



Mayne Island Local Trust Committee

Regular Meeting Agenda

Date: April 25, 2016
Time: 1:00 pm
Location: Mayne Island Agricultural Hall
430 Fernhill Road, Mayne Island, BC

	Pages
1. CALL TO ORDER	1:00 PM - 1:15 PM
2. APPROVAL OF AGENDA	
3. TOWN HALL AND QUESTIONS	
4. COMMUNITY INFORMATION MEETING	
none	
5. PUBLIC HEARING	
none	
6. MINUTES	
6.1 Local Trust Committee Minutes Dated March 21, 2016 (for Adoption)	3 - 9
6.2 Section 26 Resolutions-without-meeting Report	
none	
6.3 Advisory Planning Commission Minutes	
none	
7. BUSINESS ARISING FROM THE MINUTES	1:15 PM - 1:20 PM
7.1 Follow-up Action List Dated April 2016	10 - 11
8. DELEGATIONS	
none	
9. CORRESPONDENCE	
<i>Correspondence received concerning current applications or projects is posted to the LTC webpage</i>	
none	

10.	APPLICATIONS AND REFERRALS	1:20 PM - 2:15 PM	
10.1	MA-RZ-2015.2 (Rosengren) - Staff Report		12 - 21
10.2	MA-TUP-2016.1 (Leathers) - Staff Report		22 - 35
10.3	Salt Spring Island Local Trust Committee Bylaw No. 491 Referral (for Response)		36 - 38
10.4	Salt Spring Island Local Trust Committee Bylaw No. 492 Referral (for Response)		39 - 40
11.	LOCAL TRUST COMMITTEE PROJECTS	2:15 PM - 2:45 PM	
11.1	Riparian Area Regulations (RAR) - Staff Report & Presentation		41 - 45
	Presentation by Andrew Appleton - Ministry of Forest, Land and Natural Resource Operations		
12.	REPORTS	2:45 PM - 3:15 PM	
12.1	Work Program Reports (attached)		
12.1.1	<u>Top Priorities Report Dated April 2016</u>		46 - 46
12.1.2	<u>Projects List Report Dated April 2016</u>		47 - 47
12.2	Applications Report Dated April 2016 (attached)		48 - 49
12.3	Trustee and Local Expense Report Dated March 2016 (attached)		50 - 50
12.4	Adopted Policies and Standing Resolutions (attached)		51 - 54
12.5	Local Trust Committee Webpage		
12.6	Chair's Report		
12.7	Trustee Report		
12.8	Trust Fund Board Report		
	none		
13.	NEW BUSINESS	3:15 PM - 3:30 PM	
	none		
14.	UPCOMING MEETINGS		
14.1	Next Regular Meeting Scheduled for May 30, 2016, 1:00 pm, at the Mayne Island Agricultural Hall		
15.	TOWN HALL		
16.	CLOSED MEETING		
	none		
17.	ADJOURNMENT	3:30 PM - 3:30 PM	

DRAFT



Mayne Island Local Trust Committee Minutes of Regular Meeting

Date: March 21, 2016
Location: Mayne Island Agricultural Hall
430 Fernhill Road, Mayne Island, BC

Members Present George Grams, Chair
Jeanine Dodds, Local Trustee
Brian Crumblehulme, Local Trustee

Staff Present Gary Richardson, Island Planner
Miles Drew, Bylaw Enforcement Manager
Pat Todd, Recorder

1. CALL TO ORDER

Chair Grams called the meeting to order at 1:00 pm. Chair Grams acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

Add to New Business: 13.3 Project presentation by John Aitken

3. TOWN HALL AND QUESTIONS

None.

4. COMMUNITY INFORMATION MEETING

None.

5. PUBLIC HEARING

None.

6. MINUTES

6.1 Local Trust Committee Minutes Dated February 22, 2016 (for Adoption/Receipt)

The following amendments to the minutes were presented for consideration:

Page 9, third paragraph - first sentence to read: Trustee Dodds has started a Face Book page titled "History of Mayne Island" .

Page 9, second paragraph - first sentence to read: There will be a second cross borders meeting in April, hosted by County Council, San Juan Islands. Delete remainder of paragraph.

By general consent the minutes were adopted, as amended.

6.2 Section 26 Resolutions-Without-Meeting Report

None.

6.3 Advisory Planning Commission Minutes (for Receipt)

None.

7. BUSINESS ARISING FROM THE MINUTES

7.1 Follow-up Action List Dated March 2016

Planner Richardson reported that Item 3 is in progress. Item 4 is on today's agenda and Item 6 has been deferred to the April Local Trust Committee (LTC) meeting.

8. DELEGATIONS

None.

9. CORRESPONDENCE

Correspondence received concerning current applications or projects is posted to the LTC webpage

None.

10. APPLICATIONS AND REFERRALS

10.1 MA-RZ-2015.1 (CRD) - Staff Report - Draft Bylaws No. 168 and 169

Planner Richardson spoke to the application regarding Anson Road Water Lease. Bylaw 168 is drafted to amend the OCP and to identify the lease area as a Development Permit Area. The draft bylaw also addresses public access and sensitivity to ecosystems, as reflected in the Consultant's report and Best Practices.

Draft Bylaw 169 amends the Land Use Bylaw (LUB) and changes the zoning of the lease area to W4. There is a new zone being proposed for the upland which allows for parking and washrooms. There are a number of uses permitted which the LTC should review. Any changes could be resolved with a technical amendment; also the applicant may request amendments.

Staff recommendations are included with the report.

Discussion addressed a number of the allowable uses, as well as parking requirements and whether to allow structures on the dock.

Staff was requested to replace the word “building” with “structure”, and to define the parameters of a structure.

MA-2016-014

It was Moved and Seconded,

that the Mayne Island Local Trust Committee give first reading to Draft Bylaw No. 168, cited as “Mayne Island Official Plan Bylaw No. 144, 2007, Amendment No. 1, 2016” .

CARRIED

MA-2016-015

It was Moved and Seconded,

that the Mayne Island Local Trust Committee give First Reading to Draft Bylaw No. 169, cited as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2016” .

CARRIED

MA-2016-016

It was Moved and Seconded,

that the Mayne Island Local Trust Committee forward Draft Bylaw No. 168, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2016” and Draft Bylaw No. 169, cited as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2016” to the Advisory Planning Commission for review and comment.

CARRIED

MA-2016-017

It was Moved and Seconded,

that the Mayne Island Local Trust Committee review the Islands Trust Policy Statement Directives Only Checklist and determine that Draft Bylaw No. 168 is not contrary to, or at variance with, the Islands Trust Policy Statement.

CARRIED

MA-2016-018

It was Moved and Seconded,

that the Mayne Island Local Trust Committee review the Islands Trust Policy Statement Directives Only Checklist and determine that Draft Bylaw No. 169 is not contrary to, or at variance with, the Islands Trust Policy Statement.

CARRIED

11. LOCAL TRUST COMMITTEE PROJECTS

None.

12. REPORTS

12.1 Work Program Reports (attached)

12.1.1 Top Priorities Report Dated March 2016

Planner Richardson reported that a new project charter for the Commercial Land Use Review will be prepared for the next LTC meeting.

12.1.2 Projects List Report Dated March 2016

Received for information.

12.2 Applications Report Dated March 2016 (attached)

Planner Richardson stated that there are currently three applications: MA-RZ-2015.1 was addressed at today's meeting; MA-RZ-2015.2 will be on the April meeting agenda, together with MA-TUP-2016.1.

12.3 Trustee and Local Expense Report Dated February 2016 (attached)

Received for information. Chair Grams expressed that a number of areas are not using all allocated projects funds. There may need to be a review of forecasting procedures.

12.4 Adopted Policies and Standing Resolutions (attached)

Received for information.

12.5 Local Trust Committee Webpage

Will be updated according to meeting details.

12.6 Chair's Report

Chair Grams reported on a number of LTC meetings and work on the Trust Council agenda for the upcoming meeting on Hornby Island. Primary emphasis was on the budget for 2016/2017. The budget has no additional tax burden except for Salt Spring Island (SSI). There have been many opportunities to work with the new Chief Administrative Officer who is settling in to the role and proceeding with a positive, fresh perspective. Chair Grams spoke to his attendance at a Media Training workshop which addressed tools to improve communication abilities and interview skills.

12.7 Trustee Report

Trustee Crumblehulme presented a number of items:

1. The Capital Regional District Economic Development Commission has changed its name to Southern Gulf Islands (SGI) Community Economic Sustainability Commission. A three year action plan has been drafted. A solar

project on Galiano Island is being studied. There has been a grant from the Union of British Columbia Municipalities to study connecting SGI with Sidney and SSI.

2. There is a new initiative to explore opportunities for higher education courses on the SGI.
3. Beacon Wireless has received grant dollars to extend its range. A tower is planned for Mt. Parke and a transfer site on Hall Hill.
4. Discussions have been addressing the need to increase collaboration between islands and regional districts throughout the Province.

12.8 Trust Fund Board Report Dated March 2016

Received for information.

13. NEW BUSINESS

13.1 Bylaw Enforcement Notice (BEN) Bylaw No. 156 - Staff Report

The BEN Bylaw has been approved by Trust Council. There was a review of the bylaw and discussion as to the authority of Bylaw Officers to adjust a levy to facilitate compliance.

Bylaw Officer Drew stated that if a BEN is erroneously issued then the fine should be cancelled. Also, officers can negotiate compliance according to the attached schedule.

MA-2016-019

It was Moved and Seconded,

that the Mayne Island Local Trust Committee adopt Bylaw No. 156, cited as "Mayne Island Local Trust Area Bylaw Enforcement Notification Bylaw No. 156, 2011".

CARRIED

13.2 Bylaw Enforcement Notice (BEN) Policy - Staff Report

MA-2016-020

It Was Moved and Seconded,

that the Mayne Island Local Trust Committee appoints the Bylaw Enforcement Assistant, the Bylaw Enforcement Coordinator and the Regional Planning Manager as Screening Officers pursuant to Mayne Island Local Trust Area Bylaw Enforcement Notification Bylaw No. 156, 2011.

CARRIED

MA-2016-021

It was Moved and Seconded,

that the Mayne Island Local Trust Committee adopt the Bylaw Enforcement Bylaw Screening Officers' Powers and Duties Policy attached to the staff report dated March 3, 2016; and that the Mayne Island Local Trust Committee stipulates that the attached Bylaw Violation Notice is the form of violation notice to be used pursuant to the Bylaw Enforcement Notice Bylaw No. 156, 2011.

CARRIED

13.3 Presentation by John Aitken

Trustee Crumblehulme introduced John Aitken to those present. He outlined John's request for project funding and spoke in favour of the request. John is planning a documentary about an island family who has dealt with the effects of Residential Schooling.

Discussion proceeded as to the need for a product to deliver: strengthening relations with First Nations; does a video benefit the LTC and the community; this is part of an ongoing process for the island which includes the Welcoming Figure, reading programme, etc.

John spoke to the importance of building bridges towards reconciliation by creating dialogue and healing opportunities. Also, the project could be relevant to other islands.

MA-2016-022

It Was Moved and Seconded,

that the Mayne Island Local Trust Committee requests the Executive Committee to release \$5,000.00 from the Trust Council fund "to support enduring relationships with First Nations"; for the purpose of creating a legacy project created and made by First Nations Mayne Island residents for reconciliation with regard to the consequences of residential schools.

CARRIED

14. UPCOMING MEETINGS

14.1 Next Regular Meeting Scheduled for April 25, 2016, at the Agricultural Hall, Mayne Island

15. TOWN HALL

Millie Leathers questioned bylaw violation notices. Staff explained the process and that if there is a refusal to pay the fine the claim ultimately goes to Small Claims Court.

Paula Buchholz spoke to two issues:

1. Density: Ms. Buchholz stated that her remainder lot was permitted 9 dwellings and 9 guest cottages and that she was concerned regarding the item on the projects list to review covenants on remainder lots.

It was explained by staff and Trustees that this is a complex and time-consuming project and that it had been decided not to proceed with the review at this time. The information received from Ms. Buchholz would be considered when the review was activated. There are a number of other projects on the priority list and the LTC is unable to specify a time frame for this project.

Ms. Buchholz spoke to the need to resolve this issue and to concerns regarding marketability of the property.

Chair Grams re-affirmed that this project is not on the Top Priority List; this type of review is not under the jurisdiction of Trust Council; it is impossible to predict when the review will commence.

2. Response correspondence from the Planner regarding Horton Bay dock did not address Ms. Buchholz's concerns. It was stated that this is private property, that there is existing litigation and that permission had not been given to the Federal government for use of the dock. The question was raised as to rezoning of the dock from W4 to W3.

Planner Richardson confirmed that the dock is in W4 and that referenced correspondence had been thorough and complete.

Chair Grams spoke to the zoning process and that the LUB is the responsibility of the LTC. He clarified that W4 is titled Community Dock and that the zoning stipulates what can be done within the zone and that this has not changed. It was further stated that the LTC can create, modify and/or revise bylaws at any time; however there is a lengthy process that must be followed.

Ms. Buchholz requested a letter to stipulate responses to her concerns.

16. CLOSED MEETING (Distributed Under Separate Cover)

None.

17. ADJOURNMENT

By general consent the meeting was adjourned at 2:35 pm.

George Grams, Chair

Certified Correct:

Pat Todd, Recorder

Follow Up Action Report

Mayne Island

22-Feb-2016

Activity	Responsibility	Target Date	Status
Draft letter to Gary Holman from the LTC in response to his December email saying that the work done has been good; however there remains some work to be done, including replacement of guard rails on Georgina Point Road.	Gary Richardson		On Going

21-Mar-2016

Activity	Responsibility	Target Date	Status
Minutes of February 22, 2016 adopted as amended.	Pauline Brazier		Done
MA-RZ-2015.1 (CRD) 1) amend bylaw 169 2) update bylaws 168 and 169 with 1st reading 3) forward bylaws 168 and 169 to First Nations and agencies for review and comment 4) forward bylaws 168 and 169 to APC for review and comment 5) prepare report on further amendments to bylaw 169 regarding parking on upland and buildings on marine area	Gary Richardson Sharon Lloyd-deRosario		Done
BEN Bylaw no. 156 - update bylaw showing adoption 1) screening officers appointed 2) see minutes for specific resolutions and actions required	Sharon Lloyd-deRosario		Done
Amend project Charter for Commercial Land Use Review	Gary Richardson		Done



Follow Up Action Report

STAFF REPORT

File No.: MA-RZ-2015.2
(Rosengren)

To: Mayne Island Local Trust Committee
For Meeting of April 25, 2016

From: Gary Richardson, Island Planner

CC: Robert Kojima, Regional Planning Manager

Re: Strata Lots 13-20, Section 9, Mayne Island, Strata Plan VIS6703

Owner: Mayne Island Resort Ltd.

Applicant: Murray Rosengren (Mayne Island Resort Ltd.)

Description: Strata Lots 13-20, Section 9, Mayne Island, Strata Plan VIS6703

Civic Address: 494 Arbutus Drive

PRELIMINARY REPORT

THE PROPOSAL:

The Mayne Island Resort has made application to amend Mayne Island Land Use Bylaw No. 146. There are two separate amendments being requested.

The first amendment being requested is that the Commercial Tourist Accommodation C2(b) zoning for strata lots 13-20 be amended by adding residential use, including employee housing use as permitted uses.

The second amendment being requested is that the C2(b) zone be amended to allow additional commercial retail space to allow for kayak and sporting equipment rental, groceries and sundries for guests and neighboring residents.

BACKGROUND:

The Mayne Island Resort is a resort consisting of 26 tourist accommodation units, one accessory dwelling unit, a beer and wine store, spa and restaurant on the waterfront at Bennett Bay. The resort is completely built out with respect to tourist accommodation units.

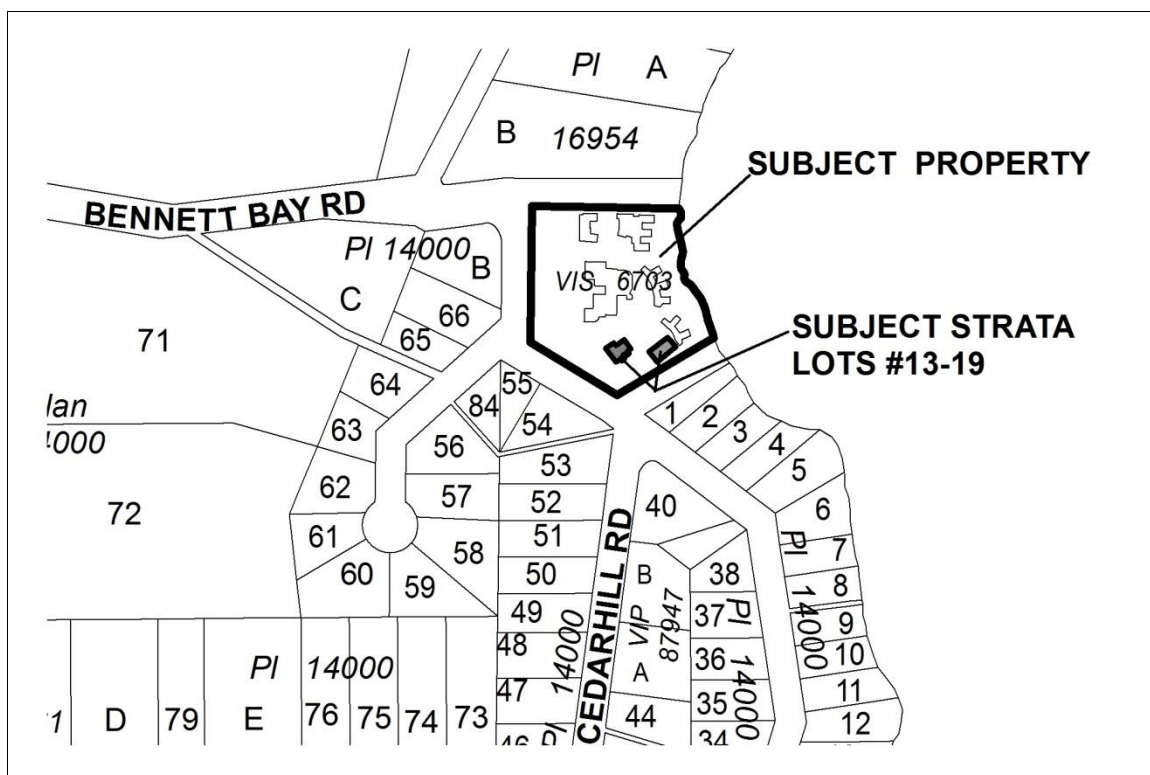
The LTC passed a resolution at the June 29, 2015 LTC meeting that a moratorium be put on commercial rezoning applications while the project charter regarding the commercial land use Review is completed. The target for the completion of the first phase of the commercial land use review was July 2016.

A revised project charter, regarding commercial land use review, is being considered by the LTC at its April 25, 2016 business meeting. This may have an effect on the commercial retail portion of this application.

SITE CONTEXT:

The site is an East facing waterfront lot on Bennett Bay. The lot is surrounded by residential lots ranging in size from 0.09 ha to .83 ha. The lot has been landscaped, all tourist accommodation units permitted have been constructed and parking, trails and a dock are all in place.

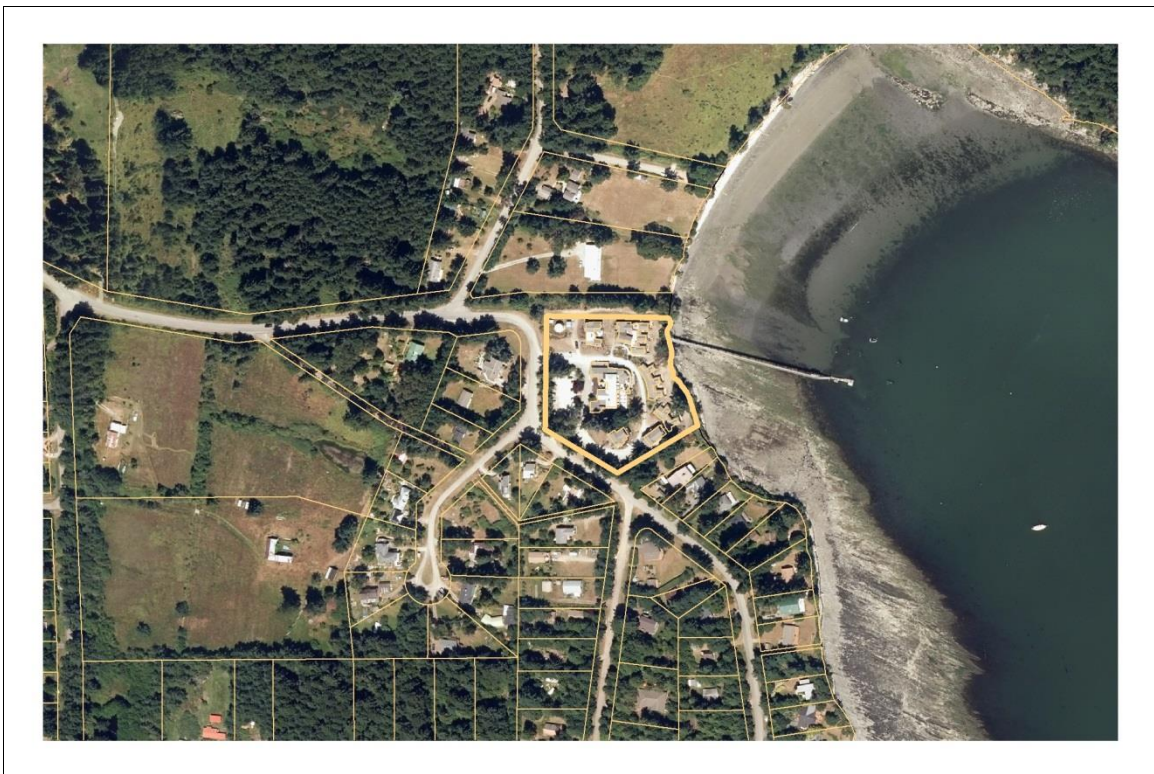
Map of Subject Property and Subject Strata Lots



Orthophoto of Subject Property



Orthophoto of Subject Area



CURRENT PLANNING STATUS OF SUBJECT LANDS:

Islands Trust Policy Statement:

The following policies should be considered in relation to the request to allow residential use.

- 5.2.5 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
- 5.8.6 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

The following policies should be considered in relation to the request for expanded retail use.

- 5.7.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.

Official Community Plan

The Land Use designation is Visitor Accommodation (VA)

The Lot is in a Visitor Accommodation (VA) Development Permit area. The DP area is in place to define the form and character of commercial, visitor accommodation and industrial development.

Some OCP policies to consider:

1.2 BROAD COMMUNITY OBJECTIVES

The Broad Community Objectives of this Plan are:

- 5) To support a diverse and vital community structure through effective housing policies for affordability, long term rental opportunities and special needs while maintaining flexibility for a range of dwelling types.

- 6) To recognize the important role that varied livelihoods and a vibrant economy play in our community's unique character through the encouragement of economic diversity and a vital local economy.

Land Use Bylaw

5.9 Commercial Tourist Accommodation (C2) Zone

The purpose of the Commercial Tourist Accommodation Zone is to provide regulations for the development of visitor accommodation and accessory uses.

Permitted Uses

- (1) The following uses are permitted, subject to the regulations set out in this Section and the general regulations, and all other uses are prohibited:
 - (a) Tourist accommodation;
 - (b) Accessory dwelling unit;
 - (c) Accessory restaurant, café, or licensed premises;
 - (d) Accessory retail sales;
 - (e) Accessory employee housing;
 - (f) Accessory uses, buildings and structures.

Density

- (2) The maximum lot coverage is 20%.
- (3) The maximum Floor Area Ratio is 0.25.
- (4) The maximum number of tourist accommodation units and the maximum total floor area of all tourist accommodation units is established in 5.9(14) for each location.
- (5) The maximum floor area of any tourist accommodation unit is 100 m² (1077 ft²);
- (6) The maximum floor area of accessory retail sales uses is 20m² (87ft²).
- (7) The maximum number of accessory employee housing units is 2 per lot.
- (8) The maximum floor area of any accessory employee housing unit is 60m² (646 ft²)
- (9) The maximum number of accessory dwelling units is one per lot.
- (10) The maximum number of buildings accessory to tourist accommodation uses, other than accessory dwelling units, accessory employee housing, utility sheds, or woodsheds, is four per lot.

Siting and Size

- (11) The minimum setback for any building or structure is:
- (a) 8 metres from any lot line;
- (12) The maximum height of any building containing tourist accommodation units, an accessory dwelling unit, accessory employee housing, or a restaurant, café or licensed premises is 9 metres (29.5 ft.) and two storeys. The maximum height of any accessory building or structure is 5 metres (16.4 ft.).

Subdivision Lot Area Requirements

- (13) The minimum lot area is 0.4 hectares (1 acre).

Site-Specific Regulations

- (14) The following table denotes locations where, despite or in addition to the regulations in this Section, specific regulations apply. In the first column, the zone abbreviation and the lower-case letter refer to the notation on the zoning map. The second column describes the location where the specific regulations cited in column three apply:

Table 5.1		
Site-Specific Zone	Location Description	Site Specific Regulations
C2(b)	Lot 83, Section 9, Mayne Island, Cowichan District, Plan 14000. 494 Arbutus Drive. [Mayne Inn]	1. Despite 5.9(1) above, the only uses permitted in this location are those permitted by 5.9(1)(a), (b), (c), (d), and (f). 2. The maximum number of tourist accommodation units permitted in this location is 26. 3. The maximum total floor area of all tourist accommodation units in this location is 1586 m ² (17072 ft ²). 4. Despite 5.9(5) the maximum floor area of any tourist accommodation unit 61m ² (656 ft ²).

Sensitive Ecosystems and Hazard Areas

Islands Trust Sensitive Ecosystems Mapping (SEM) indicates that there are no sensitive or important ecosystems on the subject property. In addition, the subject property is not located within any designated or unverified Riparian Areas Regulation watershed.

Archaeological Sites

Based on information from the Provincial Remote Access to Archaeological Data (RAAD), there are archaeological sites near the property. Notwithstanding the foregoing, and by copy of this report, the owners are advised that the unearthing of any archaeological resource should be reported to the Archaeology Branch.

Covenants

EX066885 – MILTC – Water Use - increasing number of tourist accommodation units beyond 26 will require a report from a certified Hydrologist

EX157477 – MILTC – contains definition and restrictions on use of buildings. Will need to be amended if residential use is permitted in some of the tourist accommodation units.

Bylaw Enforcement:

No outstanding files or issues

Climate Change Mitigation and Adaptation

Allowing increased retail at this location should reduce car trip to Miners Bay for some of the shopping needs of resort guests and surrounding property owners.

Shoreline

Island trust Shoreline mapping indicates two types of shorelines fronting strata plan VIS6703 a pebble/sand beach and a low rock boulder beach.

COMMUNITY CONSULTATION:

If this proposal proceeds a Community Information Meeting is recommended.

RESULTS OF CIRCULATION:

If this proposal proceeds draft bylaws will be referred to the appropriate First Nations and agencies for review and comment.

STAFF COMMENTS:

Requested Amendment to allow Residential and Employee Housing

The amendment that is being requested would, in addition to the uses presently permitted, allow 8 of the strata units to be owner occupied long term, rented short or long term or used for employee housing.

The Islands Trust policy statement supports the efficient use of the land base without exceeding density limits of the OCP. This amendment would allow an increased number of permitted uses by allowing residential use and employee housing use in 8 units which presently can only be used as tourist accommodation units. This would be achieved without increasing density.

One of the objectives of the OCP supports a diverse and vital community structure through effective housing policies for affordability, long term rental opportunities and special needs while maintaining flexibility for a range of dwelling types. This proposed amendment would allow for the possibility of long term rental opportunities as well as adding flexibility to the way in which the accommodation units can be used.

This amendment would allow for a greater mix and variety of housing which can be used to accommodate changing housing needs on Mayne Island without the property owner applying for amendments each time housing needs change.

The residential use of the units will not alter the character of the neighborhood and will allow for the units to be used for long term residential use which may keep them occupied for more of the year than if they remained tourist accommodation units.

Small residential units may appeal to someone who wants a small residential unit in close proximity to others. Small housing units grouped together with the amenities the resort provides is not available elsewhere on the island.

Employee housing would be a benefit to the Mayne Island Resort and the Island as a whole as the majority of employee housing is required in the summer months when tourist activity is the highest and availability of short term summer rentals are the lowest.

Requested Amendment for Increased Retail Space

Accessory retail space is presently limited to 20 sq.m. and is used for liquor sales. The applicant is requesting additional retail space to provide for the sale of a limited supply of groceries and sundries, as well as space to allow for the rental of sporting equipment. The application does not specify how much space is required or where it will be located, these details will be requested if this proposal proceeds.

A small increase in retail space would benefit both the users of the resort and surrounding Bennett Bay neighborhood as day to day items such as milk and bread would be available without having to drive to Miners Bay. The sporting equipment rental could benefit anyone one on the island as Bennett Bay provides a good location for recreational activities such as kayaking.

The Islands Trust policy statement supports economic opportunities that are compatible with conservation of resources and protection of community character.

The OCP supports small neighborhood corner stores located in the immediate neighborhood they serve.

The LTC is currently reviewing the commercial policies of its OCP and regulations in its LUB. A project charter is being considered at the April 25, 2016 LTC meeting. The resolution that the LTC passed on June 29, 2015 places a moratorium on commercial rezoning applications. The resolution needs to be revised if the proposal for increased retail space is to be advanced.

Staff supports this application as all of the requested amendments have merit. The residential use will add to the mix of housing on Mayne Island and allow the property owner more flexibility. The staff accommodations will provide for much needed staff housing. The increased retail space will provide basic food items and the rental of sports equipment that the resort users and neighbors can benefit from.

RECOMMENDATIONS:

1. **THAT** the Mayne Island Local Trust Committee direct staff to prepare draft bylaws that would implement the bylaw amendments requested in application MA-RZ-2015.2 (Mayne Island Resort).

Prepared and Submitted by:

Gary Richardson

April 18, 2016

Date

Concurred in by:

April 18, 2016


Robert Kojima
Regional Planning Manager

Date

STAFF REPORT

Date: April 5, 2016

File No.: MA-TUP-2016.1
(Leathers)

To: Mayne Island Local Trust Committee
For the Meeting of April 25, 2016

From: Gary Richardson, Island Planner

CC: Robert Kojima, Regional Planning Manager

Re: MA-TUP-2016.1 (504 Bayview Drive)

Owner: Eric and Mildred Leathers
Applicant: Eric and Mildred Leathers
Location: 504 Bayview Drive, Mayne Island
Legal: Lot 74, Sections 14 and 15, Cowichan District, Mayne Island, Plan 19083

Preliminary Report

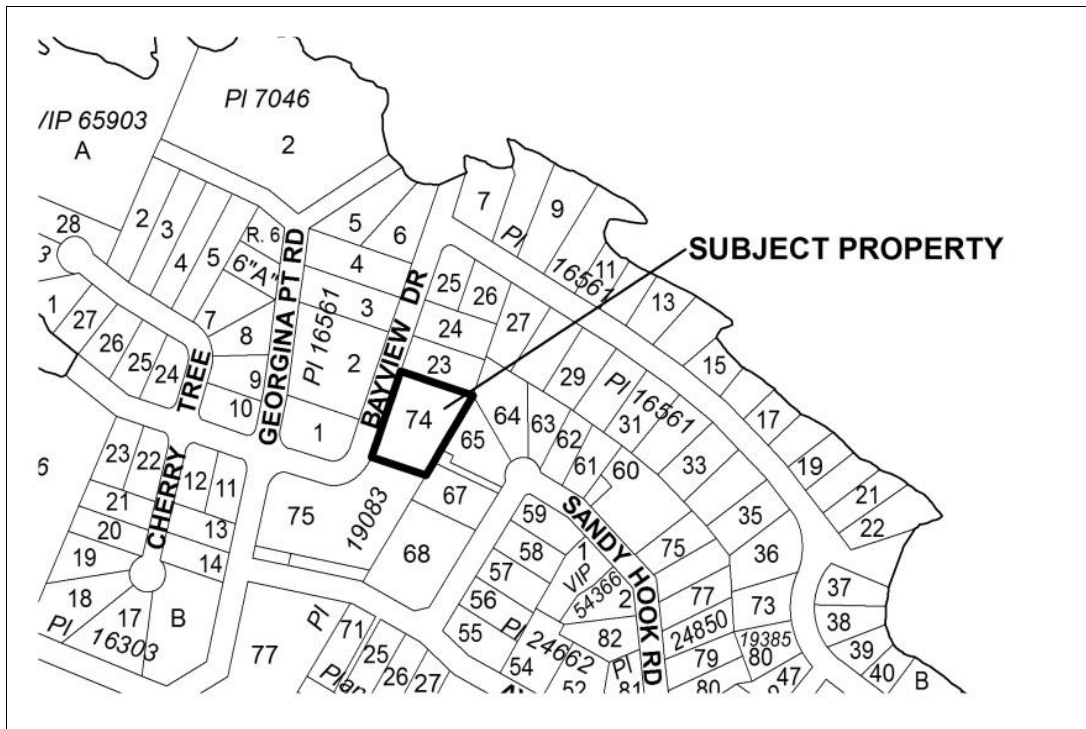
THE PROPOSAL:

The property owner is requesting that a Temporary Use Permit be issued for a residential lot at 504 Bayview Drive in order to permit an existing accessory building that has been converted into a cottage to be rented to the public on a short term basis as a bed and breakfast. There would be no change to the existing buildings or grounds.

SITE CONTEXT:

Site is zoned SR (Settlement Residential) and is 0.42 hectares (1.05 acres) in size, located on Bayview Drive in the Georgina Point area on the North side of Mayne Island. It is an inland lot surrounded predominately by small residential properties. There is an existing dwelling on the lot where the applicants live and also sited on the lot is a 28 sq.m. (304 sq.ft.) accessory building that has been unlawfully converted into a cottage.

The following is a map showing the location of the subject property.



The following map is an orthophoto of the subject property.



The following map is an orthophoto of the subject area.



CURRENT PLANNING STATUS OF SUBJECT LANDS:

Trust Policy Statement:

The following are some excerpts from the policy statement that the LTC should consider:

- 5.2.3 *LTCs shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.*
- 5.7.2 *LTCs shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.*

Official Community Plan

Schedule B – Land Use Designations – Designated Settlement Residential (SR)

Schedule C – Development Permit Areas – subject lot not in a development permit area

Schedule D – Land Status and Road Dedication – Bayview Drive is designated rural residential

Schedule E – Water Resources – subject lot is within the Skana waterworks district

Schedule F – Sensitive Ecosystem – no sensitive ecosystems shown on subject property

Some OCP policies and objectives that the LTC may want to consider:

2.1.1 Settlement Residential

2.1.1.1 The principal use shall be residential with accessory uses consistent with the residential character.

2.3. HOME OCCUPATION

2.3.1.1 Home occupations shall be permitted only as an accessory use to a permitted residential use.

2.3.1.3 Bed and Breakfast accommodation shall be permitted as a home occupation use, the zoning bylaw shall specify other conditions, including a limit on the number of guest accommodation rooms.

2.3.1.4 The size of bed and breakfast operations shall be limited by the number of bedrooms and the sewage disposal system shall be sufficient to accommodate the number of guests.

2.3.1.5 Home occupations shall be confined to the interior of a dwelling or a permitted accessory building and employ a maximum of three full-time equivalent employees, one of whom must reside permanently on the property on which the home occupation is conducted.

4.6 Tourism

The objectives of this section are:

- 1) to maintain the rural ambience of the Mayne Island Trust Area,*
- 2) to provide adequate infrastructure for tourist activities, and*
- 3) to ensure tourism use that is environmentally, economically and civically sustainable, and within the capability of our community's volunteer base which supports or provides most local services and resources.*

Applicable Temporary Use Permit Guidelines

The following are the existing guidelines in the OCP; the guidelines are general and don't specifically apply to TUPs for bed and breakfasts. An amending bylaw containing a comprehensive set of guidelines regarding Temporary Use Permits for short term vacation rentals has received 1st reading (proposed bylaw 167). The proposed bylaw is attached for the LTCs reference. If this proposal proceeds as a bed and breakfast or as an STVR many of guidelines contained in proposed bylaw 167 will be applied to the TUP.

OCP Section	OCP Guidelines	Staff Comments
2.9.1.1	<i>Permits can be issued for any period up to two years and could be considered for renewal once for any further period up to two years.</i>	The Local Government Act now allows a permit to be issued for up to three years and considered once for up to a further three years.
2.9.1.2	<i>Permitted uses should be consistent with the policies of the designation and the provisions of 2.9.1.</i>	If a draft permit is prepared it will be consistent with these guidelines.
2.9.1.3	<i>Permitted uses should not preclude or compromise future permitted uses on the affected lot.</i>	The proposal is consistent with this guideline as there will be no changes to the buildings or grounds to accommodate the proposed bed and breakfast use.
2.9.1.4	<i>Uses should not be allowed if they conflict with any ongoing planning policies or programs.</i>	There are no apparent conflicts.
2.9.1.5	<i>Sand and gravel removal and processing, and asphalt plants shall be subject to a permit if they exceed 50 truck loads in any given year.</i>	Not applicable
2.9.1.6	<i>Permit conditions must make reference to measures dealing with the following points: a) general activity levels that will not create any disturbance apparent beyond the property's boundaries; b) adequate landscape buffering or distance separation to adjacent lots; c) provision of off-street parking spaces consistent with regulatory bylaws; d) reclamation measures that will restore the permit area to suitability for its designated primary use; and e) adequate supervision of the site.</i>	All of the conditions will be addressed in the draft permit.
2.9.1.7	<i>In addition, permit conditions should outline operational plans, including hours and days of operation and staffing to ensure compatibility with the neighbourhood and may include an undertaking for restoration of the site and a security deposit to guarantee performance of the conditions.</i>	If a draft permit is prepared staff will write in conditions to try and insure the bed and breakfast use is compatible with the predominately residential neighborhood. A security deposit can be required if deemed necessary.
2.9.1.8	<i>Review of applications should include consideration of smart growth principles.</i>	Not applicable for a proposed short term bed and breakfast use.

Land Use Bylaw

The property is zoned Settlement Residential (SR)

The permitted uses in the SR zone are as follows:

- (a) *Residential;*
- (b) *Cottage;*
- (c) *Accessory uses, buildings and structures, including but not limited to home occupations.*

3.5 Accessory Uses, Buildings and Structures

- (1) A building or structure accessory to a dwelling may not be used for human habitation.

3.6 Home Occupation Regulations

- (1) Permitted home occupations include any:
 - (g) bed and breakfast;
- (2) Without limiting the generality of subsection 3.6(1), the following activities are specifically not permitted as a home occupation:
 - (b) The serving of food or drink products on the premises as part of a home occupation, except for the serving of a morning meal as part of bed and breakfast home occupation;
- (3) A home occupation other than a horticultural or agricultural use must be carried out wholly within a dwelling unit or within a permitted accessory building.
- (4) Home occupations must not occupy a floor area in excess of 95 m².
- (5) There may be no exterior indication of the existence of the home occupation either by stored materials, displays, lighting or by any other variation from the residential character of the dwelling unit or accessory building, with the exception of signs permitted by this Bylaw.
- (6) The home occupation must be operated by a person permanently residing in the dwelling unit. Not more than two additional persons not residing in the dwelling unit may be employed in the home occupation.
- (7) The home occupation must not involve storage exterior to a building or structure of any material used in the processing or resulting from the processing of any product unless such storage areas are screened by a landscape screen or fence not less than 2 metres in height.
- (8) Bed and breakfast home occupation operations must not utilize more than 3 bedrooms allowing for a maximum of 8 guests. Breakfast may be served, and

recreational equipment may be rented, only to guests who have been provided overnight accommodation.

- (9) That portion of a dwelling unit used for preparing and serving food or drink in connection with a bed and breakfast home occupation must not occupy a floor area in excess of 25 m².
- (10) The floor area used for sales and storage of goods and articles for sale must not exceed 5 m².
- (11) No noise resulting from any home occupation may be heard at a lot line or the natural boundary of the sea.

Sensitive Ecosystems and Hazard Areas:

Islands Trust Sensitive Ecosystems Mapping (SEM) indicates that there are no sensitive or important ecosystems on the subject property. In addition, the subject property is not located within any designated or unverified Riparian Areas Regulation watershed.

Archaeological Sites:

Based on information from the Provincial Remote Access to Archaeological Data (RAAD), there are no archaeological sites on the property. Notwithstanding the foregoing, and by copy of this report, the owners are advised that the unearthing of any archaeological resource should be reported to the Archaeology Branch.

Covenants:

None

Bylaw Enforcement:

There is a bylaw enforcement file on this property regarding the use of the accessory building as an STVR.

COMMUNITY INFORMATION MEETING(S):

Community Information meetings are not normally held for TUPs; however past practice of the Mayne LTC is to consider TUP applications over two meetings allowing the public more opportunity to comment. If the proposal proceeds statutory notification will be carried out which includes a newspaper notice, notices on notice boards and notification of surrounding property owners.

RESULTS OF CIRCULATION:

The applicant supplied several letters of support with the application. The letters have been forwarded to the LTC for consideration.

STAFF COMMENTS:

1. Islands Trust Policy Statement - The Policy Statement advises LTC's to turn their minds the social impact of development and consider economic opportunities that are compatible with conservation of resources and protection of community character.

If this proposal proceeds staff will prepare a draft TUP that should, if complied with, allow the proposed commercial activity to take place within a residential area that has minimal social impact and retains the character of the area. The conditions would be fairly

extensive and it is the responsibility of the property owner to ensure the guests using the bed and breakfast comply with all of the conditions contained in the TUP.

One of the strong attributes this proposal has is that the owner lives on the same property as the proposed bed and breakfast. It has been staff's experience that if the owner lives on the same property many of the negative impacts associated with the commercial use of a residential property are minimized.

2. Mayne Island OCP – The OCP does not contain policies that directly apply to consideration of applications for bed and breakfast use of accessory buildings; however there are some existing policies that provide some guidance. OCP policies suggest that uses in the SR designation be consistent with residential character. The tourism objectives in the OCP suggest that: the rural ambience be maintained, there be adequate infrastructure for tourist activities, tourism use be environmentally, economically and civically sustainable. As with the policy statement comments above, staff will draft TUP conditions that if adhered to should maintain the residential character of the property.

The home occupation policies of the OCP confine home occupation use to a dwelling or a permitted accessory building. The accessory building presently sited on this lot is permitted if it is used as an accessory building; however bed and breakfast use is not permitted to be carried out in an accessory building nor can it be used for human habitation. A TUP could allow bed and breakfast use of an accessory building.

OCP policies set a minimum lot size for cottages of 0.6 ha. and this lot is smaller having an area of 0.42 ha. To allow this accessory building to be used for a bed and breakfast accommodation will require the LTC to consider allowing an accessory building to be used for a use beyond what the OCP policies intended for this size of lot in the SR designation. There are no policies that give direction regarding the use of accessory buildings for bed and breakfast use on small residential lots.

3. Mayne Land Use Bylaw - The applicant states that the building has been used as a cottage for six years and more recently a self-catered bed and breakfast; however cottages are not permitted on SR zoned lots unless the lots have a minimum area of 0.6 ha. This accessory building has been used illegally as a cottage and more recently as a bed and breakfast.

If the existing cottage is to be used as a bed and breakfast the cooking facilities will need to be removed as it presently meets the definition of a cottage in the LUB and cottages are not permitted on lots of this size. Also residential use of an accessory building would need to be permitted. If the applicant wanted to retain the cooking facilities this proposal would need to be for a cottage/STVR use of an accessory building and not bed and breakfast use.

If a TUP is not granted for the use of this accessory building as a bed and breakfast the building will have to be converted to, and used as, an accessory building. If a permit is issued for bed and breakfast use of the accessory building it will need to be converted back to an accessory building when the permit expires. The LTC can request a security deposit to ensure the building is returned to a use permitted in the LUB when the permit expires.

4. Temporary Use Permit Conditions – If the LTC requests a draft TUP to be prepared it will contain conditions that require: a 24 hr. 7 day a week contact; communication with surrounding property owners; information to be posted for guest regarding noise, information on use of water, fire, garbage, septic field, control of pets; outdoor lighting;

minimal signage; restricted number of guests; no camping or recreation vehicles; and no outdoor fires.

If this proposal proceeds these conditions will be put in place to endeavor to ensure that the residential character of the area is maintained and that there is no loss of enjoyment for the surrounding property owners.

TUP conditions place the onus on the property owner to ensure the conditions are complied with. Staff has no reason to believe that the property owners will not do everything they can in order to ensure the TUP conditions are complied with; however in the event the conditions are not complied with it is staff's experience that the Local Trustees, Islands Trust bylaw enforcement officer or planner are contacted. Due to the nature of the conditions of the TUP the enforcement and evidence gathering is often required during non-regular working hours. The bylaw enforcement officer would likely be responding days after any infraction.

Surrounding property owners have an expectation that the conditions of the permit will be reasonably enforced and with there being a lag time between a possible infraction and enforcement, staff are not confident that in the event of an infraction the conditions of the permit can be upheld during the time that the offending party is using the bed and breakfast.

5. Term – TUPs can be issued for up to three years and renewed once for up to 3 years. If the LTC issues the permit the term can 3 years or any period up to 3 years that the LTC determines is reasonable.
6. Community consultation – Notification is carried out by means of placing a newspaper notice, posting on notice boards and by delivering notices to surrounding property owners. The applicant has provided several letter of support for the proposal. If the proposal proceeds staff will carry out the required notification process to obtain community comment. In addition to the required notification it is also recommended that the Skana water district, CRD building inspection and Island Health be provided with an opportunity to comment.

Staff has concerns about recommending approval of this proposal. Firstly the LUB does not permit human habitation in accessory buildings. Also there are no policies or guidelines in the Mayne OCP that apply to the consideration of a bed and breakfast use of an accessory building on a residential lot of this size. The only guidance is that lots must be at least 0.6 ha. to be permitted a cottage. If TUPs for cottages, STVRs or bed and breakfasts in accessory buildings are to be considered on small residential lots OCP policies should be prepared in order to give the LTC, public and staff guidance when considering making/reviewing a TUP application.

Staff also has some concerns about the present use of the accessory building. The use changed from accessory building use to cottage use and staff has no confirmation that the change in use was permitted by the CRD building inspection, Island Health and the Skana water district. Also once a use like a cottage use is established in an accessory building it is difficult to have the building returned back to a use permitted by the LUB once the permit expires. This application is not only for a new use in an accessory building, but is also requesting to permit human habitation of an accessory building.

It is staff's opinion that without OCP policies for guidance that allowing a TUP for the commercial guest accommodation use of an accessory building on a small residential lot requires a broader

community discussion than can be achieved in a TUP process; therefore staff is recommending that the application proceed no further.

Options:

- 1) Proceed no further with application. The file will be closed and the applicant will be required to convert the cottage into a permitted accessory building.
- 2) Proceed with the application and request staff to bring a draft permit to the May LTC meeting for the LTCs review.

RECOMMENDATION:

That the Mayne Island Local Trust Committee not proceed with MA-TUP-2016.1 (Leathers)

Prepared and Submitted by:

Gary Richardson

April 18, 2016

Date

Concurred in by:



Robert Kojima, RPM

April 18, 2016

Date

**A BYLAW TO AMEND THE MAYNE ISLAND OFFICIAL
COMMUNITY PLAN BYLAW NO. 144, 2007**

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

AND WHEREAS Section 29 of the *Islands Trust Act* gives the Mayne 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 Mayne Island Local Trust Committee wishes to amend the Mayne Island Official Community Plan Bylaw No. 144, 2007;

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

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

1. CITATION

This Bylaw may be cited for all purposes as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 2, 2015”.

2. SCHEDULES

Mayne Island Official Community Plan No. 144, 2007 is amended as shown on Schedule 1, 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 22nd day of February , 2016.

READ A SECOND TIME this day of , 20.

PUBLIC HEARING HELD this day of , 20.

READ A THIRD TIME this day of , 20.

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this
day of , 20.

APPROVED BY THE MINISTER OF COMMUNITY, SPORT AND CULTURAL
DEVELOPMENT this day of , 20.

ADOPTED this day of , 20.

DEPUTY SECRETARY

CHAIR

Mayne ISLAND LOCAL TRUST COMMITTEE
BYLAW No. 167
SCHEDULE 1

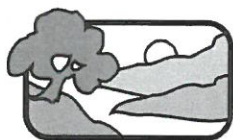
A. Bylaw No. 144, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007” is amended as follows:

1. Amending Subsection 2.9 (Temporary Use Permits) by inserting the following immediately after policy 2.9.1.8:

“ 2.9.1.9 Additional Guidelines to be applied when considering the issuance of a Temporary Use Permit for a Commercial Vacation Rental:

- a) The LTC may require mitigating measures to provide a separation between Short Term Vacation Rentals (STVRs) and surrounding properties such as screening and fencing.
- b) The LTC should consider the cumulative effects on the neighbourhood and island of all the permits issued for STVRs.
- c) The LTC may consider issuance of a temporary use permit for a commercial vacation rental provided the proposal would not alter the residential appearance of the residence.
- d) A contact person on Mayne Island associated with the property should be available by telephone twenty-four (24) hours/day, seven (7) days per week.
- e) The property owner/applicant should provide neighbors within a 100 metre radius of the vacation rental with the contact person’s phone number, and a copy of the temporary use permit.
- f) The property owner/applicant should provide evidence that there is an adequate supply of potable water.
- g) The property owner/applicant should provide evidence that there is adequate septic capacity for the proposed occupancy.
- h) The property owner/applicant should post information for guests regarding noise bylaws, water conservation, fire safety, fire escape plan, storage of garbage, septic field location, and control of pets. The guest information should also remind guests that they are in a residential area, not a commercial area.
- i) As a condition of the permit pets should be under control at all times.
- j) The property owner/applicant should be required to provide sufficient off street parking.

- k) The property owner /applicant should be required to ensure outdoor lighting is not directed onto surrounding properties.
- l) A condition of the permit should restrict the maximum number and size of signs an STVR can have. That the signs be made of wood and not illuminated.
- m) As a condition of the permit the maximum number of guests may be limited;
- n) As a condition of the permit the number of bedrooms may be limited;
- o) As a condition of the permit the specific months in a year that STVR use can be carried out may be specified.
- p) As a condition of the permit recreational vehicles and camping should be prohibited.
- q) As a condition of the permit outdoor fires should be prohibited.
- r) As a condition of use advertising that can be utilized may be specified.
- s) A condition of the permit should prohibit the rental or provision of motorized personal watercraft for rental clients.
- t) A condition of the permit may require the property owner/applicant to post contact information and permit information at the entrance to the property.
- u) As a condition of the permit the Islands Trust bylaw enforcement officer should be permitted to enter the property between the hours of 9 am and 5 pm on any day without prior consultation with the holder of the permit or STVR renter for the purpose of investigating a complaint.



Islands Trust

BYLAW REFERRAL FORM

1-500 Lower Ganges Road
Salt Spring Island, BC BC V8K 2N8
Ph: (250) 537-9144
Fax: (250) 537-9116
ssiinfo@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: Salt Spring Island Trust Area **Bylaw No.:** 491 **Date:** April 6, 2016

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days, by May 6, 2016. If no response is received within that time, it will be assumed that your agency's interests are unaffected. For your information a Public Hearing to consider the Bylaw will be held in the summer of 2016.

APPLICANTS NAME / ADDRESS:

Salt Spring Island Local Trust Committee, Islands Trust, 1-500 Lower Ganges Road, Salt Spring Island, BC, V8K 2N8

PURPOSE OF BYLAW:

To rezone four properties abutting a proposed Ganges Harbour Boardwalk.

GENERAL LOCATION:

Ganges Harbour, Salt Spring Island

LEGAL DESCRIPTION:

- (a) Lot A, Section 1, Ranges 3 and 4 East, North Salt Spring Island, and of District Lot 2066 Cowichan District, Plan VIP83860 and a portion of the Shoreline (PID 027-249-794, 145 Lower Ganges Road)
- (b) Lot 1 Sec.1, Ranges 3 and 4, North Salt Spring Island, Cowichan District, Plan 49983 and a portion of Shoreline (PID 017-088-364, Lower Ganges Road)
- (c) Lot A, Section 2, Range 4 East, North Salt Spring Island and District Lot 689, Cowichan District, Plan VIP 65932 (PID 023-882-921, 151 Lower Ganges Road)
- (d) Lot 3, Section 2, Range 4 East, North Salt Spring Island, Cowichan District, Plan VIP 59755 and a portion of the Shoreline (PID 018-951-775).

SIZE OF PROPERTIES AFFECTED:

- (a) 0.02 hectares
- (b) 14.86 square metres
- (c) 0.1 hectares
- (d) 3.97 hectares,

ALR STATUS:

None

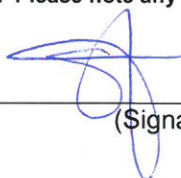
OFFICIAL COMMUNITY PLAN DESIGNATION:

- Ganges Village Core
- Shoreline Development

OTHER INFORMATION:

To amend Salt Spring Island Land Use Bylaw No. 355 to provide for a new, mixed use, yet primarily commercial zoning to accommodate four properties abutting or fronting the proposed "Ganges Harbour Walk" in Ganges on Salt Spring Island. See attached staff report and proposed bylaw at first reading for further details.

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.


(Signature)

Name: Stefan Cermak

Title: Regional Planning Manager, Salt Spring
Island Planning Team

This referral has been sent to the following agencies:

Federal Agencies

Fisheries & Oceans, Canada – Habitat & Enhancement
Transport Canada Programs

Regional Agencies

CRD – All Referrals & K. Campbell
CRD – SSI Economic Development Commission
CRD – SSI Parks and Recreation
CRD – SSI Senior Manager
CRD – SSI Building Inspection
CRD – SSI Director
CRD – SSI Transportation Commission
CRD – Environmental Eng. Division
CRD – Housing Secretariat
CRD – Parks & Community Services
CRD – Ganges Water & Sewer Commission
CRD – SSI Liquid Waste Disposal Local Service Commission
CRD – SGI Small Craft Harbours Commission

Provincial Agencies

BC Assessment Authority
Ministry of Community, Sport & Cultural Development
Ministry of Transportation & Infrastructure
Ministry of Natural Resource Operations – Archaeology Branch
Ministry of Forest Lands & Natural Resource Operations
(Environment)
Ministry of Forest Lands & Natural Resource Operations
- Front Counter BC
Ministry of Jobs, Tourism & Skills
Ministry of Transportation and Infrastructure

Non-Agency Referrals

BC Ambulance Service
North Salt Spring Waterworks District
RCMP
School District 64
SSI Chamber of Commerce
SSI Fire-Rescue
SSI Harbour Authority
SSI Salmon Enhancement Society

Adjacent Local Trust Committees and Municipalities

Galiano Island Local Trust Committee
Mayne Island Local Trust Committee
North Pender Island Local Trust Committee
Thetis Island Local Trust Committee

First Nations

Te'Mexw Treaty Association
Hul'qumi'num Treaty Group (for information only)
Pauquachin First Nation
Malahat First Nation
Tsartlip First Nation
Tsawout First Nation
Tsawwassen First Nation
Tseycum First Nation
Chemainus First Nation
Cowichan Tribes
Halalt First Nation
Lake Cowichan First Nation
Lyackson First Nation
Penelakut First Nation
Semiahmoo First Nation

**BYLAW REFERRAL FORM
RESPONSE SUMMARY**

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Outlined Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Not Recommended Due to Reason Outlined Below

Salt Spring Island Trust Area
(Island)

(Signature)

(Date)

491
(Bylaw Number)

(Title)

(Agency)



Islands Trust

BYLAW REFERRAL FORM

1-500 Lower Ganges Road
Salt Spring Island, BC BC V8K 2N8
Ph: (250) 537-9144
Fax: (250) 537-9116
ssiinfo@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: Salt Spring Island Trust Area Bylaw No.: 492 Date: April 18, 2016

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

Salt Spring Island Local Trust Committee

PURPOSE OF BYLAW:

A bylaw to amend the Salt Spring Island Land Use Bylaw No. 355 for minor housekeeping amendments which fall within one of the three following criteria:

- congruent with current legislation;
- clarification for consistent interpretation; and
- consistent with intended purpose.

GENERAL LOCATION:

Salt Spring Island and Associated Islands and Waters

LEGAL DESCRIPTION:

Capital Regional District Electoral Area "F" including Salt Spring Island, Associated Islands and Waters

SIZE OF PROPERTY AFFECTED:

ALR STATUS:

OFFICIAL COMMUNITY PLAN DESIGNATION:

Salt Spring Island Local Trust Committee Bylaw No. 434

OTHER INFORMATION:

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.


(Signature)

Name: Seth Wright

Title: Planner

This referral has been sent to the following agencies:

Provincial Agencies

Agricultural Land Commission
Ministry of Agriculture
BC Assessment Authority
Ministry of Transportation & Infrastructure
Ministry of Forest Lands & Natural Resource Operations – Front Counter BC

First Nations

Te'Mexw Treaty Association
Hul'qumi'num Treaty Group (for information only)
Pauquachin First Nation
Malahat First Nation
Tsartlip First Nation
Tsawout First Nation
Tsawwassen First Nation
Tseycum First Nation
Chemainus First Nation
Cowichan Tribes
Halalt First Nation
Lake Cowichan First Nation
Lyackson First Nation
Penelakut First Nation
Semiahmoo First Nation

Regional Agencies

CRD – All Referrals & K. Campbell
CRD – SSI Economic Development Commission
CRD – SSI Parks and Recreation
CRD – SSI Senior Manager
CRD – SSI Building Inspection
CRD – SSI Director
CRD – SSI Transportation Commission
CRD – Parks & Community Services
CRD – Ganges Water & Sewer Commission
CRD – SSI Liquid Waste Disposal Local Service Commission
Vancouver Island Health Authority

Non-Agency Referrals

North Salt Spring Waterworks District
School District 64
SSI Chamber of Commerce
SSI Fire-Rescue
SSI Harbour Authority

Adjacent Local Trust Committees and Municipalities

Galiano Island Local Trust Committee
Mayne Island Local Trust Committee
North Pender Island Local Trust Committee
Thetis Island Local Trust Committee
Cowichan Valley Regional District

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

Salt Spring Island Trust Area
(Island)

492
(Bylaw Number)

(Signature)

(Title)

(Date)

(Agency)



Staff Report

Date April 15, 2016 File Number 6500-20 (Mayne RAR)

To Mayne Island Local Trust Committee
For Meeting of April 25, 2016

From Gary Richardson, Island Planner

Re Riparian Areas Regulation (RAR) Implementation

Purpose

The purpose of this staff report is to give some background on RAR implementation on Mayne Island and to provide some options to discuss.

Background

The LTC previously contracted two Qualified Environmental Professionals (QEPs) to provide reports on RAR applicable streams, both of whom identified three streams as subject to the RAR. The Mayne Island Landowners Coalition also contracted two reports from a QEP to determine fish absence in two streams.

A legal opinion was obtained in January of 2012 which clarified several questions regarding the RAR and confirmed that the three streams are RAR applicable. Opinion is attached.

Ministry staff attended the May 2014 LTC meeting and confirmed that three streams on Mayne are subject to the RAR.

In summary, the Riparian Areas Regulation, enacted under Section 12 of the Fish Protection Act in July 2004, requires local governments to protect riparian areas during residential, commercial and industrial development by ensuring that proposed activities are subject to a science based assessment conducted by a Qualified Environmental Professional (QEP).

RAR has been a work program priority of the Mayne LTC previously, there were various staff reports prepared summarizing the RAR and the LTC's options for implementation (available on the [webpage](#)). The LTC provided further direction at its June 25, 2014 LTC meeting.

At its June 25, 2014 meeting LTC passed the following resolutions:

MA-2014-043

It was Moved and Seconded that Mayne Island Local Trust Committee direct staff to draft a Riparian Area Regulation bylaw, incorporating Trustee Crumblehulme's document.

It was Moved and Seconded that Mayne Island Local Trust Committee direct staff to draft Official Community Plan amendments indicating that Village Bay/Deacon Creek be Riparian Area Regulations compliant and that Horton Bay/Hunt Brook and Campbell Bay Creek be excluded due to natural barriers.

Trustee Crumblehulme's document regarding RAR is attached for reference.

Proposed Next Steps

The LTC had previously supported pursuing compliance with the RAR through using a simple assessment method. In this approach a Development Permit Area (DPA) is established that may be less than the 30 metre Riparian Assessment Area (RAA) otherwise required in some locations. Undeveloped areas would likely retain a 30m SPEA and areas with a stream along the roadside or that are already heavily developed would likely have a smaller SPEA. If the LTC proceeds in this manner, Ministry staff should be asked to confirm that this approach would fulfill the RAR requirements.

Staff has previously proposed that the existing QEP reports be used to determine the distances and measures required on various stream sections using a simple assessment method and incorporate them into a DP area. This could be done by staff (possibly with review by a QEP) or a QEP could be retained under contract to do the analysis using the existing reports. Staff are recommending the second approach (using a contractor reporting to the planner) in order to protect limited planner time for the other LTC projects and current applications. The specific costs are not yet available, but there is an available budget.

Staff will also work with the Mapping Coordinator to address the issue of the diversion on Montrose, the result may be that this portion of the stream is not included in a DPA until the final watercourse is determined by MFLNRO and MoTI.

The agricultural building setbacks recommended by the province could also be incorporated into this project.

In terms of timing, if a contract QEP is hired the proposal is that the work be conducted this summer, with final mapping available for the September meeting. Draft bylaw provisions for a DPA were also prepared previously and would be available for the September meeting. If staff were to undertake the simple assessment, it is unlikely that the work could be completed before the October meeting, given vacations and other on-going priorities.

Alternatively, the LTC could proceed with designating DPAs based on a 30 metre Riparian Assessment Area. In this option, no contract work would be required and bylaws could be available for consideration at the next meeting.

If the LTC supports proceeding as outlined in this memo (using a contract QEP to determine SPEA widths using the Simple Assessment Method), the LTC should consider a resolution requesting staff to report back with a draft project charter at the next meeting. Staff would proceed with retaining a contract QEP and undertaking a simple assessment.

Resolution Wording:

1. THAT the Mayne Island Local Trust Committee request staff to report back with a draft Project Charter for the RAR Implementation project based on the approach outlined in the staff memo dated June 17, 2014.

Pc Robert Kojima, RPM

RAR Bylaw proposal

Instead of a simple assessment for the whole island...

That the MI LTC adopt an RAR compliance bylaw as legislated by the province and instruct staff to draft such a Bylaw to include the following information.

Three streams have been identified as potential RAR watercourses: Campbell Creek, Hunt Stream and Deacon Stream. All three streams are seasonal, have been assessed as suffering “from lack of water or intolerable water quality in the summer,” and there is no record of fish presence in any of them. (1)

1) Campbell Creek:

This northerly flowing seasonal watercourse dries up in summer leaving only a few small mud ponds with relatively high water temperatures, making it very difficult for fish to survive. Several irrigation ponds have been created. Excepting the small mountain springs, most of this watercourse passes through ALR agriculturally used land.

Campbell Creek spills into Campbell Bay where it falls over two steep rocky reaches, 9 Meters and 10 Meters high before it meets the shingle. It is highly unlikely that Campbell Creek has ever supported fish and this “natural barrier” (2) creates an impassable barrier to salmonid fish and so does not meet RAR requirements for fish habitat potential.

2) Hunt Stream:

This seasonal watercourse flows east into Horton Bay and is substantially dry in the summer months. A few small mud puddles have high temperatures and low oxygen. A long defunct micro-hydro generator exists that includes a culvert ending in a two meter vertical fall before it meets the tidal estuary. This culvert provides an impassable barrier to fish. With extensive restoration, it might be possible to recreate a fish passable seasonal stream.

The very high reaches of Hunt Stream consist of steep rocky seasonal springs while most of it passes through active ALR farmland. This farm was created on a former beaver marsh and the watercourse passes through about a kilometer of ancient peat bog. Consequently, any water that does reach the lower levels is brown and acidic making it impossible for fish to survive. The Clough report of 2010 state: “acidic water and low oxygen are intolerable to fish.” (3) Clough

continues “we have inspected the reach 2 and 3 on three separate occasions in winter and summer and find the habitat above the dam to not offer any potential for fish populations.” (4)

Hunt Stream cannot support fish and any restoration for fish habitat would likely fail due to the seasonality and acidity and therefore does not meet RAR requirements.

3) Deacon Creek:

Flowing west into Village Bay, Deacon Creek is also a seasonal watercourse. Fed by short mountain springs, it passes most of its length through ALR active farmland. The stream then passes through a short section of substantially built out settlement land with approved dwellings and outbuildings. The lower 100 meters are either overgrown or culverted beneath a road and contain a number of small man-made barriers making fish habitat highly unlikely. However, if the lower reaches of residential and roadway land were cleaned up and protected it is possible that fish could be induced to travel up-stream as far as the created ponds. How well they would survive is moot.

Like the other two watercourses on the island, there is no record of fish being present in Deacon Creek. It does however, meet the minimum legislated RAR requirements for fish habitat potential. The Clough report states “this lower area was also the best of a very poor habitat for salmon.” (5)

In a separate report, Swell Environmental Consulting categorically state: “Because the RAR applies to both perennial and seasonal streams, low or absent summer flows are not sufficient grounds to determine that the regulation does not apply. The key is to determine if: a) fish have access to the stream from the ocean, b) if any fish are resident in the stream, c) if the watercourses upstream flow into any areas that are considered to be fish habitat. The RAR applies unless it is determined that these conditions are not met.” (6)

In summary the MI LTC believe:

- that Campbell Creek does not meet the RAR criteria on the basis of a natural impassible fish barrier at its lowest reach.
- that Hunt Stream does not meet the RAR criteria due to natural and intolerable acidity
- that Deacon Creek may potentially meet the minimum RAR conditions

Therefore, the MI LTC will apply RAR regulations on Deacon Creek for future

buildings and landscape changes.

Or: apply a simple assessment for the Riparian Area area of Deacon Creek

- (1) Clough Report Aug 13, 2010
D. R. Clough Consulting
Fisheries Resource Consultants
- (2) Ditto
- (3) Ditto
- (4) Ditto
- (5) Ditto
- (6) Swell Report, February 16, 2010
Swell Environmental Consulting Ltd

Met with Dean McKay



Islands Trust

Print Date: April 18, 2016

Top Priorities

Mayne Island

No.	Description	Activity	R/Initiated	Responsibility	Target Date
1	Commercial Land Use Review	Prepare amended project charter for April 25, 2016 LTC meeting for LTC consideration.	27-Apr-2015	Gary Richardson	
2	STVR Review	Public Hearing to be arranged for Proposed Bylaws 165, 166 and 167.	23-Feb-2015	Gary Richardson	
3	Fallow Deer Eradication		26-Jan-2015	Gary Richardson	

Projects

Mayne Island

Description	Activity	R/Initiated
Climate Change Adaptation	Consider regulatory changes and implementation of new DPA authority	02-Mar-2009
Riparian Area Regulations	Project moved from Top Priorities pending ombudsperson report response and Ministry decision on SSI bylaw. Staff to prepare a report and recommendations on how to proceed once SSI bylaw decision made and Ministry response to ombudsperson complete	26-Jan-2015
Road issues		27-Jun-2012
Density on large lot remainders	to review covenants on remainder lots and review zoning to density of dwellings and cottages	30-Sep-2015
Bylaw enforcement notification bylaw	to consider adopting BEN bylaw	30-Sep-2015



Islands Trust

Print Date: April 18, 2016

Applications

Rezoning

File Number	Applicant Name	Date Received	Purpose
MA-RZ-2015.1	CAPITAL REGIONAL DISTRICT Integrated Water Services Planner: Gary Richardson	21-Jul-2015	REZONING WATER LEASE No. 112548 District Lot 2070 /ANSON RD
Planning Status			
Status Date: 17-Apr-2016 Bylaws to agencies and First Nations for comment. Public hearing to be arranged. Target for PH is June			
Status Date: 12-Mar-2016 Staff report and draft bylaws prepared for March 21, 2016 LTC Mtg for LTSs consideration.			
Status Date: 16-Feb-2016 Staff report prepared for February 22, 2016 LTC Mtg.			

File Number	Applicant Name	Date Received	Purpose
MA-RZ-2015.2	Mayne Island Resort Ltd.	20-Nov-2015	494 ARBUTUS DR Rezone SL 1 to allow some retail. SL 17 - 20 to allow mixed use.
Planner: Gary Richardson			
Planning Status			
Status Date: 17-Apr-2016 Preliminary Staff Report prepared for April 25, 2016 LTC Mtg. for LTCs consideration.			
Status Date: 24-Nov-2015 opened file, processed fee, notified LTC and gave to planner.			

Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
MA-TUP-2016.1	Mildred and Eric C. Leathers	24-Feb-2016	TUP to continue use of studio as a B & B unit.

Applications

Planner: Gary Richardson

Planning Status

Status Date: 12-Mar-2016

Preliminary staff report to be prepared for April 25, 2016 LTC Mtg for LTCs consideration.

Status Date: 24-Feb-2016

Application & Fee received. File opened.

File Number	Applicant Name	Date Received	Purpose
MA-TUP-2016.2	LANE, PETER	07-Apr-2016	407 Campbell Bay Rd TPU for STVR

Planner: Phil Testemale

Planning Status

Status Date: 08-Apr-2016

File opened, application forwarded to Planner and LTC

Islands Trust
LTC EXP SUMMARY REPORT F2016
Invoices posted to Month ending March 2016

645 Mayne	Invoices posted to Month ending March 2016	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-645	LTC "Trustee Expenses"	750.00	107.57	642.43
LTC Local				
65200-645	LTC - Local Exp - LTC Meeting Expenses	1,500.00	1,330.55	169.45
65210-645	LTC - Local Exp - APC Meeting Expenses	750.00	231.78	518.22
65220-645	LTC - Local Exp - Communications	300.00	1,094.00	-794.00
65230-645	LTC - Local Exp - Special Projects	750.00	818.18	-68.18
TOTAL LTC Local Expense		<u>3,300.00</u>	<u>3,474.51</u>	<u>-174.51</u>
Projects				
73001-645-3005	Mayne RAR	2,500.00	0.00	2,500.00
73001-645-4053	Mayne Density & STVR Review	2,000.00	0.00	2,000.00
73001-645-4059	Mayne Commercial Land Use Review	2,000.00	1,807.70	192.30
TOTAL Project Expenses		<u>6,500.00</u>	<u>1,807.70</u>	<u>4,692.30</u>

Mayne Island Local Trust Committee

POLICIES AND STANDING RESOLUTIONS

Updated: July 25, 2012

No	Meeting Date	Resolution No.	Issue	Policy and Description
1.	October 1, 2007	MA-LTC-70-07	Guidelines for Use When Considering Funding for Reports	The MILTC has adopted a policy establishing the set of guidelines the LTC should employ when purchasing a report for LTC and public use.
2.	February 7, 2011	MA-LTC-13-11 This resolution repeals MA-LTC-90-09	STVRS Bylaw Enforcement	1. Given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities STVRs that have one or more of the following characteristics will be subject to enforcement: 1. They are advertised on the internet, newspapers or other media; 2. They are not managed by the property owner; 3. More than one dwelling on the lot is simultaneously made available for STVR; 4. While the property is rented persons are permitted to stay in tents or trailers; 5. There are issues related to health and safety; 6. There is a written complaint by owners or residents of two properties about bona fide serious nuisance issues such as noise or parking congestion related to the STVR; 7. The owner of the property uses more than one property on Mayne Island as a STVR. 2. No enforcement actions under section 1.1 will be taken against any STVR operation that takes place in a lawful cottage or dwelling while the operator lives in a lawful dwelling or cottage on the same property. 3. Nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the Mayne Island Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time. This means that persons who have two lawful dwelling places on one lot and who live in one dwelling while the other is used as an STVR will be exempt from enforcement if they advertise. Staff recommends that the other factors continue to apply because STVR operations that have third party management, have more than one location on Mayne Island, or use more than one dwelling or cottage or permit camping are essentially operating as a resort or motel. The safety and nuisance triggers for enforcement protect the renters, the operators, and the neighbourhoods. It also reduces the Islands Trusts' liability.

No	Meeting Date	Resolution No.	Issue	Policy and Description
3.	May 2, 2011	MA-LTC-44-11	Options for adopting In Camera Minutes	It was Moved and Seconded that Mayne Island Local Trust Committee direct staff to only include in-camera minutes on agendas where there are other reasons to close the meeting to the public .
4.	February 1, 2012		Special Occasion Liquor License referrals	That where a Liquor Control and Licensing Branch Special Occasion License referral relates to a property where Mayne Island Land Use Bylaw 146, 2008 permits public assembly uses, such as halls, recreation facilities or restaurants, and where it can be determined that the organization or applicant have had no issues related to parking or past complaints for the preceding three years, staff may approve the Special Occasion License without referral to the Local Trust Committee. All other Special Occasion License referrals are to be referred to the Local Trust Committee for consideration.
5.	July 25, 2012	MA-LTC-34-12 x-ref #2 above	STVR Bylaw enforcement policy	That Mayne Island Local Trust Committee resolves to extend the current Short Term Vacation Rental bylaw enforcement policy, as written in Staff Report dated June 26, 2012 until the project to review use of second dwellings for Short Term Vacation Rentals is complete.

GUIDELINES FOR MAYNE ISLAND LTC TO USE WHEN CONSIDERING FUNDING FOR REPORTS

**Adopted by Resolution MA-LTC-70-07 at the regular meeting of
October 1, 2007.**

ISSUE: What guidelines should an LTC employ when purchasing a report for LTC and public use?

BACKGROUND:

Islands Trust financial policy provides that an LTC cannot sponsor an event, even a community non-profit venture. LTC's can, however, purchase goods and services which are of benefit to the LTC and, by extension, the community it serves. Therefore, LTC's have supported worthwhile conferences, workshops and the like by purchasing a report on conference issues, proceedings, findings and recommendations.

In order that LTC's receive value for their purchases, the Mayne Island LTC has raised the issue outlined above. It has asked that guidelines be considered for use in evaluating future opportunities to purchase reports on a wide variety of subjects related to LTC mandates.

CONSIDERATIONS:

There are a number of factors or considerations an LTC might need to entertain. These considerations are cited below in an order which range from "fundamental" to "consequential".

1. Does the LTC have the budgetary capacity to consider the opportunity to purchase a conference report or proceeding?
2. Is the subject matter germane to the work and/or mandate of the LTC?
3. If the answers to 1 and 2 above are in the affirmative, the LTC may wish to consider requirements for the report they agree to purchase.

GUIDELINES

If the LTC decides to purchase a conference report or proceedings, it may require that reporting guidelines below be met as a condition of purchase.

These guidelines are:

1. The full proceedings of the conference or workshop are preferred.
2. If full proceedings are not produced or available the report to the LTC should include:
 - (a) The agenda of the conference or workshop
 - (b) A list of presenters and the topics they represented
 - (c) A summary of each topic discussed
 - (d) A copy of all papers presented at the conference
 - (e) A list of all recommendations made by the conference (if not cited in the papers or summary of each topic)
 - (f) A summary of any follow-up actions identified by the conference
 - (g) A copy of any contact list or referral resources generated by the conference,.
3. If only a narrative report is produced, the narrative should include or address the information sought in (a) to (g) above.

It is hoped that the guidelines above will ensure that the LTC will receive all relevant information generated by the conference or workshop.