is attempting to address a particular need at a particular time rather than creating another dwelling unit on the property and would be permitted through a Temporary Use Permit.

Helen Grond commented that this policy may also be useful for farmers who trade labor for housing and as this may occur all over the island, the location

limitations would not be appropriate.

Elsbeth Armstrong asked if there is something in this draft OCP about short term vacation rentals.

Chair Bell responded that there is a whole section on vacation home rentals however timing constraints may require the Local Trust Committee to reconvene again to continue discussion.

Planner Porter encouraged the public to read the remaining housing section policies and especially the key changes in policies both items 6.3.5.12 and 6.3.5.13.

The discussion then moved on to section 6.5.3 Vacation Home Rental and Planner Porter gave an overview of the section.

Dan Bruiger said the new OCP draft omits item 6.5.2.11 in the original OCP and now restricts short term vacation rentals that are legitimized to properties with two dwellings.

Planner Porter said that section 6.5.5 Home Occupations addresses this now and that there is a continuing policy 6.5.5.7 with respect to two dwellings.

Trustee Law responded that this policy fits in better with what a home occupation actually is. He said that if we want to permit vacation home rentals in circumstances other than this specified one, then a policy needs to be developed in this section.

Helen Grond said that a lot of this section is not in keeping with the original OCP or what we discussed earlier today and what is needed is language that states that it is a permitted, legal use in all zones so that bylaw policies can be crafted to regulate that.

Trustee Law said that this meeting is a good forum to hear other ideas of what intent the community would like to express in the OCP.

Helen Grond said that the residential character of a neighborhood is compatible with vacation home rental activity and that density and occupancy levels should be restricted to what is compatible and should be required to be stated in online advertising as a reasonable way to achieve this.

Jo Lechay suggested that septic issues could also be addressed in this way.

Trustee Law stated that the challenge is that that it is not possible to require operators to post things such as septic accountability and that occupancy is difficult to enforce.

Katherine Ronan stated that occupancy is restricted for B&Bs and asked why this would not work for short term vacation rentals.

Planner Porter responded that with B&B's occupancy can be determined through dialog with occupants, however bylaw enforcement will be difficult when the owner is not there as would be the case in vacation home rentals.

Carol Quin asked if it is not possible to require sewage permits to determine that the land can support occupancy levels then could confirmation of an up-to-date septic system be required and accomplished through a Temporary Use Permit process.

Trustee Law responded that yes, this can be done through the Temporary Use Permit process.

Karen Ross said the OCP and zoning bylaw should clearly state that vacation home rentals are desirable with water, sewage and density addressed in the appropriate section of the OCP. She stated that every property should be subject to the same requirements whether a vacation home rentals or not and said she believes it would be easier to address occupancy issues in vacation home rentals than in B&Bs.

Trustee Law said that regulation is difficult and additions to the OCP must be carefully chosen and translated into bylaw regulations.

Ross Muirhead asked why policy 6.5.5.7 does not say "The rental of a second permitted residential dwelling unit for the temporary accommodation of paying guests is permitted."

Planner Porter responded that this item is in the Home Occupations section and addresses the home occupation concept which is a separate type of activity from that which would be in the Vacation Home Rental section.

Trustee Law said that these are two different issues and need to be addressed separately.

Helen Grond asked why the model used for vacation home rentals on South Pender cannot be applied here.

Planner Porter explained that the South Pender consideration of bylaws for short term vacation rentals was enacted when interpretation of the Trust Policy Statement and legislation were not as clearly defined as now. He said that vacation home rentals there are permitted on properties but not on all properties and if that concept were applied to another community, it would be difficult for the Local Trust Committee to manage the process.

Elsbeth Armstrong observed that in this proposed policy if one has a dwelling

and another as well, then vacation home rental is permitted; however it is not permitted if an owner has one dwelling and leaves to rent it. She said there is not much difference between the two and an element of fairness seems to be missing.

Jo Lechay commented that the home occupation policy states that you have to live in your principal house and rent out the secondary dwelling but many times the opposite is happening.

Planner Porter said that the language used may need to be clarified.

Helen Grond said that the discussion of maintaining residential character does not apply because Hornby has such a big stock of houses that have never been used for strictly residential purposes which is a different situation.

Trustee Law said that additionally, many residents use vacation home rentals as a way to continue to reside on Hornby and that the discrepancy between few employment opportunities and escalating real estate prices seems to provide justification for approaching this issue differently on Hornby.

Planner Porter said that the task and challenge is to give recognition to Hornby's unique character and the seasonal occupancy nature of the island.

Katherine Ronan stated she understands the difficulties involved with making vacation home rentals a permitted use and asked if it could be permitted as an accessory use.

Planner Porter explained that that concept of accessory use means a principal use has to be established on the property in order to have an accessory use.

Katherine Ronan asked if the definition of accessory use can be expanded.

Planner Porter responded that the unexpected consequences of changing that definition would have to be considered, however the concept can be explored.

Dan Bruiger said that it would be a mistake to delete references to condominiums and time shares that are contained in the old OCP as it might open the door to other time share and condominiums and the reference stands as a record of the community's original intention.

Planner Porter said that one reason that section was removed from the draft proposed OCP is that the policy speaks to nature of ownership of property rather than to use of property and the Trust can only regulate the use not the user.

Ross Muirhead said that item 6.5.3.2 does not appear to have changed in this draft and asked if there will be consideration given to not requiring a Temporary

Use Permit.

Trustee Law replied that yes, necessary information will be gathered and a new approach will be drafted.

2.3 *Next Steps*

Planner Porter stated that there will be two more Community Information Meetings presented in Vancouver and Victoria for non-resident property owners and that results from those meetings, this meeting, and written comments received by April 18, 2011 will be taken to the next Local Trust Committee meeting on April 27, 2011. He reported that there may be a need for an additional meeting on Hornby as there was not sufficient time in today's meeting to complete the review.

3. **Adjournment**

Chair Bell adjourned the meeting at 4:44 pm.

Minute Taker

Chair

**MINUTES OF THE HORNBY ISLAND
LOCAL TRUST COMMITTEE
SPECIAL MEETING
TO HOLD A COMMUNITY INFORMATION MEETING
HELD ON MONDAY APRIL 4, 2011 AT 6:00 PM
AT THE WEST VANCOUVER SENIORS ACTIVITY CENTRE
695-21ST STREET, WEST VANCOUVER, BC**

<u>PRESENT:</u>	Louise Bell	Chair
	Tony Law	Local Trustee
	Fred Hunt	Local Trustee
	Brodie Porter	Island Planner
	Kate-Louise Stamford	Recorder

There were 47 members of the public in attendance.

1. CALL TO ORDER

Chair Bell called the Hornby Island Special Business Meeting to order at 6:00pm.

2. COMMUNITY INFORMATION MEETING

Chair Bell introduced the Local Trust Committee and briefly outlined the structure of the Islands Trust and its general policies. She emphasized that the Trust does not provide or regulate services but focuses on land use planning.

2.1 Vacation Home Rentals

Trustee Law gave a history of Hornby Island's relationship with vacation rentals. He noted that the challenge for the Islands Trust has been the unique situation of a local economy based largely on short term vacation rentals that is not duplicated anywhere in the Islands Trust area. Trustee Law said that short-term vacation rentals do not fit within "home occupation" designations in the land use bylaws as the owner is typically not present on the property. Trustee Law stated that because short-term vacation rentals are not in the local bylaws, they are subject to the standing bylaw enforcement policy as administered by Islands Trust council (central body).

2.1.1 Short Term Vacation - see discussion paper Vacation Home Rentals on Hornby Island - Enhancing the status quo

Trustee Hunt outlined the current activities around "enhancing the status quo". He said public meetings/workshops were conducted which in part

examined current bylaw enforcement infractions for short-term vacation rentals. Of four primary enforcement “triggers” – safety, nuisance, advertising and third party management – Trustee Hunt said that the last two were not considered a problem on Hornby and were actually required to maintain the status quo.

Chair Bell outlined the structure of a local trust committee. She defined the definition of the term “policy” which she said is usually used in terms of the Official Community Plan but when used in “standing policy” it can be seen as a set of guidelines without the requirement of legislative process.

Planner Porter noted that there are various planning tools available to the Hornby Island Local Trust Committee (see discussion hand-out entitled “Enhancing the Status Quo”) that can bring a level of management to vacation home rentals that is amenable to the current situation and future use. He also provided definitions of various terms that may not be familiar to the members of the public.

Planner Porter added that currently there is a supporting statement in the Official Community Plan for the continued existence of short-term vacation rentals as a home occupation but is not set in the Land Use Bylaw as it does not fit the definition of “home occupation” (owner absent). He said this technically triggers the Islands Trust Council’s Standing Bylaw Enforcement policy which is triggered by several activities normally practiced on Hornby Island (i.e. advertising of vacation rental or third party management).

Planner Porter said land owners who want to have a short-term vacation rental can also apply for a Temporary Use Permit

He noted that another alternate idea is to adopt a Standing Bylaw Enforcement Policy *that “specifies that investigation and enforcement of vacation home rentals will only be triggered when:*

- a) there is a bona fide written complaint of health, safety or nuisance issues;*
- b) renters are being accommodated other than in a dwelling unit;*
- c) more than one dwelling on Hornby Island is being used by the same owner as a vacation home rental.”*

Planner Porter said that a Standing Bylaw Enforcement Policy is a management structure that prioritizes enforcement priorities for staff.

2.1.2 Community Discussion

Clarification Questions

Michael Rushton – asked if most of the changes to the Official Community Plan were about short-term vacation rentals.

Trustee Law answered that there were some administrative changes and additional policies around affordable housing.

John Gallard - asked if Temporary Use Permits were issued to the land owner or to the land itself (if the land is sold does the Temporary Use Permit continue to be in force?)

Planner Porter responded that although he needed to confirm it, the Temporary Use Permit is issued on the land and would continue to its scheduled end date if the land was sold. Trustee Law concurred.

Wendy Torqueson –outlined the situation with her family's property that is managed by a third party but primarily only used for family gatherings a few times a year. Given this, she asked if the family would need to have a Temporary Use Permit.

Planner Porter responded that the key is whether a property is used for commercial purposes (short-term vacation rental) if not, then it comes under permitted residential uses for that zone and does not require a Temporary Use Permit.

Mary Segal – asked how many times Temporary Use Permits could be applied for.

Trustee Law clarified that the goal for this process was not to have to apply for Temporary Use Permits at all unless a land owner was intending to use the property outside of the discussed way outlined in the lower right-hand proposal in the discussion table "Enhancing the Status Quo". For example, someone was to purchase several prosperities to be used as vacation rentals.

In response to Mary Segal's specific question Trustee Law said that land owners could apply for two, three year Temporary Use Permits and one year renewal- is this correct?

Lorraine Bennet –asked about the difference between a home occupation and third party management.

Planner Porter responded that home occupation is generally when a land owner has a primary residence in which they are the proprietor of a small

business. As the current regulations stand, a vacation rental would only qualify as a home occupation if there were two dwellings on one parcel of land, one of which is rented out, and the other being the primary residence. The purpose of the proposed standing bylaw enforcement policy is to acknowledge that this is not generally the situation on Hornby and to prevent bylaw enforcement from being triggered.

Katherine Robinson - requested clarification about when a Temporary Use Permit is not required.

Trustee Law emphasized that the whole purpose of implementing the proposed Standing Bylaw Enforcement Policy to recognize the support that short-term vacation rentals has on Hornby Island and prevent the need for a Temporary Use Permit in the general situation as it stands now. Land owners will be permitted to advertise and rent their homes on a short-term basis either by themselves or through a third party, without the need for a Temporary Use Permit. A Temporary Use Permit will have to be applied for in situations above and beyond what has become standard practice on the Island – for instance, if several residences are purchased by one owner (or corporation) for short-term vacation rentals.

Trustee Law added that the point is to maintain the neighbourly structure that currently exists on the island without onerous regulation.

Ken Bernard – asked if a bed and breakfast is a home occupation

Planner Porter responded that bed and breakfasts are considered a home occupation in residential zones where it is a permitted use which, on Hornby, includes all residential zones.

Miriam Olverick – noted that it was still confusing that there has to be any “enhancement” at all. She asked why there needed to be any changes to the home rental situation as she had not heard of any problems.

Planner Porter responded that the Hornby Island Land Use Bylaw does not have vacation rentals as a permitted use. He added that provincial legislation requires that the Islands Trust provide planning for the future community needs of Hornby Island. The tremendous growth in short-term vacation rentals on the Island has, and will continue, to impact community structure.

Mick Rushton – how is a Standing Bylaw Enforcement Policy created and how can it be changed.

Planner Porter – responded that a standard Land Use Bylaw regulation goes through a formal legislative process. A Standing Enforcement Policy is developed primarily to manage staff resources and can be passed by the

Local Trust Committee. The Local Trust Committee can also discontinue the policy by a simple motion. As it is not as transparent as other Bylaws, there are ways of monitoring a standing policy. Planner Porter suggested that, if passed, the Standing Enforcement Policy be placed on every agenda of the Local Trust Committee and be present on the Island website.

Ovi Dohlm – outlined a scenario in which there are several consecutive “wild” parties at a vacation rental; how would this situation be handled if the Standing Enforcement Policy was in place?

Trustee Law responded that the immediate situation requires the intervention of the Royal Canadian Mounted Police (RCMP). In the longer term, the “nuisance” property needs to be addressed in terms of land planning and this is where the Standing Enforcement Policy would be triggered. A call or written notice to the Bylaw Enforcement Officer would be investigated and possible legal action would be taken against the land owner if a resolution could not be agreed upon. The point of this, he noted, is to provide some measure of protection for neighbours of vacation rentals (including other vacation rental properties) as the land owners are sometimes far removed from the immediate situation and difficult to reach.

Planner Porter added that if there is a demonstrated pattern of use that is beyond the accepted use demonstrated by the community then it becomes a land use issue.

Chair Bell also noted that there are two full-time bylaw enforcement officers and one administrator in Victoria for the Islands Trust Area. Their contact information is available on the Islands Trust website.

Miriam Oliverick asked which Bylaw is being violated and since when does the Land Use Bylaw supersede the Official Community Plan. She also suggested that the proposed Standing Enforcement Policy seems to be another way for the Islands Trust to control what people do on their properties. Miriam Oliverick noted that short-term vacation rentals have been managed very well in the past on Hornby Island and that there is a strong community spirit supporting them.

Chair Bell responded that the Official Community Plan is not regulatory rather it is a set of guidelines for community direction. In the case of Hornby Island, the Land Use Bylaws are silent on the regulation of short-term vacation rentals and the proposed use of the standing bylaw enforcement policy is the least onerous and controlling way of providing legal accountability.

Unidentified person – asked if short-term vacation rentals could continue to be managed by a third party management company.

Trustee Hunt confirmed that with the proposed Standing Bylaw Enforcement Policy the use of a third party management company would not trigger a bylaw infraction.

Al Sheir – asked what actual enforcement power the Islands Trust has.

Trustee Law responded that ultimately unresolved bylaw infractions become a court matter but that the Islands Trust is working towards becoming part of the provincial remediation process.

Sarah Dipcot – asked if a neighbouring land owner has a Temporary Use Permit what recourse does one have if there are problems (i.e. sewage leakage, overuse of water etc).

Planner Porter responded that a Temporary Use Application is reviewed in a public process and any number of requirements can be required by community input. If a land owner violates their own Temporary Use Permit then they will lose the right to undertake the permitted use until the violation is corrected.

Diane Salter - asked if there was a cost to a Temporary Use Permit.

Planner Porter said that there is a discussion about an estimated fee of \$440.00 and a \$140 renewal fee.

Trustee Law reiterated that for the majority of current short-term vacation rentals on Hornby a Temporary Use Permit would not be required if the proposed Standing Bylaw Enforcement Policy is passed by the Hornby Island Local Trust Committee.

Mike Tarbottom – asked who is ultimately responsible for health and safety, and when referring to “health” in the proposed Standing Bylaw Enforcement Policy that the term includes sewer and water.

Trustee Hunt confirmed that the proposed Standing Bylaw Enforcement Policy is referring to sewer and water under health. He added that health and safety are governed by the Vancouver Island Health Authority and that the RCMP is responsible for safety.

Public Discussions and Comments

Ovi Dohlm – stated his overall support for the proposed Standing Bylaw Enforcement Policy but has some concerns about third party management. He said he would like to see a process to develop a Better Business Bureau

type of structure for managers. He said that this would go a long way in addressing some of the concerns about specific vacation rental issues.

Lorraine Bennet – thanked the Local Trust Committee for their work and saw the Standing Bylaw Enforcement Policy as a reasonable way to maintain the status quo. She noted that as enforcement of the short-term vacation rentals on Hornby is currently at the Islands Trust Council level, it made more sense to bring it to a local level.

Lorraine Bennet also asked if the development of a short-term vacation rental would trigger a business licence requirement

Trustee Law stated that there are no business licence requirements on Hornby

Mick Rushton – stated that the proposed Standing Bylaw Enforcement Policy seemed to be a common sense local solution and would like to see it adopted. He asked whether or not this policy could be enshrined in the Land Use Bylaws rather than be left to the changeable will of the Hornby Island Local Trust Committee.

Trustee Law noted he recognised that the weakness of this proposed solution was the ease by which it could be changed. If it is enshrined in the Bylaws then there is no flexibility for non-permitted uses. He suggested that this provides some protection where there is none now for short-term vacation rentals.

Lee Farrell – noted that there are regulations governing weekly rentals in the Lower Mainland and that the status quo is not good enough for Hornby Island. Given that, he allowed that the proposed Standing Bylaw Enforcement Policy does provide some reassurance.

Mike Tarbottom – clarified that the new Hornby Island Home Renters association is not for home owners but for people who are profiting from rentals.

Trustee Law suggested the Home Renters Association may consider expanding for a more broad representation. Trustee Hunt added that there were several people who had referenced the need for a home owners association on Hornby Island.

Mia Hajys – requested clarification on item (b) of the proposed Standing Bylaw Enforcement Policy that renters must be housed within a dwelling. She outlined a situation in which renters bring a trailer or tent for family members to use in conjunction with the primary rental premises.

Planner Porter confirmed that item (b) did restrict renters to the use of a dwelling and not to use a trailer or tent. This trigger does not apply to land owners using their own land. He emphasized that all enforcement is done on a complaint basis only. If there is an informal agreement with neighbours and an occasional quiet tent is pitched without issue then there is no problem. Planner Porter stated that neighbourly, common sense interaction is always the first line of community management. He added that if there is a need for a more structured solution then a Temporary Use Permit can be applied for.

Mark and Sean Pederson – stated their support for the proposed Standing Bylaw Enforcement Policy and noted that if you are a responsible land owner, and vacation rental owner, then there are no problems.

Chris Allen – Thanked the Local Trust Committee and other attendees. He stated that short-term vacation rentals have a huge impact on the local Hornby economy. Chris Allen said that ultimately the Land Use Bylaw should be subordinate to, and in line with, the Official Community Plan and that is where the Local Trust Committee focus should be. He added that as far as was indicated, there have been little or no complaints about short-term vacation rentals and as overall issues (i.e. health and safety) are covered by other agencies, then the situation should be left alone. Finally, he noted that there seemed to be an encouragement to having two dwellings on a property to comply with the definition of home occupation, therefore this added development would be a huge stress on the local environment.

Unidentified person (family has been on the island since the 1930's) – noted that there seemed to be an attitude that land owners with short-term vacation rentals used more resources (i.e. sewer and water) than full-time residents. This was demonstrably not true and she wanted to see the same entitlements to all land owners. She stated that she simply wanted less bureaucracy.

Bill Calum – asked if there is a gap between current standards and what Islands Trust wanted to enforce.

Trustee Law stated that commercially zoned businesses are held to a higher standard of accountability and have more hoops to jump through in terms of health and safety.

Planner Porter added that in principle the Local Trust Committee cannot regulate impact when considering land use but they can look at potential land impacts.

Unidentified person – expressed his frustration at the lack of response from Islands Trust to two written complaints he forwarded regarding bylaw violations and considered this another demonstration that the Trust has little

power. He added that the Vancouver Island Health Authority has also not responded to him. His conclusion was that bureaucracy is a waste of time.

Sara Dimcot – stated that she saw the proposed Standing Bylaw Enforcement Policy as a way of providing more leniency to land owners than what is currently enforced by the Islands Trust. She added that there was a need to look to the future and prevent long-term damage to the environment.

Judy Cross – stated that there seemed to be a real double standard as summer people were seen to be more detrimental to the environment and community than full-time residents. She requested that Islands Trust push Vancouver Island Health Authority harder about sewer concerns. Overall, Judy Cross said she would like to see fewer year-round residents on Hornby Island and return it to its original focus as a summer place. She also expressed concern about proposed policies in the Official Community Plan that would permit secondary suites on properties of 3.5 acres or more.

2.2 *Official Community Plan/Land Use Bylaw Review – See Draft Hornby Official Community Plan Revisions April 2011*

(17 members of the public stayed for this portion of the meeting)

Planner Porter outlined the general formatting, legislative and terminology changes and then highlighted some policy changes that the Local Trust Committee would like feed back on:

- 3.3.8 and 6.1.5 (page 60) amenity zoning concepts
- 3.3.7 Heritage values and roads
- 4.4.2 Power and energy sources
- 6.1.2 Providing a minimum size for Section 946 of the Local Government Act which permits land owners who have owned for more than five years to “peel off” a portion of their lot for a relative.
- Some residential zones have been amalgamated.
- 6.3.3.3 a specific subdivision where lots have two dwellings and joint ownership
- 6.3.5.12 and 13 – these policies came from the Hornby Island Advisory Housing Commission and outline potential kinds of housing and uses of secondary suites for affordable housing solutions. Planner Porter said the Local Trust Committee is looking for public feedback here.
- Agriculture section – addition of secondary dwellings for farm use accommodation
- 6.5 - commercial usages policies 6.5.1.1. – 4.
- vacation home rentals (page 83)
- Home occupations

- 6.8 Climate Change adaption and mitigation

Planner Porter added that the language in an Official Community Plan in reference to Temporary Use Permit is not binding.

Comments from the Public

Judy Cross – commented that the process seems to be top down in comparison to the previous Official Community Plan review.

Chair Bell responded that this was a targeted review as opposed to a full review of the Official Community Plan. It was opened primarily to deal with the inconsistencies of vacation home rental between the Official Community Plan and the Land Use Bylaw.

Trustee Hunt added that additional changes to the Official Community Plan arose from two advisory planning workshops that were conducted specifically around affordable housing options. He said that the Local Trust Committee was surprised at how many changes have been recommended in the draft, but that most of them are to update technical and legislative language.

Trustee Law added that a letter was sent to all land owners informing them of the Official Community Plan review and the Advisory Planning workshops.

Mike Rushton – requested an outline of actual draft changes to the Official Community Plan. He added his support for low-cost housing options on Hornby Island. Mike Rushton noted that in Section 6.5 there seems to be a move to go back to earlier concepts of commercialization and he wanted to see a further focus on tolerance rather than more layers of bureaucracy. Finally, he asked whether or not the Standing Bylaw Enforcement Policy would be referenced in the Official Community Plan.

Planner Porter responded that the draft Official Community Plan with tracked changes is available on the Islands Trust website and noted that the Standing Bylaw Enforcement Policy does not fit within the legislation of an Official Community Plan so any reference to it would not be included.

Bruce McNamara – asked whether or not water quality and table levels have changed over the past decade and if the water stewardship group is still active.

Trustee Law said that the water stewardship group is still active on Hornby Island but to varying degrees. Trustee Hunt added that as far as he understands reports show the water table on Hornby is slowly getting lower but there has been no change in water quality. He suggested that Bruce McNamara contact Mary Mackenzie for further information.

Chris Allen – added that there is a Geotechnical/Hydrology study available for all wells on Hornby Island (2002). Planner Porter added this report is referenced on the last page of the draft Official Community Plan.

Unidentified person (family has been on the island since the 1930's) – asked if written submissions would be responded to. She also asked where, or how, to read other submissions to the Official Community Plan process.

Chair Bell responded that all correspondence (written or electronic) comes to the Local Trust Committee at each business meeting for review and they are compiled as part of the meeting package available on the website. In regards to the Official Community Plan process, Chair Bell said that all correspondence is available for review on the website as a separate project.

3. **ADJOURNMENT**

The meeting was adjourned by consensus at 9:10 pm.

Chair

Recorder

**MINUTES OF THE HORNBY ISLAND
LOCAL TRUST COMMITTEE SPECIAL MEETING
TO HOLD A COMMUNITY INFORMATION MEETING
HELD ON WEDNESDAY, APRIL 6, 2011 AT 5:30 PM
AT THE WINDSOR PARK PAVILION, 2451 WINDSOR ROAD
VICTORIA (OAK BAY) BC**

<u>PRESENT:</u>	Louise Bell	Chair
	Fred Hunt	Local Trustee
	Tony Law	Local Trustee
	Brodie Porter	Island Planner
	Sharon Lloyd-deRosario	Planning Secretary/Recorder

There were twenty-five (25) members of the public in attendance.

1. CALL TO ORDER

Chair Bell called the meeting to order at 5:40 pm and welcomed the members of the public. She advised that the meeting was being held within the Coast Salish First Nation area and then introduced herself, Local Trustees, Island Planner, and Recorder. Chair Bell explained the purpose of the meeting was to receive input and have discussion regarding Vacation Home Rentals on Hornby Island and to hold a Community Information Meeting on the Draft Official Community Plan.

2. COMMUNITY INFORMATION MEETING

Chair Bell gave some background as to the status to date regarding Vacation Home Rentals and the Draft Official Community Plan, then invited the trustees to speak on the subject of Vacation Home Rentals prior to the opening of the public comment portion of the meeting.

Trustee Law gave some history going back to 1996 to the present to inform the public as to how the subject of Vacation Home Rentals had come to the attention of the Local Trust Committee and subsequently placed on the Local Trust Committee work program.

Trustee Hunt welcomed everyone to Oak Bay, advising that the Local Trust Committee had held meetings on Hornby Island, and the Vancouver North Shore. He spoke about the bylaw enforcement in the bylaws and on the island. Trustee Hunt stated a general acceptance with the idea of an enforcement policy and stated that the trigger of advertisements has brought about the proposal in the "Enhancing the status quo" sheet; referring to the bottom right hand corner, as presented in agenda item 2.1.1.

2.1 Vacation Home Rentals

2.1.1 Enhancing the Status Quo

Planner Porter referred to the hand out called “Vacation Home Rentals on Hornby Island – Enhancing the Status Quo” and summarized the tools available to the Local Trust Committee to address vacation home rentals. He went into the technical aspects of the proposal and explained the terms of vacation home rentals as, renting less than 30 days. Planner Porter commented on the challenges associated with the increasing range of activities related to home rentals. He explained the tools that are in place today and their uses such as the Official Community Plan; Land Use Bylaw; Temporary Use Permits, and Bylaw Enforcement Policy which is addressed in the fourth column of the Enhancing the Status Quo section of the hand out.

Chair Bell invited questions from the public for clarification on the hand out.

Karen Ross stated that the third trigger regarding ownership may have something to do with land use planning but nothing to do with ownership.

Planner Porter explained that this is not to regulate the user but rather the use of the land; that once enforcement is defined as a trigger then option three would come into play.

Karen Ross added that you can do what you want in policy, but asked if there was a problem on Hornby now.

Planner Porter responded that he wasn’t aware of any problems at this time, but the Local Trust Committee is taking a proactive approach for the future.

Michael Lancaster asked if Temporary Use Permits were a product of the Provincial or Local Government.

Planner Porter replied that Temporary Use Permits are a planning tool from the Province with guidelines falling within the authority of the Local Trust Committee.

Care Leah expressed her opposition to the policy, asking why this was happening and stated that Vancouver Island Health Authority and Comox Regional District are the bodies that regulate health and noise issues and asked about the 30 days limitation on occupancy.

Planner Porter explained that the elected Local Trust Committee has Vacation Home Rentals on their work program and that staff are working to support them while looking for effective management of Vacation Home Rentals

Trustee Law gave more clarity as to why the Local Trust Committee had decided to take on this topic; also adding clarity around the 30 day limit stating that it is much like the time line used for a month to month rental, for residential purposes.

A member of the public asked if he would be allowed to invite his whole family of twenty to Hornby for a holiday.

Planner Porter replied yes.

Donna Tuele asked for clarification of the meaning of Home Occupation.

Planner Porter responded that it is a requirement that the owner lives on the property.

Donna Tuele asked where she could read that information, she added that the interpretation of Home Occupation seems a bit loose.

Planner Porter advised the interpretation can be found in the Land Use Bylaw and *Local Government Act*; adding that the Island Planner can also be a resource.

A member of the public asked if it was a problem to rent out your house when away on vacation.

Planner Porter replied that your house could not be rented out for less than 30 days.

Trustee Law added that common sense prevails.

Chair Bell added that the use of a Temporary Use Permit is available in instances of commercial and industrial issues, giving an example of a problematic situation.

Care Leah asked why renting for over 30 days wasn't considered to be a commercial use.

Planner Porter replied that 30 days is a general standard for residential tenancy.

A member of the public agreed and added that it was universal.

Kathy stated that there are pros and cons of a Temporary Use Permit and asked who was responsible for the structure or building.

Planner Porter responded that there are guidelines in an Official Community Plan for Temporary Use Permits. He added that Temporary Use Permits really focus on the land use element.

Kathy commented that as an architect, she felt there probably isn't one house built to code on Hornby Island.

Planner Porter replied that the owner is responsible for building code.

Peter commented before leaving, that he likes the proposal; stating that the Local Trust Committee are on the right path.

Another member of the public agreed with Peter's statement.

Helen Grond stated that she doesn't see this proposal working and proposed making Vacation Home Rentals a permitted use. It then becomes a homeowner benefit by legalizing and managing it as with the extra income it helps young families pay for their homes and enhances the people living on Hornby.

Trustee Law responded that it might be a good idea to form an organization like a Vacation Home Rental Association for community base monitoring, although he sees a couple of challenges with this:

- 1) a bad scenario next door to you, what do you do
- 2) will members of the Vacation Home Rental Association be accountable

A member of the public asked if there would be any penalties incurred with illegal Vacation Home Rentals.

Planner Porter explained the bylaw enforcement process stating that they are looking for voluntary compliance and if that doesn't work then the Bylaw Enforcement Officer will give options to seek compliance. It can then lead into further legal action in consultation with the Local Trust Committee and courts.

Karen Ross referring to residential use spoke to the economic side and security knowing they can hold on to their properties and live residentially year round; she endorsed the Official Community Plan, ½ acre lot – flip to affordable housing. If the Official

Community Plan encouraged the use, it could be self regulated by best practices.

Trustee Hunt responded that it could be a permitted use in the Land Use Bylaw as opposed to an accepted use.

Trustee Law asked Planner Porter what the Local Trust Committee would have to look at to allow Vacation Home Rentals.

Planner Porter stated that it would be a challenge to allow Vacation Home Rentals as a residential permitted use in the Land Use Bylaw and have it properly implemented and regulated.

Brian Smith stated that this was a very good meeting and congratulated the Local Trust Committee in making sensible changes in the past stating that the island has changed since 1975 with original people farming. He adding that there is very limited new economic viability; the island is owned by the absent owners. He agreed with Karen Ross that the Local Trust Committee consider a permitted use in the Official Community Plan and workable in the Land Use Bylaw.

Chair Bell asked if this would be managed or regulated?

Brian Smith responded with “Non-statutory regulations”.

Karen Rosen, Victoria resident stated that her property on Hornby sits empty a lot of times, she says a self regulating body makes sense in keeping the economy going.

Anna Brehmar suggested that you don’t say you are renting but rather that you have family staying, to avoid the issue.

Note – Chair Bell briefed the new comers arriving late on what had been discussed.

Mike Fenger stated that he has a record of renting to both friends and islanders and is concerned about limiting of Vacation Home Rentals. He was at a bit of a loss as to what is going into the draft bylaw.

Chair Bell explained to Mr. Fenger that this was covered in detail earlier in the meeting previous to his arrival. Concerned with time restraints Chair Bell said that she would like to move on to the Draft Official Community Plan policies.

Trustee Law referred Mr. Fenger to item 2.1.1 of the agenda regarding the Bylaw Enforcement policies in column four to give him a clear understanding of what was going into the draft bylaw.

Trust Law went on to state that they could possibly hold a third meeting to discuss the following options:

- 1) bottom right triggers
- 2) idea of an Association being formed – look at Land Use Bylaw
- 3) allowing Vacation Home Rentals as a limited use

Trustee Law asked that if anyone had any feedback he would welcome emails up to Monday, April 18th.

2.2 Official Community Plan Review

Chair Bell invited comments as Planner Porter presented the Draft Official Community Plan revisions.

2.2.1 Draft Hornby Official Community Plan Revisions April 2011

Planner Porter addressed the revisions as referenced in the Draft Official Community Plan. There were brief discussions as needed throughout.

Members of the public made the following comments.

Donna Tuele, Hornby Island year round resident gave her perspective stating that business would be affected by Vacation Home Rentals; she would like to see it open up to more than 30 days.

The time frame was questioned and the Local Trust Committee stated that they would like to have all their work/bylaws completed before the end of their term in November.

Karen Ross spoke against the minimum parcel size in section 6.1.2 adding that it can't happen on ½ acre parcels; give people some flexibility; she doesn't see it being an issue.

Planner Porter gave clarification.

Helen Grond spoke regarding joint ownership allowing subdividing. She asked why it is restricted to that area; there should be equal opportunity that all could subdivide.

Louisa Elkin stated that the issue is not over densifying if everyone is able to do the same thing for example: subdivide. She was also pleased to see rental housing being addressed.

Chair Bell addressed section 6.3.5 (12 – 13) as being all new and asked the people take some time reviewing this after the meeting.

Brian expressed concerns over attendance slipping in the schools and possible closure of it.

Trustee Hunt advised that Community Action Springing Together Group (C.A.S.T.) is rooted around the issues with schools.

Helen Grond commented that the language in the background on Vacation Home Rentals seems negative adding that 80% of businesses are directly affected by Vacation Home Rentals.

Karen Ross agreed with Helen's comments.

There was a discussion about how changes can be made to the Official Community Plan when new elected trustees are in place.

Louisa Elkin stated that it was common for people to camp on their property and rent out their dwelling and doesn't understand why the lot size is restricted, adding where people own larger lots that they don't need the added income help.

Helen Grond commented that the language is important and that the word "illegal" makes people look like criminals.

Karen Ross added why not use the words "shared activity" instead of "commercial". She added that between the Trust Council policies and the Official Community Plan, Vacation Home Rentals seems to be a gray area.

Chair Bell asked if there were any final questions; there being none she reminded people that they could send in comments via email until April 18th.

2.3 Next Steps

Chair Bell advised that there will be another meeting scheduled for the end of the month. She thanked the members of the public for their valuable input.

3. ADJOURNMENT

Chair Bell adjourned the meeting at 9:50 pm.

RECORDER

CHAIR



Islands Trust

RWM From: March 15, 2011 To: April 18, 2011

Print Date: Apr-18-2011

Hornby Island

Resolution #	Action	Resolution Description	Resolution Date
2011-07	In Favour	"THAT given new information has been received by at least one Trustee since a public hearing was held regarding proposed Bylaw 141 that the Hornby Island Local Trust Committee will be open to receiving additional information regarding proposed Bylaw 141, and that as a consequence, the Local Trust Committee understands that proposed Bylaw 141 will either have to be presented at another public hearing or will have to be otherwise considered in accordance with requirements of the Local Government Act."	Apr 13, 2011
2011-06	In Favour	"THAT the Hornby Island Local Trust Committee adopt proposed Hornby Island Bylaw No. 140 cited as "Hornby Island Official Community Plan Bylaw No. 104, 2002, Amendment No. 2, 2010."	Apr 13, 2011
2011-05	In Favour	THAT the Hornby Island Local Trust Committee hold a Special Meeting on Tuesday, March 29, 2011 at 3:30 p.m. at "Room to Grow", Hornby Island Community School, Sollans Road, for the purpose of discussing preparations for upcoming community information meetings	Mar 28, 2011



Hornby Island Mar-17-2010

No.	Activity	Responsibility	Target Date	Status
1	HO-OCP-2009.1 (OCP and LUB review project)	Brodie Porter	Aug-25-2010	On Going

Resolution: request staff to implement changes to draft OCP and LUB versions 1 March 2010 as identified in the meeting.

Resolution: LTC expresses interest in Toby Islet, Norris Rocks and Flora Islet being rezoned from Rural Residential to Park as part of the OCP and LUB review process and request staff to prepare a report on the conservation values of the islets and to consult with their owners.

Report back to LTC on APC resolution and recommendations (see APC minutes); respond to APC request for more information. Staff to advise LTC on s946 subdivision resolution; respond to APC recommendations regarding build out map.

Oct-13-2010

No.	Activity	Responsibility	Target Date	Status
6	Request Ministry of Attorney General to designate the Hornby LTC as a local government under the Local Government Bylaw Notice Enforcement Act and to enact a regulation under Section 29 of said Act to apply the Act to the LTC.	Miles Drew		On Going

Dec-15-2010

No.	Activity	Responsibility	Target Date	Status
1	Hornby Land Use Bylaw - consider Ron McMurtrie's comments regarding septic fields expressed in his Oct 17, 2010 email when drafting the proposed LUB.	Brodie Porter		On Going

3	HO-RZ-2009.2 (Thatch) Cost recovery agreement authorized to draft a covenant to address issues of sustainability and conservation and that the covenant be tabled prior to referral of bylaw 141 to Executive Committee. Cost recovery agreement in place and draft covenant is with applicant.	Brodie Porter	On Going
8	HO-OCP-2009.1 - Staff to amend the draft OCP as discussed at Dec 15, 2010 meeting; proceed with work on draft OCP and LUB in accordance with Nov 16 2009 terms of reference that provides an OCP and LUB concurrently; and revised timeline dated Dec 15, 2010 is endorsed.	Brodie Porter	On Going
10	GHG and RAR Budgets - proposed Climate Change pamphlet to be considered and staff asked upon completion of draft to contract for formatting and printing of pamphlet. RAR budget to be reconsidered at next LTC meeting.	Chris Jackson Brodie Porter	On Going

Feb-18-2011

No.	Activity	Responsibility	Target Date	Status
1	HO-OCP-2009.1 - STVR - staff to prepare draft bylaws to: - allow a level of STVR use generally limited to summer months that is limited to social networking sites and word of mouth and is primarily targeted to friends and relatives through the use of enforcement policy to define parameters; - allow home vacation rentals for those persons who wanting a more commercial approach through TUPs or rezoning; and - staff develop a process to streamline consideration of TUPs that is less expensive to applicant.			On Going
3	HO-OCP-2009.2 - STVR - Enforcement policy adopted as outlined in staff report presented at Feb 18 LTC meeting and staff requested to develop a communications plan as outlined in the report that includes use of the website to notify readers about adopted enforcement policy..	Miles Drew		On Going
7	Meeting with K'omoks Nation - Hornby LTC agrees that a meeting with KFN should be held in coordination with Denman LTC in June or September on Denman Island; that Denman and Hornby LTCs share the costs; that the meeting be posted and held as joint LTC meetings; that the public are allowed to attend to view; that food be provided to LTCs and	Courtney Campbell Sonja Zupanec		On Going

KFN; and that a gift be considered for KFN. Staff asked to further explore arrangements.

Mar-23-2011

No.	Activity	Responsibility	Target Date	Status
1	Consolidate all STVR correspondence received up to April 18, 2011 and provide on April 27 LTC agenda.	Brodie Porter		On Going
2	Resolution HO-006-2011 from the Feb 18, 2011 regarding adoption of Enforcement Policy was rescinded and staff were requested to include the wording of the rescinded resolution in any materials provided in the upcoming community information meetings regarding vacation home rentals.	Miles Drew Becky McErlean Brodie Porter		On Going
3	A resolution that no enforcement be carried out on vacation home rentals for the rest of this term unless a new vacation home rental enforcement policy is adopted was tabled.	Miles Drew Brodie Porter		On Going
4	The term "vacation home rental" is to be used in all documentation so as to remove any confusion about various terms.	Brodie Porter		On Going
5	Staff to make changes to draft OCP regarding vacation home rentals as presented in the March 21, 2011 staff report and as discussed at the March 23, 2011 LTC meeting.	Brodie Porter		On Going



STAFF REPORT

April 26, 2011

File No.: HO-RZ--2009.2

To: Hornby Island Local Trust Committee
For meeting of April 27, 2011

From: Brodie Porter
Island Planner
Northern Team

CC: Chris Jackson, Regional Planning Manager
Sonja Zupanec, Island Planner

Re: Rezoning Application - Hornby Island Resort Ltd.

Owner: Hornby Island Resort Ltd.

Applicant: John Ross

Location: Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913 Except Part in Plan 2638 RW (The "Thatch Resort", Hornby Island)

THE PROPOSAL:

This report follows from adoption of a resolution without meeting that stated:

"THAT given new information has been received by at least one Trustee since a public hearing was held regarding proposed Bylaw 141 that the Hornby Island Local Trust Committee will be open to receiving additional information regarding proposed Bylaw 141, and that as a consequence, the Local Trust Committee understands that proposed Bylaw 141 will either have to be presented at another public hearing or will have to be otherwise considered in accordance with requirements of the *Local Government Act*."

The purpose of this report is to provide any new information that is available and to outline possible options for next steps of consideration.

STAFF COMMENTS:

This rezoning application provided for two bylaw amendment proposals as follows:

Bylaw 140 being an amendment to the OCP. This bylaw has now been adopted by the Hornby Island Local Trust Committee.

Bylaw 141 being a proposed amendment to the Land Use Bylaw. The Local Trust Committee has resolved to receive any new information that is available regarding this

proposed bylaw. The following information is provided as information that has been received by the Islands Trust after the public hearing:

1. An email from John Ross dated April 7, 2011
2. Letter from Tony and Carol Quinn dated Feb 9, 2011
3. Letter from Tony and Carol Quinn dated March 16, 2011
4. Email from John Ross dated March 21, 2011
5. Draft covenant to address conservation initiatives signed by applicants.

ISSUES

Some of the issues that have been raised in communications received after public hearing or are noted by planning staff are:

- a. The proposed rezoning was advanced as a means of developing the property. The proposed bylaw allowed for the development but does not prescribe that any particular development be initiated. There has been some suggestion that the development of a pub be required as a condition of allowing additional development.
- b. The proposed rezoning provided added density and there is some suggestion that some return of community amenities should be considered.
- c. There is an existing covenant registered on title held to the Hornby Island Local Trust Committee that provides that the Resort nor lands across the road that have been previously leased for parking shall be used as a dining facility for guests of the Resort or for the public generally if the parking lease should expire, be terminated or modified in any way. There are various obligations upon the owner of the Resort associated with this covenant. If the rezoning proceeds, further consideration of this covenant should be addressed to determine its ongoing relevance and application to the development.
- d. There are numerous development permits that have been issued for this property to address the form and character of previous development proposals. Prior to any new development, the applicant will have to apply for a development permit and a review of existing development permits would be required to determine if they should be amended or rescinded. It is common but not required that an applicant submit a development permit application together with a rezoning proposal. The applicant has chosen not to submit a development permit application at this time.

NEXT STEPS

Options for next steps that are available to the local trust committee include:

1. Proceed no further by a resolution that denies further action regarding bylaw 141;
2. Resolve to provide further consideration to bylaw 141 that would include:
 - a. A motion to rescind 3rd reading of bylaw 141

- b. A motion to amend bylaw 141 if the LTC so chooses and the applicant is in agreement with the amendment or the amendment is consistent with what the applicant requested in their rezoning application.. If an amendment is chosen then the LTC can adopt a resolution enacting the amendment and another resolution to provide a new 2nd reading of the bylaw as amended.
- c. Depending upon the significance of the amendment, staff can provide advice as to whether further referrals of the bylaw should be required to agencies.
- d. The LTC can then resolve whether to forward the bylaw to another public hearing. Another option available to the LTC but rarely used, provided the bylaw is consistent with OCP policy, is to waive holding of a public hearing. Waiver of a public hearing still requires that notice of the proposal be provided.

RECOMMENDATIONS:

That the Hornby Island Local Trust Committee receive this staff report dated April 26, 2011 regarding application HO-RZ-2009.2 (Hornby Island Resort Ltd.) for information.

Prepared and Submitted by:

Brodie Porter

August 26, 2011

Brodie Porter

Date

ATTACHMENTS

- 1. Email from John Ross dated April 7, 2011
- 2. Letter from Tony and Carol Quinn dated Feb 9, 2011
- 3. Letter from Tony and Carol Quinn dated March 16, 2011
- 4. Email from John Ross dated March 21, 2011
- 5. Draft covenant to address conservation initiatives signed by applicants

From: John Ross [<mailto:hornbyross@hotmail.com>]
Sent: Thursday, April 07, 2011 2:25 PM
To: Brodie Porter
Subject: FW: Public hearing

Brodie,

After our conversation, one thing stood out.....you said that you didn't know the information that the trustee received, that compromised the process. You know all the facts, information, and changes that have occurred, before and after the public hearing. You have a much better knowledge if the process has been compromised rather than letting the trustee make that determination. Why weren't you the one to make that determination?

Here is a recap of our arguments and reasons:

CHANGING PLANS

We contend that we have only changed plans in order to address the concerns of the trustees in their bylaw amendment Aug 25/10, specifically parking requirements. It states that "staff bring forward evidence that sufficient parking areas have been secured to address development". That allowed us to introduce information on parking or alternatives. The sustainability issues were also a concern and the covenant was introduced as new information to deal with it. You cannot introduce one and not the other.

Back in October 2010 we advised you that we could not negotiate a deal with the new owner of the parking lot across the road and that we were looking at alternatives. In November we presented a plan that allowed all our required parking on our own lot. We had no indication from you that this was not going to be allowed.

The bylaw amendment of Aug 25/10 limits the maximum size of the commercial building to 3000 sq' but it does not set a minimum size. This implies that we can have any size building up to a maximum of 3000 sq'.

NOT BUILDING THE PUB

Every plan that we have, has a pub included. It is our primary use. Decreasing the pub from 60 seats to 30 seats does not change it from primary use. The decrease in the number of seats was for economic reasons for 10 months of the year. These are only rumours circulating around the island, and not started by us. I suspect that the seed was planted by yourself, back at the public hearing in August and in subsequent emails to islanders, when you clarified that we do not have to build the pub and it has festered since then. You had the opportunity to add a covenant or add an amendment, but none was considered and so 3rd reading was given.

During our conversation I clarified that the existing pub would remain in operation, even if we decided to rebuild it in the 2nd stage. Again, our intention has always been to have a pub on site.

We would be agreeable in having a covenant drawn up to alleviate this concern. You have already introduced the sustainability covenant after the public hearing so this covenant should also be allowed.

LEGAL ISSUES TO SUPPORT OUR ARGUMENT

Parking.....current bylaws state if parking across the road ceases, we are in violation of the parking regulations of part 5 of the bylaw requirements and we will need to change its operation. This is what we have done and we have kept you in the loop the entire time. To clarify, the parking lot across the road was secured in 1992 in order to open our dining room, nothing to do with the pub operation.

Zoning is pertaining to the use of the land and we have not changed that use. We applied for and received approval for a pub and 15 accommodation units. Going back to another public hearing, we will apply for exactly the same uses.

The trustees have given 3rd readings to both bylaw amendments. You had the opportunity to make changes to the wording of these amendments for 7 months. You cannot rescind a bylaw amendment after 3rd reading.

If a trustee feels that he has compromised the process, that is his, and the Trust's fault, not ours. We should not be penalized because a trustee listened to an islander's comment. There is a serious flaw in this process if a trustee can send an application back to a public hearing each time this happens. If that were the case, a controversial application could be sent back to its beginning, time and time again. If he really feels that his position has been compromised, he should bow out. There are still 2 other trustees which form a quorum.

I think that there is a serious breach of trust on the Trust's end. When I got back to the island last Thursday, my bartender immediately informed me that islanders had come up to her that morning and bragged about knowing that we would have to go back to another public hearing. It is not right for islanders to know this information on our project before myself. The other breach of trust was when you shared our "plans in progress" to inquisitive islanders. You have stated on many occasions that we can change our plans before a DP has been applied for. To distribute plans before they have been finalized is leaving ourselves wide open to rumours and speculative assumptions which is exactly what has happened.

CONSEQUENCES

If the bylaw amendment gets rescinded, we demand the immediate return of the \$4000 you have in trust for the preparation of the sustainability covenant. Obviously, we would not require the covenant before a public hearing is held. We will deal with it if it comes up at a later date.

This new public hearing postpones our development by 12 months. There are huge losses if this happens. It is our intent to seek damages for our losses.

The pub continues to lose money so another year of losses should be the Trust's responsibility. We have been postponing repairs to the building for the last two years because the building was to be replaced. Those repairs are needed now if the operation is to continue for another year and should be the Trust's responsibility.

We are very close to securing the acquisition of the parking lot across the road. We have demonstrated that we do not require the parking lot, but we are still wanting to acquire it for extra parking. Now the owner may increase his price, and that increase should be the Trust's responsibility.

Time and Stress for Management

Architect and Consultant Fees

Legal Fees

Brodie, the consequences are in no way, intended to be a threat, rather than just letting you know our thoughts and plans.

There is no new information here, so would it be appropriate for me to cc this email to the local trustees?

John

Brodie Porter

From: Carol and Tony Quin [ctquin@telus.net]
Sent: Wednesday, February 09, 2011 5:33 PM
To: Brodie Porter
Subject: HI Resort Land Use Bylaw Amendment Process

To: The Hornby Island Trust Committee
c/o Brodie Porter, Senior Planner
Islands Trust, Victoria, B.C.
9 February 2011

RECEIVED
AFTER PUBLIC
HEARING
- NOT DISTRIBUTED
BP

Re: The Hornby Island Resort Land Use Bylaw Amendment Resort

I understand the dilemma faced by you and the HILTC members, particularly with regard to the applicant's apparent decision not to pursue the additional parking required to meet the needs of the proposed development based on the plans presented for the public hearing in August. However I am very concerned about the past and future processing of bylaw #141 now that there has been a new site plan proposed by the applicant. I believe that this would likely be considered an act of bad faith by the Trust and the applicant, and would most definitely change the degree of support by the community if the current draft bylaw were to be approved without the the trust committee and the Hornby community first being made aware of the "new" information.

I believe that with the applicant's presentation of a new revised site plan to staff (showing altered parking, all on-site, and a diminished pub/restaurant area with insufficient parking as no outside tables are shown on the deck), sufficient "new" information has now been received by the Trust, information which the Trustees should be able to consider, even if it were to require another public hearing. Certainly the community members who supported the proposal would appreciate knowing that what they supported is not likely to be deliverable as assured by the applicant. Community members were told that the increased residential/time-share density was necessary in order to preserve the existing pub and food business. I know of many islanders who, like me, feel as though we were 'hoodwinked' into supporting the proposal for that reason. My only regret is that when I read the proposed bylaws last summer, I did not grasp then that a pub or restaurant, even as a "primary" use on the site, would not be required to exist to support the "secondary" residential uses: up to 15 two- bedroom accommodation units. (How would the "commercial/residential" proportion actually be determined or monitored, especially if there are no other outright commercial uses on the property except for the seasonal use of some of the units for short term rentals?)

We now know that since the applicant has apparently abandoned an attempt to obtain the additional parking site, the earlier proposed development plan cannot meet the requirements for sufficient parking, on-site, for all the uses permitted by the proposed bylaw. Yet once obtaining the new zoning the applicant could sell the property for a much inflated price based on an expectation that the proposal that was shown all summer at the resort, during the bylaw consideration and before the hearing was what was in fact approved. This would set the stage for the new or present owners to place pressure on future trustees or staff to make that proposal work for them (this is a site- specific zone and therefore may carry with it an assumption that the property should be able to accommodate it all).

I am sincerely dismayed by the fact that the Trustees cannot be included in this discussion and more especially so because of the new information which we are told "must" deliberately be withheld from

them: information which they *should* have before them to consider prior to making such a difficult and precedental decision. Never has there been approval for this degree of residential or commercial density, let alone for a one+ acre parcel (and I doubt it would be approved on many other islands either). While I understand the Trust's interest in saving money by not having to go back for a new hearing, even to ensure that both the committee and the public all know what is really being proposed and considered for approval, I cannot help but see the current process as being irresponsible and bad planning, creating new problems down the road. It certainly does not come close to serving the interests expressed by this community over the past several years in attempting to preserve the historic pub/meeting-place as a gateway to the island located on top of a congested ferry terminal area.

If it should come to pass that the LUB amendment is approved without having the serious parking shortage dealt with, or the archeological and other issues finalized, I will have come close to losing my faith in this trust committee's ability to provide fair, consistent, and reasonable processes for considering land use planning issues for us. I am not blaming the staff in this as the reports to the committee have been well considered. However I believe that the public hearing was rushed, few referrals had been received by then, it was the middle of summer, and those who would have considered the residential density too great for the one acre (+?) parcel had been convinced (even hoodwinked) that the accommodation units would provide for a way to "save the pub". Most importantly were the assurances given by the applicant when speaking to the proposed layout plans at the information session before the public hearing!

And all this following the approval of a new OCP amendment (sec 6.5.2.1) that states:
"Accommodation for visitors shall be environmentally sensitive, small-scale, and low density..."
Really?

Sincerely, Carol Quin, Hornby Island

Thanks, Brodie, for reading my letter and conveying what you can of this mostly not "new" information to the trust committee before they consider final readings of bylaw #141.

PS: I would appreciate a copy, Brodie, of the 1985 D|P for the HI Resort property and as well to know whether bylaw #141 will be on the agenda for further readings for the February 18th meeting here. Thanks again-- Carol

Carol and Tony Quin
 4950 Seawright Road
 Hornby Island, B.C. V0R1Z0
 16 March 2011

Hornby Island Local Trust Committee,
 Islands Trust Executive Committee,
 Brodie Porter, Sr. Planner, and
 Linda Adams, CAO, Islands Trust
 BY EMAIL

Re: Hornby Island Resort Rezoning Application Processing Procedure

We find the growing public confusion and/or lack of public awareness of the implications of the above application, in addition to the Trust's processing of it, continually distressing.

We are therefore writing to strongly recommend that the HILTC and the Trust Executive Committee review the procedures being used during the processing of this precedent-setting rezoning application, as well as the relevant OCP and the Trust-wide policies, as noted by the Executive Committee.

We strongly recommend also that, if the LTC decides to proceed with this application, the proposed amending bylaws be taken back to public hearing, or new amending bylaws presented at a new hearing, so that the local trust committee and the public are provided with all available up-to-date information to be able to understand the full extent of the land use and social implications of the proposal and the bylaw amendments. There is a need to confirm whether there is still public support for the proposal, especially as it is now being requested, before further approvals are given.

Our reasons for recommending the above are as follows:

A. Processing of Application:

1. The Public Hearing for bylaws 140 and 141 was held prematurely, in our view, before all the LTC was able to receive and review all the relevant information sufficient to consider the overall feasibility of the proposed development, thus ensuring consistency with Trust policies.
2. In our view the residents of the Island, and likely the Local Trust Committee as well, were perhaps misled by the applicants' who apparent commitments, such as retaining and securing tenure for their additional parking area and continuing the provision of a pub/restaurant as a long-standing community social amenity (perhaps in order to speed up the approval process and to garner support for the proposed OCP and LUB amendments).
3. We understand that the applicants' original development proposal for the one+ acre property, with full colour architectural drawings (still displayed in the pub for almost a year) has been altered significantly since the August 2010 hearing, causing the intent of the development and potential land use planning and social impact on the community to also change significantly. Many residents who supported the first proposal for mixed commercial and

accommodation/residential uses did so in order to support the retention of the long-standing pub/restaurant as a social amenity (community gathering place). *At the hearing no one envisioned the possibility of the property's sole use being 15 two-bedroom accommodation/residential units only (the equivalent of an average island residence), as the primary use, with a smaller or no pub or food outlet. The LTC would be wise to determine whether public support is still there for the proposed bylaws as they now stand and would allow the small lot to be developed..*

4. We are concerned that the applicant's information meeting, with colourful drawings and consultants' reports and personal commitments, was misleading to the public by being so closely tied to the Trust Committee's public hearing, which immediately followed, *making the applicant's presentation appear to be a part of the LTC meeting, and perhaps even condoned by the Trustees as well, instead of being held at arms-length at another time and place and at the applicant's expense.*
5. We also find it very disconcerting that the trustees we elected are unable to be given "new information" from the community, even regarding policies and procedures, following the closure of the hearing, no matter how relevant or important it might be toward their making the best land-use decision of behalf of both the island and the resident community. *Something must be done to avoid having to keep the trust committee (and the public) ignorant of useful information related to an application, especially for unprecedented density and land use changes. This can only make a mockery of the process by causing decisions to be made that are based on faulty or incomplete information.*

B. Relevant Policies:

1. Trust Policy Sec. 5.2.3: (noted by the Trust executive committee) directs that LTC's "...shall address policies related to aesthetic, environmental, and social impacts of development." *The applicant has not only offered no community amenities for the significant and unprecedented density increase, but may in fact be permitted to discontinue the availability of two important community social amenities: a much needed overflow parking lot for visitors to the resort and, potentially, a "heritage" pub and restaurant. We believe that it is likely that other commercial land owners may also wish to benefit from this sort of easy "up-zoning".*
2. Trust Policy Sec. 5.6.3. (also noted by the executive committee) directs that LTC's "...in their plans and bylaws address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains." This policy is also relevant as it relates to the preservation of archaeological (first nations) and historic community features and values.
3. Proposed OCP amendment bylaw 140 states in item b. (re section 6.5.1.8) that residential units should be considered as a "secondary" use to the "primary" commercial uses on the site. This is not reflected in the corresponding proposed LUB bylaw (# 141). It is also difficult to understand how the relative percentage of "primary" or "secondary" uses can be determined and therefore monitored at any given time: there is nothing to explain what happens if the "primary" commercial uses

on the site become "secondary" to the residential units or actually become non-existent.

4. Proposed OCP policy 6.5.2.1 (item c. of proposed bylaw 140) reads, "Accommodation units for visitors shall be environmentally sensitive, *small-scale and low density*..." It is difficult to understand how the LTC can justify approval of an application for this single lot *site-specific rezoning*, which would permit up to 15 two-bedroom residential/accommodation units and associated parking and other commercial uses on a site of less than 2 acres (with onsite sewage disposal as well)!

C. Suggested remedies (in addition to another public hearing):

1. *Retention of social amenity (Pub/restaurant):* We suggest that this commitment be covered as an item in the "Sustainability Approach" covenant as *suggested by the applicant (found under the second bullet as quoted in the staff report of December 2, 2011 p. 4: "Neighbourhood—enhance public access to the waterfront and maintain pub/restaurant as a public gathering place.")*
2. *Provision of ample parking in perpetuity:* We understand that the off-site parking lot, which has been leased by the resort owners for the past many years as a current development permit requirement is available for purchase. Unless the lot is decommissioned, it will still be used, but *should not be considered as satisfying the LTC's 2010 resolution that it be secured in perpetuity to provide adequate parking for the resort as needed, especially for resort over-flow, to avoid congestion with heavy line-ups of ferry traffic and traffic to and from the resort itself..*

Sincerely,

Carol and Tony Quin
Sent by email

From: John Ross [<mailto:hornbyross@hotmail.com>]
Sent: March-21-11 12:35 PM
To: Fred Hunt; Tony Law; Louise Bell
Subject: update

Hi all,

With the upcoming LTC meeting, I'm sure that you have heard rumours circulating, so I thought I would give you an update.

Rumour #1 ---- some islanders are worried that we are not going to build the pub. Our plan has always been to build a new pub. Initially we understood that we have to build on the existing footprint, but Brodie has informed us that we could build it anywhere on the property. When we were investigating parking alternatives it seemed apparent that the pub should be built on the south corner of the property, closest to the ferry terminal. Brodie advised us that we would need a variance and that our neighbours would have a say, but we feel that it is a better location for all neighbours.....further from Shingle Spit owners and closer to ferry patrons, so a win-win for everyone.

Rumour #2 ---- some islanders are saying that we intend to sell as soon as we receive zoning. Our plan has always been to redevelop the property ourselves. It has taken a long time to get to this point and it is our intent to see it through.

Bylaw amendment 140 is back from the Minister with approval.

Bylaw amendment 141 has received 3rd reading, but Trustees had 3 concerns:

Concern #1 ---- sufficient parking. We could not negotiate a fair price for the parking lot across the road, so we have had to downsize and move our commercial building, and reconfigure our accommodation units. This new plan now shows that we have sufficient parking on our own site for our planned uses. This new plan has better flow, more green space, and serves our customers more efficiently. It has also kept the parking for the commercial building more centralized and off the waterfront. We are still talking with the parking lot land owner in hopes of coming to a compromise, but at that point, the extra parking would only be a bonus and not a requirement.

Concern #2 ---- archaeology assessment. We have to apply for a site alteration permit from the Archaeology Branch in Victoria and we will abide by all conditions on the permit.

Concern #3 ---- sustainability issues. The Trustees have asked us to grant a covenant on the property that commits us to various sustainability initiatives. The Trust lawyers have drawn this covenant up and we have endorsed it.

It has always been our intent to commence construction after the summer season so that we would be completed in time for the following summer season. Spring has arrived, and as you can imagine, we still have lots of work to do. We feel that we have addressed all your concerns and are asking for 4th reading and the expedition of further approvals.

1

Thank you for your consideration.

John Ross

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office use)

Page 1 of 11 Pages

1 APPLICATION: (Name address, phone number and signature of applicant applicant's solicitor or agent)

Applicant's Solicitor

2 PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)

(LEGAL DESCRIPTION)

000-538-060

Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913 Except Part in Plan 2638 RW

3 NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

Section 219 Covenant

Entire Instrument

Transferee

Section 218 Statutory Right of Way

Page 5 - Section 7

Transferee

Priority Agreement

Page 7

Transferee

4 TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

—

D F No

(b) Express Charge Terms

X

Annexed as Part 2

(c) Release

—

There is no Part 2 of this Instrument

A selection of (a) include any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5 TRANSFEROR(S):*

HORNBY ISLAND RESORT LTD. (Inc. No. 0789283)

6 TRANSFEREE(S): (including postal address(es) and postal code(s))*

HORNBY ISLAND LOCAL TRUST COMMITTEE, Suite 200, 1627 Fort Street, Victoria, B.C. V8R 1H8

Q:\00002\0644\revised covenant march 16-bb.doc

03/18/2011

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1

Page 2

7 ADDITIONAL OR MODIFIED TERMS:*

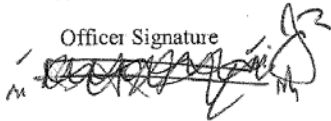
N/A

8 EXECUTION(S):**This instrument creates, assigns, modifies enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms if any

Officer Signature

Execution Date

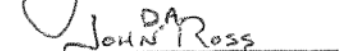
Transferor Signature

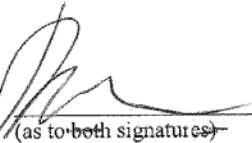


Y M D
2011 03 22

HORNBY ISLAND RESORT
LTD by its authorized
signatory(ies):

Name:


Name: John Ross

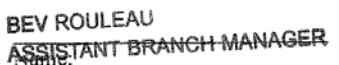

(as to both signatories)

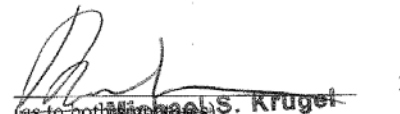
2011 03 22

Michael S. Krugel
Barrister & Solicitor
102 - 635 Fitzgerald Avenue
Courtenay BC V9N 2R4

UNION BAY CREDIT UNION
by its authorized signatory(ies):

Name:


Name: BEV ROULEAU
ASSISTANT BRANCH MANAGER


(as to both signatories)
Michael S. Krugel
Barrister & Solicitor
102 - 635 Fitzgerald Avenue
Courtenay BC V9N 2R4

2011 12 22

HORNBY ISLAND LOCAL
TRUST COMMITTEE by its
authorized signatory:

2011

Trustee:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E

** If space insufficient, continue executions on additional page(s) in Form D.

Q:\00002\0644\Revised Covenant March 16-Bb Doc

Mar 18, 2011 8:44 AM/SS

PART 2 – TERMS OF INSTRUMENT

SECTION 219 COVENANT

This Agreement dated for reference , 2011 is

BETWEEN:

HORNBY ISLAND RESORT LTD. (Incorporation No. 0789283),
of 201 – 467 Cumberland Road, Courtenay, BC V9N 2C5

("Owner")

AND:

HORNBY ISLAND LOCAL TRUST COMMITTEE,
with an office at Suite 200, 1627 Fort Street, Victoria, British Columbia, V8R
1H8

("Local Trust Committee")

GIVEN THAT:

- A. The Owner is the registered owner of the land in the Hornby Island local trust area legally described as Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913 Except Part in Plan 2638 RW (the "Land");
- B. The Owner has applied to the Local Trust Committee to rezone the Land to permit a resort development, and has represented to the Local Trust Committee that the resort development will incorporate certain building and servicing features of an environmentally sustainable nature;
- C. The Owner wishes to grant to the Local Trust Committee and the Local Trust Committee wishes to accept a covenant under s.219 of the *Land Title Act* (British Columbia) to ensure that the design, construction and operation of buildings on the Land incorporate such features; and
- D. The statutory right of way granted in this Agreement is necessary for the operation and maintenance of the Local Trust Committee's undertaking

This Agreement is evidence that in consideration of the payment of \$2.00 by the Local Trust Committee to the Owner (the receipt and sufficiency of which are acknowledged by the Owner), and in consideration of the promises exchanged below, the Owner covenants and agrees as

follows with the Local Trust Committee in accordance with s.219 of the *Land Title Act* (British Columbia);

Environmentally Sustainable Development Features

1. The Owner shall not construct or install any improvement on the Land or construct or use any building on the Land unless the improvement, use or building incorporates the features set out in Schedule A to this Agreement.
2. Having constructed an improvement or building on the Land in accordance with Schedule A, the Owner shall not alter or modify the improvement or building such that it no longer incorporates the features set out in Schedule A, unless the alteration or modification provides a greater degree of environmental sustainability than the features set out in Schedule A. The Local Trust Committee may require the Owner to provide, at the Owner's cost, written evidence of such greater sustainability, including information under the seal of an architect or engineer.
3. The Owner may apply in writing to the Local Trust Committee for a variance of the features set out in Schedule A, on the basis that the materials or equipment required to incorporate or install such features are not commercially available or cannot be utilized without compromising the health or safety of occupiers of the building or the Land, and if the Local Trust Committee authorizes such variance in writing, references to Schedule A in this Agreement including Schedule B shall be interpreted as references to Schedule A as so varied. The Local Trust Committee may, in its sole discretion, require the Owner to provide information under the seal of an architect or engineer to support any such variance application.
4. Prior to constructing any improvement or building on the Land, the Owner shall provide plans of the proposed building or other improvement to the Local Trust Committee to enable the Local Trust Committee to ensure that the Owner is in compliance with this Agreement, and the plans shall be of sufficient scope and level of detail for that purpose.

Statutory Declarations

5. In order to enable the Local Trust Committee to confirm that the Owner is in compliance with this Agreement, the Owner must swear and deliver to the Local Trust Committee, prior to occupying any building constructed on the Land after the date of execution of this Agreement, a statutory declaration in the form attached as Schedule B.
6. If at any time subsequent to the Owner's delivery of the statutory declaration described in section 5 the Local Trust Committee has reason to believe that the Land or any building or structure on the Land has been altered or modified such that the Owner is not in compliance with section 2, the Local Trust Committee may require the Owner to swear and deliver a further statutory declaration in the form attached as Schedule B.

Statutory Right of Way

7. In accordance with section 218 of the *Land Title Act*, the Owner grants, conveys and confirms to the Local Trust Committee in perpetuity a statutory right of way for the officers and employees of the Islands Trust to enter, leave and be on the Land, and to enter any building on the Land, in the same manner and subject to the same conditions as apply to entry on the Land for the purpose of enforcing bylaws of the Local Trust Committee, in order to inspect the Land and buildings on the Land and monitor performance of this Agreement by the Owner.

No Effect On Laws or Powers

8. This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the Local Trust Committee under any enactment or at common law, including in relation to the use or subdivision of the Land except as expressly set out herein;
 - (b) impose on the Local Trust Committee any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement except as expressly set out herein;
 - (c) affect or limit any enactment relating to the use or subdivision of the Land or buildings on the Land, including the British Columbia Building Code; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

Limitation on Obligations

9. The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner or which the Owner permits or allows while the Owner is the registered owner of any interest in the Land, and then only to the extent of that interest.

No Liability in Tort

10. The parties agree that this agreement creates only contractual obligations. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract.

Covenant Runs With the Land

11. Unless it is otherwise expressly provided in this Agreement, every obligation and covenant of the Owner in this Agreement constitutes a personal covenant and also a

covenant granted under s 219 of the *Land Title Act* (British Columbia) in respect of the Land. This Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated.

Registration

12. The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered or pending registration in the Land Title Office at the time of application for registration of this Agreement.

Waiver

13. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. Without limiting the generality of the foregoing, the Local Trust Committee is not deemed to have waived any breach of this Agreement if, having received plans of buildings or improvements under section 4, it does not seek to enforce this Agreement in respect of any breach that may be illustrated or implied by such plans. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

Severance

14. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

No Other Agreements

15. This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

Binding of Successors

16. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

As evidence of its agreement to be bound by the terms of this instrument, the Owner and the Local Trust Committee have executed the Land Title Office Form C that is attached to and forms part of this Agreement.

PRIORITY AGREEMENT

BETWEEN:

HORNBY ISLAND LOCAL TRUST COMMITTEE

(the "Subsequent Chargee")

AND:

UNION BAY CREDIT UNION

(the "Prior Chargee")

WHEREAS:

- A. HORNBY ISLAND RESORT LTD. (the "Owner") is the owner of that parcel of land and premises located on Hornby Island and legally described as Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913 Except Part in Plan 2638 RW (the "Land");
- B. The Owner granted the Prior Chargee a mortgage that is registered against the title to the Land in the Victoria Land Title Office under number CA955133 (the "Prior Charge");
- C. On the ____ day of _____, 2011 the Owner granted the Subsequent Chargee a covenant that will be registered concurrently with this Agreement (the "Subsequent Charge");

NOW THEREFORE in consideration of the sum of One (\$1.00) Dollar now paid by the Subsequent Chargee to the Prior Chargee, the receipt and sufficiency of which are hereby acknowledged, the Prior Chargee grants to the Subsequent Chargee priority over the Prior Charge and the Prior Chargee covenants and agrees to subordinate and postpone all its right, title and interest in and to the Land with the intent and with the effect that the interest of the Subsequent Chargee shall rank ahead of the Prior Charge as though the Subsequent Charge had been executed, delivered and registered in time prior to the registration of the Prior Charge.

As evidence of its agreement to be bound by the terms of this instrument, the Prior Chargee has executed the Land Title Office Form C that is attached to and forms part of this Agreement.

Schedule A

1 Rainwater Catchment

- 1.1 The Owner shall construct two cisterns or reservoirs as integral components of buildings on the Land and having a total capacity of at least 10,000 imperial gallons, for the storage of rainwater falling on the Land and for such use on the Land as is permitted by the B.C. Building Code, the *Drinking Water Protection Act* and the *Health Act*, including fire suppression.
- 1.2 The Owner shall install rain-barrels of appearance and design consistent with the architectural design of the accommodation building, and of approximately 25 imperial gallons capacity, to capture rainwater falling on each accommodation building constructed on the Land for use in landscape irrigation or gardening on the Land.

2 Green Roofs

- 2.1 The Owner shall design and construct the roof of each accommodation or commercial building on the Land such that at least 20% of the area of each roof is a green roof, planted with indigenous grasses or other indigenous vegetation and maintained so as to attenuate storm water runoff from the roof, provide natural habitat for insects and birds, and reduce the build-up of solar heat in the building.

3 Water Conservation Fixtures

- 3.1 All water-using fixtures installed in buildings on the Land whether initially or as replacements for fixtures previously installed, including toilets, bidets, urinals, showers, and sinks, shall be the most efficient in the use of water of those commercially available.

4 Energy Conservation

- 4.1 All appliances, heating, cooling and ventilation equipment and lighting fixtures installed in buildings on the Land whether initially or as replacements for appliances, equipment or fixtures previously installed, shall bear the Natural Resources Canada Energy Star rating.
- 4.2 Glazing of buildings on the Land other than bedroom and bathroom glazing shall be of the low-emissivity type.
- 4.3 Accommodation units shall be equipped with propane-fueled space heaters or fireplaces adequate to heat rooms other than bedrooms and bathrooms.

5. Landscaping, Paving and Lighting

- 5.1 Any artificial landscaping installed on the Land shall use indigenous species that do not require irrigation following the initial transplantation period.
- 5.2 Areas designated for the parking of motor vehicles shall not be paved or otherwise improved with impervious surfaces.
- 5.3 Exterior lighting on pathways shall be solar powered, and all exterior lighting shall be located and of such design that light is not directed upwards or away from the immediate area being illuminated

6. Building Orientation and Glazing

- 6.1 Buildings on the Land shall be oriented to make optimal use of passive solar heating, with at least 60% of the area of walls that are facing approximately south, other than bedrooms and bathroom walls, being glazed.

7. Building Products and Materials

- 7.1 Products and materials for buildings on the Land shall be selected so as to minimize the use of products and materials containing volatile organic compounds (VOC) including formaldehyde. Paints and other flammable liquids shall, if stored on the Land, be stored in buildings not used for human occupancy

8. Sewage Treatment and Disposal

- 8.1 The Owner shall install and operate an Orenco Advan-Tex sewage filtration system or an alternative system having, at a minimum, equivalent operational features in terms of energy consumption and the quality of treated effluent, and shall treat and dispose of all sewage generated on the Land by means of that system.

9. Recycling

- 9.1 The Owner shall provide on the Land and utilize to the maximum extent possible, containers and similar facilities for the recycling of materials so as to minimize the generation from the operation of all resort operations on the Land of solid waste requiring disposal.

Islands Trust

Staff Report

Page 22 of 23

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) Signature of person making declaration
)
)

**Attachment to Statutory Declaration –
Insert Schedule A building standards from covenant**

END OF DOCUMENT

HORNBY ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 141

A BYLAW TO AMEND THE HORNBY ISLAND LAND USE
BYLAW NO. 86, 1993

WHEREAS the Hornby Island Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the Hornby Island Local Trust Area, pursuant to the Islands Trust Act;

AND WHEREAS Section 29 of the *Islands Trust Act* gives the Hornby Island Local Trust Committee the same power and authority of a Regional District under Part 26, except sections 932 to 937 and 939, of the *Local Government Act*;

AND WHEREAS the Hornby Island Local Trust Committee wishes to amend the Hornby Island Land Use Bylaw No. 86, 1993;

AND WHEREAS the Hornby Island Local Trust Committee has held a Public Hearing;

NOW THEREFORE the Hornby Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “Hornby Island Land Use Bylaw No. 86, 1993, Amendment No. 1, 2010.”

2. SCHEDULES

Hornby Island Land Use Bylaw No. 86, 1993 is amended as shown on Schedule A, attached to and forming part of this bylaw.

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME this	7th	day of	July	, 2010.
PUBLIC HEARING HELD this	24th	day of	August	, 2010.
READ A SECOND TIME this	25th	day of	August	, 2010.
READ A THIRD TIME this	15th	day of	December	, 2010.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this				
		day of		, 201X.
ADOPTED this		day of		, 201X.

SECRETARY

CHAIR

**HORNBY ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 141**

SCHEDULE A

1. Section 2 DEFINITIONS of the Hornby Island Land Use Bylaw No. 86, 1993 is amended by replacing the definition for “visitor accommodation unit” which currently reads:

“**visitor accommodation unit** means a lodge, resort, hotel, or motel room or any other room or set of rooms used to provide for a rental charge temporary overnight accommodation of not more than 4 consecutive weeks to transient guests;”

with the following text:

“**visitor accommodation unit** means commercial accommodation sited on a property zoned for commercial use that consists of the temporary rental of a room or set of rooms for not more than four (4) consecutive weeks to traveling public whose permanent domicile or home life is elsewhere;”

2. Section 9.16 COMPREHENSIVE COMMERCIAL (C3) ZONE (Hornby Island Resort) of the Hornby Island Land Use Bylaw No. 86, 1993 is amended by replacing with the following text:

- a. “9.16 COMPREHENSIVE COMMERCIAL (C3) ZONE (Hornby Island Resort)

PERMITTED USES

- 9.16.1 The following uses are permitted, subject to the regulations set out in this Section and Part 3.0, and all other uses are prohibited:

- 9.16.1.1 Retail, including liquor sales;
- 9.16.1.2 Pub;
- 9.16.1.3 Restaurant;
- 9.16.1.4 Office;
- 9.16.1.5 Visitor Accommodation Units;
- 9.16.1.6 Residential use of a visitor accommodation unit, provided the visitor accommodation unit contains only one kitchen and is capable of being used for human habitation by one or more individuals living in common occupancy as a single domestic unit; and
- 9.16.1.7 Accessory Uses.

PERMITTED BUILDINGS, STRUCTURES AND DENSITY

- 9.16.2 A maximum of fifteen visitor accommodation units are permitted on property described as Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913
- 9.16.3 Accessory buildings and structures including a maximum of one accessory dwelling unit attached to the building used for a pub or restaurant on property described as Lot B, Section 4-A, Hornby Island, Nanaimo District, Plan 24913.
- 9.16.4 Lot coverage must not exceed 40% of any lot.

SITING AND SIZE

- 9.16.5 The minimum setback for any building or structure, except for a fence or pump/utility house shall be:
- 9.16.5.1 6.0 metres from a front lot line;
 - 9.16.5.2 6.0 metres from a rear lot line;
 - 9.16.5.3 15.0 metres from and 1.5 m above the natural boundary of the sea;
 - 9.16.5.4 3.0 metres from an interior side lot line; and
 - 9.16.5.5 6.0 metres from an exterior side lot line.

- 9.16.6 Despite 9.16.5.3 the setback for a restaurant/pub shall be 0.0 metres from the natural boundary of the sea.
- 9.16.7 Where fill is used to achieve the elevation required in Section 9.16.5.3, no portion of the fill slope may be less than 15 m from the natural boundary of the sea.
- 9.16.8 The maximum floor area of each visitor accommodation unit and any accessory dwelling unit shall be 93 square metres (1000 square feet).
- 9.16.9 The maximum floor area of all buildings, other than those used for visitor accommodation units or accessory use, shall not exceed 279 square metres (3000 square feet).

MINIMUM LOT SIZE

- 9.16.10 No lot having an area less than 1 hectare may be created by subdivision.

PARKING AND SCREENING REGULATIONS

- 9.16.11 Motor vehicle parking spaces must be provided for all permitted uses in accordance with Part 5.0 of this bylaw.
- 9.16.12 Outdoor storage and parking areas must be screened in accordance with Part 6.0 of this bylaw."



STAFF REPORT

Date: March 25, 2011

File No.: HO-DVP-2011.1
(Wai)

To: Hornby Island Local Trust Committee
For April 27, 2011 Regular Business Meeting

From: Sonja Zupanec, Island Planner

Copy: Chris Jackson, Regional Planning Manager

Re: **Development Variance Permit for HO-DVP-2011.1 (Wai)**

Owners: Christina Wai and Peter Van gelder

Applicant: Owners

Location: 4005 and 4055 Roburn Road

Legal: Lot 4, Section 11, Hornby Island, Nanaimo District, Plan 28020

A. THE PROPOSAL:

The application is to relax the depth to width ratio requirement for subdivision in the *Hornby Island Land Use Bylaw No. 86, 1993* (LUB). The proposed permit would vary Section 3.12 (Lot Proportions) which states that no lot may be created by subdivision whose front lot line is less than one-third ($1/3$) the length of its longest side lot line and allow the applicant to subdivide without complying with the minimum depth to width ratio of 3 to 1. Proposed Lot 4A requires the variance.

The proposed layout creates Lot 4A of 2.7 ha (6.7 ac) and proposed Lot 4B of 1.3 ha (3.3 ac). The site plan is included in attachment 1.

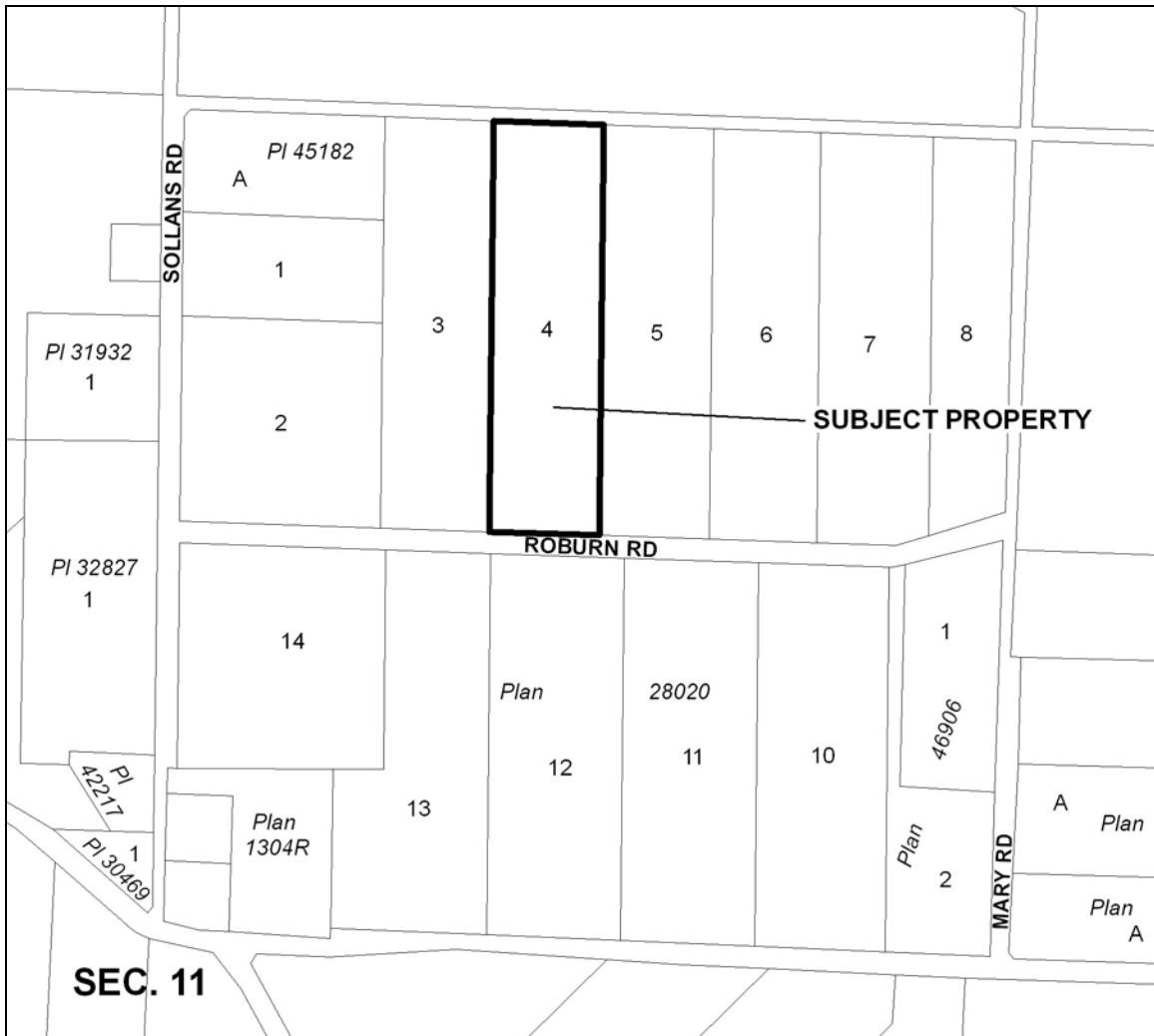
B. BACKGROUND:

Application to subdivide this property into two lots has already received preliminary layout approval from the Ministry of Transportation and Infrastructure.

Staff reviewed the preliminary subdivision plans and identified that it did not comply with the LUB. To move forward, the applicant needed to either revise the proposed subdivision plan or obtain a variance to relax the subdivision regulation's lot proportions.

C. SITE CONTEXT:

The subject property, illustrated below, is zoned Rural Residential (R3a) and is 4 ha (9.8 ac) in size. The proposed Lot 4A will be 2.7 ha (6.7 ac) and proposed Lot 4B will be 1.3 ha (3.3 ac) in size, each with an existing dwelling.



D. COMMUNITY INFORMATION MEETING(S):

A community information meeting is not required for a variance application; however, a statutory mail out was conducted to collect comments from neighbouring properties. A notice of the application was circulated to neighbouring property owners and submissions will be accepted until the date of the Hornby Island Local Trust Committee meeting on April 27, 2011. Submissions received after completion of this staff report, and prior to the meeting will be provided to the LTC at the meeting.

E. RESULTS OF CIRCULATION:

At the time of this report no public submissions regarding this application were received.

F. CURRENT PLANNING STATUS OF SUBJECT LANDS:

1. Hornby Island Official Community Plan: The property is designated **Large Lot Residential (LR)**.

The purpose of the Large Lot Residential designation in the Hornby Island OCP is to promote the retention of large parcels of land and to maintain the rural aesthetic appeal. Subdivision is supported in this zone provided there is no increase in density or additional impacts upon the island.

2. Hornby Land Use Bylaw No. 86: The property is zoned **Rural Residential (R3a)**.

Section 3.12 of the *Hornby Island Land Use Bylaw* states that “no lot may be created by subdivision whose front lot line is less than one-third the length of its longest side lot line.”

3. Archaeological Sites:

According to the provincial Remote Access to Archaeology Data (RAAD), there are no archaeological sites on or in the vicinity of the property.

4. Sensitive Ecosystems:

According to the Islands Trust Ecosystem Mapping (ITEM) the property contains sections of mature forest. There are no ecologically sensitive areas noted on the property.

5. Covenants:

There are no covenants noted on the land title, or required for the development variance permit.

6. Site Visit:

A site visit was not conducted by staff for this application.

G. ISSUES SUMMARY:

Lot Proportions: The lot proportions regulation is intended to prevent the creation of long, narrow lots. Section 3.12 (Lot Proportions) of the *Hornby Island Land Use Bylaw* states that no lot may be created by subdivision whose front lot line is less than one-third (1/3) the length of its longest side lot line. Proposed Lot 4B is in compliance, but proposed Lot 4A is approximately 1/5 and requires a variance.

H. STAFF COMMENTS:

The application is to relax lot proportions subdivision regulation in the Hornby LUB. The applicant requires a variance because of the narrow front lot line of Proposed Lot 4A. The proposed site layout is logical considering there is no access to the existing dwelling to the north on dedicated Fowler Road. Instead there is an existing shared driveway from Roburn Road, which will continue to serve as shared access to both

lots. The Ministry of Transportation and Infrastructure has required a reciprocal agreement for access to be provided prior to submission of final subdivision plans.

I. RECOMMENDATIONS:

Staff recommends that the Hornby Island Local Trust Committee issue development variance permit HO-DVP-2011.1 (Wai).

Respectfully submitted by:

Sonja Zupanec
Island Planner
March 17, 2011

Concurred in by:

Chris Jackson

MCIP, Regional Planning Manager

April 11, 2011

Date

Attachment # 1: Draft permit and site plan

DRAFT



**HORNBY ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
HO-DVP-2011.1**

To: Christina Wei and Peter Van gelder

1. This Development Variance Permit applies to the land described below:

Lot 4, Sections 11, Hornby Island, Nanaimo District, Plan 28020

2. "Hornby Island Land Use Bylaw No. 86, 1993" is varied as follows:

Section 3.12 (Lot Proportions) which states that no lot may be created by subdivision whose front lot line is less than one-third (1/3) the length of its longest side lot line is varied in order to subdivide in accordance with Schedule A, attached to and forming part of this permit.

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "Hornby Island Land Use Bylaw No. 86, 1993" and obtain other approvals necessary for completion of the proposed development.

**AUTHORIZING RESOLUTION PASSED BY THE HORNBY ISLAND LOCAL TRUST COMMITTEE
THIS ____ DAY OF ____, 2011.**

Deputy Secretary, Islands Trust

Date of Issuance

**IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE __ DAY OF ____,
THIS PERMIT AUTOMATICALLY LAPSES.**

321.5'

DEDICATED FOWLER RD

LOT 3

LOT 4

LOT 5

PROPOSED LOT A:
6.68 ACRES

LEGAL DESCRIPTION:
LOT 4, SECTION II,
HORNBY ISLAND,
NANAIMO DISTRICT,
PLAN 28020
10 ACRES: R3(A)

SCALE: 1"=120'
MAY 24, 2010
JAN 14, 2011-REVISED

NOTE:
LOT 4 IS WELL TREED.
APPROX. 1/4 ACRE IS
CLEARED AROUND
BOTH HOUSES FOR
GARDEN, SEPTIC,
& PARKING.

1956.0'

120'

20'

160'±

K-Studio:
450 SQ FT
HT: 14 FT

200'±

400'

85'±

RESIDENCE A:
(SEE PAGE 2)

201.5'

PROPOSED LOT B:
3.32 ACRES

* PROPOSED EASEMENT
FOR ACCESS &
WATER + POWER
LINES

RESIDENCE B
(SEE PAGE 2)

140'±

60'±

Well

DRIVEWAY & PARKING

321.5'

950'±

300'

1021'

ROBURTH RD

PAGE 1 of 2.

STAFF REPORT

Date: April 7, 2011

File No.: HO-DVP-2011.2
(Costello)

To: Hornby Island Local Trust Committee
For April 27, 2011 Regular Business Meeting

From: Sonja Zupanec, Island Planner

Copy: Chris Jackson, Regional Planning Manager

Re: Development Variance Permit for HO-DVP-2011.2 (Costello)

Owners: Joan Anne Costello

Applicant: Owner

Location: 6970 Anderson Drive, Hornby Island

Legal: Lot 7, Section 9, Hornby Island, Nanaimo District, Plan 25736

A. THE PROPOSAL:

The application is to relax the lot proportions requirement for subdivision in the *Hornby Island Land Use Bylaw No. 86, 1993* (LUB). The proposed permit would vary Section 3.12 (Lot Proportions) which states that no lot may be created by subdivision whose front lot line is less than one-third (1/3) the length of its longest side lot line and allow the applicant to subdivide. The proposed Remainder Lot requires the variance, as drafted in attachment 1.

The proposed layout creates two lots: Proposed Lot 1 of 1.007 ha; and Proposed Remainder Lot 7 of 6.538 ha. The subdivision does not comply with the density provisions of the LUB, and is therefore proposed through section 946 of the *Local Government Act* [subdivision for a relative].

B. BACKGROUND:

Application to subdivide this property into two lots has already received preliminary layout approval from the Ministry of Transportation and Infrastructure.

Staff reviewed the preliminary subdivision plans and identified that it did not comply with the LUB. To move forward, the applicant needed to either revise the proposed subdivision plan or obtain a variance to relax the subdivision regulation's lot proportions.

C. SITE CONTEXT:

The subject property is zoned Rural Residential (R3) and is approximately 7.6 ha in size.

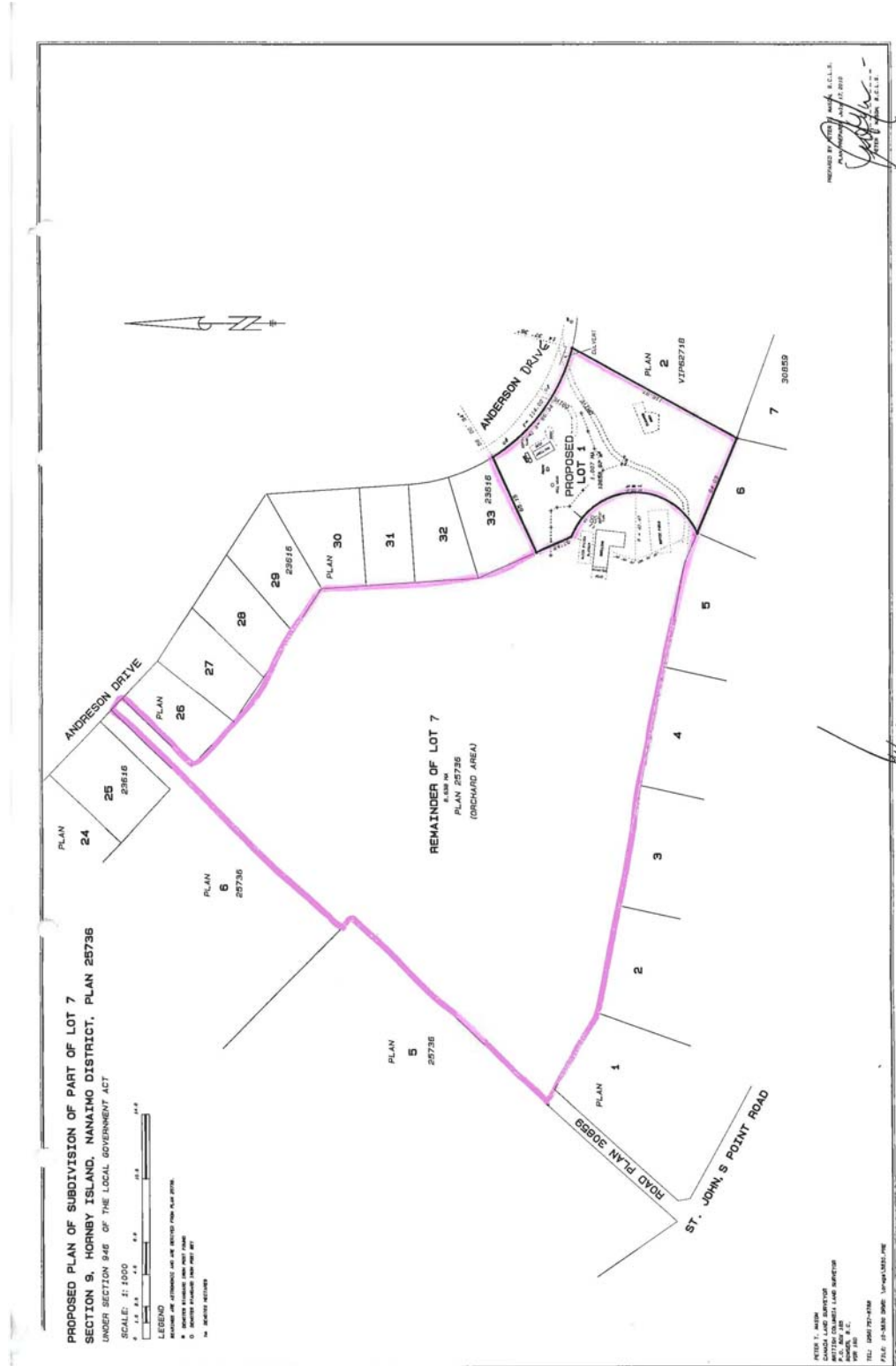


Figure 1. Proposed Subdivision Plan for subject property.

D. COMMUNITY INFORMATION MEETING(S):

A community information meeting is not required for a variance application; however, a statutory mail out was conducted to collect comments from neighbouring properties. A notice of the application was circulated to neighbouring property owners and submissions will be accepted until the date of the Hornby Island Local Trust Committee meeting on April 27, 2011. Submissions received after completion of this staff report, and prior to the meeting will be provided to the LTC at the meeting.

E. RESULTS OF CIRCULATION:

At the time of this report no public submission regarding this application were received.

F. CURRENT PLANNING STATUS OF SUBJECT LANDS:

1. Hornby Island Official Community Plan: the property is designated **Large Lot Residential (LR)**

The purpose of the Large Lot Residential designation in the Hornby Island OCP is to promote the retention of large parcels of land and to maintain the rural aesthetic appeal. Subdivision is supported in this zone provided there is no increase in density or additional impacts upon the island.

2. Hornby Land Use Bylaw No. 86: The property is zoned **Rural Residential (R3).**

Section 3.12 of the *Hornby Island Land Use Bylaw* states that “no lot may be created by subdivision whose front lot line is less than one-third the length of its longest side lot line.”

3. Archaeological Sites:

According to the provincial Remote Access to Archaeology Data (RAAD), there are no archaeological sites on or in the vicinity of the property.

4. Sensitive Ecosystems:

According to the Islands Trust Ecosystem Mapping (ITEM) the property is second growth forest. There are no ecologically sensitive areas noted on the property.

5. Covenants:

There are no covenants noted on the land title. A section 946 covenant is required for the approval of the subdivision. Should the variance be approved by the Local Trust Committee (LTC), the LTC will be asked to authorize, by resolution, staff to enter into a cost recovery agreement with the applicant for the purposes of preparing a section 946

covenant to be registered on title of the properties. As stated in the *Local Government Act*, the purpose of the covenant is to provide that:

- For 5 years, the use of the parcel subdivided being provided as a residence for the owner or for the owner's mother, father, mother-in-law, father-in-law, daughter, son, daughter-in-law, son-in-law or grandchild must remain a residential use only, unless the use is changed by bylaw; and
- For 5 years, the use of the remainder of the original parcel must not be changed from the use of the original parcel unless the use is changed by bylaw; and
- The parcels will not be subdivided any further under Section 946; and
- The covenant complies with Section 946 of the *Local Government Act*, and once executed, the owner must register the covenant under Section 219 of the *Land Title Act* on each of the parcels being created by subdivision at the same time the subdivision plan is being deposited at the Land Title Office.

6. Site Visit:

A site visit was not conducted by staff for this application.

G. ISSUES SUMMARY:

Lot Proportions: The lot proportions regulation is intended to prevent the creation of long, narrow lots. Section 3.12 (Lot Proportions) of the *Hornby Island Land Use Bylaw* states that no lot may be created by subdivision whose front lot line is less than one-third ($\frac{1}{3}$) the length of its longest side lot line. Proposed Lot 1 is in compliance, but the proposed Remainder of Lot 7 requires a variance.

Lot Frontage: There is no lot frontage requirement in Bylaw 86. Under the *Local Government Act*, the newly created lot must have a 10% lot frontage. Remainder Lot 7 does not meet this requirement. The Local Trust Committee is requested to grant a frontage waiver to approve the proposed remainder lot frontage.

H. STAFF COMMENTS:

The application is to relax the lot proportions subdivision regulation in the Hornby LUB. The applicant requires a variance because the narrow front lot line off of Anderson Road for the Remainder Lot 7 does not meet the $\frac{1}{3}$ length requirement. A 10% frontage waiver for the Remainder Lot is also being requested. The Ministry of Transportation and Infrastructure has requested that the applicant provide written confirmation stating that physical access to the Remainder Lot is via the Anderson Drive panhandle, unless a suitable reciprocal easement is registered. The Hornby Island

winery is currently operating on the Remainder Lot and a proposal for a micro-distillery has been applied for by the applicant with the Liquor Control Licensing Branch.

I. RECOMMENDATIONS:

Staff recommends that the Hornby Island Local Trust Committee:

1. Issue development variance permit HO-DVP-2011.2 (Costello); and
2. Authorize staff to initiate cost recovery with the applicant for the preparation and review of a section 946 covenant; and
3. Grants a frontage waiver under s. 944 of the Local Government Act to approve the proposed lot frontage of Proposed Remainder Lot 7.

Respectfully submitted by:

Sonja Zupanec
Island Planner
April 7, 2011

Concurred in by:

Chris Jackson

MCIP, Regional Planning Manager

April 11, 2011

Date

Attachment # 1: Draft permit

DRAFT



**HORNBY ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
HO-DVP-2011.2**

To: Joan Costello

1. This Development Variance Permit applies to the land described below:

Lot 7, Sections 9, Hornby Island, Nanaimo District, Plan 25736

2. "Hornby Island Land Use Bylaw No. 86, 1993" is varied as follows:

Section 3.12 (Lot Proportions) which states that no lot may be created by subdivision whose front lot line is less than one-third (1/3) the length of its longest side lot line is varied in order to subdivide in accordance with Schedule A, attached to and forming part of this permit.

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "Hornby Island Land Use Bylaw No. 86, 1993" and obtain other approvals necessary for completion of the proposed development.

**AUTHORIZING RESOLUTION PASSED BY THE HORNBY ISLAND LOCAL TRUST COMMITTEE
THIS ____ DAY OF ____, 2011.**

Deputy Secretary, Islands Trust

Date of Issuance

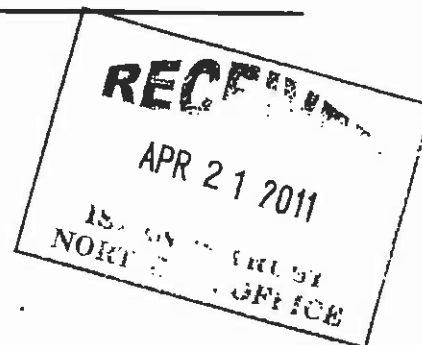
**IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ____ DAY OF ____,
THIS PERMIT AUTOMATICALLY LAPSES.**

[illegible]

John Mason

April 18, 2011

Sonja Zupanec
Island Planner
Islands Trust
700 North Road
Gabriola Island, BC VOR 1X3



Re: NOTICE HO-DVP-2011.2

Dear Ms Zupanec,

I am writing to express my concern at the request to subdivide the property at 6970 Anderson Drive, Hornby Island (Lot 7, Section 9, Nanaimo District, Plan 25736).

I own a property across the road from the subject property at 6805 Anderson Drive and so received the notice of intent.

I feel very strongly that people who purchase property in the Gulf Islands do so under the assumption that the current bylaws that govern the islands will be upheld by the Islands Trust through its elected members. I feel that subdivision size is a crucial element in the preservation of island ecosystems.

As I am sure you are aware groundwater conservation and sewage disposal are critical elements on Hornby Island and the creation of smaller lots inevitably increases density and has a negative impact on these two issues.

The owner of the subject property has flaunted the Islands Trust bylaws in the past by moving an over-height building onto the subject property and applying for a variance after the fact. This variance was granted over the objections of many local residents and, in my opinion, this is analogous to rewarding a criminal after a crime has been committed.

Islands Trust bylaws are created for the benefit of all residents and property owners and should not be subject to variances that benefit one owner and have a negative impact on others. For this reason I feel very strongly that this request for variance should be denied.

Yours sincerely,

John Mason

cc. Tony Law, Hornby Island trustee
Fred Hunt, Hornby Island trustee

RECEIVED

APR 21 2011

ISLANDS TRUST
NORTHERN OFFICE

April 19 / 11

Honorable Island Local Trust Committee

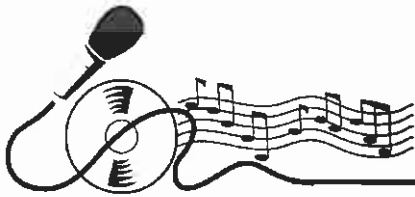
Thank you for the notice and the opportunity to voice our concerns regarding HO-DVP-2011-2. Our property is Lot 6 directly behind proposed Lot 1.

Years ago we were shocked when Mrs. Costello / Mr. Grayson rammed their grossly overheight and extremely large former office building onto residential land forever damaging what was an idyllic forest setting for many residents. We were then dismayed at the frustrated attempts on the part of the Trust Committee to enforce the existing bylaw as were many other neighbors and Islanders. Since then we've lived with debris and noise of one commercial venture after another and sadly seen most of the forest cleared and destroyed.

This time, however, the Trust Committee has the ability to deny the permit. Consider the applicants: their history on the Island shows they will do whatever it takes to forward their commercial agenda with no regard for the impact on their neighbors, in spite of any good intentions they may profess. If given this permit who can say what their next step will be: more secondary housing on each parcel?

Deny this application; it is the thin edge of the wedge.

Barclay Randall
Barclay Randall



DON GEPPERT

Sound Recording Engineering

Saturday, April 23, 2011

Sonja Zupanec, M.C.I.P.
Island Planner
Gambier and Hornby Island Local Trust Committees
Islands Trust
700 North Road,
Gabriola Island, B.C. VOR 1X3

Subject: Development Variance Permit HO-DVP-2011.2
(Joan Costello)

Dear Ms. Zupanec:

This letter is in reference to the DVP application cited above to clear the way for Joan Costello to subdivide a small portion of her property for a relative.

I am in favour of this and would like to see this Permit be granted.

I also agree with the Staff Report that recommends that this DVP Permit Application should be approved by the Hornby Island Local Trust Committee on April 27, 2011.

Sincerely,

Don Geppert

From: [Elizabeth Macdonald](#)
To: [Sonja Zupanec](#);
cc: tlaw1@telus.net; fmhunt@mars.ark.com;
Subject: re: letter of support for Development Variance Permit HO-DVP-2011.2 (Joan Costello)
Date: Saturday, April 23, 2011 7:10:39 PM

From: Elizabeth Macdonald

Date: April 23, 2011

To: Sonja Zupanec

Sonja Zupanec, M.C.I.P.
Island Planner (Gambier and Hornby Island Local Trust Committees)
Islands Trust
700 North Road,
Gabriola Island, B.C. V0R 1X3
Ph: 250.247.2211 or toll free 1.800.663.7867
Fx: 250.247.7514

Subject: Development Variance Permit HO-DVP-2011.2 (Joan Costello)

Dear Ms. Zupanec:

This letter is in reference to the DVP application cited above - to allow Joan Costello to subdivide a small portion of her property for a relative.

I am in favour of this and would like to see that this application be granted. I also agree with the Staff Report that recommends that this DVP should be approved by the Hornby Island Local Trust Committee on April 27, 2011.

Sincerely,

Elizabeth Macdonald

From: Peter Berrang
To: Sonja Zupanec;
cc: tlaw1@telus.net;
Subject: Dev. Var. Permit HO-DVP-2011.2
Date: Sunday, April 24, 2011 4:43:04 PM

April 24, 2011

Atten: Sonja Zupanec, M.C.I.P.
Island Planner (Gambier and Hornby Island Local Trust Committees)
Islands Trust
700 North Road,
Gabriola Island, B.C. V0R 1X3

Subject: Development Variance Permit HO-DVP-2011.2 (Joan Costello)

Dear Ms. Zupanec:

This letter is in reference to the DVP application cited above - to clear the way for Joan Costello to subdivide a small portion of her property for a relative.

I am in favour of this and would like to see this Permit be granted.

I also agree with the Staff Report that recommends that this DVP Permit Application should be approved by the Hornby Island Local Trust Committee on April 27, 2011.

Sincerely,

Peter G. Berrang

From: cathie & john howard
To: Sonja Zupanec;
cc: canookied@yahoo.com;
Subject: Submission re Development Variance permit HO-DVP-2011.2
Date: Monday, April 25, 2011 10:36:23 PM

To Sonja Zupanec, Island Planner,
Islands Treust, Gabriola Island, V0R 1X3.

Dear Sonja:

We are Cathie & John Howard, owners and residents of 6455 St. Johns Point Road, Hornby Island. It is shown as Lot 5 on your notice, adjacent to Lot 7 the subject lot and to Lot 1 at the south west corner of lot 7. Jesse Berg, owner of Lot 1 but resident in Golden BC supports the following comments and I ask him to confirm this fact by e-mail to you by April 27.

We have two comments:

- 1). We understand that at this stage property rezoning has not been requested however in the past, a number of commercial proposals have been put forward which, had they been implemented would have altered the character of our community very seriously. At the present time a balance seems to have been struck in that a home occupation is being carried on on a rural residential community, but given past history we would argue very strongly against rezoning should that become an issue. If further development is the applicant's objective, this application should be denied.
- 2). It is unclear from viewing the sketch whether the applicant is seeking direct access to St. Johns Point Road as part of the requested redefinition of the "Remainder" lot. Our expectation be would that this is not the case since access is already readily available from two locations on Anderson Drive. The Schedule "A" attached to the application describes a "Road, Plan 30859". However in the past, an attempt was made to link up Lot 7 with St. Johns Point Road which we opposed was subsequently rejected by the Ministry of Transportation and Highways in 2001 as the location unsuited for safe development. Documentation of this will be forwarded by fax tomorrow AM. If in fact access to the property is part of the Variance application we would oppose it strongly as both unsafe and unnecessary.

We appreciate the opportunity to present our thoughts for the LTC's consideration.

Cathie & John Howard

From: David Scott
To: Sonja Zupanec;
cc: tlaw1@telus.net; fmhunt@mars.ark.com;
Subject: Development Variance Permit HO-DVP-2011.s (Costello)
Date: Monday, April 25, 2011 4:38:09 PM

Dear Ms.Zupanec,

I am writing to express my support of the DVP application referenced above, which I understand you have recommended approval of.

I have a home in the neighbourhood and have absolutely no objection to the subdivision proposed.

Thank you

David E Scott

From: dean ellis
To: Sonja Zupanec;
cc: John Grayson;
Subject: Development Variance Permit HO-DVP-2011.2 (Joan Costello)
Date: Monday, April 25, 2011 7:03:56 AM

Sonja Zupanec, M.C.I.P.
Island Planner (Gambier and Hornby Island Local Trust Committees)
Islands Trust
700 North Road,
Gabriola Island, B.C. V0R 1X3

Subject: Development Variance Permit
Dear Ms. Zupanec:

This letter is in reference to the DVP application HO-DVP-2011.2 (Joan Costello)

I am in favour of this and would like to see this Permit be granted. I also agree with the Staff Report that recommends that this DVP Permit Application should be approved by the Hornby Island Local Trust Committee on April 27, 2011.

Sincerely

Dean Ellis
Hornby Island

From: Drew Stotesbury
To: Sonja Zupanec;
cc: fmhunt@mars.ark.com; tlaw1@telus.net;
Kim MacKay;
Subject: Development Variance Permit HO-DVP-2011.2
Date: Monday, April 25, 2011 2:57:55 PM

Dear Ms. Zupanec,

My wife (Kim MacKay) and I are Hornby Island homeowners and part-time residents. A friend of ours has informed us of this matter. Having read your staff report, and not being aware of any other issues with respect to the application, we wish to express our support for its approval.

many thanks,

Drew

DREW STOTESBURY

This e-mail may contain information that is privileged, confidential and/or exempt from disclosure. No waiver whatsoever is intended by sending this e-mail which is intended only for the named recipient(s). Unauthorized use, dissemination or copying is prohibited. If you receive this email in error, please notify the sender and destroy all copies of this e-mail.

From: Mr Peter Elkins
To: Sonja Zupanec;
cc: Frank Elkins; Fred Hunt; Tony Law;
Subject: RE: Hornby Island HO-DVP-2011.2 6970 Anderson Drive
Date: Monday, April 25, 2011 9:41:27 PM

Attention: Hornby Island Local Trust Committee

Hello,

It has come to our attention through documentation provided by John Howard that the road allowance for 6970 Anderson Drive has been investigated previously and found to be unsafe therefor we are NOT in favour of the variance HO-DVP-2011.2

Frank & Mary Jane Elkins

From: LESLEY SCOTT
To: Sonja Zupanec;
cc: tlaw1@telus.net; fmhunt@mars.ark.com;
Subject: Development Variance Permit HO-DVP-2011.s (Costello)
Date: Monday, April 25, 2011 4:30:15 PM

Dear Ms. Zupanec,
I would like to express my support for the above development permit.
The property in question is in my Hornby neighbourhood and I have no
objection whatsoever to the proposed subdivision.
I am totally in favour of this and would like to see the application
granted. I hope the LTC approves this permit as per your report
recommendation.

Sincerely,

Lesley Scott

From: bob sarti
To: Sonja Zupanec;
Subject: Lot 7, Section 9, Hornby Island, Nanaimo District, Plan 25736 (6970 Anderson Drive, Hornby Island).
Date: Monday, April 25, 2011 8:36:06 PM

Dear Ms. Zupanec,

As residents adjoining the above-cited property, we are writing to express concern about the requested development variance permit and the proposed subdivision. As a general policy, we would not like to see residential properties subdivided arbitrarily on Hornby Island because this is not a sustainable process. In our area of Hornby - indeed over the whole island - water and septic are issues affecting us all. Our resources are strained as it is, and the island has a limited carrying capacity.

We would not like to see any decision that could serve as a precedent for further subdivision on the island.

As well, we are concerned with the notation of Road Plan 30859 on the map. Given the contours of the land and the proximity of residents, this would be an unsafe location to introduce further traffic.

Thank you,

Robert Sarti
Muggs Sigurgeirson

From: Barbara Freeland

Date: Tuesday, April 26, 2011 12:55:42 PM

To: Sonja Zupanec; tlaw1@telus.net; fmhunt@mars.ark.com;

Subject: Development Variance Permit HO-DVP-2011.2 (Joan Costello)

Ms. Zupanec; This letter refers to the DVP application above.....to enable Joan Costello to subdivide a small portion of her very large property to accommodate a relative. I am absolutely in support of this. I also suggest that the Staff Report that recommends that this DVD Permit Application be approved by the Hornby Island Local Trust Committee on April 27, 2011. That is why we have committees set up to study issues, isn't it? Joan Costello, and husband John Grayson have been faithful 'stewards of the land' on Anderson Road, and Hornby Island in general. They were my neighbours for many years on Anderson, and they have worked unbelievably hard sorting our raw land into a truly wonderful spot. They are folks that Hornby Island wants to retain, and indeed, treasure as spectacular community members.

Most sincerely, Barbara Freeland

From: derek ward
To: Sonja Zupanec;
cc: Fred Hunt; Tony Law;
Subject: Costello DVP
Date: Tuesday, April 26, 2011
12:11:12 PM

Dear Ms. Zupanec:

I am very much against granting Joan Costello (and her husband John Grayson) a development variance permit so that they will be able to subdivide. This couple has a long history with the Island Trust culminating in their frivolous and malicious lawsuit against the Trust and Trustees. I can foresee this creating another giant headache for all concerned. What guarantees do we have that any covenant will be honoured? What guarantees do we have that they will sell to a close relative? How soon can we expect more requests to subdivide? Currently this couple rents out the small house on a short term basis. In the big house they currently rent out a suite to the RCMP and a suite to Elizabeth McDonald. This adds up to at least four kitchens on land that is only allowed two. These people do not pay any attention to the rules yet you are recommending allowing them this DVP.

On a less personal basis, I am against this variance as access through the Anderson Drive panhandle will direct more traffic towards my end of Anderson. If and when the "Winery" and "Distillery" are actually opened there could be both Customer and commercial traffic increase. There are eight small lots that will have the traffic passing in front and behind them if this change goes in. The new lot will have nowhere near one third of its longest lot line (looks to me to be in the range of 1/40 or 1/50. This is a terrible precedent to set for future subdivision requests on Hornby Island.

Derek Ward

From: Gordon Dunnet
To: Sonja Zupanec;
cc: Gordon Dunnet;
Subject: Re: Notice HO-DVP-2011.2 - 6970 Anderson Drive Development Variance
Date: Tuesday, April 26, 2011 8:31:37 AM

Please forward my comments to the Hornby Island Local Trust Committee for the April 27, 2011 HI Local Trust Committee Meeting.

Request clarification on the following:

- confirmation whether Remainder of Lot 5 remains classified as Rural Residential.
- number of dwellings permitted on the Remainder of Lot 5 if this subdivision is approved
- permitted road access to Remainder of Lot 5 from
 - Anderson Road beside Lot 26
 - St John's Point Road via Road Plan 30859.

Also request that the Committee delay voting on the proposed Development Variance at the April 27, 2011 meeting, respond to my request for clarifications and circulate comments received from local property owners on Anderson Drive.

Thankyou.

Gordon Dunnet

From: [jesse berg](#)
To: [cathie & john howard](#); [Sonja Zupanec](#);
Subject: Re: Submission re Development Variance permit HO-DVP-2011.2
Date: Tuesday, April 26, 2011 7:11:00 AM

Jesse Berg confirming receipt and fully supporting John and Cathie in this...
I am strongly opposed to an access road being put in from from St. Johns point rd should this be the object of the variance permit...

jesse berg

I will be out of email and phone contact for the next 10 days but defer to John and Cathie's judgment should a decision need to be made while I am away

Jesse berg

From: cathie & john howard
To: Sonja Zupanec <szupanec@islandstrust.bc.ca>
Cc: canookied@yahoo.com
Sent: Mon, April 25, 2011 11:36:34 PM
Subject: Submission re Development Variance permit HO-DVP-2011.2

To Sonja Zupanec, Island Planner,
Islands Trust, Gabriola Island, V0R 1X3.

Dear Sonja:

We are Cathie & John Howard, owners and residents of 6455 St. Johns Point Road, Hornby Island. It is shown as Lot 5 on your notice, adjacent to Lot 7 the subject lot and to Lot 1 at the south west corner of lot 7. Jesse Berg, owner of Lot 1 but resident in Golden BC supports the following comments and I ask him to confirm this fact by e-mail to you by April 27.

We have two comments:

1). We understand that at this stage property rezoning has not been requested however in the past, a number of commercial proposals have been put forward which, had they been implemented would have altered the character of our community very seriously. At the present time a balance seems to have been struck in that a home occupation is being carried on on a rural residential community, but given past history we would argue very strongly against rezoning should that become an issue. If further development is the applicant's objective, this application should be denied.

2). It is unclear from viewing the sketch whether the applicant is seeking direct access to St. Johns Point Road as part of the requested redefinition of the "Remainder" lot. Our expectation would be that this is not the case since access is already readily available from two locations on Anderson Drive.

The Schedule "A" attached to the application describes a "Road, Plan 30859". However in the past, an attempt was made to link up Lot 7 with St. Johns Point Road which we opposed was subsequently rejected by the Ministry of Transportation and Highways in 2001 as the location unsuited for safe development. Documentation of this will be forwarded by fax tomorrow AM. If in fact access to the property is part of the Variance application we would oppose it strongly as both unsafe and unnecessary.

We appreciate the opportunity to present our thoughts for the LTC's consideration.

Cathie & John Howard

From: Chris and Len

Sent: Tuesday, April 26, 2011 6:31 PM

To: Sonja Zupanec

Subject: Lot 7, Section 9, Hornby Island, Nanaimo District, Plan 25736 - 6970
Anderson Drive, Hornby Island

Dear Ms Zupanec,

We are opposed to the application development variance permit on this property. As our property backs onto their property a new driveway to use as their access would mean we would have vehicles traveling both behind and in front of our house, limiting our privacy. Approval for a winery and license has been acquired by the owners, which will increase the traffic flow on our quiet residential street. We are also concerned about the implication of the subdividing. The owner already has 4 kitchens on their property and there is limited capacity in regards to water and septic in this area. The reason for this application has not been made clear to any of the residents. From past experience with the owners our neighborhood still has a lingering mistrust on what they will do next.

Thank you for your attention,

Len and Chris Olsen

From: Ron Doucette
To: Sonja Zupanec;
Subject: FW: Costello property request
Date: Tuesday, April 26, 2011 7:23:26 AM

Hi Sonja,
Letter resent as I forgot to put our address and phone number in letter
Thanks
Karen Doucette

From: Ron Doucette
Sent: April-26-11 7:00 AM
To: 'szupanec@islandstrust.bc.ca'
Cc: 'tlaw1@telus.net'; 'fmhunt@mars.ark.com'
Subject: Costello property request

From: Ron and Karen Doucette

Date: April 26, 2011

To:

Sonja Zupanec, M.C.I.P.
Island Planner (Gambier and Hornby Island Local Trust
Committees)
Islands Trust
700 North Road,
Gabriola Island, B.C. V0R 1X3
Ph: 250.247.2211 or toll free 1.800.663.7867
Fx: 250.247.7514

Subject: Development Variance Permit HO-DVP-2011.2
(Joan Costello)

Dear Ms. Zupanec:

This letter is in reference to the DVP application cited above - to clear the way for Joan Costello to subdivide a small portion of her property for a relative.

I am in favour of this and would like to see this Permit be granted. I also agree with the Staff Report that recommends that this DVP Permit Application should be approved by the Hornby Island Local Trust Committee on April 27, 2011.

Sincerely,

Ron and Karen Doucette

----- Original Message -----

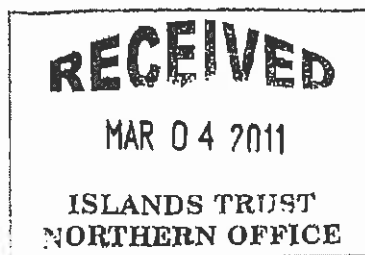
From: Michael Berman

To: 'Tony Law' ; 'Undisclosed-Recipient:'

Sent: Thursday, February 24, 2011 11:07 AM

Subject: RE: Hornby Local Tust Committee - Vacation rentals

The concept of being able to monitor commercial vs. informal advertising is impossible. It will never be a clear distinction and therefore will not be enforceable.



3750 Slade Road
Hornby Island, BC
V0R 1Z0

28 February 2011

Hornby Island Local Trust Committee
c/o Islands Trust
700 North Road
Gabriola Island, BC
V0R 1X3

Dear Trustees,

I challenge your authority to make a declaration that short term rentals (STR's) are illegal on Hornby Island. Sorry to be so blunt, but I wish to make sure the intent of this letter is clear.

The whole current discussion on how and what to enforce is based on this premise, which I submit is a house of cards. You have produced no consistent documentation from the Hornby Island OCP and bylaws that explicitly supports that. What you have produced is a specious argument that since it is not listed as permitted on residential lots it must be prohibited. You have also claimed two court judgments, Whistler v. Miller (2001) and North Pender LTC v. Conconi (2009), as precedent. There is also contention that STR is a commercial use of land.

It has been your claim that the Whistler case is a precedent that justifies saying that short term rentals are prohibited on residential lots on Hornby Island. This is said to be based on the opinion of "our lawyer". The context of this argument has never been disclosed to us. Trustee Law has given me an e-mail address to lead me to it, but it does not work and I cannot find any reference in the Islands Trust website.

On the other hand, an opinion by a practicing lawyer who was (is?) also a property owner on Hornby Island was presented at a meeting here in 2005. She concludes that it is unlikely that a court would uphold your contention. She also cautions that if you start a document with the "STR's are illegal" statement, then you have to be wary of the responses. I do not know whether this document was logged in as received by the meeting, but it should have been. A copy is appended for your information.

Of course this document is only an opinion. It has no more relevance than your unnamed lawyer's opinion, but it also has no less. Only a court can make a judgment. Lawyers can offer opinions, but they do not constitute law. What we have here is an immense grey area, and it is folly to rely on one boundary of that area.

To return to the specifics of the Hornby Island situation, the OCP specifically states that rental of a dwelling unit to provide temporary accommodation for paying guests is deemed a home occupation. You are claiming that the Land Use Bylaw overrides that. That alone should invalidate your argument. We were told recently by a former trustee who was involved in writing the original OCP that this matter was thoroughly discussed and the intent of the original OCP was that short term rentals were a necessary part of

the island culture. This statement was made at an informal meeting which was attended by our two elected trustees and two staff members.

It is not clear what precedent the North Pender case has been deemed to have set. The case was ostensibly about (1) the use of a 34 acre property as a commercial resort or, failing that, (2) the use of a so-called storage shed for commercial assembly purposes. This is said in an IT press release to be the result of many complaints over the years relating to the use of a shed being used as a residence, particularly concerns about untreated sewage being disposed of directly at the ocean. Banquet hall or residence? Take your pick. The judgment was (1) the defendant is indeed using the property as a commercial resort and (2) granting an injunction *prohibiting use of the property as a commercial resort and wedding facility, and in particular enjoining providing the dwellings, wedding and recreational facilities to paying guests, using the dock for commercial purposes and marketing the property for these purposes.* The Judge cautioned that this wording probably also prohibits long term rentals, whether this was intended or not.

What relevance that has to Joe and Jane Taxpayer on a half acre lot on Hornby escapes me. There was no question that The Timbers was commercial and the defendant did not contest that. The former advertising for The Timbers is still on the web, with just a note that it is no longer available for weekly accommodation. There was also apparently radio and magazine advertising.

You are claiming that anyone who advertises the use of their property for short term rentals, or uses a third party agent for the rental is using their property for commercial purposes. There is again a massive grey area between a \$60 ad on a local website and the North Pender case.

What guidelines are there? The income tax regulations specify the expectation of profit when one claims business losses. There is no expectation of profit in buying a property for \$300,000, using it for two weeks in summer and renting it out for 6 weeks at \$1250 per week. (Anyone with money to invest in real estate can do much better with REIT's.) The provincial tax regulations specify a minimum of four units for rent. We could define commercial use with confidence in those terms. The present suggestions will result in a lot of friendly fire.

Sadly your propaganda is working. Local people are now speaking as if the matter was settled and they must either not advertise or take out a Temporary Use Permit on an oxymoronic permanent basis. I submit that driving the advertising and the agents underground does nothing for the supposed problem.

I again call your attention to the caution expressed by the author of the enclosed opinion that if you preface a document with the statement that STR's are illegal, the validity of the responses are suspect - a social manifestation of the Heisenberg Uncertainty Principal.

It is unclear to me how the North Pender case, which related to one specific and unique property, supports the issuance of cease and desist orders to 27 others. This should be allowed to play out before you issue orders here on six week notice and the threat of

\$5000 per day fine. We are told that this action on North Pender has been taken in response to many complaints, which is not the situation here.

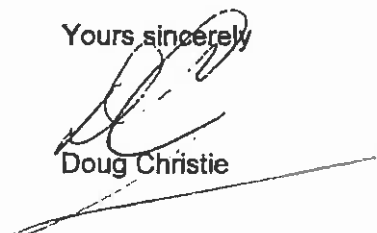
When asked why the Trust is eager to proceed with enforcement now Mr. Porter said in the recent LTC meeting that the bylaws do not allow rentals, operators are uncertain of the rules and are unable to make business plans and that the matter is fundamental to the community. Mr. Drew said that it is the law and there are wholesale violations, it is an unresolved issue, it discredits everything the LTC does and there is anxiety in the community over this. I will agree that what you are doing discredits the LTC. We all remember the near-revolt in 2005 which caused one trustee to lose the subsequent election and which derailed the discussion on new bylaws. As for anxiety in the community, you are the ones who are causing it. Rather than fixing a problem you are trying to create one. How many complaints have you received which would be cured by issuing a string of TUP's?

In short, stop and think. We have proposals on the table for self-regulation. We have found over the years that most of the problems with overcrowding and noise emanate from houses being occupied by relatives of the owners, not by renters. There are a few bad apples, such as the campground at the foot of my road, which can be weeded out, and viola, no problem.

I expect that you will ignore this, and that big bully Big Brother will threaten citizens who do not feel they are doing anything wrong with a \$5000 fine per day unless they confess to being criminals. No one has the resource to confront Big Bully, except at the ballot box. If people had the resources they would not need to rent their houses. And you will claim that compliance confirms guilt. I suggest that down the road the courts may be interested in a situation where you demand compliance immediately for a issue which may not be resolved for many years.

All I can do is put this on the record!

Yours sincerely



Doug Christie

**One Lawyer's Opinion of the Current Legal Status of
Short Term Tourist Accommodation Rentals, ("STR") on Hornby Island**

The Hornby Island Official Community Plan, Bylaw No. 104, 2002, (the "OCP") expressly recognizes short-term rentals and contemplates their continued availability.

"ss. 6.3.1 Residential-General

...the majority of properties are owned by non-residents and most of these are occupied and/or rented seasonally..."

ss. 6.3.3 Small Lot Residential/Water Protection Area (Whaling Station Bay/Anderson Drive Area)

ss. 6.3.3.8 Bed and Breakfasts and short-term rents are permitted as a home occupation (subject to 6.3.1.7) providing the number of guests does not exceed the design capacity of the approved water treatment system.

ss. 6.3.3.10 ...The use of water catchment and storage systems for household and garden use, and in particular for Bed And Breakfasts and short term rental home occupations, shall be strongly encouraged."

ss. 6.5.2 Visitor Accommodations and Tourism

...Short-term rental of residential units has been a long-standing means of providing visitor accommodation, but there is also concern about impacts, both in neighbourhoods and cumulatively.

ss. 6.5.2.11 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

ss. 6.5.3.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located.

ss.6.5.3.7 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

The *Local Government Act*, (binding on Islands Trust), states that an OCP does not commit or authorize a municipality, regional district or improvement district to proceed with any project that is specified in the plan. It is intended to be a general statement of policy. However, as also pointed out in the *Local Government Act*, all subsequent by-laws enacted "must be consistent" with the OCP. The OCP itself acknowledges this restriction:

"...Section 884(2) of the Local Government Act requires that all bylaws enacted, permits issued, and works undertaken by the Hornby Island Local Trust Committee be consistent with the Official Community Plan".

In the BC Supreme Court case, Nanaimo (Regional District) v. BC (Information and Privacy Commissioner) {1991} BCJ No. 1283, (BCSC), the Judge states:

"...the OCP does have a legal effect on the government bodies referred to, in that it controls or restricts all future development. It also does have some legal effect regarding private landowners as well, because zoning by-laws, which effect them, must be consistent with the OCP"; and

"I am also of the view that the OCP is a by-law or legal instrument "by which the local public body acts". When a regional district adopts an OCP by by-law it triggers, or brings into play, S. 884(2) of the [then] Municipal Act, which is a statutory obligation, and thereby requires all subsequent by-laws enacted and works undertaken to be consistent with the OCP".

It is suggested that, as the OCP is currently worded, Islands Trust lacks the statutory power to pass a bylaw that prohibits STR, as that would be in direct conflict with the OCP.

Assuming the OCP could be read in such a manner as permitting the exclusion of STR, the question then would be, "Does By-law 86 operate in such a manner so as to effect that prohibition?"

Bylaw 86 (1993) permits Home Occupations in Small Lot Residentially Zoned Areas. "Home Occupation" is defined as a *"commercial activity conducted for gain within a dwelling unit or permitted accessory building by a resident of the lot on which the building is located."* There is an enumerated list of activities "included" in the definition of "Home Occupation". STR is not on that list. However, courts have consistently interpreted such lists as illustrative only, and not exclusionary.

It has been suggested that an off-Island owner is not a "resident", and therefore, cannot undertake a "Home Occupation". As was pointed out by the Ont. Court of Appeal in Toronto General Hospital v. Renfrew (Town) (1925), 29 O.W.N. 151, 58 O.L.R. 71, at 73, when quoting from the Chief Justice's decision in Mellish v. VanNorman (1856), 13 U.C.R. 451, at p. 455:

"The term "resident" ...is differently construed...according to the purposes for which inquiry is made into the meaning of the term. The sense in which it should be used is controlled by the reference to the object."

It is of assistance to note that in the Ont. H.C. case Peterbaugh v. Marsbergen [1984] O.J. No. 392, the court was asked to define "residence", and made the following observation:

"It is quite clear that a person may have more than one residence. For example a person may have a residence at his summer cottage and another residence in town. Having a residence at a summer cottage is not broken by a temporary absence from the cottage during the winter months..."

The Court continued on to state that:

"The word "reside" is very flexible and has more than once been said to be incapable of exact definition. The duty of the Court in interpreting any statute where the word is found is to attribute to it such meaning as will best give effect

to the legislative will.... The true light must be found within the statute. All else only increases the darkness."

It should also be remembered that section 6.5.3.1 of the OCP speaks of a home occupation as being conducted by a full-time or part-time resident of the lot on which the dwelling is located. [Emphasis added]

{See also: Terminal City Club Tower v. BC (Assessor of Area No. 9-Vancouver) [2003] B.C.J. No. 1070, which held that individually owned strata-titled units remained residential units for the purpose of assessment, notwithstanding their acknowledged use as overnight, commercial accommodations, because 'residential use' did not have to include an element of extended duration. Although the case was overturned on Appeal on different, unrelated grounds, on the issue of the residential classification, the BCCA was satisfied that the view of the Chambers Judge regarding the residential status issue was correct.}

Furthermore, as the Judge in the Nanaimo Regional District case emphasized:

"The Courts are very protective of the rights of individual landowners, to do what they want with their lands. Hence, any statutory derogation from those rights must be clearly spelled out."

It is suggested that nothing in Bylaw 86 meets this test.

As the above discussion indicates, it appears STR are not "illegal" as a result of the OCP. Nor are they "illegal" as a result of By-law 86. It appears that, in presuming that short-term rentals are currently "illegal", Island Trust representatives have put much weight on the decision of the BCSC, (upheld without discussion by the BCCA), in Whistler (Resort Municipality) v. Miller [2001] BCJ No. 69. In the Whistler v. Miller case, the challenged bylaw included the following definitions:

"home occupation" means a craft or occupation conducted as an accessory use subordinate to the principal use of a residential dwelling;

"principal" means the primary purpose for which the land, buildings or structures are ordinarily used;

"residential" means a fixed place of living, excluding any temporary accommodation, to which a person intends to return when absent;

"temporary" means a total of less than four consecutive weeks in a calendar year; and

"tourist accommodation" means a building containing one or more habitable rooms or dwelling units that are used primarily for temporary lodging by visitors."

In light of the relevant definitions contained in the Whistler by-law, the Court concluded that renting the dwelling in question out for short-term rentals was not "ancillary" or "subordinate" to its "principal, residential use" and therefore, it was not a permitted use.

The Court found support for its conclusion from the fact that, (contrary to Hornby's current bylaw), the Whistler bylaw expressly disallowed "temporary accommodation" from the definition of "residential" use.

The Court in the Whistler decision also found that by-law prohibiting STR was valid and not beyond the powers of the Municipality to pass, because STR are not a 'normal and customary' residential use. Therefore, in addition to upholding the validity of the specific bylaw in question, the Whistler decisions, (both Whistler v. Miller and Whistler v. Wright) would support the assertion that governmental bodies have the legal capacity to draft a bylaw that expressly prohibits temporary accommodation within certain zoned areas. However, these cases do not stand for the proposition that, in the absence of expressly permissive language within the relevant OCP and bylaw, short-term rentals are deemed "illegal". Furthermore, the decisions most certainly cannot be said to override the expressly permissive language contained in Hornby's OCP.

In the absence of statutory or case law authorities indicating otherwise, I am of the opinion that the courts would not find that 'off-Islanders' who currently personally reside in their Hornby dwellings only part-time, and otherwise rent those dwellings out for seasonal STR, are acting "illegally".

In light of the fact that the Islands Trust Questionnaire currently being circulated contains an Islands Trust distributed Information Sheet that commences with the statement that "Commercial short-term rentals are currently illegal on Hornby", one is left to question the validity of the responses received.

Prepared by Katherine Owen
Barrister & Solicitor

Please note that, in addition to being a practicing BC lawyer, (called in 1989), I am also a 50% owner of a residential lot on Hornby. My brother and I use our property part-time, and rent the dwelling as a STR for several weeks each summer. The comments herein reflect my opinion only and are intended to provide general information. Readers should not act on the basis of this information without first consulting their own lawyer who will provide analysis and advice based on their specific matter and facts.

From: sapper1 [mailto:sapper1@telus.net]
Sent: March-02-11 8:51 AM
To: northinfo
Subject: Hornby ... Short term rentals

Hi

We have been property owners on hornby since 1974 and have been renting our properties for about 8 years

I do believe some regulation for rentals is in order on hornby but some of the proposals are ridiculous

hornbys economy is based on tourists and has limited accomadations already . imposing more costs on people who wish to rent thier homes is insane. And outlawing them would destroy hornbys economy

Where would people stay for the festival?? and the other assorted functions we have

I know we all hate the "Summer people" but reality checkthey support hornby

The \$600.00 fee would be used for what?? if you want to have permits make it reasonable. what purpose would the permits fulfill ?do you really think that this could be inforced? i think having a property manager looking after rentals is much better than having the owners looking after thier rentals as most owners are not on the island when the propertys are being rented...at least the property managers are. As far as limiting the amout of people on the propertys..well its been my experiance that the owners usually have more people than the renters.. And i do believe the owners are quite capable of regulating themselves... after all we do own the properties and we do want them kept in good shape and have water and septic for our personal use not just the renters

All being said i realize that bureaucracy must continue on.. but lets not loose sight of what hornby is

Walter and Jane kamlade

From: locumbob@hotmail.com [mailto:locumbob@hotmail.com]
Sent: March-03-11 6:25 PM
To: holtcwebmail
Cc: locumbob@hotmail.com
Subject: Hornby Island Local Trust Committee



Islands Trust

Preserving island communities, culture and environment.

March 03, 2011

From: Bob Henderson

Email: locumbob@hotmail.com

Subject: Hornby Island Local Trust Committee

I am writing against the curtailment of STR on Hornby Island. Such changes in approach, I think have to have a goal that is for the better good of the community. If the LTC feels that it is essential that STR be banned on smaller lots, then so be it, get on with it and witness the profound effect on the island economy. If the LTC wants to gain money for the IT through TUPs then get on with it and set reasonable costs. It makes no sense to me to play with the 'rules' and ban advertising which certainly causes no harm. 'Renting' to friends and relatives makes no sense as they tend to stay free. I plan to free myself of the hassle and sell, breaking bonds that I treasure.

www.islandstrust.bc.ca

From: Wayne Wiens [mailto:waynewiens@hotmail.com]
Sent: March-04-11 9:46 AM
To: northinfo
Subject: Temporary Use Permits on Hornby Island

Dear Trustees,

Please find attached a letter outlining our concerns re: Short Term Vacation Rentals on Hornby Island.

We wish to place this on public record and encourage you to refer to it in your discussions and deliberations.

Yours truly,

Wayne Wiens
Andrea Lebowitz
Charles Western
Phyllis Western

Anderson Drive

To: Hornby Island Local Trust Committee

March 4, 2011

Re: proposed approach to Short Term Vacation Rentals

We wish to express our full support for the approach proposed by trustee Hunt.

In recent summers we have seen a growing number of renters in our neighbourhood. Their attitude and behaviours have led us to believe that short-term rentals need to be regulated.

Many vacationers without connections to the community on Hornby Island come with a general attitude that the normal rules don't apply. They are on holiday and it's time to party! We see this writ large on Tribune Beach each year. But it is also an attitude carried over to vacation homes.

Our neighbours and we are frequently seen as quaint local colour, or as wallpaper. At first, this bemused us, but we are more and more frustrated and annoyed by their growing numbers and lack of general civility. They do not seem to understand that they are visiting a neighbourhood.

We do not claim ownership of the beaches and roads in our neighbourhoods, but we do see ourselves as stewards of the natural beauty and way of life that are being interfered with in several ways. As examples, we have been moved to engage in the following recent incidents:

A group of 8 people on the beach tossing seastars in a grisly game of baseball.
The same group partying loudly until after 3 AM.
All of them were staying in a local STVR.

Another group throwing stones into tidepools, using anemones as targets.
All of them were staying in a local STVR.

Two men in large pickup trucks racing down Anderson Drive because they thought it was a remote rural road. They seemed unaware that children, deer and older folk were regular users of this "backwater" road.
They too were staying in a local STVR.

A group of vacationers building a campfire on the sandstone beach, unaware of the dangers in doing so and also unaware or unconcerned that there was a campfire ban in effect. They too were staying in a local STVR.

There is also the issue of excessive water consumption during the summer months. As you know, there is a limited amount in the aquifers, and supply is especially a problem in the warmer months.

We believe that regulations are needed, and timely. The problem with STVR's is not static; it is growing. The incidents we cite above would not have occurred 10 years ago. If we must police our own neighbourhoods, we would like the support provided by regulations.

We are friends with some of the "third parties" involved in this issue and have no wish to see them lose income. We believe that regulating STVR's is not equivalent to ending them.

As a suggestion, permits issued for STVR's could include:

A description of the importance of respecting the natural environment
A description of the behaviours expected when visiting a neighbourhood
A description of intelligent water use

We further suggest that the Hornby Island Local Trust Committee consider creating a noise and/or nuisance bylaw. We look forward to further reports on affordable, streamlined, and enforceable Permit proposals.

Yours truly,

Wayne Wiens; Andrea Lebowitz; Charles Western; Phyllis Western

Anderson Drive

----- Original Message -----

From: Wendy Edwards

To: 'Tony Law'

Sent: Saturday, March 12, 2011 8:20 AM

Subject: RE: Hornby Local Tust Committee - Vacation rentals

I am Wendy Edwards owner/operator of Hornby Holiday Homes

You both know me & have picked my brain regarding vacation rentals over the years

How nice of you to decide to destroy my business, operating since 1989

It started with a couple of neighbours & friends asking me to clean, mow, pick-up garbage & liaison with their guests

Soon I had 6 houses & started hiring help for the maintenance services

My job starts in November when people start booking and goes steady through to October.

There are usually 8 weeks in the summer 5 of which will be booked.

However many of the homes I manage only have 2 weeks open for guests

No one including myself makes a 'fortune'

My income from property management is well below the poverty level & I am required to pay HST on my income.

As with most folks on Hornby one has to wear more than 1 hat to survive financially

I have fewer houses now by choice as the problem homes were always the ones without plumbing.

I won't rent a home without septic, just too much of a head ache

So call me illegal and 6 islanders will lose their jobs & 15 homes will not be available

I would have liked to have passed on my business to someone else

I believe what I do is a valuable service to off island home owners and the community

Wendy Edwards

From: Helen-Middle Mountain Mead [<mailto:helengrond@yahoo.com>]
Sent: March-16-11 3:28 PM
To: northinfo; Fred & Christine Hunt; Tony Law
Subject: Reasons for wanting to see STVR legalized

To the LTC

In my last letter I explained that I did not want to see TUP's instituted on Hornby Island. I would like to follow that up with reasons why legalization of STVR's will have many positive consequences on the Island.

1. Will provide stability to the entire tourist industry on the island. Since STVRs are the largest source of tourist accommodation and a significant source of customers for local businesses, I believe it needs protection.
2. It will allow for an opportunity to oversee and regulate the industry on the island. This is a much better option than the "free for all" which will take place if TUPs become law. Widespread attitudes on the island right now are that people will not be applying for TUPs but will continue to do STVRs in any way they can. Driving this industry underground will result in the loss of being able to carry out a "best possible practice".
3. I believe that legalized STVRs will provide an opportunity for home buyers to purchase properties they might otherwise not afford. The income will be legal and can be used to qualify for mortgages. It has always been very difficult for people to qualify for mortgages on the island and has been a major barrier for home purchase.
4. Organizers of the Hornby Festival have expressed great concern over the future of the festival should the STVRs be compromised. The majority of ticket holders come from this particular group of visitors.
5. Last but not least, it would be a great disservice to the Island to explicitly move in a direct which is going against the needs and desires of Hornby Islanders as stated over the last few decades.

Yours Truly
Helen Grond

----- Forwarded message -----

From: Russel Roy <russelroy@gmail.com>

Date: Wed, Mar 16, 2011 at 10:09 PM

Subject: STVR's

To: fhunt@islandstrust.bc.ca

Hi Fred,

My name is Russel and my wife Cori and I run an STVR here on Hornby.

Right now I am unemployed after working 20 years with the government as the Occupational Health and Safety Officer/Manager at Nanaimo and Saanich School Districts.

I am currently working on projects on our five acre parcel off Gunpowder and studying on line through Royal Roads University to get my Masters in Emergency and Disaster Management.

I would love to start an organic farm here on the property.

I have contributed quite a bit to the island over the years, I was a firefighter here for 5 years. I love this community and want to help build community resilience and sustainability here.

For years my wife and I have been spending our summers here and improving our property. I have considered myself a "weekend warrior" for a long time that is, coming up on the weekends to maintain our property and enjoy it.

We have had it for sale several times but we have never received an offer anywhere near what we consider the property is worth (at least to us) and in all likelihood we will never sell it..

We have been so lucky to have been able to supplement our income with STVRs.

In fact, the income is really critical for us right now given that I am a student for a while. There isn't too much else that I can do here on the island other than plying my skills as a carpenter working in construction to earn a living and pay the bills.

Travel costs make it expensive to live here, the STVR helps so much.

I am getting more and more safety and emergency / disaster consulting work though and I expect that will increase.

We would very much like it if the STVR concept stays alive here on Hornby. I know that it has been curtailed on other islands but I am sure hoping that we can be different here on Hornby and keep STVRs going. I don't see why we can't be different. We are much more isolated than the other islands and the summer vacation draw is one of the few economic activities that benefits us all.

I am not sure why this is a big issue right now at all. Is there a big problem with STVR's? What are the problems? Recent complaints? I know that our friends at Seabreeze tell us that they don't have a problem with STVRs. Are concerns being raised by other commercial operations?

We have never had any problems with our STVR renters and I am sure that the "extra wallets" that we bring to the island helps the local businesses and artists.

I don't understand why you are against STVR's, are you? If so, I ask you to reconsider your position and work with us as owners as we move towards the establishment of a grass roots STVR association to oversee this important income generator for islanders.

I think an owners association would be able to address any concerns. Please give us a chance to survive here.

Folks love our island and all the people that we have provided lodging for have been respectful and careful with our home and the island in general. Often it is families who stay with young children and grandparents. They consider it a slice of heaven here. I know that many visitors would be so disappointed if STVRS are shut down.

We don't need TUPS with all the red tape and bureaucratic hassle. I am sure the Islands Trust is already very busy and TUPS would only increase the demand on your already limited time.

Please give us a chance to run an association. We can make this work. Don't eliminate this vital economic benefit for us and the island.

It really is a bread and butter issue for us as I expect it is with other owners as well.

We need to develop economic resilience here and not destroy one of the limited economic opportunities for average people.

Sincerely

--

Russel Roy

Cell (250) 661-9063

Hornby (250) 335-1907

SGH Vacation Rentals

Our Website: <http://gotohornby.com>

Earthquake Search and Rescue Training
eqsar.com

Mar 17/2011 -
Grassy Point Guest House
see 1992

Hi Fred

Regarding the big issue of STVR's on Hardy
and the coming meeting this Wed I would
like to ask that the whole matter of
illegal rentals be put aside until the
rental owners are able to come up with
their own association in which we could
come up with some simple standards
which would be acceptable to all - This
^{new} association could be reviewed by the
Islands Trust again in a couple of years
from now.

We, the five owners at Grassy Point do
not live here full time here because of
work number we do use the house full
time and ^{one of us} are always here to manage
the six weeks of summer rentals and occasional
off season B+B - I do not need an Islands
Trust Investigation Officer as we have
very high standards re cleanliness and
water issues and our summer guests are
mostly contract ~~guests~~ ⁸⁹ repeat and good
friends of Grassy Point who consider

it a privilege to be able to rent here and
not to mention the amount of \$\$\$ they spend
while they are visiting the Co-Op, artistic studios,
market days etc etc -

Thank you for listening & reading
my opinion

Jepele

From: Stephen McGrath [<mailto:smcgrath03@yahoo.com>]

Sent: March-17-11 12:29 PM

To: northinfo

Cc: Louise Bell; Fred Hunt; Tony Law

Subject: stvr/hornby

To whom it may concern:

I'd like to express my disappointment in the direction taken by the Islands Trust to regulate stvr's on Hornby. For the past 40 years stvr's have been essential in contributing to the island's economy. It has allowed tens of thousands of visitors to enjoy Hornby's 2 Provincial Parks, attend the Festival, and contribute to the financial stability of the Island. Your attempt to regulate by insisting on TUPs will result in forcing the community to react in ways that will only create division and animosity. Have you really thought through your approach? Your references to Tofino and Whistler are a bit of a stretch. How is Hornby similar? The geography alone limits income streams. If you're an artist in Vancouver with a piece in the window of a gallery, how many people see your work daily. Compare that to the exposure one receives on Hornby? Your attempt to impose rental restrictions will absolutely decrease island traffic. Where are all the visitors going to stay-on Denman. You know the answer to that question. Would it be a better solution to change the zoning and allow larger resorts/hotels/motels to open on the island to handle the visitors. How does that follow the mandate to protect and serve. The Festival attendance has been declining. Most locals attend by volunteering (the ticket prices are out of reach for many) The primary source of income comes from the visitors who rent houses on the island during the two weeks of the event. Most people who rent their homes need the income to pay taxes, insurance, make repairs. Stvr's employ islanders as no other on island enterprise does. Consider the impact by removing approximately 1 million from the yearly Island economy. If there are 120 rentals at an average of 1 thousand a week x's 8 weeks=8 million an impact that affects everyone living on Hornby. I could continue to list reasons, but perhaps it's time to conclude. A proposal will be made to allow owners of stvrs to self regulate. A similar proposal was made in 05, but was benched by the trust. Each home would insist on having a clear contract addressing water use, sewage, trash, noise, density. People in violation would be excluded from advertising on the Hornby website and pressured to comply. Give owners an opportunity to take care of these issues, instead of insisting otherwise. We get things done. The new clinic is a perfect example of the energy this community can muster. Thank You.

Respectfully Submitted,
Stephen McGrath
Resident

From: Karen Ross [<mailto:karenross@telus.net>]
Sent: March-17-11 2:43 PM
To: northinfo; Fred Hunt; Tony Law
Subject: Hornby Island vac. rentals

March 17, 2011

(please also consider my letters to you, from 2009 and 2010, as still being pertinent.
I have tried to address some new ideas in today's letter)

Letter to the local Hornby Trustees,

Re: Short Term Vacation Rentals, the latest Islands Trust proposal

Despite many, many years of properties being rented for seasonal use on Hornby Island, the Trust is suggesting that these rentals are illegal (on residential properties under ten acres) and need to be addressed. Currently the Trust is moving forward on recommending Temporary Use Permits for short term vacation rentals. I would like to go on record as opposing the singular, blanketing use of T.U.P.'s, and would ask the Trustees to have a more measured look at the situation, and try to accommodate this matter in a different manner.

Why do I believe Islands Trust proposed T.U.P. would be ineffective?

1. Cost, to the applicant. But, more importantly, cost to the Community, as the Trust would have to dedicate many more man hours of Trust time to deal with the application process and the resulting enforcement. The Trust is funded through our tax dollars.
2. Volume of properties affected, how could the Trust effectively deal with a hundred+ applications? And that's just on Hornby. The same staff are also dealing with similar regulations on other Gulf Islands.
3. Ineffective use of Trust manpower. Would everything else on the work agenda be shoved to the back burner? If a thriving "home" occupation is the biggest problem the Trust faces, why do we even need them?
4. If there are legitimate issues to be dealt with – water/sewer, etc. why only target the 10 - 20% of vacation rental properties? Why not put policies in place that would deal with these issues for every property in the same area? i.e. if I share my property, I would be subject to regulation. My next door neighbour, who doesn't rent, would not be regulated. Does this make sense?
5. It risks pushing the activity underground. The cost of enforcement, law suits, etc. then becomes even more astronomical. And the cost in human suffering, why force law abiding home owners to start feeling like criminals?

Because I don't think that TUP's will be supported, but see that the confusion created by their implementation could mean fewer visitors to the island, I ask: Is this what we want? Do vacation rentals contribute to the betterment of the whole community?

- Clearly, individuals who rent out benefit financially, but what about the ripple effect? Rentals provide much needed places for visitors to be accommodated. There are probably 5 or 6 times as many vacation rental properties as there units, in the 3

commercially zoned accommodation businesses on the island. Without vacation rental properties where would these visitors stay? Many years ago, our community went through the process of reviewing how we wanted commercial properties to develop. At that time it was decided it was better to have limited, small pockets of commercially zoned parcels. Then have low impact uses, such as home occupations and accommodation, spread throughout the island.....better physically for the “preserve and protect” mandate and better financially to have income in the hands of many more people.

- People staying in vacation rental properties are generally here for one week to explore and discover Hornby. To the local economy this means that every day they are out spending money in the community. Could the Farmer’s Market folks, the restaurants, the artists/craftspeople, the Coop/Gas Bar/Ringside, the spirit venues, the Cove and Spit businesses, and ANY other small business stay alive without the influx of money the visitors bring?

- When a “year round resident” receives rents seasonally, that rental income trickles from their pockets into the local economy throughout the whole year. When “summer people” rent out their “summer homes” does any of this money stay on Hornby? Yes, not only the direct money their rentees spend during their vacation, but also the home owners employ local people. It is local people who cut their trees, maintain their yards, build their additions, clean the houses, etc. Their property taxes help support our school, recycling depot, firehall, parks, etc. Additionally, summer residents have historically been exceedingly generous in supporting fund raising activities benefitting many island causes and groups. Where would our beloved Festival be without them?

In summary, I have looked at alternatives presented, and know that there are many opinions in the Community. But I believe that we must consider the social, and economic, impact of attacking this industry. It’s sustainable, it’s clean, and it’s traditionally very well run. If the Trust believes the industry needs guidance, and is having a problem coming up with a non-bureaucratic method doing this, let’s consider a locally mandated, home grown, association whose mission it is to encourage that the visitors to the island are respected, and be respectful.

Let’s not throw out the baby with the bath water.

Regards,
Karen Ross

From: Barbara Baird [mailto:barbara@island.net]
Sent: March-17-11 3:11 PM
To: northinfo
Cc: Tony Law; Fred Hunt
Subject: STVR's on Hornby Island

March 16, 2011

Hornby Island Local Trust Committee

Dear Local Trust Committee,

I am writing regarding the option currently being explored by the Local Trust Committee with regard to Short Term Vacation Rentals. I understand and appreciate the amount of hard work put in by both the Local Trust Committee and the Islands Trust staff to come up with an appropriate approach to Short Term Vacation Rentals on Hornby Island. I have spoken with both of our island Trustees and they assure me that they understand the social and economic importance of Short Term Vacation Rentals to both Hornby residents and off-island guest families. So I would hope that any approach undertaken by our Local Trust Committee would be extremely well thought out and supported by both island Trustees and a substantial majority of island residents. I would also like to introduce the Hornby Island Rental Home Association being formed to provide Best Practices for both short and long term rentals on Hornby Island.

I would like to make the following observations regarding the currently proposed combination approach of a Bylaw Enforcement approach with a system of Temporary Use Permits (TUP's):

1. I am told by Island Trust staff that there is no example in the Islands Trust area where a community has successfully used TUP's to regulate more than one or two Short Term Vacation Rentals. Thus there is no evidence for Hornby Islanders to rely on to say that TUP's might work for us when they have clearly not worked in other communities.
2. Islands Trust staff is not able to tell us if STVR's on other islands are continuing 'under the radar' or if home owners have given up renting their homes in the summer. A complete lack of information indicates the worst kind of management tool. This approach does not solve any of the underlying issues that staff has mentioned regarding STVR's, i.e. density, water use, character of neighbourhoods, or illegal use of a residential property. The most that can be said for it is that overt 'commercial behaviour', i.e. advertising and third party management, has ceased.
3. Water use and conservation is a very important issue for Hornby Island. However, it is not particular to homes rented by the week. Guests to Hornby need to understand the importance of conserving water as do all other residents. The new Hornby Island Rental Home Association would stress education and installation of water meters, water storage capacity, and water saving appliances for all residents, encouraging a spirit of cooperation across neighbourhoods rather than a system of TUP's which could inflame a sense of competition over water resources.
4. Owners of homes who might rent out long term rather than short term should be encouraged and supported. The new Hornby Island Rental Home Association would maintain lists of people who would like to rent and who have good references, and provide other support to both home owners and long term renters to facilitate this important activity on Hornby. We feel that this positive approach will be more successful than the negative approach of suppressing some short term rentals to produce more long term rentals.
5. By creating a set of Best Practices for STVR's on Hornby Island, many problems can be resolved before they occur. Problems that do occur could be addressed by the Association in a low key manner, without recourse to bylaw enforcement. This would be more in the spirit of Hornby Island, fostering a spirit of cooperation and mutual respect.

6. Hornby Island is two ferries away from any other source of employment and has experienced a major increase in the cost of living (particularly property taxes and ferry costs) over the past 15 years. It is no coincidence that STVR's have grown in number over this same period of time as many residents struggle to hang onto their Hornby dream, including many not directly involved in rentals. This economic activity supports everything from the Farmer's Market to the Hornby Festival to local artists, craftspeople, restaurants and stores. There is no other potential economic activity on the horizon that could replace STVR's and give the same economic boost to the entire community. Those who came to Hornby because of its vibrant and diverse community may see a marked graying and silencing of the island, if care is not taken by the Local Trust Committee.

Thanks for your time.

Regards,

Barbara Baird

Owner of a 'Home Occupation' type STVR on Hornby Island

From: Frances Millan [mailto:wind2@uniserve.com]
Sent: March-17-11 3:16 PM
Cc: northinfo; Louise Bell; Fred Hunt; Tony Law
Subject: Islands Trust & STR's

March 17, 2011

Local Island Trustees and staff:

I am extremely disappointed in our Islands Trust. In spite of years of meetings regarding short term vacation rentals where the community has shown strong support for this vital economic activity; the very people who were voted into represent the Island have turned against the very people who voted for them.

Louise Bell has no love of STRs and has worked to ban them for years, but then again she does not represent Hornby Island, so should she really have a vote in this important issue. No. Tony Law has taken the time to listen to all sides and really wants to come up with a workable plan, though the powers that be seem to be against working out a viable solution. Fred Hunt does not seem to understand that the Hornby Island community needs tourism to survive.

The Islands Trust is trying to force all the islands to fit into the same mold. Surely that is one of the wonderful things about these Islands, they all different and the communities are as diverse as the geology of the islands. That is why the Trust is mandate is to preserve and protect.

So why now is the trust trying to destroy our unique and thriving community?

Vacations rentals have been operating successfully on the Island for at least the last 40 years. At the time that the original community plan was being written, community members recognized the critical importance of this activity to our economy. In their wisdom, they understood that housing visitors in private homes would satisfy the following goals:

-Keep the rural atmosphere of the island intact (prevent hotels and resorts from proliferating)

-Maintain close community connections between families renting out their homes and the visitors coming (usually for many years).

-Spread the economic benefits to as many residents as possible rather than concentrating that benefit in the hands of a few.

-Give people an opportunity to raise funds to pay mortgages, put on a new roof, pay taxes, and in many cases simply survive in a community where economic opportunities are very scarce.

- Bring money to the Island businesses and.

There have been virtually no complaints against this activity in recent years – a testament to how well this practice is carried out within our community. Nevertheless, we recognize that SOME CONTROL is important for the community as a whole. We favour a locally administered home owner's association and have a proposal as to how such an organization could regulate this activity in a much more effective way than the current bureaucratic "enforcement" policies favoured by the trust.

Vacation rentals provide a very significant; probably the single most important; source of customers and income for all of our local businesses and importantly **on an Island where it is not feasible to go off-island to work, vacation rentals create jobs for locals.**

I manage about 35 homes for STRs. I have been doing so for 20 years and very successfully. I have very stringent regulations as the number of people, cars, pets, water and garbage. Complaints can be directed to me and I will deal with them immediately. A number of times in the past I have told people to leave who have exceeded the number of people. I am angry that 3rd party management business like myself are now targeted, as are those that use the internet to advertise. I do not advertise by any other means and do not have glossy flyers or brochures with misleading information.

The bylaw enforcement officer Miles Drew, at a meeting February 17th, 2011; admitted that his family has a vacation rental home on Hornby Island. He suggested that owners go underground to rent their homes and not advertise.

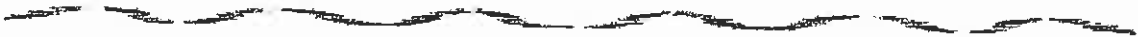
Mr. Brodie the planning officer, understood and agreed STRs are important economically to Hornby Island. He said there are ways to make them legal, one by changing the by-laws.

I demand that the option put forward by one of our long-standing trustees to consider vacation rentals as a regulated legal use, and be allowed to go through a proper community wide review so that we can have some self-determination on this extremely critical issue.

If the policy suggested by Fred Hunt be enforced, it will not just be detrimental to the Hornby Island community; it most likely will destroy it.

Sincerely,

Frances Millan, manager
Wind & Waves Vacation Homes
Office: (250) 335-0968



From: Elspeth Armstrong [mailto:elchris@telus.net]
Sent: March-17-11 6:03 PM
To: northinfo
Cc: lbell@islandstrust.bc.ca; Fred Hunt; Tony Law
Subject: short term rentals bylaw hornby island -march 23rd, 2011 meeting

I am unable to attend the March 23rd, 2011 meeting due to being out of town. I would like the following submission to go on record regarding the issue of "short term rentals" on Hornby Island.

I am writing, first as an artist whose studio is open to the public during the summer and fall months, as a fortunate permanent resident/homeowner, and as a former local trustee, Gambier Island, regarding the "Short Term Rental" [STR] issue.

In all the years [over 20], that my husband and I have been visiting Hornby, plus the last 4 years as a resident, I have not heard of any serious complaints about short term rentals –and, it is very difficult on a small island, not to hear what's going on.

This will be my 4th summer that my art studio will have been open to the public. Over the past 3 summers, and into fall, I have had many, many visitors of whom from chatting, learned that 90% are summer vacationers – staying anywhere from 3-5 days to a week, and all LOVE HORNBY. It's their absolute favourite vacation place! Many keep coming back year after year; for first time visitors – "we will be back". Business has been very good for me – 90% of my sales are to vacationers.

When I was a trustee for Gambier, an island of which 60% is crown land, the focus of islanders was to protect that crown land as a park for visitors and islanders alike. Not an easy task due primarily to bureaucracy. When developing the first community plan and bylaws, as a trustee, we went to the community, residents and property owners, via a questionnaire, to ask how they wanted their community to develop – we received a 67% response, and from that arose the community plan and bylaws. 25 years later, it was time to review the community plan and I chaired the committee who developed a more detailed questionnaire which was mailed to every property owner and resident on the island. Again, the trustees at that time, paid close attention to those results in updating the community plan and bylaws.

So, what is happening here on Hornby? Are property owners and residents not being listened to? It would appear that there is a groundswell of approval of the status quo regarding STRs, yet 2 of the 3 trustees, who will make the final decision on this proposed bylaw, prefer to listen to Islands Trust staff and not the people they represent. The question then arises, why do we bother electing trustees, if all they do, in retrospect, is follow staff's instructions? It's quite obvious, they are not listening to, or heeding, the majority of the public's wishes.

So, who wins if this draconian bylaw is enacted? Well, I guess the bylaw enforcer could be busy, thus earning a few shekles; the Islands Trust staff will be happy now that they have coerced and subdued a renegade island into conforming to a good military plan – every island must have the same rules and regulations. Who else? – possibly, but highly unlikely, bed and breakfast operations, lodge(s), and camp grounds. The more important question is, **WHO LOSES? – VACATIONERS**, for one. We are so fortunate to live here – aren't islands for sharing? **ISLAND ENTREPRENEURS** - those who depend on the farmer's market, the hugely successful hornby festival, arbutus arts, fibres, bookstore, local restaurants who operate primarily during the summer and fall months, potters, weavers, artists and our local co-op [who I believe have stated on more than one occasion, how very important **SUMMER VISITORS** are to the economic health and survival of the co-op]. 80% of my sales are through my studio during the summer and fall. Is this what the Trustees want for Hornby Island? Are these the people we all should blame when businesses fail or people leave because there is not enough work/income to survive due to this bylaw? Let's get with the program – **HORNBY is a TOURIST DESTINATION!** Do the trustees not visit other places for a vacation? Why is it so difficult for the trustees to work with the community, rather than relying on staff, to find a solution that works **For not Against**, Hornby residents and property owner?.

The repercussions of this proposed bylaw will have long term implications and I urge our trustees to re-think, do your own research and heed what is being said. This island has a lot of very intelligent, smart business people, retired and active, who have offered much sage advice.

Thank you for your time.

Elspeth Armstrong
5455 Porpoise Crescent
250-335-0744

From: sapper1 [mailto:sapper1@telus.net]

Sent: March-18-11 8:47 AM

To: northinfo

Subject: short term rentals

Hi

it has come to our attention that short term rentals are now illegal????

what is the purpose of getting a permit that may and may not be issued??

every 3 years???

why?

This decision was made by who???

This affects all residents of Hornby and should be voted on by the taxpayers who fund island trust

it has become apparent to us that the Islands trusts has lost sight of its mandate

"to preserve and protect the trust area and its unique amenities and environment for the BENEFIT of the RESIDENTS of the trust area and of british columbia generally"

we would like to know the benefit of making short term rentals illegal for the property owners and residents of hornby

all we can see by this action is negative impact socially and economic

If any bylaw must be passed short term rentals should be allowed as they have been for the last 30 years

hornby island is unique and part of that is short term rentals.. Housing the summer visitors is an important part of hornby this is wrong

walt jane gord jake krissy Kamlade

From: PATRICK LAVIN [<mailto:patricklavin@rogers.com>]
Sent: March-18-11 9:49 AM
To: northinfo
Cc: lbelle@islandstrust.bc.ca; Fred Hunt; Tony Law
Subject:

Hornby Island Local Trust Committee.

Dear Madame/Sir:

As a part time resident on Hornby Island and someone who participates in summer rentals, it is unclear to me what is driving the move to eliminate summer rentals on Hornby Island.

Before becoming a home owner on the island, my family rented for many summers. This afforded us the opportunity to come to Hornby in the summer, contribute to island life, and develop ties which eventually lead us to become island tax payers. If we thought summer rentals impacted on the rural atmosphere or sense of community we would have not chosen to buy a home here.

Has the Islands Trust actually quantified the negative impact of summer rentals? If so, what terms of reference are being applied? Is the elimination of summer rentals being applied across all islands in the Trust without local input?

Certainly summer rentals bring considerable economic benefit to the community. I would imagine that this is a vital source of income for many Hornby residents, who depend on this income for the rest of the year. What is to be gained from removing that revenue source from residents? Surely some of the established community would have to leave the island. Would these people be replaced by those with the same sense of Island community?

In the years I have rented my home, I have had no complaints from neighbors. Indeed, most find renters to be a welcome distraction and new group of friends. All renters have been highly respectful of the environment and fellow residents. Like my family, these people are here to preserve the Island atmosphere, not abuse it.

As a Hornby Island home owner, I would happily have summer rentals regulated, but these regulations should be determined by the community, not imposed from outside. The local community should have the right to review summer rental impact (and its loss) and derive locally applied bylaws based on those reviews.

Respectfully,

Patrick A. Lavin, MD, FRCPC

Brodie Porter

From: Louise Bell [lbell@islandstrust.bc.ca]
Sent: Saturday, March 19, 2011 1:48 PM
To: Brodie Porter
Subject: FW: Motion H0-007-2011

FYI
Louise

Louise Bell
Local Trustee for Denman Island
Vice-Chair of the Islands Trust Council
www.islandstrust.bc.ca

Preserving island communities, culture and environment

From: Margaret Sinclair [mailto:ms7@telus.net]
Sent: March-19-11 1:18 PM
To: Fred Hunt
Cc: Louise Bell; Tony Law
Subject: Re: Motion H0-007-2011

Thanks to both Fred and Tony who have answered my question very satisfactorily.
Margaret Sinclair

On 2011-03-19, at 12:27 PM, Fred Hunt wrote:

Hi Margaret,

Thanks for writing to ask for clarification. In answer to "accepted policy or drafts that will be reviewed...", they are drafts to be reviewed.

Re HO -07 - 2011, the draft minutes need to be clarified. The intent was not to put policy in place but to give Miles Drew permission to draft an information sheet that would lay out the details of a policy re a bylaw enforcement approach. The information sheet would be part of the upcoming Community Information Meetings, proposed for Hornby on April 2; Vancouver April 4 and Victoria April 6. I'll ask for clarification of the minutes at the next LTC meeting, March 23.

As per HO-05, the proposed vacation rental policy is a draft for community review and discussion. Clearly hear there is not consensus on the proposal. Looking for lots of input at the CIMs.

Regards,
Fred

From: Margaret Sinclair [ms7@telus.net]
Sent: Saturday, March 19, 2011 7:43 AM
To: northinfo
Cc: Tony Law; Fred Hunt; Louise Bell
Subject: Motion H0-007-2011

March 19, 2011

Dear Local Trust Committee,

I would appreciate clarification regarding Motion HO-007-2011 - which was made at the Trust Committee meeting of February 18, 2011. While at the meeting it was my understanding that this motion regarding STR's was made and carried with a vote in favour by Fred Hunt and Louise Bell and voted against by Tony Law. Draft bylaws were to be made and returned to the Local Trust for review.

The motion requests that:

"staff prepare **draft bylaws and/or policy** that a) interprets that residential land use includes a level of Short Term Vacation Rental use that is limited by word of mouth and use of social networking sites such as Facebook, is primarily limited to friends and relatives and generally occurs during the summer months, and bylaw enforcement policy is used to enforce the parameters and b) that allows vacation home rentals through a Temporary Use Permit or a rezoning process for those who wish to have Short Term Vacation Rentals that exceed those otherwise permitted, and that staff be requested to provide suggestions of how the Temporary Use Permit can be streamlined and less expensive". The prepared **DRAFT** bylaws and policy would then be returned to the Local Trust Committee for review.

This does not suggest that such a policy has been voted on, accepted and will be put into practice.

Upon reading the minutes from the meeting, it is stated that enforcement will commence February 15, 2012. This is completely contrary to the aforementioned "review". I am confused about what actually happened here.

Could you please clarify: Accepted policy or drafts that will be reviewed by the Local Trust and the community?

Further I would like to suggest that this motion does not reflect the wishes or needs of the community as I understand them. Please bear in mind that it was voted against by one of our Trustees and does not indicate consensus on the issue. It also does not present a workable solution and will be impossible to enforce. I urge you to spend more time with the issue and allow a solution to come forward that is appropriate for this community.

I believe that the formation of a Rental Home Association that would establish and promote "Best Practices" is part of a proactive and workable solution that is right for Hornby Island. After all - we are not simply looking for more bylaws but rather an approach that actually addresses the issues that have arisen vis a vis short term rentals.

Sincerely,
Margaret Sinclair

From: Elena Feder [mailto:elenafeder@gmail.com]
Sent: March-19-11 2:24 PM
To: Louise Bell
Subject: Short term rentals bylaw Hornby Island. March 23rd, 2011 meeting

I will be unable to attend the March 23rd, 2011 meeting. I ask that the following submission go on record regarding the issue of STRs on Hornby Island.

I had been coming with my family as tourists to Hornby since 1981 before making the decision to buy in 2001. It was not an easy decision. The time was not quite right and the circumstances complicated. My children insisted. In the end, our love of the island was stronger and trumped all other considerations. The option of renting our home for a couple of months in the summer made it a real possibility. I would not have been able to do it any other way.

For years I had envisioned the option of moving to Hornby permanently. I cannot think of a better place to live and retire to. I loved the diversity of the land and the uniqueness of each and everyone of the residents. Those I had the privilege to get to know more closely over the years have made the option of spending ever longer stretches of time on the island even more attractive. Over the years, off-island a growing number of friends and family have come, and returned, as my guests. Next month, our newest family member, my granddaughter, will be introduced to its riches. None of this would have happened if this bylaw had been in place.

Renting for a short part of the year has given me the option of enjoying the beauty and tranquility of Hornby throughout the whole year. In all of the 10 years I have rented my house, either as a B&B for the first two or as guest house since, I have not had a single complaint. In fact, other than the occasional unavoidable incident that proves the rule, neither have the majority of owners.

I have yet to meet one resident or see a business that does not benefit from the short tourist season on Hornby, let alone that supports the draconian law on the table at the upcoming meeting. STRs benefit not only the vast majority of residents, but also the artists, artisans and the growing number local producers, all of whom keep the local economy vibrant and depend on STRs for their livelihood for the rest of the year. My visiting guests, family and renters are only a few of the eager consumers of everything Hornby has to offer. Tourists make this all possible.

The repercussions of this proposed bylaw can only be negative. It will have huge long term implications and will benefit no one but a handful of business people and developers, whose commitment to the community is all but non-existent.

Our elected trustees are supposed to represent the voice of the majority. After all these years and endless attempts to stop the Trust from curtailing and/or outright eliminating the option of STRs on private property—a move that would virtually kill the economy of the island, cut the lifeblood of the community and seriously impact the lives of the majority—I can't help but wonder what it will take for them to listen.

Thank you for your attention,

Elena Feder
3495 Harwood Rd [778-322-2416](tel:778-322-2416)

From: Dianne Cox [mailto:dianne.cox@gmail.com]
Sent: March-19-11 4:53 PM
To: Tony Law; northinfo; fmhunt@mars.ark.com
Subject: re: March 23rd agenda

March 19th, 2011

Dear Trustees,

I am writing from afar to, I hope, add some perspective re: the broader issue of sustainable and resilient systems-based decision making in relation to the STVR agenda item for March 23 meeting. It is with this in mind that I ask if the following questions were considered before Mr. Hunt and Ms Bell's motion was proposed:

1. Is the STVR issue a provocative one?
2. Whose interest does it serve?
3. Is it grounded in examples that can be embraced and are comparable?
4. Is it what the community wants?
5. Will people defend it or get passionate about it?
6. Is the past acknowledged and represented?
7. Is it supported by facts that illustrate it as the brightest and best direction for a sustainable future on Hornby?
8. Does it address what is best about Hornby and build on that answer?
9. Was appreciative inquiry used on a broad scale in the community to result in this motion?
10. Does it address summer issues we do have with a segment of summer visitors who sleep in their vehicles and violate island ethics by using Hornby as a bathroom and a trash can?
11. Does it focus and thus reflect on all of the right things re: STR's?
12. Does it provide for an economically, biologically, psychologically, socially viable future for a healthy, diverse Hornby populace?

If you have engaged in this form of inquiry to come to this motion, then, you have the right motion. If not, see below.

Respectively submitted,

Dianne Cox

I suggest that the above type of questioning is appropriate and useful, in fact, vital, for all of us to engage in, (for some again and for others, newly). That March 23rd might provide an opportunity to work together, as one, to advise going back to the drawing board and have a community chat, as I see is proposed, so that all of this, viewed through the lens of sustainability and resiliency, is included to result in sound, fully researched, leadership-quality decisions.

As every action is related to the whole and deserves our full attention and intention to arrive at the best, fluid, workable, inclusive, intelligent solution.

Let us lighten up, pull up our shirtsleeves and operate in the unique historical spirit that represents Hornby. We are not putting a man on the moon here. We can do this and an association of responsible STVR community members committed to having this work for all, reflects a collaboration of a different kind, as our Depot is a Depot of a different kind. Community engagement is what we do best when we are called to it. Can we not take the very best of Hornby as displayed in our brilliant Spaceship to the Moon performance this year, and launch us into a future of sustainable growth and well being that we can share with others and make a difference, be an example, on the world stage, where so many are suffering, while get to live here in a harmony we are responsible for preserving?

If we are not employing 7th generation thinking in our decision making, we are missing the point.

Respectively submitted,

Dianne Cox

P.S.

My intention is to ground some of the ideas, reactions, misinterpretation, and genuine concerns that have emerged since Mr. Hunt's motion went on the table, February 18th, 2011.

It is clear that some people do not feel heard at some level and have used the tool of reacting strongly to get attention, with all the good intentions of doing what they see from their vantage point, as the right thing for the right reasons.

History has proven that an us/them mentality creates wars at its worst and unnecessary misunderstandings at its least. We have such a privileged opportunity here on Hornby to work in unison, while accommodating all sorts of different points of view in the process. It is our gift. We live in a country that allows for process. It is a privilege never to be abused, and, yet, in all the complexities of what it means to be human and live in

community, it, quite inadvertently, can and does happen OR might be perceived as happening. Nothing is linear when it comes to the different lenses we see through, on any issue.

Communication is a powerful tool, fraught with the potential to confuse, deflect, mislead, create negativity, while it can also be the light that guides us to be the best we can be. And then, of course, there is calling a spade a spade, which has its distinct and important, place. Emailing, though convenient and broad reaching, contains the aforementioned flaws. Respect might appear to fall through the cracks. And that is the most unfortunate interpretation as it has no place in the arena of resolution and solution.

--

Dianne M. Cox
Spray Point
250 335 0231

From: Michelle Easterly [mailto:mishae@uniserve.com]
Sent: March-19-11 7:15 PM
To: Louise Bell
Cc: Fred Hunt; Tony Law
Subject: STVR and Self- Regulation on Hornby Island

Dear Island Trust Representatives..

I appreciate your position to Preserve and Protect our Islands. Thank you. In doing so, not only the natural habitat and the waters are an essential part of this, but as you know the people who live here who steward this beautiful gem . We are also a part of being preserved and protected, so we can stay here and do our job. To do this we need the tourism industry in this way. The ferries have made it impossible to work off island so entrepreneurship is essential. Vacation rentals, farmers markets and artists survival..as well as many other home based businesses depend on it..as well as many organizations that these people help during the summer by supporting raffles and auctions etc..

Please note that I am in favor of the self-regulation of these rentals by a home based organization that is now forming on Hornby..and **do not support** the use of Temporary use Permits. I appreciate the need to have a watch on water and septic and density. Most of us do a very good job of this as we are protecting our homes, our land and the Island for future generations. We know only too well what we could lose if run over by too many people in rentals, cars, garbage etc..

So please give us a chance to do this ourselves. My feeling is governance by the people for the people needs to be reinvented again.. NOW.!

As for an approved use, I know we can find a way to get the OCP and the Land Use Bylaw to be in unity.. semantics should not kill something that is not broken...!!

Thank you for this consideration at the upcoming meeting this Wed.

Kind Regards, Michelle Easterly

Handmade Harmony Hornby Island

Brodie Porter

From: William Thomas [rwt@telus.net]
Sent: Saturday, March 19, 2011 7:30 PM
To: Louise Bell; Fred Hunt; Tony Law; northinfo; Misha; Karen Ross
Subject: STVR By-Law
Attachments: willthomas@willthomasonline.net.vcf
Importance: High

Dear Local Trust Committee and others concerned,
March 19, 2011

As a Hornby artist, I have been an active member of this community for more than 10 years. Like so many others, my ability to remain here is contingent on a vibrant summer market. That market – like so much else on Hornby – *is entirely dependent on STVRs* to attract and serve our island's visitors.

I am dismayed to see the Islands Trust working so disingenuously to disenfranchise long-term Hornby residents and landowners, artists and artisans and all others dependent on tourism.

Despite our protests, the corporate machination of BC Ferries already threatens the long-term sustainability of Gulf Island communities.

Again, despite this community's widespread opposition, it appears that the Islands Trust is determined to impose even more Draconian economic discrimination and dislocation on a place where, for more than 40 years, *Short Term Vacation Rentals have successfully underpinned the economic viability of an island community having the lowest per capita income in BC.*

Among all the visitors and residents of Hornby Island, the only inhabitants not directly dependent on STVRs are the deer. And even they would find foraging difficult in the gated, elite enclaves provincial government policies – and now the Islands Trust – seem so intent on creating.

Why is the Trust complicit in this "Victoria knows best" policy when Victoria has repeatedly demonstrated that it has neither a clue nor an interest in maintaining an island way of life championed by so many premiers?

Why is our original Community Plan, which supported STVR as a legal use under "home occupation" suddenly invalid?

Why was Motion HO-007-2011 made and carried to put a disastrous Bylaw Enforcement Policy into effect here (with the same \$5,000-a-day penalties already being enforced on Pender Island) - *without a formal public referendum or other means of voting?*

If the Trust's mandate is truly to "preserve and protect" the Gulf Islands, surely this includes the Gulf Islands way of life. *Otherwise, what is the point?*

I oppose the imposition of Temporary Land Use permits on long-established rental operators who have for decades demonstrated their willingness and ability to conduct business vital to our island's interests without infringing on their neighbours.

I know many of them. They are responsible people. And they form the heart and backbone of the Hornby community. Driving them out of business and off the island would be a direct betrayal by the Trust and the

death-knell of an island already beset by the intersecting challenges of skyrocketing ferry fares, Peak Oil prices, and the increasingly violent and erratic farming weather linked to Climate Shift.

When it comes to applying community standards, *the community knows best*. I support a local homeowners association to monitor and enforce standards that serve this community, not some distant blind bureaucracy.

Thank you for your time and attention,

Respectfully,

William Thomas
250-33-2353



**JOHN AND DOREEN COOPER
PO BOX 2-8 SHINGLE SPIT
HORNBY ISLAND, B.C.
V0R 1Z0**

March 20, 2011

To The Hornby Island Trust Committee

We agree wholeheartedly with the following sentiments:

"Vacations rentals have been operating successfully on the Island for at least the last 40 years. It is understood that housing visitors in private homes would satisfy the following goals:

- Keep the rural atmosphere of the island intact (prevent motels and hotels from proliferating)
- Maintain close community connections between families renting out their homes and the visitors coming (usually for many years).
- Spread the economic benefits to as many residents as possible rather than concentrating that benefit in the hands of a few.
- Give people an opportunity to raise funds to pay mortgages, put on a new roof, pay taxes, and in many cases simply survive in a community where economic opportunities are very scarce.

With increasing taxes, ferry rates and overall costs of living, people on Hornby have very few options to survive. Vacation rentals are part of the very much needed annual income for many residents. They also provide a very significant (probably the single most important) source of customers for all of our local businesses.

We agree that the option put forward by one of our long-standing trustees to "consider vacation rentals as a regulated legal accessory use" be allowed to go through a proper community wide review so that we can have some self-determination on this extremely critical issue."

We cannot believe that the Islands Trust is seriously considering enforcing a policy with respect to vacation rentals. In the same way that we cannot believe that a development on the Thatch property, involving a absurdly high density, multi-residential, time-share, condo development, would not have been rejected when it was first proposed.

Yours truly,

John and Doreen Cooper

Brodie Porter

From: christian weixelbaumer [weix60@hotmail.com]
Sent: Sunday, March 20, 2011 4:34 PM
To: northinfo
Subject: short term rental on hornby

I much prefer short term rentals over hotels or motels. self regulation is a much better way organise this activity then government regulation . we need less and not more government. sincerely chris weixelbaumer.

From: christian weixelbaumer [<mailto:weix60@hotmail.com>]

Sent: March-20-11 4:55 PM

To: northinfo

Subject: summer rentals on hornby

It is my understanding that we elect our trustees to focus on land use and not to regulate people. Why would you pick on short term renters? How about the homes enjoyed by extended family members and friends . Are they the next to be regulated ? There are no complaints , so lets enjoy Hornby Island the way we love it . Very sincerely Karin Ristau

-----Original Message-----

From: Nola J Jackson [<mailto:nolajj@telus.net>]

Sent: March-20-11 10:32 PM

To: northinfo

Cc: Louise Bell; Fred Hunt; Tony Law

Subject: Short Term Vacation Rentals

Dear Trustees,

We have rented in the past and have now owned property on Hornby Island for about 18 years. On occasion we have rented our property. We have rented privately to friends and for a couple of years through Wind and Waves. In recent years it has been our choice not to rent. When we did rent with the assistance of a property management company, our experience was positive. We felt assured that our property was tended to if problems arose and most importantly that if the tenants created any problems for our neighbours that Wind and Waves would act accordingly.

Our point is that we had a CHOICE. We strongly feel that the current proposals will limit our choices in the future.

We think that it would be detrimental to the economy of Hornby Island to severely limit the rental accommodation available on the island. Our experience of predominately family orientated renters add to the economy. These visitors to the island typically are sure to visit their favourite artists, discover new ones, spend at the Co-op, support the Hornby Island Festival, eat out and visit the Farmers Market.

The proposed permit is simply too heavy and strong. We are in favour of considering other proposals that would help the whole community.

Yours truly,

Nola & Andrew Jackson
7370 Anderson Drive

-----Original Message-----

From: Dale [<mailto:dale@hornbyisland.com>]

Sent: March-20-11 10:50 PM

To: Louise Bell

Subject: STVR's

To : Island Trustees 20 March, 2011

From: Dale Chase

Re; STVR

I truly feel the trust committee has made a mistake in their approach to STVR's.

I can't fathom how you will do a hundred or more in a timely fashion. I hear another island tried this and did 4 the first year. It strikes me that this is a bad faith decision and will be an attempt to eliminate them, and further impoverish a lot of residents. Is the "streamlined" TUP a real possibility?

How many actual complaints have there been in the last few years?

This is one of those situations where many are punished for the sins of the few. I've never liked that system. You need to find a better way.

The archetypal STVR horror story is too many, too loud, people in a subdivision STVR. Limiting number of people per rental would solve far and away most of the alleged problems, in a much simpler, fairer way.

TUP's will be an ongoing pain in the arse, even more for the trustees who will have to sit through many, many. This is a heavy burden to inflict on your successors, and your constituents.

Despite the fact that our Community plan supports STVR's, you have arbitrarily pronounced it illegal. Does that alone make it so?

To say that STVR's are not a home occupation seems a stretch beyond my reckoning. What could be a more home occupation than STVR's. Most "home occupations" happen in an adjoining workshop or studio

Finally who's this Louise Bell? Comes on our Island, with her preconceived notions about this. I didn't vote for her. She's not been on any ballot I've seen.

Dale Chase

lbell

----- Original Message -----

From: stani veselinovic
To: Tony Law
Sent: Monday, March 21, 2011 2:46 PM
Subject: Re: Local Trust Committee meetings

Oh goodness. I didn't realize that short term rentals were such an issue. How silly. It seems obvious that we need them to survive here. Hopefully this will be straightened out quickly. The str's in my area are great. My only complaint is with the yahoo cottage owners who party loudly like fools for 10 days at a time! ..lol. Calling rentals a problem is funny in a way.. It allows bad behavior from owners only.. Sort of a caste system of sorts. At any rate, I really don't get too uptight even with the owner-partyers. They are gone soon enough. Let's be more welcoming. We love to brag about our tolerance and diversity.. let's do it. Or is this about exclusion.. ie.. who specifically is allowed to make a living. Ugh. Hope not. That would be mobbish and tedious.

Gina -Rae

From: Tony Law <tlaw1@telus.net>
To: Undisclosed-Recipient@yahoo.com
Sent: Sat, March 19, 2011 10:44:14 AM
Subject: Local Trust Committee meetings

Hi Hornby Islanders:

This is to let you know about an upcoming meeting:
Hornby Island Local Trust Committee
Business Meeting
Wednesday 23rd March
New Horizons
12:15

Please note that there will be a Town Hall session at approximately 1pm at which members of the public can speak to issues on the agenda.
The agenda package is available at
<http://www.islandstrust.bc.ca/ltc/ho/pdf/hoagendamar232011pkg.pdf>

Please also note that the Local Trust Committee is planning Community Information Meetings on Short Term Vacation Rentals and the Official Community Plan as follows:
Saturday April 2nd (daytime) - New Horizons, Hornby Island
Monday April 4th (evening) - Seniors Activity Centre, West Vancouver
Wednesday April 6th (evening) - Windsor Pavilion, Oak Bay
- details to follow.

Tony Law
Hornby Island Local Trustee
250-335-1155

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From: Robert Gee [<mailto:islbob@telus.net>]
Sent: March-21-11 3:39 PM
To: Louise Bell; Louise Bell; Fred Hunt; Fred Hunt; Islands Trust Northern Office
Subject: Letter re STVRS and \march 23 Trust Meeting

Best Regards Bob Gee
islbob@telus.net

Valley 2-7 Hornby Island BC V0R 1Z0
250-335-2482 or Toll Free 1-877-809-2482 (North America)

Pdf Attachments read with Acrobat Reader 6.0 at <http://www.adobe.com/products/acrobat/readstep2.html>
Contact Bob Gee at: islbob@telus.net for another file format if PDF or MS WORD is not suitable

By way of letter to the Hornby Island Committee for March 23 2011 meeting. The motivation on STVRS is nothing but a reaction to Affordable Housing and security of year round tenure

The following is the beginning of a compendium of the irrationality and potentially agenda driven developments behind the Hornby Island Trusts onward going activities on Hornby Island as requested by the Ombudsman's office of the Province of BC. Material of previous and ongoing correspondence will be included in the forgoing report. The report will focus on density issues, lack of enforcement, the abuse of power and nepotism by the Trustees, as well as specific attention to the Trusts lack of adherence to its mandate and consultation with the community

The writer of this material is a 31-year Resident of Hornby Island with extensive prior experience in Corporate Governance both in Canada and Internationally. This prior experience initiated out of Degrees in Geology and Social Geography. While resident on Hornby academic accreditation in Statistics, Financial Planning, Accounting and Business Law provided background training for a 28 year career of real estate and property management exclusively on Hornby and Denman Islands – along with 15 concurrent years of Tourist related private business. Community involvement included positions on the executive committee of the Hornby Island Ratepayers (HIRRA) and a period as the Hornby Island Trustee (HIT) in the 19080s, with several sessions with the Advisory Planning Committee (APC) for the Hornby islands Trust

A current Trust development Inclusion in a Proposed OCP with following Bylaws

All properties on Hornby, which are over 3.5 hectares, are proposed to have a secondary suite.

It is wholesale scale invitation for density increase inside the existing "footprint", as if doubling the numbers does not increase demand on the carrying capacity of the land.

STVRS really a problem- Why? Trustee Law Email correspondence with a concerned citizen 110321

TL

Yes, a number of local governments have legalized secondary suites because of the role they play in meeting community needs for affordable housing. Such suites fall within the objectives for residential zoning which is to provide for the homelike of people. TL—

This is taken completely out of context by the Trustee in the issue of STVRS and reflects the Trusts ulterior motive on STVR-, which has been given to the community as neighborhood problems of noise and land use density. While saying STVRS are to be illegal because of the density issue the Trust is expanding the density on larger acreages. For "Affordable Housing"

One has to ask a number of questions herein

- a) "Affordable Housing" needs after the Trust has traded ALR lands with a land holder- to allow for a series of private 2.5 acre lots in a high profile area- intensifying density- in order to allow for a large piece to be held by a Land Trust- that is currently building a case to have the land stratified for private strata ownership- and increase the density of this latter development to that equivalent of most subdivisions in the Comox Valley
- b) Affordable housing of which, will be used by the 3.5 acre allowance---- for the owners use as a rental potentially a stvr
- c) Or a unit built in such a way as to be placed on such property to allow future subdivision and sale
- d) The Trust- having previously modified the zoning regulation large sections of crown land to allow for Co-Ops and Affordable Housing (Note Hornby a community of 1000 –critical mass elements of policy implementation)

The question then to be asked is Why is the Trust rezoning virtually everything for "Affordable Housing"- permanently increasing density and land use and impact while restricting STVRs because of land use and impact. It's clear the two are not connected in the same way. STVRs are being eliminated for some other reason – or the Trust contradicts itself, lacking reason and planning

TL

In recent years on Hornby, the use of dwellings to provide for vacation rentals has increased to the point where 12% of Hornby's housing stock is advertised for this purpose TL

- Trustee Law has no concept, authority nor proof to suggest that a 12% allocation of stock is STVR or has a significant impact on housing in this market. Indeed much of the STVR stock is - rented at off peak periods at significantly lower rates- then are in effect in other communities (Comox Courtney Detached Home \$900 to \$1200/mo, Hornby quality homes @ \$650/Month) .The Trust there in is attempting nothing but disseminated false information

TL

Landlords can make more money using a dwelling to provide commercial tourist accommodation for 6 weeks in the summer than they can from providing year-round residential accommodation to island residents

This statement is false. In fact in most scenarios – it is about equal amounts of money notwithstanding what the individual property's attributes are. Guidelines used in the industry on Hornby are that off peak rates are equivalent, all things equal - to weekly summer rates – assuming a 12 week rental period in summer) .Effectual periods for rental on Hornby are 6 weeks full occupancy - the Trust has no legal right or business making this judgment as its beyond the jurisdiction of their powers and obviously their information

TL

In the last census period we lost 40% of the Island's rental stock. TL

One has to question what the Trustee is actually saying here and what his understanding of the details of statistics may be. Firstly, this writer has not checked the statistical information again but as professional and actual experience will show

Is this number really from the census information? As Trustee Law has been known to eliminate caveats to information for his own points- this particular one implying that owners have switched to STVRs and eliminated availabilities

- a) It doesn't correspond or match the statistic used that 12% of Housing stock is used for STVRs
- b) There have been more houses occupied full time by their respective owners
- c) There is no caveat that local owners or absentee owners have had significant problems with care and maintenance of their asset by local year round renters in the past 10 to 15 years and thus have withdrawn their property completely from any rental market let alone the STVR market

TL

Only 18% of Hornby dwellings are available for residential tenancy compared with 30% in the province as a whole TL

This is a Trustee that has never understood that Hornby is not like any other statistically average place in British Columbia. Vancouver, Richmond, Prince George etc are Commercial Towns and Cities; Hornby is a rural residential area with resort overtones. The Trustees reasoning and applicability of facts is flawed

TL

Our school population has declined from 148 in the early 1990s to under 40 today. While aging demographics is a provincial trend, it is far more pronounced on Hornby where we have a huge whole in the age group we hope will do the heavy lifting - 25-45 year olds make up only 17% of the population here compared with 27% province TL

This is a Trustee that has never understood that Hornby is not like any other statistically average place in British Columbia. This response indicates the Trust is empowered to make Hornby and it's community the same as Vancouver, Richmond, Prince George etc are Commercial Towns and Cities; Hornby is a rural residential area with resort overtones and likely always will be. Implementing policy and regulation to fit "human activities elsewhere" will adversely affect the Trusts "principal" intent and purpose- that being the protection of the environment. . The Trustees reasoning and applicability of facts is flawed

-To be inserted - Study on Housing Affordability commission by the Islands Trust authored by T Law

Note credible and references of authority to material facts and conclusions at back of study --- (6 or 5 ? references –5 or 4 Authored by T Law)

TD

If we allow vacation rentals as a permitted use in all residential zone then what we are saying is that each and every lot on Hornby can be used as a virtual motel with no ability to manage the proportion of our residential housing pool is used for visitor accommodation rather than for its primary residential purpose. TD

This Trustee is using hyperbole, flawed slippery slope, fear mongering statements, as well as patronizes any person or group by refusal to respect and utilize true facts and the experience, professionalism and knowledge of others.

----- Original Message -----

From: Tina/Wayne Wai

To: fmhunt@mars.ark.com

Cc: tlw1@telus.net

Sent: Monday, March 21, 2011 5:59 PM

Subject: Island Trust issue

To Trustees, Fred Hunt, Tony Law and Louise Bell

Re: Hornby Island vacation rentals

We are writing as residents of Hornby for the past 34 years who have no vested interest in vacation rentals. We do not see the need for the Islands Trust to make any regulations in regard to summer rentals at this time. The need to preserve and protect the environment taken to the extreme would see Hornby become a nature reserve devoid of human interference. Balance is required. This community is also a part of the environment which needs to be preserved and protected.

Vacation rentals are necessary to the economic and cultural life of the island. We need the visitors; we need employment for young people in particular. Many people our age rely on providing tourist accommodation as a vital part of their income. We do not agree with the proposed restrictions on advertising and cleaning or with fees. Cleaning is often a major source of income for young women on the island. Advertising also creates employment income and is a public service.

Our concerns are water and noise. Aren't regulations already in place to deal adequately with these issues?

Is the enforcement officer, an Island Trust employee, in a conflict of interest when discussing regulations, which would generate the need for further enforcement? Should he be participating in this decision?

Is the Trust working in concert with the wishes of the majority of Island residents and landowners in making this decision or is the Trust attempting to standardize regulations among all the islands?

Respectfully yours,

Tina and Wayne Wai

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-----Original Message-----

From: Judi Stransman [<mailto:stransam@telus.net>]

Sent: March-22-11 2:00 AM

To: Fred Hunt

Cc: Louise Bell; Tony Law; northinfo

Subject: STVR's

Dear Local Trust Committee member,

I fully support Short Term Vacation Rentals on Hornby Island.

I have lived on Hornby Island since 1983, and have been a small-business owner, currently manage a small business, have worked for 3 other small businesses, and have sold items at the Farmers' Market. For the past 3 summers I have looked after my neighbours' house while he works elsewhere.

All Hornby Island merchants rely heavily on the much-needed tourist dollars. In fact, it is the weekly turn-over in guests to this island that is the main reason that a small business can possibly hope to succeed in such a short tourist season.

The increased ferry costs(x 2), have virtually eliminated the 1 day visitors to Hornby, who used to make up a considerable portion of our visitors ; not an longer!

Disallowing STVR's will cause real hardship on this island, and it will also eliminate the ability of many young families

to experience a beautiful place with a unique outlook and lifestyle . Stopping STVR'S will hasten Hornby's evolution toward becoming a Gated Retirement Community, with the ferries being the " gates " and the current homeowners and their friends being the only visitors. Such an Exclusive policy will discourage the very people we are hoping to attract on a year- round basis!

Permits and inspections are needlessly cumbersome and expensive for a 6- 8 week season. I can't understand the nature of the problem that you continue to insist requires fixing.

Why do you refuse to listen to your community on this issue?

Judi Stransman

Brodie Porter

From: Tony Law [tlaw1@telus.net]
Sent: Tuesday, March 22, 2011 9:28 AM
To: northinfo; Brodie Porter
Cc: Louise Bell; Fred Hunt
Subject: Fw: Please Accept My Comments on the proposed by-law for Short-Term Rentals (STR).

Please receive email below. Tony

----- Original Message -----

From: Randy Wunderlich
To: Randy Wunderlich ; Tony Law
Cc: Jeanne Wunderlich ; wind2@uniserve.com
Sent: Tuesday, March 22, 2011 8:31 AM
Subject: RE: Please Accept My Comments on the proposed by-law for Short-Term Rentals (STR).

Tony,

I understand the Island's Trust is now trying another tactic to eliminate short term rentals, so now we have evolved from an exercise in social engineering to obtain affordable housing, to an attempt to use environmental impacts as the justification to just plain bullying.

I strongly object to what the Trust is trying to do. The value of the whole Islands Trust concept should be reviewed, not just the impact of this prohibition in my opinion.

For the 50 odd years we have been going to Hornby Island short term visitors were welcomed to the Island. Hornby was a sustainable community based on the income provided by those visitors and diversity was celebrated. That is what created the Hornby we know and love today.

Also, I understand the legality of the "prohibition on short term rentals" is under significant scrutiny. The quotation "could drive a bus load of lawyers through the gaps in that bylaw" is a quote I recently saw coupled with the statement that it "was like saying because there are stop signs, it is illegal to stop anywhere else". This really concerns me as I would like to trust our political leaders like yourself to be responsible and avoid this kind of tactic.

Also, as a Trustee you should recognize that a sustainable community requires income, environmental protection and social services. Losing one of those aspects collapses the entire community.

In the end, I feel I have been 'disenfranchised' by the requirement to return to Hornby to vote on issues critical to my property ownership that let things like this get out of control.

I view the resulting decisions as being taken by an elitist clique of Island residents with their own agenda and not for the good of the environment, the community or ourselves!

Randy Wunderlich, P.Eng

Manager, Strategic Services | Fransen Engineering
180 McCarter Street/ P.O. Box 886
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rwunderlich@fransenengineering.com
www.fransenengineering.com

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engineering

From: Randy Wunderlich
Sent: Thursday, May 20, 2010 12:05 PM
To: 'Tony Law'
Cc: 'Jeanne Wunderlick'
Subject: RE: Please Accept My Comments on the proposed by-law for Short-Term Rentals (STR).

Thanks for your thoughtful answers to my questions.

Perhaps the difficulty comes from the prohibition on vacation rentals itself...

My main issue isn't with the intent to protect the environment, but the targeting of the vacation rentals rather than dealing with all the users of resources. (If the environment including water supply and waste treatment are worth protecting then we should all be doing it.)

PS At one point we considered having our cabin available for longer term rental but had a bad experience with the one renter we allowed.

Next we heard that regulations/bylaws were being developed that would have prevented us from moving back in during the summer period when our children were out of school. Hence we wouldn't consider putting it on the open market for winter rent.

Perhaps others found the same thing. Is that why the prohibition on vacation rental in the winter was put in the bylaw, ie to encourage long term winter rentals?

Randy

From: Tony Law [mailto:tlaw1@telus.net]
Sent: Thursday, May 20, 2010 11:28 AM
To: Randy Wunderlich
Cc: jeanwun@telus.net; rwunderlich@telus.net
Subject: Re: Please Accept My Comments on the proposed by-law for Short-Term Rentals (STR).

Hi Randy:

Thanks so much for taking the time to submit your comments regarding the draft bylaws regulations to permit vacation rentals. These will be carefully considered by the Local Trust Committee along with all other public input.

If you do not like what is contained in the drafts, it would be very helpful if you could suggest an alternative approach.

I am sorry that you are growing weary of our attempts to consult with the community on how best to permit this commercial activity on residential lots.

Below are some comments on your main points....

Over the years, It seems main themes we hear about are ;

Rules like this to apply **enough punitive measures** to the short term rental market to force the owners and service providers out of business. If there was indeed a motivation to be punitive and to force owners "**out of business**", the Islands Trust would be retaining the existing regulations that do not permit vacation rentals and

enforcing them! We are not doing this. Instead we are trying to find the appropriate way to permit this business. As you state, this is a "business" and I think you will find in most places, businesses are regulated to some extent to address impacts when they are conducted without appropriate responsibility.

an attempt to provide social housing to the local residents at homeowners expense rather than social services expense where it truly belongs. The current process to find a way to permit the commercial rental of residential housing is not an attempt to "provide social housing". There are other initiatives happening to do this. For example, the public use area of Hornby has been zoned for "community housing" among other uses, there are attempts to secure a Crown land parcel within this zone for housing and a new non-profit organization has been formed to work on this. These efforts have been necessitated by the fact that over the last census period, the number of dwellings available for residential rental decreased by 40% to the point where only 18% of dwellings are available for rent, compared with 30% in the Province as a whole. Our efforts to create "social housing" as you call it are essential to retain a workforce - including to service the vacation rentals. Right now, there are 8 members of the work force camped in the gravel pit because they have no accommodation.

a notion of protecting the environment by regulating access to potable water by banning sale of water to homes who wish to limit their local impact. The commercial withdrawal and re-sale of water from residential lots is not currently a permitted use. The Islands Trust has just received a letter from a lawyer representing residents who are concerned about the impacts of such withdrawals demanding that we enforce this. What has been proposed is that the commercial withdrawal and sale of water be permitted through site-specific zoning or Temporary Commercial and Industrial Use Permits.

I note that you give a number of examples of how you are conducting your use in a responsible way and so I can understand why you would think that regulations are redundant. But without regulations, how do we address those situations that are not conducted responsibly and are causing real impacts on the environment or on neighbours? And we do hear about these on a regular basis - and are expected to do something about them!

Again, if you do not like what is in the drafts, please provide suggestions of alternatives that you think would be appropriate.

Thanks again!

Take care,

Tony Law

----- Original Message -----

From: Randy Wunderlich

To: northinfo@islandstrust.bc.ca ; tlaw1@telus.net ; fhunt@islandstrust.net

Cc: jeanwun@telus.net ; rwunderlich@telus.net

Sent: Wednesday, May 19, 2010 10:56 AM

Subject: Please Accept My Comments on the proposed by-law for Short-Term Rentals (STR).

We grow weary of hearing proposed regulations/bylaws which seem to target **this particular aspect** of Hornby Island life, ie the access of the visiting public to short term rentals and the utilization of private homes for part time rental income.

Over the years, It seems main themes we hear about are ;

Rules like this to apply **enough punitive measures** to the short term rental market to force the owners and service providers out of business.

an attempt to provide social housing to the local residents at homeowners expense rather than social services expense where it truly belongs
a notion of protecting the environment by regulating access to potable water by banning sale of water to homes who wish to limit their local impact.

If the real goal is to protect the water resources and environment, then let's make these rules apply to **ALL homes in the sensitive areas or to NONE of them.**

Of note: Our cabin (7340 Anderson Drive) is probably more environmentally friendly than many on the Island

We provide rainwater for use within the cabin for ourselves and our renters
We purchase truck loads of water to fill our underground cistern if they need more
We do not water flowers, trees or the lawns under any condition I can think of
We do not provide laundry facilities in the cabin, this must be done elsewhere
We have maintained a single dwelling on the site, and built our home to conform to the code requirements.
Our septic field was pumped out after a number of years of rental use and no issues were ever found.
We typically have the cabin occupied for less than 100 days in any given year.

Can all the privately occupied homes claim the same? Should they?

Over the years, we have worked hard to build and own our property on Anderson Drive. We raised our children on the island in the summers, and are looking forward to bringing up our grandchildren the same way. In the interim, we have to work off island until we can afford to retire. During that time, we support our property maintenance and taxes with short term rentals.

So why should we be penalized by regulations which target just this activity and not others that have the same impact such as group campsites, multi dwelling homes and those with large families, wells, laundry facilities and illegal rental units and in different locations on the island.

At times, we will and do have more than six people at our place. Much of the time, those are family members as I am sure many other homes have.

What makes one case worse than the others?

Why should only rental units inspect their septic fields not all units?

What makes winter rentals more environmentally or socially unacceptable? IE Why would rentals be limited to summer months only?

We pay a relatively huge tax rate for living on an island with;

Little or no road maintenance

No water system

A solid waste handling system that is more like a social experiment than a practical solution to our solid waste disposal issues

Little or ability to vote or comment on bylaws as we are off island most of the year working.

In order to pay these taxes, we need to have some form of income and presumably the income from our rentals **allows all the other service providers to pay their own taxes.**

We believe the temporary use permit system and the associated regulations are poorly conceived and should not be passed.

Randy Wunderlich, P.Eng

Manager, Strategic Services | Fransen Engineering

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From: Diana Ellis [mailto:di@intergate.ca]
Sent: Wednesday, March 23, 2011 1:27 PM
To: Brodie Porter
Subject: About Hornby Island STVR proposals

Mr Porter: Apologies, I got your e-mail address wrong with the first sending of this. Diana Ellis

Date: Wed, 23 Mar 2011 13:19:29 -0700
To: tlaw@islandstrust.bc.ca, fhunt@islandstrust.bc.ca, lbell@islandstrust.bc.ca
From: Diana Ellis <di@intergate.ca>
Subject: About Hornby Island STVR proposals
Cc: bporter@islandstrust.ca, karenross@telus.net, wind2@uniserve.com

Dear Trustees:

RE: Islands Trust Staff Report - STVR, March 22, 2011

I have received the above mentioned paper and will be attending the Community Information Meeting in West Vancouver on April 1st.

Background

I have been visiting Hornby island regularly since 1960, a family member purchased land, built and has lived here full time since 1971. My (former) husband and myself were able to purchase our own HI property/home in 2002 with the intention of eventually moving here. However "life" intervened and we now share use of the property separately. Since its purchase, I/we provide our home every July and August to Hornby visitors through Wind and Waves Property Management. I come to our Hornby home actively from early September through to the end of June each year.

Comments and questions - Temporary use Permits and Management of Vacation Rentals

First, I'd like to note that the language used in the staff report respectfully acknowledges the historical role of STVR's on Hornby island, and points out the economic value provided by STVR's, both for residents who use the STVR as a source of income, and in providing quality accomodation and a quality experience for the many visitors who wish to come to the island in the summer months. Mr. Brodie did a really good job in elucidating this.

I gather from reading the document that as I/we do not occupy our Hornby home on a permanent basis, the rental of my/our Hornby home would fit into the "STVR as a permitted land use" category. As such, the policy recommends that a TUP would be required for summer rentals to continue.

My questions about the TUP are:

1. Who manages the TUP approval and review process? Would this be a new function of Islands Trust?
2. What local knowledge would the TUP staff be required to have? Would the TUP staff be located on or off-island?
3. The matters to be reviewed by the TUP process seem to address the matters consistently raised over time regarding water, septic and neighbour concerns. **However, it seems onerous to ask for a professional assessment of whether or not the building/plumbing meets the BC Building Code. This home, for example, has already been inspected by the insurance company in that regard.** And as you well know, many Hornby homes, especially those built several decades ago, are known for their unique "Hornby handbuilt" quality and may not meet the more highly regulated building codes of 2011. (Even my older home accomodation in Vancouver does not come up to code in all areas.)

Questions and comments re use of property management to oversee summer rentals

1. Am I correct in assuming the document says that (a) people who fall into the STVR as a permitted land use category *can use property management* companies to oversee summer rentals, and (b) full time residents who wish to rent their homes *may not use a property management company* - but must advertise only through word of mouth and "social networking."?
2. I/we certainly know that our use of a local property management company is absolutely imperative to (a) ensure a quality experience for summer renters, (b) to ensure the safety and security of our Hornby home/property, and (c) to ensure that our neighbours are not impacted by noise. Wind and Waves Property Management and myself provide information to renters regarding water use, summer beachfires, local businesses, art and studios, etc. Most of the families occupying my/our home during the summer are long time repeat clients, usually booking a year in advance.
3. Please reconsider the policy recommendation that long term residents wishing to do short term rentals may only do this through word of mouth and "social networking." It seems only fair that they be allowed a choice. There is a phrase in the suggested policy re short term rental of residences that notes "*the application of a principle of welcome without commercial promotion.*" My/our experience is that using a property management company, in this case, Wind and Waves, *absolutely ensures* a warm on-island welcome to the people occupying my/our home.

Finally, I'd like to note that the economic status of off-island property owners varies widely. Sometimes I wonder if we are all thought of as wealthy dilettantes ready to flip properties to make a profit! I/we are not rich - we were able to buy a bit of a Hornby dream through luck and hard work. Rapidly rising taxes, exorbitant ferry fare increases, a tripling, last year, of the home insurance (due to the fact it is rented in the summer we were told) - all these serve to make us regularly reassess our ability to keep the property. Certainly the summer rental income is all ploughed back in to cover these, and other maintenance costs. But that is our commitment - to steward these 2.2 acres wisely during our ownership, to support the Hornby economy with local purchases and use of local professionals, and always, always, be refreshed by and appreciative of the island's true beauty.

Sincerely,

Diana Ellis
5055 Fowler Rd
Hornby Island B C
V0R 1Z0

#11 - 1820 Bayswater Street
Vancouver BC
V6K 4A4

----- Original Message -----

From: "Quenten Doolittle" <doolittl@ucalgary.ca>

To: <tlaw1@telus.net>

Sent: Wednesday, March 23, 2011 1:58 PM

Subject: Vacation rentals

> TO: Tony Law

> FROM: Quenten Doolittle

> Joyce Doolittle

>
> We are writing to oppose changes which affect the short term rentals
> plan and the 3rd person management of home rentals. These issues
> seem to keep being forwarded every year. How many times do we have
> to

> submit opposition to these changes? With people who own property on
> Hornby Island, it is crucial that our property is locally managed and
> cared for. Properly controlled rentals are the life blood of the
> local economy. Commercial rental options do not suffice for all the
> off shore visits and holidays.

>
> Sincerely,

>
> Quenten Doolittle

> Joyce Doolittle

From: LINDSEY Graham [mailto:lindseyjani@shaw.ca]
Sent: March-23-11 5:42 PM
To: Fred Hunt; Louise Bell; Tony Law
Subject: STVRs and Hornby Island

Hello Islands Trust Representatives,

I am writing to express my extreme unhappiness with your plan to outlaw short term vacation rentals on Hornby Island. I have read all the documents and the OCP and can see that this is quite simply a way to destroy the economy of Hornby Island. Artists and crafts people rely on the tourist trade in the summer to support themselves and their families all year round. By eliminating internet advertising and property management companies, individuals will attempt to manage their own STVR from off island and there will be more problems with noise, beach parties and vandalism.

I am an environmentalist and understand the importance of protecting the water on Hornby. I am very worried that the changes you are planning for STVR will in fact make things much worse than they are now. We are planning to move full time to the island next year with our two young children and are very concerned that the Hornby we know and love will be destroyed if you keep moving in this direction.

Please listen to the people who live on Hornby !!

Sincerely,

Jan Radford
7505 Central Road

From: Helen-Middle Mountain Mead [mailto:helengrond@yahoo.com]
Sent: March-25-11 11:10 AM
To: northinfo; Louise Bell; Fred Hunt; Tony Law
Subject: Conflict of Interest

To Hornby Islands LTC

Political processes are vital to our society. They are not always perfect but would we really want to live in a world where we didn't have secure democratic processes to fall back on? Unfortunately, the process that is unveiling on Hornby Island right now is failing to convince anyone that open democratic processes are in place.

We have a situation right now where our Chair Louise Bell is clearly in a situation of conflict of interest. The Trust policy of having an unelected chair as a voting member of the LTC is problematic at the best of times. This is by my estimation non-democratic. We now have a situation where Chair Bell has clear bias against having STVRs anywhere. Her language at the last meeting was as follows:

"The commercial use of residential property must end. There is no other avenue to go. We have exhausted all other options."

This indicates that she has a predetermined opinion. The facts are that this statement is false. There are a number of circumstances where STVRs will be legal on Hornby as a home occupation. They are currently legal on South Pender. There's plenty of opportunity to explore possible options to the currently proposed policy. There must be some evidence of willingness on the part of the chair to explore this if her role as an appointed member of the LTC is to be taken seriously.

The bottom line is that in her position as an elected trustee on Denman Island she cannot nor can she be expected to in any way support policies on Hornby that will potentially negatively effect her constituents on Denman Island. If one were to survey the folks on Denman Island today and ask them if they support laws which allow the legal use of STVRs on Hornby, they would no doubt say no. No to ferry lineups, extra traffic etc. There is long-standing history supporting this notion. Chair Bell owes it to her constituents to see that their wishes are being met and to expect otherwise is completely unfair to her.

Respectfully submitted
Helen Grond

----- Original Message -----

From: "Bev Bullen" <bjbullen@island.net>

To: "Tony Law" <tlaw1@telus.net>

Sent: Saturday, March 26, 2011 1:08 PM

Subject: Short Term Vacation Rentals

Members of the Hornby Island Trust Committee.

I wish to express 2 concerns which I have re short term vacation rentals:

- 1) Vacation rentals can be an important means by which residents on a lower income can pay their taxes.
- 2) At some point there needs to be a 'cap' on the number of visitors that one household can accommodate.

It is unreasonable to have 3 or more carloads of people, or a great number of people, at one location when the water supply on this island is limited. Who is responsible for reporting such happenings?

I trust this concern can be resolved satisfactorily.

Thank you.

Bev

----- Original Message -----

From: [joan harris](#)

To: tlaw1@telus.net

Sent: Sunday, March 27, 2011 8:40 AM

Subject: RE: Hornby Vacation Rentals - where things are at!

Dear Tony

I think you are right that there are lots of people who support short term vacation rentals on Hornby. I think this is indicative of the shift in attitude of Hornby homeowners, to looking at their "homes" as a source of income. B and B's don't have the same impact as short term rentals because the owners are present and so everybody is more conscious of noise levels and the owner is there to keep a lid on things.. I think it's the same when owners stay in their home and rent out a cabin adjacent to the home. I think the problem comes when the owners vacate the lot so they do not feel the impact of the renters, while the neighbors experience a significant decrease in the quality of their lives, the most common issue being noise.

The people who support short term rentals are so forceful that those of us who really value the freedom from this kind of disturbance are inevitably going to be overwhelmed, even if we do represent the majority of the permanent residents.

I would recommend a compromise: The owners of the rental unit(s) must be present on the lot while it is being rented out.

Please include this proposal on our behalf.

Joan Harris and David Wiseman

Joan Harris

From: Louise Bell [mailto:lbell@islandstrust.bc.ca]
Sent: Sunday, March 27, 2011 11:35 AM
To: 'Helen-Middle Mountain Mead'
Cc: Tony Law; Fred Hunt
Subject: RE: conversation

Hi Helen,

Thank you for taking the time to write and for presenting your views. I'm sorry that you do not think the community is being heard. It seems that my remarks as the chair are being interpreted as evidence that I am insensitive to the strengths of your community, its needs and its requests. Believe me, that is not the case. Our work on this issue has been complicated by a number of factors, as you have seen, and we're had great difficulty finding a workable approach, as you also have seen. I expect that the Committee will explore further options, and am sorry if it appears that won't be happening.

Thank you for the time you have spent coming to meetings, reading the documents and providing your ideas. I sincerely hope that the Committee will find a route to addressing this issue that suits most if not all of the stakeholders.

Louise
Louise Bell
Local Trustee for Denman Island
Vice-Chair of the Islands Trust Council
www.islandstrust.bc.ca

Preserving island communities, culture and environment

From: Helen-Middle Mountain Mead [mailto:helengrond@yahoo.com]
Sent: March-26-11 9:43 AM
To: Louise Bell; Fred & Christine Hunt
Cc: Tony Law
Subject: conversation

Dear Louise and Fred

I would like to talk to you personally, but cannot really spare the time. I have dedicated so many hours to this issue that I now find myself falling way behind in work.

I would like to share with you some thoughts. I apologize in advance for any sloppiness in this letter, once again, time constraints.

Since last July, when I attended a trust meeting about this issue, I have been somewhat astounded that the process (and of course the folks driving it) seem to be rather unwilling to hear the concerns of the community regarding the consequences of this proposed policy.

Myself and a group of others have put ourselves in the position of taking some leadership over this issue and have resolved to learn as much as possible about what is being

proposed and what the implications are. In addition, we have spent quite a bit of time talking to trustees and staff to inform them of how dire the consequences are likely to be. It would seem that based on the motions and activity within the LTC meetings of late that this is falling on deaf ears for the most part. (Tony Law excluded)

In case you have misunderstood community sentiment over this issue, a good analogy would be - going to Detroit with the explicit intent of banning car manufacturing....

It's not just that such action would be an outrage - it would be a travesty. What Hornby has accomplished over many years of work is a real model of how tourism can happen in a small community with very few of the unfortunate side-effects that often occur. In short, we have kept our sense of community intact and healthy. This is largely due to the fact that for 10 months of the year we are a small, totally normal rural community. For two months we become something totally different. We are a resort. It can be difficult but in fact, it's a small price to pay for having our lovely community to ourselves for the bulk of the year. Many would say it's our destiny to share ourselves with others and many of us are proud to do so.

How could we do this without STVRs. Well, of course we couldn't. I understand that you think that TUPS will give us that chance but they are so not the tool needed here. They were never designed for the purpose at hand. No one believes for a second that they will work. There is not enough income in operating an STVR to justify the nuisance and expense.

Of course there is the underground option. Of course everyone would go this route. What will the effect be: People will become desperate to replace the income that complying with the enforcement policy will cost. There will no longer be the "watchdog" effect that advertising offers. Now, instead of knowing exactly what your neighbor is up to, how many weeks are booked, how many people are allowed to stay, what expectations the owner has etc. - you will have no information. People will no longer need to be respectful, some people will definitely abuse that because of course they are clinging to their homes. Many jobs will be lost - of the precious few that exist.

Most people believe that this will drive real-estate prices down. Most people have no other equity than that in their homes. It's not like this will open the door for young families to buy on Hornby Island. The prices would have to fall by 75% for that to occur. They likely won't drop that low. They will however, become real bargains for urban folks whose modest city homes are worth a million or more. Good bargains to be had on Hornby Island. Further degradation of our core community. The middle class will definitely decline here.

What is the alternative to TUPS/enforcement policy? How will we ever find out if you two refuse to let us look at alternatives? If you think that we believe there is a punishing agenda underfoot, you would be correct. This business of confusion about who passed what resolution and why is such an enormous signal that the political process has broken down!

The group that I have been associated with is very committed to reasonable, calm approaches to sorting this out. Unfortunately, we are losing ground within the community. People feel we are being far too delicate in our approach. I hate to think what the maddening crowd is planning. Past history doesn't bode well in terms of how people feel when they are not being heard on this Island.

It would be a shame to not take this opportunity to be creative and forward thinking in terms of solving this issue. I do not believe from all that I've heard that we have "no further options". What we have is no will to explore them. My question to you is - Why have you no will?

Respectfully submitted
Helen Grond

From: Dan Bruiger [mailto:dbruiger@telus.net]
Sent: Tuesday, March 29, 2011 8:16 AM
To: Brodie Porter; northinfo; Tony Law; Fred Hunt; Louise Bell
Cc: Karen Ross; Donna Tuele; dbruiger@telus.net
Subject: Staff Report on Hornby STVR

Dear Islands Trust Council, Hornby Local Trustees, and Staff,

Please find below my comments, respectfully submitted, in response to the Staff Report on the Hornby STVR situation, dated March 21, 2011.

My overall impression is that Islands Trust policy construes STVR as a problem that should be regulated. This does not accord with widespread opinion on Hornby Island. The basic problem is that our Land Use Bylaw, as it stands, does not harmonize on this issue with our Official Community Plan, as it stands. The OCP is clear on the matter: it encourages STVR; the LUB is silent on the matter. It seems that IT, for some reason, is determined to revise the OCP to match its plans to control STVR. This is a mistake, against local community will, and the opposite of what should happen. *The LUB should be revised to match the OCP.*

Below is a more detailed analysis of the Staff Report, concentrating on its underlying assumptions and reasoning, which seem to grasp at straws for a rationale to control STVR.

The Basic problem. The existing OCP clearly sanctions STVR (refer to Bylaw 104 sections 6.3.3.8; 6.5.2.11; and 6.5.3.7). As I see it, the basic problem is that the LUB, by omission, does not accord with the OCP in the matter of STVR. Islands Trust, however, seems to have decided beforehand that STVR is the basic problem, and that it is IT's responsibility to control it. Apparently, IT's solution is to keep the LUB as is, with an implied illegal status of STVR, and change the OCP accordingly. This is the reverse of what should be done: change the LUB to accord with the OCP, which reflects the community's long-standing wishes.

The solution proposed in the Staff Report is a policy of selective enforcement, applied in such a way as to differentiate between instances of STVR that are considered undesirable from those that are considered acceptable. In broad terms, I do not disagree with this distinction, or its legal implementation, but some finer points should be considered (see "Selective Enforcement" below). However, a solid legal and philosophical basis, grounded in a LUB that corresponds to the OCP, should be preferred to a "pragmatic" solution that leaves the legal status unresolved.

A system of TUPs is proposed to apply, according to certain criteria, to those STVRs that are considered undesirable. However, Bylaw 104 sec 6.9 (temporary use permits) is unclear about application to STVR. It is unclear, for example, that STVRs should be interpreted as "temporary commercial events", as "short-term projects", or whether they involve "particular uses for a period of time to enable impacts to be assessed before any further permitting of the use".

Dubious Premise. The basic premise of the Staff Report is that “without some level of management or regulation of STVR activity there is no ability to plan for community needs for residential, commercial, community service and other requirements.” This is simply untrue. It asserts, without justification, that regulating STVR is a necessary precondition for normal planning functions. But, *there is no demonstrable connection between STVR and planning.*

The reason offered is that the Local Government Act requires an OCP to “address the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years; and the approximate location, amount and type of present and proposed commercial land uses.” This mandate is about anticipating future housing and commercial needs; there is no requirement to catalogue existing non-commercial properties. This passage (of the LGA 877sec1a) does not imply an obligation or right to “manage such residential and commercial land use” or to “determine how much residential or commercial land use is available.” (This later phrase does not even make grammatical sense, let alone logical sense. ‘Land’ can be ‘available’ but not ‘land use’. Available for what?) Furthermore, the only way that IT *can* provide for future housing and commercial needs is through rezoning—in particular through densification. There is no evidence of a *steady* population growth on Hornby. There has been some growth in the past couple of years, reflecting the development of the few remaining parcels of raw land. These have been virtually exhausted, and the only present avenue toward population growth is densification. There is a need for certain types of housing (e.g. rental and low-cost) that owes to changing population profile, not to growth. It is difficult to see—and the Staff Report has not shown—how regulating STVR would facilitate meeting this need.

Faulty Reasoning. The report continues: “The challenge with the STVR issue without local trust committee management is that there is uncertainty as to how much land will be used for STVR use, or the extent of STVR use on any one property versus how much land is available for residential purposes.” This too is illogical. The land being used for STVR almost completely overlaps the land being used for residential purposes—whether by landholders who dwell on their property as their primary residence or as their secondary residence. That leaves a small number of properties that are never occupied by their owners. IT might be able to force those few who use their properties exclusively for vacation rental to cease and desist. In general, IT cannot force seasonal residents to put their property to a different use (for example, year round rental). Nor is it the business of IT to be “certain” about the lengths of time residents in general actually occupy their properties.

Key Policies. The report then restates “four key policies” (actually five) for reference—identified as 5.2.3; 5.2.4; 5.7.2; and 5.8.6. “4.4.2” regards water, and I have stated my views on the water rationale in previous communications, but will recap them below. “5.2.3” regards “aesthetic, environmental and social impacts of development”, on which points the vast majority of STVRs can be rated well. “5.2.4” regards “growth” and is irrelevant since there is no long-term or foreseeable trend of population growth. “5.7.2” addresses “economic opportunities”: regulating STVR may *reduce* economic opportunities on Hornby. “5.8.6” restates—this time as policy—the misconstrued mandate of the LGA in regard to planning. It remains unclear how regulating STVR would facilitate planning.

Water Rationale. I have addressed the water rationale in previous communications but will recap here: a) First, these are “policies”—not directly specified by *IT Act*. b) Rather than pre-identify vulnerable areas and prohibit (part-time) extra density there, it would make more sense to allow individual property owners to find their own ways to maintain water supply and quality. No one can run a vacation rental without “adequate” water; the owners and users of STVRs don’t need IT to specify how that should be defined—this is something that will regulate itself. c) On pain of utter hypocrisy, IT should *avoid using water as a rationale* as long as it refuses to regulate the mining of water on unoccupied residentially zoned property, which cannot be considered a “home occupation.”

Defining ‘Resident’. The report proceeds to differentiate between ‘residential’ use and ‘vacation rental’ use: “A residence is a place where one actually lives or has one’s home. This can be accomplished by ownership or rental for a sufficient period so as to establish the life or homeplace. In contrast a vacation rental is by nature a temporary occupancy of a shorter term where life or homeplace are not established in any permanent manner.” From this it concludes: “A vacation rental use is therefore not a residential land use. When a dwelling is occupied for purposes of temporary vacation rental, the residential land use is discontinued on the property so as to allow the vacation rental.” (This is perhaps the most galling part of the Staff Report! It is bound to be offensive to any resident of Hornby Island.)

According to the actual definition in bylaw 86, ‘residential’ means “a use of land providing for the home life of a person or persons in common occupancy.” My home does not cease to provide for my home life when it is temporarily occupied by someone else. In that situation, on the contrary, it also provides a home for the guest(s). ‘Residential’ is a use attached to properties with various zonings. That designation does not alter or cease when its owner walks off the property or when someone else walks onto it. The argument presumes what it is supposed to prove—that STVR is not a residential use. This is simply circular reasoning. Moreover, one might as well say that any property owner who leaves the island for their own vacation is no longer a “resident”—either of their own home, of Hornby, or of the accommodation where they are vacationing. I am a long-time resident of Hornby, yet have often left my home for various periods over the past 25 years to travel or “winter” somewhere else. According to this reasoning, I have not established a home here in “any permanent manner” and I am not “actually living” when away from home!

The meaningful way to define the locus of a person’s residency is the way used to determine eligibility for the homeowner grant: whether this is the place of one’s “primary residence”. In terms of zoning and the LUB, however, the legal point is whether ‘land use’ changes either by virtue of a change of occupants or by virtue of an exchange of money. If yes, then roommates, house exchanges, and nonpaying guests would also invalidate “residential use” on the first account. So, for that matter, would vacancy! Renting under any circumstance would invalidate on the second account. The basic problem is that IT has already accepted the foregone conclusion that STVR should be regulated, and is grasping at straws for rationales. A better approach would be to recognize that the OCP sanctions STVR and the LUB should be adjusted to be in harmony with it.

Selective Enforcement. The Report proposes a policy of selective enforcement, while rejecting the legality of STVR. While this approach is “pragmatic” and may indeed fit the available resources of IT, it is internally inconsistent. It would be philosophically and legally more sound to revise the LUB to fit the OCP. In this way, the instances of STVR that are considered desirable could be made legal, and the undesired instances be made illegal. If this distinction cannot be made legal, then STVR should be unconditionally legal.

The Report outlines criteria to distinguish between those STVRs exempt from TUP and those to which it would apply. Okay, but some finer points should also be considered.

Criterion 1.2 regards professional management. I would point out the logistical handicap for the majority of STVR owners, who vacate their premises for guests. Certainly, owners can take bookings; however, since they are probably not on the island for the period of STVR, they would have to delegate responsibility for cleaning at “changeover”, for greeting and presentation of keys, for emergencies, etc. It would be unfair to construe these functions “not managed by the property owner”.

Criterion 1.5 regards “issues related to health and safety”. Health and safety are not matters within the mandate of IT! Such a provision, as stated, gives undue carte blanche to IT to meddle in the affairs of a property owner. These are issues already covered by other jurisdictions (for example, health board and civil suit), and/or which would sort themselves out in the marketplace.

Criterion 1.6, regarding complaints, is the soundest in principle, yet should involve a review process to insure fairness against malicious complaint.

STVR as Permitted Use. As a preamble to the details of its proposal, the Staff Report enumerates several general points.

#5 states: “STVR use may exhibit similar characteristics to residential use, but the difference is that the occupiers of the STVR, because of their shorter term occupancy, offer a different social and cultural impact upon the island.” This is not a fair blanket statement; many summer visitors have been coming here for years and enjoy their opportunity to join in the local life. (Why not just “regulate” tourism?!) The Report continues: “Public services are used in a different manner (e.g. school services are not required) and there is limited ability of the occupiers to become involved in volunteer community activities.” Obviously, school services are not required in the summer in any case! Nothing prevents visitors to participate in “volunteer activities”; I would hazard to guess that summer is the season when most (non-visitor) residents are least inclined to be involved in volunteer activities.

#6 reiterates the same fallacious rhetoric about Provincially-mandated responsibility to regulate in order to plan. Specifically it argues: “There is a potential in any community, through lack of regulation, that the values that attract visitors to an island start to diminish as the number of visitors start to increase.” There is no evidence, however, that the number of visitors is increasing! The Report goes on: “Examples of such overuse are found in many resort communities and other agencies (e.g. BC Parks, Parks Canada) are starting to manage park entry as a means to preserve the values that

attract visitors in the first place.” This is irrelevant and an inappropriate comparison. Certainly, BC Parks is not managing park entry on Hornby!

#7 is completely specious and demonstrates little grasp, by the author(s) of the Report, of the business reality of STVR.

#9 acknowledges a presumed desire of “STVR proponents.” However, it goes on to elucidate: “Given recognition that some regulatory certainty regarding STVRs must be established, there are two options available under legislation to allow their use – Temporary Use Permits and rezoning.” However, this is precisely what is *not* “given”—only assumed by IT. A third option is to revise the LUB to accord with the OCP.

The Report then proceeds to outline “a process to address STVRs through the use of Temporary Use Permits while the rezoning process is addressed in the discussion regarding proposed amendments to the Official Community Plan.” I say: leave the OCP alone and revise the LUB!

Best wishes, and thank you for your attention.

Sincerely,

Dan Bruiger,

Past Secretary, HIRRA

From: Hallie Osborne [mailto:gulfislandgirl@gmail.com]
Sent: March-30-11 6:07 PM
To: northinfo; Tony Law; Fred Hunt; Louise Bell
Subject: Hornby short term rentals

March 30th 2011

Dear Islands Trust,

I am writing this letter with concern regarding the short term rental properties on Hornby Island. Our community is sustained thanks to the income gained through the rentals. I know there are a great deal of debates that have been going on for years on this topic and we are approaching a critical time and a potential decision. I feel the need to write this letter, since my well being on Hornby depends on that income.

My name is Hallie Osborne and I was born and raised on Hornby Island. I moved away from Hornby in my teen years partially due to a lack of a job with a sustainable income. When I was twenty three I heard about an opportunity, as a cleaner for rental properties, that enabled me to move back to Hornby Island full time. Even though I do not own a home and the income I make is second hand, I am able to live the rest of the year on the money I make during the season. Without it, I will be forced to move away again.

The income season for myself, and others in the same profession, goes from June, and sometimes May, to September and involves a major process to prepare the homes for the season. The preparation is where I actually make the bulk of my money. Even though I only clean four rental homes weekly all season, I prepare countless other homes for the upcoming rentals. Cleaning is not the only job that is needed in these months. There are people who mow lawns, wash windows and others that depend on the short term rentals.

There are very few jobs on Hornby Island, and consequently the young population is dwindling. Our Elementary school has dropped significantly since I was a child. I am scared to think how many of us young folk will have to re-locate if the rental income is erased. Who will birth the next generation of Hornby Island children if there are no young people? Young people are the majority of those affected. The young population is also the worker population on Hornby and even those who are not affected by the rental income still need workers.

Many people benefit from the rental income, whether it be first, second or third hand. The people who rent these homes in the summer contribute money to artisans, vendors, restaurants, farmers and many others. They spend money at the stores and purchase clothes and gifts from local gift shops. Its like a huge domino effect! I am scared of what will happen to our community if that money is no longer there. Many people depend on it. The only people who are not effected by the rental property income are very wealthy people and people like teachers and ferry workers. What about the rest of us, the majority of us?

Unlike some of the other Gulf Islands, where there are many more shops, pubs, restaurants and job opportunities, Hornby has limited places to work. Our Island is unique in the way that it is so small and taking away the rental property income is taking away our number one economy.

I appreciate the role of Island's Trust to preserve and protect our island environment. Should that not extend to preserving and protecting the economic and social life of Hornby?

Sincerely,

Hallie Osborne

From: Dan Bruiger [mailto:dbruiger@telus.net]
Sent: March-31-11 3:48 PM
To: Brodie Porter; northinfo; Tony Law; Fred Hunt; Louise Bell
Cc: Karen Ross; Donna Tuele; dbruiger@telus.net
Subject: OCP Draft Revision

Dear Trustees, Islands Trust Staff, Friends and Neighbours,

Re: OCP DRAFT REVISION

Here are my preliminary comments on the “draft for comment” OCP revision, April 2011, as it appears at <http://www.islandstrust.bc.ca/ltc/ho/pdf/hoocpreviewrevapril2011.pdf> I will designate this as ‘OCPv2’, since it is a revision of a previous draft revision, and designate the existing community plan as ‘OCP’ See: <http://www.islandstrust.bc.ca/ltc/ho/pdf/hobylbaseocp0104.pdf>

Please note that the red letter text appearing in OCPv2 refers to changes from the previous draft revision, not the OCP.

I will deal only with the parts of the new draft that concern STVR, namely “Visitor Accommodation” and “Home Occupation”. These are in fact the major changes proposed to the OCP. (Although it is a separate issue, persons interested in the Thatch project may wish to note that OCPv2 also eliminates OCP 6.5.2.8, which specifies that “Facilities zoned for the provision of accommodation of the traveling public shall not be converted to privately owned residences or used for time-shared multiple ownership.”)

My overall impression of these changes is that they serve to provide a means for IT to regulate STVR as it sees fit. While the spirit of the resolution recently passed by the LTC gives the appearance of acceding to some extent to public will, it goes wrong in one key aspect: *it proposes to change the OCP when instead it should change the LUB*. The OCP as it stands is quite clear about STVR:

“The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation. The home occupation shall be operated in accordance with land use bylaw and with guidelines prepared by the LTC in consultation with the community.”

This is stated in OCP 6.5.2.11, under ‘Visitor Accommodation’ and again, verbatim, in OCP 6.5.3.7, under ‘Home Occupation. However, OCPv2 proposes to eliminate both these key passages and substitute instead an entire new section, ‘Vacation Home Rental’. This section significantly changes the clear intent of the OCP, limiting the STVRs sanctioned under “home occupation” to those properties with a separate dwelling in addition to the owner’s residence. It inserts a lengthy “background” justification for regulation, giving all the spurious reasons we have already heard. These passages conclude by noting that:

“Zoning property to allow for a vacation home rental use or addressing their use through approval of a temporary use permit are other options that can be considered.” No suggestion is made for how re-zoning should be accomplished, but no doubt it would be as onerous a process as TUP.

OCPv2 6.5.3.2 goes on to state:

“Provision of a residence for vacation home rental beyond thresholds of residential land use, such as when commercial approaches are used in the promotion and management of such use, may be permitted through a temporary use permit or rezoning. Examples of additional issues to consider in such processes are water supply and sewage treatment capability; traffic management and environmental management, as well as the benefits that such accommodation may provide to the community at large.”

In other words, by modifying the OCP, IT proposes to achieve the right to regulate STVR through TUP, using ambiguous criteria that give it essentially carte blanche over the majority of STVRs. This is in stark contrast to the present OCP, which clearly sanctions STVR across the board as a legitimate home occupation. I repeat: hands off the OCP! The proper thing to do is revise the LUB to accord with the present OCP.

Thanks to all for your kind attention.
Best wishes,
Dan Bruiger

Dear Islands Trust Council, Hornby Local Trustees, and Staff,

Please find below a submission of my comments, in response to the Staff Report on the Hornby STVR situation, dated March 21, 2011.

My impression is that Islands Trust policy construes STVR as a problem that should be regulated. This does not accord with widespread opinion on Hornby Island. The basic problem is that our Land Use Bylaw, as it stands, does not harmonize on this issue with our Official Community Plan, as it stands. The OCP is clear on the matter: it encourages STVR; the LUB is silent on the matter. It seems that IT, for some reason, is determined to revise the OCP to match its plans to control STVR. This is a mistake, against local community will, and the opposite of what should happen. *The LUB should be revised to match the OCP.*

Below is a more detailed analysis of the Staff Report, concentrating on its underlying assumptions, which seem to grasp at straws for a rationale to control STVR.

The Basic problem. The existing OCP clearly sanctions STVR (refer to Bylaw 104 sections 6.3.3.8; 6.5.2.11; and 6.5.3.7). As I see it, the basic problem is that the LUB, by omission, does not accord with the OCP in the matter of STVR. Islands Trust, however, seems to have decided beforehand that STVR is the basic problem, and that it is IT's responsibility to control it. Apparently, IT's solution is to keep the LUB as is, with an implied illegal status of STVR, and change the OCP accordingly. This is the reverse of what should be done: change the LUB to accord with the OCP, which reflects the community's long-standing wishes.

The solution proposed in the Staff Report is a policy of selective enforcement, applied in such a way as to differentiate between instances of STVR that are considered undesirable from those that are considered acceptable. In broad terms, I do not disagree with this distinction, or its legal implementation, but some finer points should be considered (see "Selective Enforcement" below). However, a solid legal and philosophical basis, grounded in a LUB that corresponds to the OCP, should be preferred to a "pragmatic" solution that leaves the legal status unresolved.

A system of TUPs is proposed to apply, according to certain criteria, to those STVRs that are considered undesirable. However, Bylaw 104 sec 6.9 (temporary use permits) is unclear about application to STVR. It is unclear, for example, that STVRs should be interpreted as "temporary commercial events", as "short-term projects", or whether they involve "particular uses for a period of time to enable impacts to be assessed before any further permitting of the use".

Dubious Premise. The basic premise of the Staff Report is that "without some level of management or regulation of STVR activity there is no ability to plan for community needs for residential, commercial, community service and other requirements." This is simply untrue. It asserts, without justification, that regulating STVR is a necessary precondition for normal planning functions. But, *there is no demonstrable connection between STVR and planning.*

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The reason offered is that the Local Government Act requires an OCP to “address the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years; and the approximate location, amount and type of present and proposed commercial land uses.” This mandate is about anticipating future housing and commercial needs; there is no requirement to catalogue existing non-commercial properties. This passage (of the LGA 877sec1a) does not imply an obligation or right to “manage such residential and commercial land use” or to “determine how much residential or commercial land use is available.” (This later phrase does not even make grammatical sense, let alone logical sense. ‘Land’ can be ‘available’ but not ‘land use’. Available for what?) Furthermore, the only way that IT *can* provide for future housing and commercial needs is through rezoning—in particular through densification. There is no evidence of a *steady* population growth on Hornby. There has been some growth in the past couple of years, reflecting the development of the few remaining parcels of raw land. These have been virtually exhausted, and the only present avenue toward population growth is densification. There is a need for certain types of housing (e.g. rental and low-cost) that owes to changing population profile, not to growth. It is difficult to see—and the Staff Report has not shown—how regulating STVR would facilitate meeting this need.

Faulty Reasoning. The report continues: “The challenge with the STVR issue without local trust committee management is that there is uncertainty as to how much land will be used for STVR use, or the extent of STVR use on any one property versus how much land is available for residential purposes.” This too is illogical. The land being used for STVR almost completely overlaps the land being used for residential purposes—whether by landholders who dwell on their property as their primary residence or as their secondary residence. That leaves a small number of properties that are never occupied by their owners. IT might be able to force those few who use their properties exclusively for vacation rental to cease and desist. In general, IT cannot force seasonal residents to put their property to a different use (for example, year round rental). Nor is it the business of IT to be “certain” about the lengths of time residents in general actually occupy their properties.

Key Policies. The report then restates “four key policies” (actually five) for reference—identified as 5.2.3; 5.2.4; 5.7.2; and 5.8.6. “4.4.2” regards water, and I have stated my views on the water rationale in previous communications, but will recap them below. “5.2.3” regards “aesthetic, environmental and social impacts of development”, on which points the vast majority of STVRs can be rated well. “5.2.4” regards “growth” and is irrelevant since there is no long-term or foreseeable trend of population growth. “5.7.2” addresses “economic opportunities”: regulating STVR may *reduce* economic opportunities on Hornby. “5.8.6” restates—this time as policy—the misconstrued mandate of the LGA in regard to planning. It remains unclear how regulating STVR would facilitate planning.

Water Rationale. I have addressed the water rationale in previous communications but will recap here: a) First, these are “policies”—not directly specified by *IT Act*. b) Rather than pre-identify vulnerable areas and prohibit (part-time) extra density there, it would

make more sense to allow individual property owners to find their own ways to maintain water supply and quality. No one can run a vacation rental without “adequate” water; the owners and users of STVRs don’t need IT to specify how that should be defined—this is something that will regulate itself. c) On pain of utter hypocrisy, IT should *avoid using water as a rationale* as long as it refuses to regulate the mining of water on unoccupied residentially zoned property, which cannot be considered a “home occupation.”

Defining ‘Resident’. The report proceeds to differentiate between ‘residential’ use and ‘vacation rental’ use: “A residence is a place where one actually lives or has one’s home. This can be accomplished by ownership or rental for a sufficient period so as to establish the life or homeplace. In contrast a vacation rental is by nature a temporary occupancy of a shorter term where life or homeplace are not established in any permanent manner.” From this it concludes: “A vacation rental use is therefore not a residential land use. When a dwelling is occupied for purposes of temporary vacation rental, the residential land use is discontinued on the property so as to allow the vacation rental.” (This is perhaps the most galling part of the Staff Report! It is bound to be offensive to any resident of Hornby Island.)

According to the actual definition in bylaw 86, ‘residential’ means “a use of land providing for the home life of a person or persons in common occupancy.” My home does not cease to provide for my home life when it is temporarily occupied by someone else. In that situation, on the contrary, it also provides a home for the guest(s). ‘Residential’ is a use attached to properties with various zonings. That designation does not alter or cease when its owner walks off the property or when someone else walks onto it. The argument presumes what it is supposed to prove—that STVR is not a residential use. This is simply circular reasoning. Moreover, one might as well say that any property owner who leaves the island for their own vacation is no longer a “resident”—either of their own home, of Hornby, or of the accommodation where they are vacationing. I am a long-time resident of Hornby, yet have often left my home for various periods over the past 25 years to travel or “winter” somewhere else. According to this reasoning, I have not established a home here in “any permanent manner” and I am not “actually living” when away from home!

The meaningful way to define the locus of a person’s residency is the way used to determine eligibility for the homeowner grant: whether this is the place of one’s “primary residence”. In terms of zoning and the LUB, however, the legal point is whether ‘land use’ changes either by virtue of a change of occupants or by virtue of an exchange of money. If yes, then roommates, house exchanges, and nonpaying guests would also invalidate “residential use” on the first account. So, for that matter, would vacancy! Renting under any circumstance would invalidate on the second account. The basic problem is that IT has already accepted the foregone conclusion that STVR should be regulated, and is grasping at straws for rationales. A better approach would be to recognize that the OCP sanctions STVR and the LUB should be adjusted to be in harmony with it.

Selective Enforcement. The Report proposes a policy of selective enforcement, while rejecting the legality of STVR. While this approach is “pragmatic” and may indeed fit the available resources of IT, it is internally inconsistent. It would be philosophically and

legally more sound to revise the LUB to fit the OCP. In this way, the instances of STVR that are considered desirable could be made legal, and the undesired instances be made illegal. If this distinction cannot be made legal, then STVR should be unconditionally legal.

The Report outlines criteria to distinguish between those STVRs exempt from TUP and those to which it would apply. Okay, but some finer points should also be considered.

Criterion 1.2 regards professional management. I would point out the logistical handicap for the majority of STVR owners, who vacate their premises for guests. Certainly, owners can take bookings; however, since they are probably not on the island for the period of STVR, they would have to delegate responsibility for cleaning at “changeover”, for greeting and presentation of keys, for emergencies, etc. It would be unfair to construe these functions “not managed by the property owner”.

Criterion 1.5 regards “issues related to health and safety”. Health and safety are not matters within the mandate of IT! Such a provision, as stated, gives undue carte blanche to IT to meddle in the affairs of a property owner. These are issues already covered by other jurisdictions (for example, health board and civil suit), and/or which would sort themselves out in the marketplace.

Criterion 1.6, regarding complaints, is the soundest in principle, yet should involve a review process to insure fairness against malicious complaint.

STVR as Permitted Use. As a preamble to the details of its proposal, the Staff Report enumerates several general points.

#5 states: “STVR use may exhibit similar characteristics to residential use, but the difference is that the occupiers of the STVR, because of their shorter term occupancy, offer a different social and cultural impact upon the island.” This is not a fair blanket statement; many summer visitors have been coming here for years and enjoy their opportunity to join in the local life. (Why not just “regulate” tourism?!) The Report continues: “Public services are used in a different manner (e.g. school services are not required) and there is limited ability of the occupiers to become involved in volunteer community activities.” Obviously, school services are not required in the summer in any case! Nothing prevents visitors to participate in “volunteer activities”; I would hazard to guess that summer is the season when most (non-visitor) residents are least inclined to be involved in volunteer activities.

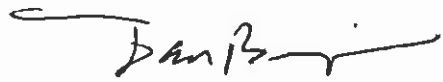
#6 reiterates the same fallacious rhetoric about Provincially-mandated responsibility to regulate in order to plan. Specifically it argues: “There is a potential in any community, through lack of regulation, that the values that attract visitors to an island start to diminish as the number of visitors start to increase.” There is no evidence, however, that the number of visitors is increasing! The Report goes on: “Examples of such overuse are found in many resort communities and other agencies (e.g. BC Parks, Parks Canada) are starting to manage park entry as a means to preserve the values that attract visitors in the first place.” This is irrelevant and an inappropriate comparison. Certainly, BC Parks is not managing park entry on Hornby!

#7 is completely specious and demonstrates little grasp, by the author(s) of the Report, of the business reality of STVR.

#9 acknowledges a presumed desire of "STVR proponents." However, it goes on to elucidate: "Given recognition that some regulatory certainty regarding STVRs must be established, there are two options available under legislation to allow their use – Temporary Use Permits and rezoning." However, this is precisely what is *not* "given"—only assumed by IT. A third option is to revise the LUB to accord with the OCP.

The Report then proceeds to outline "a process to address STVRs through the use of Temporary Use Permits while the rezoning process is addressed in the discussion regarding proposed amendments to the Official Community Plan." I say: leave the OCP alone and revise the LUB!

Best wishes, and thank you for your attention.
Respectfully,



March 29, 2011

Dan Bruiger,
Past Secretary, HIRRA

From: sapper1 [mailto:sapper1@telus.net]
Sent: April-01-11 3:34 PM
To: northinfo
Subject: hornby STVR

Dear Trustees and Fellow Island Residents

Leave the current OCP regarding STVR Alone
Change the LUB to work with the current OCP
The proposed OCP will put an end to most STVR
The current OCP has worked for many years and is very clear and states..

" The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation. The home occupation shall be operated in accordance with land use bylaw and with guidelines prepared by thr LTC in consultation with the community."

After reading the latest OCP draft it seems we are going further away from allowing STVR
Changes in the wording indicate that the IT will make the ultimate decision wheather or not anyone will or even can have a STVR
It appears that entire sections are being eliminated in the proposed OCP
replacing "Visiter Accommodation" and parts of " home Occupation to " Vacation Home Rentals"
It apears that STVR would only be allowed to properties that have a seperate dwelling in addition to owners dwelling???????
Furthermore IT would have the ultimate say if any other property owners can have STVR at all by implimenting STU permits witch will be almost impossable to aquire

Reality Is this proposed new OCP will Put an end to most STVR on hornby

I dont believe this is what the majority Hornby wants

thanks
walter kamlade

From: Ken Farquharson [mailto:ken.farquharson@shaw.ca]
Sent: Sunday, April 03, 2011 10:11 AM
To: Brodie Porter
Subject: STVR and Hornby Island OCP

Dear Mr Porter,

My wife and I are owners of 5560 Porpoise Crescent, Hornby Island, a 1/2 acre property which we use a vacation home and have never rented, short term or long term.

We attended the recent meeting on 23 March on Hornby at which the STVR issue was a major focus of discussion, and would now like to add our views for consideration by the Hornby Island Trust Committee as we will be unable to attend the relevant community information meetings.

One speaker at the 23 March meeting made a point that to us was critical to the issue, namely that in the 1980s a decision had been made to recognise that summer tourism was one of the economic bases of Hornby Island, but to reduce impacts it had been decided not to zone for more campgrounds, rental condos, or hotels, but to spread the visitors throughout the community by encouraging houses to be available for short term rentals. We believe that the intent of this decision has worked out well, and the concept should be retained.

Other speakers noted forcefully that if the availability of short term rental accomodation on Hornby was reduced through use of restrictive bylaws or expensive permits, the loss of income on the island would be severe. We agree with these speakers.

When we first started reading about the problems of STVRs on Hornby, the driver behind the argument seemed to be that if the number of homes used for STVRs was reduced there would be more homes available for long term rental for people choosing to live permanently on the island. We believe this logic to be false, in that if owners currently offering STVRs were discouraged from this activity, they would either continue the practice in an unauthorised manner, or would simply cease the practice. In each case it is unlikely homes would become available for long term rental.

To us the main issue with regard to STVRs is the possibility of nuisance to neighbours through improper behaviour by the renters, although we note that some owners also indulge in such behaviour. We believe this should be dealt with through an effective nuisance bylaw, supported by a locally based management group, such as the proposed Hornby Island Home Rental Association, who would have representatives on the island at all times. To be effective owners desiring to rent should be required to join such an association, although we are not sure how this could be achieved other than through peer pressure.

We remain opposed to the concept of licencing STVRs through a Temporary Use Permit as proposed, and believe that the Hornby OCP be adjusted to allow for STVRs in residential zones.

Ken and Laura Farquharson

From: tomann@shaw.ca [tomann@shaw.ca]
Sent: Sunday, April 03, 2011 11:23 AM
To: Louise Bell; Fred Hunt; Tony Law
Cc: wind2@uniserve.com
Subject: Hornby Island Vacation Rentals

Dear Islands Trust Members,

My wife and I own a property on Hornby Island for the last 6 years. We rent the unit for 3 to 4 weeks each summer. The rental is managed by Wind and Waves. We have been following the recent developments and would like to share our comments.

In this age of the Internet we are very surprised to hear that Islands Trust representatives do not wish this method of communication to be used to inform people of what is available on Hornby. Failure on your part to embrace modern communications has us questioning your logic.

We were extremely perturbed to hear that the fine for violation of Islands Trust rules regarding accommodation is \$1.825 million per year (\$5000/day). Even the most hardened violent criminals are not subjected to such harsh punishment.

The existing system functions effectively for the most part. Private funds provide the controls necessary to monitor the situation and support the local economy. Why introduce additional bureaucracy and costs?

In discussions with RCMP stationed on the island regarding noise control, they informed us that they have little or no problems with the properties managed by Wind and Waves but most of their issues are caused by unmanaged rentals. It appears to us that your approach will only exacerbate this situation.

In addition, our insurance company requires a presence on the island if our property is rented. Wind and Waves provide this service without which many families would not be able to visit Hornby and support the local economy.

While your approach has a relatively minor impact on us, we feel you are out of touch with the needs of people on Hornby Island and can only hope that reason prevails and a solution is found that does not impact the lives of those who rely on tourism to survive on Hornby Island.

Yours truly,

Tom and Ann Murphy

From: Larry Pierce [mailto:l.pierce@telus.net]
Sent: Monday, April 04, 2011 8:38 AM
To: Brodie Porter
Cc: Karen Ross
Subject: Hornby LTC re STVRs

Dear Mr. Porter

Would you please include this letter in the submissions concerning STVRs on Hornby, I could not access the "northinfo" email link, and I could not find it on the Trust's website.

There is no need for any regulation. There is no problem. There is no one in favour of killing or regulating this industry.

There is a Home Owners Assn that should attend to any self regulation that is needed.

Yours,

Larry Pierce (LLB 1983 UBC)
Little Tribune Farm and Winery
6160 Central Rd.
Hornby Island B.C. V0R1Z0

250 335 2189

People are part of the environment

From: Dan Bruiger [mailto:dbruiger@telus.net]
Sent: April-06-11 8:17 AM
To: Brodie Porter
Cc: northinfo
Subject: question about STVR and residential use

Dear Brodie,

I was glad to meet you and enjoyed our discussions at the recent Local Trust Committee meeting on Hornby Island.

Since that meeting, I have reflected further on a topic that came up: the meaning of 'residence' and 'residential use'. In order to be consistent with other Island Trust policy in regard to land use, it strikes me that *'residential use' can only refer to the activity, not the individual or person*. This is similar to the principle that zoning can only apply to the activity on a property, not the form of ownership. The *use* remains residential regardless of who the user is. In other words, if someone is residing on a property, for whatever length of time, then that is residential use regardless of whether that someone happens to be the owner. As it stands, Staff reasoning has attached "use" to the particular individual who is the owner and their purposes, and this does not seem consistent with other IT policy and interpretation. In particular, that interpretation has been that the use *by the owner* changes when he/she contracts for money with another party for occupancy. However, I submit that the most consistent interpretation is that 'use' attaches to the activity and not to the person, in which case it continues to be a residential use no matter who occupies or on what basis. This would certainly simplify things in the issue of STVRs. Of course, this is potentially and perhaps ultimately a matter of judicial interpretation.

It may well be that the matter, of residential vs. commercial use, has already been clarified by judicial interpretation. I have heard this claimed on several occasions by Trustees or Staff, but never any reference to the actual court decisions involved. Could you or someone on Staff please refer me to the specifics (name, date, court, and place) of any court decisions Islands Trust uses to support the present interpretation of 'residential use' and the claimed illegality of STVRs? This seems an important matter to clear up, so that we can all proceed "on the same page".

Thanks so much, and best wishes,
Dan Bruiger

From: Jan Kennedy [mailto:jans4cafe@yahoo.ca]
Sent: April-07-11 1:47 PM
To: northinfo
Subject: Vacation Rentals on Hornby Island

Hello,

I am writing as a result of following the Short Term Vacation Rental controversy, and having had a look at the Vision Statement for the Hornby Vacation Home Owner's Association.

I am not against short term vacation rentals on Hornby Island. I do feel that having a proactive association which reflects it's member's best intentions is definitely a good idea. Having a set of Best Practises, agreed to and followed by the members, can only have constructive results for our community. It could also do much to foster cooperation and trust in the community by attending to rental problems quickly and in a low key manner. Many potential problems could be resolved quickly. A Vacation Home Owner's Association which encourages its members in having well-run businesses that take good care of our environment, and their neighbour's peace and privacy can only be a good thing for our community.

However, **I strongly feel that a Bylaw Enforcement Policy concerning vacation home rentals on Hornby Island is also needed.** I would like to see a Bylaw Enforcement Policy to specify that investigation and enforcement of vacation home rentals would be triggered when:

1. a bona fide written complaint of health, safety or nuisance issues;
2. renters are being accommodated other than in a dwelling unit;
3. more than one dwelling on Hornby Island is being used by the same owner as a vacation home rental.

While I appauld the creation of a local association of vacation rental owners, and their stated intention to promote community values of peace and privacy, water conservation and recycling, I have the following concerns:

1. What about the Vacation Home owners who do not want to be "regulated" by the Best Practices of the Association? There are any number of other internet sites and other ways that a home owner can advertise their vacation rental, than the site and company that they mention. In fact, it seems obvious that a vacation home owner who was not interested in some or all of the "best practices" of the association, or who simply had a distaste for being "regulated" in any way, would simply choose another site for advertising their business, or create their own, possibly leading to larger scale online advertising that could contribute to changing the character of our community.
2. What about any possible future lapse in "capacity" by the Association of Vacation Home Owners Association? Small local, self-funded organizations can find that their capacity to meet their best intentions may change due to changes in the circumstances of some of it's primary focalizers. What resources does the community have should this happen? i don't think the larger community's values should be solely dependent upon self-regulation by a local association.

Rather than "fearing" an Island's Trust Bylaw Enforcement Policy, I feel the Hornby Island Vacation Home Owners Association creatively could be well supported in their intention to preserve and protect the peaceful character of Hornby Island and it's precious water and other environmental resources, by a Bylaw Enforcement Policy that specified the investigation and enforcement of those issues seen as important by the Association.

Only those cases that proved to be impossible for the Association to resolve and which were accompanied by a bona fide written complaint would be referred to Islands Trust for enforcement. This would be the best possible way to handle vacation rentals on Hornby Island.

I am not at all interested in whether or not the vacation rentals are labeled as "legal" or not. In fact, I think that discussion only encourages people to take a position on one side or the other, and diverts attention from the issues that need attention, i.e. health, safety, nuisance and larger commercial enterprise changing the island's rural character. **I would like to see no action taken on the legality of vacation home rentals as a home occupation.**

I am only concerned that people in this community have "enforceable" policies in place, should there be health, safety and environmental concerns due to vacation home rental. As well, I am very concerned that we maintain the rural, peaceful nature of our island community by refusing to allow more than one dwelling on Hornby Island to be used by the same owner as a vacation home rental. I think it is important to put policy in place to prevent a more commercial approach to vacation rentals here on Hornby Island.

Our community is already strained by the lack of year round housing opportunities, some of this due to the practice of short term vacation rentals; but they are now a long-standing practice heavily relied upon financially by some residents. I feel it is very important to intervene now, with a bylaw enforcement policy to prevent larger commercial vacation rental interests becoming established here.

Please feel free to contact me to talk about anything in this letter, I would be happy to engage in the dialogue about this.

In community,
Jan Kennedy

From: Helen-Middle Mountain Mead [mailto:helengrond@yahoo.com]
Sent: Friday, April 08, 2011 8:22 AM
To: Tony Law; Fred & Christine Hunt
Cc: Brodie Porter
Subject: possible solution to housing requirements

Hi Tony and Fred

I was thinking after that meeting about a possible solution to the planning requirements set out by Brodie about protecting future residential housing stocks.

Perhaps the secondary suites that are being proposed for the inclusion in the OCP could be restricted to 'residential use'. Since they will be new, it shouldn't be difficult to get people to support that. Also they don't represent an attractive option as a STVR for the visitors. I can think of at least a few people who retain a 'corner' or their home for personal use and they really struggle to find renters.

Anyhow, it technically could represent a 100% increase in our existing stock, fully dedicated to residential housing.

Just my thoughts, cheers, Helen

From: 32 Books Co. Inc. [mailto:deb@32books.com]
Sent: April-10-11 12:41 PM
To: northinfo
Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: Hornby Island Local Trust Committee

RE: SHORT TERM VACATION RENTALS

I own the bookstore in the Ringside Market on Hornby Island which I operate on a year round basis. As an island business owner, I absolutely know that without short term vacation rentals I would no longer be able to operate a bookstore on Hornby Island. As you are no doubt aware, running an Island business presents a set of challenges not experienced in urban areas where the year round population is stable and plentiful. It is the seasonal visitors to the Island who support the economic underpinnings of Island life, and it is the STVR's that allow this to happen. STVR's are a vital part of the infrastructure of Hornby Island and, as such, must be allowed to continue to operate without cumbersome regulation and without cost to home owners.

The amount of time and energy going into this issue, particularly given the obvious intent of the community to allow STVR's, is shocking. Putting this issue to rest will allow everyone involved to move forward on other pressing matters; will ensure that property rentals do not become an underground activity (and they would!); and will allow residents and visitors who respect the beauty and uniqueness of the people and places of Hornby Island to support the local economy which is vital to the Island's social and environmental health.

Deborah McVittie
Owner

32 Books & Gallery

Edgemont Village, North Vancouver
604-980-9032

Ringside Market, Hornby Island
250-335-9030

MIRIAM ULRYCH
2716 Wallace Street, Vancouver BC
Tel 604-224-2284

To: Hornby Island Local Trust Committee; Trustees Louise Bell, Fred Hunt, and Tony Law; and Planner Brodie Porter

April 11, 2011

INTRODUCTION

I am writing to express my objections to the latest round of suggested changes to the OCP regarding STVR's. I do not currently offset the costs of owning a summer home on Hornby by short-term rentals. But as a pensioner on a limited income, I may soon need to join those year-round who display exemplary ingenuity and hardiness eking out a living on Hornby and those who only manage to maintain their beloved holiday homes by generating extra STVR income.

In the interests of conciseness, I will address my views under the following topics.

Section 1. The actual practical advantages of the proposed changes:

Section 2. My responses to the many shifting arguments put forth by the Islands Trust over the last six years regarding the need for eliminating or curtailing STVR's through regulation and enforcement; and

Section 3. The negative consequences of these proposed changes to the OCP.

But first let me express one indignant reaction to this latest Trust volley. Whenever those in charge attempt to limit personal freedom and abrogate personal property rights for the common good, it is a hard sell. But calling the proposed changes "enhancing the status quo" is as insulting as it is devious. Thus, as much as I resent spending another fine day protesting, here I am, once again, submerged in the muddy trenches of this wretched six-year campaign initiated by the Trust.

My family has had a 60-year, 4-generation love affair with Hornby. But the relentless grinding of the Trust's attempts to increase its reach, *against clearly stated majority opinion and local tradition*, has become so energy-and-time-sapping that fleeing the Magic Island looks ever more attractive.

Of course such a flight may, indeed, serve the interests of those who would accelerate the transformation of Hornby from a haven for freedom-loving, nature-loving, art-loving working people, into an enclave for the wealthy few.

1. CHIEF ADVANTAGES OF THE PROPOSED CHANGES

1.1 Changing the wording of the OCP or creating a LUB so as to enshrine the need for the Trust to regulate STVR's would weaken the legally defensible position of those with the temerity to continue to defy the Trust's authority in this matter and strengthen the Trust's legal position.

1.2 Controlling STVR's by means of threats of fines up to \$5,000 per day, as is now the case on Pender Island, the Trust would avoid costly litigation and reduce the risk of expensive losses therein. .

1.3 Permits, fines and successful lawsuits would generate income for the Trust.

1.4 Eliminating or limiting STVR's on Hornby would decrease tourism on Hornsby and therefore decrease traffic across Denman, thereby serving the interests of the residents of Denman and, presumably, therefore, the interests of the Denman Island Trustees who wish to be re-elected.

2. SEVEN ARGUMENTS PUT FORWARD BY THE TRUSTEES TO JUSTIFY THE NEED FOR REGULATING STVR's ON HORNBY & MY RESPONSES

2.1 The Need to Conform to the Law

The Trustees have repeatedly characterized the status quo of STVR's on Hornby as "illegal", "unlawful" and "occurring outside the law" and are now describing their efforts as "looking at legalizing STVR's".

This is the most galling of the Trusts' justifications. A fundamental principal of Common Law is that actions are presumed legal unless expressly prohibited by statute. No by-law prohibits STVR's on Hornby and the OCP as *it stands* clearly recognizes the legitimacy of STVR's.

If the Trust wishes to challenge the legality of STVR's on Hornby, let them take the more honourable recourse and appeal to the courts. I feel confident, given the legal opinions I have sought, that the Court would agree that STVR's on Hornby are legal. I assume the Trust believes this too and has, therefore, wisely chosen the less costly route of waging this relentless campaign to persuade us to agree with the need for empowering them with the right to regulate STVR's.

2.2 The Need to Remove the "Uncertainty" Entailed in the Status Quo.

This argument was put forth at the April 6 meeting in West Vancouver by Trustee Tony Law. Since this "uncertainty" has been created by the Trustees persistent erroneous characterization of STVR's as illegal, the least costly and most efficient way of creating certainty would be a graceful admission of a well-intentioned but over-reaching error and a silence on this issue. I live in hope.

2.3 The need to be consistent with what other Gulf Islands are doing.

When, at age 12, I attempted to persuade my parents that shoplifting a lipstick from *Woolworth's* was no big deal because all my friends were doing it, my Dad retorted, "That's never a good-enough reason for doing anything. If your friends decide to jump off a bridge, are you going to follow them?"

2.4 The need to provide reasonable year-round rental accommodation on Hornby. Presumably, this notion is based on the assumption that by preventing STVR's, the homes of off-island owners would become available for local residents requiring year-round accommodation. But, really, how many people would choose to invest in land on an island off an island off an island; bear the construction and/or maintenance costs of creating housing there; undertake the responsibility and risk of being a landlord in a financially marginal rental enterprise; and continue to provide a stable tax base for a community which enjoys the lovely island to which they no longer have access?

2.5 The need to conserve water and energy and limit sewage problems

This argument is clearly prejudicial and divisive. I know of no objective data that supports the notion that summer folk consume more water or energy than year-round residents. In fact, common sense would indicate the reverse; for, it would be highly unusual for a dwelling to consume more water and energy during two months occupancy than during twelve especially considering the energy draw required to weather the winter months. As for sewage pollution, during the summer, the dry earth is better capable of absorbing water and waste than during the wet winter months.

2.6 The Need to Protect Neighbours from the Disturbing Activities of Summer Tenants. Human beings are not always considerate of their neighbours. True. But summer people have no monopoly on loud voices, blaring music, marauding pets, inconsiderate parking, strewn garbage or old cars left to rust out. These are the inevitable vicissitudes of life across the fence.

As tenant and landlady, I have been on both sides of the summer rental issue and only once had a difficulty when I rented my cottage during the winter to a local Hornby bachelor. Should I have begun a campaign to prevent or regulate winter rentals or bachelors because of this one unhappy experience?

It is now agreed even by the local Trustees, that the vast majority of STVR's provide a benefit to property owners, summer visitors, and the community at large. To empower an official authority to regulate STVR's because of the occasional problems that arise is to use a sledgehammer to nail a thumbtack.

The regulatory method being proposed would require the distressed neighbour to write a formal letter of complaint to the Trust and then wait for the Enforcement Officer to respond, undertake an investigation, and negotiate a resolution among the complaining neighbour, visitor-tenant, and property owner and/or manager. This hardly promises quick removal of parked cars, the lowering of the loud speaker, or the leashing of a roaming dog.

2.7 We Need to Take Regulatory Action Now to Avoid Future Problems.

This rationale makes about as much sense as undergoing chemo-therapy in case you get cancer. Taking pre-emptive action based on fear is a high-risk strategy likely to cause as many, or more, problems than it solves. Besides, when predicting the future, it makes more sense to bet on the past. If STVR's have worked well on Hornby for more than 60 years, why assume that creative and responsible people won't continue to make sure that they work well?

3. NEGATIVE CONSEQUENCES OF EMPOWERING THE TRUST TO REGULATE STVR's

3.1 Any change which empowers the Trust to regulate STVR's will weaken the current legal status of STVR's and strengthen the legal position of the Islands Trust.

3.2 Any regulatory initiative by a civic authority entails increased costs of administration. These costs will undoubtedly be passed onto the home owner in the form of increased taxation, permits, fines, and even possible legal defense costs should one persist in defying the Trust.

3.3 The proposed changes could also open the door to increased expenses for home owners in the form of mandatory required improvements to their accommodation premises – regardless of the satisfaction of the tenant or the means of the home owner.

3.4 With a likely increase in the home owner's costs and work required to meet regulatory standards, there would be an inevitable decline in the number of people willing to undertake the considerable work involved in readying their property for paying guests. This would result in a decrease in available summer accommodation which in turn would negatively impact tourism and the incomes of all the year-round residents who depend upon summer visitors and holidaying home owners to buy their services and goods.

3.5 A decrease in summer accommodation will prevent ordinary working-class families from enjoying the beauty and charm of our island and will help accelerate the transformation of Hornby into an enclave for the wealthy.

CONCLUSION

I see no real benefit to myself, my family, or the Hornby community from altering the status quo in any way that entails empowering the Trust to regulate STVR's. On the contrary, I perceive negative consequences to all that I hold dear.

I have spent my personal and professional life encouraging and training people in the merits and methods of empathetic listening and democratic decision-making. I have helped people build inclusive, compassionate, and innovative teams inside marriages, families, factories, hospitals, prisons, concert halls, boardrooms and shantytowns on four continents. When I was criticized, it was for being too trusting and too optimistic.

Eventually, however, I did develop a nose for hidden agendas and manipulations. And I must say that by advancing so many spurious and shifting justifications for the need to have STVR's on Hornby outlawed or regulated by the Trust, the authors of these proposals have only succeeded in engendering my mistrust and cynicism about their motives.

The Trust has demonstrated its willingness to conduct a relentless campaign against short-term rentals on Hornby despite their legal status in common law, long-standing local tradition, and the majority opinion as expressed not only in the OCP, but also at dozens of public meetings, and in hundreds of letters like this one. This campaign is so fundamentally disrespectful of real democracy, that I find myself astonished at the behaviour of the Trust.

Moreover, everyone recognizes how hard it is to earn a living on a small island. Most of those who are doing the work of housing summer guests are doing so because they *need* the extra income to support them selves and/or maintain their island-dream homes. It is in the light of this precarious economic situation, that I am appalled by the Trust's readiness to pursue its own goals at the expense of the very people (both the full-time and part-time residents) who have contributed so much to the development of the rich culture and infra-structure of Hornby.

I can only hope that our local Trustees will eventually side with the majority on Hornby and truly represent our wishes and help us resist any further attempt by the Trust HQ to regulate our STVR's. Otherwise, for me, the Municipality of Vancouver, which seems positively redolent with compassion and democratic good will in comparison, might well become my peaceful retreat from the strife of island life under the Trust.

Yours sincerely,

A handwritten signature in cursive script that reads "Miriam Ulrych". The ink is dark and the signature is fluid, with a long, sweeping underline.

Christa Yeomans
Northwind 1-4
Hornby Island, BC V0R1Z0

April 12th, 2011

To the Hornby Island Local Trustees Tony Law and Fred Hunt,

I am speaking as someone who was severely affected by a TUP (Temporary Commercial Use Permit) application . It would be wise to not let this Trojan Horse enter our island. Therefore I would like to address our two local trustees, who represent us and are the only ones who make decisions for this Island, despite rumors to the contrary. There is no master plan requiring sameness (i.e. TUP's) for all the islands in the Trust because of each Island's uniqueness.

I am asking Trustee Law and Trustee Hunt if, in order to have control over "Visitor's Accommodations", you are aware that with this new approach –establishing the possibility for TUP applications- you are going to change this island from a culture of trust and respect to a culture of mistrust and denunciations.

I am stressing the negative impact of TUP's, which lead in my case to anger, frustration, misrepresentation, deceits, and even threats.

Sincerely
Christa Yeomans

CC: Louise Bell, Brodie Porter

From: Kris Lillich [mailto:klatskanai@charter.net]
Sent: Wednesday, April 13, 2011 8:44 AM
To: Brodie Porter
Subject: Hornby STVR

Hi,

>

> My husband and I own a piece of property on Hornby. We live in
> Oregon and come up about five times a year. We do not rent out our
> property. We have been visiting Hornby since 1996 because it offers
> us, even for brief periods of time, a reprieve from our small narrow
> minded town in Oregon. It was the "attitude" of the Island that kept
> us coming back. They are able to solve problems and deal with
> situations locally. One example is the recycling center. Because it
> is there and the locals are proud of what they have developed, we
> leave after a week of vacation on the island with a small bag of
> "crunchy plastic" everything else we use on the island is recycled.
> If only Americans could figure this out. Outsiders do present a
> problem, but as with us we learned and we now live our life
> differently in the States. Let the people of Hornby lead by example.
> They are smart and most importantly creative. Hornby is one of those
> places on the planet that if you find it your lucky. We were lucky.
> We pick up when we are there after those that don't. We will help
> with the education that is so necessary before anyone gets off that
> ferry. Let's use Hornby to educate those that visit. I think the
> plan that the local people of Hornby came up with is in line with
> what should happen. They can handle it locally much better. Give
> them a chance to govern themselves.

>

> Kris Lillich
4005 Channel Rd
Hornby Island
503- 369-6502

From: ebrehmer@shaw.ca [mailto:ebrehmer@shaw.ca]
Sent: April-13-11 12:11 PM
To: northinfo
Cc: ebrehmer@shaw.ca
Subject: General Enquiry: Northern Office



Islands Trust

Preserving **island** communities, culture and environment.

April 13, 2011

From: Anna and Ernst BREHMMER
Email: ebrehmer@shaw.ca

Subject: General Enquiry: Northern Office

Hi we are owner of a property on Hornby : Brigantine
So we attended the meeting at Windsor Park Victoria...
to get some informations why you'd you like to change the bylaw
re.the short term rental... Our statement:
we agree with the majority of the community and so we too
are in favour of continuing with short term rentals because
it is in the very best interest and very vital of the people
and to the economy of our Hornby island,
Thank you Anna and Ernst Brehmer

www.islandstrust.bc.ca

From: Judy Cross [mailto:Judy_Cross@telus.net]
Sent: April-13-11 7:50 PM
To: northinfo
Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: Comments on Draft OCP and rentals

3518 Strachan Road
Hornby Island, B.C.
V0R 1Z0

April 12, 2011

To: Hornby Island Local Trust Committee
Re: comments on draft updates to the Hornby Island Official Community Plan
input on approaches to "allow" vacation rentals

Yet another meeting has just been announced for April 20, before and in addition to, the scheduled meeting of April 27, so that the Local Trust Committee can ram through their long-planned changes to the Hornby Island Official Community Plan to restrict/outlaw rentals of less than one month while calling it "*allowing*".. It is classic "spin" and frankly, I find it abusive.

The phrase used on the handout distributed at the CIMs of April 2, 4, and 6, 2011, "Enhancing the Status Quo" is another blatant example of the "spin" where black becomes white, which has often been employed by LTCs on Hornby over the years. Calling the planned destruction of the economy of Hornby Island "Enhancing the Status Quo" is surely a homegrown example of "Newspeak" as first illustrated by Orwell's 1984.

I doubt there will be enough time for the LTC to read and comprehend all of the correspondence before this suddenly scheduled "special working meeting" on April 20. To me, this is just another example of going through the motions while pretending to listen.

In reality the changes proposed as a Proactive Target Review constitute a "Preemptive Strike" in the long simmering war against the Hornby Economy. Since Trustee Law, employed by the Islands Trust Corporation, is also the main driver of the Hornby Island Economic Enhancement Corporation, does his left hand not perceive what his right hand is doing?

The situation is made even more outrageous by the fact that the LTC member from Denman Island, Louise Bell, was elected on a platform in which she promised to reduce the summer traffic headed for the Hornby Ferry. She therefore has a vested interest in the outcome of this Hornby OCP and its unasked-for Revision because her income could be affected if she fails to deliver on her promise to her *real* and *only* constituents. This situation clearly illustrates the flaw in the design of the Hornby Local Trust Committee as well as the Colonial Model of all LTCs. In cases where islands may have interests which conflict with each other, a LTC member can not be objective and serve both islands. This

is a clear instance in which Trustee Bell must excuse herself for conflict of interest

Planner Porter described what is happening as a "Targeted Review" and that it has been initiated by the Local Trust Committee at the March 23 and April 4th meetings which I attended. The attempted revision of the Official Community Plan by the Local Trust Committee, especially one in which two members have lost credibility, is a usurpation of the rights of this community to self-determination.

The present OCP, Bylaw 104 specifically endorses vacation rentals as a home occupation:

6.5.2.11 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

6.5.3.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located.

6.5.3.7 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

No case law backs up the LTC opinion that because one is not in actual residence when one rents, it is either "illegal" or "un-permitted" or "not permitted". That interpretation is totally arbitrary since LUBs are to be interpreted with reference to the OCP. Bylaw 104 defines home occupation as being conducted by a "full time or part-time resident".

As Katherine Owen pointed out in 2005:

"In the BC Supreme Court case, Nanaimo (Regional District) v. BC (Information and Privacy Commissioner) {1991} BCJ No. 1283, (BCSC), the Judge states:

"...the OCP does have a legal effect on the government bodies referred to, in that it controls or restricts all future development. It also does have some legal effect regarding private landowners as well, because zoning by-laws, which effect them, must be consistent with the OCP";

"I am also of the view that the OCP is a by-law or legal instrument "by which the local public body acts". When a regional district adopts an OCP by by-law it triggers, or brings into play, S. 884(2) of the [then] Municipal Act, which is a statutory obligation, and thereby requires all subsequent by-laws enacted and works undertaken to be consistent with the OCP".

In 2005, the LTC tried to ignore the OCP and attempted to change Bylaw 86 by fiat with Draft Bylaw 105. They, who as Trustees had attempted to subvert the will of the community, quickly learned that this attempt led to the failure of those same candidates to be re-elected

In order to prevent the same thing from occurring, the present LTC is planning to shove this Draft Revision through well before November, so that whoever is elected for the next term will be obliged to continue their economically destructive agenda by revising Bylaw 86 to agree with it.

Just as arbitrary is the present Draft OCP definition of **“Rental Housing”** as *"housing that is available by payment of rent for occupancy for a minimum of one month and can include any form of housing that is available for rent."*

The community did not ask for these revisions to the OCP. The community is being led into an economically destructive trap to satisfy someone's dystopian version of how to run an *island, off an island, off an island.*

At the same time the summer tourist economy is being targeted for destruction, plans are presented to increase the year round population with plans for "affordable housing". Summer people don't need heating, they don't need to cut down trees for warmth and the septic tank effluent they produce flows into dry ground, so they do not contribute to the E.coli flowing in the ditches in winter. The year round population is far more of a danger to the environment than the summer visitors, yet the emphasis is always placed on what happens in the short summer season.

That drumbeat has been constant for a number of years and has been used to rally a "politically correct" version of life on Hornby in which those who rent for the summer are seen as somehow "ripping off" the community instead of providing the basis for the economy.

The perception that we would attract young people with skills needed to keep an aging population serviced by providing more year round rental housing by denying house owners the opportunity to rent the house by the week, has been a steady undercurrent for many years. There is still only one electrician and one plumber. The young people attracted to Hornby are too often skill-less, clueless and difficult to employ and the last people one would want to rent to at all.

At the April 4th meeting, Planner Porter produced the latest spin on the reason for revising our present OCP. *"We have to know how much housing will be available in 5 years"*. Hornby is not a municipality and has a year round population of +/- 1000, so I fail to see the utility of such a policy for so small a place. It is an obvious fig leaf which does little to hide the real agenda, but which, at least, is based on planning and not on "health, safety or nuisance issues" which is not in the Island Trust's mandate.

I have watched the attempt to micro-manage this community since 1999 when I became involved in the OCP Revision process for the present OCP Bylaw 104. I find what is going on a symptom of a pathological need to be all things to all people by what is only supposed to be a simple land use planning body.

Again, the impetus for this OCP revision is "top down" when it is supposed to be "bottom up". The Local Trust Committee is usurping power from the community and it should not be tolerated.

The Local Trust Committee is in danger of destroying the economy of the island and increasing the destructive year round population should it continue the revision of the OCP without the real community input of a properly conducted revision process such as that in which I participated from 1999 to 2002 which produced Bylaw 104.

An OCP is like a constitution. Imposing a constitution on an unwilling people is a totalitarian act. Imposing an OCP to serve the interest of another island is beyond the pale.

I feel this process is tainted by the conflicting interests of one, and perhaps two, of the three persons on the Hornby Island Local Trust Committee and must be abandoned.

Yours truly,
Judy Cross

From: Dan Bruiger [mailto:dbruiger@telus.net]
Sent: April-15-11 6:24 PM
To: northinfo
Cc: Louise Bell; Brodie Porter; Fred Hunt; Tony Law
Subject: Hornby OCP, LUB, and STVR

Dear Islands Trust Council, Hornby Local Trust Committee, and Islands Trust Staff,

Please find below a submission regarding the draft revision of the Hornby Official Community Plan and the recent proposal regarding the Short-term Vacation Rental issue, dubbed "Enhancing the Status Quo."

Thanks to all who participated in the April 2 meeting of the Local Trust Committee on Hornby Island. The remarks below are further to that meeting and subsequent discussions of STVR, and in additions to my comments in earlier submissions. I intend for them to be my last on the subject of STVR. They are followed by some comments on other aspects of the proposed revision of the OCP.

BALANCE OF CONCERNS regarding STVR. Clearly, a balance of concerns is at stake in the issue of short-term vacation rentals on Hornby. On the one hand, there is an established practice of STVR, which at present conforms *more or less* to the intention expressed in the current OCP "to encourage a kind of tourism which is compatible with preserving and protecting the environmental and social qualities of Island life for present and future generations and to discourage large scale tourist accommodation" (6.5.2 "Visitor Accommodation and Tourism: objectives). On the other hand, nearly half of Hornby properties are used only seasonally; potentially, these properties could become a source of housing for either long-term or short-term rentals. A legitimate concern of IT, to the degree it is able, would therefore be to encourage the use of these properties for year-round rental. One means to this goal, if practicable, would be to *limit the total time allowed for STVR per year*. (A simple calculation establishes 6 weeks total as roughly the point at which profitability of STVR exceeds profitability of year-round or long-term rental. To encourage year-round rental economically, STVR should be limited to 6 weeks or less.)

To judge the importance of properties that are not occupied year round as a future housing resource, or as a source of uncertainty for planning purposes, it is necessary to know the current and intended future uses of these properties. This information is unfortunately not included in the 2008 report on "Housing Needs on Hornby and Denman Islands", which simply cites Statistics Canada for the figure of 43 percent of non-resident ownership on Hornby. I suspect that the majority of these properties are currently occupied seasonally by the owners, many of whom may plan, in retirement, to take up permanent residency here in future. It would be important to know how many of these properties are currently used for STVR, and what the long-term intention of the owner is. According to a local management company, of the 42 properties managed by that

company, 33 are owned by “off-island” owners, 18 of which have indicated they “may possibly retire here.”

The “more or less” caveat above is important for the STVR issue because of the range of actual situations involved. Some property owners involved in STVR are clearly residents, in the sense that this is where they are to be found during most of the year, and possibly in the additional sense that a Hornby property is claimed as the “principal residence” for the Home Owner Grant (for property tax assessment purposes). Others property owners, in these same senses, are not Hornby residents; some of them may currently use their property for STVR, others not. A third category would include Hornby residents with a second Island property that may be rented on a long-term or a short-term basis, or a second dwelling on their property that may be rented on either basis.

CURRENT OCP. The current Official Community Plan (Bylaw 104) is explicit about STVRs:

—“The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests *shall be permitted as a home occupation*. The home occupation shall be operated in accordance with land use bylaw and with guidelines prepared by the LTC in consultation with the community.” This is stated under “Visitor Accommodation and Tourism” (6.5.2.11) and repeated verbatim under “Home Occupation” (6.5.3.7) [italics added]

—“Home Occupation means an occupation or profession conducted for gain by a *full-time or part-time resident* of the lot on which the dwelling is located. Home Occupation use must be clearly incidental to the use of the dwelling or parcel for residential purposes.” (6.5.3.1 “Home Occupation”) [italics added]

—“Home Occupations shall be permitted *as a secondary use* to a permitted residential use and shall be regulated by land use bylaw.” (6.5.3.2 “Home Occupation”) [italics added]

—“Home occupations must be clearly *secondary to residential use* and the character of the property must remain residential in appearance.” (6.5.3 “Background”) [italics added]

—“to allow opportunities for *residents* to carry out limited businesses *on the property of their principal residence*; (6.5.3 “Home Occupation: objectives”) [italics added] While the OCP does not explicitly define ‘residential’, it does state: “In 1997, of the 1126 titles listed with the Assessment Authority, 1053 or 93.5% were classified residential for tax purposes.” (6.3.1 “Residential—General”) This suggests that the meaning of ‘residential’ is tied to taxation assessment purposes, hence at least linked to the criterion of ‘primary residence’.

In combination, the above considerations lead me to conclude that *the current OCP allows STVR as a home occupation*, at least for properties that are the principal residence of the owner; and perhaps more inclusively for “full or part-time” residents, where the STVR use is “secondary” or “clearly incidental” to its residential use. This leaves open the question of properties where the primary use is STVR, with the need for a criterion to establish what is residential use. I do not feel that IT has so far come forth with a measure to address this concern that is both reasonable and definitive, in part, perhaps because of the complicated nature of the issue. The need or attempt to deal with STVR as practiced by non-residents should not interfere with STVR by residents.

‘ENHANCING STATUS QUO’. The *closest* that IT has come to a reasonable resolution of the STVR issue is the recent proposal tagged “Enhancing the Status Quo”. This proposal, introduced on Hornby at the April 2 LTC meeting, consists of four parts: 1) amending the OCP in specific ways; 2) amending the LUB to allow STVR as “home occupation” *only* on those properties where there are two dwellings (where “there is a resident living on the property”); 3) allowing STVR on other properties through temporary use permits; 4) investigating and enforcing bylaw infraction only where certain minimal triggers are involved. The policy of minimal enforcement seems reasonable in the short term, but the coordinated changes proposed for the OCP and LUB severely restrict the allowed STVRs and may not be sustainable in the longer term in the face of community will.

It could be argued, on the one hand, that the OCP should be an up-to-date document that reflects current community will, which may change over time. What the community wills may be unclear in a situation where people are divided over an issue, and where it is difficult even to define what “the community” is (residents or non-residents?) On the other hand, it can be argued that the OCP is a bylaw, not merely a guideline, and that the LUB is required by Provincial law not to contradict the OCP. The present LUB narrowly avoids an outright conflict by simply avoiding mention of STVR; nevertheless it does not conform to the clear intention of the OCP. It defines home occupation (see below) and provides a list of allowed activities as examples. STVR is not on that list, but is not explicitly excluded either. According to Katherine Owen, Barrister and Solicitor, who is part owner of a Hornby property, “courts have consistently interpreted such lists as illustrative only, and not exclusionary.”

I believe it would be improper to modify the current OCP in such a way as to weaken its clear endorsement of STVR as a home occupation, without a clear mandate from “the community” to do so. Short of a non-binding referendum, such a mandate might be difficult to obtain. Failing such a mandate, the right thing to do is to modify the present LUB to conform to the present OCP.

CURRENT LUB. The current Land Use Bylaw 86 is mute about STVRs. It defines ‘residential’ as: “a use of land providing for the home life of a person or persons in common occupancy”. It also spells out ‘home occupation’ as: “a commercial activity conducted for gain within a dwelling unit or permitted accessory building by a resident of the lot on which the building is located and includes bed and breakfast, artist or artisan

studio, professional office, personal service, daycare, food processing, manufacture, repair and assembly of goods, the incidental retail sale of goods commonly associated with these uses and the retail sale of agricultural products or articles produced or assembled on the same lot". Again, the LUB is silent on the matter of STVR, neither "including" it among the above examples of home occupation, nor anywhere explicitly excluding it.

RESIDENCY. From the point of concern over an abuse of STVR as home occupation, the above passage specifies that a home occupation is engaged in by "a resident of the lot" (as opposed to an "owner"). This would seem to exclude cases where a non-resident owner is using the dwelling primarily for commercial gain.

However, in recent discussions, IT has construed 'resident of the lot' to mean that the resident must be *present on the lot at the time of use for STVR*. Anyone therefore who vacates their premises for vacation rental ceases to be a resident. IT has built its case for the recent proposed "draft revision" of the OCP on this interpretation of residential use, stating that "a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental." [Draft revision 6.5.3 "Vacation Home Rental: Background"] This is a litigious contention if ever there was one! As phrased, it would enshrine in the OCP the questionable logic of Staff's interpretation, which should not be presented as fact, but only as an opinion which many others question.

This interpretation of residency is nowhere supported by either the OCP or the LUB, nor apparently by judicial decision let alone common sense. Nor is it the meaning of "usual residence" (the place one lives most of the year) employed by Statistics Canada. Such misconstrual leads to absurdity: for example, that a person ceases to be a resident when they set foot from their property!

I submit that *use* remains residential regardless of *who* the user is. As proposed, IT reasoning has attached "use" to the particular individual who is the owner of the property and/or the operator of the STVR. This is not consistent with other IT policy and interpretation, where use is attached to the activity not the person. The primary activity in the case of a property that is normally lived in is residential, regardless of who occupies it. The short-term rental is a permitted "secondary use". (Apparently IT has no objection to a property being rented *year round* as a secondary use.) In particular, however, IT's recent interpretation is that the use changes when the person normally occupying it contracts for money with another party for occupancy. However, I submit that the most consistent and reasonable interpretation is that 'residential use' continues no matter who occupies or whether money is exchanged.

LEGALITY. Nevertheless, IT has claimed on various occasions that STVR on Hornby is "illegal," and specifically that there have been court decisions differentiating in a relevant way between residential and commercial use. I have asked on more than one occasion for

a clarification of exactly which court decisions are involved in this differentiation, but have received no answer. IT Staff seem nonetheless to be committed to a policy based on the premise that STVR is a commercial rather than residential use, and that residential use is somehow threatened by STVR as a home occupation. However, this is not a situation involving a zoning change or some irrevocable change to the property (such as happens, for example, when agricultural land is built upon). On the contrary, in most cases, every year STVR simply reverts to its normal use by its usual occupant. The contention that STVR involves a change of use from ‘residential’ to ‘commercial’ is unfounded, absurd, and litigious. If it finds its way into the OCP or LUB, it will surely lead to judicial tests!

In contrast, lawyer Katherine Owen (mentioned above) has provided citations from relevant court decisions in an open letter. For example:

“It is quite clear that a person may have more than one residence. For example a person may have a residence at his summer cottage and another residence in town. Having a residence at a summer cottage is not broken by a temporary absence from the cottage during the winter months...

“The word ‘reside’ is very flexible and has more than once been said to be incapable of exact definition. The duty of the Court in interpreting any statute where the word is found is to attribute to it such meaning as will best give effect to the legislative will...” (Ontario H.C. case *Peterbaugh v. Marsbergen* [1984] O.J. No. 392)

IT has in past made reference to a particular court case to support its contention that STVR is illegal on Hornby. It might seem that the decisions of the BCSC and BCCA, in the case of *Whistler (Resort Municipality) v. Miller* [2001] BCJ No. 69, speak against the legality of STVR. However, according to Ms. Owen, the Whistler municipal bylaw, unlike the current Hornby OCP or LUB, expressly excludes temporary accommodation from the definition of residential use. Should we feel obliged to follow Whistler’s example and redefine residential use in our bylaws so as to make STVR illegal? Or would it be wiser to revise our LUB to uphold the legality of STVR?

The legality of the present Hornby LUB is at least as questionable as that of STVR on Hornby. The present LUB contradicts the intent, if not the letter, of the present OCP. The proper (and legal) thing to do is to revise the LUB to accord with that intent, if indeed community opinion still supports that intent.

LARGER ISSUES. Beyond housing and legality issues, STVR represents an aspect of the Island’s general commitment to a tourist economy. In that context, the long-term wisdom of short-term rentals may indeed be questionable, though not more so than the tourist economy as a whole. Some have called STVR an expression of greed. Whatever the individual motivations and circumstances of STVR operators, the Island’s general dependence on seasonal tourism at least reflects, and perhaps contributes to, our demographic crisis—to name a situation in which an aging citizenry lacks the means to

maintain a balanced population profile. This lack comes down to specifics of employment opportunities and rental housing. A population of retirees does not make for a vibrant economy, and rental housing has never been a great investment on the islands. Given property prices, without rental housing employment is futile, and vice-versa. How can we convert this downward spiral into an upward one, in which increasing employment opportunities are matched with increasing housing opportunities?

COMMUNITY HOUSING. In addition to limiting the maximum legal time of STVR, one approach to the above problem is to encourage low-cost rental or other housing. The draft changes proposed for the OCP, regarding housing, are laudable from this perspective and I support them. The few comments below are minor and intended constructively.

The initial wording of 6.3.5.4 is unclear: “Criteria that should be addressed in the provision of community housing includes...” IT is not in a position to “provide” community housing, only to consider applications for zoning, etc., by the actual providers. The wording should be something like: ‘Criteria to consider in assessing applications for re-zoning or re-designation as Community Housing should include:...’

6.3.5.12 is awkward in substance, trying to provide specifics where they are not necessary. If this is a discretionary matter, expressing intent, it can be left vague as to location.

6.3.5.13 seems inherently problematic and asking for (enforcement) trouble. How can one realistically expect a permanent dwelling to be used for non-permanent accommodation? This makes more sense if it is restricted to movable structures.

6.3.5.21 seems an open invitation to densification without some indication of intent regarding density, since there are many properties of 4 hectares (10 acres?) or more, most of which were originally supposed to have a single dwelling.

OTHER REVISIONS OF OCP. The current OCP explicitly states that “Condominiums, convention centers, attached or joined dwelling units, or multi-room hotels shall not be permitted.” (6.5.2.1 “Visitor Accommodations and Tourism”). The proposed draft revision changes this passage to read: “Convention centers or multi-room hotels should not be permitted.” The new version fails to disallow condominiums and attached dwelling units. The intent of the present OCP is clear, though I have been informed that ‘condominium’ is a form of ownership rather than a type of construction or dwelling unit and so cannot be prohibited as such. I presume that ‘attached or joined dwelling units’ is omitted because the LTC wishes to make provision for attached units in other circumstances than outright “row housing”. However, this omission could set a dangerous precedent, and I believe the intent of the existing OCP should be preserved, if indeed the community still endorses that intent. A more careful re-wording might be: “Convention centers, multi-room hotels, and attached dwelling units where more than two units are joined together should [shall] not be permitted.”

PROCEDURE. I am not alone in experiencing dissatisfaction with the protocol of LTC meetings. One basic problem is that there is not enough time made available, at such meetings as the recent one Hornby (April 2, 2011), for input from community participants. In part, this is due to the scheduling of time for “questions” ahead of a time for “comments,” which seems to doom the latter to be curtailed. I suggest that these periods not be separated.

More broadly, a general pattern seems to be that IT presents the community with “drafts” for comment, prepared by Staff, and then doesn’t allow full opportunity (except in writing) for that commentary. I would suggest, rather, that proposals for revisions should originate in the community and be presented to Staff for comment. Then the process would not be driven by available Staff resources and scheduling. The LTC, with the APC, can work with the community in their own time frame to have something ready for Staff when they are available.

Thank you for your kind attention.

Sincerely,

Dan Bruiger

Past Secretary

HIRRA

From: Elspeth Armstrong [mailto:elchris@telus.net]
Sent: April-15-11 1:41 PM
To: northinfo
Cc: Fred Hunt; Tony Law; Louise Bell; Brodie Porter
Subject: STVRs

Attn: Hornby Island Local Trustee Committee re: STVRs

The first order of business for the newly elected local trustees, when the Islands Trust Act was enacted in 1974, was to develop an Official Community Plan (OCP) for their respective islands. “An OCP is developed in consultation with the people who live in the community. It contains goals, objectives and policies that guide future land use development.” Once an OCP is adopted and becomes law, then bylaws can be developed reflecting the policies adopted in the OCP. A bylaw cannot deviate from the intent of an OCP policy, unless and until the relevant OCP policy first is amended to permit such a change.

At the April 2nd, 2011 Local Trust Committee [LTC] meeting, I asked Brodie Porter, Trust Planner, to clarify that for a bylaw to deviate from an OCP policy, it is necessary first to amend the relevant OCP policy in order for the proposed bylaw to be enacted. Mr. Porter affirmed that statement in a clear and concise manner. What was disturbing and of great concern was the attitude by the Trustees to this important fact. None of the Trustees so much as acknowledged Brodie’s response by taking the time to further emphasize the importance of what the Planner had said. Clearly most of those who spoke at that meeting were not aware of this. I suggest that the Trustees were not honest and open with the public about the importance of this process. It became very apparent during that meeting that the majority of community members present were in favour of the “status quo” [present OCP, bylaw 104 specifically endorses vacation rentals as a home occupation as do sections 6.5.2.11, 6.5.3.1 and 6.5.3.7]. So why did the Trustees not take the opportunity then to explain that in order to rezone or place restrictions contrary to the current OCP regarding vacation rentals, the OCP policy must be amended first? What then did the morning meeting accomplish? Not much that the Trustees did not already know. Generally people were left frustrated, upset, distressed and feeling marginalized. Why were the Trustees not open and honest about this whole process?

What was equally disturbing about the April 2nd meeting was having the OCP review in the afternoon AFTER the discussion of bylaws. Very few were in attendance (20?). Had the community been aware or informed of the proposed extensive OCP policy changes [7 relating to STVRs] more would have attended, as these proposed changes are significant enough to have a negative impact on short term vacation rentals through the adoption of new restrictive bylaws. To make matters worse, the Trustees had the Planner go through all the proposed changes to the OCP from the beginning. All but one were minor. When the Planner finally got to the crux of the meeting – STVR proposed changes, we

were informed that there was very little time left for discussion due to the hall booked for another event. Although we were told that the Trustees had just been informed of this conflict, this should have been something the Trustees had ensured would not happen, knowing the importance of the information being covered and the time needed to hear everyone's concerns and comments. And, why would the LTC have the Planner WASTE the PUBLIC'S VALUABLE TIME on minor changes when the most important and relevant issue was the proposed policy amendments for VACATION RENTALS. That was a travesty and disdain for people's concern and time.

Regarding Trustee Tony Law's e-mail of April 2nd, stating "what I heard was a general support for allowing rentals through zoning regulations", I am astounded at this declaration and am wondering what meeting Mr. Law attended. At the morning meeting, the message clearly was: "if it ain't broke, don't fix it" – that the Land Use Bylaw [LUB] should be revised to match the current OCP. There appears to be an apparent disconnect between what is being said by the public and what is being heard by the Trustees. Why is that?

If a bylaw is to be enacted contrary to the current OCP, the following process is Trust policy:

If an OCP policy requires amendment – all property owners and residents must be notified by mail outlining the proposed amendment and informed of dates for public meetings and/or submissions to be received by a certain date; and subsequently followed by a Public Hearing of the final draft at which time the Local Trust Committee listens to the community's comments before they vote on the proposed amendment.

If a new OCP policy is adopted, then a bylaw(s) reflecting this new policy can be developed, again going through the above steps.

In conclusion, changes to an OCP are meant to happen **ONLY** if the community wishes. Clearly this is **NOT** the case with regards to STVRs. The question begs the answer, who and what body are leading this campaign? Where is the transparency? Strong indications are that the Islands Trust is the master, and, we the community in opposition, are but a nuisance factor challenging the master's order.

Respectfully yours,

Elsbeth Armstrong

5455 Porpoise Cres, Hornby Island

From: Woods, Kevin [mailto:kevincw@telus.net]
Sent: April-16-11 10:22 PM
To: northinfo
Subject: Comments re: STVR matters on Hornby Island

Please find appended a Word document, which contains my comments about the LTC's process of changing the STVR legislation for Hornby Island.

1. I would appreciate a confirmation of receipt,
2. I have chosen NOT to exercise the invitation to send this note to our Trustees. I trust that they will be forwarded to them in due time - as part of the public record,
3. I would appreciate NOT receiving a rebuttal from any members our our LTC - the comments are offered as a basis for guidance, not as fodder for argument.

Sincerely,

Kevin Woods
2950 Salal Drive,
Hornby Island

April 16, 2011

Attention, Islands Trust - Local Trust Committee, Hornby Island,

Thank you for the invitation to comment freely with the Hornby community – albeit in a limited way – in guiding our legislative future.

I have watched with dismay, the unseemly accelerated process of the Local Trust Committee in an attempt to quickly change Hornby Island's OCP. I note too – once again with dismay – that Trustee Law is already (as of 10:15 A.M. April 14) writing rebuttals to the invited comments from our prominent citizens – one a former Islands Trustee and one, a Hornby lawyer / property owner. If this is a cycle of public input, please first allow us the grace of feeling heard – then shoot down the arguments. They'll be plenty of time to systematically eviscerate the community's contrary input after the 18th.

Trust in your own process and wait your turn!

One would think that – even in the absence of a law degree, our trustees would read the content of the brief fully – and try to understand the implications of the conflicting precedents being cited. The conflicting precedents are a clear invitation to contest any restriction of personal property rights in an OCP revision, in the courts.

However . . . in my opinion, the regulation problems are not so much related to misguided legislative content of the STVR proposal, as it is a about misguided process. After attending the last two LTC on-island events - addressing a trust-created STVR issue (there having been no public complaints of record) I have been awestruck by the degree of content-direction and process-driving demonstrated by both the Denman Island chair, and the Staff Planner / Resource person.

These two parties demonstrate an undue level of "proprietary interest" in directing the eventual content of the proposed revisions to Hornby legislation, in contravention of existing rules, regulations and protocols related to this role of Chair and Resource Personnel.

It is broadly understood that the off-island, appointed Chair is to remain silent on substantive issues in business meetings and community information meetings - and is to facilitate process only. Similarly, I note that the Planner's role is that of a "wordsmith" after the fact, taking the will of the community – particularly where it concerns a citizen-directed Official Community Plan - and making it manifest in word. The form and substance of the meetings I have witnessed have featured the Planner's input - as a primary source of input - and not as a secondary resource, as should be the case. A friend and fellow-Hornby property owner mentioned that the Planner played a particularly inappropriate high-profiled role in the Vancouver presentation. That domination of the agenda by “resource personnel” drove the process in a quite different direction than occurred on Hornby.

I note that, there is an overwhelming preponderance of statutory support and legal opinion (including a Nanaimo Judge's case law decision) that states that the OCP is a peoples' document

- to be opened at the will of the people (not administrators) for revision . I would hope NOT to have to remind you that, under our legal system - **case law is the law. The doctrine: Stare decisis et non quieta movere: "to stand by decisions and not disturb the undisturbed."** must prevail.

Do not cause the undisturbed to be disturbed.

The OCP should NOT be revised at this time - where it speaks to STVRs. Rather - to address the misalignment between the OCP and Bylaws - the bylaws should be modified to meet the will of the people as summarized in the CURRENT OCP - OUR LOCAL CONSTITUTIONAL VISION STATEMENT.

I observe too, that on more than a few occasions, people have mentioned that the diverse interests of the Chair are seen to be AT CROSS PURPOSES WITH AND "IN CONFLICT" when viewed through the lens of ANY increase or decrease in flow of vacationer traffic onto Hornby Island.

- Virtually all Hornby visitors arrive by car – transiting Denman Island
- The flow of summertime Hornby-Island-bound traffic across Denman Island has always been a principle sore-spot among the constituents of Denman Island.
- Complaints about local traffic issues are directed towards local government – in this case, the Denman Island Local Trustees – including our LTC Chair.
- Serving the interests of local constituents is the mandate of the Local Trustees
- **Decreasing summer flow of Hornby-bound, cross-Denman through traffic would be resoundingly appreciated by a majority of Denman residents**
- **Happy constituents tend to re-elect local representatives**
- Re-election comes with a financial reward for the incumbent – and as of this November, that financial reward has been substantially fattened.
- The Hornby LTC Chair stands to (or appears to) gain financially if Hornby-bound Summer Short Term Vacationer Traffic Is Reduced - and the likelihood of re-election is virtually guaranteed if the Chair were seen by Denman residents to be “substantially influential” in making it so.
- In the eyes of many, she has been seen as “substantially influential” in making STVRs on Hornby less numerous – or more onerous to operate.

In public service, the appearance of even-handedness is as importance of even-handedness itself.

In this case, it is 100% appropriate AND INDEED A LEGAL REQUIREMENT for Ms. Bell TO recuse HERSELF from participation in any Hornby Island legislative acts (leading, or influencing discussion or voting) where the outcome of the underlying legislation could - even remotely - have the taint of conflict between divergent interests.

tr.v. re·cused, re·cus·ing, re·cus·es

To disqualify or seek to disqualify from participation in a decision on grounds such as prejudice or personal involvement.

An alternative process-facilitation Chair or tie-breaking Chair for those meetings could be any

unbiased third party, similarly appointed by the Trust Executive Council – as long as that person is not from Denman Island. Alternatively, one may just hope for unanimity between our two elected Trustees from Hornby to carry any motion. Not too much to ask on such an important matter? However, that still leaves unaddressed, the matter of the current Chair’s overweening influencing on the flow of all discussion or community input relating to STVRs (and Denman Summer Traffic) on Hornby.

I also believe that, given the grave social and economic implications of “not getting the STVR decisions right” it is appropriate to follow the law in this case, and the Mission Statement of the Islands Trust Act and:

- Initiate a 2-year consultation process – complete with a full economic impact assessment of each alternative being considered,
- Fully utilize the resources of the community in the process, using a Community Based Steering Committee – with full representation of the emerging Vacation Rental Association and other community interest groups.

The guiding principles of the Islands Trust Act specifically embrace the importance and value of ACTIVE public participation - NOT mere comment on what is proposed. I was dismayed at the April 2 session – early in the day, where I referred specifically to these guiding principles, and the Chair said that a full community input process would be too ungainly and time-consuming.

I admit, democracy and community involvement can get messy.

Please consider the extract, appended below, when considering ANY changes to the OCP where it effects STVR's. Any legislative proposals that act to restrict the property rights of individuals will have to be specific – not vague, ambiguous or open to interpretation. Be clear about your intentions! State your intentions clearly. Ambiguity is corrosive to trust – and trust is a fragile thing at the best of time – particularly in November.

Kevin Woods

P.S. I would request that you read and understand fully the law as summarized below, vis-a-vis property rights, and the likelihood of restrictive measures being challenged in the courts.

...

One Lawyer’s Opinion of the Current Legal Status of

Short Term Tourist Accommodation Rentals, (“STR”) on Hornby Island

The Hornby Island Official Community Plan, Bylaw No. 104, 2002, (the “OCP”) expressly recognizes short-term rentals and contemplates their continued availability.

ss. 6.3.3.8 Bed and Breakfasts and short-term rents are permitted as a home occupation (subject to 6.3.1.7) providing the number of guests does not exceed the design capacity of the approved water treatment system.

ss. 6.5.2.11 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

ss. 6.5.3.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located.

ss.6.5.3.7 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

The *Local Government Act*, (binding on Islands Trust), states that an OCP does not commit or authorize a municipality, regional district or improvement district to proceed with any project that is specified in the plan. It is intended to be a general statement of policy. However, as also pointed out in the *Local Government Act*, all subsequent by-laws enacted “must be consistent” with the OCP. The OCP itself acknowledges this restriction:

“...Section 884(2) of the Local Government Act requires that all bylaws enacted, permits issued, and works undertaken by the Hornby Island Local Trust Committee **be consistent with the Official Community Plan”.**

In the BC Supreme Court case, Nanaimo (Regional District) v. BC (Information and Privacy Commissioner) {1991} BCJ No. 1283, (BCSC), the Judge states:

“...the OCP does have a legal effect on the government bodies referred to, in that it controls or restricts all future development. It also does have some legal effect regarding private landowners as well, because zoning by-laws, which effect them, must be consistent with the OCP”; and

“I am also of the view that the OCP is a by-law or legal instrument “by which the local public body acts”. When a regional district adopts an OCP by by-law it triggers, or brings into play, S. 884(2) of the [then] Municipal Act, which is a statutory obligation, and thereby requires all subsequent by-laws enacted and works undertaken to be consistent with the OCP”.

It is suggested that, as the OCP is currently worded, Islands Trust lacks the statutory power to pass a bylaw that prohibits STR, as that would be in direct conflict with the OCP.

Assuming the OCP could be read in such a manner as permitting the exclusion of STR, the question then would be, “Does By-law 86 operate in such a manner so as to effect that prohibition?”

Bylaw 86 (1993) permits Home Occupations in Small Lot Residentially Zoned Areas. “Home Occupation” is defined as a “commercial activity conducted for gain within a dwelling unit or permitted accessory building by a resident of the lot on which the building is located.” There is an enumerated list of activities “included” in the definition of “Home Occupation”. STR is not on that list. **However, courts have consistently interpreted such lists as illustrative only, and not exclusionary.**

It has been suggested that an off-Island owner is not a “resident”, and therefore, cannot undertake a “Home Occupation”. As was pointed out by the Ont. Court of Appeal in Toronto General Hospital v. Renfrew (Town) (1925), 29 OWR 151, 58 OLR 71, at 73, when quoting from the Chief Justice’s decision in Mellish v. VanNorman (1856), 13 U.C.R. 451, at p. 455:

“The term “resident”...is differently construed...according to the purposes for which inquiry is made into the meaning of the term. The sense in which it should be used is controlled by the reference to the object.”

It is of assistance to note that in the Ont. H.C. case Peterbaugh v. Marsbergen [1984] O.J. No. 392, the court was asked to define “residence”, and made the following observation:

“It is quite clear that a person may have more than one residence. For example a person may have a residence at his summer cottage and another residence in town. Having a residence at a summer cottage is not broken by a temporary absence from the cottage during the winter months...”

The Court continued on to state that:

“The word “reside” is very flexible and has more than once been said to be incapable of exact definition. The duty of the Court in interpreting any statute where the word is found is to attribute to it such meaning as will best give effect to the legislative will.... The true light must be found within the statute. All else only increases the darkness.”

It should also be remembered that section 6.5.3.1 of the OCP speaks of a home occupation as being conducted by a full-time **or part-time** resident of the lot on which the dwelling is located. [Emphasis added]

{ See also: Terminal City Club Tower v. BC (Assessor of Area No. 9-Vancouver) [2003] B.C.J. No. 1070, which held that individually owned strata-titled units remained residential units for the purpose of assessment, notwithstanding their acknowledged use as overnight, commercial accommodations, because ‘residential use’ did not have to include an element of extended duration. Although the case was overturned on Appeal on different, unrelated grounds, on the issue of the residential classification, the BCCA was satisfied that the view of the Chambers Judge regarding the residential status issue was correct. }

Furthermore, as the Judge in the Nanaimo Regional District case emphasized:

“The Courts are very protective of the rights of individual landowners, to do what they want with their lands. Hence, any statutory derogation from those rights must be clearly spelled out.”

It is suggested that nothing in Bylaw 86 meets this test.

As the above discussion indicates, it appears STR are not “illegal” as a result of the OCP. Nor are they “illegal” as a result of By-law 86. It appears that, in presuming that short-term rentals are currently “illegal”, Island Trust representatives have put much weight on the decision of the BCSC, (upheld without discussion by the BCCA), in Whistler (Resort Municipality) v. Miller [2001] BCJ No. 69. In the Whistler v. Miller case, the challenged bylaw included the following definitions:

““home occupation” means a craft or occupation conducted as an accessory use subordinate to the principal use of a residential dwelling;

“principal” means the primary purpose for which the land, buildings or structures are ordinarily used;

“residential” means a fixed place of living, excluding any temporary accommodation, to which a person intends to return when absent;

“temporary” means a total of less than four consecutive weeks in a calendar year; and

“tourist accommodation” means a building containing one or more habitable rooms or dwelling units that are used primarily for temporary lodging by visitors.””

In light of the relevant definitions contained in the Whistler by-law, the Court concluded that renting the dwelling in question out for short-term rentals was not “ancillary” or “subordinate” to its “principal, residential use” and therefore, it was not a permitted use. The Court found support for its conclusion from the fact that, (contrary to Hornby’s current bylaw), the Whistler bylaw expressly disallowed “temporary accommodation” from the definition of “residential” use.

The Court in the Whistler decision also found that by-law prohibiting STR was valid and not beyond the powers of the Municipality to pass, because STR are not a ‘normal and customary’ residential use. Therefore, in addition to upholding the validity of the specific bylaw in question, the Whistler decisions, (both Whistler v. Miller and Whistler v. Wright) would support the assertion that governmental bodies have the legal capacity to draft a bylaw that expressly prohibits temporary accommodation within certain zoned areas. However, these cases do not stand for the proposition that, in the absence of expressly permissive language within the relevant OCP and bylaw, short-term rentals are deemed “illegal”. Furthermore, the decisions most certainly cannot be said to override the expressly permissive language contained in Hornby’s OCP.

In the absence of statutory or case law authorities indicating otherwise, I am of the opinion that the courts would not find that ‘off-Islanders’ who currently personally reside in their Hornby dwellings only part-time, and otherwise rent those dwellings out for seasonal STR, are acting “illegally”.

In light of the fact that the Islands Trust Questionnaire currently being circulated contains an Islands Trust distributed Information Sheet that commences with the statement that “Commercial short-term rentals are currently illegal on Hornby”, one is left to question the validity of the responses received.

Please note that, in addition to being a practicing BC lawyer, (called in 1989), I am also a 50% owner of a residential lot on Hornby. My brother and I use our property part-time, and rent the dwelling as a STR for several weeks each summer. The comments herein reflect my opinion only and are intended to provide general information. Readers should not act on the basis of this information without first consulting their own lawyer who will provide analysis and advice based on their specific matter and facts.

From: dean ellis [mailto:deanonrain@gmail.com]
Sent: April-18-11 8:02 AM
To: Tony Law; fmhunt@mars.ark.com; Louise Bell
Subject: good job

Good going Fred, Tony and Louise

It is good to see you will change the OCP quietly without us all having to go to those boring meetings.

Thanks for the help with giving us the Trusts version for determining community issues, democracy is so messy and time consuming.

Thanks for telling us STR's are illegal as I had assumed the rest of the community was rather stupid.

Thanks for continuing on STR theme forever cause maybe all those stupid people will get tired of going to repeat meetings, anyway none of the other local issues are important.

Thanks for showing us real democracy is 2 voted people and 1 payed appointed person.

Thanks for following Tony's and Louise's litigation strategies, its working on Denman and may soon come to Hornby. That will show them who has the deepest pockets.

Thanks for stopping all that money coming to the island, we need to get back to the land (pensions excepted).

Dean

From: Doug Christie [mailto:rdchr@telus.net]
Sent: April-18-11 8:21 AM
To: northinfo; Fred Hunt; tbell@islandstrust.bc.ca; Brodie Porter
Cc: ross.karen; Tony Law
Subject: STVR's on Hornby Island

Dear Trustees,

Concerning the proposed changes to the Official Community Plan, my request is that you do nothing to change the present plan, which seems to well represent the wishes of the island.

I also request that you stop saying or suggesting that the short term rental of residential housing is illegal, or not allowed, or not permitted. The only thing that can be truthfully said is that it not allowed by the present bylaw, but it is misleading and dishonest to say this without also pointing that those clauses are probably invalid because they disagree with the intent of the OCP.

And since you are in charge, I also request that you ask Brodie Porter to stop saying this as well.

Yours sincerely,

Doug Christie
3750 Slade Road
Hornby Island, BC

-----Original Message-----

From: stepan [<mailto:jtal@telus.net>]

Sent: April-18-11 10:07 AM

To: northinfo

Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter

Subject: Rental Control Wrangling

Island Trust Representatives,

I am adding my voice in opposition to the STR regulation issue that is being forced on Islanders.

I do not wish that the OCP be changed on this issue. As is well known, enforcement of bylaws in the Islands Trust zone is selective. This bylaw will make more opportunity for secret meetings, graft, preferential treatment, and monopolies. We have all experienced the decline of culture and economy on this island by this oligarchical method of governance; no good shall come from more unclear and arbitrary bylaws.

Stepan Vanicek,
Hornby Island

-----Original Message-----

From: Jane [<mailto:jtal@telus.net>]

Sent: April-18-11 10:14 AM

To: northinfo

Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter

Subject: Short term Vacation Rentals

Dear Islands Trust,

I want my voice to be heard that I am against the regulation of Short Term Vacation Rentals on Hornby Island.

I want my voice heard that the OCP is not to be reviewed, or changed over this issue.

This is an agenda that is NOT supported by the Hornby majority of voters and did not originate with them.

You could tell us from where, but transparency is not your style of governance. Is it from the commercially zoned property owners on Hornby? Then say so, they have a valid issue. One that democracy would allow a community discussion on.

Is it a coincidence that the Thatch expansion of 30 rental/time share units is going ahead as the competition (STVR's) is being shut down?

I am willing to live with the uncertainty of the OCP and the legality of STVR's right now.

I am against any mission creep of Islands Trust until you fix your in house problems:

1. Stop submitting doctored minutes to the paper concerning your meetings.
2. Stop changing the dates and times of the meetings multiple times before they occur. Hold them when people can actually attend. Some of us work. We are well aware that the non-working well subsidized part of the vocal minority on Hornby love your selective enforcement and vote accordingly.
3. Stop Selective By-Law Enforcement for friends, family and re-election votes.
4. Allow a mail in ballot.
5. Disclose your increasing legal insurance fee and how much each lawsuit and settlement costs the taxpayers.
6. Explain how a Trustee on Hornby (2010) can build a 5th home on a 10 acre lot zoned for 2 houses and when questioned he states "I will not answer any more letters on this issue, call the Trust (Miles Drew) and they will back me up on this"
7. Disclose the "Secret Veto" to the public.
8. Stop stating publicly that you will do one thing, while using in camera meetings and the "secret veto" to ensure another outcome.
9. Stop asking for public input and then ignoring it. For example the majority of submissions for an increase to the Islands Trust budget were AGAINST it, yet it went ahead. The majority of submissions were against raising Trustee salaries and yet went ahead. Stop the illusion of democratic participation.
10. Enforce your mandate. Stop using taxpayers dollars in court to argue that "preserve and protect" are just words implying no legal obligation. Admit it publicly instead.
11. Stop the practice, as it is now, of having other governmental departments check with the Trust and Trustees before helping out with taxpayers requests on the Gulf Islands.

We should have access to these services as other Canadian citizens can. This lack (obstruction) of oversight continues to reinforce your abuse of power.

You will receive a vast majority of letters against altering the OCP on this issue, and then do it anyway.
You cannot fool all of the people all of the time.

Jane Talbot
5540 Harby Road, Hornby Island, BC
V0R 1Z0

From: Robert Gee [mailto:islbob@telus.net]
Sent: April-18-11 10:30 AM
To: northinfo; Brodie Porter; Fred Hunt; Louise Bell; Tony Law
Subject: Call for submissions for STVR Policy and OCP due April 18

TO: Hornby Island Trust Committee, North Office Islands Trust
FROM: Robert Gee (Former Trustee) 3850 Euston Road Hornby Island
RE: Call for submissions the Draft OCP and STVR Policy due April 18th 2011
Date: April 18 2011

The Trustees forwarded e-mail links to review pdf documents on March 31. The STVR guideline (1 p.) a graphic was clear, and a nice lay out. The Draft OCP (114 pges) reflects a tremendous amount of hard work. I was also given by others, the Trustee Law suggestions coming out of a April 2nd Public Meeting. If providing the Public pdf formats, those responsible for reviewing submissions should also then be able to receive back notational comments directly on the documents themselves. This enables direct comments on relevant pages. Therefore all are attached together as one PDF of 34 pages. Page 1, R gee Intro letter, Page 2 the STVR Policy, pages 3 & 4, the T.Law, post April 2 proposals, the Draft OCP section 26 pages, includes pages 9,54,59,60,63,65 to 78,80 to 82,84 to 86, 102 &103 of the original Draft OCP, followed by two letters for the community news paper the First Edition- to appear in May and a draft third to follow in another month.

Sincerely R Gee
E-mail & Attch PDF "April 18th STVR OCP Submission "
C/C Ida Chong Minister

Best Regards Bob Gee
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Pdf Attachments read with Acrobat Reader 6.0 at <http://www.adobe.com/products/acrobat/readstep2.html>
Contact Bob Gee at: islbob@telus.net for another file format if PDF or MS WORD is not suitable

TO: Hornby Island Trust Committee, North Office Islands Trust
FROM: Robert Gee (Former Trustee) 3850 Euston Road Hornby Island
RE: Call for submissions the Draft OCP and STVR Policy due April 18th 2011
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The Trustees forwarded e-mail links to review pdf documents on March 31. The STVR guideline (1 p.) a graphic was clear, and a nice lay out. The Draft OCP (114 pges) reflects a tremendous amount of hard work. I was also given by others, the Trustee Law suggestions coming out of a April 2nd Public Meeting. If providing the Public pdf formats, those responsible for reviewing submissions should also then be able to receive back notational comments directly on the documents themselves. This enables direct comments on relevant pages. Therefore all are attached together as one PDF of 34 pages. Page 1, this page, Page 2 the STVR Policy, pages 3 & 4, the T.Law, post April 2 proposals, the Draft OCP section 26 pages, includes pages 9,54,59,60,63,65 to 78,80 to 82,84 to 86, 102 &103 of the original Draft OCP, followed by two letters for the community news paper the First Edition- to appear in May and a draft third to follow in another month.

AN EXECUTIVE SUMMARY is that the Draft OCP has some real problems major caveats being:

- a) Wording of several sections will have unintentional effects by promoting further subdivision, i.e. words “joint owners” not specific. (Tenant in Common Old OCP).
- b) The section on Co Operative Housing will allow Co Ops amongst residential acreages – increasing density and poor planning.
- c) Unspecified leeway is given to Trustee discretionary decision- making that will be open to abuse under the current Trustee regime.
- d) The Agricultural section should requiring passing siting & use permits by the Agricultural Land Commission because of a current culture of non compliance, an unwillingness to enforce contraventions and Trustee discretionary decisions
- e) Some but not all sections, lack definition of the minimum lot size as it relates to Section 946 subdivisions
- f) Tourism & Vacation Rentals (STVRS) is fraught with fundamentally flawed perception of the facts, activities and impacts of STVRS and thus promote solutions to problems that don't exist. One is driving the allowance for secondary accommodation – an anathema to density provisions and will create conditions for further subdivision. The result is an element of self- righteousness, an ideological overtone on rentals of private property that makes it impossible for this committee to successfully resolve the STVR issue.

As an island citizen and believer in the Trusts mandate of preserve and protect, I find it rather telling that the current Trust's overbearing process nature calls for comments by April 18th, while sits to decide these issues on the morning of the 20th. It is far too little time for serious review of public comment. Additionally, the current philosophical approach to the community and the proposed OCP encourages further subdivision and increased density in a geographically hap hazard manner- thus affecting property owners who have bought in areas for the express purposes of avoiding increased density. In conclusion the OCP and the STVR Policy document and subsequent Use Bylaws addressing STVRS will be clearly unfair, inequitable, and will promote other policy and density changes driving unnecessary further development.

I trust you will take serious note and consideration of my sidebar comments and remain

Sincerely R Gee
E-mail & Attch PDF “April 18th STVR OCP Submission “
C/C Ida Chong Minister



Vacation Home Rentals on Hornby Island – Enhancing the Status Quo

Presented as a handout by the Hornby Island Local Trust Committee for discussion at Community Information Meetings– April 2, 4 and 6th 2011

This document is provided to facilitate discussion at the upcoming community information meetings
 The Hornby Island Local Trust Committee has been hearing some consistent messages:
 “Vacation home rentals are crucial to the community.” “They are generally working well.” “Keep the status quo.”
 This paper outlines the “tools” available to the Local Trust Committee to address vacation home rentals.

Official Community Plan	Land Use Bylaw	Temporary Use Permits	Bylaw Enforcement Policy
An Official Community Plan is adopted by a Local Trust Committee and contains policies to guide land use decisions. Subsequent amendments to a Land Use Bylaw (LUB) must not be in conflict with Official Community Plan policies. <i>Also see Temporary Use Permits</i>	A Land Use Bylaw includes “general regulations” such as for home occupations It includes “zoning regulations” which list the permitted uses for each zone.	Temporary Use Permits can be issued on a lot-specific basis to enable a use other than those listed in the permitted uses for the zone. An Official Community Plan can contain policies stating where and how Temporary Use Permits can be considered.	A Local Trust Committee can adopt a standing policy to specify triggers for enforcement in order to make appropriate use of limited enforcement resources.
The reality of the status quo			
The current (2002) Official Community Plan contains a policy which supports regulations being included in the Land Use Bylaw to allow vacation home rentals as a home occupation. <i>Also see Temporary Use Permits</i>	The current (1993) Land Use Bylaw does not specify vacation home rentals as a home occupation. It does not list vacation home rentals as a “permitted use” in residential zones.	The use of Temporary Use Permits to allow vacation home rentals is not provided for in the Official Community Plan.	The Local Trust Committee does not presently have an enforcement policy. This means that Islands Trust Council enforcement policy directs enforcement. This policy requires enforcement on the basis of a written complaint or the advertising of a non-permitted use.
Enhancing the status quo			
The Community Plan could be amended to: a) better reflect the community's relationship with vacation home rentals; b) continue to support vacation home rentals being conducted as a home occupation; c) enable vacation home rentals to be allowed through rezoning or Temporary Use Permits for property owners who wish to pursue these options; d) keep the door open for a future review of how the status quo is working <i>Also see Temporary Use Permits</i>	The Land Use Bylaw could be amended to allow vacation home rentals to be carried out as a home occupation on those lots where there is a resident living on the property. (This would implement the existing 2003 OCP policy.)	Temporary Use Permits could be made available as an option for allowing vacation home rentals. Appropriate guidelines could be added to the OCP. This provides an option for additional homeowners in particular circumstances. - A Temporary Use Permit is valid for 3 years. - - It can be renewed for a further 3 years. - A subsequent permit can then be applied for).	The Hornby Island Local Trust Committee could adopt a Bylaw Enforcement Policy to specify that investigation and enforcement of vacation home rentals will only be triggered when: a) there is a <i>bona fide</i> written complaint of health, safety or nuisance issues; b) renters are being accommodated other than in a dwelling unit; c) more than one dwelling on Hornby Island is being used by the same owner as a vacation home rental

6.5.3 Vacation Home Rental

Background

Given the island's increasing popularity as a summer destination, there has been increasing demand for visitor accommodation. Aside from the commercial visitor accommodation facilities and bed and breakfast home occupations, there has been a tradition of some home owners renting their cottages or homes for short periods of time predominantly during the summer. Property owners benefit from the opportunity to raise funds whether to assist with property costs while retaining their residence for its primary residential use for most of the year or as means to provide an income. Visitors benefit from a range of accommodation options to experience the Island's environment and amenities. The community benefits from the economic inputs from these visitors.

At first, homes were generally rented to friends, acquaintances and relatives through “word of mouth” contact. This direct contact established a relationship between owner and visitor that provided connectivity to, and respect for, the property, the neighbourhood, the community and the environment.

 The availability of Internet advertising and the establishment of property management companies have corresponded with an increase in the number of homes available for vacation rental and a transformation of many rental situations into a more commercial practice that does not always involve a  direct relationship between the property owner and those renting the property or with the neighbourhood or community.

This change over time in the number and type of vacation rentals has lead to concerns regarding the individual and cumulative impacts of an unregulated  commercial land use happening in areas zoned for  residential use. Some dwellings are advertised for year-round availability as visitor accommodation, some by the night. Some involve levels of  ntial occupancy much higher than normal household size. This can erode the residential character of neighbourhoods and put pressure on water resources in areas with documented problems.

The previous Plan attempted to address this issue by including a policy suggesting that a vacation rental could be permitted and regulated as a home occupation. However, a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental.

~~Zoning property to allow for a vacation home rental use or addressing their use through approval of a temporary use permit are other options that can be considered.~~

For several years prior to the adoption of this Plan, the Local Trust Committee explored with the community various options for addressing vacation home rentals.

Area:

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- 1) to recognize that there has been a long history of vacation home rental on Hornby Island ~~without authorization~~

by land use bylaw;

2) to ensure that the residential use of property and its residential character is retained where it is the permitted and established use;

3) to enable ~~some traditional practice~~ **the continuation** of vacation home rentals;

4) to address potential impacts of vacation home rentals if such uses are authorized; and

5) ~~to support future evaluation of vacation home rental policies, recognizing that such uses are a significant and challenging issue for the Hornby Island community.~~

Policies:

~~6.5.3.1 Provision of paid accommodation for visitors to Hornby Island through vacation home rental is supported, provided that some management of the community and neighbourhood residential needs and other land use needs of Hornby Island can be addressed. Issues to consider in permitting vacation rentals includes minimizing nuisance impacts such as noise and parking congestion on the local neighbourhood; retaining neighbourhood character; health and safety issues and the application of a principle of welcome without commercial promotion.~~

~~6.5.3.2 Provision of a residence for vacation home rental beyond thresholds of residential land use, such as when commercial approaches are used in the promotion and management of such use, may be permitted through a temporary use permit or rezoning. Examples of additional issues to consider in such processes are water supply and sewage treatment capability; traffic management and environmental management, as well as the benefits that such accommodation may provide to the community at large~~

~~6.5.3.3 The rental of a residence for a term of one month or more should be considered a residential use of land while a rental of less than one month is a vacation home rental.~~

~~6.5.3.4 The use of a residence for a vacation home rental may be considered a residential use of a property where there is a second dwelling on the property occupied by the resident of the lot, in which case such a rental may be permitted as a home occupation.~~

6.5.3.1 Vacation home rentals are supported as compatible with the residential use of property given the well-established pattern of seasonal occupancy of dwellings on Hornby Island.

6.5.3.2 Vacation home rentals may be allowed as a permitted use through zoning regulations for residential areas.

 **6.5.3.3 In order to address potential impacts upon neighbours and water resources, land use regulations may specify maximum levels of occupancy for vacation home rental use.**

 **6.5.3.4 In order to help retain the residential ambiance of neighbourhoods, land use regulations may specify a minimum rental period for vacation rental home use.**

 **6.5.3.5 In order to retain the primary residential use of property zoned for this use, land use regulations may specify a maximum portion of the year during which vacation rental home use may be conducted.**

 **6.5.3.6 Provision of a residence for vacation home rental beyond what is permitted through zoning regulations is considered a commercial use, and may be permitted through a temporary use permit or rezoning.**

 **6.5.3.7 The Local Trust Committee should work with the community to develop and advocate best practices for vacation home rentals.**

SECTION II—PRIMARY OBJECTIVES AND POLICIES

2.1 Broad Community Objectives

The following statements of general objectives express the values that are significant to the people of Hornby Island and together with the specific objectives listed in each topic area sets the direction to be followed when interpreting and implementing the policy statements.

- (1) To promote the conservation, preservation or restoration of:
 - a) areas of natural, scenic, historical, archaeological or scientific value,
 - b) watershed and groundwater recharge areas,
 - c) public land and parks,
 - d) areas of significant vegetation, the forests, the wildlife and their habitat,
 - e) land with agricultural potential,
 - f) shoreline, foreshore and the Island's surrounding marine ecosystem, and
 - g) water courses and riparian areas.
- (2) To ensure all human activities are carried out in a manner that is sensitive to the protection of fresh water resources and to the fragility and interaction of natural ecosystems, are compatible with activities of surrounding neighbours, and are in keeping with the rural scale of land use on the Island.
- (3) To minimize pollution of air and water.
- (4) To limit or reduce present and future stresses upon natural and community resources, particularly those generated by increasing seasonal uses.
- (5) To encourage a self-reliant rural community based on agriculture, low impact businesses and home occupations that are sustainable and non-polluting.
- (6) To ensure changes, growth and development are gradual and support the sustainability of the community.
- (7) To maintain the community's sense of unity and to promote a residential development pattern consistent with the rural character of the Island.
- (8) To encourage residents and visitors to take an active role in the preservation of natural and social values on the Island.
- (9) To encourage consultation with and participation of the public in local government decisions and in the management of Provincial resources by appropriate agencies.
- (10) To protect through sound long-range planning policies and strategies, the agricultural potential of lands, foreshore and intertidal areas, forested areas and groundwater recharge areas.
- (11) To support community awareness and participation in achieving lifestyles and buildings which ensure energy efficiency.
- (12) To preserve the rural character of the Island.

5.7 Water Transport

Background:

Access to the Island is focused through two protected wharfage areas, the ferry dock and the Ford Cove government wharf. The Island has few safe anchorages and sheltered bays. The resort near the ferry terminal (Shingle Spit area) offers seasonal summer day-use wharfage. The wharf at Ford Cove is under Federal lease to the Ford Cove Harbour Authority and offers the only year-round protected wharfage. Limited summer anchorage is possible in several bays.

The regulation of sea transport falls generally under the authority of the Federal Government and the principal access is via BC Ferries Services Inc. Construction of private or commercial docks require approval of a lease from Ministry of Forests, Lands and Natural Resource Operations. This Plan can therefore define only broad objectives for the management of all water access to the Island except that upland and water zoning regulations must also be satisfied before a private individual can proceed to install any structures for a private wharf or moorage.

Area

All areas identified on Schedule B (Map Designations) and in particular the areas designated Marine Transport (MT) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to protect the limited sheltered bays for temporary anchorage;
- (2) to provide boat access to the sea;
- (3) to maintain a ferry service directed toward the needs of the local community;
- (4) to promote adequate sewage, used water and solid waste disposal for users of all marine facilities according to Provincial Health standards;
- (5) to encourage measures to reduce the number of vehicles that travel on the ferry; and
- (6) to support the continuing provision of wharfage at Ford Cove or at Shingle Spit.

Policies

- 5.7.1 Private wharfs and/or breakwaters should be prohibited by regulation.
- 5.7.2 Expansion of wharfage at Ford Cove by the Ford Cove Harbour Authority may be supported provided negative environmental and visual impacts can be demonstrated to be minimal.
- 5.7.3 Expansion of moorage at Shingle Spit may be considered provided negative environmental and visual impacts can be demonstrated to be minimal.
- 5.7.4 Mariculture should not be permitted in Ford Cove or at Shingle Spit.
- 5.7.5 The existing marine transport (MT) points as shown on the land use map Schedule B should be maintained for current identified uses.
- 5.7.6 Public launching slips for canoes, kayaks, row boats and dinghies may be considered upon application to allow for safe and easy water access.

SECTION VI—OBJECTIVES AND POLICIES FOR SUSTAINABLE LAND USE

6.1 Objectives and Policies for Development

Background:

One of the main functions of the Community Plan is to designate the patterns of future land uses. The designations are based on historic development patterns, physical features or constraints, other government agency comments and specific objectives defined by the community. Land is divided into various land use categories and shown on Schedule B, the land use map. Policies for each use are contained in this Section.

There are currently 1351 parcels in the Hornby Local Trust Area, including Park and Crown land. There are 30 parcels that could potentially be created, from 11 of the current parcels. The addition of these new parcels would result in a total of 1370 parcels on the Island and excludes the subdivision potential of Crown land, industrial and institutional parcels, and park land. Of these parcels, 80.7% of the land use is used for residential, 2.5% for farm, 1.3% for commercial 0.6% for transportation, communications, and utilities and 2.4% for civic institutional and recreational purposes. The remaining 12.5% is composed of other designations, vacant land, and lots with outbuildings using BC Assessment Authority classifications for land use. (Community Profile 2010).

Area

All areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this section are:

- 
- (1) to protect the physical environment and natural features;
 - (2) to ensure that all land uses are regulated equitably;
 - (3) to ensure all development of the land base is self-sufficient for services and does not impose or create load on surrounding land uses; and
 - (4) to consider the community benefit in any significant rezoning application.

Policies:

Policies in Section 6.1 apply to all sections of the Plan.

6.1.1 The maximum size of buildings and structures on all lots should be regulated.



6.1.2 A minimum parcel size should be established for a parcel that may be subdivided pursuant to section 946 of the *Local Government Act* so as to uphold the objectives of the applicable land use designation.

6.1.3 All applications for subdivision considered by the Local Trust Committee should demonstrate that there is sufficient water supply and waste disposal capability for serving the property both at the time of application and at ultimate projected growth levels.

6.1.4 Increasing net residential density through rezoning should not be permitted in the Small Lot Residential designations of Sandpiper, Galleon Beach and Whaling Station Bay areas.



6.1.5 Applications for amenity rezoning may be considered by the Local Trust Committee for purposes of provision of a needed amenity such as affordable housing, conservation, community food production, a community facility, access or a trail. Any density increase authorized by an amenity zone should not exceed the density authorized by the applicable land use designations of the areas plus in exceptional circumstances, where the amenity is considered of significant value to the community as determined by the Local Trust Committee, an increase in density of one lot may be considered. The total number of additional lots allowed in exchange for community amenities on Hornby Island should not exceed five from the date of adoption of this Plan until the next review or update. For purposes of application of this policy the term "lot" may be used interchangeably to mean "dwelling".



Information Note: An illustration of the application of policy 6.1.5 (amenity zoning), if the owner of 4 hectares of land designated Rural Residential wishes to donate 1 hectare of land for conservation as an addition to an adjacent park (an eligible community amenity) the applicant may, through an amenity rezoning, be eligible to create two lots on the remaining 3 hectares.

6.1.7 The Local Trust Committee should consider the need of a covenant for purposes of protecting the environment and specifically the groundwater resources, upon receipt of a rezoning, subdivision, or a temporary use permit application from the land owner. The covenant may contain restrictions on the use of the land in order to protect and enhance the groundwater recharge capabilities, to ensure that groundwater contamination is avoided, to address groundwater shortages, or to prevent further subdivision of the parcel. To ensure that a covenant is enforced, the covenant should be held by the Local Trust Committee (or the Trust Fund Board where appropriate) and should be monitored regularly.

6.1.8 Subject to Ministry of Environment and the Ministry of Agriculture regulations, specified agricultural and horticultural activities should be permitted and should be regulated by bylaw to ensure that water resources are protected and that agricultural activities on non-agricultural land do not disturb the quiet of residential neighbourhoods. The provincial guidelines address the following: storage and use of agricultural waste, application and composting of agricultural waste, agricultural emissions, agricultural machinery noise, storage and use of wood waste, on-farm disposal of mortalities, feeding areas, access to water and use and storage of agricultural products.

6.1.9 Recommendations from the Ministry of Environment Stormwater Management Guidebook regarding the maintenance of pre-development infiltration and drainage regimes should be considered in the development of land use regulations.

6.1.10 Lot coverage should not exceed 15 % on lots less than one hectare (2.5 acres) and 10% on lots greater than one hectare (2.5 acres). Lot coverage for lots within the Agricultural Land Reserve should not exceed 20% with the additional 10% to be used only for structures required for agricultural production such as barns and greenhouses.

- 6.2.1 A Community Trades and Services Area, developed and operated under the jurisdiction of an organization (such as a cooperative or land trust) with accountability to the community, should be permitted on land designated "community service use" and should be regulated by development permit and land use bylaw regulations.
- 6.2.2 All land within the community service use designation and public utilities and services designation directly north of the GW/EPA designation on Schedule B should be included in a Development Permit Area for the purpose of protecting the groundwater resource. A development permit may be required for any new development that involves: significant water use, sewage and used water treatment, alteration of the land or vegetation, or use of potential contaminants, including residential, commercial, industrial or trades and service developments, new recreational or service facilities such as a swimming pool or fire hall and road building.
- 6.2.3 Community facilities, such as schools and recreational facilities should continue to be clustered in the central area near the Community Hall.
- 6.2.4 Fire protection, clinic, ambulance and other public services should continue to be located centrally.
- 6.2.5 The Royal Canadian Mounted Police should continue to be located in a central location, and should be requested to provide a structure in character with other public buildings on the Island.
-  6.2.6 The development of affordable rental housing or special needs housing for Island residents, including facilities for seniors, displaced year-round residents and summer workers, operated by a community non-profit society, should be permitted on land designated community service use and be regulated by development permit and land use bylaw regulations. Other residences should only be permitted for the purpose of accommodating a caretaker or operator.
- 6.2.7 Limited commercial activities (such as a farmers' market for locally-produced foods and goods or a credit union), operated under the jurisdiction of a community non-profit society, should be permitted on community service use lands subject to adequate off-street parking being provided and should be addressed through land use bylaw regulations.
- 6.2.8 Member use services provided by non-profit organizations, such as community kitchens, gardens, public showers and laundry facilities should be permitted.
- 6.2.9 Screening of operations should be required by regulation to ensure that wide buffers of native vegetation are left along roads and property lines.
- 6.2.10 Signage and lighting should be regulated by bylaw to ensure maintenance of the rural landscape.
- 6.2.11 All buildings should be finished in natural products such as wood, stucco, stone or brick or other materials that would fit in with the ambience of the community and neighbourhood; roofing materials that are appropriate for water catchment may be utilized.

6.3 Residential

6.3.1 Residential—General

Background:

The residential component of land use is of major significance. Most of the residential land use is located around the shoreline of the Island with the bulk of the interior, including most of the high ground, being in public ownership, mostly as parks.

Historically, the Island has had a rural character with predominately large acreages. The small lot subdivisions were created prior to the Islands Trust assuming planning authority for the Island and all potential areas for subdivision into that lot size are already subdivided. By 1990, approximately 60% of all residential parcels on the Island were 0.2 hectares (about 0.5 acre) or less. ~~In 2009 more than 95% of the private dwellings are single-detached and 18% are rented.~~

Deleted: Today

Residential land uses are designated as Small Lot Residential, Large Lot Residential, Rural Residential, Forest, Social Housing and Land Co-operatives. Residential use is also authorized in policy for land designated as agricultural, commercial and community service use. Under existing bylaws some lots have some potential for subdivision. However, the subdivision of additional small lots is not endorsed in the Plan. Problems with the quantity and quality of water supply have been identified in the small lot areas where on-site sewage treatment and groundwater wells are present on most lots.

The BC Assessment Authority in 2009 identified 1,088 properties assessed for residential purposes. A total of 322 of the properties are also assessed as agriculture and likely also have a residential use whereas 134 properties are vacant land or only have outbuildings.

The 2006 census records 968 dwellings and a resident population of 1,065 persons which would suggest almost 1 dwelling per resident. However, the census records that only 56% of dwellings are occupied year-round while the BC Assessment Authority indicates that only 37% of properties are owned by Hornby residents.

There are three major housing challenges facing the community:

- a) a substantial proportion of the long-term resident population is now in the older age brackets; some may appreciate the availability of special housing in their senior years while others may wish to be supported while remaining in their own homes;
- b) property prices are out of scale with the incomes that can be derived on the Island, making it difficult for younger people to become established here; and
- c) the majority of properties are owned by non-residents and most of these are occupied and/or rented seasonally thereby limiting the availability of year-round rental accommodation.

Area

The areas identified on Schedule B (Map Designations) as SR (Small Lot Residential), RR (Rural Residential), F (Forest), COM (Community Service Use), SH (Social Housing) and LC (Land Co-operatives) or any combination thereof are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

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- (1) to ensure that a variety of housing options are available;
- (2) to ensure that the scale of residences and other buildings are appropriate to the Island and neighbourhood context;
- (3) to recognize the importance of keeping long-term residents in the community; and
- (4) to provide for community initiatives to address housing needs.

Policies:

Policies in subsection 6.3.1 apply to all subsections of subsection 6.3

6.3.1.1 Setbacks of buildings, structures and uses should be regulated to ensure that the natural aesthetics and the environmental integrity of adjacent foreshore, creeks and ecologically sensitive sites are not adversely affected. (This Plan acknowledges that geographical constraints prevent significant setbacks from the foreshore between Shingle Spit and Phipps Point.)



6.3.1.2 Setbacks and heights of buildings should be regulated to ensure that the environmental integrity and amenity of adjacent lots, public roads and public land are not adversely affected.

6.3.1.3 Screening around derelict vehicles and other stored materials should be required by regulation.

6.3.2 Small Lot Residential

Comment: Consolidates Small Lot Residential and Small Lot Residential/Water Resource Protection Area.

Background:

Lots in this category are smaller than 0.8 hectares (two acres) and generally range around 0.24 hectares (about 0.5 acre) in some subdivisions to 0.1 hectares in areas on the peninsula of the island. As more and more of the lots in these areas are built upon, the already evident problems of sewage and used water disposal and water supply become more acute. The peninsula lots have their own aquifer. The aquifer has been classified as 1A (heavily developed with high vulnerability), which is the highest classification in the Provincial aquifer classification system. This is reflected in the area's water quality and quantity problems, including salt water intrusion, sulphurous water and poor-yielding wells.

Area

The area identified on Schedule B (Map Designations) as SR (Small Lot Residential) is subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to ensure that any construction on existing vacant lots can be supported by the land base and does not lead to health hazards or degradation of the environment;
- (2) to minimize the negative impacts associated with small lot development;
- (3) to protect the water resource in a heavily developed, highly vulnerable aquifer; and
- (4) to ensure that the land uses do not have an adverse effect upon the quality and quantity of water draw down from the Whaling Station Bay Improvement District water collection system nor upon other wells on adjacent properties.

Policies:

- 6.3.2.1 The principal use should be residential with any accessory uses consistent with the residential character.
- 6.3.2.2 The minimum parcel size should be one hectare (2.5 acres).
- 6.3.2.3 For one specific parcel only (Lot A, Plan 24913), a small portion of the Shingle Spit, the designation is Small Lot Residential with no potential for subdivision.
- 6.3.2.4 Existing Small Lot Residential designations of Sandpiper, Galleon Beach and Whaling Station Bay/Anderson Drive, as shown on Schedule B, should not be expanded and no new small lots should be created except for purposes of park dedication, neighborhood waste water treatment or to create ecological reserves.
- 6.3.2.5 One dwelling unit should be permitted on each lot.
- 6.3.2.6 The keeping of animals should be limited and regulated to protect the quiet of the neighbourhood and the quality of the groundwater resources and the well-being of wildlife populations.
- 6.3.2.7 Additional development of the groundwater resource should be strongly discouraged. The use of water catchment and storage systems for household and garden use, and in particular for Bed and Breakfasts home occupations, should be strongly encouraged.
- 6.3.2.8 The Local Trust Committee supports the regular monitoring of the groundwater resource in these areas and should consider further restrictions upon land use if there is a documented threat of contamination or if aquifers become classified as "highly developed".
- 6.3.2.9 Consolidation of small lots should be encouraged. To recognize the reduction in density and other impacts resulting from the consolidation of lots, the following should apply for any lot over 1 hectare that is the product of the consolidation of smaller lots: the maximum floor area of a residential dwelling or an accessory building may be permitted to be one and a half times the size permitted on standard lots in the small lot residential designation.
- 6.3.2.10 Bed and Breakfasts should be permitted as a home occupation providing the number of guests is limited based on lot size.
- 6.3.2.11 The provision for shared water supply systems and/or sewage and used water treatment involving two or more lots is supported where appropriate to local situations and in accordance with the Vancouver Island Health Authority standards.
- 6.3.2.12 One lot, Lot 11 Plan 25736, is adjacent to a water collection system that provides water to property owners in the Whaling Station Bay area. The following policies apply to Lot 11:
- residential development should be restricted to the north-western half of the property;
 - the south-eastern part of the property (as identified in hydrological report by Piteau Associates Engineering Ltd. (2002)" should remain in an undisturbed state (except for measures such as ditching that are required to protect the water

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- resource) and should be protected by a covenant or through transference to local government for protection purposes;
- c) before any development is permitted, a site drainage plan should be prepared and implemented in accordance with recommendations from the Piteau Associates Engineering Ltd. (2002) report; and
- d) this lot should be included as a Development Permit Area designation on Schedule E for the Protection of the Natural Environment (groundwater resource) to enable the implementation of policies 6.3.2.12 a), b) and c) above.

6.3.3 Rural Residential

Background:

The Rural Residential designations are intended to promote the retention of large parcels of land, while still providing an opportunity for cooperative land sharing. These rural residential areas are intended to maintain rural aesthetic appeal while permitting home occupation and minimizing the impacts on surrounding land parcels.



In the previous Plan the Rural Residential designation was further divided into a Rural Residential designation; a Large Lot Residential designation that was used to identify properties that could be subdivided if there were two long-standing homes built and the owners were owners in common prior to 1991; and Large Lot Residential/Water Resource Protection Area on a 6.5 acre parcel where one additional lot could be created and it was so designated to recognize its role in community water supply.

The retention of large parcels is now considered a primary objective. Property owners had the opportunity to resolve joint ownership issues in the past and it is now considered appropriate that the primary objective be to retain the large lots. Some options may still be available to allow subdivision in those situations of long time joint ownership.

Area

The areas identified on Schedule B (Map Designations) as RR (Rural Residential) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to promote retention of large parcels of land and existing densities;
- (2) to provide some limited opportunity for land sharing without encouraging subdivision;
- (3) to enable some residents to resolve existing land sharing challenges; and
- (4) to allow for a wide diversity of home occupations subject to regulations which ensure maintenance of the rural residential character of the areas designated rural residential and to ensure minimal negative impact on neighbouring properties.

Policies:

6.3.3.1 For any subdivision of properties in the Rural Residential designation an average lot size of four hectares (10 acres) should be maintained, with a minimum lot size of one hectare (2.5 acres) when subdivision averaging takes place unless the subdivision is for

the purpose of creating a park, ecological reserve, community land trust or other community service use.

6.3.3.2 Exceptions to policy 6.3.3.1 may apply in the following circumstances:

- a) Where two owners have jointly owned a property between 3.5 hectares and 4.5 hectares designated Rural Residential and over the span of time find that continued joint ownership is not feasible. A minimum lot size not smaller than 1.0 hectare may be considered for subdivision if the applicant submits an application using the amenity zoning policies of this Plan.
- b) On property described as Lot 10, Plan 48077 designated large Lot Residential / Water Supply Protection Area in the previous plan, a minimum lot size of 0.4047 hectare (1 acre) with an average lot size of one hectare (2.47 acres) may be considered for subdivision.

Deleted: density transfer or

6.3.3.3 The principal use in this category should be residential with any accessory uses consistent with the residential character.

Deleted: 6.3.3.3 At least half of the number of lots created through subdivision, which are smaller than permitted average lot size should be larger than permitted minimum lot size.

6.3.3.4 Only one dwelling unit should be permitted on parcels smaller than 3.5 hectares (8.75 acres) and a maximum of two dwellings shall be permitted on lots 3.5 hectares (8.75 acres) or greater.

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6.3.3.5 Home occupations may be permitted but shall be limited to those having little impact on the rural residential character of the area and its environmental qualities.

6.3.3.6 Public access to the existing trail system shall be secured wherever possible through dedication, covenant or easement.

6.3.3.7 New road development in association with subdivision in this designation is discouraged and the use of allowances developed as public trails to provide vehicle access to lots created by subdivision in this designation shall not be supported.

6.3.3.8 The use of water catchment and storage systems for household and garden use for new and existing development shall be encouraged.

6.3.4 Forest

Background:

Land in this category has high scenic, aesthetic and ecological value and includes some of Hornby's highly visible elevated land. It is made up of important forested water catchment areas and areas of very steep slope (which are identified on schedule B).

There are many long established and well-used trails enabling public enjoyment of the forest landscape and the scenic viewpoints on the escarpments. Potential for land slippage exists in the steeply sloping areas, evidenced by the closure of the shoreline road from Ford Cove to Shingle Spit due to persistent slides. Public access for recreation is of prime importance to the community. The uniqueness of these areas is intended to be preserved while allowing residential use. Because these areas are vital for water catchment, ground disturbance should be minimized and forest cover retained in order to protect the groundwater recharge function. The whole of the west side of Mt. Geoffrey, known as The Bench, is a slump area particularly vulnerable to earthquake activity.

Area

The areas identified on Schedule B (Map Designations) as F (Forest) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are to:

- (1) preserve scenic, aesthetic and ecological values;
- (2) minimize ground disturbance and retain forest cover in order to protect water catchment areas;
- (3) preserve traditional public trail access through forested areas especially to escarpment view points;
- (4) promote retention of large parcels of land;
- (5) provide some limited opportunity for land sharing without encouraging subdivision,
- (6) maintain the visual quality of the residential neighbourhoods; and
- (7) allow for a wide diversity of home occupations subject to regulations which ensure maintenance of the rural residential character of the areas designated Rural Residential and to ensure minimal negative impact on neighbouring properties.

Policies:

Policies in subsections 6.1 and 6.3.1 apply to this subsection.



6.3.4.1 For any subdivision of properties in the Forest designation, an average lot size of 16 hectares (40 acres) should be maintained, with a minimum lot size of four hectares (10 acres) when subdivision averaging takes place unless the subdivision is for the purpose of creating a park, ecological reserve, other community service use or a community land trust.

6.3.4.2 Residential use of land should be permitted in the Forest designation.



6.3.4.3 Only one dwelling unit should be permitted per parcel and two dwellings if the parcel is over four hectares (10 acres).

- 6.3.4.4 Setbacks of buildings and uses from cliff edges and retention of vegetation should be required to protect the slopes from erosion.
- 6.3.4.5 Home occupations may be permitted subject to land use bylaw regulations and should be limited to those types having a low impact on the natural forested character of the area or other environmental qualities.
- 6.3.4.6 Development Permits should be required for all new construction, road development or other modifications to the ground, or alterations of the forest that may have an impact upon natural biodiversity or ecologically sensitive areas.
- 6.3.4.7 Public access to the existing trail system should be secured wherever possible through dedication, covenant or easement.

6.3.5 Housing

Background

A 2008 report entitled *Housing Needs on Hornby and Denman Island* prepared by Eberle Planning and Research notes that "the recent prolonged boom in vacation property sales has affected both islands with steadily rising house prices". In the last census period, median house prices on Hornby increased by 116% while incomes increased by only 7%. (An income of \$60,000 is required to buy an average non-waterfront home. The median household income is \$37,689.) The number of rental units declined by 7% in this period and now only 18% of dwellings are rented compared with 30% for BC. The average Hornby renter has moved 12 times. While 90% of elders own their homes, almost half of these need repairs.

The report estimates that at least 97 Hornby households are in housing need. The report recommended that a) approximately 30 affordable housing units could address the needs of Hornby renter households in need who prefer ownership, b) ten elder housing units are required to meet anticipated need over the next 10 years, c) secondary suites / dwellings could address the housing requirements for the minimum 17 single-person renter households in need and renters without year-round accommodation and d) provision for emergency/temporary housing would help address housing shortages in the summer and housing crises in the winter. It also proposes support for renters, repair assistance for elder home-owners and home care for elders. The 2004 Hornby Island Advisory Housing Committee Report included recommendations with respect to secondary units, temporary summer accommodation and the formation of a community land trust.

There are three Hornby Island organizations with a housing focus: Hornby Island Elder Housing Society, Islanders' Secure Land Association and Hornby Outer Island Housing Society. Two properties are currently zoned for community housing.

For purposes of interpretation the following terms are used in this section:

"Affordable Housing" – housing that is by intent and policy more affordable than identical housing that is or could be provided elsewhere in the community and is housing that by design and size provides for residential accommodation that can be acquired with 30 per cent of the median gross income of families or individuals on Hornby Island.

“Rental Housing” is housing that is available by payment of rent for occupancy for a minimum of one month and can include any form of housing that is available for rent.

“Special Needs Housing” is housing to accommodate persons who may have special needs due to age, health, disability or other factors that may require special housing characteristics.

“Community Housing” is housing that is provided specifically by bylaw to address affordable or special needs housing requirements, including housing that is provided on land designated for community services use, but community housing does not include housing that may be provided as part of a land cooperative; as a secondary suite; as part of a mixed use development such as in association with a commercial land use or as a secondary dwelling on a property; even though such housing may contribute to the provision of housing that is affordable, available for rent or that accommodates the needs or persons with special needs. The Community Housing designation is intended to designate areas that would be suitable for such housing.

Land Co-operatives involve co-operative ownership of some large parcels which have been viewed as consistent with the character of the community. The co-operative lifestyle on rural large parcels of land has required fewer roads, allowed sharing of resources, and made the acquisition of property more affordable for members. The Land Co-operative designation is intended to promote the retention of larger parcels and rural character, while still providing an opportunity for cooperative land sharing and the benefits it provides in terms of affordable housing. Land in this designation may be held by organizations such as community land trusts, co-operatives established under the “*Cooperative Association Act*” or under a corporate ownership structure owned by resident shareholders.

Area

The areas identified on Schedule B (Map Designations) and areas with the CH (Community Housing) and LC (Land Cooperative) designations in particular are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to provide for a range of housing opportunities including the creation of affordable, rental and special needs housing;
- (2) to enable affordable, rental and special needs housing options that are compatible with the Island's environment and character;
- (3) to provide for community initiatives to address the housing needs associated with age, disability, and/or moderate and low income through the provision of community housing;
- (4) to provide opportunity for non-profit housing situations to meet the needs associated with age, disability, and/or moderate and low income; and
- (5) to support land cooperatives with the intention of providing opportunity for common ownership through co-operative land tenure.

Community Housing Policies

Policies in Section 6.1 and section 6.3.1 apply to this subsection.

6.3.5.1 The principal use in the Community Housing (CH) designation should be affordable or special needs residential.

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- 6.3.5.2 Residential and Community Service Use designated parcels that have demonstrated ability to meet Provincial Ministry standards of water, used water (sewage and waste water) treatment and other health and environmental requirements, may be considered upon application for a Community Housing designation and subsequent site specific rezoning and regulations. A development plan should be requested upon application for redesignation or rezoning that includes information and future development phases including projected densities, impacts on the land and neighbourhood including the provision of waste supply, waste disposal and retention of natural vegetation.
- 6.3.5.3 A housing agreement may be required upon application for redesignation and rezoning to Community Housing.
- 6.3.5.4 Criteria that should be addressed in the provision of community housing includes:
- (a) the form of tenure of the housing units;
 - (b) the availability of the housing units to classes of persons if special needs are to be accommodated;
 - (c) the administration and management of the housing units, including the manner in which the housing units may be made available to persons within a class referred to in paragraph (b); and
 - (d) rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time, as specified in an agreement or as determined in accordance with a formula specified in an agreement.
- 6.3.5.5 Community housing developments should only be located where there is compatibility with existing and potential land use on neighbouring parcels.
-  6.3.5.6 Community housing developments should be of a scale and character that is compatible with the neighbourhood ambience and the natural environment.
- 6.3.5.7 Lot A, Section 11, Hornby Island, Nanaimo District, Plan VIP87054 and Lot 1, Section 11, Hornby Island, Plan 87990 may be used to provide affordable or special needs housing.

Affordable Housing

- 6.3.5.8 Shared land ownership is recognized as one means of providing a more affordable ownership of land and may be supported in land use regulation in lieu of subdivision of land where supported by policy in section 6.3.3 and section 6.3.6 of this Plan.
- 6.3.5.9 A campsite operated by a non-profit society may be considered within the Community Service Use designation as a means to provide temporary summer accommodation for summer workers, summer visitors and displaced residents who can not otherwise find accommodation.
- 6.3.5.10 Housing should be permitted on land designated for community service use provided such housing is affordable or provides for persons with special needs.

Rental Housing

- 6.3.5.11 Residential use should be an accessory use on land zoned commercial use and may be a means to provide rental housing opportunities.

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- 6.3.5.12 A secondary suite, limited in size and contained within a permitted dwelling, may be permitted on larger rural lots in central areas of the Island (in accordance with policies in section 6.3.3 (Rural Residential) of this Plan) and despite section 6.3.3 on lots larger than 3.5 hectares in areas located within two kilometers of either the junction of Central Road and Sollans Road or the junction of Central Road and St. Johns Point Road in order to provide rental opportunities provided the owner or residential tenant occupies the principle residence.
- 6.3.5.13 A detached unit used to provide non-permanent accommodation for a relative or a care-giver or to provide non-permanent affordable rental accommodation to a community resident may be permitted through a Temporary Use Permit (in accordance with guidelines specified in Section 6.10 (Temporary Use Permits)), but use of such a permit will only establish the temporary nature of such use and will not manage who can occupy the non-permanent accommodation.

Advocacy Policies for Rental Housing

- 6.3.5.14 Owners of land where a second dwelling is permitted are encouraged to provide the second dwelling as on going rental accommodation to increase the available rental housing supply unless the second dwelling is otherwise used or needed for use by the owner.
- 6.3.5.15 Agreements under the *Residential Tenancy Act* are strongly encouraged for the rental of dwelling units for periods of one month or longer.

Special Needs Housing (including housing for seniors)

- 6.3.5.16 Lot B, Section 10, Nanaimo District, Plan 18085 , which is zoned for elder housing, may be considered for zoning amendments to increase the number of units, according to the carrying capacity of the property and may be expanded through the acquisition of adjoining land.
- 6.3.5.17 A supported living facility, a hostel and other facility for providing emergency and/or temporary accommodation should be permitted on land zoned for community service use (in accordance with policies in section 6.2 (Community Service Use) of this Plan).
- 6.3.5.18 The Local Trust Committee may explore opportunities for temporary accommodation for summer workers and/or displaced residents.

Advocacy Policies for Special Needs Housing

- 6.3.5.19 Hornby Island residents are encouraged to provide and support home care and home repair assistance initiatives for seniors as a means of extending the opportunities for independent living.
- 6.3.5.20 Where appropriate to person's needs and preferences, Hornby Island residents are encouraged to make available in their homes opportunities for boarding and other joint living arrangements to expand the range of living opportunities for persons with special needs or who seek affordable housing.



Land Co-operatives

- 6.3.5.21 Upon application, properties 4 hectares or greater may be considered for redesignation as "land co-operative" and for rezoning based upon a development plan that addresses

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projected densities, provision for water supply and waste treatment, impacts on the neighbourhood, retention of vegetation and a limited footprint on the land resulting from restricted size of dwellings and shared facilities where possible.



6.3.5.22 Three properties have been designated as Land Co-operatives as a result of this Plan. Subsequent land use bylaw regulations may be created to address historical situations where parcels are in common ownership with each member owning a share believing the share granted him/her the right to build a house.

6.3.5.23 The principal permitted uses in this designation should be residential and agricultural.

6.3.5.24 Home occupations subject to land use bylaw regulations may be permitted but shall be limited to those having little impact on the area's character and environment.

6.4 Agricultural

6.4.1 Agricultural

Background:

The early development of Hornby Island included agriculture as a primary occupation. However by 2009 the Assessment Authority listed 190 parcels with an agricultural assessment. Many of the largest holdings with good soil have now been subdivided or are vacant. Residential uses of agricultural land has increased pressure for subdivision. Small-scale farming operations serving primarily local needs are prevalent.

Policies in this section refer to the use of any land for agriculture and do not necessarily deal with issues of preserving land in the Agricultural Land Reserve. Section 6.4.2 of this Plan contains policies on the preservation of the Agricultural Land Reserve which is considered a natural resource of the Island. Land Use Bylaws in Agricultural areas have a traditionally established a minimum subdivision potential of 16 hectares (39.5 acres) or greater unless otherwise noted.

Agriculture on Hornby has been declining and many prime agricultural regions have previously been subdivided or are not being actively farmed.

Area

The areas identified on Schedule B (Map Designations) as AG (Agriculture) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to support continuing agricultural use of land and associated activities;
- (2) to ensure that the use of land in the Agricultural designation does not compromise the capability of the land for future food production;
- (3) to encourage retention of large parcels of land for agriculture; and
- (4) to ensure agricultural practices do not cause contamination of the groundwater resource.



Policies:

Policies in subsection 6.1 apply to this subsection.



6.4.1.1 For any subdivision of properties designated Agriculture a minimum parcel size of 16 hectares (39.5 acres) should be maintained except that a minimum parcel size of 4 hectares (9.88 acres) should be permitted on the portion of Parcel C (DD 199735I) of the South East ¼ and the East ½ of the South West ¼ of Section 10, Hornby Island, Nanaimo District.

6.4.1.2 The principal uses in this designation should be agriculture and residential.

6.4.1.3 One dwelling (which may contain a secondary suite) may be permitted on lots smaller than 3.5 hectares (8.6 acres).

6.4.1.4 On parcels 3.5 hectares (8.6 acres) or greater the following should be permitted:
a) one dwelling with a secondary suite within the dwelling; or



two dwellings, with the second dwelling limited in size, and if the land is in the Agricultural Land Reserve the second dwelling should only be permitted if the second dwelling is necessary for farm use as determined by the Local Trust Committee in consultation with a Provincial Regional Agrologist; or if authorized as a non farm use by the Agricultural Land Commission.

- 6.4.1.5 Home occupations which do not impinge upon the principal farm use and which will not cause any degradation of the land nor reduce its capability for agricultural production should be permitted, subject to bylaw regulations and shall comply with Agricultural Land Commission regulations where applicable.
- 6.4.1.6 All agricultural activities should be conducted in accordance with the Agriculture Waste Control Regulation, *Waste Management Act*, the *Farm Practices Protection (Right to Farm) Act* and the *Health Act* administered by Ministry of Environment.
- 6.4.1.7 Commercial land-based aquaculture operations should be regulated by zoning. Before any application for a rezoning to allow upland aquaculture (using freshwater or saltwater ponds or tanks) shall be considered, a site specific analysis of the potential impacts of water consumption, waste disposal, drainage or potential spills on the surrounding land and upon surface water and groundwater may be required.

Advocacy Policy

- 6.4.1.8 The spreading of agricultural waste should be regulated such that water courses or groundwater resources are not contaminated.

6.4.2 Additional Policies for Land in the Agricultural Land Reserve

Background:

Agriculture is the traditional land-based economic activity of Hornby Island. There are about 824 hectares (2060 acres), 27% of the land base, in the Agricultural Land Reserve, and subject to the *Agricultural Land Commission Act*, which was intended to preserve land with agricultural potential to provide a secure source of food for the future residents of the Province. Farming is encouraged in parcels within the Reserve and non-farming use is regulated by the Commission.

There are 102 parcels on Hornby located within the Land Reserve. The average area of these parcels is 7.2 hectares (18 acres). This land is of high to medium capability for agriculture and is reserved for present or future production. Schedule C, the land status map, identifies land in the Agricultural Land Reserve and Schedule B, the land use map, shows land used primarily for agriculture, most Agricultural Land Reserve land falls in that category.

Area

The areas identified on Schedule B (Map Designations) as AG (Agriculture) and lands within the Agricultural Land Reserve are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to retain land with potential for agriculture;
- (2) to ensure that agricultural land in the land reserve is not degraded; and

- (3) to enable accessory uses that are compatible with farming and the preservation of agricultural land.

Policies:

6.4.2.1 The retention of the Agricultural Land Reserve and the Agricultural Land Commission to protect against the loss of the potential for self-sufficiency in agricultural production in the Province of British Columbia is supported.

 6.4.2.2 Land designated agricultural that is proposed for non-agricultural uses deemed to be in the public interest by both the Agricultural Land Commission and the Local Trust Committee may be considered for rezoning and for removal from the Reserve, the latter being preferred if other land of comparable or better agricultural potential being added to the Reserve.

6.4.2.3 The minimum parcel size within the Agricultural Land Reserve designation should be 16 hectares (39.5 acres) but smaller lots may be created where a portion of a parcel has been leased to another farm operation for at least the five previous consecutive years and such subdivision is approved by the Agricultural Land Commission.

6.4.2.4 To support existing agricultural operations, accessory uses should be permitted where such uses do not impinge on the principal farm use and will not degrade the land nor reduce its capability for agricultural production, provided such uses are authorized by the *Agricultural Land Commission Act*.

6.4.2.5 Temporary non-agricultural uses of existing buildings on agricultural land involving no impact upon the land itself or the principal farm use, may be considered upon application for a Temporary Use Permit which may include specific conditions to address impacts such as noise, parking, water, supply and waste disposal.

6.4.2.6 Uses should be regulated in buffer areas on properties adjacent to land in the Agricultural Land Reserve to minimize any adverse impacts.

6.4.2.7 Soil removal except for purposes of improving the agricultural soil resource on Agricultural Land Reserve lands subject to provisions of the *Agricultural Land Commission Act* should not be permitted.

6.4.2.8 The processing and sale of farm products together with the retailing of some off-farm products as authorized by the Agricultural Land Commission should be permitted.

6.4.2.9 Farm Use as defined by the Agricultural Land Reserve Use, Subdivision and Procedure Regulation is permitted within the Agricultural Land Reserve and may be regulated by land use bylaw.

 6.4.2.10 Education and research facilities except schools under the *School Act*, should be permitted, provided that the buildings and structures necessary for education and research do not exceed 100 m² on any parcel.

Advocacy Policies

6.4.2.11 The Ministry of Energy, Mines and Petroleum Resources is requested to ensure there is no extraction of gravel in areas designated agricultural.

Policies:

6.5.1.1 The commercial development at the intersection of Central Road and Shields Road as part of the Co-op property should be retained as the major commercial service centre for Hornby Island.

6.5.1.2 Existing smaller commercial service centres with accommodation facilities should be retained at Fords Cove and at Shingle Spit Road near the ferry terminal (currently known as the Hornby Island Resort property).

6.5.1.3 Limited commercial use for a bakery may be retained on part of the south ½ of the southeast ¼ of Section 15, Nanaimo District, Hornby Island currently known as the Cardboard House Bakery lot.

Comment: Site changed from Limited Commercial to Retail and Personal Service with addition of this policy.



6.5.1.4 Limited expansion of commercial zoning to allow for small scale retail and personal service use with secondary residential use may be considered based upon the following criteria:

- a) close proximity to existing commercial sites to reduce travel requirements and greenhouse gas emissions;
- b) protection of the rural character of the island and the area of proposed development;
- c) minimization of impacts upon adjacent lands;
- d) provision of a sustainable water supply, waste treatment and parking;
- e) retention of trees and green space;
- f) utilization of low-energy technologies;
- g) safe traffic pedestrian and vehicle traffic patterns and promotion of pedestrian friendly and bicycle use facilities and other green initiatives where practical such as home delivery; and
- h) in locations as provided for in policy 6.2.7 (Community Service Use) of this Plan.

6.5.1.5 The degree of servicing, including roads and parking, the provision of open space, signage and the form and character of any new commercial development should be regulated through Development Permit.

6.5.1.6 The minimum parcel size should be one hectare (2.5 acres) for any subdivision of property designated for commercial use.

6.5.1.7 The principal land use should be small-scale commercial business.

6.5.1.8 Residential use may be permitted as a use secondary to a commercial use.

6.5.1.9 Regulations for any commercially-zoned lot may provide for a mix of compatible uses to enable a clustering of services on land designated as commercial.

6.5.1.10 Ribbon or strip development is not supported.

6.5.1.11 Temporary Use Permits may be permitted for:

- a) temporary use;
- b) a period of evaluation of a new commercial venture (that does not involve significant new development) prior to application for rezoning;
- c) uses for a period of time to enable impacts to be assessed before any further permitting of the use; or

d) seasonal activities.

- 6.5.1.12 Land may be rezoned to supply an off-site parking lot to a commercial use within 100 meters of the property containing the commercial use without an amendment to the Official Community Plan map Schedule "B" provided the zone does not permit associated structures nor human habitation of vehicles.

6.5.2 Visitor Accommodations and Tourism

Background:

Hornby Island has become widely known for its scenery, recreational opportunities, ambience, and locally created crafts and art. The Island's increasing popularity as a summer destination has made tourism both a key component of the local economy and a cause for concern because of its impacts. Island services, such as ferries, roads and the recycling depot, become heavily loaded in the summer. Fragile ecosystems are susceptible to degradation. The greatest demand for water is generated at the time of declining groundwater availability while the adequacy of existing systems to handle the volume of sewage and used water is questionable. The large influx of people can be stressful to a small community and can present safety and law enforcement problems.

This creates the challenge of providing visitor accommodation in a manner and at a level that caters to visitors and provides much-needed employment while protecting the Island's environment, sustaining its resources and amenities and preserving the ambience and character of the community.

Unsupervised and unserviced camping is not considered desirable because of the impact on quiet residential or rural neighbourhoods, the risk of fire, and because public services are not readily available. The provision of such facilities as public washrooms and waste disposal sites could place a burden on the available water supply and thereby threaten the availability of those resources for use by the local community population. Currently, the Island is supplied with visitor accommodations in the form of five campgrounds, three resorts with rental cabins and a restaurant, and several Bed and Breakfasts. Short-term rental of residential units has been a long-standing means of providing visitor accommodation, but there is also concern about impacts, both in neighbourhoods and cumulatively.

The Whaling Station Bay/Anderson Drive area and other small lot areas have been identified as having ground water supply problems due to density of development and vulnerability of the aquifer. Limiting occupancy for any visitor accommodations (e.g. Bed and Breakfasts) to levels of an average household size (four persons according to Statistics Canada) may help address such water supply issues.

Area



The areas identified on Schedule B (Map Designations) as VA (Visitor Accommodation) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to allow, through appropriate zoning, for a variety of types of small-scale visitor accommodation operations that meet health, safety and environmental objectives;

- (2) to allow forms of accommodation which have the least impact on the quiet rural character of the Island;
- (3) to ensure all accommodations can be adequately serviced;
- (4) to allow for recreational opportunities to the citizens of the Province without stressing the existing natural and social systems and services;
- (5) to encourage a kind of tourism which is compatible with preserving and protecting the environmental and social qualities of Island life for present and future generations and to discourage large scale tourist accommodation;
- (6) to emphasize activities which involve quiet, low impact use of existing natural features and amenities rather than man-made ones; and
- (7) to prevent undue cost to the local taxpayers in providing basic facilities for visitors.

Policies:

6.5.2.1 Accommodation for visitors should be environmentally sensitive, small-scale and low density and may be dispersed around the Island. Convention centers or multi-room hotels should not be permitted.

6.5.2.2 "Destination resort" type development, designed to draw large numbers of tourists at one time, is considered inappropriate on Hornby Island and should not be permitted.



6.5.2.3 Applicants for visitor accommodation zoning should provide a Development Plan and be able to demonstrate that there is sufficient available water supply (including utilizing rainwater catchment and storage systems), effective and approved sewage and used water treatment, waste disposal capability and adequate provision for parking to serve the business and clientele both at the time of application and at ultimate projected growth levels. A hydrological study may be required in situations where there is reason to be concerned about impacts upon the groundwater resource.

6.5.2.4 The scale of use, the degree of servicing, including roads and parking, the provision of open space, signage and the form and character of any new commercial development for visitor accommodation should be regulated through Development Permit to retain a rural character and reflect community values.

6.5.2.5 One existing property, Lot A Plan 38493 Section 13 (known as Bradsdadslands), has been designated as Visitor Accommodation to recognize a historical legal non-conforming situation in which the parcel has been used for a campground and may be considered for rezoning for campground use upon application.

6.5.2.6 Large-scale campgrounds and other tourist facilities should be permitted only by rezoning. Only campgrounds without individual hook-up of power and water services are considered appropriate.

6.5.2.7 Visitor accommodation may be considered in the following situations if enabled by other policies of this Plan:

- a) Small resorts, hostels, lodges, cabins and camping facilities, guest houses or vacation home rentals (less than one month occupancy) on non-Agricultural Land Reserve land where allowed by using site specific zoning or through temporary use permit;
- b) Agri-tourism accommodation on Agricultural Land Reserve Land in accordance with Agricultural Land Reserve policy and regulations if zoning allows such a use; and

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At first, homes were generally rented to friends, acquaintances and relatives through “word of mouth” contact. This direct contact established a relationship between owner and visitor that provided connectivity to, and respect for, the property, the neighbourhood, the community and the environment.

The availability of Internet advertising and the establishment of property management companies have corresponded with an increase in the number of homes available for vacation rental and a transformation of many rental situations into a more commercial practice that does not always involve such a direct relationship between the property owner and those renting the property or with the neighbourhood or community.

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This change over time in the number and type of vacation rentals has led to concerns regarding the individual and cumulative impacts of an unregulated commercial land use happening in areas zoned for residential use. Some dwellings are advertised for year-round availability as visitor accommodation, some by the night. Some involve levels of potential occupancy much higher than normal household size. This can erode the residential character of neighbourhoods and put pressure on water resources in areas with documented problems.

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The previous Plan attempted to address this issue by including a policy suggesting that a vacation rental could be permitted and regulated as a home occupation. However, a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental.

Deleted: For several years prior to the adoption of this Plan, the Local Trust Committee considered potential options for addressing vacation home rentals. The option of permitting vacation rentals on all lots through zoning regulations precludes the ability to address potential impacts of concern and it removes future choices by the community to limit the number of residential properties used for commercial visitor accommodation. The option of addressing all existing and future vacation rentals through issuing Temporary Use Permits or rezoning properties was initially viewed as bureaucratic and not appropriate especially for those vacation rentals carried out on a modest scale.

Zoning property to allow for a vacation home rental use or addressing their use through approval of a temporary use permit are other options that can be considered.

Area:

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- 1) to recognize that there has been a long history of vacation home rental on Hornby Island without authorization by land use bylaw;
- 2) to ensure that the residential use of property and its residential character is retained where it is the permitted and established use;
- 3) to enable some traditional practice of vacation home rentals;
- 4) to address potential impacts of vacation home rentals if such uses are authorized; and
- 5) to support future evaluation of vacation home rental policies, recognizing that such uses are a significant and challenging issue for the Hornby Island community.

Deleted: In an effort to address vacation rentals recent efforts have included the establishment of an interim enforcement policy, occurring as a means of establishing some limits on vacation rentals until Plan policy is developed and as a means of focusing limited resources on those vacation rentals that create an impact upon neighbours or the environment or that contribute to a loss of residential character. An enforcement policy cannot replace land use regulation. This focus is now to provide guidance that responds to community needs, is effective in implementation and meets the overall objectives of this Plan. ¶

Policies:

- 6.5.3.1 Provision of paid accommodation for visitors to Hornby Island through vacation home rental is supported, provided that some management of the community and neighbourhood residential needs and other land use needs of Hornby Island can be addressed. Issues to consider in permitting vacation rentals includes minimizing nuisance impacts such as noise and parking congestion on the local neighbourhood;

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retaining neighbourhood character; health and safety issues and the application of a principle of welcome without commercial promotion..

- 6.5.3.2  Provision of a residence for vacation home rental beyond thresholds of residential land use, such as when commercial approaches are used in the promotion and management of such use, may be permitted through a temporary use permit or rezoning. Examples of additional issues to consider in such processes are water supply and sewage treatment capability; traffic management and environmental management, as well as the benefits that such accommodation may provide to the community at large

- 6.5.3.3 The rental of a residence for a term of one month or more should be considered a residential use of land while a rental of less than one month is a vacation home rental.

- 6.5.3.4 The use of a residence for a vacation home rental may be considered a residential use of a property where there is a second dwelling on the property occupied by the resident of the lot, in which case such a rental may be permitted as a home occupation.

6.5.4 Commercial/Residential General

Background

The Fords Cove area contains three properties that have historically been zoned for broad range of commercial uses, ranging from retail to resort use. The properties are not generally used for such commercial purposes at the present time and the zoning reflects a historical circumstance. The current owners have secured the properties with the commercial zoning, generally use their properties for residential purposes and may be reluctant to relinquish such commercial zoning unless it is done in a fair manner and is equitably applied to all affected landowners. The Local Trust Committee also faces the challenge of seeking to balance the needs of the larger community regarding commercial land use and that of the individual property owners and to also think of the needs of future generations.

Area

The areas identified on Schedule B (Map Designations) as CRG (Commercial/Residential General) are subject to the following objectives and policies.

Objectives

The objectives of this subsection are:

- (1) to recognize the historical commercial zoning of this area; and
- (2) to encourage residential land use for this area with limited or no commercial use in consultation with all of the affected land owners.

Policies

- 6.5.4.1 Zoning regulations should allow for residential use and limited retail and personal service or visitor accommodation.

- 6.5.4.2 An increased density of residential development may be considered if other commercial land uses currently permitted by zoning are removed from the list of permitted uses in the zone applicable to this area or from a particular property that is subject to the rezoning application.

Deleted: Additional policies may be considered as an amendment to this Plan to address the use of a residence as a vacation home rental. Such an amendment should be considered only if the proposals are consistent with the object of the Islands Trust and with the Trust Policy Statement and all of the objectives of this Plan are addressed with specific reference to minimizing impacts on the local neighbourhood; the retention of the residential character of that neighbourhood; noise and safety issues; water supply and sewage treatment capability; traffic management and guidelines for property management.¶

Deleted: Implementation of any policy to permit vacation home rentals may be examined by:¶

- ¶
- a) . amendment of this Plan:¶
 - (i) . to provide a new land use designation for vacation home rentals, and¶
 - (ii) . development of development permit area guidelines to address form and character of commercial accommodation; protection of the natural environment, its ecosystems and biological diversity; promotion of energy conservation, water conservation and reduction of greenhouse gas emissions for vacation home rentals; and ¶
 - ¶
 - b) . consideration of a rezoning application and development permit area application to allow for such use; or¶
 - ¶
 - c) . amendment of section 6.10 (Temporary Use Permits) of this Plan to allow for the vacation home rental use on a temporary basis and allow for future evaluation as to the impacts of the use. A temporary use permit should include conditions to address impacts that are identified in the review of the development proposal.¶

Deleted: (vacation home rental)

Deleted: should not be a permitted use on property zoned for residential use.¶

Deleted: should only

Deleted: or rezoning to allow for a guest house or vacation home rental

6.5.5 Home Occupations

Background:

Home Occupations are allowed to various degrees in most designations that permit residential uses. A home occupation is a type of commercial activity involving limited services and the sale of products crafted in the home or upon a property. General retail sale of fabricated products produced off the Island is not considered a home occupation. The retail sales of materials used in a home occupation (such as lumber, fabric and potting clay) is considered part of the home occupation. Home occupations must be clearly secondary to residential use and the character of the property must remain residential in appearance. There has not been any distinction in the type of permitted home occupation based upon lot size in zoning regulations to date but policies have existed that provide guidance in the development of new home occupation regulations.

Another form of home occupation is provision of accommodation as a Bed and Breakfast home occupation or as a second dwelling vacation rental home occupation. There has been a tradition of offering Bed and Breakfast accommodation or the rental of one's home for short periods of time (a week or two). The Bed and Breakfast use and rental of a second dwelling on a property is addressed as a home occupation and vacation home rental of a primary residence is addressed in section 6.5.3 (Vacation Home Rental).

In order to provide a range of possible activities that are compatible with the neighbourhood and environment home occupations can be regulated differently on different sizes of lots or in different areas if the island. Furthermore as opportunities for affordable housing develop, opportunities for home occupations that are unique to the needs of such housing might be considered.

Area

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to encourage small businesses to enhance the economy and self reliance of the Island community;
- (2) to allow opportunities for residents to carry out limited businesses on the property of their principal residence;
- (3) to ensure that there is no degradation of the environment or depletion of natural resources; and
- (4) to retain a rural and/or residential character in all neighbourhoods.

Policies:

6.5.5.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located. Home Occupation use should be clearly incidental to the use of the dwelling or parcel for residential purposes.

The types of home occupation uses are:

- a) Limited Home Occupations which should be allowed on all properties less than 0.1 hectares designated on Schedule B for residential use and shall be conducted entirely within the permitted dwelling;
- b) Basic Home Occupations which should be allowed on all properties 0.1 hectare or larger and less than 2.0 hectares designated on Schedule B for residential use and

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- (7) to consider allowing temporary non agricultural uses on land within the Agricultural Land Reserve or on land used for agriculture where there is minimal negative impact upon the agricultural land values and where applicable approval has been received from the Agricultural Land Commission as per policy 6.4.2.5; and
- (8) to allow light industrial home occupations that require a more rigorous permitting process than provided for under land use regulations for extended home occupations as per policy 6.5.5.9.

Guidelines:

6.10.1 Upon application, Temporary Use Permits may be considered for all parcels of land within the Hornby Island Local Trust Area, as shown on Schedule B, with the following exclusions:

- a) properties less than one quarter of a hectare (0.63 acre); ~~except for applications for vacation home rentals;~~
- b) land designated as PR1 and PR2 (park) and LR/WSPA (Large Lot Residential/ Water Supply Protection Area), as shown on Schedule B; and
- c) land identified as an ecologically sensitive area, as shown on Sensitive Ecosystem Mapping or Schedule D2.

Deleted:);

6.10.2 Temporary Use Permits for parcels within the Agricultural Land Reserve should only be issued for uses that do not conflict with Agricultural Land Commission policies and regulations.

6.10.3 A professional assessment of hydrological impacts may be required when the proposed use is within an identified groundwater recharge area or an aquifer classified as highly developed and if the proposed use involves more than minimal potential impacts upon the groundwater resource.

6.10.4 Where approvals are required from other agencies, these should be obtained prior to the issuing of a Temporary Use Permit.

6.10.5 The general conditions for issuing a Temporary Use Permit are as follows:

- a) adequate off-road parking should be provided;
- b) there should be adequate provision for approved waste disposal before consideration is given by the Local Trust Committee;
- c) commercial uses (other than very short term ~~uses or vacation home rentals~~) should be screened from adjacent residential uses;
- d) industrial uses should be screened from adjacent properties and roads;
- e) there should be adequate setbacks of the use to minimize impacts upon adjacent properties;
- f) noise generation should be addressed to prevent disturbance of the neighbourhood and to ensure compliance with regional district regulations;
- g) the use should be conducted so as to not risk contamination of the land, surface water or groundwater, including by making adequate provision for the safe storage of toxic materials;
- h) water supply should be addressed so as to not create negative impacts upon existing common water sources;
- i) other potential impacts upon the neighbourhood should be mitigated, including by limitations upon the hours of operation where appropriate;
- j) the owner of the property may be required to provide a security to guarantee the performance of the terms of the permit and should be required to provide an

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- undertaking to demolish or remove any building or structure and to restore the land to a condition specified in the permit, especially in circumstances where temporary housing is provided and such housing is no longer used for such temporary purposes; and
- k) lands with good agricultural potential should not be compromised by any use permitted by a Temporary Use Permit.

- 6.10.6 Applicants for Temporary Use Permits should address the issues identified in these policies in their applications and are strongly encouraged to consult with neighbours about the proposed use prior to making application.
- 6.10.7 Light Industrial activities which require specific consideration of impacts with respect to environmental protection, water use, waste generation, noise, odour, parking, or neighbourhood character, may be allowed upon application for a Temporary Use Permit that will contain specific conditions to address these impacts.
- 6.10.8 The Local Trust Committee should consider the climate change impacts of any significant change in reviewing temporary use permit applications.

6.10.9 In consideration of applications for vacation home rentals the Local Trust Committee may consider the following:

- a) the cumulative effects, both positive and negative, on the neighbourhood and island of all temporary use permits issued for vacation home rentals;
- b) mitigating measures such as screening or fencing to address potential impacts or to address neighbour privacy issues;
- c) limitations on any signage that may be placed on the property;
- d) prohibition of any use of recreational vehicles or camping on the property or any use of accessory buildings for vacation rental occupancy;
- e) the permit may request that the owner or manager post information for guests about awareness and sensitivity of the history of the K'omoks First Nation on Hornby Island;
- f) a requirement for information to be posted that will inform guests regarding the location of property lines by way of a map, any applicable noise bylaws, measures to address water conservation, fire safety, storage and management of garbage, septic system care and control of pets (if pets are permitted) in accordance with standards applicable by bylaw, as stated in the permit or as determined by the owner or manager to effectively manage the site;
- g) a requirement for scaled plans of the property showing a) location of the dwelling unit and accessory buildings and structures with setback distances from property lines; and b) the location of parking spaces provided for the vacation rental use;
- h) a requirement for the name and address and telephone/email information of contact persons who will be available 24 hours per day to respond to any concerns;
- i) the proposed maximum number of occupants;
- j) the proposed time periods that dwelling will be available for rental or months of the year when the rental will occur; and;
- k) other requirements that the Local Trust Committee may consider appropriate.

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We were assured after the raucous 2005 meeting and again in 2009 that STVRS would be left alone, but for a third time the Trust proposes, enforcement policies and changes to the OCP and By Laws (LUB).

At a March 23 Trust meeting many expressed fears, of significant negative economic impacts with the proposals. A number asked for a reason. The Chair responded that since 2002 the OCP 'allowing the casual rental as a home occupation, is contradicted when residence was impossible while renting to others' (considering home occupation as a state of residence –not a state of activity allowed in the current OCP) however, since 2009 Trustees have said ' STVR commercial activity is illegal' (Home Occupation activity is commercial and several lawyers dispute illegality), and the Trust has to enable STVRS (Bylaws do enable, but the converse is true-being enabled (or able) doesn't need a Bylaw). The Staff Report - HO-OCP-2009-2, pages 2 to 4 answers 'this activity interferes with residential planning as casual occupancy does not provide home life development.' (Possibly true if 64 % of properties were not owned by nonresidents- page 65 draft OCP). After an April 2 Public Information meeting Trustee Law added a 5th- that 'no Hornby bio-socio-ethic interchange between the renter and owner happens.' (A local Property manager can't fit?). Many of the problems proactives have appears to be that five not necessarily connected answers are given while the Trust proposes discordant modifications of the OCP. The Trust responses continually change, are confused, or just lack Transparency.

As the Staff Report rationale is the backup documentation for the Trustees decisions then the question asked has to be answered by the Report. If reasoning is flawed (or incorrect) - then detailed implementation is not going to be right or work.

It is difficult to understand that STVR activity interferes with home life development when in fact we are a mixed rural and resort community. This means

- 1) A number of resident islanders STVR while they
 - a. Trip elsewhere
 - b. Have two legal residences on the property one of which is rented.

For "a" the home is already used for home life and in "b" is a home occupation (both activity and occupancy). Providing resident owners obey density provisions, owners are currently doing exactly what they are allowed to do in the current OCP and the Staff Report, yet residents are going to be subjected to constant variations in the regulations for casual rentals by requiring Temporary Use Permits. (TUP) and other changes in a new OCP.

- 2) 64% of Hornby is secondary property -summer places. These properties are at odds to the Staff report, so need regulation?
 - a. Be empty or used ONLY as year round rented residences for ' home life development'? Or
 - b. Be licensed by way of TUPS with restrictions on their casual and STVR use.

No wonder there is dissonance to exactly what is going on. In "1", resident owners are allowed to conduct this activity by current bylaws but are going to be further regulated- a form of expropriation and "2 " is actual expropriation of nonresident owners rights. The result can only be reduced rentals of any kind. While in the mean time, any property used by an owner adjacent to a STVR – can be loaded with friends or family, does not have the same restrictions. It's not only confusing but also unfair and not right. If the Trust wants to regulate then it should use some variant of our B & B model- whatever reason they finally own up to.

Paul Martin, a fine Canadian Liberal Prime Minister, was reported to have said that his successful campaign to reduce Canada's debt was "driven, not by politics or ideology but arithmetic" There is also another arithmetic notion that relative (like %) and absolute numbers (like integers) provide different answers when compared to themselves or each other. So where is this going?

The Trust is part way through a policy direction that will permanently impact the character of the island and community with their approach to the problem of housing. A reason is given in the OCP on page 65 where it states that rentals consist of 18% of the residential pool, this number being below community averages. Stating a need to increase this number, opportunities for amenity traded land gifts, rezoning areas for denser cluster development- and an on going propensity to allow secondary accommodation units will solve this. Is this a complete or correct interpretation of the facts by the Trust? The OCP provides 2006 census back up numbers also p65. So what do the numbers actually say?

Dwellings on Hornby 968	100% or 968
Dwellings Occupied 56%	56% or 542
Dwellings Occupied by Owners 37% of the 968	37% or 358
Balance of Occupied Dwellings likely rentals or 542-358	19% or 184
Dwellings Unoccupied 968-542	44% or 426
Community Activity Ratio (CAR) rentals/(rentals +owner occupied)	34% or 184/(184+358)
Statistical Number of rentals available 34% x 426	34% or 144
Argue a further 50% reduction of CRA 50% of 144 rentals available	17% or 72

The Trust's 18% is the 19% of rentals in the calculations (rounding errors). What 18% represents though is a % of the TOTAL dwellings on Hornby where 44% are not occupied. Most jurisdictions don't have that level of unoccupied houses, but to adjust for the negative effect of empty house numbers on occupied owner/ rental ratios, all jurisdictions use the Community Activity Ratio (CAR) – that is comparing rentals to the total OCCUPIED Houses, which is a more realistic indication of the owner/rental character of the community For Hornby the CAR is 34%, which is actually higher, then most communities.

So what? And does this make any sense?

The 18% doesn't give a proper picture of being a problem- and as such doesn't provide a solution. The 18% makes an assumption that all empty houses are not available for rental- but in fact we don't know what that might be- unless some effort were put into finding out. Statistically it would be proper to use the CAR because it is the characteristic footprint of our owner/rental occupancy ratios. This would lead one to calculate that 144 of the 426 houses could be rentals. Even if just a portion of these- say 1/2 or 72, it is more than likely that currently built housing stock can look after housing needs. (Another statistic used in the OCP is 97 families have housing needs- another arithmetic article for next month).

The conclusion- is that the Trust is increasing development and density (somewhat counter to their preserve and protect mandate) to answer their newfound focus in community development, while such development already exists. There are more available rentals out there at a lower environmental and financial cost if only the effort was made to find them. There is also a job here for someone - which is exactly what my spouse and I had from 1984 to 96.

R Gee

Former Trustee & Former Wind and Waves Property Management Owner

Housing A Question of Numbers Part 2

In part one we pointed out that this exercise was driven, not by “politics or ideology but arithmetic”. If one keeps their First Editions, look back to calculations on the Draft OCP given for housing availability. This suggests that around 426 (44%) of 968 dwellings are left vacant--- although the OCP points out that there are actually 100 plus more (some 1080). Reducing 1080 to 968 is what statisticians call a conservative’s principle, reducing the primary data to account for possible errors. The conclusion in the previous article was that we are not sure of how many rental houses are available- aside from occupied rental houses- but with 44% of dwellings empty- more then likely there are alot more houses to be had for rent if effort were put into finding them out. The other side of the question to how many are available- is how many are needed.

The OCP quotes a study from 2006 that 97 families were in need of housing. What does this say and is that correct too? Using the scientific approach on the OCP data.....

The Population quoted as 1075 at the time

The % of the Older Households given as 78% or 839 persons

The % of Younger Households therefore is 22% or 1075-839 or 196

The foregoing treats each **individual** as a household.

Furthering the data to find average households

Older households likely would be 1 or 2 persons no children –the Cdn standard is 1.5 persons

Younger households, Couples, Singles, Single & Multiple Family the Cdn Standard is 2 persons

The number of older households is 837 persons divided by 1.5 or 479 Households

The number pf younger households is 196 persons divided by 2, or 98 households

Using population approaches the number of households is 479 older and 98 younger or 577

The OCP points out that 542 Dwellings are occupied. Therefore Households lacking a dwelling are 577 Households-542 Dwellings or 35. The 35 value is likely high as there are slightly more younger households here then the 98 while the older household number given would be slightly lower i.e. the number of total households of 577 would be too high because we reduce the household numbers more by dividing the total population by a larger number of “2”

households. Subtracting the 543 occupied dwellings from a lower household count would result in a lower number than 35

So using population and dwelling stats in the OCP, the result is 35 households in need of accommodation, yet the referenced study says 97. Additionally in 2006 the Trust and a housing committee struck for housing needs did their own study- and the number in need that responded was significantly less then the 35. Indeed anecdotally and I could stand to be corrected- only 6 family units showed up for a meeting on the question. So What?

Well 6 to 35 families needing housing in 2006 is shown by a local survey, - but even if wrong they are an order of magnitude i.e. 1/3 less then what the OCP is reporting from a professional Housing report. The conclusion here is that the data likely is not accurate and this says we don’t really know how many households lack housing while our Part 1 analysis in the last paper issue shows we don’t know how many rentals are available. Not withstanding, there are still 426 plus empty houses out there, a 22% rental success rate on the 426 empty houses would look after the 97. Once again, policy driven activities in Housing will be incorrect if based on poorly analyzed numbers.

R Gee

(608 words Title and Signature included- 600 word limit)

From: Grant Hammond [mailto:WGHammond@shaw.ca]
Sent: April-18-11 10:47 AM
To: northinfo
Subject: Official Community Plan Review

We have had the opportunity to review submissions to the Hornby Island Trust Committee for the Official Community Plan Review, including those sent by Elspeth Armstrong, Dan Bruiger, Helen Grond and Stephen McGrath, Bruce Pendergast, Judy Cross and others. Our education has been much enhanced by their extremely thoughtful, well laid out comments and thoughts. What a fascinating story of power politics in the islands! What an opportunity to see manipulation on a quasi provincial level!

The Bottom Line.

Other submissions have laid out the history and current undertakings of the issues surrounding STVRs far more knowledgeably and eloquently than we could. One of the submissions states **"On Hornby we still have not relinquished control over our own fully functional and working OCP document, which is solely ours to change –or to leave be, lest we forget that Hornby's constitutional OCP belongs solely to the community and to all of us as stakeholders of Hornby Island."**

We vote to let the people of Hornby come to their own governance conclusions in the matter of STVRs.

Grant and Sandra Hammond
Hornby Island
0446

From: Elena Feder [mailto:elenafeder@gmail.com]
Sent: Monday, April 18, 2011 2:42 PM
To: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: Letter of objection to proposed changes

To Whom It May Concern:

As a property owner and taxpayer on Hornby Island, for the longest time I could not understand whether the Islands Trust was a governmental body. Over time this question led to a very simple answer. I realized what I had suspected, that to go through the motions of an election to elect but two people as Trustees, is directly at cross purposes with a representational democracy. Two elected persons can rarely decide anything without a third vote to break a tie.

More enlightening still was to come to the full realization that the swing vote which decides every single land use decision on Hornby is routinely cast by a non-resident and non-locally elected individual who did not even live on the island, in this case a Trustee who, to make matters worse, won her own campaign on Denman by running on the promise to drastically reduce Hornby bound seasonal vacation traffic. As it turns out, my sense from the start that this was intentionally an undemocratic structure and decision making body was intuitively correct.

In reality, the Islands Trust, and its outreach arm, the LTC, appear to be nothing more than a land use planning department, in other words, functionally just an adjunct to the Regional District. Whether or not the LTC members have forgotten this fact, the Province has granted the Islands Trust very limited powers and even less actual authority, whether those who are part of it choose to try to exceed these limits or not.

Why, I had also asked myself, did the Islands Trust, and specifically the LTC, spend countless years going after home owners and trying to curtail something as indispensable to the local economy as short term vacation rentals?

Of late, I am given to understand that apparently the LTC thinks that houses not used for a few weeks of seasonal rental would somehow magically be willingly handed over as year round low rental housing. How in the world the LTC arrived at this erroneous conclusion is something I still don't understand. No one that I know in my Hornby social network would be willing to cease coming to Hornby in order to turn their homes over to year round renters.

In fact many people would rather sell than ever do so.

Yet the LTC's primary mandate seems to be the provision of housing for this purpose. It is this mandate that has been used to justify rotating and proliferating schemes for acquisition of cheap affordable rental housing, including using existing homes and re-arranging our OCP so as to displace any other uses for existing houses and homes which are owned by either year round owners or by occasionally absentee owners. I, for one, cannot accept that this motive serves as one of the primary reasons offered by LTC members as an argument for the necessity to restrict the practice of short term rental use of one's own private property on an island requiring two ferries to reach which has historically always been largely used as a destination for vacationers. It works as it is. Why change it?

Since then, I have discovered that this flawed logic by the LTC seems to be nothing more than the thinly disguised politics of envy put into practice to the detriment of all. It presupposes that our own properties are essentially theirs to reallocate to whomever the LTC arbitrarily defines as those in need, regardless of why or from where this demographic happens to originate before they choose to arrive on Hornby Island, at their behest.

It is truly amazing to realize that this LTC reallocation scheme turns out to be one of the main presenting forces behind this push to "proactive" reallocate property, a scheme which functionally serves to displace one group in favour of another group and to run anyone off island who is a property owner in need of seasonal income.

This attitude reveals a stunning lack of political and professional insight into just how most human beings respond to these kinds of baseless assumptions. Apparently the LTC defines as their top priority the

necessity to undermine the security of anyone who depends on income generated from short term vacation rentals. Why? For whose benefit?

The status quo has been democratically arrived at by the community itself. Yet despite our possession of a current OCP which endorses and fully supports this activity, has made certain that seasonal rentals are to remain included, and are to be encouraged as a home occupation for both part and full time owners, the LTC deems the will of the majority and a legal OCP to present a threat to their own agenda. The proof of willful disregard lies in the fact that the LTC is proposing to delete every last one of the clauses which protect us, which tells the whole story.

We are property owners who have worked long and hard to own property and who will not be either hoodwinked or deterred quite so easily.

I wish to go on record as strongly objecting to any further disregard or imposition on Hornby's own full and part time property owning community of any LTC initiated proposals. Such changes are vehemently unwanted, and certainly an OCP revision is uncalled for. This community has no need for any drastic alterations, the procedures for which lack both full transparency and indispensably necessary accountability.

This entire process has only drained the time, energy and life blood out of all who participate in what is tantamount to an example of the most extreme disrespect for this community and its people.

I also wish to object to the absence throughout this process of any demonstration or expression of genuine respect from the LTC for all of us who have been forced to participate repeatedly in fruitless activities of this nature only to preserve a status quo endorsed by the majority.

We continue to wait for any acknowledgement by this same LTC of the unavoidable relevance of clear cut Federal and Provincially granted vacation rental case law, which in turn constitutes the law of the land, and which is in place to serve to protect our private property rights from just such proposed encroachment.

Thank you for your attention.

Sincerely,

Elena Feder
3495 Hardwood Rd
Hornby Is., B.C., V0R 1Z0

From: robinsyd@gmail.com [mailto:robinsyd@gmail.com] **On Behalf Of** Robin Sydneysmith
Sent: April-18-11 3:41 PM
To: northinfo
Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: STVR

Hello,
please find our letter with respect to current discussion of STVR on Hornby.
regards,

Robin

--

Robin Sydneysmith, PhD
Researcher / Lecturer
Department of Sociology,
University of British Columbia
6303 NW Marine Dr.
Vancouver, BC, V6T 1Z1

Text: [604-799-6636](tel:604-799-6636)
Email: robin.sydneysmith@ubc.ca

Monday, April 18, 2011

Attention: Hornby Island Local Trust Committee

Re: Short Term Vacation Rental

Dear Committee Members;

First of all thank-you for the hard work and uncounted hours that we are quite sure you put in on behalf of the many different people who are connected to and care deeply about Hornby Island.

We have been the beneficiaries of short-term vacation rentals on Hornby Island for almost decade. That is, until last year when we were able to realize a long held dream to actually buy a piece of property in the Grassy Point area.

In the past we found STVR's an affordable and unique way to enjoy and experience Hornby Is. By staying in someone's home we felt connected to the island; it engendered a feeling of belonging and caring for both the property and the island in a way not found in commercial accommodations or even camping. STVR's are in this way special.

Now, STVR makes it possible for us to be owners. Our circumstances are such, and I imagine that we are one of many in this situation, that we would not be able to afford the costs of maintenance and repair, property taxes and utilities without the subsidy from renting out our place on a short-term basis to others who want to visit and enjoy Hornby Island.

We have reviewed many of the documents, submissions, and letters to the LTC with respect to STVR's and their somewhat ambiguous treatment in both the OCP and the LUB. Robin also attended the meeting in West Vancouver on April 4th. We do not pretend to be familiar enough with all of the history and subtleties involved with the issue to comment at length. Therefore, we are writing in simple support of STVR as a legitimate activity, irrespective of the permanent address of the homeowner. We feel that STVRs are a benefit to the community and to the vacationing public,c in addition to their obvious benefit to the homeowner. We hope that STVR can be formally recognized within either or both the OCP and the LUB in such a way as to protect the continuation of this long held practice and in such a way that is respectful and supportive of the social and ecological values of the wider Hornby Island community (which in our view includes all of us who love the island, even if we don't live there year round).

Sincerely,

Robin Sydneysmith and Deirdre Hay

3260 Gunpowder Trail, Hornby Island.

From: hornbybc@telus.net [mailto:hornbybc@telus.net]
Sent: Monday, April 18, 2011 8:55 PM
To: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: Say YES

SUBMISSION TO THE LTC REGARDING STVR's:

Please register my opinion to encourage/support/legalize/permit/etc. the use of homes on Hornby Island for vacation rental purposes.

One of the main reasons I have heard that the Trust is having reservations about endorsing Vacation Rentals is that we need to preserve "residential" use of homes.....being defined as having them available for people who live in them for 30 days or more.

I do not believe that anyone owns property on Hornby who does not intend to use it themselves, at some point in time. People don't buy property here as a rental investment, simply because it doesn't make economic sense.....the year round rents are too low, the chances of getting a tenant with no way to pay the rent too high. Trying to force owners to rent isn't going to work, more likely it would force people to have to sell their properties to those rich enough to leave them sit vacant.

Curtailing the main source of residential accommodation for the visitors would be very detrimental to the already limited Hornby economy.

I am in favour of the Trust strongly supporting vacation rentals, just say Yes!

**Ron Nessman
25 year resident**

One Lawyer's Opinion of the Current Legal Status of Short Term Tourist Accommodation Rentals, ("STR") on Hornby Island

The Hornby Island Official Community Plan, Bylaw No. 104, 2002, (the "OCP") expressly recognizes short-term rentals and contemplates their continued availability.

"ss. 6.3.1 Residential-General

...the majority of properties are owned by non-residents and most of these are occupied and/or rented seasonally..."

ss. 6.3.3 Small Lot Residential/Water Protection Area (Whaling Station Bay/Anderson Drive Area)

ss. 6.3.3.8 Bed and Breakfasts and short-term rents are permitted as a home occupation (subject to 6.3.1.7) providing the number of guests does not exceed the design capacity of the approved water treatment system.

ss. 6.3.3.10 ...The use of water catchment and storage systems for household and garden use, and in particular for Bed And Breakfasts and short term rental home occupations, shall be strongly encouraged."

ss. 6.5.2 Visitor Accommodations and Tourism

...Short-term rental of residential units has been a long-standing means of providing visitor accommodation, but there is also concern about impacts, both in neighbourhoods and cumulatively.

ss. 6.5.2.11 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

ss. 6.5.3.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located.

ss.6.5.3.7 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

The *Local Government Act*, (binding on Islands Trust), states that an OCP does not commit or authorize a municipality, regional district or improvement district to proceed with any project that is specified in the plan. It is intended to be a general statement of policy. However, as also pointed out in the *Local Government Act*, all subsequent by-laws enacted "must be consistent" with the OCP. The OCP itself acknowledges this restriction:

"...Section 884(2) of the Local Government Act requires that all bylaws enacted, permits issued, and works undertaken by the Hornby Island Local Trust Committee be consistent with the Official Community Plan".

In the BC Supreme Court case, Nanaimo (Regional District) v. BC (Information and Privacy Commissioner) {1991} BCJ No. 1283, (BCSC), the Judge states:

“...the OCP does have a legal effect on the government bodies referred to, in that it controls or restricts all future development. It also does have some legal effect regarding private landowners as well, because zoning by-laws, which effect them, must be consistent with the OCP”; and

“I am also of the view that the OCP is a by-law or legal instrument “by which the local public body acts”. When a regional district adopts an OCP by by-law it triggers, or brings into play, S. 884(2) of the [then] Municipal Act, which is a statutory obligation, and thereby requires all subsequent by-laws enacted and works undertaken to be consistent with the OCP”.

It is suggested that, as the OCP is currently worded, Islands Trust lacks the statutory power to pass a bylaw that prohibits STR, as that would be in direct conflict with the OCP.

Assuming the OCP could be read in such a manner as permitting the exclusion of STR, the question then would be, “Does By-law 86 operate in such a manner so as to effect that prohibition?”

Bylaw 86 (1993) permits Home Occupations in Small Lot Residentially Zoned Areas. “Home Occupation” is defined as a “*commercial activity conducted for gain within a dwelling unit or permitted accessory building by a resident of the lot on which the building is located.*” There is an enumerated list of activities “included” in the definition of “Home Occupation”. STR is not on that list. However, courts have consistently interpreted such lists as illustrative only, and not exclusionary.

It has been suggested that an off-Island owner is not a “resident”, and therefore, cannot undertake a “Home Occupation”. As was pointed out by the Ont. Court of Appeal in Toronto General Hospital v. Renfrew (Town) (1925), 29 OWR 151, 58 OLR 71, at 73, when quoting from the Chief Justice’s decision in Mellish v. VanNorman (1856), 13 U.C.R. 451, at p. 455:

“The term “resident”...is differently construed...according to the purposes for which inquiry is made into the meaning of the term. The sense in which it should be used is controlled by the reference to the object.”

It is of assistance to note that in the Ont. H.C. case Peterbaugh v. Marsbergen [1984] O.J. No. 392, the court was asked to define “residence”, and made the following observation:

“It is quite clear that a person may have more than one residence. For example a person may have a residence at his summer cottage and another residence in town. Having a residence at a summer cottage is not broken by a temporary absence from the cottage during the winter months...”

The Court continued on to state that:

“The word “reside” is very flexible and has more than once been said to be incapable of exact definition. The duty of the Court in interpreting any statute where the word is found is to attribute to it such meaning as will best give effect to the legislative will.... The true light must be found within the statute. All else only increases the darkness.”

It should also be remembered that section 6.5.3.1 of the OCP speaks of a home occupation as being conducted by a full-time **or part-time** resident of the lot on which the dwelling is located. [Emphasis added]

{ See also: Terminal City Club Tower v. BC (Assessor of Area No. 9-Vancouver) [2003] B.C.J. No. 1070, which held that individually owned strata-titled units remained residential units for the purpose of assessment, notwithstanding their acknowledged use as overnight, commercial accommodations, because ‘residential use’ did not have to include an element of extended duration. Although the case was overturned on Appeal on different, unrelated grounds, on the issue of the residential classification, the BCCA was satisfied that the view of the Chambers Judge regarding the residential status issue was correct. }

Furthermore, as the Judge in the Nanaimo Regional District case emphasized:

“The Courts are very protective of the rights of individual landowners, to do what they want with their lands. Hence, any statutory derogation from those rights must be clearly spelled out.”

It is suggested that nothing in Bylaw 86 meets this test.

As the above discussion indicates, it appears STR are not “illegal” as a result of the OCP. Nor are they “illegal” as a result of By-law 86. It appears that, in presuming that short-term rentals are currently “illegal”, Island Trust representatives have put much weight on the decision of the BCSC, (upheld without discussion by the BCCA), in Whistler (Resort Municipality) v. Miller [2001] BCJ No. 69. In the Whistler v. Miller case, the challenged bylaw included the following definitions:

““home occupation” means a craft or occupation conducted as an accessory use subordinate to the principal use of a residential dwelling;

“principal” means the primary purpose for which the land, buildings or structures are ordinarily used;

“residential” means a fixed place of living, excluding any temporary accommodation, to which a person intends to return when absent;

“temporary” means a total of less than four consecutive weeks in a calendar year; and

“tourist accommodation” means a building containing one or more habitable rooms or dwelling units that are used primarily for temporary lodging by visitors.””

In light of the relevant definitions contained in the Whistler by-law, the Court concluded that renting the dwelling in question out for short-term rentals was not “ancillary” or “subordinate” to its “principal, residential use” and therefore, it was not a permitted use. The Court found support for its conclusion from the fact that, (contrary to Hornby’s current bylaw), the Whistler bylaw expressly disallowed “temporary accommodation” from the definition of “residential” use.

The Court in the Whistler decision also found that by-law prohibiting STR was valid and not beyond the powers of the Municipality to pass, because STR are not a ‘normal and customary’ residential use. Therefore, in addition to upholding the validity of the specific bylaw in question, the Whistler decisions, (both Whistler v. Miller and Whistler v. Wright) would support the assertion that governmental bodies have the legal capacity to draft a bylaw that expressly prohibits temporary accommodation within certain zoned areas. However, these cases do not stand for the proposition that, in the absence of expressly permissive language within the relevant OCP and bylaw, short-term rentals are deemed “illegal”. Furthermore, the decisions most certainly cannot be said to override the expressly permissive language contained in Hornby’s OCP.

In the absence of statutory or case law authorities indicating otherwise, I am of the opinion that the courts would not find that ‘off-Islanders’ who currently personally reside in their Hornby dwellings only part-time, and otherwise rent those dwellings out for seasonal STR, are acting “illegally”.

In light of the fact that the Islands Trust Questionnaire currently being circulated contains an Islands Trust distributed Information Sheet that commences with the statement that “Commercial short-term rentals are currently illegal on Hornby”, one is left to question the validity of the responses received.

Please note that, in addition to being a practicing BC lawyer, (called in 1989), I am also a 50% owner of a residential lot on Hornby. My brother and I use our property part-time, and rent the dwelling as a STR for several weeks each summer. The comments herein reflect my opinion only and are intended to provide general information. Readers should not act on the basis of this information without first consulting their own lawyer who will provide analysis and advice based on their specific matter and facts.

From: Barbara Baird [mailto:barbara@island.net]
Sent: April-18-11 8:57 PM
To: northinfo
Cc: Tony Law; Fred Hunt; Louise Bell
Subject: OCP Review Hornby Island

Dear Local Trustees;

Thank you for your hard work on updating the Hornby Island Official Community Plan.

I would like to suggest that the wording around vacation rentals reflect more of the economic realities of living on Hornby in 2011. The proposed plan includes information on the census completed in 2006, and it says that property prices are out of scale with incomes that can be derived on the island. Property values have risen (and fallen only slightly) all over the Gulf Islands, not only on Hornby Island. In 2008, according to information in the OCP, median house prices on Hornby had risen 116% and income by only 7%. Other costs of living have also risen far faster than income, including land taxes, ferry transportation, gasoline, electricity, house insurance, and food. This indicates that all owners of Hornby Island properties have seen a marked change in the costs of living in their homes or, if they live off-island, affording their vacation home. This marked change has taken place over the last decade. For persons living on a fixed income, such as retirees, the financial impact of escalating costs must be considerable.

As a means of continuing to afford living on Hornby Island, many persons have resorted to renting their cottages or homes for a few weeks in the summer or other short period of time such as the May long weekend or Blues Fest. With this small additional income, ends can still meet. But how much money is actually involved?

If we assume an average weekly rental fee for a home of \$1000, which is a reasonable guess, and 8 weeks to 10 weeks rented for the whole year (again a reasonable guess), we are looking at an additional income of approximately \$8,000 to \$10,000. Cleaners, lawn mowing, supplies, garbage disposal, and repairs are necessary, costing perhaps around \$2,500. If a manager is used, perhaps \$2,000 to \$2,500 will go to that service. So the home owner may have a profit of something like \$5,000 to \$7,000 or less if they use a management service. With luck that will cover land taxes, insurance and fixed costs with a bit left over for ferries, gas, and a rainy day. No one is becoming wealthy renting their home to summer guests on Hornby.

There is nothing to draw visitors to Hornby for about 8 months of the year. The comparisons to Tofino and Whistler are nonsensical. There are no restaurants, entertainment, skiing, surfing, night life, whale watching, or even storm waves crashing on the beach. So the threat of this small home grown economy of vacation guests staying in private homes for a limited time each year is limiting in

nature. First, it is not very profitable. Second, it is very time consuming and inconvenient to the owner and only undertaken when absolutely necessary. Third, it would take a total revision of the way of life on Hornby Island to imagine a set of circumstances where visitors would want to come stay on Hornby in the wet months of their own free will.

This is more like the economic realities facing many Hornby Islanders. The infusion of money spent by vacation guests reaches other islanders including artists, cooks, market gardeners, etc., making a helpful contribution to the island economy. I would like to see this reality reflected in the background text on vacation rentals, rather than simply focus on the past and concerns for the future. (Did we ever really rent homes only to friends and family? I find that hard to believe! I would never allow my friends and family to pay to stay in my home and I doubt many other people would do so.)

Concerns for the future with a limited vacation rental economy on Hornby should be weighed against concerns for the future of Hornby without this fragile economic lifeline. What would it look like? Should this alternative future and the concerns that it raises also be included in the OCP?

I would also like to mention that, according to the OCP, there are 1088 properties on Hornby Island assessed for residential use. It says that 60% of residential properties are .5 acres or less. Since it says that 134 properties are vacant, that gives us 954 properties with some kind of dwelling or dwellings on it. That gives 572 lots of .5 acres or less and 382 lots greater than .5 acres. It makes sense and it is observable fact that most summer cottages or seasonal homes are on small lots. Year around residents are more likely to live on the larger lots and sometimes they are in land sharing arrangements on lots 10 acres or more. If we assume that one third of homes in the subdivisions are lived in year around, that number would be approximately 172 homes. If we assume that two thirds of large lots have at least one year around home, the number for them would be 252 homes. Since some 10 acre lots have two year around homes, the number would be higher than 252. My point in going over this data is to point out that the large lots should not be discounted by the planner and trustees as being insignificant in the overall picture of land use on Hornby. (Information has been presented in this manner at past LTC meetings. That is why I mention it.)

When vacation rentals take place on the larger lots, the impact on water resources and on neighbours is decreased. This should be factored in when considering policy regarding vacation rentals.

The wording in the previous OCP regarding vacation rentals as a home occupation embodied a reasonable view of the future of Hornby. While it may be necessary to move away from the use of 'home occupation' per se as the mechanism to allow some form of vacation rental, it is not obvious why the LTC should now feel it necessary to be much more cautious and circumspect than the

previous LTC. There is legal precedent for allowing vacation rentals on an island within the Trust area (South Pender Island). With controls in place for occupancy levels (beds and bedrooms), there is no reason to assume that vacation guests are more wasteful of water than guests and friends staying in a cottage when the owner is absent. I would like to see the LTC take a more open approach to the issue of vacation rentals. I feel that much of the discussion to date has been rather ideological in nature, and that for whatever reason, the planner has not been able to give the public a full spectrum of alternative mechanisms for legitimizing some level of vacation rental activity on Hornby. Given the serious nature of the probably economic impact of curtailing vacation rentals through bylaw enforcement and/or TUP's, I believe that the subject deserves a full and thorough discussion in which all alternatives are looked at. If that is not possible at the present time, then I believe the decision should be delayed. At any rate the OCP should not be changed until that discussion has taken place.

Thank you,.

Barbara Baird
April 18, 2011

From: joy jeffries [joy97531@gmail.com]
Sent: Monday, April 18, 2011 9:08 PM
To: Fred Hunt; Tony Law
Subject: Fwd: summer rentals ...

Hi Fred and Tony,

I am resubmitting my January 17, 2011 letter stating my concerns and opinions about summer rentals to ensure they are included in the public record of the Trust's proceedings on this issue.

Thank you both for your efforts toward resolution.

joy jeffries

----- Forwarded message -----

From: **joy jeffries** <joy97531@gmail.com>
Date: Mon, Jan 17, 2011 at 7:58 PM
Subject: summer rentals ...
To: Fred Hunt <fhunt@islandstrust.bc.ca>

Hi Fred

Just a quick note to share my opinion regarding 'summer rentals'.

I would not describe myself as on top of the issue at the present time.

Nonetheless, I do care about how this contentious subject is handled by the 'Trust'.

I see a real difference between the service provided to summer visitors by local residents offering short-term accommodation to increase their annual income and non-resident property owners who rent their properties to help pay their investment mortgage.

It seems to me that locals are available to monitor, respond and handle any situation and/or complaint that may arise from their paying guests. Off island owners/landlords are less likely to have such capacity. I live in a neighbourhood. I have no objection to responsible and sane summer rentals providing they are managed within a context of guidelines/regulations that respect the rights of residents and the spirit of the island.

By responsible I mean - landlords who have informed renters about water conservation, recycling and other community-cultural norms and expectations. By sane I mean guests who are aware and sensitive to the fact that not everyone is on holiday - in fact many, if not most, neighbours work at regular jobs therefore are unable to withstand late noisy parties. By responsible, for example, I mean landlords/property owners/management companies that enforce the number of tenants in one dwelling at a time. When a non-resident neighbour of mine rented his standard sized home a few summers back and four cars and countless bikes filled the lot, it was no wonder I had barely sufficient water pressure to shower - sharing the precious resource as I do with a dozen other households. By sane I mean ensuring there is a balance between meeting the needs for guest accommodation with the needs of the island and island residents.

Visitors are an essential part of the Hornby economy. They come here for many reasons, not least of which is the natural beauty of the environment and the rural undeveloped feeling of the place. I accept summer rentals because we need them but with the proviso that they will be regulated by enforceable standards. In conjunction with these standards, I would like to have short-term rentals in residential areas designated for terms of no less than one week. Shorter stays should be handled by licensed B & Bs, camp grounds and commercial resorts.

Thanks Fred for reading my opinions and for taking them into account during your considerations and deliberations.

joy jeffries

----- Original Message -----

From: [Helen-Middle Mountain Mead](#)

To: [Tony Law](#) ; [Fred & Christine Hunt](#) ; [louise bell](#)

Sent: Monday, April 18, 2011 9:32 PM

Subject: comments OCP

Please find my comments regarding the OCP. With respect to STVRs I would like to say that after following the process carefully over the last 10 months, my conclusions are that allowing STVRs as a permitted use on all properties except for the 6 exceptions noted by Karen Ross in her letter makes the most sense and would be (in my opinion) best suited for community needs. I would like to engage in a workshop session whereby real solutions could be hammered out. I believe that there is a good possibility of achieving a good homemade solution on Hornby and I look forward to seeing this issue happily resolved. Cheers, Helen

April 18, 2011

Thanks for all the hard work done by the LTC towards updating the OCP and working on solutions to allow Vacation Home Rentals. I understand that the focus of this work is undertaken from the perspective that the Islands are unique and special and deserve protection from human influence as much as possible. However, I feel that the people living in this community are also part of the picture and that protectionism must support a healthy balance between the two.

Over the last 20 years, population has decreased significantly and diversity has suffered on the island. I would expect this to accelerate over the coming years. Rural areas are depopulating all over the planet. With that we are losing our heritage as human beings as urban life is a recent and unnatural development in our evolutionary history. I would have expected that by now alarm bells should be going off in the Island's Trust about the stagnation and decline of some of its communities. It has been very apparent to me that protectionism of the human communities on the islands takes a distant back seat to the protection of the environment.

Many of the provisions in this revision take measures to further lock up opportunities for survival on the island. I certainly support the introduction of things like secondary suites and possibilities for subdivision in difficult circumstances. I'm disappointed to see subdivision under provision 946 effectively being removed even though it has not been heavily subscribed to. It may certainly be of significant importance in the future however, and should be preserved until there is a good reason to curtail it.

I would like to make a comment about the proposed secondary suites. There are currently being proposed for large lots and are being limited to within the main dwelling unit. I can't understand why it is being limited to the dwelling unit itself and why it could not be contained within a separate dwelling nearby. This seems punitive and unsupportable. I challenge the staff to explain this restriction. I would support a distance limitation to encourage "clustering" of buildings; however, I believe that there would be more "buy in" if the secondary suite could be outside the main dwelling.

I have been aware of a significant "disconnect" between staff, trustees and our community when it comes to fully understanding the value and significance of Vacation Home Rental activity on the island. Even though the "rules in the box" threaten our existence, there has been a distinct reluctance on the part of staff to *a)* accept the past mistakes of Trust staff in advising us to legalize Vacation Home Rentals and *b)* look creatively at ways of allowing the activity to go ahead as we move forward. I would ask that staff and members of the LTC look hard at what this activity means to this community and what we could lose if solutions aren't found. Yes we need to be aware of possible "unintended" consequences. However, we have very real, daunting consequences of inhibiting this activity that seems many times more pressing than the possible unlikely consequences that we haven't seen, even after 4 decades of having this activity in our community.

I would like to suggest that the potential to restrict proposed secondary suites could serve to fill the requirement for "dedicated" residential housing.

Comments on OCP revisions

Section 3.2, page 17, under a) Important Terrestrial Habitat viii) Ford Cove Creek (fish bearing).

Over the last 15 to 20 years at least this creek dries up in the summer and no longer flows. I've never seen fish in the remaining pools. I don't think it deserves the same protection as a year round stream.

6.3.3 Rural Residential

6.3.3.2 Exceptions to policy 6.3.3.1 may apply in the following circumstances:

I want to make sure that this policy applies to all properties on the island (excluding agricultural land reserve) greater than 3.5 hectares (where two legal houses can exist). It would be terribly unfair to exclude those properties not designated at "Rural Residential" as everyone in this situation faces the same challenges.

6.3.5.12 Secondary Suites

Secondary suites, should be allowed on all large acreages on the island. I would suggest that 2 acres or more is probably large enough to support a secondary suite provided water and septic are suitable. This is a "smart growth" direction that many communities are recognizing as a means of providing affordable housing while not changing the character of a community. As our population ages, it will become an essential ingredient in allowing people to live in their homes with a built in caregiver. There is an inadequate supply of housing geared towards seniors. I applaud the LTC for supporting this initiative. I would suggest that this category of housing be excluded from use as Vacation Home Rentals in order to protect residential housing stock in the future.

6.5.3 Vacation Home Rental

Paragraph one and two seem to represent the situation accurately. Paragraph 3, 4 and 5 are either unsubstantiated, negatively biased unfairly or wrong.

Paragraph 6 should make mention of the fact that the original OCP strongly encourages STVRs as an acceptable home business. The original decision to use the word "home occupation" was based upon either bad staff advice at the time of the draft or subsequent redefinition of the term "home occupation". In either case the blame for the current lack of security for this activity rests with the Trust staff and must be addressed in a way that allows for this activity. It is completely unfair to criminalize this activity due to past Trust ineptitude. If there is another explanation I would be happy to hear it.

Under "Objectives", I disagree with the wording of this entire section. I believe there is strong prejudice against the activity in the language used here. It does not support the fact that the original OCP provided strong support for this activity. A much better approach would be to comment on how positive this activity is, how it has improved in community opinion and how it should be supported to

include best practices. I disagree with much of the language used under “policies”. There is no consideration being given here for the fact that our neighbourhoods don’t look the same as “standard” neighbourhoods due to their high levels of use as recreational property. Attempts to force us into this mold seem inappropriate. In many ways Vacation Home Rental use is much more in keeping with the expectations of residential use than by that of recreational property users or permanent residents who have large numbers of summer guests.

A general comment of this section is that it attempts to minimize the intent of the original OCP and it provides copious language that could be relied upon to seriously curtail this activity. This is unacceptable.

6.8 climate Change Adaptation and Mitigation

The most relevant way that this community can alter its carbon footprint is by encouraging the “sharing” of major amenities. This includes homes “secondary suites”, vacation homes and vehicles. We will all need to live in smaller spaces that require fewer resources to heat and maintain. Therefore, all attempts to contain single families (individuals) in single homes is decidedly in direct opposition to any forward thinking community in this context.

Helen Grond and Stephen McGrath, 3405 Euston Rd. Hornby Island

From: Fabrizio Cross [mailto:tig@myresults.com]
Sent: April-18-11 9:54 PM
To: northinfo
Cc: tbell@islandstrust.bc.ca; Fred Hunt; Brodie Porter; Tony Law; Karen Ross
Subject: Vacation Rentals on Hornby Island

Dear Trustees,

I am writing to voice my strong objection to the trust attempting to regulate or restrict short term vacation rentals on Hornby Island in any way. I feel that this type of accommodation is a valuable source of income for homeowners and that the type of visitors they bring to the island are usually a good fit with our community.

As a former business owner I can attest to the fact that visitors staying in vacation rentals tended to be more conscious of spending locally and appreciated the island more deeply than visitors staying in the campsite. Hornby's economy depends on tourism and to cut down on the number of vacation rentals and the high-quality tourists that use them is a poor idea that I feel does not have the support of the community.

Thanks,

Fabrizio (Tig) Cross

Fabrizio Cross Design Consulting
tig@myresults.com

-----Original Message-----

From: Michelle Easterly [<mailto:mishae@uniserve.com>]

Sent: April-18-11 10:12 PM

To: northinfo

Subject: STVR.. PERMITTED USE

Michelle Easterly
Hornby Island, BC. V0R1Z0

It does not take many words after a lot OF RESEARCH AND MEETINGS TO
SIMPLY SAY ..WE NEED TO MAKE SHORT TERM VACATION RENTALS A PERMITTED
LEGAL USE OF RESIDENTIAL PROPERTY FOR THE SURVIVAL OF THIS ISLAND..
WITH SOPHISTICATED INTERNET WE CAN HANDLE ALL THE PROBLEMS THAT MAY
ARISE.. AND SELF-GOVERN THIS USE OF THE LAND.. AND WE WILL STILL HAVE
PLENTY OF RESIDENTIAL USE AND EVEN BE BETTER NEIGHBORS..
IF PERMITTED PEOPLE CAN BE ABOVE BOARD.. KIND OF LIKE PROSTITUTION
BEING LEGAL ...IN THE END BETTER FOR ALL..
EVERYONE KNOWS WHY..

KIND REGARDS, MICHELLE EASTERLY

From: Donna Tuele [mailto:DonnaTuele@telus.net]
Sent: April-18-11 10:58 PM
To: northinfo
Cc: Fred Hunt; tbell@islandstrust.bc.ca; Tony Law; Brodie Porter
Subject: Hornby Island STVR & OCP Comments

Dear Trustees, Tony, Fred & Louise:

Short Term Vacation Rentals

I would like to thank you for leading us through this process, it has been a period of learning and evolving for me as well as others. I originally felt that "Status Quo" was what would have been the best for the community, but after all of the work completed by everyone, I truly feel that we need to come to a more permanent resolution. Vacation Rentals needs to be an allowed use either through the redefinition of "Home Occupation" or some other way. The use of residences has evolved into being a very good way to host our guests. We do not want more resorts and we definitely do not want Hotels or Motels. Paying guests staying in our homes are consistent with the residential character and is the preferred way to host them and to support the economy of the island.

Official Community Plan

I feel we have lacked the opportunity to participate in a public forum with respect to the updating of our community plan. I was very disappointed at the meeting that I attended (Victoria) with the amount of time allocated to the OCP. Can we have not have a community meeting whereby we have real dialogue about the revisions suggested?

In case we are not able to do this, I would like to comment on the following:

Short Term Vacation Rentals - The preamble is far from what was stated in our previous OCP and not what the community feels. It has very negative view of vacation rentals and does not address the wants of the community.

Section 946 – Subdivision for a family member. I believe this should be tightened up to ensure that subdivisions are for family and should not have the minimum parcel size revised. I do not believe this has been abused and is being addressed just because other areas have tightened this up.

Residential 6.3.1 - Add a fourth major housing challenge

d) Tenants require educating as a portion of homes have been removed from the year round rental pool due to quality of tenants and the lack of respect to the homes they rent

Secondary Suites:

I support this and feel secondary suites should be allowed in all areas and should be defined as not being allowed to be used for short term vacation rentals. This is an excellent way to handle shortage of housing.

Again, I would like to thank you for your hard work and am very willing to participate in further discussion on the OCP review.

Sincerely,

Donna Tuele

From: Russel Roy [mailto:russelroy@gmail.com]
Sent: April-18-11 11:00 PM
To: Tony Law; northinfo; Fred Hunt; Louise Bell; Tony Law
Cc: Karen Ross
Subject: STVR's OCP TUP

To: Hornby Island Local Trust Committee; Trustees Louise Bell, Fred Hunt, and Tony Law; and Planner Brodie Porter

April 18, 2011

I object to the suggested changes to the OCP regarding STVR's. STVR's are very important to local families and the local economy as a whole.

The Trust's efforts to change the wording of the OCP or institute a LUB is simply outright contrary to the desire of the majority of local residents.

I object to unsubstantiated and oft repeated assertion that STVR's are "illegal", "unlawful" and "occurring outside the law". The OCP clearly recognizes the legitimacy of STVR's.

I do not know what is driving this issue but I highly suspect that it is not LOCAL interests.

Our vacation rental operation does waste water, increase sewage problems or disturb our neighbours. Our renters are carefully selected and I can attest that it has only ever been a positive experience for us and our neighbours. We have found that the people who come are conscientious and respectful. I submit that the repeated readying of a property for paying summer guests results in better maintenance of our island septic and water systems not the opposite.

Eliminating STVR's would not increase the availability of year round rentals as has been suggested. This is certainly true in our case. Whenever we have had problems it has been with year round renters not with the short term rentals situation.

I do not believe that Denman island traffic concerns, that are reportedly championed by the Denman Island trustee, should play any part in this decision process. Citizens have a right to visit Hornby island or any other island for that matter without restriction just the same as any Hornby or Denman islander has a right to use any transportation route to vacation at their chosen destination. This argument should be dropped completely and I would object strongly to it being mentioned by any trustee as a reason for limiting STVR activity.

STVR's have worked well on Hornby for many years now, why is the Trust trying to fix something that isn't broken? STVR's provide such an important economic activity for this island why change the OCP?

Hornby draws summer vacationers; this is a strength that we need to build on. STVR's help residents struggling to keep up with ever increasing island related costs. The income that it provides is particularly important for our family as I am currently a full time student working on my Masters through distance education.

The current efforts of the trust to curtail STVRs do not reflect my interests as a property owner and resident and, in my opinion; it does not reflect the wishes of our community as a whole.

Shutting down STVR's will make it hard (if not impossible) for us to remain as full time residents. It is one of the few income sources we have right now. I am frustrated by the Trust's apparent readiness to pursue this against the manifest wishes of their constituents. I for one will be very disappointed with trustees who support changes to the OCP or the implementation of unnecessary and onerous TUPs.

Let's make Hornby vibrant, successful and resident and visitor friendly not turn it into a ghost town or a place that only the very rich can enjoy.

I call upon all trustees to properly represent the wishes of Hornby residents by strengthening and establishing the long term viability of STVR's.

I support the establishment of a STVR's owners association and believe that this is the best way forward.

Russel Roy

From: Care <careleah@telus.net>
Date: March 28, 2011 11:37:38 AM PDT
To: fhunt@islandstrust.bc.ca
Cc: lbell@islandstrust.bc.ca, tlaw@islandstrust.bc.ca
Subject: Regarding the OCP process

March 28, 2011

Attention:

Fred Hunt, Louise Bell, and Tony Law

(in their role as Members of the Local Trust Committee for Hornby Island):

It is our understanding that all OCP related procedures must be held at all times in full view of the public.

This is intended only to serve as a reminder to the members of the LTC of this legal fact. RWM (resolution without meeting), in camera meeting, or any sort of closed meeting by the LTC as it relates to any OCP is not legitimate, no matter how minor any such change involved may be.

Thank you for your time.

Regards,

V. & C. Snowdon

----- Original Message -----

From: Betty Kennedy

To: 'Tony Law' ; fhunt@islandstrust.bc.ca

Cc: tlaw@islandstrust.bc.ca ; lbell@islandstrust.bc.ca

Sent: Sunday, April 03, 2011 8:22 PM

Subject: FW:

Tony Law, Louise Bell, and Fred Hunt.

I am sending this letter on to you to remind you of the letter from the fourteen neighbors of Bradsdadsland that was sent to you on June 11 2005 requesting your attention to our opposition to the possible rezoning to 'commercial campsite' of the property. I have copies of that letter signed by all fourteen neighbors as well as an email from Tony Law sent on March 29, 2010 stating the following. "The current working version of the draft revised OCP includes a change that removes the sentence requiring Bradsdadsland to be put in a commercial Development Permit Area and regulated through the land use bylaw.

"Thus the property would remain in Rural Residential zoning under what is provided for in these drafts."

Please assure us that this will be taken care of in the current review of the OCP.

Some of the neighbors have changed in the area, but the sentiment has not.

Thank you for your attention to this.

Betty Kennedy

Tony Law
(Hornby Island Trustee)
Box 13, Hornby Island,
B.C. V0R 1Z0

To: Peter Hicken, Janet Hicken, Betty Kennedy, Dan Milek, Marg Joyce, Don Joyce, Jeffrey Runinoff, Mary Savoie, Kim McGee, Ivy Gordon, Nicki Johansen, Grant Scott, Carol Scott and Denise Fenwick, Hornby Island, BC

cc: Isaac Kramer, Eleanor Kneffel, David Marlor

19 July 2005

Dear Peter, Janet, Betty, Dan, Marg, Don, Jeffrey, Mary, Kim, Ivy, Nicki, Grant, Carol and Denise::

re: Bradsdadsland

This letter provides my personal response to your letter of 11 June 2005 that was sent to Linda Adams, Chief Administrative Officer of the Islands Trust regarding your adamant opposition to any rezoning of the property known as Bradsdadsland.

Please note that the authority for any land use decisions affecting properties on Hornby Island rests with the Local Trust Committee and are only made at convened business meetings of the Committee that are advertised and open to the public.

I certainly appreciate that this is a significant issue for people in your neighbourhood. I apologize for not responding sooner. I first wanted to obtain more clarity about the reasons for your position (which Betty Kennedy has kindly provided), to have a better understanding of the options available to the Local Trust Committee (which staff has provided) and to get the perspective of the property owner (which I did with Isaac Kramer a couple of days ago).

First, it might be helpful to provide some background as to why a proposed "campground" zone for Bradsdada land was included in the first draft of a new Land Use Bylaw.

In the spring of 2001, an extended series of public meetings were held by the Advisory Planning Commission on the first draft of the Official Community Plan. In this process a suggestion was introduced and discussed regarding Bradsdadsland being put "on the map" with respect to being a visitor accommodation land use so that it could be subject to similar regulations and Development Permit provisions as other visitor accommodation operations.

A proposed policy to reflect this suggestion was included in the second draft of the OCP which was made available for public comment and was referred to the APC for

recommendations. As I recall, the proposed policy was modified to reflect input during this stage and was included in the second and third drafts that were also made available for public comment.

Prior to the Public Hearing, a map showing proposed land use designations for Hornby Island was posted on the Islands Trust notice board on the Co-op porch. This map showed Bradsdadsland designated as "visitor accommodation."

A Public Hearing was held on 29 November 2002 at which any member of the public whose interests in land were affected by the proposed bylaw could provide oral or written comment. The minutes show no comments with respect to Bradsdadsland. After making some minor amendments, the OCP bylaw was given further readings and submitted to the Minister for approval. After receiving approval, the bylaw was adopted in June 2003.

The Official Community Plan has three provisions with respect to Bradsdadsland:

1. It designates the property as "visitor accommodation."
2. It includes the property in a Development Permit Area
3. It requires that "land use regulations will limit the permitted development to the established legally non-conforming use".

Consequently, in light of this requirement, the first draft of the new Land Use Bylaw creates a site-specific "campground" zone for Bradsdadsland. The only permitted uses in this zone would be "campground" and "residential". The number of campsites would be limited to what is understood to be the number allowed under the legal non-conforming use. Additionally, the zoning regulations would include conditions of use with respect to camping spaces and set backs for camping spaces from all lot lines.

In talking with Betty, it is my understanding that the neighbours object to this for two reasons:

- 1) Although there is general appreciation that Bradsdadsland is well-managed, the neighbours would prefer to see the property revert to residential use should the legal non-conforming status be discontinued (under Section 911(2) of the *Local Government Act*, this would likely require an entire season's operation as a campground to be missed).
- 2) The neighbours are apprehensive that any rezoning, even just to provide for the existing legal use, might open the door to future rezoning for other purposes.

In discussing these concerns with staff, it is my understanding that it is quite appropriate for a community plan and zoning bylaw, during review, to be updated to address and regulate a long-standing existing legal use, particularly one that has been in place for two decades and has not been subject to complaint. Any proposed rezoning for a use that is different from an existing legal use would require an application to amend the Land Use Bylaw. This would be subject to an extensive public process, including referral to the

Advisory Planning Commission, notification of neighbours and a Public Hearing as a minimum.

Nevertheless, I certainly understand and appreciate the depth and unanimity of concerns in the neighbourhood, as made clear by your letter. I have re-read the files from the 1980s and 1990s to refresh my understanding of the historical and legal context.

As I see it, the Local Trust Committee has two options:

1. To continue to propose a “campground” zoning in the second draft of the Land Use Bylaw.

This would meet the requirements of the Official Community Plan and would reflect what was heard during that planning process, but would clearly go against the wishes of the neighbourhood.

2. To drop the proposal and leave Bradsdadsland zoned as a residential lot.

This would not be in compliance with the OCP. The Official Community Plan would have to be amended before a new land Use Bylaw for Hornby could be adopted. This would require a Public Hearing at which residents and property owners, including the owner of Bradsdadsland, would have an opportunity to provide comment on changing the Community Plan.

I have talked with Isaac Kramer, owner of Bradsdadsland, and he has stated that he would not oppose the property remaining in the present rural residential zoning. (I should make it clear that the proposal to create a “campground” zone did not come from the owner but from community members wanting to see planning bylaws reflect the legal use of the property).

Consequently, I have suggested that staff prepare the following for consideration of the Local Trust Committee:

1. That the proposed “C10” zone be dropped from the second draft of the Land Use Bylaw and that the Bradsdadsland property be included in the R6 zone.
2. That the OCP be amended to change the designation of Bradsdadsland from “visitor accommodation” to “rural residential”.
3. That the OCP be amended by removing the Development Permit Area from Bradsdadsland.
4. That the OCP be amended by changing the wording of the following policy from:

“6.5.2.5 One existing property, Lot A Plan 38493 Section 13 (known as Bradsdadsland), has been designated as Visitor Accommodation to recognize an historically legal non-conforming situation in which the parcel has been used for a campground. This parcel shall be designated as

a Development Permit Area and land use bylaw regulations will limit the permitted development to the established legally non-conforming use."

to something like:

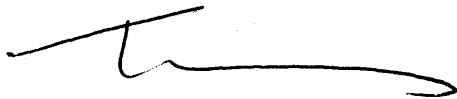
"6.5.2.5 This plan recognizes the long existing legal non-conforming use of Lot A Plan 38493 Section 13 (known as Bradsdadsland) for a campground."

I understand from Betty that this would satisfy her concerns. It would be helpful to hear soon from any other neighbouring property owners if you have questions or concerns.

Of course, any decisions will have to be made by the Local Trust Committee, but I do want staff and the Committee to be in a position to consider an option that will likely address this to the neighbourhood's satisfaction.

Thank you for your input and for alerting us to this concern early in the process.

Sincerely,

A handwritten signature in black ink, appearing to be 'Tony Law', with a long horizontal flourish extending to the right.

Tony Law
Hornby Island Local Trustee

From: Judy Cross [mailto:Judy_Cross@telus.net]
Sent: April-13-11 7:50 PM
To: northinfo
Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: Comments on Draft OCP and rentals

3518 Strachan Road
Hornby Island, B.C.
V0R 1Z0

April 12, 2011

To: Hornby Island Local Trust Committee
Re: comments on draft updates to the Hornby Island Official Community Plan
input on approaches to "allow" vacation rentals

Yet another meeting has just been announced for April 20, before and in addition to, the scheduled meeting of April 27, so that the Local Trust Committee can ram through their long-planned changes to the Hornby Island Official Community Plan to restrict/outlaw rentals of less than one month while calling it "*allowing*".. It is classic "spin" and frankly, I find it abusive.

The phrase used on the handout distributed at the CIMs of April 2, 4, and 6, 2011, "Enhancing the Status Quo" is another blatant example of the "spin" where black becomes white, which has often been employed by LTCs on Hornby over the years. Calling the planned destruction of the economy of Hornby Island "Enhancing the Status Quo" is surely a homegrown example of "Newspeak" as first illustrated by Orwell's 1984.

I doubt there will be enough time for the LTC to read and comprehend all of the correspondence before this suddenly scheduled "special working meeting" on April 20. To me, this is just another example of going through the motions while pretending to listen.

In reality the changes proposed as a Proactive Target Review constitute a "Preemptive Strike" in the long simmering war against the Hornby Economy. Since Trustee Law, employed by the Islands Trust Corporation, is also the main driver of the Hornby Island Economic Enhancement Corporation, does his left hand not perceive what his right hand is doing?

The situation is made even more outrageous by the fact that the LTC member from Denman Island, Louise Bell, was elected on a platform in which she promised to reduce the summer traffic headed for the Hornby Ferry. She therefore has a vested interest in the outcome of this Hornby OCP and its unasked-for Revision because her income could be affected if she fails to deliver on her promise to her *real* and *only* constituents. This situation clearly illustrates the flaw in the design of the Hornby Local Trust Committee as well as the Colonial Model of all LTCs. In cases where islands may have interests which conflict with each other, a LTC member can not be objective and serve both islands. This

is a clear instance in which Trustee Bell must excuse herself for conflict of interest

Planner Porter described what is happening as a "Targeted Review" and that it has been initiated by the Local Trust Committee at the March 23 and April 4th meetings which I attended. The attempted revision of the Official Community Plan by the Local Trust Committee, especially one in which two members have lost credibility, is a usurpation of the rights of this community to self-determination.

The present OCP, Bylaw 104 specifically endorses vacation rentals as a home occupation:

6.5.2.11 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

6.5.3.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located.

6.5.3.7 The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests shall be permitted as a home occupation.

No case law backs up the LTC opinion that because one is not in actual residence when one rents, it is either "illegal" or "un-permitted" or "not permitted". That interpretation is totally arbitrary since LUBs are to be interpreted with reference to the OCP. Bylaw 104 defines home occupation as being conducted by a "full time or part-time resident".

As Katherine Owen pointed out in 2005:

"In the BC Supreme Court case, Nanaimo (Regional District) v. BC (Information and Privacy Commissioner) {1991} BCJ No. 1283, (BCSC), the Judge states:

"...the OCP does have a legal effect on the government bodies referred to, in that it controls or restricts all future development. It also does have some legal effect regarding private landowners as well, because zoning by-laws, which effect them, must be consistent with the OCP";

"I am also of the view that the OCP is a by-law or legal instrument "by which the local public body acts". When a regional district adopts an OCP by by-law it triggers, or brings into play, S. 884(2) of the [then] Municipal Act, which is a statutory obligation, and thereby requires all subsequent by-laws enacted and works undertaken to be consistent with the OCP".

In 2005, the LTC tried to ignore the OCP and attempted to change Bylaw 86 by fiat with Draft Bylaw 105. They, who as Trustees had attempted to subvert the will of the community, quickly learned that this attempt led to the failure of those same candidates to be re-elected

In order to prevent the same thing from occurring, the present LTC is planning to shove this Draft Revision through well before November, so that whoever is elected for the next term will be obliged to continue their economically destructive agenda by revising Bylaw 86 to agree with it.

Just as arbitrary is the present Draft OCP definition of **“Rental Housing”** as *"housing that is available by payment of rent for occupancy for a minimum of one month and can include any form of housing that is available for rent."*

The community did not ask for these revisions to the OCP. The community is being led into an economically destructive trap to satisfy someone's dystopian version of how to run an *island, off an island, off an island.*

At the same time the summer tourist economy is being targeted for destruction, plans are presented to increase the year round population with plans for "affordable housing". Summer people don't need heating, they don't need to cut down trees for warmth and the septic tank effluent they produce flows into dry ground, so they do not contribute to the E.coli flowing in the ditches in winter. The year round population is far more of a danger to the environment than the summer visitors, yet the emphasis is always placed on what happens in the short summer season.

That drumbeat has been constant for a number of years and has been used to rally a "politically correct" version of life on Hornby in which those who rent for the summer are seen as somehow "ripping off" the community instead of providing the basis for the economy.

The perception that we would attract young people with skills needed to keep an aging population serviced by providing more year round rental housing by denying house owners the opportunity to rent the house by the week, has been a steady undercurrent for many years. There is still only one electrician and one plumber. The young people attracted to Hornby are too often skill-less, clueless and difficult to employ and the last people one would want to rent to at all.

At the April 4th meeting, Planner Porter produced the latest spin on the reason for revising our present OCP. *"We have to know how much housing will be available in 5 years"*. Hornby is not a municipality and has a year round population of +/- 1000, so I fail to see the utility of such a policy for so small a place. It is an obvious fig leaf which does little to hide the real agenda, but which, at least, is based on planning and not on "health, safety or nuisance issues" which is not in the Island Trust's mandate.

I have watched the attempt to micro-manage this community since 1999 when I became involved in the OCP Revision process for the present OCP Bylaw 104. I find what is going on a symptom of a pathological need to be all things to all people by what is only supposed to be a simple land use planning body.

Again, the impetus for this OCP revision is "top down" when it is supposed to be "bottom up". The Local Trust Committee is usurping power from the community and it should not be tolerated.

The Local Trust Committee is in danger of destroying the economy of the island and increasing the destructive year round population should it continue the revision of the OCP without the real community input of a properly conducted revision process such as that in which I participated from 1999 to 2002 which produced Bylaw 104.

An OCP is like a constitution. Imposing a constitution on an unwilling people is a totalitarian act. Imposing an OCP to serve the interest of another island is beyond the pale.

I feel this process is tainted by the conflicting interests of one, and perhaps two, of the three persons on the Hornby Island Local Trust Committee and must be abandoned.

Yours truly,
Judy Cross

April 14, 2011

To: The Hornby Island Local Trust Committee.

northinfo@islandstrust.bc.ca

cc: Brodie Porter: bporter@islandstrust.bc.ca; Louise Bell: lbell@islandstrust.bc.ca

Fred Hunt: fhunt@islandstrust.bc.ca; Tony Law: tlaw@islandstrust.bc.ca

From: **Outer Island R&R**

4785 DePape Road, Hornby Island V0R 1Z0

Karen Young 250 335 2379 retreat@outerisland.bc.ca

Jed Young 250 335 2379 jedyoung@telus.net

Jim Garton 250 335 0120 jim_garton@telus.net

Re: Review of the Hornby Island Official Community Plan and Land Use Bylaw

We are submitting a request to the Hornby Island Local Trust Committee asking that it consider the needs of local farming operations by further enabling the integration of agri-tourism into their operations. To make this happen it is important that the local Land Use Bylaw and OCP align themselves with the ALR regulations.

Specifically, we would ask that you consider:

- a) including a policy in the updated Official Community Plan and subsequent land use regulations to enable agri-tourism accommodation in accordance with section 3.(1).(a) of the ALR Use Subdivision Procedure Regulation by allowing up to 5 or more agri-tourism sleeping units on lots over 3.5 hectares.
- b) amending draft policy 6.4.1.4 and subsequent land use regulations to allow both one dwelling containing a secondary suite and a second dwelling on lots over 3.5 hectares in accordance with section 3.(1).(b) of the ALR Use Subdivision Procedure Regulation.

Reasons Why:

- a) Small farms generally require an additional income stream to be economically viable and thus to be able to contribute sustainably to local food security.
- b) The Islands Trust Policy Statement requires local trust committees to adopt policies that support the economic viability of farms.
- c) West Coast Environmental Law notes that "agri-tourism has enormous potential to add value to farming operations. It can supplement and diversify agricultural income, contributing to the stability of agriculture in rural communities. It may also help urbanites

to understand agricultural practices and gain an appreciation of how difficult it is to farm surrounded by suburban and urban uses."

d) In 2002 the Agricultural Land Reserve legislation was amended to include agri-tourism as a permitted farm use, including allowing up to 10 sleeping units for agri-tourism accommodation where permitted by local regulations. Such units can be provided through a combination of rooms in a dwelling and seasonal cabins or campsites. These can only be developed on properties that have farm status and the accommodation and associated infrastructure is limited to no more than 5% of the land.

Comments:

Agriculture is currently the fastest growing tourism sector. We have seen the importance of agri-tourism first hand over the last 15 years of our farming and B&B operations on Hornby. Our tourist clientele are very engaged in our daily farming activity. We have found that our guests then show great interest in how and what other farms produce on Hornby and thereby spent their travel \$ on local products at the farmers market, wineries, nurseries, and roadside stands as well as restaurants, artist's studios, and cultural events.

Allowing these changes would enable us and other growers to thrive by increasing awareness of our products, as well as contributing to the overall island's economy. We believe that as long as the local regulations are aligned with the ALR regulations as suggested, this will be possible.

We respectfully appreciate your consideration.

Karen Young

Jed Young

Jim Garton

April 14 2011

From: Dan Bruiger [mailto:dbruiger@telus.net]
Sent: April-15-11 6:24 PM
To: northinfo
Cc: Louise Bell; Brodie Porter; Fred Hunt; Tony Law
Subject: Hornby OCP, LUB, and STVR

Dear Islands Trust Council, Hornby Local Trust Committee, and Islands Trust Staff,

Please find below a submission regarding the draft revision of the Hornby Official Community Plan and the recent proposal regarding the Short-term Vacation Rental issue, dubbed "Enhancing the Status Quo."

Thanks to all who participated in the April 2 meeting of the Local Trust Committee on Hornby Island. The remarks below are further to that meeting and subsequent discussions of STVR, and in additions to my comments in earlier submissions. I intend for them to be my last on the subject of STVR. They are followed by some comments on other aspects of the proposed revision of the OCP.

BALANCE OF CONCERNS regarding STVR. Clearly, a balance of concerns is at stake in the issue of short-term vacation rentals on Hornby. On the one hand, there is an established practice of STVR, which at present conforms *more or less* to the intention expressed in the current OCP "to encourage a kind of tourism which is compatible with preserving and protecting the environmental and social qualities of Island life for present and future generations and to discourage large scale tourist accommodation" (6.5.2 "Visitor Accommodation and Tourism: objectives). On the other hand, nearly half of Hornby properties are used only seasonally; potentially, these properties could become a source of housing for either long-term or short-term rentals. A legitimate concern of IT, to the degree it is able, would therefore be to encourage the use of these properties for year-round rental. One means to this goal, if practicable, would be to *limit the total time allowed for STVR per year*. (A simple calculation establishes 6 weeks total as roughly the point at which profitability of STVR exceeds profitability of year-round or long-term rental. To encourage year-round rental economically, STVR should be limited to 6 weeks or less.)

To judge the importance of properties that are not occupied year round as a future housing resource, or as a source of uncertainty for planning purposes, it is necessary to know the current and intended future uses of these properties. This information is unfortunately not included in the 2008 report on "Housing Needs on Hornby and Denman Islands", which simply cites Statistics Canada for the figure of 43 percent of non-resident ownership on Hornby. I suspect that the majority of these properties are currently occupied seasonally by the owners, many of whom may plan, in retirement, to take up permanent residency here in future. It would be important to know how many of these properties are currently used for STVR, and what the long-term intention of the owner is. According to a local management company, of the 42 properties managed by that

company, 33 are owned by “off-island” owners, 18 of which have indicated they “may possibly retire here.”

The “more or less” caveat above is important for the STVR issue because of the range of actual situations involved. Some property owners involved in STVR are clearly residents, in the sense that this is where they are to be found during most of the year, and possibly in the additional sense that a Hornby property is claimed as the “principal residence” for the Home Owner Grant (for property tax assessment purposes). Others property owners, in these same senses, are not Hornby residents; some of them may currently use their property for STVR, others not. A third category would include Hornby residents with a second Island property that may be rented on a long-term or a short-term basis, or a second dwelling on their property that may be rented on either basis.

CURRENT OCP. The current Official Community Plan (Bylaw 104) is explicit about STVRs:

—“The rental of an individual dwelling unit in order to provide temporary accommodation for paying guests *shall be permitted as a home occupation*. The home occupation shall be operated in accordance with land use bylaw and with guidelines prepared by the LTC in consultation with the community.” This is stated under “Visitor Accommodation and Tourism” (6.5.2.11) and repeated verbatim under “Home Occupation” (6.5.3.7) [italics added]

—“Home Occupation means an occupation or profession conducted for gain by a *full-time or part-time resident* of the lot on which the dwelling is located. Home Occupation use must be clearly incidental to the use of the dwelling or parcel for residential purposes.” (6.5.3.1 “Home Occupation”) [italics added]

—“Home Occupations shall be permitted *as a secondary use* to a permitted residential use and shall be regulated by land use bylaw.” (6.5.3.2 “Home Occupation”) [italics added]

—“Home occupations must be clearly *secondary to residential use* and the character of the property must remain residential in appearance.” (6.5.3 “Background”) [italics added]

—“to allow opportunities for *residents* to carry out limited businesses *on the property of their principal residence*; (6.5.3 “Home Occupation: objectives”) [italics added] While the OCP does not explicitly define ‘residential’, it does state: “In 1997, of the 1126 titles listed with the Assessment Authority, 1053 or 93.5% were classified residential for tax purposes.” (6.3.1 “Residential—General”) This suggests that the meaning of ‘residential’ is tied to taxation assessment purposes, hence at least linked to the criterion of ‘primary residence’.

In combination, the above considerations lead me to conclude that *the current OCP allows STVR as a home occupation*, at least for properties that are the principal residence of the owner; and perhaps more inclusively for “full or part-time” residents, where the STVR use is “secondary” or “clearly incidental” to its residential use. This leaves open the question of properties where the primary use is STVR, with the need for a criterion to establish what is residential use. I do not feel that IT has so far come forth with a measure to address this concern that is both reasonable and definitive, in part, perhaps because of the complicated nature of the issue. The need or attempt to deal with STVR as practiced by non-residents should not interfere with STVR by residents.

‘ENHANCING STATUS QUO’. The *closest* that IT has come to a reasonable resolution of the STVR issue is the recent proposal tagged “Enhancing the Status Quo”. This proposal, introduced on Hornby at the April 2 LTC meeting, consists of four parts: 1) amending the OCP in specific ways; 2) amending the LUB to allow STVR as “home occupation” *only* on those properties where there are two dwellings (where “there is a resident living on the property”); 3) allowing STVR on other properties through temporary use permits; 4) investigating and enforcing bylaw infraction only where certain minimal triggers are involved. The policy of minimal enforcement seems reasonable in the short term, but the coordinated changes proposed for the OCP and LUB severely restrict the allowed STVRs and may not be sustainable in the longer term in the face of community will.

It could be argued, on the one hand, that the OCP should be an up-to-date document that reflects current community will, which may change over time. What the community wills may be unclear in a situation where people are divided over an issue, and where it is difficult even to define what “the community” is (residents or non-residents?) On the other hand, it can be argued that the OCP is a bylaw, not merely a guideline, and that the LUB is required by Provincial law not to contradict the OCP. The present LUB narrowly avoids an outright conflict by simply avoiding mention of STVR; nevertheless it does not conform to the clear intention of the OCP. It defines home occupation (see below) and provides a list of allowed activities as examples. STVR is not on that list, but is not explicitly excluded either. According to Katherine Owen, Barrister and Solicitor, who is part owner of a Hornby property, “courts have consistently interpreted such lists as illustrative only, and not exclusionary.”

I believe it would be improper to modify the current OCP in such a way as to weaken its clear endorsement of STVR as a home occupation, without a clear mandate from “the community” to do so. Short of a non-binding referendum, such a mandate might be difficult to obtain. Failing such a mandate, the right thing to do is to modify the present LUB to conform to the present OCP.

CURRENT LUB. The current Land Use Bylaw 86 is mute about STVRs. It defines ‘residential’ as: “a use of land providing for the home life of a person or persons in common occupancy”. It also spells out ‘home occupation’ as: “a commercial activity conducted for gain within a dwelling unit or permitted accessory building by a resident of the lot on which the building is located and includes bed and breakfast, artist or artisan

studio, professional office, personal service, daycare, food processing, manufacture, repair and assembly of goods, the incidental retail sale of goods commonly associated with these uses and the retail sale of agricultural products or articles produced or assembled on the same lot". Again, the LUB is silent on the matter of STVR, neither "including" it among the above examples of home occupation, nor anywhere explicitly excluding it.

RESIDENCY. From the point of concern over an abuse of STVR as home occupation, the above passage specifies that a home occupation is engaged in by "a resident of the lot" (as opposed to an "owner"). This would seem to exclude cases where a non-resident owner is using the dwelling primarily for commercial gain.

However, in recent discussions, IT has construed 'resident of the lot' to mean that the resident must be *present on the lot at the time of use for STVR*. Anyone therefore who vacates their premises for vacation rental ceases to be a resident. IT has built its case for the recent proposed "draft revision" of the OCP on this interpretation of residential use, stating that "a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental." [Draft revision 6.5.3 "Vacation Home Rental: Background"] This is a litigious contention if ever there was one! As phrased, it would enshrine in the OCP the questionable logic of Staff's interpretation, which should not be presented as fact, but only as an opinion which many others question.

This interpretation of residency is nowhere supported by either the OCP or the LUB, nor apparently by judicial decision let alone common sense. Nor is it the meaning of "usual residence" (the place one lives most of the year) employed by Statistics Canada. Such misconstrual leads to absurdity: for example, that a person ceases to be a resident when they set foot from their property!

I submit that *use* remains residential regardless of *who* the user is. As proposed, IT reasoning has attached "use" to the particular individual who is the owner of the property and/or the operator of the STVR. This is not consistent with other IT policy and interpretation, where use is attached to the activity not the person. The primary activity in the case of a property that is normally lived in is residential, regardless of who occupies it. The short-term rental is a permitted "secondary use". (Apparently IT has no objection to a property being rented *year round* as a secondary use.) In particular, however, IT's recent interpretation is that the use changes when the person normally occupying it contracts for money with another party for occupancy. However, I submit that the most consistent and reasonable interpretation is that 'residential use' continues no matter who occupies or whether money is exchanged.

LEGALITY. Nevertheless, IT has claimed on various occasions that STVR on Hornby is "illegal," and specifically that there have been court decisions differentiating in a relevant way between residential and commercial use. I have asked on more than one occasion for

a clarification of exactly which court decisions are involved in this differentiation, but have received no answer. IT Staff seem nonetheless to be committed to a policy based on the premise that STVR is a commercial rather than residential use, and that residential use is somehow threatened by STVR as a home occupation. However, this is not a situation involving a zoning change or some irrevocable change to the property (such as happens, for example, when agricultural land is built upon). On the contrary, in most cases, every year STVR simply reverts to its normal use by its usual occupant. The contention that STVR involves a change of use from ‘residential’ to ‘commercial’ is unfounded, absurd, and litigious. If it finds its way into the OCP or LUB, it will surely lead to judicial tests!

In contrast, lawyer Katherine Owen (mentioned above) has provided citations from relevant court decisions in an open letter. For example:

“It is quite clear that a person may have more than one residence. For example a person may have a residence at his summer cottage and another residence in town. Having a residence at a summer cottage is not broken by a temporary absence from the cottage during the winter months...

“The word ‘reside’ is very flexible and has more than once been said to be incapable of exact definition. The duty of the Court in interpreting any statute where the word is found is to attribute to it such meaning as will best give effect to the legislative will...” (Ontario H.C. case *Peterbaugh v. Marsbergen* [1984] O.J. No. 392)

IT has in past made reference to a particular court case to support its contention that STVR is illegal on Hornby. It might seem that the decisions of the BCSC and BCCA, in the case of *Whistler (Resort Municipality) v. Miller* [2001] BCJ No. 69, speak against the legality of STVR. However, according to Ms. Owen, the Whistler municipal bylaw, unlike the current Hornby OCP or LUB, expressly excludes temporary accommodation from the definition of residential use. Should we feel obliged to follow Whistler’s example and redefine residential use in our bylaws so as to make STVR illegal? Or would it be wiser to revise our LUB to uphold the legality of STVR?

The legality of the present Hornby LUB is at least as questionable as that of STVR on Hornby. The present LUB contradicts the intent, if not the letter, of the present OCP. The proper (and legal) thing to do is to revise the LUB to accord with that intent, if indeed community opinion still supports that intent.

LARGER ISSUES. Beyond housing and legality issues, STVR represents an aspect of the Island’s general commitment to a tourist economy. In that context, the long-term wisdom of short-term rentals may indeed be questionable, though not more so than the tourist economy as a whole. Some have called STVR an expression of greed. Whatever the individual motivations and circumstances of STVR operators, the Island’s general dependence on seasonal tourism at least reflects, and perhaps contributes to, our demographic crisis—to name a situation in which an aging citizenry lacks the means to

maintain a balanced population profile. This lack comes down to specifics of employment opportunities and rental housing. A population of retirees does not make for a vibrant economy, and rental housing has never been a great investment on the islands. Given property prices, without rental housing employment is futile, and vice-versa. How can we convert this downward spiral into an upward one, in which increasing employment opportunities are matched with increasing housing opportunities?

COMMUNITY HOUSING. In addition to limiting the maximum legal time of STVR, one approach to the above problem is to encourage low-cost rental or other housing. The draft changes proposed for the OCP, regarding housing, are laudable from this perspective and I support them. The few comments below are minor and intended constructively.

The initial wording of 6.3.5.4 is unclear: “Criteria that should be addressed in the provision of community housing includes...” IT is not in a position to “provide” community housing, only to consider applications for zoning, etc., by the actual providers. The wording should be something like: ‘Criteria to consider in assessing applications for re-zoning or re-designation as Community Housing should include:...’

6.3.5.12 is awkward in substance, trying to provide specifics where they are not necessary. If this is a discretionary matter, expressing intent, it can be left vague as to location.

6.3.5.13 seems inherently problematic and asking for (enforcement) trouble. How can one realistically expect a permanent dwelling to be used for non-permanent accommodation? This makes more sense if it is restricted to movable structures.

6.3.5.21 seems an open invitation to densification without some indication of intent regarding density, since there are many properties of 4 hectares (10 acres?) or more, most of which were originally supposed to have a single dwelling.

OTHER REVISIONS OF OCP. The current OCP explicitly states that “Condominiums, convention centers, attached or joined dwelling units, or multi-room hotels shall not be permitted.” (6.5.2.1 “Visitor Accommodations and Tourism”). The proposed draft revision changes this passage to read: “Convention centers or multi-room hotels should not be permitted.” The new version fails to disallow condominiums and attached dwelling units. The intent of the present OCP is clear, though I have been informed that ‘condominium’ is a form of ownership rather than a type of construction or dwelling unit and so cannot be prohibited as such. I presume that ‘attached or joined dwelling units’ is omitted because the LTC wishes to make provision for attached units in other circumstances than outright “row housing”. However, this omission could set a dangerous precedent, and I believe the intent of the existing OCP should be preserved, if indeed the community still endorses that intent. A more careful re-wording might be: “Convention centers, multi-room hotels, and attached dwelling units where more than two units are joined together should [shall] not be permitted.”

PROCEDURE. I am not alone in experiencing dissatisfaction with the protocol of LTC meetings. One basic problem is that there is not enough time made available, at such meetings as the recent one Hornby (April 2, 2011), for input from community participants. In part, this is due to the scheduling of time for “questions” ahead of a time for “comments,” which seems to doom the latter to be curtailed. I suggest that these periods not be separated.

More broadly, a general pattern seems to be that IT presents the community with “drafts” for comment, prepared by Staff, and then doesn’t allow full opportunity (except in writing) for that commentary. I would suggest, rather, that proposals for revisions should originate in the community and be presented to Staff for comment. Then the process would not be driven by available Staff resources and scheduling. The LTC, with the APC, can work with the community in their own time frame to have something ready for Staff when they are available.

Thank you for your kind attention.

Sincerely,

Dan Bruiger

Past Secretary

HIRRA

From: Karen Ross [karenross@telus.net]

Sent: April-15-11 1:34 PM

To: northinfo; tbell@islandstrust.bc.ca; Fred Hunt; Tony Law; Brodie Porter

Subject: OCP submissions

Attachments: OCP review0411.doc

Attached are my comments for your consideration in the Hornby OCP review.

Thank you.

Karen Ross

OCP

Sec. 6.1.2 Regarding Local Government Act, Sec. 946.

COMMENT:

When asked why this was being included in the OCP, Brodie said that other areas restrict these subdivisions, that Hornby is one of the few areas that don't, and the clauses in the new OCP will freeze it on Hornby, too. He also said that only a handful of properties on Hornby have done these subdivisions.

Top down management of our OCP?

Sec. 6.3.1. “ The principal use should be residential with any accessory uses consistent with the residential character.”

COMMENT:

SHOULD READ: The principal use should be residential with any accessory uses consistent with the residential character, **which could include both short and long term residential rentals.**

Sec. 6.3.3. “.....The retention of large parcels is now considered a primary objective.....”

COMMENT:

THIS WHOLE PARAGRAPH SHOULD BE **DELETED** as it does not reflect the values of the Community.

In the Community Visioning Statement, under housing: “In the year 2020 Hornby Island is a balanced, diverse community where all its residents are able to find adequate housing. Stable and affordable housing makes it possible for residents to put down roots and build a life here, actively participate and contribute to the well-being of the community.

The community takes collective responsibility for land availability, housing options, creating local mortgage funds and land-use planning. We have in place easy and amicable ways of assessing and deciding on land and housing issues. There is a broad range of housing options and choices available for everyone from home ownership to temporary accommodation, from large lot rural to clustered housing and single person dwellings. Some areas combine mixed use zoning, multi-generational housing and communally available resources, facilities and services.”

Sec. 6.3.3.1. “For any subdivision of properties in the Rural Residential designation an average lot size of ten acres should be maintained.....”

COMMENT:

SHOULD READ: An average lot size **of five acres** should be maintained.

Let's call it like it is. The subdivision of many ten acre parcels has already happened, based on land ownership, into five acre average lot size. Being told that good zoning practices are based on land use, not on land ownership, indicates that there is an area where five acres is considered acceptable. We have not seen any problems with these subdivisions in the Sollans and Roburn Road areas, and based on land use planning, all lots in this area should have the same subdivision potential. Not just for fairness and equity in the same zoning, but also to allow a limited amount of land into the inventory (which in a demand/supply market helps to keep prices down. i.e. Scarcity drives prices up).

Sec. 6.3.3.4 "Only one dwelling unit should be permitted on parcels smaller than 8.75 acres and a maximum of two dwellings shall be permitted on lots 8.75 acres or greater."

COMMENT:

SHOULD READ: "Only one **PRIMARY** dwelling unit...", to allow for the inclusion of secondary suites.

Sec. 6.3.3.5 "Home occupations may be permitted but shall be limited to those having little impact on the rural residential character of the area and its environmental qualities."

COMMENT:

SHOULD READ: "Home occupations, **including short term vacation rentals**, may be permitted..."

Sec. 6.3.3.6 "Public access to the existing trail system shall be secured wherever possible through dedication, covenant or easement."

COMMENT:

SHOULD ADD: **with the exception of trails that were built by the community, under the Ratepayer's umbrella, with permission of the landowners. At this time, specifically, the Ratepayer constructed trails adjacent to Central and St. John Pt. Roads.**

I read the proposed statement in a negative manner, as though the property owners are somehow holding onto something that should belong to the public. As one of the property owners that was happy to join the walking path network, I cannot support the unamended statement, not only does it cast a negative light on our intentions but it also appears to be a form of expropriation without pay.

Sec. 6.3.4.5 "Home occupations....."

COMMENT:

SHOULD READ: "Home occupations, **including short term vacation rentals**, may be permitted..."

Sec. 6.3.5 Housing, “For purposes of interpretation the following terms are used in this section”

COMMENT:

Should add definitions for secondary suites, non-permanent accommodation, and short term vacation rentals.

Sec. 6.5 para. 2: “Home occupations also provide some opportunity for commercial activity and may involve the.....provision of personal services.....Home occupations are permitted only if the residential character of the property is maintained...”

COMMENT:

This is an endorsement for residential rentals, be they long term or short term. What other home occupation retains the residential character more than using it residentially?

Sec. 6.5.1.4 “Limited expansion of commercial zoning to allow for small scale retail and personal service use with secondary residential use may be considered...”

COMMENT:

In Sec. 6.5.1.11 Temporary Use Permits are introduced, as part of the Commercial zoning policies. Clearly, Sec. 6.5.1.4 does not allow TUPs as a commercial use for singular residential rentals. (specifically referring to residential use as a “secondary” use).

Sec. 6.5.2 Visitor Accommodation and Tourism. Background.

Para. #1 “The Island’s increasing popularity as a summer destination has made tourism both a key component of the local economy and a cause for concern because of its impacts. Island services, such as ferries, roads and the recycling depot, become heavily loaded in the summer...”

COMMENT: It appears that the policy would preclude encouraging visitors to focus on the summer months, and would support encouraging visitors in other seasons.

Sec. 6.5.2 Visitor Accommodation and Tourism. Background.

Para. #4 “...Limiting occupancy for any visitor accommodations ...to levels of an average household size (four persons according to Statistics Canada) may help address such water supply issues.”

COMMENT: Everyone gets guests visiting. This clause would more accurately reflect residential use if it said: “to levels of an average household size, (four persons according to Statistics Canada), **plus an allowance for a family of guests, of the same size.....**”

Sec. 6.5.2.1. “Accommodation for visitors should be environmentally sensitive, small-

scale and low density and may be dispersed around the island....”

COMMENTS: We consistently hear this policy quoted at Island meetings.

Sec. 6.5.2.7 “Visitor accommodation may be considered in the following situations if enabled by other policies of this Plan:

- a) Small resorts, hostels, lodges, cabins and camping facilities, guest house or vacation home rentals (less than one month occupancy) on non A.L.R. land....”

COMMENTS: Is this a new policy? When did our houses start to be lumped in with resorts, hostels, lodges, campgrounds, hotels, or even B & B’s that can serve restaurant style meals, etc.?

Alternative action:

- i) **DELETE** the reference to vacation home rentals from this inclusion with commercial undertakings.
- ii) Specify that this includes STVR’s where more than two houses on acreages are used in that manner (or more than one house on the small lots).

Sec. 6.5.3 Vacation Home Rental, Background

COMMENTS: **Remove Para. 3, 4, and 5** as being un-necessarily negative.

Para.#6 “The previous Plan attempted to address this issue by including a policy suggesting that a vacation rental could be permitted and regulated as a home occupation.....Therefore this approach can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental.”

COMMENT: Does this grant a “grandfather” situation to all properties that are currently qualifying as having a home occupation under the “previous plan”. (i.e. still current)

Para #6 goes on to say “Zoning property to allow for a vacation home rental use or addressing this use through approval of a temporary use permit are other options.”

COMMENT:

SHOULD READ: “**Where densities exceed current allowed residential densities,** zoning property to allow for a vacation home rental use

ADD PARAGRAPH #7:

This plan encourages RETAINING YEAR ROUND RESIDENTIAL USE:

The OCP should preclude any temporary guest accommodation, or short term vacation rentals, in any property that has a

- secondary suite
- a non-permanent accommodation unit

Is in the:

- Community Housing zone
- Special Needs Housing zoning
- agricultural zoning where units are designated for farm workers
- units designated as staff accommodation in commercial areas
- Community Service Use zone

Sec. 6.5.3.2 **REMOVE**

Sec. 6.5.3.3. **REDUNDANT**

Sec. 6.10.9 “In consideration of applications for vacation home rentals the LTC may consider the following:.....”

COMMENT: Brodie said that this section will be re-written. He also noted: TUP guidelines in an OCP are not binding on the LTC.

OTHER COMMENTS:

- only 37% of property owners have Hornby Island addresses. Full, time residents are in the minority.
-

From: Karen Young [mailto:kgarton@outerisland.bc.ca]
Sent: April-16-11 7:21 PM
To: northinfo
Cc: Brodie Porter; Louise Bell; Fred Hunt; Tony Law
Subject: Re: policy revision request

Further to our e-mail sent on April 14th (below) I would like to include a quote from current guests who have been visiting our farm several times over the last few years from Calgary. Last September they arrived to stay a full year with their young family, specifically to experience a different and very important lifestyle. Here is how they describe their time on a working farm:

"For our urban family, the opportunity to experience a working farm has been life changing. Our previously fast-paced, over-scheduled reality has undergone a major shift. We have been given the chance to tune in to the many things that make a rural farm lifestyle unique, enriching, and valuable. There are the obvious things such as fresh air, natural spaces to explore, and a night sky full of stars. More importantly though are the daily experiences through which we have gained respect and appreciation for all that happens at the farm and its value to the Hornby Island community and beyond. Among the many things we have experienced and witnessed are the birth of lambs in the spring, the fall fruit and vegetable harvest, feeding and caring for the animals both large and small, the planting of the garden, and the daily work involved in raising animals and growing food, rain or shine. We now have a long list of "firsts", perhaps too many to count. We are struck by the commitment, sense of stewardship and compassion that good farming practices require. Knowing life on the farm and becoming a part of the Outer Island family has had a profound effect on each one of us. This will ultimately mean better lifestyle choices for our family, and more responsible choices for our environment as we return to the big city."

Andrea, Graham, Sara and Robyn Neumann. Calgary Alberta.

Thank you again for your consideration,
Karen Young

From: [Karen Young](#)
Sent: Thursday, April 14, 2011 10:21 AM
To: northinfo@islandstrust.bc.ca
Cc: bporter@islandstrust.bc.ca ; lbell@islandstrust.bc.ca ; fhunt@islandstrust.bc.ca ; tlaw@islandstrust.bc.ca
Subject: policy revision request

Please find attached our letter requesting your consideration of a policy revision pertaining to agricultural land use.

Sincerely,
Karen

Karen Young
Outer Island R&R
Hornby Island BC
V0R 1Z0
1-250-335-2379
www.outerisland.bc.ca

From: Breatheasy [mailto:easy1@telus.net]
Sent: April-17-11 2:21 PM
To: northinfo
Cc: Louise Bell; Fred Hunt; Tony Law; Brodie Porter
Subject: Letter to the HORNBY LTC for the latest deadline of April 18th., regarding the 2011 OCP "REVIEW"

Letter to the HORNBY LTC regarding the 2011 OCP "REVIEW"

ATTENTION:

Louise Bell, Chair, Hornby Island Local Trust Committee

lbell@islandstrust.bc.ca

Fred Hunt, Hornby Island Local Trustee

fhunt@islandstrust.bc.ca

Tony Law, Hornby Island Local Trustee

tlaw@islandstrust.bc.ca

Brodie Porter, Island Planner

bporter@islandstrust.bc.ca

*"A politician sees only as far as the next election.
A statesman sees as far as the next generation."*

If one asks the wrong questions, one is bound to be given the wrong answers.

All laws which guide the LTC Corporation state clearly that when it comes to the OCP, our own constitutional document, in every case the LUB shoe must fit the OCP foot, never the other way around.

IN OTHER WORDS: ALL LAWS WHICH GUIDE THE TRUST STATE CLEARLY THAT THE SHOE MUST FIT THE FOOT, NOT EVER THE OTHER WAY AROUND - IN THIS CASE LAND USE BYLAWS OR LUBS ARE THE SHOE WHICH MUST FIT THE FOOT.

THE FOOT OF THIS COMMUNITY IS ITS OCP..

WHAT THE LTC CONTINUES TO INSIST ON DOING IS THIS: OPERATE ON AND ALTER THE FOOT. THEN, ONCE IT IS DISFIGURED, CREATE A SPECIAL SHOE TO FIT THE DISFIGURED FOOT.

We ourselves have learned the hard way to choose LTC actions over LTC words. It is time to ask what kind of leader tells each island community it is "unique", and then takes their tax money and uses it to create mass proposals to convert all Trust area islands into one standardization meat grinder.

Members of the LTC, (both on Hornby and elsewhere), have continued, year in and year out, to either ignore or remain oblivious to how they are perceived by the community while seemingly only heeding their own need to use our hard earned taxes to **"PROACTIVELY TARGET"** us and our OCP.

What on earth makes the LTC assume that Hornby is really about to allow itself to be dragged away from our own comfortable functional status quo when we already have a working OCP of this community's own creation?

What would make members of the LTC remain so out of touch with the constituency of Hornby as to really expect this community of stakeholders to settle for replacing an **Official Community Plan** devised by us with an **Official Gated Community Plan** devised by the LTC?

For those who mistake any of this for "improvement", the reality is that an LTC does not return again and again to pick over the strong bones of our current Hornby OCP only in order to try to dress that OCP up in their own unsolicited proposal rags as if this was simply an afternoon at the free store. This is especially true when all of this has been "proactively" initiated without any justification and when those who ignore constituents then proceed to devour and delete what is ours, and ours alone.

Why would anyone who cares about this community expect it to enter into any undesirable negotiation about the fine print of a written undoing of our lives, accompanied by solicitations for verbal songs of praise for their own unsolicited ideas, - especially when it is relatively easy for most to see that what is actually on the table here is a burial mound dressed up as a proposal which destroys by pre-emptive deletion so much of what is currently ours by right?

Which community in its right mind would willingly forfeit the very freedom we have worked so hard to protect for so long? Whether this process has become demoralizing by design or by default has become irrelevant. We are weary of witnessing, let alone debating, the fine details of what appears tantamount to a fraudulently arrived at diminishment of choice, a proposed wholesale change to our lives for the worse.

The LTC has never provided a sound reason for any of this, not other than the presentation that there is somehow a pressing need to use "allocated funding", presumably from our tax dollars. There appears to be no legitimate explanation for why this arbitrary process is being imposed at our expense or for why it is occurring at all.

We are not alone. Many other islands are asking just this, demanding to know why their own local economies are being - or already have been - destroyed in just this same manner, one OCP revision at a time. Isn't it well past time for the LTC to stop trying to entrap the community into debating unto the edge of prostrate exhaustion the minutiae of wearisome parts and points of what are in truth outright revisions and abrogations of community held rights?

When exactly did we as a majority of this community ask for:

- mass rezoning?
- wholesale map changes with no maps to provide the visuals to grasp how extensive this really is?
- mass doubling of density via secondary suites on all lots greater than 3.5 hectares?
- renaming of most of the island?
- new kinds of zones?;
- new minimum lot sizes?
- drastic inversions and deletions of current definitions which permits vacation rentals as a home occupation for both part and full time owners?
- deletion of other activities essential for sustainable island living?

- outright white out deletions reframed as "amendments"?
- with this entire proposal agenda presented by means of distractions and redirects?
- with over attention to often irrelevant minor details, presumably meant to distract from what are actually substantive proposed radical revisions and outright abrogations to our community document, not to mention to our lives, properties and income(s)?
- with all of this and more inadequately reframed as "minor amendments", a misuse of the legal intent and definition of this term, apparently employed so as to bypass the provincial legal requirement for the otherwise requisite two full years of community based steering committee input into any revision (versus "amendments"), which even then the community mandates, not the LTC?

No one we know is anything but worn down, and none are interested in further discussion about whether or not what appears to be tainted OCP appetizers should precede or follow the last meal served up before carrying out an unjust execution of a community's future socio-economic well being.

The LTC certainly seems to view the community as if we are infantile, as if we are not capable of being responsible mature stewards of our own island, its economy, its environment, and our private properties.

This entire protracted exercise is nothing more or less than an uncalled for directive to carry out an aggressive overhaul of all we hold dear, a process which has, from the start, stepped outside the bounds of respectful consideration of the wishes of Hornby constituents, albeit usually politely done.

By rights, none of this should even be happening at all, not unless the mandate for change comes from the stakeholders of this island. And it has not. There is no explanation for ignoring this fact.

What, other than an vain attempt at an exercise in public pretence, is supposed to be the point of unchanged essentials reframed in meeting after meeting, especially when nothing that the LTC has been so set on doing from the get go seems to ever be relinquished?

What is the point of the exercise wherein we witness the LTC sit with a blank stare silence when faced with legitimate and rising resistance, or where we watch as the LTC resorts to circuitous retrenchment to close ranks and reposition?

Why do we mostly only observe how the LTC avoids the obvious path, which is to cease and desist, to leave well enough alone our non enhanced status quo OCP, and to stop calling "enhancements" these LTC initiatives which are in truth full scale OCP revisions. Calling what is happening here "enhancement" is an insult, almost as if all of this were some kind of a perverse advert for a drug for an island version of loval erectile dysfunction.

This repeat upheaval has become a model of what many feel and have stated is an abusive process. It is not in any way worth what we are told we must be expected to give away. And, at this point the LTC is at risk of giving the impression that they see themselves as free to disregard the majority - or even every last one of us - as they

appear to doggedly persevere, and in the process seem to be in taking this wrong headed venture over a constitutional cliff.

If the LTC continues to listen without hearing, to patronize or obfuscate without genuine respect, to make use of circular reasoning to conflate and appear to confabulate,.....

If the LTC remains closed to actual substantive reversal of this process altogether and instead offers only the appearance of openness to persuasion, while at the same time arranging to schedule a public hearing and.....

If the LTC remains essentially inflexible about what seems to be their own single minded agenda, ...

the fact is that they will lose far more than simply what is left of any possible respect for their ability to handle process, - if indeed this happens to concern them at all.

If they do continue, the LTC will also serve to create a new creature born of this anomalous process, perhaps generating an entire island peopled with justified scofflaw stakeholders who may by then have learned by example from their own non representational process to ignore those who would seek to abuse power.

The Precautionary Principle has been discarded here. The supporting science for this kind of whole cloth extreme makeover, or indeed for any regressive change, is simply not there. So the real choice of doing absolutely nothing would more than suffice, had we had the proper opportunity to offer up legitimate community based steering advice, informally offered more than once to date to the LTC.

There is no OCP "solution" since there is no OCP "problem". Those who either seek to harm - or else fail to realize that harm would be the net result of this kind of devaluation of community options done in the name of good - have given Hornby stakeholders the impression that the LTC has by prior arrangement sought to find ways to try to take away home occupation generated vacation income flow, and even seem intent on the destruction the community's own means to pay the property taxes which in ever larger part fund the thrust of the Trust's unseemly expansion during a recession.

All of what we are witnessing certainly appears to be part of a hierarchically devised scheme to demoralize property owners on many islands throughout this process, perhaps hedged by yet another agenda, one which might be aimed at those left with no other options and who would then ultimately fall into the final trap of donating their devalued land back to the Trust's own land trust branch. Ultimately, however, we can only surmise the motives for LTC initiatives to implement such unwarranted destructive policies, proposals, and revisions.

In any event, the process has been overtaken by stealth, a process for an OCP which is ours alone to opt to change - or to not change. All we are saying is please just stop the erosive meetings, and leave the OCP alone, because it is ours.

At this point we want to see hard evidence beyond mere words that the LTC is both competent and confident enough to relent, as of now, and to accept that it is time to bow to the wisdom of the majority and to defer and hand over the reins to the STVR/HOVR (Home Occupation Vacation Rentals) advocacy group that is working so hard to effectively streamline this activity on Hornby.

We remain unconvinced to date that the LTC feels it is able to take this unique opportunity to show true leadership by bowing out and allowing the community to decide

on its own whether it is satisfied with its own current OCP, a document hard earned and much beloved by its co-creators.

There really is no further reason NOT to defer to the collated wisdom and well thought out grass roots innovative approach of the vacation rental advocacy group in this HOVR matter, instead of the non viable option of the LTC insisting on having the last word.

Currently these largely absurd proposals themselves have actually managed to take a back seat to the far greater emerging issues:

- the negative impact of a failure to assure legitimate open inclusiveness;
- an inclination to take over the conversation that is the community's to create with one another on an "as needed" basis;
- CIMs which exist only to formalize a direction or to inform an "audience" but which then remain largely unreceptive to the over arching need for the LTC to exercise self examination;
- a bureaucratically closed system process seemingly not capable of embracing well thought out community based plans brought forward on how to keep the status quo intact.

Apparently an absence of transparency during key parts of this process is only observable to those who witness it and who understand the decisiveness of the rule of case law regarding vacation rentals and the lear regulations for LTCs embodied in provincial law pertaining to how this kind of process must be carried out, as needed, - and only as needed.

We ourselves did not initially enter into this exercise in an adversarial way. Over the years, however, as we have withstood what can only be called repeat assaults to all that this island has collaboratively created, we have been forced to become "proactive" critics of what in fact is an adversarial process based on the creation of a sense of community defensiveness by the adversarial way in which the LTC seems to feel the need to target an entire way of life.

If the LTC continues to listen without hearing while giving the impression of being patronizing and of obfuscating, inadvertently or otherwise,

- if the LTC cannot lead by its own example through genuine respect for the inherent humanity of its "target",
- if the LTC continues to use circular reasoning to return again and again to essentially the same substantive place,
- if the LTC persists in conflating, and even seemingly confabulating, while in reality remaining closed to persuasion,
- if the LTC thinks its main and most important priority is to close ranks and remain essentially inflexible about its own single minded agenda(as defined by Trust Council or otherwise), then this LTC may well remain only a corporate committee that claims it must take its marching orders from Trust Council, but this LTC will not have demonstrated anything approaching leadership.

This community has remained overweeningly polite and has offered up deference and patience beyond all measure toward the LTC during what has most frequently been tantamount to a broken record series of repeat affronts to community sensibilities and priorities.

We have withstood meaningless variations on the same recurring theme of "targeted" proposal schemes created to effect countless adverse changes to every aspect of this community's future. We have overcome intimidation by "trigger" happy enforcement proposals. We have tolerated "proactive" reworking of proposed disfigurations of an island way of life, all of which have only been crafted to appear superficially different from one another, over much of the last decade, but in fact which remain as foreign to the real Hornby way of life as ever.

Enough is not only enough, at this point. Enough is now too much. Heed us: Hands off our OCP.

Rearguards,
Care & Vic Snowdon
Hornby Island, B.C.
V0R1Z0

----- Original Message -----

From: [Helen-Middle Mountain Mead](#)

To: [Tony Law](#) ; [Fred & Christine Hunt](#) ; [louise bell](#)

Sent: Monday, April 18, 2011 9:32 PM

Subject: comments OCP

Please find my comments regarding the OCP. With respect to STVRs I would like to say that after following the process carefully over the last 10 months, my conclusions are that allowing STVRs as a permitted use on all properties except for the 6 exceptions noted by Karen Ross in her letter makes the most sense and would be (in my opinion) best suited for community needs. I would like to engage in a workshop session whereby real solutions could be hammered out. I believe that there is a good possibility of achieving a good homemade solution on Hornby and I look forward to seeing this issue happily resolved. Cheers, Helen

April 18, 2011

Thanks for all the hard work done by the LTC towards updating the OCP and working on solutions to allow Vacation Home Rentals. I understand that the focus of this work is undertaken from the perspective that the Islands are unique and special and deserve protection from human influence as much as possible. However, I feel that the people living in this community are also part of the picture and that protectionism must support a healthy balance between the two.

Over the last 20 years, population has decreased significantly and diversity has suffered on the island. I would expect this to accelerate over the coming years. Rural areas are depopulating all over the planet. With that we are losing our heritage as human beings as urban life is a recent and unnatural development in our evolutionary history. I would have expected that by now alarm bells should be going off in the Island's Trust about the stagnation and decline of some of its communities. It has been very apparent to me that protectionism of the human communities on the islands takes a distant back seat to the protection of the environment.

Many of the provisions in this revision take measures to further lock up opportunities for survival on the island. I certainly support the introduction of things like secondary suites and possibilities for subdivision in difficult circumstances. I'm disappointed to see subdivision under provision 946 effectively being removed even though it has not been heavily subscribed to. It may certainly be of significant importance in the future however, and should be preserved until there is a good reason to curtail it.

I would like to make a comment about the proposed secondary suites. There are currently being proposed for large lots and are being limited to within the main dwelling unit. I can't understand why it is being limited to the dwelling unit itself and why it could not be contained within a separate dwelling nearby. This seems punitive and unsupportable. I challenge the staff to explain this restriction. I would support a distance limitation to encourage "clustering" of buildings; however, I believe that there would be more "buy in" if the secondary suite could be outside the main dwelling.

I have been aware of a significant "disconnect" between staff, trustees and our community when it comes to fully understanding the value and significance of Vacation Home Rental activity on the island. Even though the "rules in the box" threaten our existence, there has been a distinct reluctance on the part of staff to *a)* accept the past mistakes of Trust staff in advising us to legalize Vacation Home Rentals and *b)* look creatively at ways of allowing the activity to go ahead as we move forward. I would ask that staff and members of the LTC look hard at what this activity means to this community and what we could lose if solutions aren't found. Yes we need to be aware of possible "unintended" consequences. However, we have very real, daunting consequences of inhibiting this activity that seems many times more pressing than the possible unlikely consequences that we haven't seen, even after 4 decades of having this activity in our community.

I would like to suggest that the potential to restrict proposed secondary suites could serve to fill the requirement for "dedicated" residential housing.

Comments on OCP revisions

Section 3.2, page 17, under a) Important Terrestrial Habitat viii) Ford Cove Creek (fish bearing).

Over the last 15 to 20 years at least this creek dries up in the summer and no longer flows. I've never seen fish in the remaining pools. I don't think it deserves the same protection as a year round stream.

6.3.3 Rural Residential

6.3.3.2 Exceptions to policy 6.3.3.1 may apply in the following circumstances:

I want to make sure that this policy applies to all properties on the island (excluding agricultural land reserve) greater than 3.5 hectares (where two legal houses can exist). It would be terribly unfair to exclude those properties not designated at "Rural Residential" as everyone in this situation faces the same challenges.

6.3.5.12 Secondary Suites

Secondary suites, should be allowed on all large acreages on the island. I would suggest that 2 acres or more is probably large enough to support a secondary suite provided water and septic are suitable. This is a "smart growth" direction that many communities are recognizing as a means of providing affordable housing while not changing the character of a community. As our population ages, it will become an essential ingredient in allowing people to live in their homes with a built in caregiver. There is an inadequate supply of housing geared towards seniors. I applaud the LTC for supporting this initiative. I would suggest that this category of housing be excluded from use as Vacation Home Rentals in order to protect residential housing stock in the future.

6.5.3 Vacation Home Rental

Paragraph one and two seem to represent the situation accurately. Paragraph 3, 4 and 5 are either unsubstantiated, negatively biased unfairly or wrong.

Paragraph 6 should make mention of the fact that the original OCP strongly encourages STVRs as an acceptable home business. The original decision to use the word "home occupation" was based upon either bad staff advice at the time of the draft or subsequent redefinition of the term "home occupation". In either case the blame for the current lack of security for this activity rests with the Trust staff and must be addressed in a way that allows for this activity. It is completely unfair to criminalize this activity due to past Trust ineptitude. If there is another explanation I would be happy to hear it.

Under "Objectives", I disagree with the wording of this entire section. I believe there is strong prejudice against the activity in the language used here. It does not support the fact that the original OCP provided strong support for this activity. A much better approach would be to comment on how positive this activity is, how it has improved in community opinion and how it should be supported to

include best practices. I disagree with much of the language used under “policies”. There is no consideration being given here for the fact that our neighbourhoods don’t look the same as “standard” neighbourhoods due to their high levels of use as recreational property. Attempts to force us into this mold seem inappropriate. In many ways Vacation Home Rental use is much more in keeping with the expectations of residential use than by that of recreational property users or permanent residents who have large numbers of summer guests.

A general comment of this section is that it attempts to minimize the intent of the original OCP and it provides copious language that could be relied upon to seriously curtail this activity. This is unacceptable.

6.8 climate Change Adaptation and Mitigation

The most relevant way that this community can alter its carbon footprint is by encouraging the “sharing” of major amenities. This includes homes “secondary suites”, vacation homes and vehicles. We will all need to live in smaller spaces that require fewer resources to heat and maintain. Therefore, all attempts to contain single families (individuals) in single homes is decidedly in direct opposition to any forward thinking community in this context.

Helen Grond and Stephen McGrath, 3405 Euston Rd. Hornby Island

From: Donna Tuele [mailto:DonnaTuele@telus.net]
Sent: April-18-11 10:58 PM
To: northinfo
Cc: Fred Hunt; tbell@islandstrust.bc.ca; Tony Law; Brodie Porter
Subject: Hornby Island STVR & OCP Comments

Dear Trustees, Tony, Fred & Louise:

Short Term Vacation Rentals

I would like to thank you for leading us through this process, it has been a period of learning and evolving for me as well as others. I originally felt that "Status Quo" was what would have been the best for the community, but after all of the work completed by everyone, I truly feel that we need to come to a more permanent resolution. Vacation Rentals needs to be an allowed use either through the redefinition of "Home Occupation" or some other way. The use of residences has evolved into being a very good way to host our guests. We do not want more resorts and we definitely do not want Hotels or Motels. Paying guests staying in our homes are consistent with the residential character and is the preferred way to host them and to support the economy of the island.

Official Community Plan

I feel we have lacked the opportunity to participate in a public forum with respect to the updating of our community plan. I was very disappointed at the meeting that I attended (Victoria) with the amount of time allocated to the OCP. Can we have not have a community meeting whereby we have real dialogue about the revisions suggested?

In case we are not able to do this, I would like to comment on the following:

Short Term Vacation Rentals - The preamble is far from what was stated in our previous OCP and not what the community feels. It has very negative view of vacation rentals and does not address the wants of the community.

Section 946 – Subdivision for a family member. I believe this should be tightened up to ensure that subdivisions are for family and should not have the minimum parcel size revised. I do not believe this has been abused and is being addressed just because other areas have tightened this up.

Residential 6.3.1 - Add a fourth major housing challenge

d) Tenants require educating as a portion of homes have been removed from the year round rental pool due to quality of tenants and the lack of respect to the homes they rent

Secondary Suites:

I support this and feel secondary suites should be allowed in all areas and should be defined as not being allowed to be used for short term vacation rentals. This is an excellent way to handle shortage of housing.

Again, I would like to thank you for your hard work and am very willing to participate in further discussion on the OCP review.

Sincerely,

Donna Tuele

From: Doug Christie [mailto:rdchr@telus.net]
Sent: April-18-11 8:21 AM
To: northinfo; Fred Hunt; tbell@islandstrust.bc.ca; Brodie Porter
Cc: ross.karen; Tony Law
Subject: STVR's on Hornby Island

Dear Trustees,

Concerning the proposed changes to the Official Community Plan, my request is that you do nothing to change the present plan, which seems to well represent the wishes of the island.

I also request that you stop saying or suggesting that the short term rental of residential housing is illegal, or not allowed, or not permitted. The only thing that can be truthfully said is that it not allowed by the present bylaw, but it is misleading and dishonest to say this without also pointing that those clauses are probably invalid because they disagree with the intent of the OCP.

And since you are in charge, I also request that you ask Brodie Porter to stop saying this as well.

Yours sincerely,

Doug Christie
3750 Slade Road
Hornby Island, BC

From: Robert Gee [mailto:islbob@telus.net]
Sent: April-18-11 10:30 AM
To: northinfo; Brodie Porter; Fred Hunt; Louise Bell; Tony Law
Subject: Call for submissions for STVR Policy and OCP due April 18

TO: Hornby Island Trust Committee, North Office Islands Trust
FROM: Robert Gee (Former Trustee) 3850 Euston Road Hornby Island
RE: Call for submissions the Draft OCP and STVR Policy due April 18th 2011
Date April 18 2011

The Trustees forwarded e-mail links to review pdf documents on March 31. The STVR guideline (1 p.) a graphic was clear, and a nice lay out. The Draft OCP (114 pges) reflects a tremendous amount of hard work. I was also given by others, the Trustee Law suggestions coming out of a April 2nd Public Meeting. If providing the Public pdf formats, those responsible for reviewing submissions should also then be able to receive back notational comments directly on the documents themselves. This enables direct comments on relevant pages. Therefore all are attached together as one PDF of 34 pages. Page 1, R gee Intro letter, Page 2 the STVR Policy, pages 3 & 4, the T.Law, post April 2 proposals, the Draft OCP section 26 pages, includes pages 9,54,59,60,63,65 to 78,80 to 82,84 to 86, 102 &103 of the original Draft OCP, followed by two letters for the community news paper the First Edition- to appear in May and a draft third to follow in another month.

Sincerely R Gee
E-mail & Attch PDF "April 18th STVR OCP Submission "
C/C Ida Chong Minister

Best Regards Bob Gee
islbob@telus.net

Valley 2-7 Hornby Island BC V0R 1Z0
250-335-2482 or Toll Free 1-877-809-2482 (North America)

Pdf Attachments read with Acrobat Reader 6.0 at <http://www.adobe.com/products/acrobat/readstep2.html>
Contact Bob Gee at: islbob@telus.net for another file format if PDF or MS WORD is not suitable

TO: Hornby Island Trust Committee, North Office Islands Trust
FROM: Robert Gee (Former Trustee) 3850 Euston Road Hornby Island
RE: Call for submissions the Draft OCP and STVR Policy due April 18th 2011
Date: April 18 2011

The Trustees forwarded e-mail links to review pdf documents on March 31. The STVR guideline (1 p.) a graphic was clear, and a nice lay out. The Draft OCP (114 pges) reflects a tremendous amount of hard work. I was also given by others, the Trustee Law suggestions coming out of a April 2nd Public Meeting. If providing the Public pdf formats, those responsible for reviewing submissions should also then be able to receive back notational comments directly on the documents themselves. This enables direct comments on relevant pages. Therefore all are attached together as one PDF of 34 pages. Page 1, this page, Page 2 the STVR Policy, pages 3 & 4, the T.Law, post April 2 proposals, the Draft OCP section 26 pages, includes pages 9,54,59,60,63,65 to 78,80 to 82,84 to 86, 102 &103 of the original Draft OCP, followed by two letters for the community news paper the First Edition- to appear in May and a draft third to follow in another month.

AN EXECUTIVE SUMMARY is that the Draft OCP has some real problems major caveats being:

- a) Wording of several sections will have unintentional effects by promoting further subdivision, i.e. words “joint owners” not specific. (Tenant in Common Old OCP).
- b) The section on Co Operative Housing will allow Co Ops amongst residential acreages – increasing density and poor planning.
- c) Unspecified leeway is given to Trustee discretionary decision- making that will be open to abuse under the current Trustee regime.
- d) The Agricultural section should requiring passing siting & use permits by the Agricultural Land Commission because of a current culture of non compliance, an unwillingness to enforce contraventions and Trustee discretionary decisions
- e) Some but not all sections, lack definition of the minimum lot size as it relates to Section 946 subdivisions
- f) Tourism & Vacation Rentals (STVRS) is fraught with fundamentally flawed perception of the facts, activities and impacts of STVRS and thus promote solutions to problems that don't exist. One is driving the allowance for secondary accommodation – an anathema to density provisions and will create conditions for further subdivision. The result is an element of self- righteousness, an ideological overtone on rentals of private property that makes it impossible for this committee to successfully resolve the STVR issue.

As an island citizen and believer in the Trusts mandate of preserve and protect, I find it rather telling that the current Trust's overbearing process nature calls for comments by April 18th, while sits to decide these issues on the morning of the 20th. It is far too little time for serious review of public comment. Additionally, the current philosophical approach to the community and the proposed OCP encourages further subdivision and increased density in a geographically hap hazard manner- thus affecting property owners who have bought in areas for the express purposes of avoiding increased density. In conclusion the OCP and the STVR Policy document and subsequent Use Bylaws addressing STVRS will be clearly unfair, inequitable, and will promote other policy and density changes driving unnecessary further development.

I trust you will take serious note and consideration of my sidebar comments and remain

Sincerely R Gee
E-mail & Attch PDF “April 18th STVR OCP Submission “
C/C Ida Chong Minister



Vacation Home Rentals on Hornby Island – Enhancing the Status Quo

Presented as a handout by the Hornby Island Local Trust Committee for discussion at Community Information Meetings– April 2, 4 and 6th 2011

This document is provided to facilitate discussion at the upcoming community information meetings
 The Hornby Island Local Trust Committee has been hearing some consistent messages:
 “Vacation home rentals are crucial to the community.” “They are generally working well.” “Keep the status quo.”
 This paper outlines the “tools” available to the Local Trust Committee to address vacation home rentals.

Official Community Plan	Land Use Bylaw	Temporary Use Permits	Bylaw Enforcement Policy
An Official Community Plan is adopted by a Local Trust Committee and contains policies to guide land use decisions. Subsequent amendments to a Land Use Bylaw (LUB) must not be in conflict with Official Community Plan policies. <i>Also see Temporary Use Permits</i>	A Land Use Bylaw includes “general regulations” such as for home occupations It includes “zoning regulations” which list the permitted uses for each zone.	Temporary Use Permits can be issued on a lot-specific basis to enable a use other than those listed in the permitted uses for the zone. An Official Community Plan can contain policies stating where and how Temporary Use Permits can be considered.	A Local Trust Committee can adopt a standing policy to specify triggers for enforcement in order to make appropriate use of limited enforcement resources.
The reality of the status quo			
The current (2002) Official Community Plan contains a policy which supports regulations being included in the Land Use Bylaw to allow vacation home rentals as a home occupation. <i>Also see Temporary Use Permits</i>	The current (1993) Land Use Bylaw does not specify vacation home rentals as a home occupation. It does not list vacation home rentals as a “permitted use” in residential zones.	The use of Temporary Use Permits to allow vacation home rentals is not provided for in the Official Community Plan.	The Local Trust Committee does not presently have an enforcement policy. This means that Islands Trust Council enforcement policy directs enforcement. This policy requires enforcement on the basis of a written complaint or the advertising of a non-permitted use.
Enhancing the status quo			
The Community Plan could be amended to: a) better reflect the community's relationship with vacation home rentals; b) continue to support vacation home rentals being conducted as a home occupation; c) enable vacation home rentals to be allowed through rezoning or Temporary Use Permits for property owners who wish to pursue these options; d) keep the door open for a future review of how the status quo is working <i>Also see Temporary Use Permits</i>	The Land Use Bylaw could be amended to allow vacation home rentals to be carried out as a home occupation on those lots where there is a resident living on the property. (This would implement the existing 2003 OCP policy.)	Temporary Use Permits could be made available as an option for allowing vacation home rentals. Appropriate guidelines could be added to the OCP. This provides an option for additional homeowners in particular circumstances. - A Temporary Use Permit is valid for 3 years. - - It can be renewed for a further 3 years. - A subsequent permit can then be applied for).	The Hornby Island Local Trust Committee could adopt a Bylaw Enforcement Policy to specify that investigation and enforcement of vacation home rentals will only be triggered when: a) there is a <i>bona fide</i> written complaint of health, safety or nuisance issues; b) renters are being accommodated other than in a dwelling unit; c) more than one dwelling on Hornby Island is being used by the same owner as a vacation home rental

Possible changes to**Hornby Island Official Community Plan- DRAFT REVISIONS APRIL 2011****6.5.3 Vacation Home Rental** **Background**

Given the island's increasing popularity as a summer destination, there has been increasing demand for visitor accommodation. Aside from the commercial visitor accommodation facilities and bed and breakfast home occupations, there has been a tradition of some home owners renting their cottages or homes for short periods of time predominantly during the summer. Property owners benefit from the opportunity to raise funds whether to assist with property costs while retaining their residence for its primary residential use for most of the year or as means to provide an income. Visitors benefit from a range of accommodation options to experience the Island's environment and amenities. The community benefits from the economic inputs from these visitors.

At first, homes were generally rented to friends, acquaintances and relatives through “word of mouth” contact. This direct contact established a relationship between owner and visitor that provided connectivity to, and respect for, the property, the neighbourhood, the community and the environment.

 The availability of Internet advertising and the establishment of property management companies have corresponded with an increase in the number of homes available for vacation rental and a transformation of many rental situations into a more commercial practice that does not always involve a direct relationship between the property owner and those renting the property or with the neighbourhood or community.

This change over time in the number and type of vacation rentals has lead to concerns regarding the individual and cumulative impacts of an unregulated commercial land use happening in areas zoned for residential use. Some dwellings are advertised for year-round availability as visitor accommodation, some by the night. Some involve levels of potential occupancy much higher than normal household size. This can erode the residential character of neighbourhoods and put pressure on water resources in areas with documented problems.

The previous Plan attempted to address this issue by including a policy suggesting that a vacation rental could be permitted and regulated as a home occupation. However, a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental.

~~Zoning property to allow for a vacation home rental use or addressing their use through approval of a temporary use permit are other options that can be considered.~~

For several years prior to the adoption of this Plan, the Local Trust Committee explored with the community various options for addressing vacation home rentals.

Area:

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- 1) to recognize that there has been a long history of vacation home rental on Hornby Island ~~without authorization~~

by land use bylaw;

2) to ensure that the residential use of property and its residential character is retained where it is the permitted and established use;

3) to enable ~~some traditional practice~~ **the continuation** of vacation home rentals;

4) to address potential impacts of vacation home rentals if such uses are authorized; and

5) ~~to support future evaluation of vacation home rental policies, recognizing that such uses are a significant and challenging issue for the Hornby Island community.~~

Policies:

~~6.5.3.1 Provision of paid accommodation for visitors to Hornby Island through vacation home rental is supported, provided that some management of the community and neighbourhood residential needs and other land use needs of Hornby Island can be addressed. Issues to consider in permitting vacation rentals includes minimizing nuisance impacts such as noise and parking congestion on the local neighbourhood; retaining neighbourhood character; health and safety issues and the application of a principle of welcome without commercial promotion.~~

~~6.5.3.2 Provision of a residence for vacation home rental beyond thresholds of residential land use, such as when commercial approaches are used in the promotion and management of such use, may be permitted through a temporary use permit or rezoning. Examples of additional issues to consider in such processes are water supply and sewage treatment capability; traffic management and environmental management, as well as the benefits that such accommodation may provide to the community at large~~

~~6.5.3.3 The rental of a residence for a term of one month or more should be considered a residential use of land while a rental of less than one month is a vacation home rental.~~

~~6.5.3.4 The use of a residence for a vacation home rental may be considered a residential use of a property where there is a second dwelling on the property occupied by the resident of the lot, in which case such a rental may be permitted as a home occupation.~~

6.5.3.1 Vacation home rentals are supported as compatible with the residential use of property given the well-established pattern of seasonal occupancy of dwellings on Hornby Island.

6.5.3.2 Vacation home rentals may be allowed as a permitted use through zoning regulations for residential areas.

 **6.5.3.3 In order to address potential impacts upon neighbours and water resources, land use regulations may specify maximum levels of occupancy for vacation home rental use.**

 **6.5.3.4 In order to help retain the residential ambiance of neighbourhoods, land use regulations may specify a minimum rental period for vacation rental home use.**

 **6.5.3.5 In order to retain the primary residential use of property zoned for this use, land use regulations may specify a maximum portion of the year during which vacation rental home use may be conducted.**

 **6.5.3.6 Provision of a residence for vacation home rental beyond what is permitted through zoning regulations is considered a commercial use, and may be permitted through a temporary use permit or rezoning.**

 **6.5.3.7 The Local Trust Committee should work with the community to develop and advocate best practices for vacation home rentals.**

SECTION II—PRIMARY OBJECTIVES AND POLICIES

2.1 Broad Community Objectives

The following statements of general objectives express the values that are significant to the people of Hornby Island and together with the specific objectives listed in each topic area sets the direction to be followed when interpreting and implementing the policy statements.

- (1) To promote the conservation, preservation or restoration of:
 - a) areas of natural, scenic, historical, archaeological or scientific value,
 - b) watershed and groundwater recharge areas,
 - c) public land and parks,
 - d) areas of significant vegetation, the forests, the wildlife and their habitat,
 - e) land with agricultural potential,
 - f) shoreline, foreshore and the Island's surrounding marine ecosystem, and
 - g) water courses and riparian areas.
- (2) To ensure all human activities are carried out in a manner that is sensitive to the protection of fresh water resources and to the fragility and interaction of natural ecosystems, are compatible with activities of surrounding neighbours, and are in keeping with the rural scale of land use on the Island.
- (3) To minimize pollution of air and water.
- (4) To limit or reduce present and future stresses upon natural and community resources, particularly those generated by increasing seasonal uses.
- (5) To encourage a self-reliant rural community based on agriculture, low impact businesses and home occupations that are sustainable and non-polluting.
- (6) To ensure changes, growth and development are gradual and support the sustainability of the community.
- (7) To maintain the community's sense of unity and to promote a residential development pattern consistent with the rural character of the Island.
- (8) To encourage residents and visitors to take an active role in the preservation of natural and social values on the Island.
- (9) To encourage consultation with and participation of the public in local government decisions and in the management of Provincial resources by appropriate agencies.
- (10) To protect through sound long-range planning policies and strategies, the agricultural potential of lands, foreshore and intertidal areas, forested areas and groundwater recharge areas.
- (11) To support community awareness and participation in achieving lifestyles and buildings which ensure energy efficiency.
- (12) To preserve the rural character of the Island.

5.7 Water Transport

Background:

Access to the Island is focused through two protected wharfage areas, the ferry dock and the Ford Cove government wharf. The Island has few safe anchorages and sheltered bays. The resort near the ferry terminal (Shingle Spit area) offers seasonal summer day-use wharfage. The wharf at Ford Cove is under Federal lease to the Ford Cove Harbour Authority and offers the only year-round protected wharfage. Limited summer anchorage is possible in several bays.

The regulation of sea transport falls generally under the authority of the Federal Government and the principal access is via BC Ferries Services Inc. Construction of private or commercial docks require approval of a lease from Ministry of Forests, Lands and Natural Resource Operations. This Plan can therefore define only broad objectives for the management of all water access to the Island except that upland and water zoning regulations must also be satisfied before a private individual can proceed to install any structures for a private wharf or moorage.

Area

All areas identified on Schedule B (Map Designations) and in particular the areas designated Marine Transport (MT) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to protect the limited sheltered bays for temporary anchorage;
- (2) to provide boat access to the sea;
- (3) to maintain a ferry service directed toward the needs of the local community;
- (4) to promote adequate sewage, used water and solid waste disposal for users of all marine facilities according to Provincial Health standards;
- (5) to encourage measures to reduce the number of vehicles that travel on the ferry; and
- (6) to support the continuing provision of wharfage at Ford Cove or at Shingle Spit.

Policies

- 5.7.1 Private wharfs and/or breakwaters should be prohibited by regulation.
- 5.7.2 Expansion of wharfage at Ford Cove by the Ford Cove Harbour Authority may be supported provided negative environmental and visual impacts can be demonstrated to be minimal.
- 5.7.3 Expansion of moorage at Shingle Spit may be considered provided negative environmental and visual impacts can be demonstrated to be minimal.
- 5.7.4 Mariculture should not be permitted in Ford Cove or at Shingle Spit.
- 5.7.5 The existing marine transport (MT) points as shown on the land use map Schedule B should be maintained for current identified uses.
- 5.7.6 Public launching slips for canoes, kayaks, row boats and dinghies may be considered upon application to allow for safe and easy water access.

SECTION VI—OBJECTIVES AND POLICIES FOR SUSTAINABLE LAND USE

6.1 Objectives and Policies for Development

Background:

One of the main functions of the Community Plan is to designate the patterns of future land uses. The designations are based on historic development patterns, physical features or constraints, other government agency comments and specific objectives defined by the community. Land is divided into various land use categories and shown on Schedule B, the land use map. Policies for each use are contained in this Section.

There are currently 1351 parcels in the Hornby Local Trust Area, including Park and Crown land. There are 30 parcels that could potentially be created, from 11 of the current parcels. The addition of these new parcels would result in a total of 1370 parcels on the Island and excludes the subdivision potential of Crown land, industrial and institutional parcels, and park land. Of these parcels, 80.7% of the land use is used for residential, 2.5% for farm, 1.3% for commercial 0.6% for transportation, communications, and utilities and 2.4% for civic institutional and recreational purposes. The remaining 12.5% is composed of other designations, vacant land, and lots with outbuildings using BC Assessment Authority classifications for land use. (Community Profile 2010).

Area

All areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this section are:

- 
- (1) to protect the physical environment and natural features;
 - (2) to ensure that all land uses are regulated equitably;
 - (3) to ensure all development of the land base is self-sufficient for services and does not impose or create load on surrounding land uses; and
 - (4) to consider the community benefit in any significant rezoning application.

Policies:

Policies in Section 6.1 apply to all sections of the Plan.

6.1.1 The maximum size of buildings and structures on all lots should be regulated.



6.1.2 A minimum parcel size should be established for a parcel that may be subdivided pursuant to section 946 of the *Local Government Act* so as to uphold the objectives of the applicable land use designation.

6.1.3 All applications for subdivision considered by the Local Trust Committee should demonstrate that there is sufficient water supply and waste disposal capability for serving the property both at the time of application and at ultimate projected growth levels.

6.1.4 Increasing net residential density through rezoning should not be permitted in the Small Lot Residential designations of Sandpiper, Galleon Beach and Whaling Station Bay areas.



6.1.5 Applications for amenity rezoning may be considered by the Local Trust Committee for purposes of provision of a needed amenity such as as affordable housing, conservation, community food production, a community facility, access or a trail. Any density increase authorized by an amenity zone should not exceed the density authorized by the applicable land use designations of the areas plus in exceptional circumstances, where the amenity is considered of significant value to the community as determined by the Local Trust Committee, an increase in density of one lot may be considered. The total number of additional lots allowed in exchange for community amenities on Hornby Island should not exceed five from the date of adoption of this Plan until the next review or update. For purposes of application of this policy the term "lot" may be used interchangeably to mean "dwelling".



Information Note: An illustration of the application of policy 6.1.5 (amenity zoning), if the owner of 4 hectares of land designated Rural Residential wishes to donate 1 hectare of land for conservation as an addition to an adjacent park (an eligible community amenity) the applicant may, through an amenity rezoning, be eligible to create two lots on the remaining 3 hectares.

6.1.7 The Local Trust Committee should consider the need of a covenant for purposes of protecting the environment and specifically the groundwater resources, upon receipt of a rezoning, subdivision, or a temporary use permit application from the land owner. The covenant may contain restrictions on the use of the land in order to protect and enhance the groundwater recharge capabilities, to ensure that groundwater contamination is avoided, to address groundwater shortages, or to prevent further subdivision of the parcel. To ensure that a covenant is enforced, the covenant should be held by the Local Trust Committee (or the Trust Fund Board where appropriate) and should be monitored regularly.

6.1.8 Subject to Ministry of Environment and the Ministry of Agriculture regulations, specified agricultural and horticultural activities should be permitted and should be regulated by bylaw to ensure that water resources are protected and that agricultural activities on non-agricultural land do not disturb the quiet of residential neighbourhoods. The provincial guidelines address the following: storage and use of agricultural waste, application and composting of agricultural waste, agricultural emissions, agricultural machinery noise, storage and use of wood waste, on-farm disposal of mortalities, feeding areas, access to water and use and storage of agricultural products.

6.1.9 Recommendations from the Ministry of Environment Stormwater Management Guidebook regarding the maintenance of pre-development infiltration and drainage regimes should be considered in the development of land use regulations.

6.1.10 Lot coverage should not exceed 15 % on lots less than one hectare (2.5 acres) and 10% on lots greater than one hectare (2.5 acres). Lot coverage for lots within the Agricultural Land Reserve should not exceed 20% with the additional 10% to be used only for structures required for agricultural production such as barns and greenhouses.

- 6.2.1 A Community Trades and Services Area, developed and operated under the jurisdiction of an organization (such as a cooperative or land trust) with accountability to the community, should be permitted on land designated "community service use" and should be regulated by development permit and land use bylaw regulations.
- 6.2.2 All land within the community service use designation and public utilities and services designation directly north of the GW/EPA designation on Schedule B should be included in a Development Permit Area for the purpose of protecting the groundwater resource. A development permit may be required for any new development that involves: significant water use, sewage and used water treatment, alteration of the land or vegetation, or use of potential contaminants, including residential, commercial, industrial or trades and service developments, new recreational or service facilities such as a swimming pool or fire hall and road building.
- 6.2.3 Community facilities, such as schools and recreational facilities should continue to be clustered in the central area near the Community Hall.
- 6.2.4 Fire protection, clinic, ambulance and other public services should continue to be located centrally.
- 6.2.5 The Royal Canadian Mounted Police should continue to be located in a central location, and should be requested to provide a structure in character with other public buildings on the Island.
-  6.2.6 The development of affordable rental housing or special needs housing for Island residents, including facilities for seniors, displaced year-round residents and summer workers, operated by a community non-profit society, should be permitted on land designated community service use and be regulated by development permit and land use bylaw regulations. Other residences should only be permitted for the purpose of accommodating a caretaker or operator.
- 6.2.7 Limited commercial activities (such as a farmers' market for locally-produced foods and goods or a credit union), operated under the jurisdiction of a community non-profit society, should be permitted on community service use lands subject to adequate off-street parking being provided and should be addressed through land use bylaw regulations.
- 6.2.8 Member use services provided by non-profit organizations, such as community kitchens, gardens, public showers and laundry facilities should be permitted.
- 6.2.9 Screening of operations should be required by regulation to ensure that wide buffers of native vegetation are left along roads and property lines.
- 6.2.10 Signage and lighting should be regulated by bylaw to ensure maintenance of the rural landscape.
- 6.2.11 All buildings should be finished in natural products such as wood, stucco, stone or brick or other materials that would fit in with the ambience of the community and neighbourhood; roofing materials that are appropriate for water catchment may be utilized.

6.3 Residential

6.3.1 Residential—General

Background:

The residential component of land use is of major significance. Most of the residential land use is located around the shoreline of the Island with the bulk of the interior, including most of the high ground, being in public ownership, mostly as parks.

Historically, the Island has had a rural character with predominately large acreages. The small lot subdivisions were created prior to the Islands Trust assuming planning authority for the Island and all potential areas for subdivision into that lot size are already subdivided. By 1990, approximately 60% of all residential parcels on the Island were 0.2 hectares (about 0.5 acre) or less. ~~In 2009 more than 95% of the private dwellings are single-detached and 18% are rented.~~

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Residential land uses are designated as Small Lot Residential, Large Lot Residential, Rural Residential, Forest, Social Housing and Land Co-operatives. Residential use is also authorized in policy for land designated as agricultural, commercial and community service use. Under existing bylaws some lots have some potential for subdivision. However, the subdivision of additional small lots is not endorsed in the Plan. Problems with the quantity and quality of water supply have been identified in the small lot areas where on-site sewage treatment and groundwater wells are present on most lots.

The BC Assessment Authority in 2009 identified 1,088 properties assessed for residential purposes. A total of 322 of the properties are also assessed as agriculture and likely also have a residential use whereas 134 properties are vacant land or only have outbuildings.

The 2006 census records 968 dwellings and a resident population of 1,065 persons which would suggest almost 1 dwelling per resident. However, the census records that only 56% of dwellings are occupied year-round while the BC Assessment Authority indicates that only 37% of properties are owned by Hornby residents.

There are three major housing challenges facing the community:

- a) a substantial proportion of the long-term resident population is now in the older age brackets; some may appreciate the availability of special housing in their senior years while others may wish to be supported while remaining in their own homes;
- b) property prices are out of scale with the incomes that can be derived on the Island, making it difficult for younger people to become established here; and
- c) the majority of properties are owned by non-residents and most of these are occupied and/or rented seasonally thereby limiting the availability of year-round rental accommodation.

Area

The areas identified on Schedule B (Map Designations) as SR (Small Lot Residential), RR (Rural Residential), F (Forest), COM (Community Service Use), SH (Social Housing) and LC (Land Co-operatives) or any combination thereof are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

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- (1) to ensure that a variety of housing options are available;
- (2) to ensure that the scale of residences and other buildings are appropriate to the Island and neighbourhood context;
- (3) to recognize the importance of keeping long-term residents in the community; and
- (4) to provide for community initiatives to address housing needs.

Policies:

Policies in subsection 6.3.1 apply to all subsections of subsection 6.3

6.3.1.1 Setbacks of buildings, structures and uses should be regulated to ensure that the natural aesthetics and the environmental integrity of adjacent foreshore, creeks and ecologically sensitive sites are not adversely affected. (This Plan acknowledges that geographical constraints prevent significant setbacks from the foreshore between Shingle Spit and Phipps Point.)



6.3.1.2 Setbacks and heights of buildings should be regulated to ensure that the environmental integrity and amenity of adjacent lots, public roads and public land are not adversely affected.

6.3.1.3 Screening around derelict vehicles and other stored materials should be required by regulation.

6.3.2 Small Lot Residential

Comment: Consolidates Small Lot Residential and Small Lot Residential/Water Resource Protection Area.

Background:

Lots in this category are smaller than 0.8 hectares (two acres) and generally range around 0.24 hectares (about 0.5 acre) in some subdivisions to 0.1 hectares in areas on the peninsula of the island. As more and more of the lots in these areas are built upon, the already evident problems of sewage and used water disposal and water supply become more acute. The peninsula lots have their own aquifer. The aquifer has been classified as 1A (heavily developed with high vulnerability), which is the highest classification in the Provincial aquifer classification system. This is reflected in the area's water quality and quantity problems, including salt water intrusion, sulphurous water and poor-yielding wells.

Area

The area identified on Schedule B (Map Designations) as SR (Small Lot Residential) is subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to ensure that any construction on existing vacant lots can be supported by the land base and does not lead to health hazards or degradation of the environment;
- (2) to minimize the negative impacts associated with small lot development;
- (3) to protect the water resource in a heavily developed, highly vulnerable aquifer; and
- (4) to ensure that the land uses do not have an adverse effect upon the quality and quantity of water draw down from the Whaling Station Bay Improvement District water collection system nor upon other wells on adjacent properties.

Policies:

- 6.3.2.1 The principal use should be residential with any accessory uses consistent with the residential character.
- 6.3.2.2 The minimum parcel size should be one hectare (2.5 acres).
- 6.3.2.3 For one specific parcel only (Lot A, Plan 24913), a small portion of the Shingle Spit, the designation is Small Lot Residential with no potential for subdivision.
- 6.3.2.4 Existing Small Lot Residential designations of Sandpiper, Galleon Beach and Whaling Station Bay/Anderson Drive, as shown on Schedule B, should not be expanded and no new small lots should be created except for purposes of park dedication, neighborhood waste water treatment or to create ecological reserves.
- 6.3.2.5 One dwelling unit should be permitted on each lot.
- 6.3.2.6 The keeping of animals should be limited and regulated to protect the quiet of the neighbourhood and the quality of the groundwater resources and the well-being of wildlife populations.
- 6.3.2.7 Additional development of the groundwater resource should be strongly discouraged. The use of water catchment and storage systems for household and garden use, and in particular for Bed and Breakfasts home occupations, should be strongly encouraged.
- 6.3.2.8 The Local Trust Committee supports the regular monitoring of the groundwater resource in these areas and should consider further restrictions upon land use if there is a documented threat of contamination or if aquifers become classified as "highly developed".
- 6.3.2.9 Consolidation of small lots should be encouraged. To recognize the reduction in density and other impacts resulting from the consolidation of lots, the following should apply for any lot over 1 hectare that is the product of the consolidation of smaller lots: the maximum floor area of a residential dwelling or an accessory building may be permitted to be one and a half times the size permitted on standard lots in the small lot residential designation.
- 6.3.2.10 Bed and Breakfasts should be permitted as a home occupation providing the number of guests is limited based on lot size.
- 6.3.2.11 The provision for shared water supply systems and/or sewage and used water treatment involving two or more lots is supported where appropriate to local situations and in accordance with the Vancouver Island Health Authority standards.
- 6.3.2.12 One lot, Lot 11 Plan 25736, is adjacent to a water collection system that provides water to property owners in the Whaling Station Bay area. The following policies apply to Lot 11:
- residential development should be restricted to the north-western half of the property;
 - the south-eastern part of the property (as identified in hydrological report by Piteau Associates Engineering Ltd. (2002)" should remain in an undisturbed state (except for measures such as ditching that are required to protect the water

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- resource) and should be protected by a covenant or through transference to local government for protection purposes;
- c) before any development is permitted, a site drainage plan should be prepared and implemented in accordance with recommendations from the Piteau Associates Engineering Ltd. (2002) report; and
- d) this lot should be included as a Development Permit Area designation on Schedule E for the Protection of the Natural Environment (groundwater resource) to enable the implementation of policies 6.3.2.12 a), b) and c) above.

6.3.3 Rural Residential

Background:

The Rural Residential designations are intended to promote the retention of large parcels of land, while still providing an opportunity for cooperative land sharing. These rural residential areas are intended to maintain rural aesthetic appeal while permitting home occupation and minimizing the impacts on surrounding land parcels.



In the previous Plan the Rural Residential designation was further divided into a Rural Residential designation; a Large Lot Residential designation that was used to identify properties that could be subdivided if there were two long-standing homes built and the owners were owners in common prior to 1991; and Large Lot Residential/Water Resource Protection Area on a 6.5 acre parcel where one additional lot could be created and it was so designated to recognize its role in community water supply.

The retention of large parcels is now considered a primary objective. Property owners had the opportunity to resolve joint ownership issues in the past and it is now considered appropriate that the primary objective be to retain the large lots. Some options may still be available to allow subdivision in those situations of long time joint ownership.

Area

The areas identified on Schedule B (Map Designations) as RR (Rural Residential) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to promote retention of large parcels of land and existing densities;
- (2) to provide some limited opportunity for land sharing without encouraging subdivision;
- (3) to enable some residents to resolve existing land sharing challenges; and
- (4) to allow for a wide diversity of home occupations subject to regulations which ensure maintenance of the rural residential character of the areas designated rural residential and to ensure minimal negative impact on neighbouring properties.

Policies:

6.3.3.1 For any subdivision of properties in the Rural Residential designation an average lot size of four hectares (10 acres) should be maintained, with a minimum lot size of one hectare (2.5 acres) when subdivision averaging takes place unless the subdivision is for

the purpose of creating a park, ecological reserve, community land trust or other community service use.

6.3.3.2 Exceptions to policy 6.3.3.1 may apply in the following circumstances:

- a) Where two owners have jointly owned a property between 3.5 hectares and 4.5 hectares designated Rural Residential and over the span of time find that continued joint ownership is not feasible. A minimum lot size not smaller than 1.0 hectare may be considered for subdivision if the applicant submits an application using the amenity zoning policies of this Plan.
- b) On property described as Lot 10, Plan 48077 designated large Lot Residential / Water Supply Protection Area in the previous plan, a minimum lot size of 0.4047 hectare (1 acre) with an average lot size of one hectare (2.47 acres) may be considered for subdivision.

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6.3.3.3 The principal use in this category should be residential with any accessory uses consistent with the residential character.

Deleted: 6.3.3.3 At least half of the number of lots created through subdivision, which are smaller than permitted average lot size should be larger than permitted minimum lot size.

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6.3.3.4 Only one dwelling unit should be permitted on parcels smaller than 3.5 hectares (8.75 acres) and a maximum of two dwellings shall be permitted on lots 3.5 hectares (8.75 acres) or greater.

6.3.3.5 Home occupations may be permitted but shall be limited to those having little impact on the rural residential character of the area and its environmental qualities.

6.3.3.6 Public access to the existing trail system shall be secured wherever possible through dedication, covenant or easement.

6.3.3.7 New road development in association with subdivision in this designation is discouraged and the use of allowances developed as public trails to provide vehicle access to lots created by subdivision in this designation shall not be supported.

6.3.3.8 The use of water catchment and storage systems for household and garden use for new and existing development shall be encouraged.

6.3.4 Forest

Background:

Land in this category has high scenic, aesthetic and ecological value and includes some of Hornby's highly visible elevated land. It is made up of important forested water catchment areas and areas of very steep slope (which are identified on schedule B).

There are many long established and well-used trails enabling public enjoyment of the forest landscape and the scenic viewpoints on the escarpments. Potential for land slippage exists in the steeply sloping areas, evidenced by the closure of the shoreline road from Ford Cove to Shingle Spit due to persistent slides. Public access for recreation is of prime importance to the community. The uniqueness of these areas is intended to be preserved while allowing residential use. Because these areas are vital for water catchment, ground disturbance should be minimized and forest cover retained in order to protect the groundwater recharge function. The whole of the west side of Mt. Geoffrey, known as The Bench, is a slump area particularly vulnerable to earthquake activity.

Area

The areas identified on Schedule B (Map Designations) as F (Forest) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are to:

- (1) preserve scenic, aesthetic and ecological values;
- (2) minimize ground disturbance and retain forest cover in order to protect water catchment areas;
- (3) preserve traditional public trail access through forested areas especially to escarpment view points;
- (4) promote retention of large parcels of land;
- (5) provide some limited opportunity for land sharing without encouraging subdivision,
- (6) maintain the visual quality of the residential neighbourhoods; and
- (7) allow for a wide diversity of home occupations subject to regulations which ensure maintenance of the rural residential character of the areas designated Rural Residential and to ensure minimal negative impact on neighbouring properties.

Policies:

Policies in subsections 6.1 and 6.3.1 apply to this subsection.



6.3.4.1 For any subdivision of properties in the Forest designation, an average lot size of 16 hectares (40 acres) should be maintained, with a minimum lot size of four hectares (10 acres) when subdivision averaging takes place unless the subdivision is for the purpose of creating a park, ecological reserve, other community service use or a community land trust.

6.3.4.2 Residential use of land should be permitted in the Forest designation.



6.3.4.3 Only one dwelling unit should be permitted per parcel and two dwellings if the parcel is over four hectares (10 acres).

- 6.3.4.4 Setbacks of buildings and uses from cliff edges and retention of vegetation should be required to protect the slopes from erosion.
- 6.3.4.5 Home occupations may be permitted subject to land use bylaw regulations and should be limited to those types having a low impact on the natural forested character of the area or other environmental qualities.
- 6.3.4.6 Development Permits should be required for all new construction, road development or other modifications to the ground, or alterations of the forest that may have an impact upon natural biodiversity or ecologically sensitive areas.
- 6.3.4.7 Public access to the existing trail system should be secured wherever possible through dedication, covenant or easement.

6.3.5 Housing

Background

A 2008 report entitled *Housing Needs on Hornby and Denman Island* prepared by Eberle Planning and Research notes that "the recent prolonged boom in vacation property sales has affected both islands with steadily rising house prices". In the last census period, median house prices on Hornby increased by 116% while incomes increased by only 7%. (An income of \$60,000 is required to buy an average non-waterfront home. The median household income is \$37,689.) The number of rental units declined by 7% in this period and now only 18% of dwellings are rented compared with 30% for BC. The average Hornby renter has moved 12 times. While 90% of elders own their homes, almost half of these need repairs.

The report estimates that at least 97 Hornby households are in housing need. The report recommended that a) approximately 30 affordable housing units could address the needs of Hornby renter households in need who prefer ownership, b) ten elder housing units are required to meet anticipated need over the next 10 years, c) secondary suites / dwellings could address the housing requirements for the minimum 17 single-person renter households in need and renters without year-round accommodation and d) provision for emergency/temporary housing would help address housing shortages in the summer and housing crises in the winter. It also proposes support for renters, repair assistance for elder home-owners and home care for elders. The 2004 Hornby Island Advisory Housing Committee Report included recommendations with respect to secondary units, temporary summer accommodation and the formation of a community land trust.

There are three Hornby Island organizations with a housing focus: Hornby Island Elder Housing Society, Islanders' Secure Land Association and Hornby Outer Island Housing Society. Two properties are currently zoned for community housing.

For purposes of interpretation the following terms are used in this section:

"Affordable Housing" – housing that is by intent and policy more affordable than identical housing that is or could be provided elsewhere in the community and is housing that by design and size provides for residential accommodation that can be acquired with 30 per cent of the median gross income of families or individuals on Hornby Island.

“Rental Housing” is housing that is available by payment of rent for occupancy for a minimum of one month and can include any form of housing that is available for rent.

“Special Needs Housing” is housing to accommodate persons who may have special needs due to age, health, disability or other factors that may require special housing characteristics.

“Community Housing” is housing that is provided specifically by bylaw to address affordable or special needs housing requirements, including housing that is provided on land designated for community services use, but community housing does not include housing that may be provided as part of a land cooperative; as a secondary suite; as part of a mixed use development such as in association with a commercial land use or as a secondary dwelling on a property; even though such housing may contribute to the provision of housing that is affordable, available for rent or that accommodates the needs or persons with special needs. The Community Housing designation is intended to designate areas that would be suitable for such housing.

Land Co-operatives involve co-operative ownership of some large parcels which have been viewed as consistent with the character of the community. The co-operative lifestyle on rural large parcels of land has required fewer roads, allowed sharing of resources, and made the acquisition of property more affordable for members. The Land Co-operative designation is intended to promote the retention of larger parcels and rural character, while still providing an opportunity for cooperative land sharing and the benefits it provides in terms of affordable housing. Land in this designation may be held by organizations such as community land trusts, co-operatives established under the “Cooperative Association Act” or under a corporate ownership structure owned by resident shareholders.

Area

The areas identified on Schedule B (Map Designations) and areas with the CH (Community Housing) and LC (Land Cooperative) designations in particular are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to provide for a range of housing opportunities including the creation of affordable, rental and special needs housing;
- (2) to enable affordable, rental and special needs housing options that are compatible with the Island's environment and character;
- (3) to provide for community initiatives to address the housing needs associated with age, disability, and/or moderate and low income through the provision of community housing;
- (4) to provide opportunity for non-profit housing situations to meet the needs associated with age, disability, and/or moderate and low income; and
- (5) to support land cooperatives with the intention of providing opportunity for common ownership through co-operative land tenure.

Community Housing Policies

Policies in Section 6.1 and section 6.3.1 apply to this subsection.

6.3.5.1 The principal use in the Community Housing (CH) designation should be affordable or special needs residential.

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- 6.3.5.2 Residential and Community Service Use designated parcels that have demonstrated ability to meet Provincial Ministry standards of water, used water (sewage and waste water) treatment and other health and environmental requirements, may be considered upon application for a Community Housing designation and subsequent site specific rezoning and regulations. A development plan should be requested upon application for redesignation or rezoning that includes information and future development phases including projected densities, impacts on the land and neighbourhood including the provision of waste supply, waste disposal and retention of natural vegetation.
- 6.3.5.3 A housing agreement may be required upon application for redesignation and rezoning to Community Housing.
- 6.3.5.4 Criteria that should be addressed in the provision of community housing includes:
- (a) the form of tenure of the housing units;
 - (b) the availability of the housing units to classes of persons if special needs are to be accommodated;
 - (c) the administration and management of the housing units, including the manner in which the housing units may be made available to persons within a class referred to in paragraph (b); and
 - (d) rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time, as specified in an agreement or as determined in accordance with a formula specified in an agreement.
- 6.3.5.5 Community housing developments should only be located where there is compatibility with existing and potential land use on neighbouring parcels.
-  6.3.5.6 Community housing developments should be of a scale and character that is compatible with the neighbourhood ambience and the natural environment.
- 6.3.5.7 Lot A, Section 11, Hornby Island, Nanaimo District, Plan VIP87054 and Lot 1, Section 11, Hornby Island, Plan 87990 may be used to provide affordable or special needs housing.

Affordable Housing

- 6.3.5.8 Shared land ownership is recognized as one means of providing a more affordable ownership of land and may be supported in land use regulation in lieu of subdivision of land where supported by policy in section 6.3.3 and section 6.3.6 of this Plan.
- 6.3.5.9 A campsite operated by a non-profit society may be considered within the Community Service Use designation as a means to provide temporary summer accommodation for summer workers, summer visitors and displaced residents who can not otherwise find accommodation.
- 6.3.5.10 Housing should be permitted on land designated for community service use provided such housing is affordable or provides for persons with special needs.

Rental Housing

- 6.3.5.11 Residential use should be an accessory use on land zoned commercial use and may be a means to provide rental housing opportunities.

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- 6.3.5.12 A secondary suite, limited in size and contained within a permitted dwelling, may be permitted on larger rural lots in central areas of the Island (in accordance with policies in section 6.3.3 (Rural Residential) of this Plan) and despite section 6.3.3 on lots larger than 3.5 hectares in areas located within two kilometers of either the junction of Central Road and Sollans Road or the junction of Central Road and St. Johns Point Road in order to provide rental opportunities provided the owner or residential tenant occupies the principle residence.
- 6.3.5.13 A detached unit used to provide non-permanent accommodation for a relative or a care-giver or to provide non-permanent affordable rental accommodation to a community resident may be permitted through a Temporary Use Permit (in accordance with guidelines specified in Section 6.10 (Temporary Use Permits)), but use of such a permit will only establish the temporary nature of such use and will not manage who can occupy the non-permanent accommodation.

Advocacy Policies for Rental Housing

- 6.3.5.14 Owners of land where a second dwelling is permitted are encouraged to provide the second dwelling as on going rental accommodation to increase the available rental housing supply unless the second dwelling is otherwise used or needed for use by the owner.
- 6.3.5.15 Agreements under the *Residential Tenancy Act* are strongly encouraged for the rental of dwelling units for periods of one month or longer.

Special Needs Housing (including housing for seniors)

- 6.3.5.16 Lot B, Section 10, Nanaimo District, Plan 18085 , which is zoned for elder housing, may be considered for zoning amendments to increase the number of units, according to the carrying capacity of the property and may be expanded through the acquisition of adjoining land.
- 6.3.5.17 A supported living facility, a hostel and other facility for providing emergency and/or temporary accommodation should be permitted on land zoned for community service use (in accordance with policies in section 6.2 (Community Service Use) of this Plan).
- 6.3.5.18 The Local Trust Committee may explore opportunities for temporary accommodation for summer workers and/or displaced residents.

Advocacy Policies for Special Needs Housing

- 6.3.5.19 Hornby Island residents are encouraged to provide and support home care and home repair assistance initiatives for seniors as a means of extending the opportunities for independent living.
- 6.3.5.20 Where appropriate to person's needs and preferences, Hornby Island residents are encouraged to make available in their homes opportunities for boarding and other joint living arrangements to expand the range of living opportunities for persons with special needs or who seek affordable housing.



Land Co-operatives

- 6.3.5.21 Upon application, properties 4 hectares or greater may be considered for redesignation as "land co-operative" and for rezoning based upon a development plan that addresses

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projected densities, provision for water supply and waste treatment, impacts on the neighbourhood, retention of vegetation and a limited footprint on the land resulting from restricted size of dwellings and shared facilities where possible.



6.3.5.22 Three properties have been designated as Land Co-operatives as a result of this Plan. Subsequent land use bylaw regulations may be created to address historical situations where parcels are in common ownership with each member owning a share believing the share granted him/her the right to build a house.

6.3.5.23 The principal permitted uses in this designation should be residential and agricultural.

6.3.5.24 Home occupations subject to land use bylaw regulations may be permitted but shall be limited to those having little impact on the area's character and environment.

6.4 Agricultural

6.4.1 Agricultural

Background:

The early development of Hornby Island included agriculture as a primary occupation. However by 2009 the Assessment Authority listed 190 parcels with an agricultural assessment. Many of the largest holdings with good soil have now been subdivided or are vacant. Residential uses of agricultural land has increased pressure for subdivision. Small-scale farming operations serving primarily local needs are prevalent.

Policies in this section refer to the use of any land for agriculture and do not necessarily deal with issues of preserving land in the Agricultural Land Reserve. Section 6.4.2 of this Plan contains policies on the preservation of the Agricultural Land Reserve which is considered a natural resource of the Island. Land Use Bylaws in Agricultural areas have a traditionally established a minimum subdivision potential of 16 hectares (39.5 acres) or greater unless otherwise noted.

Agriculture on Hornby has been declining and many prime agricultural regions have previously been subdivided or are not being actively farmed.

Area

The areas identified on Schedule B (Map Designations) as AG (Agriculture) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to support continuing agricultural use of land and associated activities;
- (2) to ensure that the use of land in the Agricultural designation does not compromise the capability of the land for future food production;
- (3) to encourage retention of large parcels of land for agriculture; and
- (4) to ensure agricultural practices do not cause contamination of the groundwater resource.



Policies:

Policies in subsection 6.1 apply to this subsection.



6.4.1.1 For any subdivision of properties designated Agriculture a minimum parcel size of 16 hectares (39.5 acres) should be maintained except that a minimum parcel size of 4 hectares (9.88 acres) should be permitted on the portion of Parcel C (DD 199735I) of the South East ¼ and the East ½ of the South West ¼ of Section 10, Hornby Island, Nanaimo District.

6.4.1.2 The principal uses in this designation should be agriculture and residential.

6.4.1.3 One dwelling (which may contain a secondary suite) may be permitted on lots smaller than 3.5 hectares (8.6 acres).

6.4.1.4 On parcels 3.5 hectares (8.6 acres) or greater the following should be permitted:
a) one dwelling with a secondary suite within the dwelling; or



two dwellings, with the second dwelling limited in size, and if the land is in the Agricultural Land Reserve the second dwelling should only be permitted if the second dwelling is necessary for farm use as determined by the Local Trust Committee in consultation with a Provincial Regional Agrologist; or if authorized as a non farm use by the Agricultural Land Commission.

- 6.4.1.5 Home occupations which do not impinge upon the principal farm use and which will not cause any degradation of the land nor reduce its capability for agricultural production should be permitted, subject to bylaw regulations and shall comply with Agricultural Land Commission regulations where applicable.
- 6.4.1.6 All agricultural activities should be conducted in accordance with the Agriculture Waste Control Regulation, *Waste Management Act*, the *Farm Practices Protection (Right to Farm) Act* and the *Health Act* administered by Ministry of Environment.
- 6.4.1.7 Commercial land-based aquaculture operations should be regulated by zoning. Before any application for a rezoning to allow upland aquaculture (using freshwater or saltwater ponds or tanks) shall be considered, a site specific analysis of the potential impacts of water consumption, waste disposal, drainage or potential spills on the surrounding land and upon surface water and groundwater may be required.

Advocacy Policy

- 6.4.1.8 The spreading of agricultural waste should be regulated such that water courses or groundwater resources are not contaminated.

6.4.2 Additional Policies for Land in the Agricultural Land Reserve

Background:

Agriculture is the traditional land-based economic activity of Hornby Island. There are about 824 hectares (2060 acres), 27% of the land base, in the Agricultural Land Reserve, and subject to the *Agricultural Land Commission Act*, which was intended to preserve land with agricultural potential to provide a secure source of food for the future residents of the Province. Farming is encouraged in parcels within the Reserve and non-farming use is regulated by the Commission.

There are 102 parcels on Hornby located within the Land Reserve. The average area of these parcels is 7.2 hectares (18 acres). This land is of high to medium capability for agriculture and is reserved for present or future production. Schedule C, the land status map, identifies land in the Agricultural Land Reserve and Schedule B, the land use map, shows land used primarily for agriculture, most Agricultural Land Reserve land falls in that category.

Area

The areas identified on Schedule B (Map Designations) as AG (Agriculture) and lands within the Agricultural Land Reserve are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to retain land with potential for agriculture;
- (2) to ensure that agricultural land in the land reserve is not degraded; and

- (3) to enable accessory uses that are compatible with farming and the preservation of agricultural land.

Policies:

6.4.2.1 The retention of the Agricultural Land Reserve and the Agricultural Land Commission to protect against the loss of the potential for self-sufficiency in agricultural production in the Province of British Columbia is supported.

 6.4.2.2 Land designated agricultural that is proposed for non-agricultural uses deemed to be in the public interest by both the Agricultural Land Commission and the Local Trust Committee may be considered for rezoning and for removal from the Reserve, the latter being preferred if other land of comparable or better agricultural potential being added to the Reserve.

6.4.2.3 The minimum parcel size within the Agricultural Land Reserve designation should be 16 hectares (39.5 acres) but smaller lots may be created where a portion of a parcel has been leased to another farm operation for at least the five previous consecutive years and such subdivision is approved by the Agricultural Land Commission.

6.4.2.4 To support existing agricultural operations, accessory uses should be permitted where such uses do not impinge on the principal farm use and will not degrade the land nor reduce its capability for agricultural production, provided such uses are authorized by the *Agricultural Land Commission Act*.

6.4.2.5 Temporary non-agricultural uses of existing buildings on agricultural land involving no impact upon the land itself or the principal farm use, may be considered upon application for a Temporary Use Permit which may include specific conditions to address impacts such as noise, parking, water, supply and waste disposal.

6.4.2.6 Uses should be regulated in buffer areas on properties adjacent to land in the Agricultural Land Reserve to minimize any adverse impacts.

6.4.2.7 Soil removal except for purposes of improving the agricultural soil resource on Agricultural Land Reserve lands subject to provisions of the *Agricultural Land Commission Act* should not be permitted.

6.4.2.8 The processing and sale of farm products together with the retailing of some off-farm products as authorized by the Agricultural Land Commission should be permitted.

6.4.2.9 Farm Use as defined by the Agricultural Land Reserve Use, Subdivision and Procedure Regulation is permitted within the Agricultural Land Reserve and may be regulated by land use bylaw.

 6.4.2.10 Education and research facilities except schools under the *School Act*, should be permitted, provided that the buildings and structures necessary for education and research do not exceed 100 m² on any parcel.

Advocacy Policies

6.4.2.11 The Ministry of Energy, Mines and Petroleum Resources is requested to ensure there is no extraction of gravel in areas designated agricultural.

Policies:

6.5.1.1 The commercial development at the intersection of Central Road and Shields Road as part of the Co-op property should be retained as the major commercial service centre for Hornby Island.

6.5.1.2 Existing smaller commercial service centres with accommodation facilities should be retained at Fords Cove and at Shingle Spit Road near the ferry terminal (currently known as the Hornby Island Resort property).

6.5.1.3 Limited commercial use for a bakery may be retained on part of the south ½ of the southeast ¼ of Section 15, Nanaimo District, Hornby Island currently known as the Cardboard House Bakery lot.

Comment: Site changed from Limited Commercial to Retail and Personal Service with addition of this policy.



6.5.1.4 Limited expansion of commercial zoning to allow for small scale retail and personal service use with secondary residential use may be considered based upon the following criteria:

- a) close proximity to existing commercial sites to reduce travel requirements and greenhouse gas emissions;
- b) protection of the rural character of the island and the area of proposed development;
- c) minimization of impacts upon adjacent lands;
- d) provision of a sustainable water supply, waste treatment and parking;
- e) retention of trees and green space;
- f) utilization of low-energy technologies;
- g) safe traffic pedestrian and vehicle traffic patterns and promotion of pedestrian friendly and bicycle use facilities and other green initiatives where practical such as home delivery; and
- h) in locations as provided for in policy 6.2.7 (Community Service Use) of this Plan.

6.5.1.5 The degree of servicing, including roads and parking, the provision of open space, signage and the form and character of any new commercial development should be regulated through Development Permit.

6.5.1.6 The minimum parcel size should be one hectare (2.5 acres) for any subdivision of property designated for commercial use.

6.5.1.7 The principal land use should be small-scale commercial business.

6.5.1.8 Residential use may be permitted as a use secondary to a commercial use.

6.5.1.9 Regulations for any commercially-zoned lot may provide for a mix of compatible uses to enable a clustering of services on land designated as commercial.

6.5.1.10 Ribbon or strip development is not supported.

6.5.1.11 Temporary Use Permits may be permitted for:

- a) temporary use;
- b) a period of evaluation of a new commercial venture (that does not involve significant new development) prior to application for rezoning;
- c) uses for a period of time to enable impacts to be assessed before any further permitting of the use; or

d) seasonal activities.

- 6.5.1.12 Land may be rezoned to supply an off-site parking lot to a commercial use within 100 meters of the property containing the commercial use without an amendment to the Official Community Plan map Schedule "B" provided the zone does not permit associated structures nor human habitation of vehicles.

6.5.2 Visitor Accommodations and Tourism

Background:

Hornby Island has become widely known for its scenery, recreational opportunities, ambience, and locally created crafts and art. The Island's increasing popularity as a summer destination has made tourism both a key component of the local economy and a cause for concern because of its impacts. Island services, such as ferries, roads and the recycling depot, become heavily loaded in the summer. Fragile ecosystems are susceptible to degradation. The greatest demand for water is generated at the time of declining groundwater availability while the adequacy of existing systems to handle the volume of sewage and used water is questionable. The large influx of people can be stressful to a small community and can present safety and law enforcement problems.

This creates the challenge of providing visitor accommodation in a manner and at a level that caters to visitors and provides much-needed employment while protecting the Island's environment, sustaining its resources and amenities and preserving the ambience and character of the community.

Unsupervised and unserviced camping is not considered desirable because of the impact on quiet residential or rural neighbourhoods, the risk of fire, and because public services are not readily available. The provision of such facilities as public washrooms and waste disposal sites could place a burden on the available water supply and thereby threaten the availability of those resources for use by the local community population. Currently, the Island is supplied with visitor accommodations in the form of five campgrounds, three resorts with rental cabins and a restaurant, and several Bed and Breakfasts. Short-term rental of residential units has been a long-standing means of providing visitor accommodation, but there is also concern about impacts, both in neighbourhoods and cumulatively.

The Whaling Station Bay/Anderson Drive area and other small lot areas have been identified as having ground water supply problems due to density of development and vulnerability of the aquifer. Limiting occupancy for any visitor accommodations (e.g. Bed and Breakfasts) to levels of an average household size (four persons according to Statistics Canada) may help address such water supply issues.

Area



The areas identified on Schedule B (Map Designations) as VA (Visitor Accommodation) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to allow, through appropriate zoning, for a variety of types of small-scale visitor accommodation operations that meet health, safety and environmental objectives;

- (2) to allow forms of accommodation which have the least impact on the quiet rural character of the Island;
- (3) to ensure all accommodations can be adequately serviced;
- (4) to allow for recreational opportunities to the citizens of the Province without stressing the existing natural and social systems and services;
- (5) to encourage a kind of tourism which is compatible with preserving and protecting the environmental and social qualities of Island life for present and future generations and to discourage large scale tourist accommodation;
- (6) to emphasize activities which involve quiet, low impact use of existing natural features and amenities rather than man-made ones; and
- (7) to prevent undue cost to the local taxpayers in providing basic facilities for visitors.

Policies:

6.5.2.1 Accommodation for visitors should be environmentally sensitive, small-scale and low density and may be dispersed around the Island. Convention centers or multi-room hotels should not be permitted.

6.5.2.2 "Destination resort" type development, designed to draw large numbers of tourists at one time, is considered inappropriate on Hornby Island and should not be permitted.



6.5.2.3 Applicants for visitor accommodation zoning should provide a Development Plan and be able to demonstrate that there is sufficient available water supply (including utilizing rainwater catchment and storage systems), effective and approved sewage and used water treatment, waste disposal capability and adequate provision for parking to serve the business and clientele both at the time of application and at ultimate projected growth levels. A hydrological study may be required in situations where there is reason to be concerned about impacts upon the groundwater resource.

6.5.2.4 The scale of use, the degree of servicing, including roads and parking, the provision of open space, signage and the form and character of any new commercial development for visitor accommodation should be regulated through Development Permit to retain a rural character and reflect community values.

6.5.2.5 One existing property, Lot A Plan 38493 Section 13 (known as Bradsdadslands), has been designated as Visitor Accommodation to recognize a historical legal non-conforming situation in which the parcel has been used for a campground and may be considered for rezoning for campground use upon application.

6.5.2.6 Large-scale campgrounds and other tourist facilities should be permitted only by rezoning. Only campgrounds without individual hook-up of power and water services are considered appropriate.

6.5.2.7 Visitor accommodation may be considered in the following situations if enabled by other policies of this Plan:

- a) Small resorts, hostels, lodges, cabins and camping facilities, guest houses or vacation home rentals (less than one month occupancy) on non-Agricultural Land Reserve land where allowed by using site specific zoning or through temporary use permit;
- b) Agri-tourism accommodation on Agricultural Land Reserve Land in accordance with Agricultural Land Reserve policy and regulations if zoning allows such a use; and

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At first, homes were generally rented to friends, acquaintances and relatives through “word of mouth” contact. This direct contact established a relationship between owner and visitor that provided connectivity to, and respect for, the property, the neighbourhood, the community and the environment.

The availability of Internet advertising and the establishment of property management companies have corresponded with an increase in the number of homes available for vacation rental and a transformation of many rental situations into a more commercial practice that does not always involve such a direct relationship between the property owner and those renting the property or with the neighbourhood or community.

Deleted: contributed to

This change over time in the number and type of vacation rentals has lead to concerns regarding the individual and cumulative impacts of an unregulated commercial land use happening in areas zoned for residential use. Some dwellings are advertised for year-round availability as visitor accommodation, some by the night. Some involve levels of potential occupancy much higher than normal household size. This can erode the residential character of neighbourhoods and put pressure on water resources in areas with documented problems.

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The previous Plan attempted to address this issue by including a policy suggesting that a vacation rental could be permitted and regulated as a home occupation. However, a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental.

Deleted: For several years prior to the adoption of this Plan, the Local Trust Committee considered potential options for addressing vacation home rentals. The option of permitting vacation rentals on all lots through zoning regulations precludes the ability to address potential impacts of concern and it removes future choices by the community to limit the number of residential properties used for commercial visitor accommodation. The option of addressing all existing and future vacation rentals through issuing Temporary Use Permits or rezoning properties was initially viewed as bureaucratic and not appropriate especially for those vacation rentals carried out on a modest scale.

Zoning property to allow for a vacation home rental use or addressing their use through approval of a temporary use permit are other options that can be considered.

Area:

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- 1) to recognize that there has been a long history of vacation home rental on Hornby Island without authorization by land use bylaw;
- 2) to ensure that the residential use of property and its residential character is retained where it is the permitted and established use;
- 3) to enable some traditional practice of vacation home rentals;
- 4) to address potential impacts of vacation home rentals if such uses are authorized; and
- 5) to support future evaluation of vacation home rental policies, recognizing that such uses are a significant and challenging issue for the Hornby Island community.

Deleted: In an effort to address vacation rentals recent efforts have included the establishment of an interim enforcement policy, occurring as a means of establishing some limits on vacation rentals until Plan policy is developed and as a means of focusing limited resources on those vacation rentals that create an impact upon neighbours or the environment or that contribute to a loss of residential character. An enforcement policy cannot replace land use regulation. This focus is now to provide guidance that responds to community needs, is effective in implementation and meets the overall objectives of this Plan. ¶

Policies:

- 6.5.3.1 Provision of paid accommodation for visitors to Hornby Island through vacation home rental is supported, provided that some management of the community and neighbourhood residential needs and other land use needs of Hornby Island can be addressed. Issues to consider in permitting vacation rentals includes minimizing nuisance impacts such as noise and parking congestion on the local neighbourhood;

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retaining neighbourhood character; health and safety issues and the application of a principle of welcome without commercial promotion..

- 6.5.3.2  Provision of a residence for vacation home rental beyond thresholds of residential land use, such as when commercial approaches are used in the promotion and management of such use, may be permitted through a temporary use permit or rezoning. Examples of additional issues to consider in such processes are water supply and sewage treatment capability; traffic management and environmental management, as well as the benefits that such accommodation may provide to the community at large

- 6.5.3.3 The rental of a residence for a term of one month or more should be considered a residential use of land while a rental of less than one month is a vacation home rental.

- 6.5.3.4 The use of a residence for a vacation home rental may be considered a residential use of a property where there is a second dwelling on the property occupied by the resident of the lot, in which case such a rental may be permitted as a home occupation.

6.5.4 Commercial/Residential General

Background

The Fords Cove area contains three properties that have historically been zoned for broad range of commercial uses, ranging from retail to resort use. The properties are not generally used for such commercial purposes at the present time and the zoning reflects a historical circumstance. The current owners have secured the properties with the commercial zoning, generally use their properties for residential purposes and may be reluctant to relinquish such commercial zoning unless it is done in a fair manner and is equitably applied to all affected landowners. The Local Trust Committee also faces the challenge of seeking to balance the needs of the larger community regarding commercial land use and that of the individual property owners and to also think of the needs of future generations.

Area

The areas identified on Schedule B (Map Designations) as CRG (Commercial/Residential General) are subject to the following objectives and policies.

Objectives

The objectives of this subsection are:

- (1) to recognize the historical commercial zoning of this area; and
- (2) to encourage residential land use for this area with limited or no commercial use in consultation with all of the affected land owners.

Policies

- 6.5.4.1 Zoning regulations should allow for residential use and limited retail and personal service or visitor accommodation.

- 6.5.4.2 An increased density of residential development may be considered if other commercial land uses currently permitted by zoning are removed from the list of permitted uses in the zone applicable to this area or from a particular property that is subject to the rezoning application.

Deleted: Additional policies may be considered as an amendment to this Plan to address the use of a residence as a vacation home rental. Such an amendment should be considered only if the proposals are consistent with the object of the Islands Trust and with the Trust Policy Statement and all of the objectives of this Plan are addressed with specific reference to minimizing impacts on the local neighbourhood; the retention of the residential character of that neighbourhood; noise and safety issues; water supply and sewage treatment capability; traffic management and guidelines for property management.¶

Deleted: Implementation of any policy to permit vacation home rentals may be examined by:¶

- ¶
- a) . amendment of this Plan:¶
 - (i) . to provide a new land use designation for vacation home rentals, and¶
 - (ii) . development of development permit area guidelines to address form and character of commercial accommodation; protection of the natural environment, its ecosystems and biological diversity; promotion of energy conservation, water conservation and reduction of greenhouse gas emissions for vacation home rentals; and ¶
 - ¶
 - b) . consideration of a rezoning application and development permit area application to allow for such use; or¶
 - ¶
 - c) . amendment of section 6.10 (Temporary Use Permits) of this Plan to allow for the vacation home rental use on a temporary basis and allow for future evaluation as to the impacts of the use. A temporary use permit should include conditions to address impacts that are identified in the review of the development proposal.¶

Deleted: (vacation home rental)

Deleted: should not be a permitted use on property zoned for residential use.¶

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Deleted: or rezoning to allow for a guest house or vacation home rental

6.5.5 Home Occupations

Background:

Home Occupations are allowed to various degrees in most designations that permit residential uses. A home occupation is a type of commercial activity involving limited services and the sale of products crafted in the home or upon a property. General retail sale of fabricated products produced off the Island is not considered a home occupation. The retail sales of materials used in a home occupation (such as lumber, fabric and potting clay) is considered part of the home occupation. Home occupations must be clearly secondary to residential use and the character of the property must remain residential in appearance. There has not been any distinction in the type of permitted home occupation based upon lot size in zoning regulations to date but policies have existed that provide guidance in the development of new home occupation regulations.

Another form of home occupation is provision of accommodation as a Bed and Breakfast home occupation or as a second dwelling vacation rental home occupation. There has been a tradition of offering Bed and Breakfast accommodation or the rental of one's home for short periods of time (a week or two). The Bed and Breakfast use and rental of a second dwelling on a property is addressed as a home occupation and vacation home rental of a primary residence is addressed in section 6.5.3 (Vacation Home Rental).

In order to provide a range of possible activities that are compatible with the neighbourhood and environment home occupations can be regulated differently on different sizes of lots or in different areas if the island. Furthermore as opportunities for affordable housing develop, opportunities for home occupations that are unique to the needs of such housing might be considered.

Area

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- (1) to encourage small businesses to enhance the economy and self reliance of the Island community;
- (2) to allow opportunities for residents to carry out limited businesses on the property of their principal residence;
- (3) to ensure that there is no degradation of the environment or depletion of natural resources; and
- (4) to retain a rural and/or residential character in all neighbourhoods.

Policies:

6.5.5.1 Home Occupation means an occupation or profession conducted for gain by a full-time or part-time resident of the lot on which the dwelling is located. Home Occupation use should be clearly incidental to the use of the dwelling or parcel for residential purposes.

The types of home occupation uses are:

- a) Limited Home Occupations which should be allowed on all properties less than 0.1 hectares designated on Schedule B for residential use and shall be conducted entirely within the permitted dwelling;
- b) Basic Home Occupations which should be allowed on all properties 0.1 hectare or larger and less than 2.0 hectares designated on Schedule B for residential use and

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- (7) to consider allowing temporary non agricultural uses on land within the Agricultural Land Reserve or on land used for agriculture where there is minimal negative impact upon the agricultural land values and where applicable approval has been received from the Agricultural Land Commission as per policy 6.4.2.5; and
- (8) to allow light industrial home occupations that require a more rigorous permitting process than provided for under land use regulations for extended home occupations as per policy 6.5.5.9.

Guidelines:

6.10.1 Upon application, Temporary Use Permits may be considered for all parcels of land within the Hornby Island Local Trust Area, as shown on Schedule B, with the following exclusions:

- a) properties less than one quarter of a hectare (0.63 acre); ~~except for applications for vacation home rentals;~~
- b) land designated as PR1 and PR2 (park) and LR/WSPA (Large Lot Residential/ Water Supply Protection Area), as shown on Schedule B; and
- c) land identified as an ecologically sensitive area, as shown on Sensitive Ecosystem Mapping or Schedule D2.

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6.10.2 Temporary Use Permits for parcels within the Agricultural Land Reserve should only be issued for uses that do not conflict with Agricultural Land Commission policies and regulations.

6.10.3 A professional assessment of hydrological impacts may be required when the proposed use is within an identified groundwater recharge area or an aquifer classified as highly developed and if the proposed use involves more than minimal potential impacts upon the groundwater resource.

6.10.4 Where approvals are required from other agencies, these should be obtained prior to the issuing of a Temporary Use Permit.

6.10.5 The general conditions for issuing a Temporary Use Permit are as follows:

- a) adequate off-road parking should be provided;
- b) there should be adequate provision for approved waste disposal before consideration is given by the Local Trust Committee;
- c) commercial uses (other than very short term ~~uses or vacation home rentals~~) should be screened from adjacent residential uses;
- d) industrial uses should be screened from adjacent properties and roads;
- e) there should be adequate setbacks of the use to minimize impacts upon adjacent properties;
- f) noise generation should be addressed to prevent disturbance of the neighbourhood and to ensure compliance with regional district regulations;
- g) the use should be conducted so as to not risk contamination of the land, surface water or groundwater, including by making adequate provision for the safe storage of toxic materials;
- h) water supply should be addressed so as to not create negative impacts upon existing common water sources;
- i) other potential impacts upon the neighbourhood should be mitigated, including by limitations upon the hours of operation where appropriate;
- j) the owner of the property may be required to provide a security to guarantee the performance of the terms of the permit and should be required to provide an

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- undertaking to demolish or remove any building or structure and to restore the land to a condition specified in the permit, especially in circumstances where temporary housing is provided and such housing is no longer used for such temporary purposes; and
- k) lands with good agricultural potential should not be compromised by any use permitted by a Temporary Use Permit.

- 6.10.6 Applicants for Temporary Use Permits should address the issues identified in these policies in their applications and are strongly encouraged to consult with neighbours about the proposed use prior to making application.
- 6.10.7 Light Industrial activities which require specific consideration of impacts with respect to environmental protection, water use, waste generation, noise, odour, parking, or neighbourhood character, may be allowed upon application for a Temporary Use Permit that will contain specific conditions to address these impacts.
- 6.10.8 The Local Trust Committee should consider the climate change impacts of any significant change in reviewing temporary use permit applications.

6.10.9 In consideration of applications for vacation home rentals the Local Trust Committee may consider the following:

- a) the cumulative effects, both positive and negative, on the neighbourhood and island of all temporary use permits issued for vacation home rentals;
- b) mitigating measures such as screening or fencing to address potential impacts or to address neighbour privacy issues;
- c) limitations on any signage that may be placed on the property;
- d) prohibition of any use of recreational vehicles or camping on the property or any use of accessory buildings for vacation rental occupancy;
- e) the permit may request that the owner or manager post information for guests about awareness and sensitivity of the history of the K'omoks First Nation on Hornby Island;
- f) a requirement for information to be posted that will inform guests regarding the location of property lines by way of a map, any applicable noise bylaws, measures to address water conservation, fire safety, storage and management of garbage, septic system care and control of pets (if pets are permitted) in accordance with standards applicable by bylaw, as stated in the permit or as determined by the owner or manager to effectively manage the site;
- g) a requirement for scaled plans of the property showing a) location of the dwelling unit and accessory buildings and structures with setback distances from property lines; and b) the location of parking spaces provided for the vacation rental use;
- h) a requirement for the name and address and telephone/email information of contact persons who will be available 24 hours per day to respond to any concerns;
- i) the proposed maximum number of occupants;
- j) the proposed time periods that dwelling will be available for rental or months of the year when the rental will occur; and;
- k) other requirements that the Local Trust Committee may consider appropriate.

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We were assured after the raucous 2005 meeting and again in 2009 that STVRS would be left alone, but for a third time the Trust proposes, enforcement policies and changes to the OCP and By Laws (LUB).

At a March 23 Trust meeting many expressed fears, of significant negative economic impacts with the proposals. A number asked for a reason. The Chair responded that since 2002 the OCP 'allowing the casual rental as a home occupation, is contradicted when residence was impossible while renting to others' (considering home occupation as a state of residence –not a state of activity allowed in the current OCP) however, since 2009 Trustees have said ' STVR commercial activity is illegal' (Home Occupation activity is commercial and several lawyers dispute illegality), and the Trust has to enable STVRS (Bylaws do enable, but the converse is true-being enabled (or able) doesn't need a Bylaw). The Staff Report - HO-OCP-2009-2, pages 2 to 4 answers 'this activity interferes with residential planning as casual occupancy does not provide home life development.' (Possibly true if 64 % of properties were not owned by nonresidents- page 65 draft OCP). After an April 2 Public Information meeting Trustee Law added a 5th- that 'no Hornby bio-socio-ethic interchange between the renter and owner happens.' (A local Property manager can't fit?). Many of the problems proactives have appears to be that five not necessarily connected answers are given while the Trust proposes discordant modifications of the OCP. The Trust responses continually change, are confused, or just lack Transparency.

As the Staff Report rationale is the backup documentation for the Trustees decisions then the question asked has to be answered by the Report. If reasoning is flawed (or incorrect) - then detailed implementation is not going to be right or work.

It is difficult to understand that STVR activity interferes with home life development when in fact we are a mixed rural and resort community. This means

- 1) A number of resident islanders STVR while they
 - a. Trip elsewhere
 - b. Have two legal residences on the property one of which is rented.

For "a" the home is already used for home life and in "b" is a home occupation (both activity and occupancy). Providing resident owners obey density provisions, owners are currently doing exactly what they are allowed to do in the current OCP and the Staff Report, yet residents are going to be subjected to constant variations in the regulations for casual rentals by requiring Temporary Use Permits. (TUP) and other changes in a new OCP.

- 2) 64% of Hornby is secondary property -summer places. These properties are at odds to the Staff report, so need regulation?
 - a. Be empty or used ONLY as year round rented residences for ' home life development'? Or
 - b. Be licensed by way of TUPS with restrictions on their casual and STVR use.

No wonder there is dissonance to exactly what is going on. In "1", resident owners are allowed to conduct this activity by current bylaws but are going to be further regulated- a form of expropriation and "2 " is actual expropriation of nonresident owners rights. The result can only be reduced rentals of any kind. While in the mean time, any property used by an owner adjacent to a STVR – can be loaded with friends or family, does not have the same restrictions. It's not only confusing but also unfair and not right. If the Trust wants to regulate then it should use some variant of our B & B model- whatever reason they finally own up to.

Paul Martin, a fine Canadian Liberal Prime Minister, was reported to have said that his successful campaign to reduce Canada's debt was "driven, not by politics or ideology but arithmetic" There is also another arithmetic notion that relative (like %) and absolute numbers (like integers) provide different answers when compared to themselves or each other. So where is this going?

The Trust is part way through a policy direction that will permanently impact the character of the island and community with their approach to the problem of housing. A reason is given in the OCP on page 65 where it states that rentals consist of 18% of the residential pool, this number being below community averages. Stating a need to increase this number, opportunities for amenity traded land gifts, rezoning areas for denser cluster development- and an on going propensity to allow secondary accommodation units will solve this. Is this a complete or correct interpretation of the facts by the Trust? The OCP provides 2006 census back up numbers also p65. So what do the numbers actually say?

Dwellings on Hornby 968	100% or 968
Dwellings Occupied 56%	56% or 542
Dwellings Occupied by Owners 37% of the 968	37% or 358
Balance of Occupied Dwellings likely rentals or 542-358	19% or 184
Dwellings Unoccupied 968-542	44% or 426
Community Activity Ratio (CAR) rentals/(rentals +owner occupied)	34% or 184/(184+358)
Statistical Number of rentals available 34% x 426	34% or 144
Argue a further 50% reduction of CRA 50% of 144 rentals available	17% or 72

The Trust's 18% is the 19% of rentals in the calculations (rounding errors). What 18% represents though is a % of the TOTAL dwellings on Hornby where 44% are not occupied. Most jurisdictions don't have that level of unoccupied houses, but to adjust for the negative effect of empty house numbers on occupied owner/ rental ratios, all jurisdictions use the Community Activity Ratio (CAR) – that is comparing rentals to the total OCCUPIED Houses, which is a more realistic indication of the owner/rental character of the community For Hornby the CAR is 34%, which is actually higher, then most communities.

So what? And does this make any sense?

The 18% doesn't give a proper picture of being a problem- and as such doesn't provide a solution. The 18% makes an assumption that all empty houses are not available for rental- but in fact we don't know what that might be- unless some effort were put into finding out. Statistically it would be proper to use the CAR because it is the characteristic footprint of our owner/rental occupancy ratios. This would lead one to calculate that 144 of the 426 houses could be rentals. Even if just a portion of these- say 1/2 or 72, it is more than likely that currently built housing stock can look after housing needs. (Another statistic used in the OCP is 97 families have housing needs- another arithmetic article for next month).

The conclusion- is that the Trust is increasing development and density (somewhat counter to their preserve and protect mandate) to answer their newfound focus in community development, while such development already exists. There are more available rentals out there at a lower environmental and financial cost if only the effort was made to find them. There is also a job here for someone - which is exactly what my spouse and I had from 1984 to 96.

R Gee

Former Trustee & Former Wind and Waves Property Management Owner

Housing A Question of Numbers Part 2

In part one we pointed out that this exercise was driven, not by “politics or ideology but arithmetic”. If one keeps their First Editions, look back to calculations on the Draft OCP given for housing availability. This suggests that around 426 (44%) of 968 dwellings are left vacant--- although the OCP points out that there are actually 100 plus more (some 1080). Reducing 1080 to 968 is what statisticians call a conservative’s principle, reducing the primary data to account for possible errors. The conclusion in the previous article was that we are not sure of how many rental houses are available- aside from occupied rental houses- but with 44% of dwellings empty- more then likely there are alot more houses to be had for rent if effort were put into finding them out. The other side of the question to how many are available- is how many are needed.

The OCP quotes a study from 2006 that 97 families were in need of housing. What does this say and is that correct too? Using the scientific approach on the OCP data.....

The Population quoted as 1075 at the time

The % of the Older Households given as 78% or 839 persons

The % of Younger Households therefore is 22% or 1075-839 or 196

The foregoing treats each **individual** as a household.

Furthering the data to find average households

Older households likely would be 1 or 2 persons no children –the Cdn standard is 1.5 persons

Younger households, Couples, Singles, Single & Multiple Family the Cdn Standard is 2 persons

The number of older households is 837 persons divided by 1.5 or 479 Households

The number pf younger households is 196 persons divided by 2, or 98 households

Using population approaches the number of households is 479 older and 98 younger or 577

The OCP points out that 542 Dwellings are occupied. Therefore Households lacking a dwelling are 577 Households-542 Dwellings or 35. The 35 value is likely high as there are slightly more younger households here then the 98 while the older household number given would be slightly lower i.e. the number of total households of 577 would be too high because we reduce the household numbers more by dividing the total population by a larger number of “2”

households. Subtracting the 543 occupied dwellings from a lower household count would result in a lower number than 35

So using population and dwelling stats in the OCP, the result is 35 households in need of accommodation, yet the referenced study says 97. Additionally in 2006 the Trust and a housing committee struck for housing needs did their own study- and the number in need that responded was significantly less then the 35. Indeed anecdotally and I could stand to be corrected- only 6 family units showed up for a meeting on the question. So What?

Well 6 to 35 families needing housing in 2006 is shown by a local survey, - but even if wrong they are an order of magnitude i.e. 1/3 less then what the OCP is reporting from a professional Housing report. The conclusion here is that the data likely is not accurate and this says we don’t really know how many households lack housing while our Part 1 analysis in the last paper issue shows we don’t know how many rentals are available. Not withstanding, there are still 426 plus empty houses out there, a 22% rental success rate on the 426 empty houses would look after the 97. Once again, policy driven activities in Housing will be incorrect if based on poorly analyzed numbers.

R Gee

(608 words Title and Signature included- 600 word limit)



Preserving Island
communities, culture
and environment

Our Provincial Mandate

“to preserve and protect the
trust area and its unique
amenities and environment
for the benefit of the
residents of the trust area
and of British Columbia
generally, in cooperation with
municipalities, regional
districts, improvement
districts, other persons and
organizations and the
government of British
Columbia”

– Islands Trust Act



Islands Trust Council - Strategic Plan 2008-2011

Adopted: September, 2009 – Updated: April 4, 2011

The Trust Area

The Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island, including Howe Sound and as far north as Comox. This is a unique and special place composed of 13 major islands and more than 450 smaller islands covering approximately 5200 square kilometres.

The beauty, tranquility, and unique natural environment of the islands in the Strait of Georgia and Howe Sound have given the area national recognition.

The islands support strong communities characterized by a mix of lifestyles, livelihoods and individuals. Island residents bring unique skills, viewpoints and sense of place together to sustain a tradition of community involvement.

Our Council

The Islands Trust Council is made up of the 26 locally-elected officials of the Trust Area who are responsible for land use decisions in their island communities. Our Council has a unique mandate from the province to protect the unique environment and amenities of the islands. It meets quarterly to make decisions about overall policy, staff resources and budget. Our current Council was elected for a 3-year term during BC Local General Elections in November 2008. The current term will end in December 2011.

A Strategic Plan for our 2008-2011 term

Since December 2008, we have worked hard to identify the most important goals for the current term. By identifying these goals and developing a strategic plan to achieve them, we can focus finite resources and measure progress. Through adoption of a Strategic Plan, we have confirmed the following focus areas for our 2008-2011 term:

Goal 1 Ecosystem Preservation and Protection

We can create a legacy for the future by preserving and protecting the most significant parts of our natural environment:

- We will identify and protect our most significant riparian areas.
- We will improve the identification and protection of island biodiversity, as well as our most sensitive environments, and significant natural areas.
- We will work to reduce greenhouse gas emissions, both by managing our internal operations and by fostering energy-efficient communities in our land use decisions.

Goal 2 Stewardship of Island Resources

We will work to steward island resources, and to ensure that the scale, rate and type of development is compatible with the maintenance of island ecosystems.

- o We will use land use planning tools to address the sustainability and quality of freshwater resources.
- o We will support initiatives to achieve reliable, adequate and sustainable funding for the Trust Fund Board, our conservation land trust.
- o We will take steps to advance good management of coastal areas, by encouraging landowner stewardship and by considering new planning tools.

Goal 3: Sustain Island Character and Healthy Communities

We recognize that the health of our communities is improved if our islands are safe and secure, if there is strong public involvement in decision-making, and if we accommodate people of differing age groups and income levels.

- o We will work to support and restore socio-economic diversity with strategies for affordable, accessible and appropriate community housing.
- o We will work to understand and minimize the negative effects that climate change could have on island communities.
- o We will cultivate community engagement and participation in land use planning.

Goal 4 Organizational Effectiveness

Our island communities need effective and efficient government services:

- We will continue our work to provide services on an increasingly cost-effective basis.
- We will encourage recognition and support of the Islands Trust object by our communities and by other agencies and levels of government.

(Italics indicate significant changes since last Trust Council meeting; shaded text represents actions in past and future years)

*** See last page for key to abbreviations used in this document**

Goal 1: Ecosystem Preservation and Protection...

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS <i>Italics indicate status changes since last TC meeting</i>
1.1 To identify and protect riparian areas	1.1.1.1 Implement Riparian Area Regulations throughout the Trust Area	<u>FY 2009/10</u> 1.1.1.1 Review watershed mapping by UBC	LPC	Funded by 09/10 program budget	By whether watershed mapping contract is complete.	Complete
		<u>FY 2010/11 & 2011/12</u> 1.1.1.2 Obtain MOE designation of RAR watersheds	LPC	Funded by base budget	By whether MOE designation of RAR watersheds is complete	Designation for 11 LTAs in progress
		<u>FY 2010/11</u> 1.1.1.3 Establish application processing procedures compliant with RAR	LPC	Funded by base budget	By whether all applications are processed compliant with RAR	Complete
		<u>FY 2010/11 & 2011/12</u> 1.1.1.4 Develop bylaws re RAR requirements, subject to MOE's RAR designation	LTCs**/BIM*	Funded by program budget	By whether all islands are RAR compliant through bylaw development	Two islands are RAR compliant through bylaw development. Model staff report to LTCs is with planners.
		<u>FY 2010/11 & 2011/12</u> 1.1.1.5 Develop communications materials about RAR for use in LTC meetings	LPC	Funded by program budget	By whether staff have developed RAR communications materials	QEP presentation made to Trust Council in Sept 2010. <i>Presentations to LTCs underway</i>
		<u>FY 2010/11 & 2011/12</u> 1.1.1.6 Utilize RAR communication materials in LTC meetings	LTCs***	Funded by program budget	By whether LTCs have utilized RAR communications materials	Underway
1.2 To improve the identification and protection of biodiversity,	1.1.2 Integrate riparian area protection into Regional Conservation Plan	<u>FY 2009/10 & 2010/11</u> 1.1.2.1 Within the Regional Conservation Plan, set targets and develop implementation plan for riparian area protection where mapping is completed.	TFB**	Funded by base budget	By whether the 2011-2015 Regional Conservation Plan and implementation plan is complete	Complete
		<u>FY 2011/12</u> 1.1.2.2 Implement riparian area protection strategy	TFB**	Subject to funding	To be determined (by objectives set in RCP)	Not started
		1.1.2.3 Mapping of non-RAR watercourses and riparian areas	TFB**	Subject to funding	By whether mapping of non-RAR watercourses and riparian areas is complete	Not started
	1.2.1 Continue improvements to mapping data (i.e. ecosystem maps)	<u>FY 2009/10</u> 1.2.1.1 Complete DEM acquisition & implementation programs for Trust Area	LPC	Funded by 09/10 program budget	By whether DEM program is complete	Complete
		<u>FY 2010/11 & 2011/12</u> 1.2.1.2 Complete SEM acquisition and implementation programs for Trust Area	LPC	Funded by program budget	By whether SEM program is complete	On track for completion this term
		<u>FY 2009/10</u>	TFB**	Funded by	By whether mapping is finalized	Complete

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS
environmentally sensitive areas and significant natural sites, features and landforms		1.2.1.3 Finalize TEM mapping for Howe Sound FY 2009/10 & 2010/11 1.2.2.1 Complete first draft of RCP		09/10 program budget		Italics indicate status changes since last TC meeting
	1.2.2 Develop 2011-2015 Regional Conservation Plan (RCP)	1.2.2.2 Community consultation re RCP FY 2010/11	TFB**	Funded by base program budget	By whether first draft is complete	Complete
		1.2.2.3 Finalize RCP	TFB**	Funded by base budget	By whether consultation has been completed	Complete
		FY 2011/12 1.2.2.4 Implement RCP	TFB**	Funded by base budget	By whether plan is finalized	Complete
	1.2.3 Protect sensitive and significant land through land use planning decisions		TFB**	May be subject to funding	By whether plan has been implemented	Council planning session <i>complete</i>
		2008-2011 term 1.2.3.1 Optimize opportunities to protect land	LTCs***/BIM*	Funded by base budget	By the hectares of land that have been protected	Awaiting opportunities and LTC decisions. (e.g. Denman Provincial Park). LTCs are developing relevant OCP policies on several islands.
	1.2.4 Monitor and enforce LTC conservation covenants	FY 2009/10 & 2010/11 1.2.4.1 Establish management plan for LTC conservation covenants	LPC	Funded by base budget	By whether a management plan has been finalized	Covenant inventory complete. Covenant monitoring report to Trust Council in Mar/11.
		FY 2011/12 1.2.4.2 Implement management/monitoring program for LTC conservation covenants	LPC	Funded by base budget	By whether the management plan has been funded and implemented	Not started
	1.2.5 Improve protection & planning for 'executive' islands	FY 2009/10 1.2.5.1 Develop work program for 'Executive' Islands	EC	Funded by base budget	By whether a work program for Executive Islands protection has been approved.	Complete
		FY 2010/11 & 2011/12 1.2.5.2 Develop new bylaws for 'Executive' islands	EC	Funded by 11/12 program budget	By whether new bylaws have been developed.	OCP drafts under review
	1.2.6 Finalize Crown land profiles (including ID of environmentally sensitive areas, etc.)	FY 2009/10 & 2010/11 1.2.6.1 Finalize Bowen and Gambier profiles	TPC	Funded by program budget	By whether Bowen and Gambier Crown land profiles are complete	Bowen – pending Parks Canada proposal Gambier – scope under review
		FY 2009/10 1.2.7.1 Approach Comox Valley RD	TPC	Funded by base budget	By whether Comox Valley RD has been formally contacted to discuss NAPTEP	Complete

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS Italics indicate status changes since last TC meeting
	1.2.7 Expand NAPTEP program to entire Islands Trust Area	<u>FY 2010/11</u> 1.2.7.2 Roll out to Comox Valley RD	TFB**	Funded by 10/11 program budget	By whether NAPTEP program is in place in Comox Valley RD.	Complete
		<u>FY 2010/11</u> 1.2.7.3 Approach Powell River RD	TPC	Funded by base budget	By whether Powell River RD has been formally contacted to discuss NAPTEP	Complete Outreach begun
	1.2.8 Seek legislative change to NAPTEP to expand to island municipalities	<u>FY 2009/10 & 2010/11</u> 1.2.8.1 Monitor/advocate with MCRD re legislative changes for 2010	EC	Funded by base budget	By whether legislative changes have been made.	Complete
		<u>FY 2011/2012</u> 1.2.8.2 Roll out on Bowen (develop tax impact models, agreements & revised promotional materials)	TAS	<i>Funded by 11/12 program budget</i>	By whether NAPTEP is in place in Bowen Island Municipality	<i>Not started</i>
	1.2.9 Acquire land for conservation	<u>FY 2009/10 & 2010/11</u> 1.2.9.1 Complete Fairy Fen Crown land Acquisition (Bowen)	TAS	Funded by base budget	By whether Fairy Fen Crown land has been acquired.	Complete
		<u>FY 2010/11 & 2011/12</u> 1.2.9.2 Initiate action on Lasqueti Crown land acquisition	TFB**	Funded by donors	By whether funding is in place for acquisition.	Pending TFB priorities for Crown land acquisition
		1.2.9.3 Initiate FN consultation re Lasqueti Crown land acquisition (if acquisition funding in place).	TAS	Funded by base budget	By whether consultation is complete	In progress
	1.2.10 Develop and implement plans to ensure safety and ecological integrity of protected areas	<u>FY 2009/10</u> 1.2.10.1 Hire property manager	TFB**	Funded by base budget	By whether property manager has been hired	Complete
		<u>FY 2010/11 & 2011/12</u> 1.2.10.2 Implement high priority management recommendations from Risk Management Assessment	TFB**	Funded by base budget	By the number of high priority risk management tasks completed	Completed 4 out of 6 high priority tasks
		<u>FY 2010/11 & 2011/12</u> 1.2.10.3 Implement medium and low priority management recommendations from Risk Management Assessment	TFB**	Funded by base budget and donors	By the number of medium and low priority risk management tasks completed	Completed 9 out of 10 medium priority tasks
1.3 To reduce greenhouse gas emissions	1.3.1 Make Islands Trust organizational operations carbon neutral by 2012	<u>FY 2009/10</u> 1.3.1.1 Collect data regarding organizational GHG emissions	TAS	Funded by 09/10 program budget	By whether data have been collected	Complete
		<u>FY 2009/10</u> 1.3.1.2 Develop strategy to reduce GHG or purchase offsets.	TAS	Funded by 09/10 program budget	By whether a strategy has been developed	Complete

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS <i>Italics indicate status changes since last TC meeting</i>
		FY 2009/10 to 2011/12 1.3.1.3 Implement the staff education program and GHG reduction strategies and actions related to transportation, building energy use, and paper consumption set out in our 2008 Corporate Climate Action Plan	ADMIN	Funded by base budget	By whether the 2008 Corporate Climate Action Plan has been implemented.	In progress
		FY 2011/12 1.3.1.4 Develop policy regarding carbon neutrality and purchase of carbon offsets	TAS	Funded by 11/12 budget	By whether a policy regarding carbon neutrality and carbon offset purchase is complete	Initial research and training begun. Council workshops planned for June 2011
		FY 2012/13 1.3.1.5 Purchase carbon offsets for remaining corporate emissions	ADMIN	Subject to funding (12/13 budget)	By whether IT operations are carbon neutral.	Not started. Pending policy development
		FY 2012/13 1.3.1.6 Initiate on-going corporate emissions reporting	ADMIN	Subject to funding (future budgets)	By whether we have a program for on-going reporting of corporate emissions.	Initial planning started
		FY 2010/11 & 2011/12 1.3.2.1 Finalize community GHG emissions inventories	TPC	GB LTA funded by 11/12 budget	By whether GHG emissions inventories have been prepared for each LTA/IM.	Complete except for GB LTA assoc islands
		1.3.2.2 Review inventories at Trust Council workshop	TPC	Funded by 09/10 program budget	By whether Council has reviewed GHG emission inventories.	Complete
	1.3.2 Provide information on community GHG emissions for each island	FY 2010/11 1.3.2.3 Establish and fund a strategy for ongoing reporting of community GHG emissions	TPC	May be subject to funding	By whether we have developed and funded an on-going strategy to report community GHG emissions.	Complete (Province will provide 2007 baseline + 2010 and every 2 years thereafter)
		FY 2012/13 1.3.2.4 Evaluate and respond to 2012 provincial reports regarding GHG emissions	LPC	Subject to funding (12/13 budget)	By whether community GHG emissions reductions are reducing	Not started
	1.3.3 Recommend emission reduction targets and provide model policies and actions for consideration in island OCP amendments	FY 2009/10 1.3.3.1 Hold Council workshop on GHG emission reduction, with advice about targets and a 'menu' of model policies and actions for inclusion in OCPs	TPC	Funded by 09/10 program budget	By whether we have held a Trust Council workshop and provided recommended targets, model policies and actions by Sept 09.	Complete
		FY 2009/10 1.3.3.2 Develop communications tools to assist LTCs in including GHG emission reduction targets, policies and actions in OCPs.	TPC	Funded by 09/10 program budget	By whether communications tools have been distributed to LTCs.	Complete

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS <i>Italics indicate status changes since last TC meeting</i>
	1.3.4 Amend OCPs to include emission reduction targets, policies and actions (TPAs)	FY 2009/10 1.3.4.1 LPS staff to attend ministry workshops for planners re TPAs	LPS	Funded by base budget	By whether relevant staff have attended workshops	Complete
		1.3.4.2 Develop a Trust-wide work program to include targets, policies and actions for GHG emission reduction in all island OCPs by legislated deadline (May 31/10)	LPC	Funded by base budget	By whether LTCs and BIM have focused work programs to include targets, policies and actions for GHG emission reduction in their OCPs.	Complete
		FY 2010/11 & 2011/12 1.3.4.3 Establish targets, policies, and actions in OCPs by legislated deadline (May 31/10)	LTCs**/BIM*	<i>Completion funded by base budget</i>	By whether all OCPs have been amended to include GHG emission reduction targets, policies and actions by May 31/10	Targets, policies and action included in eighteen OCPs submitted for ministerial approval. One planned for 11/12.
	1.3.5 Foster energy-efficient communities through land use planning decisions	FY 2009/10 1.3.5.1 Develop relevant information on a Trust-wide basis that will serve all LTCs	LPC	Funded by program budget (09/10 budget)	By whether we have developed tools to assist LTCs/IMs in reducing GHG emissions through land use decisions	Complete
		FY 2010/11 1.3.5.2 Consider the inclusion of the information provided by the LPC into appropriate bylaws and processes	LTCs**/BIM*	Funded by 10/11 program budget	By whether GHG emission reduction is achieved in LTC land use decisions	All future OCP reviews must address GHG emissions reduction
	1.3.6 Foster energy efficient communities through public education	FY 2009/10 1.3.6.1 Place relevant links on IT website	TAS	Funded by base budget	By whether relevant links are on IT website	Webpage complete Addition of new links on-going
		FY 2010/11 1.3.6.2 Develop new public education tools in addition to website.	LTCs***	Funded by program budget	By whether new public education tools have been funded and developed	GHG Communications Plan being implemented regionally. Staff training re GHG emission reduction scenarios complete
		FY 2011/12 1.3.6.3 Continue development of new public education tools	TPC and LTCs***	<i>Subject to grant funding</i>	<i>By whether new public education tools have been funded and developed</i>	<i>In progress</i>

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Goal 2: Stewardship of Island Resources...

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS
2.1 To increase the sustainability and quality of freshwater resources	2.1.1 Include new policies and regulations as OCPs and LUBS are amended	FY 2009/10 2.1.1.1 Provide trustees and planning staff with Groundwater Bylaws Toolkit	TAS	Funded by base budget	By whether Groundwater Bylaws Toolkit has been circulated.	Complete
		FY 2009/10 2.1.1.2 OCP/LUB reviews underway on selected islands	LTCs***	Funded by 09/10 program budget	By the number of LTCs/IM with new policies and regulations for protection of freshwater resources	Reviews continuing in 10/11
		FY 2010/11 & 2011/12 2.1.1.3 OCP/LUB reviews underway on selected islands	LTCs***	Funded by program budget		Reviews underway or planned to begin in 11/12
		FY 2010/11 & 2011/12 2.1.1.4 Advocate for provincial regulation of island groundwater	TAS	Funded by base budget	By whether submissions to the provincial review have been made	First and second submissions complete
2.2 To establish reliable, adequate and sustainable funding for TFB to meet Regional Conservation Plan goals and stewardship requirements for protected lands	2.2.1 Identify and implement strategies for long-term funding	FY 2009/10 & 2010/11 2.2.1.1 Analyze options and develop a long term funding strategy	TFB**	Funded by 09/10 program budget	By whether a strategy has been adopted	Compete
		2.2.1.2 Prepare implementation plan including the development of a business case in support of the long-term funding strategy	TFB**	Funded by 10/11 program budget	By whether the implementation plan and business case have been developed	Received advice from Province to focus on specific properties and on building public profile
		FY 2010/11 and beyond 2.2.1.3 Execute the implementation plan. Evaluate and adjust plan as required – Develop strategy for name change	TFB**	<i>Funded by base budget</i>	In early stages: by whether initial reaction to the long-term funding strategy is positive. Later on: by whether we have secured source(s) of long-term funding.	Action Plan to TFB in July 2010 to include seeking champions and identifying specific properties to acquire <i>Council has endorsed name change request</i>
		FY 2011/12 Seek legislative change re new name	TFB**	Funded by base budget	By whether legislation has been changed	<i>Initial meeting held with ministry</i>
2.3 To advance the stewardship of coastal areas and marine shore lands	2.3.1 Provide stewardship information about waterfront lands to community members	FY 2012/13 2.2.1.4 Implement name change strategy IF any required legislative change is in place	TFB	Subject to funding	By whether a name change strategy has been implemented	Not started
		FY 2009/10 2.3.1.1 Host a landowner workshop on one island	TFB**	Funded by base budget	By whether one workshop has been hosted	Complete (workshop on Pender held)
		FY 2009/10 & 2010/11 2.3.1.2 Update website links regarding existing shoreline stewardship information	TPC	Funded by base budget	By whether website links have been updated	Content being developed in cooperation with TFB and LPS

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS
		FY 2011/12 2.3.1.3 Circulate stewardship information to shoreline property owners	LPC	Subject to budget or grants	By whether stewardship information has been circulated	See item 2.3.2.4
		FY 2009/10 2.3.2.1 Develop integrated shoreline and watershed protection mapping for one island to assist OCP process (joint UBC/IT project)	LPC	Funded by 09/10 program budget	By whether mapping is complete	Complete
		FY 2009/10 to 2011/12 2.3.2.2 Thetis Island LTC – consider the use of integrated shoreline & watershed protection into OCP review process	LTC***	Funded by program budget	By whether OCP has been amended to include new forms of protection	Background shoreline research complete OCP review underway
	2.3.2 Develop and implement new land use planning tools for shoreline and marine protection	FY 2010/11 2.3.2.3 Provide recommendations to the Trust Council regarding a Trust –wide adoption of an integrated shoreline & watershed protection approach for OCP processes	LPC	Funded by base budget	By whether recommendations have been provided to TC.	Complete
		FY 2011/12 2.3.2.4 Initiate Green Shores for Homes project: Extend integrated shoreline & watershed protection approach to Islands Trust Area	EC LTC*** /BIM*	External and internal funding in place	By whether integrated shoreline and watershed protection mapping is complete	Work underway

Goal 3: Sustain Island Character and Healthy Communities...

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS
335 3.1 To support socio-economic diversity of island communities	3.1.1 Support/restore socio-economic diversity through land use planning strategies about affordable/accessable/appropriate housing	FY 2009/10 3.1.1.1 Provide recommendations and guidance for LTCs with respect to relevant options for land use planning decisions to advance affordable housing	LPC	Funded by 09/10 program budget	By whether recommendations/guidance has been provided.	Complete
		FY 2010/11 & 2011/12 3.1.1.2 Consider implementing land use planning decisions to advance affordable housing	LTCs***	Funded by program budget	By the number of LTCs have implemented land use planning decisions regarding affordable housing.	Being taken into consideration in current OCP reviews
		FY 2011/12 3.1.1.3 Measure and report on island housing affordability	TAS LPS	TBD	TBD	Completed for SS&GB May be included in indicators program
	3.1.2 Support local food security	FY 2009/10 3.1.2.1 Support public education by creating IT resource webpage (e.g. with SSI area farm plan) and encouraging community gardens	TAS LPS	Funded by base budget	By whether IT resource webpage with food security links have been created	Complete
		FY 2009/10 3.1.2.2 Provide trustees with current BC documents about local government's role in food security	TAS	Funded by base budget	By whether relevant documents have been provided to trustees	Complete
		FY 2010/11 & 2011/12 3.1.2.3 Complete a second area farm plan (Denman)	LTC***	Initially funded by 10/11 programs budget. Completion funded by 11/12 program budget	By whether a second area farm plan is complete	Denman Agricultural Strategy posted on-line. Matching funding received.
		FY 2010/2011 3.1.2.5 Trust Council workshop about local government role in food security	TPC LPC	Funded by base budget	By whether a workshop has been held	Complete. Council endorsed recommendations Dec/10
	3.1.3 Include new policies and regulations about food security in OCPs and LUBs as they are reviewed	FY 2011/12 3.1.2.6 Amend internal protocols to address food security	EC	Funded by base budget	By how many protocols have been amended to address food security	Not started
		FY 2009/10 to 2011/12 3.1.3.1 Address in OCP reviews underway on selected islands	LTC***	Funded by program budget	By the number of LTCs/IMs with new policies and regulations related to food security	Food security toolkit complete OCP/LUB reviews underway

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS
3.2 To minimize the impact of climate change upon islands and communities	3.2.1 Research and communicate about expected climate change impacts	<u>FY 2009/10</u> 3.2.1.1 Apply for funding	TPC	N/A	By whether funding has been obtained.	No funding sources identified
		<u>FY 2011/12</u> 3.2.1.2 Conduct Trust Area vulnerability assessment and risk assessment (part of adaptation planning framework) and communicate results	TPC	Funded by base budget	By whether assessments have been completed	Not started. Provincial studies may be sufficient. Some staff training underway.
	3.2.2 Develop climate change adaptation plan	<u>FY 2011/12</u> 3.2.2.1 Initiate implementation of existing adaptation planning framework, including establishment of Adaptation Planning Working Group	TPC LPC	Subject to funding (grant or partnership with others)	TBD	Not started. May be delayed.
		<u>FY 2012/13</u> 3.2.2.2 Continue implementation of adaptation planning framework.	TPC LPC	Subject to funding	TBD	Not started. May be delayed.
	3.2.3 Integrate climate change adaptation into land use planning and regulatory decisions	<u>FY 2012/13</u> 3.2.3.1 Continue implementation of adaptation planning framework	LTCs*** /BIM*	Subject to funding	TBD	Not started. May be delayed.
		<u>FY 2009/10</u> 3.3.1.1 Develop new tools and strategies to encourage community engagement in land use planning processes	LPC	Funded by base budget	By whether information about new tools and strategies has been circulated to trustees and staff.	'World Café demo held during June TC Staff training planned Info circulated as part of Climate Wise Islands materials and regarding sensitive ecosystems Sensitive ecosystems webpage developed
3.3 To cultivate community engagement and participation in land use planning		<u>FY 2010/11 & 2011/12</u> 3.3.1.2 Consider new tools and strategies to encourage community engagement in land use planning processes	LTCs***	Funded by base budget	TBD	Developing public portal for IT mapping data Affordable housing webpage planned Food security toolkit complete
	3.3.2 Enable greater diversity of trustee candidates	<u>FY 2009/10</u> 3.3.2.1 Develop process and budget for review of trustee remuneration	FPC	Funded by base budget	By whether a process has been designed and a budget approved	Complete
		<u>FY 2010/11</u> 3.3.2.2 Complete review of trustee remuneration	FPC	Funded by 10/11 programs budget	By whether a review is complete	Complete

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?	IS FUNDING REQUIRED OR IN PLACE?	HOW WOULD WE MEASURE SUCCESS?	STATUS
		FY 2010/11 3.3.2.3 Develop policy regarding trustee remuneration	FPC	Funded by base budget	By whether trustee remuneration policy has been developed	Complete
		FY 2011/12 3.3.2.4 Amend Trustee Remuneration bylaw in accordance with policy	FPC	Funded by 11/12 base budget	By whether a trustee remuneration bylaw has been adopted in accordance with policy	Remuneration bylaw adopted – to take effect Dec/11
3.4 To foster good relations with First Nations	3.4.1 Develop a strategic approach to First Nations relations	FY 2011/12 3.4.1.1 Develop a First Nations Relationship Strategy and Policy– identify overlapping interests, treaty process schedules, priorities and resource requirements for protocol agreements, referral practices, etc.	EC	Funded by 11/12 program budget	By whether a strategy has been completed	Not started
		FY 2012/13 3.4.1.2 Acquire or identify sufficient staff capacity to implement First Nations Relationship Strategy and Policy	EC	Subject to budget (12-13 budget)	By whether sufficient staff capacity(or work program adjustment/training) has been identified and/or acquired to implement strategy	Not started

Goal 4: Organizational Effectiveness...

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?*	IS FUNDING IN PLACE OR REQUIRED?	HOW WOULD WE MEASURE SUCCESS?	STATUS
4.1 To provide services on an increasingly effective basis	4.1.1. Develop cost effective bylaw enforcement tools	<u>FY 2009/10 & 2010/11</u> 4.1.1.1 Establish a Bylaw Dispute Adjudication System for the Islands Trust	LPC	Funded by base budget	By whether a Bylaw Dispute Adjudication System is established.	Regulatory adjustments approved by province for six islands. Ministerial approval of North Shore agreement received
		<u>FY 2009/10 to 2011/12</u> 4.1.1.2 Consider bylaw amendments to allow Bylaw Dispute Adjudication System	LTCs***	Funded by base budget	By the number of islands where a Bylaw Dispute Adjudication System is in place	Two LTCs have given 3 rd reading to implementing bylaw. Model bylaw received by LPC.
	4.1.2 Organizational review and improvements to corporate secretary/legislative services functions	<u>FY 2009/2010</u> 4.1.2.1 Review responsibilities and capacity in existing positions re: corporate services and consider establishment of corporate secretary/ legislative services (records management, FOIPP, administrative procedural certainty and consistency, policies, legislation, inter-agency agreements and elections)	EC	Funded by base budget	By whether the review is complete and presented to EC	Complete
		<u>FY 2010/11</u> 4.1.2.2 Hiring, orientation and transfer of functions from senior managers to legislative services manager position	MGMT	Funded by base budget	By whether a new position has been created/filled and functions transferred	Complete
		<u>FY 2010/11 & 2011/12</u> 4.1.2.3 Develop strategies for further improvement of corporate secretary/legislative services functions	MGMT	Funded by base budget	By whether there is a greater capacity and consistent delivery of corporate secretary/legislative services functions and a greater capacity for delivery of core services by senior managers.	Improvements underway
	4.1.3 Seek alternate forms of funding (i.e. grants)	<u>FY 2009/10</u> 4.1.3.1 Develop and implement policy and procedures for seeking funding and awards.	TAS	Funded by base budget	By whether a policy is in place and implemented (e.g. on-line data base)	Complete Grant revenue is now 10 times that in 2008/09
	4.1.4 Improve records management systems	<u>FY 2009/10 to 2011/12</u> 4.1.4.1 Develop records management procedures 4.1.4.2 Staff/trustee training 4.1.4.3 Destroy unneeded records	ADMIN	Funded by 11/12 program budget	By whether records management bylaw and manual is in place By whether staff/trustee training is complete By whether unneeded records have been culled	Bylaw approved by Trust Council. Training and implementation underway.

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT? *	IS FUNDING IN PLACE OR REQUIRED?	HOW WOULD WE MEASURE SUCCESS?	STATUS
		FY 2011/12 4.1.4.4 Develop and implement auditing of records handling 4.1.4.5 Evaluate and revise 4.1.4.6 Evaluate RM software	ADMIN	Funded by base and program budgets	By whether RM procedures are in place	Not started
		FY 2012/13 4.1.4.7 Purchase RM software 4.1.4.8 Incomp. RM software procedures 4.1.4.9 Staff training on new procedures	ADMIN	Subject to budget and staffing (12/13 budget)	By whether software has been purchased and procedures incorporated. By whether staff have been trained.	Not started
	4.1.5 Develop new TC/LPC/FPC/TPC meeting procedure bylaw regarding electronic meetings	FY 2009/10 4.1.5.1 Amend TC meeting procedure bylaw or committee Terms of Reference as necessary	EC	Funded by base budget	By whether bylaw and/or committee terms of reference have been amended.	Complete
	4.1.6 Develop new TFB meeting procedure bylaw regarding electronic meetings	FY 2009/10 and 2010/11 4.1.6.1 Prepare and adopt amendments to meeting procedure bylaw	TFB**	Funded by base budget	By whether the meeting procedure bylaw has been adopted	Complete
	4.1.7 Ensure Trust Council policies are current and consistent	FY 2009/10 4.1.7.1 Amend administrative fairness policies	EC	Funded by base budget	By whether administrative fairness policies have been reviewed and amended.	Three policies amended in 2009.
		FY 2010/11 & 2011/12 4.1.7.2 Select policies for review and amendment	EC	Funded by base budget	By whether selected policies have been reviewed and amended.	Review of policies begun.
	4.1.8 Review of devt application fee levels and cost recovery mechanisms	FY 2010/11 & 2011/12 4.1.7.3 Develop and implement a regular maintenance schedule for Islands Trust Council Policy Manual and Procedures Manual	EC	Funded by base budget	By whether the Islands Trust Policy Manual is being regularly maintained to keep policies current and consistent	Initial inventory in development.
		FY 2011/12 4.1.8.1 Develop terms of reference and identify budget and data needs for review of application fees	FPC	Funded by base budget	By whether terms of reference has been developed and any necessary budget and data needs have been identified.	Joint FPC/LPC task force approved by Trust Council Mar/11

OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT? *	IS FUNDING IN PLACE OR REQUIRED?	HOW WOULD WE MEASURE SUCCESS?	STATUS
4.2 To encourage recognition and support of the Island Trust object in policies and programs of other levels of government and agencies	4.2.1 Advocacy to influence other levels of government (federal/provincial/RD)	FY 2011/12 4.1.8.2 Review of application fees, development of amendments to model fees bylaw and related policies	FPC	Funded by base budget	By whether application fees and cost recovery mechanisms have been reviewed, policies have been amended and a model fees bylaw has been developed.	Not started
		4.1.8.3 Adoption of amended fees bylaws	LTCs***	Funded by base budget	By whether all LTCs have adopted amended fees bylaws	Not started. May be delayed.
		FY 2009/10 4.2.1.1 Maintain existing levels of advocacy (e.g. UBCM resolutions, letters to relevant jurisdictions as issues arise and staff capacity permits)	EC	Funded by base budget	By whether current levels of advocacy are maintained.	EC meeting with provincial government re PMFL Act. UBCM resolution re ferries. EC attendance at UBCM Chair correspondence
		FY 2010/11 to 2012/13 4.2.1.2 Maintain enhanced levels of advocacy (e.g. UBCM resolutions, letters to relevant jurisdictions as issues arise and staff capacity permits) with a high priority on marine advocacy.	EC	Funded by base budget	By whether enhanced levels of advocacy are maintained, and progress is made in protection of the marine environment	UBCM workshop and resolutions complete re derelict vessels and NMCA. More frequent Chair correspondence. Meeting with provincial agencies. Enhanced advocacy re marine issues approved by Trust Council
		FY 2010/11 4.2.1.3 Repeat 2004 Ipsos Reid poll regarding public support for preservation and protection of Islands Trust Area	EC	Funded by base budget	By whether the 2004 Ipsos Reid poll has been repeated	Complete
4.3 To promote understanding and support of the Islands Trust and its object in island communities	4.3.1 Develop new tools to communicate about organizational successes	FY 2009/10 to 2011/12 4.3.1.1 Finalize Indicators Program reports	TPC	Funded by base budget	By whether Indicators Program reports are complete	Staff meeting and trustee survey complete. Agricultural indicators complete. Economic dependency underway. Housing is next.
		4.3.1.2 Develop plans/strategies/related budgets for new communications tools	EC	Funded by base budget.	TBD	Considering use of social media – staff training on-going. Some pilot projects underway.
		FY 2011/12 4.3.1.3 Implement new communication tools. Add Advocacy sections to web-site	EC	Funded by 11/12 program budget	TBD	Marine advocacy page complete Further work pending website upgrades.

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT?*	IS FUNDING IN PLACE OR REQUIRED?	HOW WOULD WE MEASURE SUCCESS?	STATUS
	4.3.2 Develop new tools to communicate about the history and role of the Islands Trust	<u>FY 2009/10 & 2010/11</u> 4.3.2.1 Develop presentations for delivery at TC meetings/LTC meetings/professional conferences in 2009 (35 anniversary)	EC	Funded by base budget	By whether presentations have been created/delivered	Complete
		<u>FY 2010/11 & 2011/12</u> 4.3.2.2 Develop video re-interviews with former trustees	EC	Subject to external funding	By whether funding is received and a video is created	Funding approved Video history project advisory group meetings underway
		<u>FY 2009/10 – 2011/12</u> 4.3.3.1 Continue delivering approved communications strategy	EC	Funded by base budget	By whether approved priorities are delivered	On track (e.g. e-news, annual reports) Nineteen staff attended a 'plain language' webinar
	4.3.3 Develop new tools and use plain language to communicate to communities about relevance of land use planning and conservation	<u>FY 2009/10</u> 4.3.3.2 Develop presentation/display for use at public meetings to explain the linkage between GHG emissions and land use/conservation	EC	Funded by base budget	By whether a presentation has been developed and delivered	Complete
		<u>FY 2009/10</u> 4.3.4.1 Develop plans and strategies and related budgets	EC	Funded by base budget	By whether a plan and related budget is in place to review and redesign website	Initial plans and budget estimates complete.
	4.3.4 Review and redesign website	<u>FY 2010/11</u> 4.3.4.2 Develop business case and proposed budget	EC	Funded by base budget	By whether a business case and proposed budget is complete	Complete
		<u>FY 2011/12</u> 4.3.4.3 Review and redesign website	EC	<i>Funded by 11/12 program budget</i>	By whether website has been reviewed and redesigned	<i>Initial meetings and public survey underway</i>
	4.3.5 Develop new tools to enhance administrative fairness practices	<u>FY 2009/10</u> 4.3.5.1 Hold legal session and develop checklist for trustees	EC	Funded by base budget	By whether a legal session and checklist have been prepared	Complete
		4.3.5.2 Develop staff checklist and hold staff workshop regarding administrative fairness	EC	Funded by base budget	By whether a staff checklist and workshop are complete	Complete
		<u>FY 2011/12</u> 4.3.5.3 Develop focused training for orientation of new trustees in December 2011	EC	Funded by base budget	By whether new trustee orientation session includes a focus on administrative fairness	Not started

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OBJECTIVE	STRATEGIES	ACTIVITIES AND PHASES	WHO WOULD WORK ON IT? *	IS FUNDING IN PLACE OR REQUIRED?	HOW WOULD WE MEASURE SUCCESS?	STATUS
4.3.6 Review and update Islands Trust Policy Statement		FY 2010/11 & 2011/12 4.3.6.1 Initial scoping of Policy Statement review topics and process	TPC (PSSC)	Funded by base budget	By whether an initial scoping exercise is complete	Topic review inventory to Dec Trust Council. Task Force final report due June 2011. Assembly and evaluation of information about previous reviews is planned.
		FY 2011/12 4.3.6.2 Preliminary research and design of review process	EC	Subject to external grants	By whether preliminary research is complete and review process has been designed	Review process approved by Council Mar/11
		FY 2012/13 4.3.6.3 Public, agency and First Nations consultation regarding Policy Statement update and development of draft amendments	TPC	Subject to budget (12/13 budget) or external grants	By whether consultation is complete and draft amendments prepared	Not started
		FY 2013/14 4.3.6.4 Adoption of revised Policy Statement bylaw	TPC	Subject to budget (13/14 budget)	By whether an amended Policy Statement bylaw is adopted	Not started

34 Abbreviations:

ADMIN – Administrative Services
BIM – Bowen Island Municipality
DEM – Digital Ecosystem Mapping
EC – Executive Committee
FN – First Nations
FPC – Financial Planning Committee
FY – Fiscal Year
GHG – Green House Gases
ID -- Identification
IM – Island Municipality
IT – Islands Trust
LPC – Local Planning Committee
LPS – Local Planning Services

LTA – Local Trust Area
LTC – Local Trust Committee
LUB – Land Use Bylaw
MCSC – Ministry of Community and Rural Development
MGMT – Management Team
NA – Not Applicable
NAPTEP – Natural Area Protection Tax Exemption Program
OCP – Official Community Plan
PSSC – Policy Statement Sub Committee
PMFL – Private Managed Forest Land
RAR – Riparian Area Regulations
RCP – Regional Conservation Plan
RD – Regional District

RFD – Request for Decision document
RM – Records Management
SEM – Sensitive Ecosystem Mapping
SSI – Salt Spring Island
TAS – Trust Area Services
TEM – Terrestrial Elevation Mapping
TBD – To Be Determined
TC – Trust Council
TFB – Trust Fund Board
TPA – Targets, Policies and Actions (re GHG emission reduction)
TPC-Trust Programs Committee
UBC – University of British Columbia
UBCM – Union of BC Municipalities

For more information, contact
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Visit our website at
www.islandstrust.bc.ca

Colour Key for fourth column:

Colour	Potential committee/unit/body taking lead for strategy/activity
	Local Planning (through Local Planning Committee, Local Planning Services staff, Local Trust Committees or Bowen Island Municipality)
	Trust Programs Committee or Trust Area Services staff
	Executive Committee/CAO's office
	Financial Planning Committee/Administrative Services staff
	Management team
	Trust Fund Board or Islands Trust Fund staff

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Islands Trust

Print Date: Apr-18-2011

Top Priorities

Hornby Island

No.	Description	Activity	Received/Initiated	Responsibility	Target Date	Status
1	Short Term Vacation Rentals - Regulations Review	Staff to develop an enforcement policy and address STVRs in the OCP review	Sep-14-2009	Brodie Porter	Sep-30-2011	On Going
2	Official Community Plan and Land Use Bylaw Review	Targetted review and update of the OCP and LUB.	Sep-14-2009	Brodie Porter		On Going



Islands Trust

Projects

Hornby Island

No.	Description	Activity	Received/Initiated	Status
1	Preparing information material on land use regulations for new property owners to Projects List as a new item		Mar-17-2008	On Going
2	Having a Siting and Use Permit review meeting coordinated with Denman Local Trust Committee and staff; and to use that as an opportunity to plan outreach material for our permits" as item # 8.		Sep-08-2006	On Going



Islands Trust

Print Date: Apr-18-2011

Applications w/ Status - Hornby Island Status: Open

Applications

Agricultural Land Reserve

File Number	Applicant Name	Date Received	Purpose
HO-ALR-2010.1	Downes Point Holdings Ltd.	Nov-02-2010	
Planner: Sonja Zupanec			

Planning Status

Status Date: Dec-15-2010

Application approved to forward to ALC with comments.

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
HO-DVP-2011.1	Christiana and Peter Wai and VanGelder	Feb-11-2011	reduce lot frontage proportions
Planner: Sonja Zupanec			

Planning Status

Status Date: Apr-11-2011

Staff report and draft permit prepared. Notices sent to adjacent property owners advising of LTC consideration April 27.

Rezoning

File Number	Applicant Name	Date Received	Purpose
HO-RZ-2009.2	Hornby Island Resort Ltd.	Sep-10-2009	Pub, restaurant accommodation, office space, moorage - would like to rebuild after the summer operation of 2010.
Planner: Brodie Porter			

Planning Status

Status Date: Dec-15-2010

Report tabled on applicant's progress to comply with LTC requirements

Status Date: Aug-25-2010

Public hearing held and LTC established requirements for further consideration of bylaws

Status Date: Jun-03-2010

Draft bylaws were reviewed and staff requested to work with applicant to develop proposed amendments for July LTC meeting.

Subdivision

File Number	Applicant Name	Date Received	Purpose
HO-SUB-2010.1	Helen Grond Planner: Linda Prowse	Apr-08-2010	to create two parcels under Section 946 of the Local Government Act

Planning Status

Status Date: Mar-28-2011

Waiting to receive registered Sec 946 covenant

Status Date: Mar-17-2011

Final letter of approval sent to MOTI

Status Date: Dec-10-2010

Signed section 946 covenant sent to surveyor with instructions to send us the signed covenant and subdivision plan when registered at Ito

File Number	Applicant Name	Date Received	Purpose
HO-SUB-2010.2	Ron Tuele Planner: Marnie Eggen	Apr-29-2010	

Planning Status

Status Date: Mar-14-2011

Applicant drafting covenant

Status Date: Jan-06-2011

Memo for RWM to enter into cost recovery for legal counsel review/draft of covenant

Status Date: Oct-08-2010

Referral complete; requires a 946 covenant

File Number	Applicant Name	Date Received	Purpose
HO-SUB-2010.6	Christian and Peter Wai and VanGelder	Aug-10-2010	create 2 parcels

Planner: Sonja Zupanec

Planning Status

Status Date: Mar-25-2011

Applicant applied for DVP for reduction in lot frontage requirement.

Status Date: Dec-23-2010

Application modified to allow easement access. Issue identified with depth/width ratio for lot A. Applicants advised of options

Status Date: Dec-23-2010

PLA issued requiring confirmation of compliance with Islands Trust.

File Number	Applicant Name	Date Received	Purpose
HO-SUB-2010.9	Peter Mason	Sep-28-2010	To create 2 parcels
Planner: Brodie Porter			

Planning Status

Status Date: Jan-06-2011

Status Date: Jan-06-2011

Status Date: Jan-06-2011

File Number	Applicant Name	Date Received	Purpose
HO-SUB-2011.1	Joan & David Harris/Wiseman	Dec-23-2011	Boundary Adjustment
Planner: Marnie Eggen			

Planning Status

Siting and use Permit

File Number	Applicant Name	Date Received	Purpose
HO-SUP-2011.1	Stewart McGregor	Jan-04-2011	Build Storage Shed and Deck
Planner: Marnie Eggen			

Planning Status

Status Date: Mar-15-2011

Requesting further information

File Number	Applicant Name	Date Received	Purpose
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HO-SUP-2011.5

Roy & Virginia Jorgensen
Planner: Marnie Eggen

Mar-14-2011

1 Residence

Planning Status

File Number	Applicant Name	Date Received	Purpose
HO-SUP-2011.6	Lynn Nunley Planner: Marnie Eggen	Apr-11-2011	Accessory Building - Storage
Planning Status			

From: Nancy Roggers
Sent: February-24-11 11:12 AM
To: Brodie Porter; Fred Hunt; Louise Bell; Tony Law; Becky McErlean
Cc: Craig Elder
Subject: Hornby expense report - Feb/11

		Budget	Spent	Balance
Invoices posted to Feb 23, 2011				
635 Hornby	65000 Trustee Expense	1,300.00	1,125.66	174.34
635 Hornby	65200 LTC Meetings	4,550.00	2,629.02	1,920.98
	65210 APC Meetings	600.00	937.16	(337.16)
	65220 Communications	500.00	496.11	3.89
	65230 Special Projects	500.00	935.00	(435.00)
	65240 Miscellaneous	-		-
	TOTAL LTC Local Expense	6,150.00	4,997.29	1,152.71
635 Hornby	72300 OCP/LUB Expense	8,250.00	2,423.90	5,826.10

Thanks!

Nancy Roggers
 Finance Officer

Islands Trust
 #200 1627 Fort Street
 Victoria, B.C. V8R 1H8
 Phone: (250) 405-5154
 Fax: (250) 405-5155
www.islandstrust.bc.ca

Preserving *island* communities, culture and environment

Please consider the environment before printing this email.

From: Nancy Roggers

Sent: March-31-11 8:33 AM

To: Brodie Porter; Fred Hunt; Louise Bell; Sonja Zupanec; Tony Law; Becky McErlean

Cc: Craig Elder

Subject: Hornby expense report - March/11

		Budget	Spent	Balance
Invoices posted to March 22, 2011				
635 Hornby	65000 Trustee Expense	1,300.00	1,006.86	293.14
635 Hornby	65200 LTC Meetings	4,550.00	3,094.82	1,455.18
	65210 APC Meetings	600.00	937.16	(337.16)
	65220 Communications	500.00	496.11	3.89
	65230 Special Projects	500.00	935.00	(435.00)
	65240 Miscellaneous	-		-
	TOTAL LTC Local Expense	6,150.00	5,463.09	686.91
635 Hornby	72300 OCP/LUB Expense	8,250.00	2,597.28	5,652.72

Thanks!

Nancy Roggers
Finance Officer

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13.1

Exploring Food Security
in the
Islands Trust Area

(See item numbers 13.1 and 13.2
Hornby Island Local Trust Committee
Agenda Package, March 23, 2011)

The Purpose of the Islands Trust Fund Regional Conservation Plan

Since its first iteration in 2005 the Regional Conservation Plan has been a tool used mostly by the Islands Trust Fund to focus its resources – staff, board, financial – on areas with the highest biodiversity values and greatest need for conservation. At its December 2010 meeting, Trust Council resolved “*that local trust committees and island municipalities consider the goals and objectives of the Regional Conservation Plan when making land-use decisions.*” The Plan has also been designed as an information resource for citizens and organizations working towards conservation of biodiversity within the Islands Trust Area. The full document is available at: <http://www.islandstrustfund.bc.ca/pdf/itfrcp2011-2015.pdf>

Goals of the 2011-2015 Regional Conservation Plan

The 2011-2015 Regional Conservation Plan sets out the following seven long-term goals that reflect the enduring aspirations of the Trust Fund Board to work with landowners and partner organizations to protect the rich biodiversity of the Islands Trust Area:

1. **Secure* core conservation areas⁺ that effectively conserve biodiversity priorities within the Islands Trust Area and within individual local trust areas or island municipalities**
2. **Investigate the protection of biodiversity priorities on lands outside of core conservation areas, including working landscapes**
3. **Work with partner organizations to conserve marine ecosystems and habitats**
4. **Work with the Islands Trust Council, local trust committees and island municipalities to implement and accentuate Regional Conservation Plan goals and objectives within official community plans and land use bylaws**
5. **Promote community participation in conservation within the Islands Trust Area through effective stewardship and management of private lands, information sharing and support of conservation education**
6. **Support and enhance the work of conservation partners working in the Islands Trust Area**
7. **Monitor and manage existing Islands Trust Fund conservation areas to maintain and enhance existing biodiversity and cultural features, with the understanding that ecosystems are continuously in a state of change**

* Land is secured through direct purchase, land donation, bequests, conservation covenant (including through the Natural Area Protection Tax Exemption Program) or through the granting of a Life Estate. It is intended to be a permanent protection of land. The Islands Trust Fund does not acquire land through expropriation.

+ Terms in italics are contained in the glossary of terms within the full document.

Implementation of the 2011-2015 Regional Conservation Plan

To achieve the goals of the 2011-2015 Regional Conservation Plan, the Islands Trust Fund has thirty objectives, each of which has a set of measurable actions. These actions will guide the work plans of Islands Trust staff and will allow staff to evaluate whether the objectives of the 2011-2015 Regional Conservation Plan are getting met and whether the Islands Trust continues to devote sufficient resources towards conservation of biodiversity within the Islands Trust Area.

Table summarizing the five objectives within Regional Conservation Plan that can only be reached through effective collaboration with the Trust Fund Board, Local Trust Committees and Island Municipalities.

Long Term Goal	5-year Objective	Actions	Timeline (year of plan)	Measure of Success	Who should be involved	Next steps
GOAL 2. Investigate the protection of biodiversity priorities on lands outside of core conservation areas, including working landscapes.	Objective 8. Identify organizations managing working lands that also protect natural values and provide information and links to these organizations on the Islands Trust Fund website.	- Research organizations that support working landscapes that are compatible with maintenance of biodiversity values - Update website with information and links on land uses that are compatible with biodiversity values	3 4-5	Website is updated with information on working landscapes that are compatible with biodiversity priorities	Trustees and municipal councilors.	Inform staff of relevant organizations.
GOAL 3. Work with partner organizations to conserve marine ecosystems and habitats.	Objective 11. As nearshore mapping becomes available for the entire Islands Trust Area, work with partner agencies to perform data analyses to identify important shoreline habitat areas and provide this information to local trust committees and island municipalities.	- Analyze nearshore data for sensitive marine habitats - Provide mapping to local trust committees and island municipalities	5	Mapped sensitive nearshore areas	Local Trust Committees and Island Municipalities	Receive shoreline mapping information and consider how to protect sensitive marine habitat.

Long Term Goal	5-year Objective	Actions	Timeline (year of plan)	Measure of Success	Who should be involved	Next steps
GOAL 4. Work with the Islands Trust Council, local trust committees and island municipalities to implement and accentuate Regional Conservation Plan goals and objectives within official community plans and land use bylaws.	Objective 13. Assist local trust committees and island municipalities with obtaining the information required to include provisions for the protection of sensitive ecosystems in official community plans (OCPs) and land use bylaws (LUBs).	- Finalize remaining Sensitive Ecosystem Mapping - Coordinate a training session to staff and trustees on the use of Sensitive Ecosystem Mapping - Provide ongoing support for the use of Sensitive Ecosystem Mapping in OCPs and LUBs - As new staff and trustees arrive, provide training resources on Sensitive Ecosystems	1 2 1-5 3-5	Planning staff and trustees are knowledgeable about Sensitive Ecosystems and have access to information resources Staff and trustee training materials have been updated with Sensitive Ecosystem information	Local Trust Committees and Island Municipalities	Consider protecting sensitive ecosystems in OCPs and LUBs.
	Objective 15. Assist local trust committees and island municipalities with obtaining the information required to include provisions for the creation of protected area networks in official community plans (OCPs) and land use bylaws (LUBs)	- Create an Islands Trust Fund/Islands Trust working group to assess and recommend options for conservation of protected area networks in OCPs and LUBs - With equal collaboration of Local Planning Services (LPS) propose options to Trust Council for OCP/bylaw templates for possible use by local trust committees.	1-3 4	OCP/bylaw templates for protection of protected area networks are in place and available to local trust committees and island municipalities	Local Trust Committees and Island Municipalities	Consider creating protected area networks in OCPs and LUBs

Long Term Goal	5-year Objective	Actions	Timeline (year of plan)	Measure of Success	Who should be involved	Next steps
	Objective 16. Assist local trust committees and island municipalities with obtaining the information required to include provisions for the protection of nearshore marine habitats in official community plans and land use bylaws.	• Create an Islands Trust Fund/Islands Trust working group to assess and recommend options for shoreline conservation in OCPs and LUBs • With equal collaboration of Local Planning Services (LPS) propose options to Trust Council for OCP/bylaw templates for possible use by local trust committees (if LPS collaboration and support is not available, then this will not proceed)	3-4 5	OCP/bylaw templates for protection of nearshore habitat are in place and available to local trust committees and island municipalities	Local Trust Committees and Island Municipalities	Consider protecting nearshore habitat in OCPs and LUBs



Memorandum

700 North Road Gabriola Island, BC BC V0R 1X3

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Date April 15, 2011 File Number HO/18

To Hornby Island Local Trust Committee

From Sonja Zupanec
Island Planner
Local Planning Services

Re Protocol Agreement with Comox Valley Regional District

The Comox Valley Regional District approved the proposed protocol agreement with the Hornby Island Local Trust Committee at the March 1, 2011 board meeting (copy attached).

The Hornby Island Local Trust Committee may now, by resolution, approve the proposed protocol agreement and refer it to the Islands Trust Executive Committee for approval.

Upon approval by the Executive Committee, the Hornby Island Local Trust Committee Chair will be asked to sign two copies of the final protocol agreement. Staff will then return the signed documents to the Comox Valley Regional District.

pc Chris Jackson, MCIP
Regional Planning Manager

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 0470-20/Islands Trust

March 23, 2011

Sent via email only: cthiel@islandstrust.bc.ca

Carmen Thiel
Legislative Services Manager
Islands Trust
200 – 1627 Fort Street
Victoria, B.C. V8R 1H8

Dear Carmen:

Re: Comox Valley Regional District & Islands Trust protocol agreement

At the March 1, 2011 Comox Valley Regional District board meeting, the board of directors approved the following resolution:

*THAT the protocol agreement between the Comox Valley Regional District and the Islands Trust be approved;
AND FURTHER THAT the chair and chief administrative officer be authorized to execute the agreement.*

Attached is a copy of the agreement for Islands Trust representatives to sign. Please arrange for signatures on two copies of the attached and return both to my attention at the CVRD. Once the documents have been fully executed a copy will be returned to Islands Trust for your records.

If you have any questions or concerns please feel free to contact me directly at 250-334-6007 or via email at jwarren@comoxvalleyrd.ca

Sincerely,

A handwritten signature in black ink, appearing to read 'James Warren', written over a large, stylized circular flourish.

James Warren
Corporate legislative officer

Enclosure

REGIONAL DISTRICT/LOCAL TRUST COMMITTEE PROTOCOL AGREEMENT

This protocol agreement ("Agreement") dated for reference _____, 2011 is

BETWEEN:

**DENMAN ISLAND LOCAL TRUST COMMITTEE and
HORNBY ISLAND LOCAL TRUST COMMITTEE**
(“local trust committees”)

AND:

COMOX VALLEY REGIONAL DISTRICT BOARD
(“regional district”)

(referred to as the (“Parties”))

WHEREAS:

- A. Under Section 24 (2)(c) of the *Islands Trust Act*, a local trust committee may enter into an agreement with a regional district respecting the coordination of activities in a local area;
- B. The Denman Island local trust committee and the Hornby Island local trust committee are established under Section 23 of the *Islands Trust Act* for the purpose of preserving and protecting the unique amenities and environment of the Denman Island local trust area and the Hornby Island local trust area and has the authority to regulate the development and use of land in this local area;
- C. The Comox Valley Regional District is a regional district established by letters patent on the 15th day of February 2008 and has the authority to provide services in the Denman Island local trust area and the Hornby Island local trust area; and
- D. The parties consider it in the interest of the residents of the Denman Island local trust area and the Hornby Island local trust area that the parties cooperate in the coordination of their activities.

NOW THEREFORE the Denman Island local trust committee and the Hornby Island local trust committee and the Comox Valley Regional District agree as follows:

PRINCIPLES

- 1. The local trust committees and the regional district agree to the following principles regarding interagency relations:
 - (a) recognition of each others’ jurisdictions and capabilities with a commitment to promoting a spirit of partnership through joint legislative, policy, program and communication initiatives;

- (b) coordination of planning, servicing and growth management activities that is responsive to the needs of the local trust areas and the electoral area of which it is a part;
- (c) commitment by the regional district to consider the purpose of the Islands Trust, which is to preserve and protect the area and its environment for the benefit of residents and the province, in matters involving the local trust areas;
- (d) commitment by the local trust committees to take the servicing functions of the regional district into consideration in matters involving the local trust areas;
- (e) cooperation through liaison, sharing of information, and notification of significant initiatives that may impact the other party.

COOPERATION

2. (1) The parties agree to cooperate with respect to the implementation, coordination and administration of each party's legislative authority that may impact the other party.
- (2) The parties agree to coordinate activities within the local trust areas / electoral areas including but not limited to such matters as:
 - (a) community planning;
 - (b) park planning and parkland acquisition;
 - (c) servicing arrangements; and
 - (d) bylaw enforcement where both parties participate in joint enforcement processes to effectively control situations where one or both parties' bylaws are being contravened, including consideration of cost sharing undertakings.
- (3) Each party agrees to notify the other party on legislative, municipal incorporation and boundary restructure initiatives that may affect the other party.

COMMUNICATIONS

3. (1) The parties agree to schedule meetings at least once per calendar year of the regional director, the local trust committees and staff as determined by the CAOs to review the implementation of the protocol.
- (2) Neither party is obligated to convey information to the other party that is protected for disclosure under the *Freedom of Information and Protection of Privacy*

Act, any other legislation protecting information from disclosure, or that is subject to solicitor-client privilege.

- (3) Each party agrees to pursue alternate methods of dispute resolution before initiating legal proceedings directed at the other party.

CONDITIONS

4. (1) Nothing in this agreement shall be construed so as to fetter the legislative discretion of either of the parties within their respective areas of jurisdiction or, without limiting the generality of the foregoing, to oblige either of the parties to adopt or prevent either of the parties from adopting any bylaw or resolution.
- (2) The interpretation of terms used in this agreement shall be governed by the interpretation provisions of the *Islands Trust Act* and the *Local Government Act*.
- (3) This agreement may be amended by agreement in writing between the regional district and the local trust committees.
- (4) Any party to this agreement may terminate this agreement at any time by delivering three months' written notice to the other party.
- (5) Information and notification pertinent to this agreement shall be delivered to:

Denman Island local trust committee and the Hornby Island local trust committee	Islands Trust 2 nd Floor, 1627 Fort Street Victoria, B.C. V8R 1H8
--	--

Comox Valley Regional District	600 Comox Rd Courtenay BC V3N 3P6
--------------------------------	--------------------------------------

(6) The officials of each party who shall be responsible for the notices and the administration of this agreement are:

Denman Island local trust committee the chief administrative officer
and the Hornby Island local trust committee of the Islands Trust

Comox Valley Regional District the corporate legislative officer
of the regional district

As evidence of their agreement to the above terms, the local trust committees and the regional district have executed this agreement as set out below:

NAME, chair
Denman Island local trust committee

NAME, chief administrative officer
Islands Trust

NAME, chair
Hornby Island local trust committee

NAME, chief administrative officer
Islands Trust

Edwin Grieve, chair
Comox Valley Regional District

Debra Oakman, chief administrative officer
Comox Valley Regional District

200-1627 Fort St Victoria BC V8R 1H8

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itfmail@islandstrust.bc.ca www.islandstrustfund.bc.ca

Date April 27, 2011 File Number HO-NAP-2011.2
To Hornby Island Local Trust Committee
From Nuala Murphy, A/Ecosystem Protection Specialist, Islands Trust Fund
Re Information Item for Proposed NAPTEP Covenant on the Howard property in the Hornby Island Local Trust Area

Background Information

The Islands Trust Fund has received a Natural Area Protection Tax Exemption Program (NAPTEP) application from Catherine and John Howard to covenant approximately 1.85 ha (4.57 acres) of their land (see Maps 1-3) on Hornby Island. As per NAPTEP policy, the Hornby Island Local Trust Committee is being advised of this application as an information item.

The Trust Fund Board agreed to hold the covenant on this property at its April 19, 2011 meeting. The application will be presented to Trust Council at its June 14-16, 2011 meeting for consideration. At this time, Trust Council will approve a Natural Area Exemption Certificate, decline a Natural Area Exemption Certificate or request more information regarding the application. Approvals will be subject to a conservation covenant being registered on the land title and a baseline report that are satisfactory to Trust Fund Board staff.

The Trust Fund Board currently holds no NAPTEP covenants in the Hornby Island Local Trust Area. Further information on the NAPTEP program can be obtained from the Islands Trust website at www.islandstrust.bc.ca.

Property Information

Property Description: PID 002-658-674, Lot 5, Section 9, Hornby Island, Nanaimo District, Plan 25736.

Property size: 4.16 ha (10.3 acres) (according to BC Assessment)

Proposed covenant size: approximately 1.85 ha (4.57 acres) (see Map 3).

Property notes: Due to the fact that this property is adjacent to the Tsurumi property and the covenant areas would be contiguous it makes sense to consider these two properties together though they also would fit the criteria for NAPTEP on their own. The Howard property is primarily forested with a second growth Douglas-fir – Salal ecosystem with examples of older veterans scattered amongst predominately 60-80 year old trees. There are trees on the property that have been favoured by bald eagle nesting pairs for 15+ years.

There is a seasonal stream that flows all along the west side of their property, through their property and into the Tsurumi property. There is ridge along the covenant boundary around the house and garden area that slopes down into the wetter area. In this depression there is a Western red cedar- sword fern site series indicating the wet microclimate. There is a large swamp south of the Howard property and this important wetland feature is most likely the source of this stream.



Map 1. Howard Property Location Map



Map 2 Proposed Covenant Area



Map 3 SEM and Protected Areas

NAPTEP Natural Values & Amenities

The natural values of the proposed covenant area, according to the NAPTEP Regulations, are listed below. Values were determined by evaluating the application submitted by the property owners and using information collected on a March 1, 2011 site visit.

1. Mature Forest Ecosystem (NAPTEP Regulation Section 2(a)):

The forest is second growth, but has many remnant old trees. The stand appears to be healthy and, given 20 yrs, will become mature forest.

2. Riparian and Wetland Ecosystems (NAPTEP Regulation Section 2(a)):

The Sensitive Ecosystem Mapping shows a Wetland: Swamp adjacent to this property and there is a seasonal stream and associated wetland that flows through this property and into the Tsurumi Property contributing to a valuable water recharge area.

3. Areas that are critical habitat for native animal species in relation to breeding, rearing, feeding or staging (NAPTEP Regulation Section 2(b)):

There has been an eagle nest on the property for more than 15 years, moving from year to year between three key trees. One tree is on the adjacent Tsurumi Property.

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itfmail@islandstrust.bc.ca www.islandstrustfund.bc.ca

Date April 27, 2011 File Number HO-NAP-2011.1
To Hornby Island Local Trust Committee
From Nuala Murphy, A/Ecosystem Protection Specialist, Islands Trust Fund
Re Information Item for Proposed NAPTEP Covenant on the Tsurumi property in the Hornby Island Local Trust Area

Background Information

The Islands Trust Fund has received a Natural Area Protection Tax Exemption Program (NAPTEP) application from Elizabeth Tsurumi to covenant approximately 3.02 ha (7.46 acres) of land (see Maps 1 & 2) on Hornby Island. As per NAPTEP policy, the Hornby Island Local Trust Committee is being advised of this application as an information item.

The Trust Fund Board agreed to hold the covenant on this property at its April 19, 2011 meeting. The application will be presented to Trust Council at its June 14-16 2011 meeting for consideration. At this time, Trust Council will approve a Natural Area Exemption Certificate, decline a Natural Area Exemption Certificate or request more information regarding the application. Approvals will be subject to a conservation covenant being registered on the land title and a baseline report that are satisfactory to Trust Fund Board staff.

The Trust Fund Board currently holds no NAPTEP covenants in the Hornby Island Local Trust Area. Further information on the NAPTEP program can be obtained from the Islands Trust website at www.islandstrust.bc.ca.

Property Information

Property Description: PID 000-087-866 Lot 6, Section 9, Hornby Island, Nanaimo District, Plan 25736.
Property size: 4.91 ha (12.13 acres) (according to BC Assessment)
Proposed covenant size: 3.02 ha (7.46 acres)

Property notes: Due to the fact that this property is adjacent to the Tsurumi property and the covenant areas would be contiguous it makes sense to consider these two properties together though they also would fit the criteria for NAPTEP on their own. The Tsurumi property is primarily forested with a second growth Douglas-fir – Salal ecosystem with examples of older veterans scattered amongst predominately 60-80 year old trees. There are trees on the property that have been favoured by bald eagle nesting pairs for 15+ years.

The property includes a seasonal stream and a water recharge area that is wet all through the winter and portions of the fall and spring. There are mature Western red cedar trees with sword fern in the north-east section of the property. The proposed covenant area would connect with the Howard property proposed covenant area which would make up a total of 4.87 hectares. The majority of the covenant area would be seasonal stream/wetland with Red alders, Bigleaf maples, sedges and sword fern. With some up land mixed forest of Western red cedar and Douglas-fir and salal.



Map 1. Tsurumi Property Location Map shown)

Map 2. Proposed Covenant Area (with Howard Property also shown)



Map 3. SEM and Protected Areas

NAPTEP Natural Values & Amenities

The natural values of the proposed covenant area, according to the NAPTEP Regulations, are listed below. Values were determined by evaluating the application submitted by the property owners and using information collected on a March 1, 2011 site visit.

1. Mature Forest Ecosystem (NAPTEP Regulation Section 2(a)):

The forest is second growth, but has many remnant old trees. The stand appears to be healthy and, given 10-20 yrs, will become mature forest.

2. Areas that are relatively undisturbed by human activity and are key habitat for rare native plant species or plant communities (NAPTEP Regulation Section 2(b)):

Our sensitive ecosystem mapping (SEM) does not highlight this property but does show how a wetland, designated as swamp is the South of the Howard property (see Map 4) and the stream flowing through the Howard and Tsumuri property may have this as its source. The seasonal stream and associated wetland on the Tsumuri property is an important water recharge area is found and was probably not highlighted on the SEM due to the scale of the SEM mapping.

3. Areas that are critical habitat for native animal species in relation to breeding, rearing, feeding or staging (NAPTEP Regulation Section 2(c)):

Eagles have nested in trees on the property for approximately 15 years. The trees used vary from year to year on both the Tsumuri Property and the adjacent Howard property.



Islands Trust

Preserving **island** communities, culture and environment.

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Population:

Approximately 1,074

Size:

2,990 hectares (7,388 acres)

Location:

31 kilometres south-east of Courtenay on Vancouver Island.

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Hornby Island Local Trust Committee

Latest News

In this section you will find current news items that are relevant to your Local Trust Area and your community. [Subscribe](#) to the Hornby Island Latest News updates and receive the latest information on official community plan reviews, staff reports, notifications and other documents published in the latest news section.

April 2011

- [Notice of Hornby Island Short Term Vacation Rentals and Official Community Plan Community Information Meetings April 2, 4 and 6, 2011](#)
- [Discussion Documents for Short Term Vacation Rentals and Official Community Plan Community Information Meetings](#)

March 2011

- [Hornby Island Local Trust Committee Special Meeting March 29, 2011](#)

December 2010

- [Hornby Island Local Trust Committee Business Meeting Schedule - 2011](#)

October 2010

- [2007 Community Energy and Emission Inventory Reports \(CEEIs\) now available](#)
- [New Islands Trust GHG Emission Inventories webpage posted](#)

August 2010

- [Tax-Incentive to Conserve Land Arrives on Denman and Hornby](#)

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Hornby Island Local Trust Committee Projects

Official Community Plan and Land Use Bylaw Review

- **Discussion Documents for April, 2011 Community Information Meeting:**
 - [Draft Hornby OCP Revisions April 2011](#)
 - [Draft Schedule B \(April 2011\) - Land Use Designations](#)
 - [Schedule C - Land Status and Road Designations](#)
 - [Schedule D2 - Environmentally Sensitive Areas](#)
 - [Draft Schedule E \(April 2011\) - Development Permit Areas](#)
 - [Schedule F - Hazard Areas](#)
- [OCP/LUB Project Terms of Reference - November 2009](#)
- [Staff Report - March 2011](#)
- [Staff Report - December 2010](#)
- [Staff Report - October 2010](#)
- [Staff Report - September 2010](#)
- [Staff Report - July 2010](#)
- [Staff Report - March 2010](#)
- [Staff Report - February 2010](#)
- [Staff Report - September, 2009](#)

Committee Links

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[Land Use Application Forms](#)

Vacation Home Rentals

- [Discussion Document for April 2011 Community Information Meeting](#)
- [Staff Report - March 21, 2011](#)
- [Staff Report - December 15, 2010 STVR Enforcement Policy](#)
- [Staff Report - September 2010](#)
- [Staff Report - August 2010](#)
- [Staff Report - July 2010](#)
- [Draft Bylaws Permitting and Regulating Short Term Vacation Rentals on Hornby Island 2010](#)
- [Early Referral Letter to Agricultural Land Commission, April 2010](#)
- [Staff Report - March 2010](#)
- [Staff Report and Appendix - December 2009 \(HO-OCP-2009.2\)](#)
- [Staff Report - October 2009 \(HO-OCP-2009.2\)](#)
- [Staff Memo - September 2009](#)
- [Short-term Vacation Rental Staff Report - July 2009](#)
- [Short-term Vacation Rental Survey - Final Results](#)
- [For Discussion: A Proposal For Permitting and Regulating Vacation Rentals](#)
- [Short Term Vacation Rental Staff Report - July 2008](#)

Island Information and Reports

- [Hornby Island Local Trust Committee Submission Regarding Water Act Modernization](#)
- [Hornby Island Community Profile](#)
- [Building on Hornby Island \(October 2009\)](#)
- [Living on Hornby Information Pamphlet \(October 2009\)](#)
- [Hornby Island DRAFT Build Out Map, December 2008](#)
- [Final Report - Results of the Groundwater Geochemistry Study on Hornby Island by D. Allen and M. Suchy April 2002](#)
- [Heart of the Island - A Report on Hornby Vacant Crown Land, 2000](#)

Climate Change Action

- [Staff Report - March 2010](#)
- [Preliminary Climate Change Initiative Report - October 2009](#)
- [Climate Wise Islands Program](#)
- [Newsletter - 2009](#)
- [Fact Sheets](#)
- [Minutes - November 2, 2010](#)
- [Community Information Meeting Notes - November 15, 2009](#)
- [Proposed Bylaw No. 139](#)

Ecosystem Mapping

- [Draft Hornby Island Local Trust Area ecosystem maps and feedback form](#)

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Applications

HO-DVP-2009.1 and HO-DP-2010 (Fredbeck)

- [Staff Report dated September 17, 2010](#)
 - [Memorandum dated September 17, 2010 - Correspondence](#)

HO-RZ-2009.2 (Hornby Island Resort Ltd. - The Thatch)

- [Staff Report dated December 2, 2010](#)
- [Staff Report dated July 2010](#)
- [Staff Report dated June 2010](#)
- [Staff Report dated March 2010](#)
- [Staff Report dated November 2009](#)

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Hornby Island Local Trust Committee Work Program

- [Top Priorities](#)

Housing

- [Housing Needs Assessment on Hornby and Denman Island - Final](#)

- [Report](#)
- [Secondary Housing on Hornby Island - Staff Report June 2008](#)
- [Enabling Secondary Accommodation Units on Hornby Island](#)
- [Hornby Island Advisory Housing Committee Report - 2004](#)

K'omoks First Nation

- [K'omoks Treaty Process - Message from Trustees](#)
- [Hornby Island Local Trust Committee Submission to Negotiations Division Ministry of Aboriginal Relations and Reconciliation on Vacant Crown Land on Hornby Island in connection with the K'omoks First Nation Treaty Negotiation. September 2008](#)

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