



North Pender Island Local Trust Committee

Regular Meeting Agenda

Date: July 27, 2017
Time: 10:00 am
Location: Pender Island Community Hall
4418 Bedwell Harbour Road, North Pender Island, BC

	Pages
1. CALL TO ORDER	10:00 AM - 10:15 AM
2. APPROVAL OF AGENDA	
3. TOWN HALL AND QUESTIONS	
4. COMMUNITY INFORMATION MEETING	10:15 AM - 10:30 AM
4.1 North Pender Island Local Trust Committee Bylaw No. 213	
5. PUBLIC HEARING	10:30 AM - 11:00 AM
5.1 Recess for Public Hearing	
5.1.1 <u>North Pender Island Local Trust Committee Bylaw No. 213</u>	
5.2 Recall to Order	
6. MINUTES	11:00 AM - 11:15 AM
6.1 Local Trust Committee Minutes Dated June 28, 2017 (for Adoption)	4 - 11
6.2 Public Hearing Record Dated May 25, 2017 (for Receipt)	12 - 12
6.3 Section 26 Resolutions-without-meeting Report Dated July 2017	
6.4 Advisory Planning Commission Minutes Dated June 27, 2017 (for Receipt)	13 - 15
7. BUSINESS ARISING FROM THE MINUTES	
7.1 Follow-up Action List Dated July 2017	16 - 17
8. DELEGATIONS	11:15 AM - 11:30 AM
8.1 Freedom Mobile	

9. CORRESPONDENCE

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

none

10. APPLICATIONS AND REFERRALS

11:30 AM - 12:00 PM

- | | | |
|------|---|---------|
| 10.1 | Galiano Island Local Trust Committee Bylaws No. 262 & 263 Referral (attached)
(for response) | 18 - 20 |
| 10.2 | Saturna Island Local Trust Committee Bylaws No. 117 & 118 Referral (attached)
(for response) | 21 - 23 |
| 10.3 | NP-RZ-2017.1 (PIPRC) - Staff Memo - Bylaw 213 (attached)
(for further consideration) | 24 - 28 |
| 10.4 | NP-RZ-2016.1 (Mainroad) - Staff Report - Bylaw 202 (attached)
(for further consideration) | 29 - 43 |

11. LOCAL TRUST COMMITTEE PROJECTS

none

12. REPORTS

12:00 PM - 12:15 PM

- | | | |
|--------|--|---------|
| 12.1 | Work Program Report (attached) | |
| 12.1.1 | <u>Top Priorities Report Dated July 2017</u> | 44 - 44 |
| 12.1.2 | <u>Projects List Report Dated July 2017</u> | 45 - 47 |
| 12.2 | Applications Report Dated July 2017 (attached) | 48 - 53 |
| 12.3 | Trustee and Local Expense Report (attached) | 54 - 54 |
| 12.4 | Adopted Policies and Standing Resolutions (attached) | 55 - 55 |
| 12.5 | Local Trust Committee Webpage | |
| 12.6 | Chair's Report | |
| 12.7 | Trustee Report | |
| 12.8 | Electoral Area Director's Report
none | |
| 12.9 | Trust Fund Board Report
none | |

13. **NEW BUSINESS** 12:15 PM - 12:30 PM
- 13.1 **James Island Education Access Statutory Right of Way - Staff Report (attached)** 56 - 74
14. **UPCOMING MEETINGS**
- 14.1 **Proposed Special Meeting - August 24, 2017**
Motion to hold a Special Meeting:
That the North Pender Island Local Trust Committee hold a Special Meeting at 10:00 a.m on August 24, 2017 at the Royal Canadian Legion Hall to review waste transfer bylaws.
- 14.2 **Next Regular Meeting Scheduled for September 21, 2017, at the Community Hall, Pender Island**
15. **TOWN HALL** 12:30 PM - 12:45 AM
16. **CLOSED MEETING**
none
17. **ADJOURNMENT** 12:45 PM - 12:45 PM



DRAFT

**Local Trust Committee
Minutes Subject to Approval By
the Local Trust Committee**

**North Pender Island
Local Trust Committee
Minutes of a Regular Meeting**

Date: June 28, 2017
Location: Royal Canadian Legion
1344 MacKinnon Road, North Pender Island, BC

Members Present: George Grams, Chair
Dianne Barber, Local Trustee
Derek Masselink, Local Trustee

Staff Present: Justine Starke, Island Planner
Fiona XETXATTEN MacRaid, Senior Intergovernmental Policy Advisor
Miles Drew, Bylaw Enforcement Manager
Shannon Brayford, Recorder

Others Present: Twenty-four (24) members of the public present

1. CALL TO ORDER

At 10:00 am Chair Grams called the meeting to order. He acknowledged that the meeting was being held in the territory of the Coast Salish people. He also introduced the Local Trust Committee (LTC) and members of the staff present.

Chair Grams noted that the meeting was being audio recorded and read a written statement about the recordings.

Chair Grams remarked that he was aware that several community members in attendance at the meeting were there to address the proposed cell phone tower. He invited Planner Starke to address the issue.

Planner Starke provided an overview of the scope of the LTC in a matter such as this and also noted that the referral for this project will be discussed at the next regular meeting.

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as presented.

3. TOWN HALL AND QUESTIONS

Robert Landa asked for information about the noticing requirement for the cell phone tower.

Planner Starke and additional community members spoke to their understanding of the requirements.

Michael Sketch asked if the local government could reply to the referral with comment and recommended that the LTC respond with information from a formal analysis.

A representative of Freedom Mobile announced there will be an upcoming open house at the Legion.

Benjamin McConchie expressed concern that the Port Browning development appears to be moving forward in spite of a lack of understanding of the impact it will have on the island's water resources. He also spoke as the Commissioner for the Economic Sustainability Commission stating that he fails to see an economic benefit to the island.

Michael Sketch remarked that minutes are very sparse and Town Hall comments are very simple. He recommended that the recordings be archived in the event that full details of the meetings are required for a future matter.

Chair Grams acknowledged the comments and agreed to raise the issue of establishing a policy for archival with Trust Council.

Ann Burdett requested information about the criteria for determining which audio recordings violate the policy and are therefore not suitable for public posting.

Diane Cuthbert noted that the residents renting the property on which the cell tower is proposed have not received written notice.

4. COMMUNITY INFORMATION MEETING

None

5. PUBLIC HEARING

None

6. MINUTES

6.1 Local Trust Committee Minutes Dated May 25, 2017 (For Adoption)

Chair Grams requested that the word "Traditional" be removed from the paragraph under Item 1.

By general consent, the Local Trust Committee Meeting Minutes of May 25, 2017 were adopted as amended.

6.2 Local Trust Committee Public Hearing Record Dated May 25, 2017

None

6.3 Section 26 Resolution-Without-Meeting Report

None

6.4 Advisory Planning Commission Minutes

None

7. BUSINESS ARISING FROM THE MINUTES

7.1 Follow-up Action List Dated June 2017

Received for information

8. DELEGATIONS

8.1 M. Burandt re Proposed Cell Towers

Mr. Burandt provided an overview of the cell tower proposal, his personal interest in the matter, and his understanding of the concerns of other residents. After providing a rationale for deeming the project contrary to the interest of North Pender Island and its residents, he requested that the LTC exercise the option of creating a protocol policy for microwave towers.

9. CORRESPONDENCE

9.1 L. Henshaw – Email Dated March 9, 2017

Received for information.

9.2 M. Burandt – Letter Dated June 6, 2017

Received for information.

10. APPLICATIONS AND REFERRALS

10.1 Salt Spring Island Local Trust Committee Bylaws 487 & 496 Referral

Chair Grams provided an overview of the referral.

NP-2017-068

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee shall respond to Salt Spring Islands Local Trust Committee proposed Bylaws No. 487 and No. 497 with “interests unaffected”.

CARRIED

11. LOCAL TRUST COMMITTEE PROJECTS

11.1 Housing: Secondary Suites – Staff Report

Planner Starke provided an overview of the Staff Report noting the position of secondary suites within the larger housing project. She noted that the report outlines information from Capital Regional District (CRD) staff including current water use and the maximum load for the Magic Lake sewer and water systems. She further outlined the special consideration that may be provided for the Trincomali area.

A discussion of sewer issues in the Magic Lake Estates was held and there was general consensus that a map shall be provided with information on which parcels are served by sewer and which rely on septic systems.

A discussion was held regarding the matter including potential opportunities for CRD incentives to promote water conservation, types of permits to be considered, the impact of secondary suites currently being rented in-spite of legislation, and related stake holder groups.

NP-2017-069

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee directs staff to schedule a community information meeting as a special business meeting to consult the community on secondary suites.

CARRIED

NP-2017-070

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee directs staff to schedule work with Capital Regional District on incentives for water conservation to supplement the secondary suites land use planning project.

CARRIED

12. REPORTS

12.1 Work Program Report (attached)

12.1.1 Top Priorities Report Dated June 2017

Trustee Barber requested information on when the Waste Transfer Project will be addressed.

Planner Starke reported that she anticipates a meeting to be held in August.

Trustee Masselink requested information on the Southern Gulf Islands Housing Needs Assessment

Planner Starke reported that a consultant has been hired and provided an overview of the work completed to date.

12.1.2 Projects List Report Dated June 2017

Received for information.

12.2 Applications Report Dated June 2017 (attached)

Received for information.

12.3 Trustee and Local Expense Report

Received for information.

12.4 Adopted Policies and Standing Resolutions (attached)

Received for information.

12.5 Local Trust Committee Webpage

Trustee Masselink requested that staff consider improving accessibility to audio recordings and also including annotation for those recordings that have not been posted.

12.6 Chair's Report

Chair Grams reported that

- Trust Council has delegated to the Executive Council the review of the *Islands Trust Act* and the Islands Trust Policy Statement.
- He attended a meeting with Member of the Legislative Assembly (MLA) Adam Olsen regarding the possible incorporation of Salt Spring Island and review of the *Islands Trust Act*.

12.7 Trustee Report

Trustee Barber reported attending Trust Council and noted that Stewardship Awards were decided, but that Pender Island was not included.

She also reported that the Well Workshop will be held in July and other islands have reported good attendance.

Trustee Masselink reported working with Senior Intergovernmental Policy Advisor (SIPA) MacRaid on James Island Education access. He also reported on his work as the Trust Council Representative to the National Parks Advisory Board. He noted that inclusion of First Nations participation is a primary focus for the Board at this time.

12.8 Trust Fund Board Report

None

13. NEW BUSINESS

13.1 Trust Area's Services Well and Groundwater Workshops – Staff Memo & Poster

Planner Starke provided an overview of the workshop and encouraged the community to attend.

13.2 Bylaw Enforcement re: Short Term Vacation Rental (STVR) Enforcement – Staff Report

Bylaw Enforcement Manager (BEM) Drew provided an overview of the STVR policy and the impact on bylaw enforcement. He noted that the LTC has an existing standing resolution with direction to bylaw enforcement for managing short term vacation rentals. He also outlined recommendations for a revised approach in the context of Bylaws 203 and 204 which now regulate short term vacation rentals.

NP-2017-071

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee rescinds Standing Resolution NP-LTC-82-06 made on May 25, 2006 entitled Enforcement Policy – STVR.

CARRIED

13.3 James Island Right of Way re: Educational Access – Staff Memo

Senior Intergovernmental Policy Advisor (SIPA) MacRaid provided an overview of the memo including a history of the issue and the relevance of Douglas Treaty Rights. She noted that the Nature Conservancy of Canada and Islands Trust are working together to create a process for online applications.

A discussion was held regarding the LTC's role in the process moving forward.

14. UPCOMING MEETINGS

14.1 Next Regular Meeting Scheduled for July 27, 2017, at 10:00 am at the Pender Community Hall, Pender Island

For information.

15. TOWN HALL

Michael Sketch addressed the James Island covenant asking for information regarding the covenants and the cash in lieu of parkland dedication promised at the time of subdivision.

SIPA MacRaild provided clarification and also noted that First Nation's relationships are part of a changing landscape.

Tracy Jones noted that there is a number restriction on camping at Port Browning imposed by the Royal Canadian Mounted Police.

BEM Drew remarked that there are land use regulations for camping and recommended that she contact the office for specific details.

Tracy Jones expressed concern for protecting historical sites and information regarding Heritage Status Protection.

Planner Starke provided an overview of the Provincial mandate and the advocacy role that the LTC can have. She noted that this would require direction from the LTC to create a new project.

Tracy Jones requested that name plates be posted in front of the LTC and staff at meetings.

David Williams addressed Salt Spring Island's possible incorporation and the impact it may have on their participation in the Islands Trust.

Ann Burdett requested information on the policy for redacting letters before they are published. She noted that there have been multiple incidents in which repetitive untrue statements have been made in letters regarding her applications.

Planner Starke provided an overview of the policy and the staff member responsibilities involved.

Michael Sketch addressed the non-farm use application and the inclusion of soil on Agricultural Land Reserve land.

16. CLOSED MEETING (Distributed Under Separate Cover)

None

17. ADJOURNMENT

By general consent, the meeting was adjourned at 11:45 am.

George Grams, Chair

Certified Correct:

Shannon Brayford, Recorder



DRAFT

**Public Hearing
Record Subject to Approval
By the Local Trust Committee**

**North Pender Island Local Trust Committee
Record of a Public Hearing
Proposed Bylaws No. Bylaws 206, 207, 208, 209 & 210**

Date: May 25, 2017
Location: Pender Island Community Hall
4418 Bedwell Harbour Road, North Pender Island, BC

Members Present George Grams, Chair
Dianne Barber, Local Trustee
Derek Masselink, Local Trustee

Staff Present Justine Starke, Island Planner
Shannon McConchie, Recorder

Public Present Approximately twelve (12) members of the public present.

15.1.1 North Pender Island Local Trust Committee Bylaws 206, 207, 208, 209 & 210

Chair Grams recessed the Regular Meeting at 4:59 pm to hold the Public Hearing. He read a prepared statement outlining the content, purpose, and process of the Public Hearing.

Planner Starke provided a summary of the Public Hearing notice and the agency referrals that were received.

Chair Grams made a first, second, and third request for submissions.

None were made.

Chair Grams closed the public hearing at 5:06 p.m.

I CERTIFY THAT THIS IS A FAIR AND ACCURATE SUMMARY OF THE NATURE OF REPRESENTATIONS RESPECTING THE MEETING HELD.

RECORDER

DATE

DRAFT



North Pender Island Advisory Planning Commission Minutes of a Meeting

Date: June 27, 2017
Location: Pender Island Community Hall, Lounge
Bedwell Harbour Road, North Pender Island, BC

Members Present Michael Symons, Chair
Barbara Johnstone Grimmer
Ben McConchie
Garnet Coburn
Ron Underhill
Dorothy Murdoch

Staff Present Robyn Ludwig, Recorder

Others Present Dianne Barber, North Pender Island Trustee
0 members of the public

1. CALL TO ORDER

Chair Symons called the meeting to order at 10:06 a.m.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as amended.

2.1 Election of Chair and Vice-chair

NP-APC-2017-001

It was MOVED by Ben McConchie and SECONDED by Ron Underhill that Michael Symons be nominated as Chair. The Recorder called three times for additional nominees.

CARRIED

NP-APC-2017-002

It was MOVED by Michael Symons and SECONDED by Ben McConchie that Barbara Johnstone Grimmer be nominated as Vice-chair. The Recorder called three times for additional nominees.

CARRIED

3. MINUTES OF JANUARY 4, 2017 FOR ADOPTION

By general consent the minutes were adopted as presented.

4. NORTH PENDER ISLAND LOCAL TRUST COMMITTEE REFERRAL NP-RZ-2016.1

a. Applicant questions and comments

The APC had discussion on the following issues:

- Purposes of referring this matter to the APC
- Rezoning applications vs. renewable Temporary Use Permits
- Zoning issues not resolved in previous OCP and LUB reviews
- Concerns about rezoning potentially evolving into other industrial uses (i.e. waste management transfer facility, hazardous materials storage)
- Possible contamination in neighbouring wells and wetlands from salt, hydro pole storage, carcasses, and previous disposal of derelict vehicles
- Inspection and enforcement processes for storage of hazardous materials

b. Public questions and comments

No members of the public were present.

c. Commissioners consideration of referral

NP-APC-2017-003

It was MOVED and SECONDED,

That the APC recommends that staff modify wording in the site-specific regulations I2(a) to clarify that permitted uses will be restricted to highway maintenance and construction.

CARRIED

NP-APC-2017-004

It was MOVED and SECONDED,

That the APC recommends that the Trustees conduct comprehensive long term planning for industrial rezoning on North Pender.

CARRIED

NP-APC-2017-005

It was MOVED and SECONDED,

That the APC recommends the NP LTC consider that rezoning not include the sloped area.

CARRIED

NP-APC-2017-006

It was MOVED and SECONDED,

That the APC requests confirmation from staff that the applicant has provided an

inventory and management plan for hazardous materials and contaminants.

CARRIED

The APC also requested that staff offer hard copies of applicant documents, on request, in future.

5. ADJOURNMENT

By general consent the meeting was adjourned at 11:19 a.m.

Michael Symons, Chair

Certified Correct:

Robyn Ludwig, Recorder

Follow Up Action Report

North Pender Island

26-Jan-2017

Activity	Responsibility	Target Date	Status
Top Priority - First Nations Interests: - Staff to organize a public educational event in September focused on the archaeological findings of the canal excavation between the two islands during the summers of 1984-85-86.	Justine Starke	31-May-2017	On Going

28-Apr-2017

Activity	Responsibility	Target Date	Status
Waste Transfer - Direction to draft LUB and OCP bylaws based on staff reports recommendations.	Sharon Lloyd-deRosario Justine Starke	22-Jun-2017	On Going

25-May-2017

Activity	Responsibility	Target Date	Status
NP-RZ-2016.1 (mainroad) - Bylaw 202 given first reading (Done); direction to schedule a CIM and PH; Endorsement of ITPS checklist. Referred to Advisory Planning Commission. (Done) Refer Bylaw 202 to agencies (Done)	Sharon Lloyd-deRosario Phil Testemale	28-Jun-2017	On Going
LTC directed staff forward Bylaws 207 & 209 to the Minister for approval once receiving approval from EC. EC Approved July 19, sent to Minister July 20.	Sharon Lloyd-deRosario	27-Jul-2017	Done

28-Jun-2017

Activity	Responsibility	Target Date	Status
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Follow Up Action Report

Minutes of May 25, 2017 amended on page 1 to remove	Lori Foster	13-Jul-2017	Done
Secondary suites - direct staff to schedule CIM for September and also work with CRD on a parallel water conservation program.	Justine Starke Lori Foster	12-Jul-2017	On Going
Bylaw enforcement of STVRs. Rescind standing resolution and revert to standard Trust Council enforcement strategy.	Miles Drew Warren Dingman	28-Jun-2017	On Going



Islands Trust

BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street
Victoria, B.C. BC V8R 1H8
Ph: (250) 405-5151
Fax: (250) 405-5155
information@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: Galiano Island Local Trust Area Bylaws No.: 262 & 263 Date: June 26, 2017

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:

Galiano Conservancy Association – 2540 Sturdies Bay Road, Galiano Island V0N 1P0

PURPOSE OF BYLAW:

The purpose and intent of Proposed Bylaw Nos. 262 and 263 is to make the changes necessary to the Galiano Island Official Community Plan and Land Use Bylaws to allow the development of a facility whose purpose is to deliver programs and experiences focussed upon environmental education and nature protection. Some of these goals have been achieved through the use of Temporary Use Permits. Approval of the bylaws will allow for the development and implementation of the facilities and infrastructure necessary to realize the Conservancy's 2013 Galiano Learning Centre Management Plan.

GENERAL LOCATION:

Galiano Island Local Trust Area

LEGAL DESCRIPTION:

District Lot 57, Galiano Island, Cowichan District

SIZE OF PROPERTY AFFECTED:

76 Ha

ALR STATUS:

13.06 ha

OFFICIAL COMMUNITY PLAN DESIGNATION:

Rural and Agriculture

OTHER INFORMATION:

Additional information, including the current bylaws, staff reports and background documents is available at:
<http://www.islandstrust.bc.ca/islands/local-trust-areas/galiano/current-applications/current-application-documents/>.
See "Current Applications, GL-RZ-2016.2 (Galiano Conservancy)"

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: Rob Milne

Title: Island Planner

Contact Info: Tel: 250-405-5177
Email: rmilne@islandstrust.bc.ca

PLEASE TURN OVER

This referral has been sent to the following agencies:

Provincial Agencies

Agricultural Land Commission
BC Assessment Authority
Ministry of Agriculture – Regional Agrologist
Ministry of Community, Sport and Cultural Development
Ministry of Transportation & Infrastructure

First Nations

Cowichan Tribes
Halalt First Nation
Lake Cowichan First Nation
Lyackson First Nation
Pauquachin First Nation
Penelakut Tribe
Semiahmoo First Nation
Stz'uminus First Nation
Tsartlip First Nation
Tsawwassen First Nation
Tsawout First Nation

Non-Agency Referrals

Galiano Island Parks and Recreation Commission

Regional Agencies

Capital Regional District – Electoral Area Director
Capital Regional District – Building Inspection
Capital Regional District – Environmental Resource Management
Island Health
North Galiano Island Fire Rescue

Adjacent Local Trust Committees and Municipalities

North Pender Island Local Trust Committee
Mayne Island Local Trust Committee
Salt Spring Island Local Trust Committee
Thetis Island Local Trust Committee

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

Galiano Island Local Trust Area

(Island)

262 & 263

(Bylaw Number(s))

(Signature)

(Name and Title)

(Date)

(Agency)



Islands Trust

BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street
Victoria, B.C. BC V8R 1H8
Ph: (250) 405-5151
Fax: (250) 405-5155
information@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: Saturna Island Local Trust Area Bylaw No.: 117(OCP) & 118(LUB) Date: July 4, 2017

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:

Nepenthe Holdings Ltd. and Money Family Projects Ltd.

PURPOSE OF BYLAW:

Proposed Bylaw 117 – the purpose of proposed bylaw 117 is to amend Saturna Island Official Community Plan Bylaw No.70, 2000 (OCP) by adding wording to the Rural OCP policies regarding subdivision capacity to allow for lots to be created below the minimum size stipulated in the OCP in circumstances where there is a simultaneous transfer of density to a lot from another lot within the Saturna Island Local Trust Area (density transfer).

Proposed Bylaw 118 – the purpose of proposed bylaw 118 is to amend Saturna Island Land Use Bylaw No. 78, 2002 (LUB) to allow for the transfer of subdivision density from one lot (donor lot) to another lot (receiver lot). This is being done in order to allow the receiving lot, which presently has three dwellings sited on it, to be subdivided into three lots. There is only one receiver lot and one donor lot that are subject to this bylaw amendment.

Staff reports are available on the Saturna Island webpage: www.islandstrust.bc.ca

GENERAL LOCATION:

Saturna Island Local Trust Area

LEGAL DESCRIPTION:

SIZE OF PROPERTY AFFECTED:

Nepenthe Lot - 3.6 ha
Money Family Projects Lot - 10.6 ha.

ALR STATUS:

N/A

OFFICIAL COMMUNITY PLAN DESIGNATION:

Rural

OTHER INFORMATION:

Additional information, including the current bylaws, is available at: www.islandstrust.bc.ca

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.

Name: Gary Richardson

(Signature)

Title: Island Planner
Contact Info: Tel: 250-405-5157
Email: grichardson@islandstrust.bc.ca

PLEASE TURN OVER

This referral has been sent to the following agencies:

Federal Agencies

none

Provincial Agencies

Ministry of Transportation & Infrastructure

Non-Agency Referrals

none

Regional Agencies

Capital Regional District – Building Inspection

Capital Regional District – Lyall Harbour/Boot Cove Water District

Adjacent Local Trust Committees and Municipalities

North Pender Island Local Trust Committee

Mayne Island Local Trust Committee

South Pender Island Local Trust Committee

First Nations

Cowichan Tribes

Halalt First Nation

Lake Cowichan First Nation

Lyackson First Nation

Malahat First Nation - TE'Mexs Treaty Association

Pauquachin First Nation

Penelakut Tribe

Semiahmoo First Nation

Stz'uminus First Nation

Tsartlip First Nation

Tsawout First Nation

Tsawwassen First Nation

Tseycum 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

Saturna Island Local Trust Area

(Island)

117 & 118

(Bylaw Number)

(Signature)

(Name and Title)

(Date)

(Agency)



File No.: NP-RZ-2017.1 (PIPRC)

Bylaw No. 213

DATE OF MEETING: July 27, 2017

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale, A/Planner 2
Victoria Office

SUBJECT: Post Public Hearing Report – Pender Island Parks and Recreation Commission

Applicant: Pender Island Parks and Recreation Commission (PIPRC/CRD)

RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 213, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 2, 2017”, be read a second time.
2. That the North Pender Island Local Trust Committee Bylaw No. 213, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 2, 2017”, be read a third time.
3. That the North Pender Island Local Trust Committee proposed Bylaw No. 213 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.

REPORT SUMMARY

The purpose of this report is to present Bylaw 213 for consideration of Second and Third Reading and referral to the Executive Committee of Islands Trust. The objective of the bylaw is as follows:

- Allow for the construction of a *picnic shelter* at Thieves Bay Park in the immediate term, and at other community parks in the future.

Specifically the **Bylaw 213** proposes to amend the **Community Park 1 (CP1)** and **Community Park 2 (CP2)** Zones as follows:

- insert ‘*picnic shelters*’ as an allowable use and structure;
- establish **Setbacks** for buildings and structures; and
- establish **Height** restrictions for buildings and structures.

The proposal is responding to a community need and will enhance the public enjoyment of park facilities. The proposed bylaw amendment is compatible with other uses in the two zones, as well as the overall intent of the zoning. Furthermore setback and height provisions will limit impacts to neighbouring properties and as well as adding certainty.

As an appointed and accountable local government body, the PIPRC undertook a consultation process that included door to door canvassing, consultation at a public event and canvassing public comments in the local newspaper. They responded to some neighbour concerns by reducing the proposed size of the picnic shelter in Thieves Bay.

BACKGROUND

The Local Trust Committee is considering a bylaw to allow picnic shelters, and introduce siting and height restrictions for buildings and structures in community parks. A public hearing is scheduled for July 27, 2017. A public hearing is a quasi-judicial process within and following which specific procedures must be followed.

Following the hearing, the LTC may choose to give further readings to a bylaw, defeat a bylaw, or alter a bylaw within certain parameters. The procedural steps following the close of the hearing are as follows:

1. Consideration of Second Reading (this may include amendments to alter a bylaw).
2. Consideration of Third Reading.
3. Forwarding of the bylaw to Executive Committee for approval.
4. Reconsideration and adoption.

Following the close of the hearing, the LTC may not hear further submissions without holding a new hearing. The principle is that if new information is considered by the LTC, all other interested parties also need to have the opportunity to consider any new relevant material and to make further representations to the LTC. The courts have clarified that this does not open the door to endless public hearings: a local government body can legitimately decide that after a hearing it wishes to hear further from staff on issues raised at the hearing.

A bylaw may be altered after the hearing, based on information received or heard by the LTC at any point prior to the close of the hearing, provided that the amendments do not alter use or increase density, or decrease density without a landowner's consent.

If the Executive Committee approves the bylaw, the next step for the LTC would be to adopt the bylaw.

Rationale for Recommendation:

The proposed use is consistent with the overall intent of the zones, and other uses permitted by them. The applicant has undertaken a process of consultation with the local community, and agency referral has been concluded with no objections to the Bylaw. The recommendations on page 1 will allow the Bylaw to proceed to Executive Committee for their approval prior to final consideration by the LTC.

ALTERNATIVES

1. Make amendments to the bylaw(s)

The LTC may amend the bylaw(s) provided the amendments would not alter use or increase density

Resolution:

That the North Pender Island Local Trust Committee Bylaw No. 213, cited as "North Pender Island Land Use Bylaw 103, 1996, Amendment No. 2, 2017", be amended as follows...

2. Proceed no further

The LTC may decide to proceed no further with Bylaw 213.

Resolution:

That the North Pender Island Local Trust Committee proceed no further with Bylaw 213.

NEXT STEPS

1. Refer bylaw 213 to the Executive Committee of Islands Trust.

Submitted By:	Phil Testemale, A/Planner 2	July 12, 2017
Concurrence:	Robert Kojima, Regional Planning Manager	July 13, 2017

ATTACHMENTS

1. Bylaw No. 213 (1st Reading)

PROPOSED

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 213

A BYLAW TO AMEND NORTH PENDER ISLAND LAND USE BYLAW 103, 1996

The North Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the North Pender Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “North Pender Island Land Use Bylaw, 103, 1996, Amendment No. 2, 2017”.

2. North Pender Island Local Trust Committee Bylaw No. 103, cited as “North Pender Island Land Use Bylaw 103, 1996,” is amended as follows:

2.1 Article 8.16.2 (2) is amended by inserting a comma and the words “picnic shelter”, after “tables” and before “and”.

2.2 Section 8.16 is amended by adding the following two (2) new subsections 8.16.4 and 8.16.5:

8.16.4 Setbacks

(1) No building or structure, with the exception of playing field fences and picnic tables, may be located:

- (a) within 7.6 metres of any front or rear lot line; or
- (b) within 3 metres of any interior side lot line, nor within 4.5 metres of any exterior side lot line.

8.16.5 Height and Size of Buildings

(1) No building or structure, with the exception of playing field fences, may exceed 6.0 metres in height.

2.3 Article 8.17.2 (2) is amended by inserting a comma and the words “picnic shelter”, after “tables” and before “and”.

2.4 Section 8.17 is amended by adding the following two (2) new subsections 8.17.4 and 8.17.5:

8.17.4 Setbacks

(1) No building or structure, with the exception of playing field fences and picnic tables, may be located:

- (c) within 7.6 metres of any front or rear lot line; or
- (d) within 3 metres of any interior side lot line, nor within 4.5 metres of any exterior side lot line.

8.17.5 Height and Size of Buildings

- (1) No building or structure, with the exception of playing field fences and buildings and structures accessory to sports events, may exceed 6.0 metres in height.

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 27th DAY OF APRIL 2017

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20____

READ A SECOND TIME 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____

ADOPTED THIS _____ DAY OF _____ 20____

Chair

Secretary

File No.: NP-RZ-2016.1 (Mainroad)

(x-ref.: Bylaw No. 202)

DATE OF MEETING: July 27, 2017

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale A/Planner 2
Southern Team

COPY: Justine Starke, Island Planner

SUBJECT: Rezoning Application

Applicant: David Turenne for Mainroad Properties (Gulf Islands) Ltd. Inc. No. 0704096

Location: 3323 Port Washington Road, Pender Island

RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 202, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2016”, be amended as specified in Attachment 1.
2. That the North Pender Island Local Trust Committee Bylaw No. 202, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2016”, be read a second time as amended.

REPORT SUMMARY

The purpose of the report is to seek a resolution for proposed amendments to Bylaw No. 202; to provide a staff response to Advisory Planning Commission minutes; and, to update the LTC on the referral of the bylaw to agencies.

BACKGROUND

Background to this application including two previous staff reports is available on the Islands Trust website:

<http://www.islandstrust.bc.ca/islands/local-trust-areas/north-pender/current-applications/>

The subject properties are commonly known as the highways works yard on Port Washington Road. The use on the properties has continued since the 1950's with the current owners, Mainroad Properties, taking ownership in 2006. The proposed rezoning will affect the current area of industrial use on the property. Lot 8 is currently zoned **Rural (R)** and Lot 9 is split-zoned **Rural (R)** and **Industrial 2(a)** in the North Pender Island Land Use Bylaw No. 103, 1996 (LUB – Attachment 2.4).

The owner is applying to rezone the areas of properties to correspond with the **Industrial (I)** and **Rural (R)** designations in the North Pender Island Official Community Plan No. 171, 2007. The proposed zoning boundary would deviate slightly from the OCP land use boundary to follow the north perimeter of **Development Permit Area (DPA) One – Woodland Ecosystem** in order to maintain the DPA in the **Rural (R)** zone (Figure Two).

In summary, staff is recommending:

1. Consideration of amendments to Draft Bylaw No. 202.
2. Consideration of Second Reading of Draft Bylaw No. 202 as amended (Attachment 1);

At its May 25, 2017 regular meeting, the LTC passed the following resolutions:

NP-2017-055

It was MOVED and SECONDED,

that the North Pender Island Local Trust Committee Bylaw No. 202, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No.1, 2016”, be read a first time.

CARRIED

NP-2017-056

It was MOVED and SECONDED,

that the North Pender Island Local Trust Committee direct staff to schedule a public hearing and community information meeting for Bylaw No.202, cited as “North Pender Island Land Use Bylaw 103,1996, Amendment No. 1, 2016.”

CARRIED

NP-2017-057

It was MOVED and SECONDED,

that the North Pender Island Local Trust Committee endorse the Islands Trust Policy Statement Directive Policies Checklist for proposed Draft Bylaw No. 202.

CARRIED

NP-2017-058

It was MOVED and SECONDED,

that the North Pender Island Local Trust Committee refer NP-RZ-2016.1 (Mainroad) to the North Pender Island Advisory Planning Commission for review and comment.

CARRIED

All professional reports and relevant information have been posted to the current applications website:

<http://www.islandstrust.bc.ca/islands/local-trust-areas/north-pender/current-applications/>

The APC met on June 27, 2017. The minutes of that meeting have been forwarded to the LTC. The APC passed numerous resolutions that are addressed in the ‘Issues and Opportunities’ section (below).

Further, these properties are included in the LTC initiated OCP amendments and rezoning for waste management (Bylaws 214 and 215) that are proceeding independently.

Staff has visited the site numerous times since 2016.

Figure 1. Subject Property

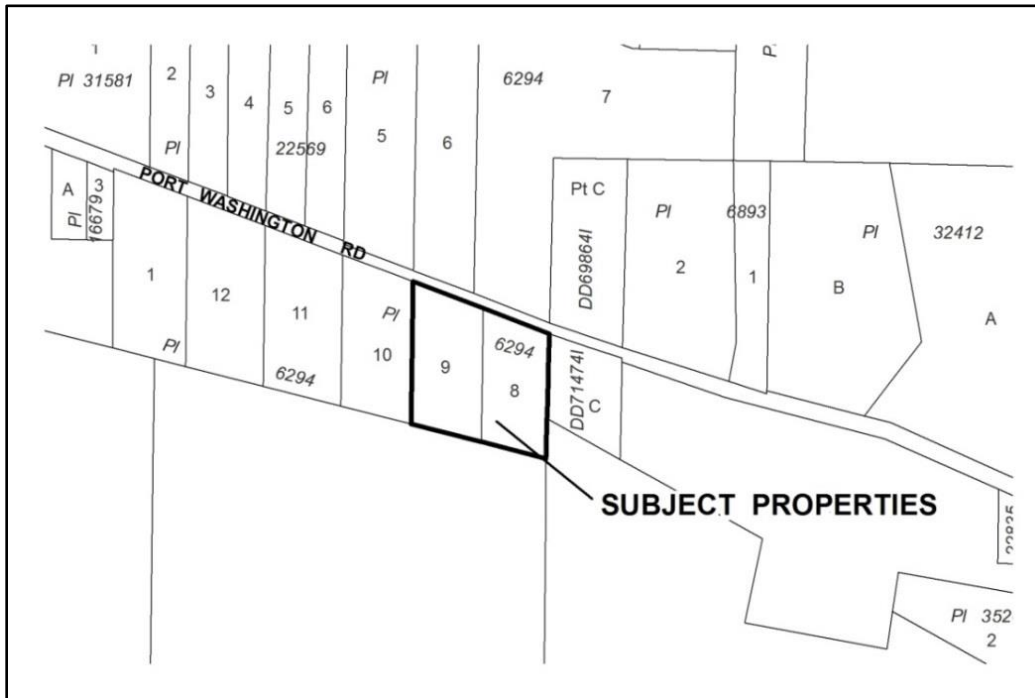


Figure 2. Proposed Zoning

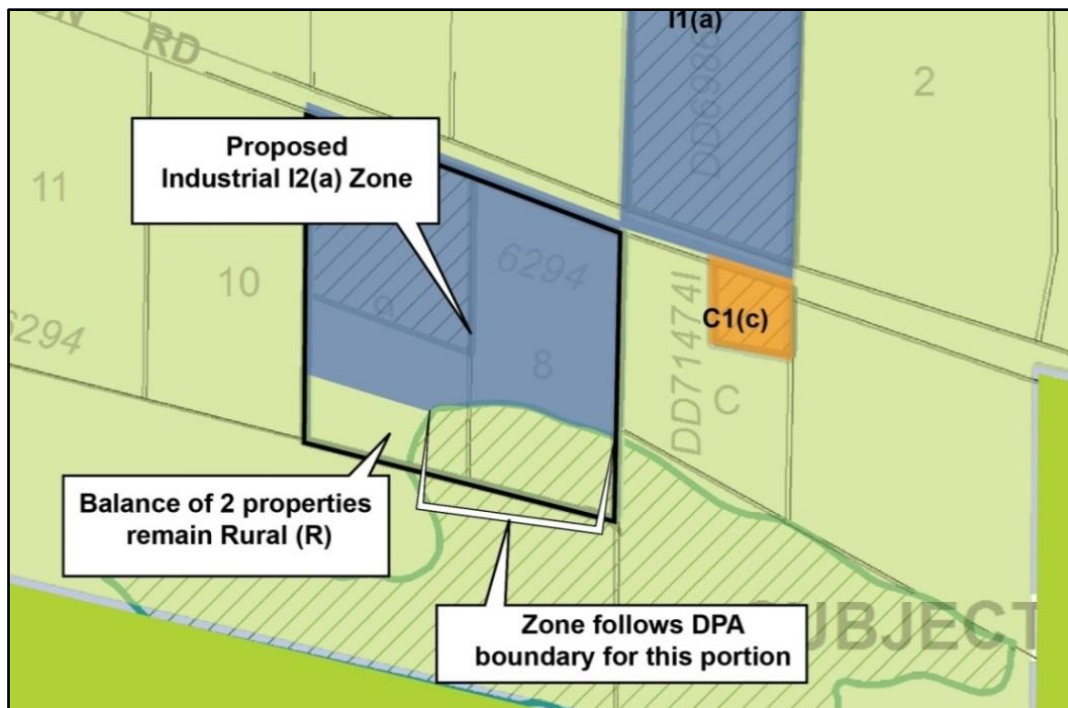
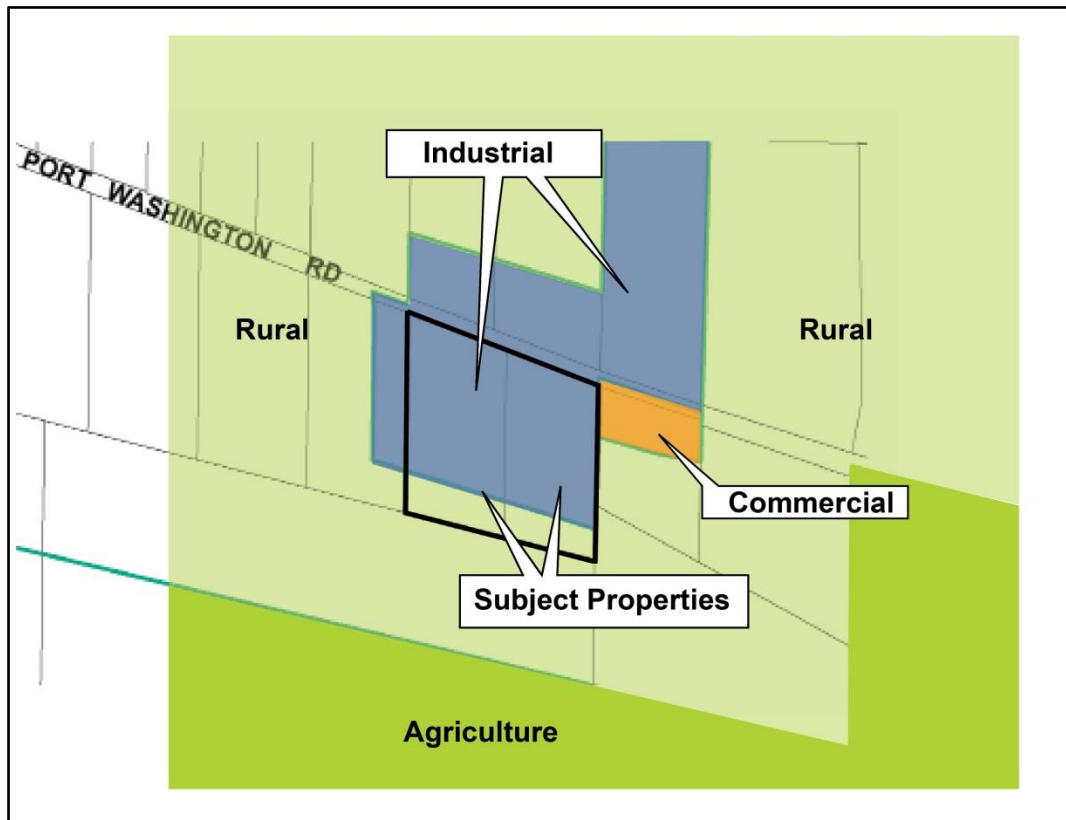


Figure 3. OCP Designations



ANALYSIS

Policy/Regulatory

Islands Trust Policy Statement:

The Islands Trust Policy Statement Directive Policies Checklist was endorsed by resolution at the May 25, 2017 LTC regular meeting (see above).

Official Community Plan:

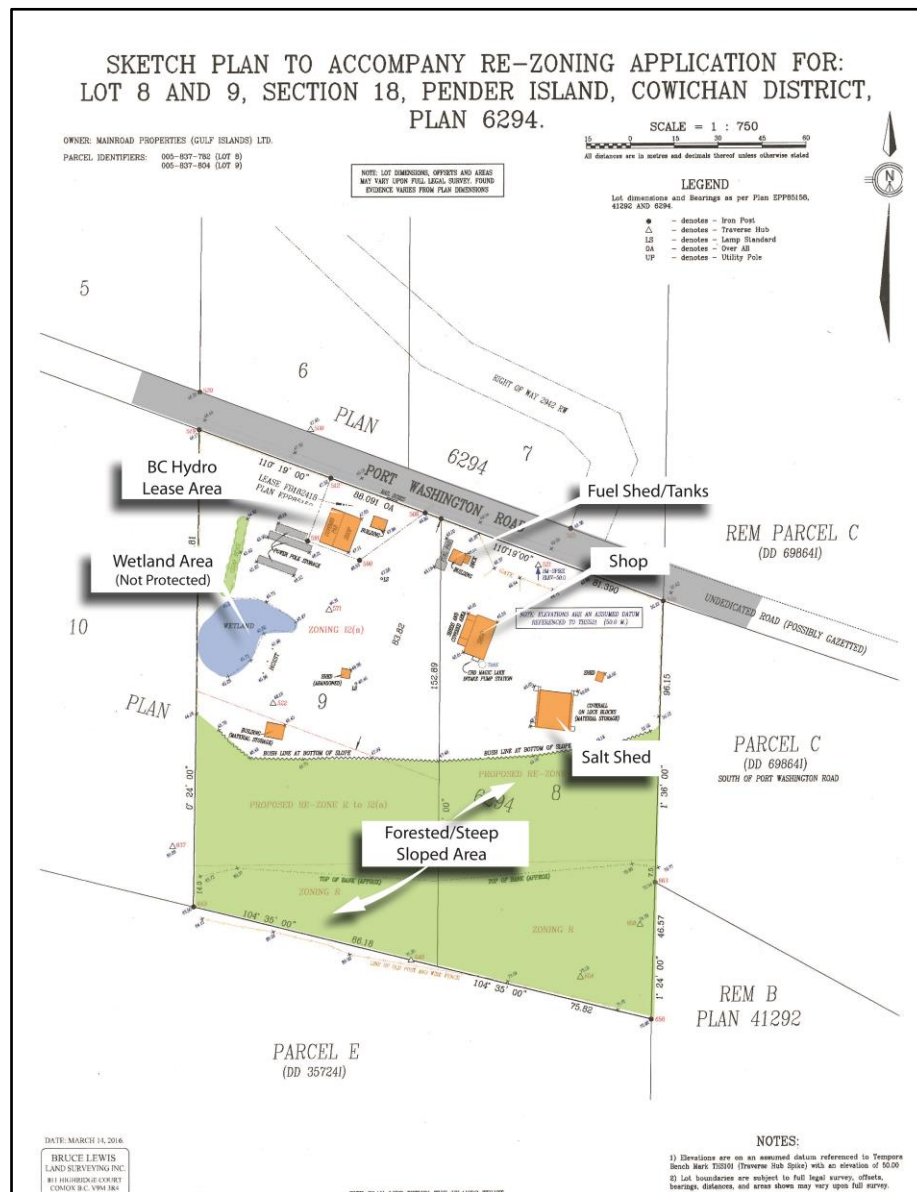
Policies in the Official Community Plan (OCP) were reviewed in previous staff reports. The proposal is consistent with the objectives and policies of the Industrial Lands section of the OCP.

Amending Bylaw No. 202:

Lot 9 is currently “split-zoned” **Industrial I2 (a)** and **Rural (R)** in the North Pender Island Local Trust Committee Land Use Bylaw No. 103, 1996; and, Lot 8 is entirely zoned as **Rural (R)** (Attachment 2.4).

Amendments to the site specific allowable uses in the **Industrial 2 (a)** are further discussed in the following ‘Issues’ section.

Figure 3. Site Plan



Issues and Opportunities

Amendment for Hydro Uses and to facilitate Waste Transfer

A submission from a member of the general public made the recommendation that the proposed bylaw be amended to include specifics on the subsidiary use by BC Hydro of a portion of Lot 9. The change would acknowledge a current use of the property that includes the storage of treated wood utility poles (Hydro poles) and other materials by BC Hydro who lease a portion of Lot 9 (Figure 3).

Accordingly, staff is recommending (page 1 and Attachment 1) that the bylaw be amended by deleting the current 'Site Specific Regulations' (Column 3) entirely and replacing it as shown in following:

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Site-Specific Zone Reference	Legal Description	Site Specific Regulations
I2(a)	Portions of Lot 8 & 9, Plan 6294, Section 18	Despite 8.9.2(1), the only uses permitted in this location are: (i) the storage and processing of materials, including dangerous or hazardous materials, supplies and equipment used for, or generated from, the construction, maintenance and repair of highways; (ii) the storage of materials, including dangerous or hazardous materials, supplies and equipment used for telecommunications networks and the supply of electricity; and (iii) the servicing and repairing of goods, materials and equipment; and the processing, crushing and storage of gravel.

For comparison, the current draft of Subsection 8.9.8 of the Bylaw 202 is as follows:

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Site-Specific Zone Reference	Legal Description	Site Specific Regulations
I2(a)	Portions of Lot 8 & 9, Plan 6294, Section 18	Despite 8.9.2(1), the only uses permitted in this location are the storage and processing of materials, supplies and equipment used for, or generated from, the construction, maintenance and repair of highways, the storage of dangerous or hazardous materials, servicing and repairing of goods, materials and equipment, and the processing, crushing and storage of gravel

It is noted, that the above change in formatting will facilitate the amendments to the I2(a) zone with Bylaw 214, by allowing the waste transfer use to be inserted as item (iv) in Column 3. In addition, the format adds clarity to the list of allowable uses.

APC Referral

As stated above, the LTC passed a resolution to refer the proposal to the Advisory Planning Commission (APC). The APC met on June 27, 2017. The draft minutes of the meeting indicate numerous resolutions requesting or warranting a staff response. The resolutions are addressed in turn as follows:

NP-APC-2017-003

It was MOVED and SECONDED,

That the APC recommends that staff modify wording in the site-specific regulations I2(a) to clarify that permitted uses will be restricted to highway maintenance and construction.

CARRIED

It is assumed that the APC was intending to request only uses related to highway construction and maintenance be permitted on the property. This would be problematic from the perspective of existing lease arrangements (particularly with BC Hydro) and the proposed rezoning for waste management. The proposed amendments (above) clarify the allowable uses which, with the current draft, could potentially be interpreted as allowing a broader set of uses than intended.

NP-APC-2017-004

It was MOVED and SECONDED,

That the APC recommends that the Trustees conduct comprehensive long term planning for industrial rezoning on North Pender.

CARRIED

This proposal is relevant to the LTC's Work Program.

NP-APC-2017-005

It was MOVED and SECONDED,

That the APC recommends the NP LTC consider that rezoning not include the sloped area.

CARRIED

The proposed zone boundary follows the OCP land use designation boundary, with the exception of the areas of **DPA One - Woodland Sensitive Ecosystem on Lot 8** (see Figure 2 and 3). Although zoning boundaries do not typically follow geographic features, when determining the recommended zoning boundary in this case, adjustments were made to ensure that the upland DPA would remain in the **Rural (R)** zone. This will better protect the sensitive ecosystem from any industrial development.

The majority of the sloped area that is within the proposed zoning boundary is classified as 'Low Slope Stability Hazard' with the exception of some areas of medium hazard at, or close to, the top of bank (See Attachment 2).

Staff is not recommending that the zone boundary be further amended as this would significantly limit the useable area of the property based on the assumption that only flat areas of the property are suitable for the allowable uses. The latter premise is not justified, particularly as it is not supported by evidence of a geotechnical hazard for the area. In addition, the amendment would be inconsistent with the OCP designation.

NP-APC-2017-006

It was MOVED and SECONDED,

That the APC requests confirmation from staff that the applicant has provided an inventory and management plan for hazardous materials and contaminants.

Professional background reporting has been provided by the applicant through Development Approval Information (DAI) requirements. Those documents, including a baseline site profile and best management practices, have been posted online as received. It is noted that the owner has obligations under provincial regulations for the storage and handling of hazardous materials.

Consultation

Statutory Requirements

The LTC passed a resolution ('Background' above) giving staff direction to schedule a Community Information Meeting (CIM) and public hearing for the same meeting. As staff is proposing amendments for Bylaw 202 that require consideration by the LTC, and given the lack of an August regular meeting, staff will schedule the CIM and hearing for the September 21, 2017 LTC meeting.

The CIM and public hearing notice will be circulated to all property owners and tenants within 100 m of the subject property and posted in the newspaper as per statutory requirements in advance of the public hearing. In addition, there will be ***non-statutory posting of the notice on-island and circulated to subscribers online.***

Agencies

Draft Bylaw No. 202 was sent to the following agencies for their review and comment:

- Ministry of Environment
- Ministry of Forest, Lands and Natural Resource Operations – Water Protection
- Ministry of Transportation and Infrastructure

- North Pender Island Advisory Planning Commission
- CRD, Building Inspection Services
- CRD, Electoral Area Director
- Island Health
- North Pender Island Fire Rescue
- Mayne Island Local Trust Committee
- Saturna Island Local Trust Committee
- South Pender Island Local Trust Committee
- Salt Spring Island Local Trust Committee

The referral response deadline was set for July 1st, 2017. To date, the only referral response that recommended approval with conditions was received from the North Pender Island Fire Rescue (Attachment 3). That response indicated that fire suppression was an issue, particular an accessible water supply. The comments were forwarded to the applicant who has indicated that Mainroad will contact the fire chief directly. Staff will update the LTC when further information is received. In addition, deferring the hearing until September will also provide time for Mainroad to consult with the Fire Chief.

First Nations

First nations have not been identified for consultation as there is not an amendment to the OCP and no potential interest has been identified.

Rationale for Recommendation

Staff is recommending amendments to Bylaw 202 to clarify the site specific uses for the two properties and address and ensure continuity with LTC initiated waste transfer sites amending bylaws. The applicant has provided the requested information in the DAI. The uses on the property have continued historically since the 1950s, and the proposed zoning change is being initiated to bring the uses on the property into conformity with the LUB.

Alternatives

1. Request further information

The LTC may request further information be provided prior to making a decision. If selecting this alternative, the LTC should be advised to describe the specific information needed and the rationale for this request.

Recommended resolution:

That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust
_____.

2. Proceed No Further

The LTC may opt to proceed no further with the application.

Recommended resolution:

That the North Pender Island Local Trust Committee proceed no further with proposed Bylaw No. 202, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2016”

The LTC may receive the report for information

NEXT STEPS

1. Schedule a CIM and Public Hearing for September 21, 2017 LTC.

Submitted By:	Phil Testemale, A/Planner 2	July 17, 2017
Concurrence:	Robert Kojima, Regional Planning Manager	July 17, 2017

ATTACHMENTS

1. Draft Bylaw 202 – First Reading with Amendments (blackline copy)
2. Zoning Boundary with Steep Slope Mapping overlay
3. Referral Response form Charles Boyte, Fire Chief, North Pender Island Fire Rescue

PROPOSED

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 202

A BYLAW TO AMEND NORTH PENDER ISLAND LAND USE BYLAW, 1996

The North Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the North Pender Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2016”.

2. North Pender Island Local Trust Committee Bylaw No. 103, cited as “North Pender Island Land Use Bylaw 103, 1996,” is amended as follows:

2.1 Schedule “1” – Zoning Map, is amended by changing the zoning classification of portions of Lot 8 and 9, Section 18, North Pender Island, Cowichan District, Plan 6294 from Rural (R) to Industrial 2 (a) (I2 [a]), as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “1” to Bylaw No. 103, as are required to effect this change.

2.2 Section 8.9. – Industrial (I2) Zone, Subsection 8.9.8 is amended by deleting Row 1, Columns 2 and 3 in their entirety and inserting the following:

Column 1	Column 2	Column 3
Site-Specific Zone Reference	Legal Description	Site Specific Regulations
I2(a)	Portions of Lot 8 & 9, Plan 6294, Section 18	Despite 8.9.2(1), the only uses permitted in this location are: (i) the storage and processing of materials, including dangerous or hazardous materials, supplies and equipment used for, or generated from, the construction, maintenance and repair of highways; (ii) the storage of materials, including dangerous or hazardous materials, supplies and equipment used for telecommunications networks and the supply of electricity; and, (iii) the servicing and repairing of goods, materials and equipment; and the processing, crushing and storage of gravel. Despite 8.9.2(1), the only uses permitted in this location are the storage and processing of materials, supplies and equipment used for, or generated from, the construction, maintenance and repair of highways, the storage of dangerous or hazardous materials, servicing and repairing of goods, materials and equipment, and the processing, crushing and storage

		of gravel.
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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 25th DAY OF MAY 2017

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20____

READ A SECOND TIME 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____

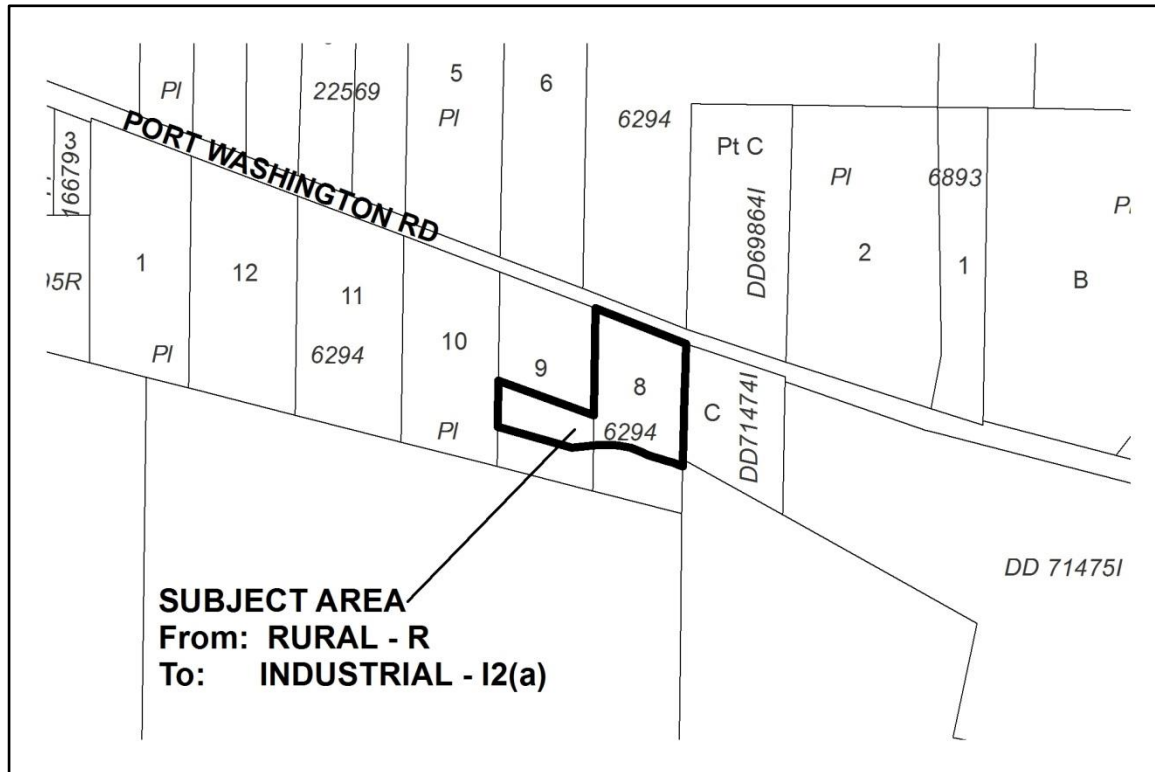
ADOPTED THIS _____ DAY OF _____ 20____

Chair

Secretary

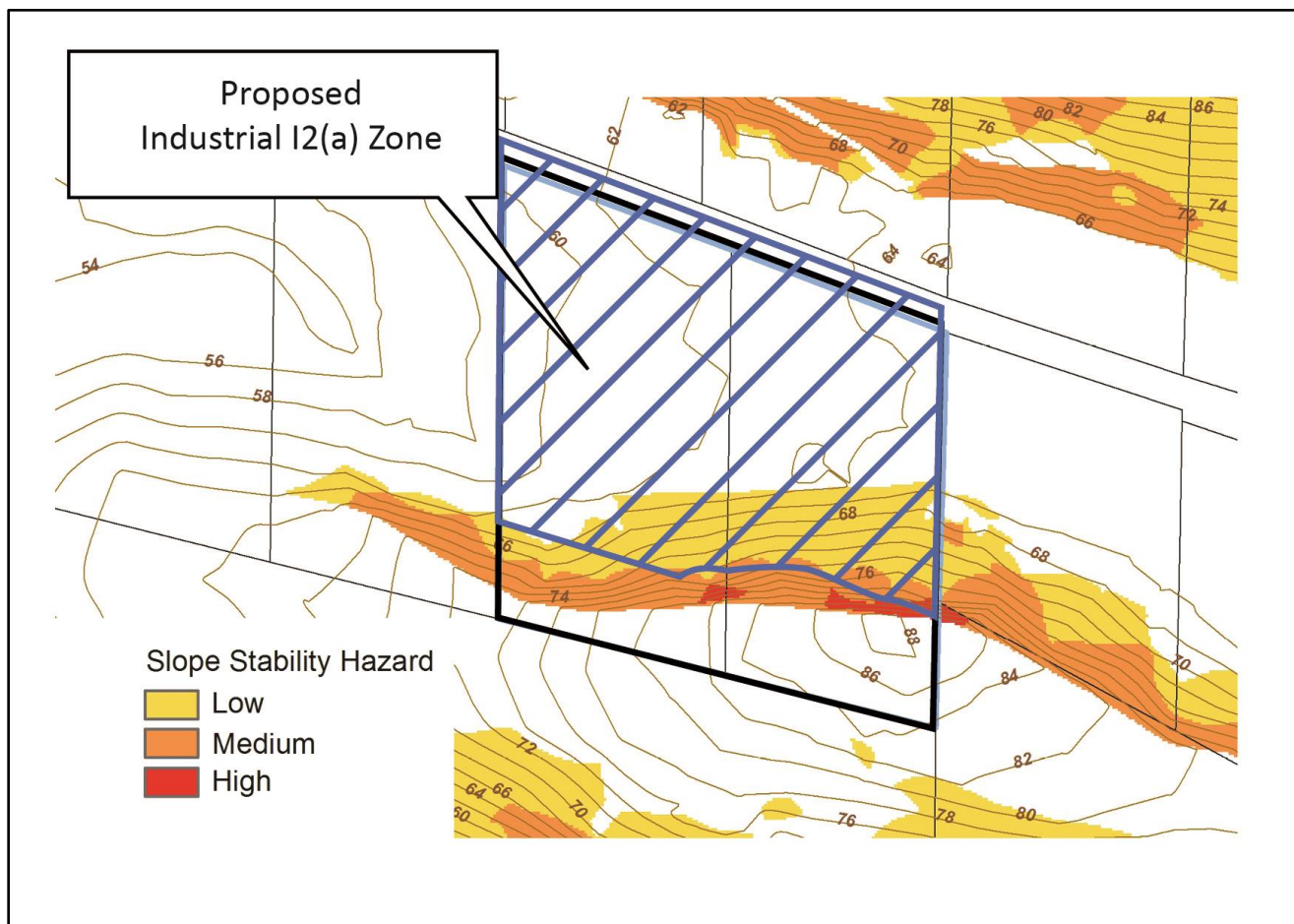
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 202

Plan No. 1



ATTACHMENT 4 – MAPS

4.1 MAP TITLE



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

There is no easily accessible water supply for fire protection within 150 meters of this site.

Development on the site over time has increased the risk of fire and fire spread on the site. This development has included structures, oil and fuel storage, oil filled transformer storage and material storage.

We recommend that approval be subject to the following condition:

- 1) That a water supply for fire protection be designed and installed in accordance with NFPA 1142, 2012 edition and standards referenced therein.

North Pender Island Local Trust Area

(Island)



(Signature)

16/06/2017

(Date)

Bylaw 202

(Bylaw Number)

Charles W Boyte, Fire Chief

(Name and Title)

Pender Island Fire Rescue

(Agency)



Top Priorities

North Pender Island

No.	Description	Activity	R/Initiated	Responsibility	Target Date
1	Land Use Planning for Waste Management	Identify land to be zoned for solid waste transfer facilities. Involves coordination with the Capital Regional District Solid Waste Management planning process.		Justine Starke	
2	Housing	This is a broad scope project focused on housing; the first priority was consideration of vacation rentals in residential zones (COMPLETED). The LTC will now consider permitting secondary suites on North Pender.	03-Feb-2015	Justine Starke	
3	First Nations Interests	LTC to consider First Nations issues and interests affecting North Pender.	24-Nov-2016		



Projects

North Pender Island

Description	Activity	R/Initiated
Potable Water		29-Oct-2015
Conservation Subdivisions	Continue exploring 2013-2014 work on conservation subdivisions. Consult with community on recommendations for LUB and OCP amendments.	03-Feb-2015
Agricultural Projects	Consider implementing agricultural initiatives identified in OCP, including an Area Farm Plan	22-Jan-2009
Other OCP projects: 1. View corridor review 2. Parks and Conservation area review 3. Pedestrian and Cycle paths - DONE 4. Groundwater protection strategy 5. Include advocacy policies for ultra vires regulations removed from the LUB (commercial airstrips, private marinas, use of personal watercraft) 6. Marine riparian areas		22-Jan-2009
Agricultural Building Watercourse Setbacks		28-Jul-2011
Geological Hazard Mapping	Continue work on proposed DPA for Hazardous Areas	22-Feb-2012

**Projects****North Pender Island**

Description	Activity	R/Initiated
LUB Amendments	·review of industrial zoning, including waste management ·tourist commercial zoning review ·home industry regulation ·review of commercial (C1) zoning ·incorporate TUP's into zoning ·landscape screening review ·review of marine zoning regulations in conjunction with overall shoreline development review ·amendments to permit renewable energy ·review of floor area calculations, applicable for cottages in support of alternative, energy efficient building designs, and review maximum floor area restriction ·height exemptions for agricultural or forestry buildings ·max floor area for principal dwellings	22-Mar-2012
Road Side Signs		26-Apr-2012
Applications after the fact	options to address situations where construction work has occurred without the required permits or approvals	28-Jun-2012
LUB/OCP Amendments Related to Roadway and Transportation Initiatives	·NZEV designation ·Level 2 Charging Stations ·Additional Car Stop Locations ·Additional Bicycling-Walking Routes ·Heritage Roads ·Road standards in subdivision servicing regulations ·Related policy and regulatory options	20-Sep-2012

Item 10.1 LUB Technical Amendments Project: Bylaw Enforcement Manager to provide a report regarding the applicability of the NPILTC Bylaw Infraction Investigations Bylaw No. 54, 1990, including recommended amendments.

Projects

North Pender Island

Description	Activity	R/Initiated
Shoreline information communications (QR Codes)	Investigate incorporating shoreline information and classification into new Gulf Islands app and using QR code for smart phones	
Climate Change Adaptation and Community Resilience	Review available baseline data and consider policy and regulatory land use changes to address climate change adaption and community resilience	22-Jan-2009



Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2017.1	LAURENCE BARRETT, CYNTHIA BARRETT Planner: Jason Youmans Planning Status	04-May-2017	7907 Trincoma Place - add carport canopy and main floor expansion away from natural boundary, plus accessory building studio / greenhouse
<u>Status Date:</u>			

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.1	LAURENCE BARRETT, CYNTHIA BARRETT Planner: Jason Youmans Planning Status	04-May-2017	7909 Trincoma Place - construct car port with storage, expanded main floor and replace shed/greenhouse with accessory building; include existing triangular deck in DVP
<u>Status Date:</u>			

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.2	DAVID G RICHARDSON EDNA M HEMSWORTH Planner: Phil Testemale Planning Status	15-May-2017	3210 ARMADALE RD - Variance for depth to width ratio for subdivision
<u>Status Date:</u> 17-Jul-2017 Waiting for PLA (x-ref NP-SUB-2017.1) prior to drafting DVP and sending notification			
<u>Status Date:</u> 19-May-2017			

**Applications**

Created file folder in LAN, scanned application package for e-file. Scanned cheque and pink copy of receipt for files (original receipt handed directly to applicant on day of submission); cheque forwarded to Finance Clerk. Package emailed to LTC and Planner, hard file forwarded to RPM per his advice.

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.3	BRAD JOHNSON	13-Jun-2017	Variance required for access stairs to lower main deck of existing pathway, stairs and dock.

Planner: Phil Testemale

Planning Status

Status Date: 17-Jul-2017

Applicant in the process of providing further information

Status Date: 26-Jun-2017

E-mail to applicant: requires revised plans and a DP application.

Status Date: 22-Jun-2017

Processing file for September, 2017 LTC agenda

Rezoning

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.1	Mainroad South Island Contracting	11-Jan-2016	3323 PORT WASHINGTON RD

To change from a TUP to permanent zoning for works yard.

Planner: Phil Testemale

Planning Status

Status Date: 17-Jul-2017

Staff Report with amendments to Bylaw 202 on July 27th agenda. CIM and PH deferred to September LTC.

Status Date: 15-Jun-2017

Bylaw 202 referred to APC and agencies. Schedule Public Hearing for September LTC.

Status Date: 15-Jun-2017

Amendment being considered for storage of off-site fill.

File Number	Applicant Name	Date Received	Purpose
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Islands Trust

Print Date: July 20, 2017

Applications

NP-RZ-2016.2 PORT BROWNING 09-May-2016 4605 OAK RD
MARINA RESORT
LTD INC.NO.
BC1037734
Planner: Phil Testemale

Planning Status

Status Date: 19-Jul-2017

Bylaws 206 through 210 approved by EC. 207 and 209 to be forwarded by PTA to Minister.

Status Date: 19-Jul-2017

Bylaw 206 Final Approval pending registration of covenants (2)

Status Date: 15-Jun-2017

Bylaws 206 through 210 to July 19 EC for approval.

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.3	MILL BAY MARINE GROUP c/o HENSHAW	20-May-2016	4602 and 4606 and 4605 Oak Road 005-636-639 Request that area zoned SD(a) passing through lots 3 and 4 be re-aligned to be adjacent to the westerly boundaries AND rezone the part of lot 3 that sits NE of Oak Rd to be C3(a).

Planner: Justine Starke

Planning Status

Status Date: 19-Jul-2017

Bylaws approved by EC. 209 to Minister for Approval

Status Date: 15-Jun-2017

Bylaws 206 through 210 to July 19 EC for approval.

Status Date: 20-Apr-2017

Report to LTC for consideration of second reading.

File Number	Applicant Name	Date Received	Purpose
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**Applications**

NP-RZ-2016.4 PENDER ISLAND 27-Oct-2016 4605 BEDWELL HARBOUR RD - OCP AND LUB Amendment from Rural to
 COMMUNITY
 SERVICE SOCIETY
 PICSS c/o RAE
Planner: Phil Testemale

Planning Status

Status Date: 17-Jul-2017

Applicant has completed a geotechnical assessment and is in the process of completing further DAI requirements.
 Anticipate 1st Reading for September agenda.

Status Date: 16-May-2017

Waiting for DAI Info prior to 1 st Reading

Status Date: 14-Feb-2017

Preliminary Staff Report on Feb 23, 2017 Agenda.

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2017.1	PENDER ISLAND PARKS AND RECREATION COMMISSION (CRD) Planner: Phil Testemale	24-Jan-2017	PIPRC - AMEND LUB TO ADD PICNIC SELTER AS A PERMITTED USE AND STRUCTURE

Planning Status

Status Date: 17-Jul-2017

CIM and PH on July 27 th agenda. Post Public Hearing report on agenda for LTC consideration of second and third reading and referral to EC

Status Date: 15-Jun-2017

CIM and PH tentative for July 27 LTC (pending outcome of PRC meeting June 16)

Status Date: 02-May-2017

Bylaw 213 referred to agencies

Subdivision

File Number	Applicant Name	Date Received	Purpose
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**Applications**

NP-SUB-2012.4

Edgewood Estates c/o 29-Nov-2012 2218 CLAM BAY RD \nTo create 11 lots including remainder
Graham Ross

Planner: Phil Testemale**Planning Status**

Status Date: 22-Jun-2017

Update meeting with applicant - todays date

Status Date: 21-Mar-2017

PLA extension requested by applicant. Staff comments sent to MOTI stating no amendments to Island Trust conditions in PLA are required.

Status Date: 29-Sep-2015

Subdivision exempt from DPAs (PLA condition no. 3)

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2016.2	PORT BROWNING MARINA RESORT	06-Jun-2016	4605 and 4602 OAK Rd Boundary adjustment

Planner: Phil Testemale**Planning Status**

Status Date: 19-Jul-2017

Bylaws approved by EC

Status Date: 19-Jul-2017

Bylaws approved by EC. 207 to Minister for Approval.

Status Date: 22-Jun-2017

Pending - rezoning NP-RZ-2016.3 - Bylaws 207 and 208

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2017.1	DAVID G RICHARDSON EDNA M HEMSWORTH	16-Mar-2017	3210 ARMADALE RD - proposed subdivision to create 2 residential parcels

Planner: Phil Testemale**Planning Status**

Status Date: 22-Jun-2017

Waiting for PLA. Required DVP Application has been submitted.

Applications

Status Date: 04-Apr-2017

Subdivision Referral Review sent to MoTI.

Status Date: 16-Mar-2017

File opened and forwarded to planner

Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2017.1	ANN HEWLETT PAUL C STEPHENSON	02-May-2017	2705 Yawl Lane - application to amend TUP to construct alternate screening

Planner: Phil Testemale

Planning Status

Status Date: 07-Jun-2017

Bylaw Enforcement site inspection

Status Date: 16-May-2017

Created file folder in LAN, scanned application package for e-file. Receipt issued, scanned (with cheque) for files; emailed scanned receipt to applicant, original mailed; cheque forwarded to Finance Clerk. Package emailed to NP LTC and Planner, hard file forwarded to Planner.

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2017.2	WILMOTT	13-Jun-2017	Hooson Road - TUP for milling lumber.

Planner: Phil Testemale

Planning Status

Status Date: 18-Jul-2017

E-mail to applicant requesting more detailed information

Status Date: 27-Jun-2017

File assigned - additional information required from applicant prior to processing

Status Date: 22-Jun-2017

application to be assigned and processed pending review with Bylaw Enforcement

Islands Trust
LTC EXP SUMMARY REPORT F2018
Invoices posted to Month ending May 2017

650 North Pender	Invoices posted to Month ending May 2017	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-650	LTC "Trustee Expenses"	1,500.00	0.00	1,500.00
LTC Local				
65200-650	LTC - Local Exp - LTC Meeting Expenses	4,000.00	675.00	3,325.00
65210-650	LTC - Local Exp - APC Meeting Expenses	600.00	0.00	600.00
65220-650	LTC - Local Exp - Communications	500.00	0.00	500.00
65230-650	LTC - Local Exp - Special Projects	500.00	0.00	500.00
TOTAL LTC Local Expense		<u>5,600.00</u>	<u>675.00</u>	<u>4,925.00</u>
Projects				
73001-650-2006	North Pender OCP/LUB	5,000.00	0.00	5,000.00
73001-650-4054	North Pender Waste Management Review	7,000.00	0.00	7,000.00
73001-650-4086	North Pender Secondary Suites Review	5,000.00	0.00	5,000.00
73001-650-4087	North Pender Housing Needs Assessment	2,000.00	0.00	2,000.00
TOTAL Project Expenses		<u>19,000.00</u>	<u>0.00</u>	<u>19,000.00</u>

North Pender Island Local Trust Committee

POLICIES AND STANDING RESOLUTIONS

No	Meeting Date	Resolution No.	Issue	Policy
1.	January 27, 2005	NP-LTC-05-05	Advisory Planning Commission Appointments	The LTC will appoint Advisory Planning Commission members as representative of various local areas on North Pender and/or representative of various community organizations
2.	May 25, 2006	NP-LTC-80-06	Communications Policy	Policy Number NP-LTC-01-06 (Communications Policy) establishes guidance for the preparation and dissemination of routine non-statutory notices, extraordinary notices and trustee newsletters.
3.	August 30, 2007	NP-LTC-146-07	Special Occasion License Policy	THAT where a Liquor Control and Licensing Branch Special Occasion License referral relates to property on which North Pender Island Land Use Bylaw No. 103 permits public assembly uses, such as restaurants, community halls or church halls, and there are no issues related to parking or past complaints, 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.
4.	April 28, 2011	NP-LTC-50-11	Adopting In Camera Minutes	It was Moved and Seconded that the North Pender Island Local Trust Committee direct staff that they will adopt In Camera minutes when there are other reasons to close a meeting to the public.
5.	September 10, 2015	NP-LTC-63-15	Enforcement Policy - storage and disposal of waste and vehicles	THAT North Pender Island Local Trust Committee authorizes bylaw enforcement officers to commence bylaw investigations and enforcement without written complaint if bylaw violations related to disposal or storage of waste or recyclable materials or storage of vehicles or vehicle parts are observed by the bylaw enforcement officer while doing inspections for other issues or if it is reliably reported to the officer that such activity may be taking place.

DATE OF MEETING: July 27, 2017
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
SUBJECT: James Island Educational Access Statutory Right-of-way

RECOMMENDATION

1. That the North Pender Island Local Trust Committee request that staff post the proposed information on educational and research access James Island on the Islands Trust website.
2. That the North Pender Island Local Trust Committee endorse the proposed James Island Educational and Research Access Procedure.

REPORT SUMMARY

This report will update the LTC on implementation of procedures related to educational and research access to James Island.

BACKGROUND

In 2008 the Local Trust Committee of the day approved rezoning NP-RZ-2005.1 which amended the zoning on James Island. As a condition of that approval, the owner (JI Properties) granted a conservation covenant to the Nature Conservancy of Canada (NCC) and the Local Trust Committee (LTC), protecting several significant natural areas on James Island. In addition, a Statutory Right-of-way (SRoW) was registered on title to all the lots on the island providing access to the conservation covenant areas for educational and research purposes relating to wildlife and habitat (copy attached). The SRoW, granted to NCC and the LTC, provides NCC or the LTC with the sole discretion to approve reasonable access to the island, upon application, by researchers and primary, secondary, post-secondary and other students for *bona fide* education and research relating to wildlife and habitat, primarily within the covenant areas. Any reasonable request for access can be approved without the consent of the owner (JI Properties), subject to the provisions and criteria of the SRoW. Previous requests for access have been handled informally between NCC and the island caretaker and have not involved the provisions of the SRoW.

As a result of a recent request by the Indigenous Language Revitalization program to access James Island, staff reviewed the process for accessing James Island, with the intention of providing publically available information for potential requests and developing guidelines for assessing requests. In addition, staff hope to use this initiative to connect First Nations educators and JI Properties to facilitate access by First Nations that would fall outside the scope of the SRoW.

The following steps have been taken to date:

- Islands Trust staff met with NCC staff; NCC propose to continue to administer the conservation covenants, including access for restoration or specific research related to NCC's conservation objectives

- Islands Trust will consider access requests under the provisions of the Statutory Right-of-way
- Both NCC and Islands Trust agreed that a brief Letter of Understanding should be drafted to outline the responsibilities of the two parties
- Staff have drafted information on how researchers and educational institutions can apply to access James Island for posting to the Islands Trust website
- Staff also developed draft procedures to provide guidance in assessing proposed access requests
- Staff have contacted the JI Properties manager and have a phone meeting scheduled for July 27th.

Rationale for Recommendation

To date, the provisions of the SRow have not been utilized for providing access to James Island. Access requests over the past decade have been handled on an *ad hoc* basis between NCC and the island caretaker. The SRow does provide the authority for the LTC or NCC to use their respective sole discretion to grant access to the conservation areas. However, the terms of the SRow are specific and prescriptive, limiting the scope of potential access. Providing publically available information on how to apply for access on the webpage will meet one of the terms of the SRow, and more importantly will assist researchers and educational institutions in making applications that are consistent with the terms of the SRow. Second, the proposed procedure would formally delegate to staff the work of receiving, reviewing and responding to future requests for educational and research access. Staff are recommending this approach for two main reasons: it provides for timely review of and response to proposed access requests, and second provides for a consistent approach to considering future applications. Because of the specific legal provisions in the SRow, an analysis to ensure consistency with the provisions of the SRow, as outlined in the proposed procedure, would be recommended for any proposal under the terms of the SRow.

ALTERNATIVES

The LTC may consider the following alternatives to the recommendation:

1. Request further information

The LTC may request further information prior to making a decision. Staff could bring back further information at a subsequent LTC meeting.

2. Take no action

The LTC may choose to receive this report for information and not implement the recommendations. In that case, educational institutions and researchers would still be able to apply for access under the provisions of the SRow, but requests would be brought to the LTC for consideration on an *ad hoc* basis.

NEXT STEPS

If the LTC proceeds as recommended, staff will:

- post the application information to the Islands Trust webpage
- incorporate a reference to the procedure into the LTC's Standing Policies and Resolutions
- coordinate with JI Properties' manager on the procedures and on support for First Nations access to the island outside the provisions of the SRow.
- schedule an LTC visit to James Island, likely in the fall
- work with NCC on a Letter of Understanding

Submitted By:	Robert Kojima, Regional Planning Manager	July 19, 2017
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ATTACHMENTS

1. Statutory Right of Way FB180724
2. Proposed application information
3. Proposed review procedure

FORM C

(Section 23?)

10 JUN 2008 14 51

FB180724

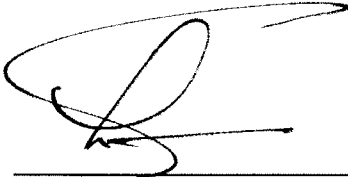
Province of
British Columbia**GENERAL INSTRUMENT - PART 1**

(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)

BULL, HOUSSEY & TUPPER LLP, Barristers & Solicitors, 3000 - 1055 West Georgia Street, Vancouver,
British Columbia, V6E 3R3 604. 687.6575 (LTO File No. 11299) (File No. 95-2977) (Section 219 Covenant)



Per:

LARRY R. SANDRIN

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

(PID)

(LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST:*

DESCRIPTION

DOCUMENT REFERENCE
(page and paragraph)

PERSON ENTITLED TO INTEREST

Statutory Right-of-Way under
Section 218, *Land Title Act*

Entire Instrument

North Pender Island Local Trust
Committee and The Nature
Conservancy of Canada

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

(a) Filed Standard Charge Terms

☐

D.F. Number:

(b) Express Charge Terms

☒

Annexed as Part 2

(c) Release

☐

There is no Part 2 of this instrument

A selection of (a) includes 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):*

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street, Vancouver, British Columbia, V6E 3R3

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

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local trust committee under the *Islands Trust Act*,
200 - 1627 Fort Street, Victoria, British Columbia, V8R 1H8 and

THE NATURE CONSERVANCY OF CANADA (Registration No. XS-0033684), Suite 300, 1205 Broad Street,
Victoria, British Columbia, V8W 2A4

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(s)



Name:

LARRY R. SANDRIN
 BARRISTER & SOLICITOR
 BULL, HOUSSEY & TUPPER LLP
 #3000, 1055 WEST GEORGIA
 VANCOUVER, B.C. V6E 3R3
 (604) 641-4873

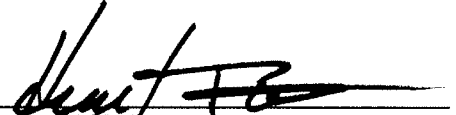
EXECUTION DATE

Y	M	D
08	05	26

Party(ies) Signature(s)

TRANSFEROR:

J.I. PROPERTIES, INC. by its authorized signatory:



Name: HOWARD G. TROTT

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.

FORM D

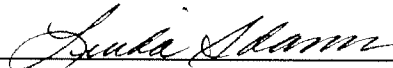
EXECUTIONS CONTINUED

PAGE 3

Officer Signature(s)

EXECUTION DATE

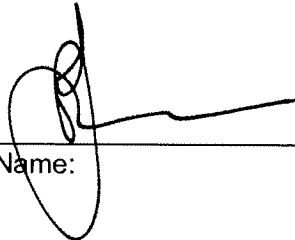
Party(ies) Signature(s)



Name:

(as to both signatures)

LINDA JOAN ADAMS
Commissioner for Taking Affidavits
for British Columbia
 200 - 1627 Fort Street
 Victoria, BC V8R 1H8
 Ph (250) 405-5151



Name:

(as to both signatures)

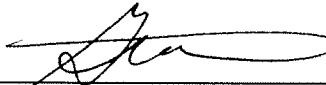
PETER D. JOHNSON
 Barrister & Solicitor
 2nd FLOOR, 837 BURDETT AVENUE
 VICTORIA, BRITISH COLUMBIA
 V8W 1B3

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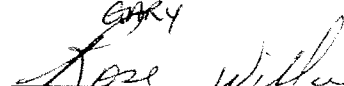
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TRANSFeree:

NORTH PENDER ISLAND LOCAL
 TRUST COMMITTEE by its authorized
 signatory(ies):



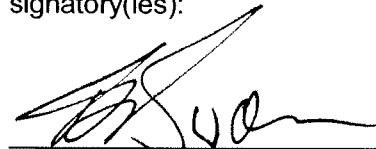
Name: B. STEEVES



Name: ROSE WILLOW

TRANSFeree:

THE NATURE CONSERVANCY OF
 CANADA by its authorized
 signatory(ies):



Name: Thomas Swann

Name:

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.

FORM E

SCHEDULE

PAGE 4

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL INSTRUMENT FORM

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

(PID)	(LEGAL DESCRIPTION)
1. _____ - _____ - _____	Lot 1 of Parcel 1, James Island, Cowichan District, Plan VIP <u>85132</u>
2. _____ - _____ - _____	Lot 2 of Parcel 2, James Island, Cowichan District, Plan VIP <u>85132</u>
3. _____ - _____ - _____	Lot 3 of Parcel 3, James Island, Cowichan District, Plan VIP <u>85132</u>
4. _____ - _____ - _____	Lot 4 of Parcel 4, James Island, Cowichan District, Plan VIP <u>85132</u>
5. _____ - _____ - _____	Lot 5 of Parcel 5, James Island, Cowichan District, Plan VIP <u>85132</u>

TERMS OF INSTRUMENT - PART 2

STATUTORY RIGHT OF WAY

THIS AGREEMENT, dated for reference May 29, 2008,

BETWEEN:

J.I. PROPERTIES, INC., c/o 3000 - 1055 West Georgia Street,
Vancouver, British Columbia, V6E 3R3

(the "**Owner**")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a local
trust committee under the *Islands Trust Act*, 200 - 1627 Fort
Street, Victoria, British Columbia, V8R 1H8

(the "**Local Trust Committee**")

AND:

THE NATURE CONSERVANCY OF CANADA, Suite 300,
1205 Broad Street, Victoria, British Columbia, V8W 2A4

(the "**NCC**")

WITNESSES WHEREAS:

- A. In addition to the terms defined above, any terms employed in these Recitals will have the meanings respectively ascribed to them in Section 1 of this Agreement;
- B. The Owner is the registered owner of the Lands, including the Conservation Areas;
- C. The Local Trust Committee has required the execution and registration of this Agreement as a condition of the adoption of Bylaw 170 of the Local Trust Committee; and
- D. The Owner has agreed to grant the Statutory Right-of-Way to the Local Trust Committee and to the NCC and the Statutory Right-of-Way is necessary for the operation and maintenance of the Local Trust Committee's and the NCC's respective undertakings,

NOW THEREFORE in consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Local Trust Committee and the NCC to the Owner and for other good and valuable

consideration (the receipt and sufficiency of which the Owner hereby acknowledges), the Owner, the Local Trust Committee and the NCC covenant, each with the others, as follows:

1. DEFINITIONS

- (a) **"Access Invitee"** means any person determined by the NCC or by the Local Trust Committee in the exercise of their respective Sole Discretion, to require and merit access to all or any of the Conservation Areas for Educational and Research Purposes, in accordance with this Agreement;
- (b) **"Conservation Areas"** means those portions of the Lands defined and established as "Conservation Areas" pursuant to the Environmental Conservation Covenant;
- (c) **"Educational and Research Purposes"** means the purposes of reasonable and *bona fide* education and research relating to wildlife and habitat located upon the Lands and within the Conservation Areas by researchers and primary, secondary, post-secondary and other students, based upon applications to the NCC and to the Local Trust Committee for access across the Lands;
- (d) **"Environmental Conservation Covenant"** means that Section 219 Covenant and Section 218 Statutory Right-of-Way granted by the Owner in favour of the NCC and the Local Trust Committee and registered at the Victoria Land Title Office under numbers F318072 and F318073;
- (e) **"Lands"** means the lands and premises legally described in Item 2 of the Form C General Instrument Part 1 to which these Terms of Instrument are attached;
- (f) **"Sole Discretion"** means, with respect to any party to this Agreement, the sole, absolute and unfettered discretion of such party; and
- (g) **"Statutory Right-of-Way"** means that statutory right-of-way granted by the Owner to the NCC and to the Local Trust Committee pursuant to Section 2.1 of this Agreement.

2. STATUTORY RIGHT-OF-WAY RE: ACCESS FOR EDUCATIONAL AND RESEARCH PURPOSES

2.1 Pursuant to Section 218 of the *Land Title Act*, the Owner hereby grants to the Local Trust Committee and to the NCC, and, subject to Section 2.5, their respective officers, employees, contractors and Access Invitees, in perpetuity, the right, liberty and easement by way of Statutory Right-of-Way on, over and across the Conservation Areas and, in order to access the Conservation Areas, the rest of the Lands for Educational and Research Purposes; PROVIDED THAT, in connection with the exercise of this Statutory Right-of-Way:

- (a) the NCC and/or the Local Trust Committee will provide publicly accessible information as to the methodology by which parties proposing to obtain access to Conservation Areas for Educational and Research Purposes may contact and

make application to the NCC and/or the Local Trust Committee for such purposes;

- (b) the NCC and the Local Trust Committee will each be solely responsible to determine the qualifications of their respective applicants requesting access to the Conservation Areas for Educational and Research Purposes;
- (c) upon the NCC or the Local Trust Committee determining, in its Sole Discretion, that any applicant for access to Conservation Areas for Educational Research Purposes is so qualified and merits such access, the NCC or the Local Trust Committee, as the case may be, will provide advance written notice of not less than 48 hours' duration to the Owner of the names and general purposes of such proposed access by such Access Invitees across the Lands as so approved by the NCC or the Local Trust Committee, together with the proposed times, dates and duration of any such proposed access upon or across the Lands for Educational and Research Purposes, together with the proposed methodology by which such Access Invitees may exercise such access to any relevant Conservation Areas;
- (d) the Owner will not be obligated to incur any expenses (other than reasonable overhead expenses) in connection with any access by Access Invitees across the Lands to Conservation Areas for Educational and Research Purposes;
- (e) the Owner may impose reasonable terms and conditions with respect to proposed access by Access Invitees to Conservation Areas for Educational and Research Purposes, including, without limitation, reasonable restrictions or conditions relating to the use of established roadways and pathways for such access so long as reasonably providing continuous and practical access to the Conservation Areas and prohibitions on access to and across golf courses and other recreational areas or facilities, restrictions upon entry into or affecting lakes, ponds, wetlands and watercourses upon any portions of the Lands outside Conservation Areas and prohibitions on access to residential, recreational, service, amenity or other buildings or improvements located upon the Lands outside the Conservation Areas, all so as to avoid any unreasonable interference with the use and enjoyment of such Lands or buildings, amenities, services and facilities by persons authorized by the Owner to use and enjoy the same; and
- (f) the NCC and the Local Trust Committee will each be solely responsible to ensure compliance with the terms and conditions of this Agreement and with the Environmental Conservation Covenant by their respective Access Invitees.

2.2 The NCC and the Local Trust Committee acknowledge and agree that:

- (a) with respect to the portions of the Lands outside of the Conservation Areas, the Statutory Right-of-Way granted may:

- (1) only be exercised over such areas as may be established by the Owner as vehicular roadways and pedestrian pathways, provided that this limit shall only apply if such roadways and pedestrian pathways provide reasonable, continuous and practical access to the Conservation Areas, and
 - (2) only be exercised only for the purposes of providing reasonable, continuous and practical access to the Conservation Areas; and
- (b) if requested by the Owner, at any time and from time to time, the NCC and the Local Trust Committee will execute such documentation as may reasonably be required to modify and/or partially discharge the Statutory Right-of-Way so as to restrict the charge of the Statutory Right-of-Way to such portions of the Lands as may be designated as "common property" on any bare land strata plan filed in connection with the Lands and/or to any portion of the Lands shown on any Reference Plan of Statutory Right-of-Way (and first approved by the NCC and by the Local Trust Committee, each acting promptly and reasonably) showing roadways and pathways, provided the NCC and the Local Trust Committee shall only be obligated under this paragraph if such common property and/or portion of the Lands, as the case may be, provide reasonable, continuous and practical access to the Conservation Areas .

2.3 The Statutory Right-of-Way granted to the NCC and to the Local Trust Committee pursuant to Section 2.1 is necessary for the operation and maintenance of the NCC's and the Local Trust Committee's respective undertakings.

2.4 The Owner agrees that the Local Trust Committee and the NCC will be entitled, during the term of the Statutory Right-of-Way, to an appurtenant licence to the use of any wharves or docks reasonably required for the purposes of the exercise of the rights of access contemplated in the Statutory Right-of-Way; PROVIDED THAT such licence will not constitute an interest in land and may only be exercised by the Local Trust Committee and by the NCC during the term of any tenure (and subject to any relevant terms and conditions imposed) under any leases or easements held by the Owner in connection with any such wharves or docks. The Owner will secure the agreement of each successor in title to the Lands that such successors in title will be bound by the grant of the licence set out in this Section 2.4.

2.5 Notwithstanding anything to the contrary contained in this Agreement, no rights of possession, nor access nor remedies are granted to the general public with respect to any of the Conservation Areas nor to any other portion of the Lands by this Agreement, and no member of the general public will have any standing to enforce or enjoy any rights or remedies granted by this Agreement to the NCC and the Local Trust Committee, or either of them, except as an Access Invitee through the NCC and the Local Trust Committee.

3. DISPUTE RESOLUTION

3.1 If there is a disagreement regarding a breach of this Agreement which has occurred or is threatened, or if there is disagreement as to the meaning of this Agreement, the Owner or the

NCC and/or the Local Trust Committee may give notice to the other requiring a meeting between such parties within 5 days of receipt of the notice.

3.2 The Owner and the NCC and/or the Local Trust Committee will diligently, reasonably and in good faith, endeavour to resolve the subject of any such disagreement within 10 days following receipt of a notice as contemplated in Section 3.1.

3.3 If the Owner and the NCC and/or the Local Trust Committee are not able to resolve the disagreement within 10 days following receipt of such notice, those parties may appoint a mutually acceptable person to mediate the matter and such parties will act diligently, reasonably and in good faith and co-operate with the mediator and with one another in an attempt to resolve the matter within 10 days after the mediator is appointed. Any costs of any such mediation will be borne equally by the Owner and the NCC and/or the Local Trust Committee.

3.4 If the Owner and the NCC and/or the Local Trust Committee are not able to resolve the matter in dispute through mediation, or if either party refuses or fails to participate in mediation, then either the Owner of the NCC and/or the Local Trust Committee may submit the matter in dispute to a single arbitrator appointed jointly by the parties; PROVIDED THAT if the Owner and the NCC and/or the Local Trust Committee are unable to agree upon the appointment of a arbitrator, a arbitrator shall be appointed pursuant to and shall act in accordance with the *Commercial Arbitration Act* (British Columbia) to render a determination through arbitration of any issue in dispute.

3.5 Any determination of the arbitrator appointed pursuant to Section 3.4 shall be final and binding upon the Owner and the NCC and/or the Local Trust Committee.

3.6 Any costs of arbitration pursuant to this Article 3 will be borne equally by the Owner and the NCC and/or the Local Trust Committee.

4. NOTICES

4.1 Any notice or other communication (collectively, a “**Notice**”) required or permitted under this Agreement shall be:

- (a) delivered in person; or
- (b) sent by prepaid registered mail or courier to the address of the parties at their respective addresses as set out in Sections 5 or 6, as the case may be, of Part 1 of this General Instrument;

PROVIDED THAT if the Lands are subdivided by the filing of a strata plan, including a bare land strata plan, then following the deposit of any such strata plan at the Victoria Land Title Office, any Notice may be delivered by the Local Trust Committee or by the NCC to the registered office of the strata corporation created by the filing of any such strata plan.

4.2 If a Notice is delivered in person, the party receiving the Notice shall forthwith acknowledge receipt of same in writing, and the Notice shall be deemed to have been received

on the earlier of the date of such acknowledgment and the date that is 5 days after the Notice is sent.

4.3 If a Notice is sent by pre-paid registered mail or courier, it shall be deemed to have been received on the fourth business day following the day on which the Notice was sent.

4.4 Each party agrees to immediately give written notice to the other of any change in its address from that set out in Sections 5 or 6, as the case may be, in Part 1 of this General Instrument.

4.5 If a party refuses to sign an acknowledgment of receipt of a Notice, the person delivering the Notice may swear an affidavit of service and the Notice shall be deemed to have been received on the date of service set out in the affidavit.

4.6 In this section, "business day" means a day other than a Saturday, Sunday or statutory holiday in British Columbia.

5. GENERAL

5.1 The Owner will do or cause to be done at its expense all acts reasonably necessary for the Local Trust Committee and the NCC to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favour of the Local Trust Committee and those specifically approved in writing by the Local Trust Committee and the NCC.

5.2 Nothing contained or implied herein will prejudice or affect the rights and powers of the Local Trust Committee in the exercise of its functions under any statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered.

5.3 The Owner covenants and agrees that in addition to any remedies which are available under this Agreement or at law, the Local Trust Committee and the NCC will be entitled to all equitable remedies, including specific performance, injunction and declaratory relief, or any combination thereof, to enforce their rights under this Agreement. The Owner acknowledges that specific performance, injunctive relief (mandatory or otherwise) or other equitable relief may be the only adequate remedy for a default by the Owner under this Agreement.

5.4 This Agreement will enure to the benefit of and be binding upon the Local Trust Committee and the NCC and their respective successors and assigns and will enure to the benefit of and be binding upon the Owner and its successors and assigns and (subject to the following provisions of this Section 5.4) will run with the Lands and enure to the benefit of and be binding upon the Owner's successors in title and their respective heirs, executors, administrators, trustees and successors; PROVIDED THAT:

- (a) every reference to the parties is deemed to include the respective successors and assigns of such parties; and

- (b) neither the Owner named in this Agreement nor any future owner is liable for a breach of this Agreement after the Owner named herein or any future owner, as the case may be, ceases to have any interest in the relevant portions of the Lands which are charged by this Agreement.

5.5 Wherever the singular or masculine is used herein the same will be construed as meaning the plural, feminine or the body corporate or politic where the contents or the parties so require.

5.6 If any section, subsection, sentence, clause or phrase in this Agreement is for any reason held to be invalid by the decision of a Court of competent jurisdiction, the invalid portion will be severed and the decision that it is invalid will not affect the validity of the remainder of this Agreement.

5.7 The parties hereto will do and cause to be done all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing the "Form C - General Instrument - Part 1" attached hereto.

END OF DOCUMENT

JAMES ISLAND STATUTORY RIGHT-OF-WAY RE: ACCESS FOR EDUCATIONAL AND RESEARCH PURPOSES

APPLICATION INFORMATION

This page provides information for educational institutions, researchers or educators seeking access to James Island covenant areas on how to apply for access for educational and research purposes.

BACKGROUND

James Island is a privately owned island with a unique history, including a significant First Nations village site, several other areas of cultural or archaeological significance, a former industrial munitions plant, and a townsite for plant workers. The island lies within the North Pender Island Local Trust Area of the Islands Trust, the local authority responsible for land use planning in the area. Public access to the island is currently restricted above the natural boundary of the sea. In 2005, the owner of James Island applied to the North Pender Island Local Trust Committee (LTC) for a rezoning to amend the density and uses on the island. As a condition of the Local Trust Committee's approval of the rezoning, the owner granted a conservation covenant to the Nature Conservancy of Canada (NCC) and the LTC, protecting several significant natural areas on the island. Also as an outcome of the rezoning process, the Owner granted to the NCC and LTC a statutory right-of-way providing NCC or the LTC with the sole discretion to approve reasonable access to the island, upon application, by researchers and primary, secondary, post-secondary and other students for education and research relating to wildlife and habitat, primarily within the covenant areas. NCC and the Islands Trust have established an understanding that requests for access involving research or work directly related to NCC's management of the Conservation Covenants will be considered by NCC, and that requests for access under the terms of the Statutory Right-of-way for access for educational and research purposes will be considered by Islands Trust.

CONTACT INFORMATION

To apply for access under the provisions of the Statutory Right-of-way for access for educational and research purposes please email Islands Trust at northpenderplanner@islandstrust.bc.ca, providing the following information, not less than three weeks before the requested date of access:

1. Name of the responsible person making the application
2. Name and address of the educational or research institution
3. Contact information for the person and institution, including phone numbers and email
4. Dates, time and duration of access is being requested.
5. Whether the applicant or applicant's educational or research institution has previously visited the island.
6. Number of students or researchers proposing to access the areas
7. Grade(s) or year(s) of program of students (if applicable)
8. Proposed means by which parties propose to obtain access to the conservation area(s). Please use a map with markings showing points of access and planned areas to be visited once on the island.

9. Describe the proposed research or education in some detail (attach as a separate document if warranted). The description should include:
 - a. Flora, fauna, or the habitat to be studied.
 - b. How the research would support the conservation objectives of the covenant (if applicable).
 - c. How the visit would support the research objectives, goals, or the mandate of the educational institution or program.
 - d. Any follow up reports, documentation, or studies to be prepared and how those would be shared with NCC, Islands Trust, and the owner.

Due to the sensitive ecosystems and rare habitat in the conservation areas, access may be conditional on arranging NCC staff accompaniment.

For access for research or work related to the Nature Conservancy of Canada's management and restoration within the Conservation Covenant areas please contact NCC at bcoffice@natureconservancy.ca

Because of the sensitive and rare habitat and ecosystems and the residential use of the island, the number of access requests may be limited.

Please ensure you have read and understand the Statutory Right of Way and Conservation Covenant and respect the fact that James Island includes sensitive ecosystems and habitat, as well as residential and private recreational areas.

Links:

[Statutory Right-of-way](#)

[Conservation Covenant](#)

[Maps](#)

[Biologists Reports](#)



Procedure:	
Approved By:	
Approval Date:	
Amendment Date(s):	
Policy Holder:	[Position Title]

JAMES ISLAND EDUCATIONAL AND RESEARCH ACCESS REVIEW PROCEDURE

Purpose

This procedure provides guidance to staff in assessing applications by educational institutions, researchers or educators seeking access to James Island covenant areas for educational and research purposes.

As a condition of the Local Trust Committee's approval of rezoning NP-RZ-2005.1, the Owner (JI Properties) granted a conservation covenant to the Nature Conservancy of Canada (NCC) and the Local Trust Committee (LTC), protecting several significant natural areas on James Island and also granted to NCC and the LTC a statutory right-of-way providing NCC or the LTC with the sole discretion to approve reasonable access to the island, upon application, by researchers and primary, secondary, post-secondary and other students for *bona fide* education and research relating to wildlife and habitat, primarily within the covenant areas. NCC and the Islands Trust have established an understanding that requests for access involving research or work directly related to NCC's management of the Conservation Covenants will be considered by NCC, and that requests for access under the terms of the Statutory Right-of-way for access for educational and research purposes will be considered by Islands Trust.

In order to consider requests in a timely manner, the LTC has delegated to staff the review and approval of requests to access James Island for educational and research purposes.

Scope

This procedure is applicable to staff review of requests to access James Island covenant areas pursuant to Statutory Right-of-way FB180724.

A. Definitions

"Access Invitee" means any person determined by the NCC or by the Local Trust Committee in the exercise of their respective Sole Discretion, to require and merit access to all or any of the Conservation Areas for Educational and Research Purposes;

"Conservation Areas" means those portions of the Lands defined and established as "Conservation Areas" pursuant to the Environmental Conservation Covenant;

"Educational and Research Purposes" means the purposes of reasonable and *bona fide* education and research relating to wildlife and habitat located upon the Lands and within the Conservation Areas by researchers and primary, secondary post-secondary and other students, based upon applications to the NCC and to the Local Trust Committee for access across the Lands;

“Environmental Conservation Covenant” means that Section 219 Covenant and Section 218 Statutory Right-of-Way granted by the Owner in favour of the NCC and the Local Trust Committee and registered at the Victoria Land Title Office under numbers FB180722 and FB180723;

“Sole Discretion” means, with respect to any party to the Statutory Right-of-Way, the sole, absolute and unfettered discretion of such party; and

“Statutory Right-of-Way” means that statutory right-of-way granted by the Owner to the NCC and to the Local Trust Committee and registered at the Victoria Land Title Office under numbers FB180724.

B. Procedures

1. Application criteria shall be posted and maintained in an appropriate location on the Islands Trust website.
2. Receipt of Requests
 - i. Applications should be submitted by email to the northpenderplanner@islandstrust.bc.ca email and provide sufficient information to allow for an assessment of the proposed visit.
 - ii. Email requests should be acknowledged and filed on the LAN
 - iii. All requests should also be forwarded to NCC at bcoffice@natureconservancy.ca requesting that they respond within 10 business days if NCC has any comments on the access request.
3. Review
 - i. Applications for access should be reviewed by the Island Planner, Regional Planning Manager, or the Director of Local Planning Services.
 - ii. Reviewers should ensure they are familiar the terms of the Statutory Right-of-way and the Environmental Conservation Covenant.
 - iii. Applications should be reviewed and responded to within 10 business days of receipt of a request.
4. Criteria

Approval of applications for access shall be consistent with the following criteria:

- i. the proposed means and timing of access to the island and to the Conservation Areas is reasonable;
- ii. the size of the party is not excessive;
- iii. the educational or research institution is *bone fide* or the researcher has relevant credentials and qualifications; and
- iv. the proposed education or research is related to wildlife and habitat;

The total number of Access Invitees approved should be limited to a reasonable number of visits within any given period. Applicants may be advised to revise their proposal for

consistency with the provisions of the Statutory Right-of-way or conditions may be established by the approver.

5. Notification

- i. Any applicant shall be notified by email as to whether or not their request is considered consistent with the terms of the Statutory Right-of-way.
- ii. Notification shall be provided to the Owner within the time limits and by the means specified in the Statutory Right-of-way, or by other means agreed to by the Owner.
- iii. Nature Conservancy of Canada shall be copied on any response to an application by email to bcoffice@natureconservancy.ca. Where NCC requests that NCC staff accompany any visit to a conservation covenant area that should be made a condition of any approval.

6. Follow-up

- i. All email correspondence and other records shall be filed on the LAN
- ii. If a report or other documentation of the visit is being prepared, a copy should be received, distributed and filed.

C. Legislated References

none

D. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures

Statutory Right-of-way

Environmental Conservation Covenant

Maps