



NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BUSINESS MEETING AGENDA TO COMMENCE AT 9:45 A.M., THURSDAY, APRIL 26, 2012 AT THE PENDER ISLAND COMMUNITY HALL (LOUNGE), 4418 BEDWELL HARBOUR ROAD, NORTH PENDER ISLAND, B.C.

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

	Page #	*Approx. Time*
1. CALL TO ORDER		9:45 am
2. APPROVAL OF AGENDA		9:45 am
2.1 Additions/Deletions		
2.2 Questions from public on Agenda Items		
3. COMMUNITY INFORMATION MEETING - none		
4. PUBLIC HEARING - none		
5. PREVIOUS MEETINGS		
5.1 Local Trust Committee Minutes– for Adoption		
5.1.1 Minutes of March 22, 2012 Local Trust Committee Business Meeting (attached)	Pg 1	9:50 am
5.2 Public Hearing Records and Community Information Meeting Notes to be Received - none		
5.3 Section 26 Resolutions-without-meeting -none		
5.4 Advisory Planning Commission/Task Force to be received - none		
6. BUSINESS ARISING FROM THE MINUTES		9:55 am
6.1 Follow-up Action Report (attached)	Pg 11	
7. DELEGATIONS - none		

8.	CORRESPONDENCE		10:00 am
	<i>[correspondence received concerning applications and/or projects is considered with the application]</i>		
	8.1 Email from Sara Steil re: Green Shores/Marine Riparian Areas Protection Joint Initiative Proposal (attached)	Pg 13	
	8.2 April 3, 2012 Letter from Mayne Island Integrated Water Systems Society (attached)	Pg 18	
	8.3 Peter Pares – Executive Summary of Transportation Plan (attached)	Pg 20	
9.	APPLICATIONS, PERMITS, BYLAWS AND REFERRALS		10:15 am
	9.1 NP-DVP-2012.3 (Thompson) (attached)	Pg 26	
	9.2 NP-RZ-2011.2 (Lockhart) (attached)	Pg 38	
	9.3 NP-SUB-2008.3 (Wey) (attached)	Pg 49	
10.	LOCAL TRUST COMMITTEE PROJECTS		12:00 pm
	10.1 Shoreline development review - Staff Report (attached)	Pg 99	
11.	REPORTS		
	11.1 Work Program Reports – for information		
	11.1.1 North Pender Island Local Trust Committee Work Program - Report dated April, 2012 (attached)	Pg 109	12:45 pm
	11.2 Applications Report – for information		
	11.2.1 North Pender Island Applications Report dated April, 2012 (attached)	Pg 112	
	11.3 Bylaw Enforcement		1:00 pm
	11.3.1 Application of Sign Regulations (attached)	Pg 117	
	11.3.2 Bylaw Investigations Overview (attached)	Pg 120	
	11.4 Expense/Budget Reports		1:45 pm
	11.4.1 Trustee and Local Expense Report (attached)	Pg 122	
	11.4.2 Adopted Budget 2011/2012 – none		
	11.4.3 Email from Cindy Shelest re 2012 - 13 LTC Expense Budget (attached)	Pg 123	
	11.5 Adopted Policies and Standing Resolutions (attached) – for information	Pg 127	
	11.6 North Pender LTC Web Page (attached) – for discussion	Pg 128	2:00 pm

11.7 Chair's Report

11.8 Trustee Report

12. OTHER BUSINESS

2:15 pm

12.1 Upcoming Meetings

12.1.1 Business at 9:45 a.m., Thursday, May 31,
2012 at Pender Island Community Hall

12.2 Annual Report (attached)

Pg 131

12.3 Request for Eagle Report

13. MOTION TO CLOSE MEETING

2:25 pm

THAT, pursuant to Section 90(1)(c) of the Community Charter, the North Pender Island Local Trust Committee resolves to close the meeting to the public for the purpose of considering of APC Appointments and adopting Minutes of November 24, 2011 Local Trust Committee In Camera Meeting; and further that Islands Trust Staff and Recording Zorah Staar remain present.(distributed under separate cover)

13. RECALL TO ORDER

13.1 Rise and Report from Closed Meeting

14. TOWN HALL MEETING

2:45 pm

15. ADJOURNMENT

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

DRAFT

**MINUTES OF THE NORTH PENDER ISLAND
LOCAL TRUST COMMITTEE BUSINESS MEETING
HELD ON THURSDAY, MARCH 22, 2012, AT 9:45 AM
COMMUNITY HALL, NORTH PENDER ISLAND, B.C.**

PRESENT:	Gary Steeves	Local Trustee
	Ken Hancock	Local Trustee
	Peter Luckham	Chair
	Andrea Pickard	Island Planner
	Zorah Staar	Recording Secretary

REGRETS: none

There were ten (10) members of the public in attendance.

1. CALL TO ORDER

Chair Luckham called the meeting to order at 9:50 am. He also acknowledged that this meeting was occurring on traditional Coast Salish territory, and he noted the presence of Virgil Bob of the Pauquachin First Nation (see item 9.3 below),

2. APPROVAL OF AGENDA

2.1 Additions/Deletions

The proposed agenda was amended as follows:

- James Island Prescribed Burn added as new item 8.3;
- draft Development Variance Permit added to existing item 9.2;
- Staff Memorandum dated March 20, 2012 added to existing item 9.4;
- referrals to water systems groups added to existing item 11.5;
- updated copy of website added to existing item 11.6; and
- Meeting with South Pender Local Trust Committee added as new item 12.3.

The amended agenda was then approved by consensus.

2.2 Questions from Public on Agenda Items

None

3. COMMUNITY INFORMATION MEETING

None

4. PUBLIC HEARINGS

None

5. PREVIOUS MEETINGS

5.1 Local Trust Committee Minutes for adoption

5.1.1 Minutes of February 23, 2012 Local Trust Committee Business Meeting

The February 23, 2012 Local Trust Committee Business Meeting Minutes were adopted by consensus. However, regarding page 10, last paragraph of the Town Hall, Trustee Steeves clarified that what he meant to say was as follows: neither development permit areas nor covenants would last forever, if either the Local Trust Committee of the day or all parties to a covenant agreed to change the areas or the covenant.

5.2 Public Hearing Records and Community Information Meeting Notes

None

5.3 Section 26 Resolutions-without-meeting

Planner Pickard reviewed the Resolutions-without-meeting.

5.4 Advisory Planning Commission/Task Force Minutes

Trustee Steeves noted that in addition to the circulated notice, he had been calling people to invite them to volunteer for the Advisory Planning Commission.

6. BUSINESS ARISING FROM THE MINUTES

6.1 Follow-up Action Report

Planner Pickard reviewed the available Follow-up Action Report, regarding completed or ongoing work items.

7. DELEGATIONS

None

8. CORRESPONDENCE

8.1 S. Nievert Email dated March 7, 2012 re: Oil Tanker Plan

Trustee Hancock noted that the above letter from S. Nievert was a form letter initiated by the Dogwood Initiative regarding opposition to more oil tankers, and that the Islands Trust Chair had recently called Dogwood to advise them of the Trust's ongoing advocacy and other work to protect island waters.

8.2 Z. Staar Letter dated March 12, 2012 re: Pender Community Transition (PCT)

Planner Pickard noted the report from Pender Community Transition (PCT) regarding their most recent events and activities, and she said that a request to finance for the final payment of the related \$200 had been forwarded.

8.3 James Island Prescribed Burn

Planner Pickard referred to the Staff Memorandum dated March 20, 2012 re: the proposed James Island burn for ecological purposes, to be conducted by the Nature Conservancy of Canada's consultant with the assistance of Parks Canada. The Islands Trust held a covenant on the conservation area in question, and Islands Trust Fund Staff had reviewed the proposal.

Planner Pickard said that she would request more notice of such proposals in future.

Resolution NP-LTC-22-12

It was Moved and Seconded that the North Pender Island Local Trust Committee has no objection to the Prescribed Fire Burn Plan to occur within Conservation Area A (Village Spit), protected by registered conservation covenant FB180722-FB1807723, between March 23 and April 17, 2012.

CARRIED

Resolution NP-LTC-23-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to contact the Nature Conservancy of Canada, to arrange a meeting pursuant to the James Island conservation covenant held by both parties.

CARRIED

9. APPLICATIONS, PERMITS AND REFERRALS

9.1 NP-RZ-2011.2 (Lockhart)

Planner Pickard reviewed the March 14, 2012 Staff Report re: NP-RZ-2011.2 (Lockhart) and commented that this was an application to rezone a portion of the Water 1 (W1) zone to permit an ocean-based geothermal system (more properly called "geoexchange"); that this was to provide domestic heating and cooling for an upland residential property on Razor Point Road; that the application was initiated following Bylaw Enforcement, because the system was installed without the contractor (Lockhart Industries) realizing that a rezoning was required; and that this was a preliminary Staff Report, to seek direction about whether to draft a site-specific rezoning bylaw for further consideration.

Geoexchange contractor Doug Lockhart, was present and answered questions.

Mr. Lockhart said that when he installed the Poet's Cove geoexchange system years ago, he was told that the South Pender Local Trust Committee had no interest, so he assumed that this was the case on North Pender at the present time as well.

Trustees Steeves and Hancock expressed a number of concerns about this application to approve a geoexchange system after the fact, when neither the owners nor the applicant had taken any steps to check with the local government and ascertain that geoexchange structures were not yet permitted by the Land Use Bylaw. There was also discussion about whether to allow the requested rezoning to proceed on a site-specific basis (e.g. as a learning opportunity), or to initiate a larger process to consult the community and consider general Land Use Bylaw amendments to allow various geoexchange or geothermal structures (which would take much longer).

Resolution NP-LTC-24-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to proceed with application NP-RZ-2011.2 (Lockhart) and to prepare a draft bylaw.

CARRIED
2 in favour

(Trustee Steeves opposed)

9.2 NP-DVP-2012.1 (Coffey)

Planner Pickard reviewed the March 1, 2012 Staff Report, commenting that NP-DVP-2012.1 (Coffey) was an application to construct a sauna building and deck, and to legalize an existing accessory building, on a property on Clam Bay Road; that this required varying the required setback from the rear lot line from 7.6 metres to 4.2 metres, and varying the required setback from the side lot line from 3.0 to 2.8 metres; that the reason was to have the sauna on a flat area near the house, and to minimize excavation and vegetation removal.

Trustee Steeves said that a site visit showed how the topography constrained other alternatives. The impact on other lots appeared to be negligible.

Resolution NP-LTC-25-12

It was Moved and Seconded that the North Pender Island Local Trust Committee approve Development Variance Permit NP-DVP-2012.1 (Coffey).

CARRIED

9.3 NP-RZ-2011.1 and NP-DP-2011.9 (Turner)

Planner Pickard reviewed the March 12, 2012 Staff Report, commenting that NP-DP-2011.1 was an application for a development permit and NP-RZ-2011.9 involved a draft rezoning bylaw (No. 190), to allow construction of a seawall below the natural boundary of the sea and within a Sensitive Intertidal Ecosystem Development Permit Area .

She added that this was at Camelot by the Sea on Otter Bay Road; that the seawall was needed to protect portions of the property that included an archaeological site, and that archeological, biologists, engineering, and other professional reports had been submitted in support of the application.

Virgil Bob of the Pauquachin Nation had been asked by the Tsawout Nation to speak in support of this proposal. He said that the teaching of their Elders were to place recovered human remains as close as possible to where they were discovered, to protect them, and to do all this with the utmost respect.

The Trustees acknowledged the generally applicable limits on structures within sensitive development permit areas or below the natural boundary of the sea, and also the Islands Trust policy not to interfere with natural coastal processes. However, the above situation was felt to be a legitimate exception, and also an important part of supporting better relations with local First Nations.

The Trustees further suggested that during the excavation period for the proposed seawall, the applicant and owner not only have the archeologist present (as required), but also invite First Nations representatives to be present. The property owner was agreeable to this and could provide a letter of commitment to that effect.

Resolution NP-LTC-26-12

It was Moved and Seconded that the North Pender Island Local Trust Committee Draft Bylaw No. 190, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2012”, be referred to other agencies for comment.

CARRIED

Resolution NP-LTC-27-12

It was Moved and Seconded that the North Pender Island Local Trust Committee Draft Bylaw No. 190, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2012” be given First Reading.

CARRIED

Resolution NP-LTC-28-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to schedule a Community Information Meeting and Public Hearing for NP-RZ-2011.1 (Turner), on a weekend after referral responses were expected to be received.

CARRIED

Resolution NP-LTC-29-12

It was Moved and Seconded that draft Development Permit NP-DP-2011.9 (Turner) be approved in principle but not issued, subject to the related rezoning process.

CARRIED

9.4 NP-SUB-2008.3 (Wey)

Planner Pickard referred to the March 12 and March 20, 2012 Staff Memorandums, commenting that NP-SUB-2008.3 (Wey) was the 4-lot Hooson Road subdivision application previously referred to the Local Trust Committee by the Subdivision Approving Officer; that the applicant had now revised their layout plan so a 10% frontage waiver was no longer required; that Staff had worked with the Pender Islands Conservancy to draft a covenant on the natural areas being offered for protection; that the Pender Islands Parks and Recreation Commission had visited the parkland to be voluntarily offered; and that ideally both of the above local groups would like more suitable sites.

The Trustees agreed that the natural areas being offered were highly disturbed, and the parkland being offered had no access to the road. However, both of these were voluntary arrangements, which it was in the public interest to accept.

Resolution NP-LTC-30-12

It was Moved and Seconded that the North Pender Island Local Trust Committee delegate the Chair to sign a section 219 covenant pertaining to conservation of the two Natural Areas shown on the proposed layout plan for subdivision file NP-SUB-2008.3 (Wey).

CARRIED

Resolution NP-LTC-31-12

It was Moved and Seconded that the North Pender Island Local Trust Committee, regarding subdivision NP-SUB-2008.3 (Wey), will contribute up to \$750 in matching funds to cover costs of a baseline study for the proposed covenanted areas, and further that Staff be directed to negotiate with the owner to offer a matching commitment.

CARRIED

Resolution NP-LTC-32-12

It was Moved and Seconded that the North Pender Island Local Trust Committee, regarding subdivision NP-SUB-2008.3 (Wey), supports the dedication of parkland as proposed in the subdivision layout dated March 2012, noted as Plan EPP16005.

CARRIED

10. LOCAL TRUST COMMITTEE PROJECTS

None

11. REPORTS

11.1 Work Program Reports

11.1.1 North Pender Island Local Trust Committee Work Program

There was Trustee discussion about item 2 on the Top Priorities of the Work Program – Shoreline Development Review.

Trustee Hancock said that he planned to inquire about available shoreline mapping.

Resolution NP-LTC-33-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to prepare a report on options for a Shoreline Development Review.

CARRIED

Trustee Hancock also suggested that the Local Trust Committee consider how to offer support to Pender Community Transition (see 8.2) and other community efforts to increase local resilience, in response to climate change and other worldwide impacts.

Resolution NP-LTC-34-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to amend item (2) of the Projects List of the Work Program, to read “Climate Change Adaptation and Community Resilience”.

CARRIED

Resolution NP-LTC-35-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to amend item (3) of the Top Priorities of the Work Program to include only the first two points (re: road classification and design standards review, and subdivision servicing regulation review) plus stormwater management regulation review, and that the remaining items be moved to the Projects List.

CARRIED

11.1.2 Strategic Plan (to be circulated quarterly for information)

11.2 Applications Reports

11.2.1 North Pender Island Applications Report

Planner Pickard briefly reviewed the available Applications Report.

11.3 Bylaw Enforcement Notification Bylaw No. 188

11.3.1 Roadside Signage Enforcement Issues

Trustee Steeves noted the complaints that he was receiving about the ongoing proliferation of illegal roadside signage on Pender. He also expressed support for legal, appropriate, business signage. He had now been informed that the Land Use Bylaw applied to the road right-of-way, such that the Islands Trust could ask people to remove illegal signs and then ask the Ministry of Transportation and Infrastructure to follow up.

Resolution NP-LTC-35-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Bylaw Enforcement Coordinator Miles Drew to provide a report at the next meeting regarding removal of roadside signage and options for enforcement.

CARRIED

11.4 Expense/Budget Reports

11.4.1 Trustee and Local Expenses

This item was presented for information.

11.4.1 Adopted Budget 2011/12

None

11.5 Adopted Policies and Standing Resolutions Report

There was discussion about adding a policy to support extending agency referrals to local water systems groups, such as the Trincomali or Razor Point Rural Improvement Districts.

Resolution NP-LTC-36-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct the Planner to report back on a policy regarding referrals to Improvement Districts.

CARRIED

11.6 North Pender LTC Web Page

It was suggested to put the geoexchange staff report and related professional reports (see item 9.1) on the website.

11.7 Chair's Report

Chair Luckham reported that the Gabriola Trust Council Meeting had involved approval of a 0% tax increase, which involved a \$20,000 reduction in the Islands Trust budget; that Trust Council had also decided not to accept the \$250,000 Gas Tax Fund grant offered for a policy review; that there were still some policy amendments to occur in the coming term; and that the First Nations Task Force (of which Luckham was a member) was planning to bring a report to Trust Council in future.

11.8 Trustee Reports

Trustee Hancock noted that he and Trustee Steeves would be attending the upcoming meeting of the Association of Vancouver Island Coastal Communities (AVICC), at which Steeves would be seeking a leadership role.

Trustee Steeves added that he wanted to give some background to the AVICC about the Island Trust's marine advocacy activities. More locally, he was hearing feedback that Penderites wanted the roadway centre lines repainted.

Resolution NP-LTC-37-12

It was Moved and Seconded that the North Pender Island Local Trust Committee ask Trustee Steeves to contact the Ministry of Transportation & Infrastructure regarding repainting of the centre line on North Pender roads.

CARRIED

12. OTHER BUSINESS

12.1 Upcoming Meetings

12.1.1 Next Local Trust Committee Business Meeting

The next Local Trust Committee Business Meeting was scheduled for Thursday, April 28, 2012 (9:45 am, Community Hall Lounge).

12.2 A Strategic Approach to Islands Trust Communications

Chair Luckham noted the Guidelines now approved by the Executive Committee, to provide assistance for communications with local communities about Islands Trust initiatives.

12.3 Meeting with South Pender Island Local Trust Committee

Resolution NP-LTC-38-12

It was Moved and Seconded that the North Pender Island Local Trust Committee direct Staff to contact the South Pender Island Local Trust Committee to arrange a mutually satisfactory date for a joint meeting, and that the Planning Staff develop an agenda in consultation with Local Trust Committee members.

CARRIED

13. TOWN HALL MEETING

Sylvia Pincott commented that she hoped the Medicine Beach Nature Sanctuary sign was acceptable because it was on that property (rather than the road allowance); that she commended the Islands Trust for the new Map It system on their website; and that in a bit of Pender magic, a sharp-tailed snake had been discovered and photographed on Brooks Point Phase 3, which could help with CRD discussions.

Sara Steil commented that she wondered if heat or noise was emitted by ocean-based geoexchange systems; that regarding the planned Shoreline Development Review, Parks Canada had some amazing shoreline mapping; that she suggested a maximum dwelling size be kept on the list of Land Use Bylaw amendments, because housing here was becoming increasingly unaffordable and there would likely be more very large houses being proposed.

The Trustees responded that there had been no indication that ocean geoexchange systems created heat or noise; that there was also National Marine Conservation Area shoreline mapping; that such mapping needed to be to a certain standard if it was to support regulation; and that an increasing number of islanders were inquiring about and supporting protection of our sensitive shoreline areas.

Sara Steil said that eel grass could grow in most shoreline areas of a depth less than 20 feet, which would include all of the Pender bays.

Trustee Hancock said that reports including this kind of information could potentially serve as the basis for shoreline protection initiatives.

14. ADJOURNMENT

Resolution NP-LTC-39-12

It was Moved and Seconded that the meeting be adjourned at approximately 3:04 pm.

CARRIED

RECORDER

CHAIR



Islands Trust

Print Date: Apr-25-2012

Follow Up Action Report w/ Target Date

North Pender Island May-27-2010

No.	Activity	Responsibility	Target Date	Status
1	Item 13.3 - Violations of Setback to Sea: staff to proceed with the first 3 options in the Staff Memo dated May 11	Miles Drew	Jun-24-2010	On Going

Nov-25-2010

No.	Activity	Responsibility	Target Date	Status
2	Item 10.1 - NP-DVP-2010.3: approve amended permit in principle but issue after confirmation of building permit has been issued	Kathy Jones	Jan-27-2011	On Going

Apr-28-2011

No.	Activity	Responsibility	Target Date	Status
3	Item 8.1 PCT Correspondence: allocate \$400 from the LTC budget for a series of reports from PCT regarding the events and activities during the 2011/12 fiscal year	Nancy Rogers	May-26-2011	Done

Jul-28-2011

No.	Activity	Responsibility	Target Date	Status
4	Item NP-DP-2010.4: cross ref to NP-SUB-2008.5 - prior to staff providing written confirmation to MOTI that all conditions of the subdivision have been met, provide supporting documents to the LTC including the requirements of the registered covenants	Andrea Pickard	Sep-22-2011	On Going

Oct-27-2011

No.	Activity	Responsibility	Target Date	Status
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6.1

5 NP-DP-2010.4 (TWA) - staff to work with applicant to develop a consolidated covenant to replace existing covenants and applicant to provide a report addressing the impact of the proposed lots and the permitted uses within the gardom pond catchment area on Gardom Pond dam.

Andrea Pickard

Nov-11-2011

On Going

Jan-27-2012

No.	Activity	Responsibility	Target Date	Status
6	That Gary Steeves expenses to attend the AVICC be paid from the North Pender Trustee and Local Expense Budgets to a maximum of \$1500.	Nancy Rogers	Feb-23-2012	On Going

Feb-23-2012

No.	Activity	Responsibility	Target Date	Status
7	Item 6.1 - FUAL: Miles Drew to present a report to the LTC regarding the Violations to the Seaback to the Sea at the earliest opportunity	Miles Drew	Mar-22-2012	On Going

8 Item 9.3 - NP-DP-2010.4(Twa) : staff to discuss with the applicant amending the draft consolidated covenant to:

- change the buffer areas to protect trees and native vegetation
- adding a no building or structures clause in the plan areas representing the DPAs
- adding a clause to exempt danger trees
- adding a penalty fee for violations

and report back to the LTC regarding the DFO file and the Parks Commission trail

Andrea Pickard

Mar-22-2012

On Going

9 Item 9.3 - NP-DP-2010.4(Twa): staff request the Approving Officer and Dam Safety Officer to comment on the Ryzuk Drainge report and their response, and report back to the LTC

Andrea Pickard

Mar-22-2012

On Going

Mar-22-2012

No.	Activity	Responsibility	Target Date	Status
10	Item 5.1 - Minutes of Feb 23 - adopt as amended	Sharon Lloyd-deRosario	Apr-26-2012	Done
11	Item 8.3 - James Island Burn: inform NCC the LTC has no objections to the prescribed burn during the time period identified	Andrea Pickard	Apr-26-2012	Done

12	Item 8.3 - James Island Covenant: staff to follow up with NCC regarding arranging an annual meeting as per the agreement re: the James Island covenant	Robert Kojima Andrea Pickard	Apr-26-2012	Done
13	Item 9.1 - NP-RZ-2011.2: staff to proceed with preparing a draft bylaw	Andrea Pickard	Apr-26-2012	Done
14	Item 9.2 - NP-DVP-2012.1: DVP approved and to be issued as drafted	Kathy Jones	Apr-26-2012	Done
15	Item 9.3 - NP-RZ-2011.1: give first reading to the draft bylaw190 and refer bylaw to agencies for comment	Kathy Jones Andrea Pickard	Apr-26-2012	Done
16	item 9.3 NP-RZ-2011.1: staf to schedule a CIM and PH for a weekend date	Andrea Pickard	Apr-26-2012	On Going
17	Item 9.4 - NP-SUB-2008.3: staff to negotiate with the owner a financial contribution to PICA for the baseline study and that the LTC will contribute matching funds up to \$750	Andrea Pickard	Apr-26-2012	Done
18	Item 9.4 - NP-SUB-2008.3: advise the Approving Officer that the LTC supports the dedication of parkland as proposed is the layout noted as EPP16005	Andrea Pickard	Apr-26-2012	On Going
19	Item 11.1 Work program: staff prepare a report on options for a Shoreline Development Review	Andrea Pickard	Apr-26-2012	Done
20	Item 11.1 - Work Program: Top Priority LUB amendments to be changed to those items related to subdivision and roads with all remaining items to go to the projects list	Andrea Pickard	Apr-26-2012	Done
21	Item 11.1- Work Program: projects list item 2 to change title to read Climate Change Adaptation and Community Resilience	Andrea Pickard	Apr-26-2012	Done
22	Item 11.3 - Bylaw Enforcement: the BEO is to provide a report for the next meeting regarding the removal of road signs and options for enforcement	Miles Drew	Apr-26-2012	Done
23	Item 11.5 - Standing Policies and Resolutions: staff to report back on a policy regarding including Improvement Districts as a referral agency for development applications	Robert Kojima Andrea Pickard	Apr-26-2012	On Going
24	Item 11.8 - Trustee Rpt: Trustee Steeves to contact MOTI regarding painting of the road centre line	Gary Steeves	Apr-26-2012	On Going

25	Item 12.3 - Late Item Re: Meeting with SPI: staff to contact SPILTC to discuss arranging a joint meeting with both NPI and SPI LTCs with an agenda including topics of common interest	Robert Kojima Andrea Pickard	Apr-26-2012	Done
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Andrea Pickard

From: Sara & Dick Steil <steils@shaw.ca>
Sent: April-06-12 10:41 AM
To: Gary Steeves; Ken Hancock; Liz Montague; Mike Jones; Peter Luckham
Cc: *Sylvia & Keith Pincott; Andrea Pickard
Subject: Green Shores / Marine Riparian Areas protection Joint Initiative Proposal

Importance: High

Dear North / South Pender Island Local Trust Committee

The Pender Islands Conservancy Association (PICA) wishes to extend to the Pender Islands Local Trust Committees our commitment to assist in the proposed Islands Trust Green Shore Initiative.

In conjunction with the Local Trust Committees, the Pender Islands Conservancy Association would like to propose hosting a joint 'Green Shores / Marine Riparian Areas Educational Forum' for an appropriate date in October deemed satisfactory by all participants listed (*suggested date: Saturday, October 13, 2012*).

For assistance in providing scientific data, we are also seeking participation of Parks Canada scientists (*to cover: - Rockfish (listed species) habitat; inter-tidal bivalves; inter-relationship of upland plant communities with inter-tidal areas; forces of tidal waters in association with natural barriers vs. danger of hardening shoreline re power/energy transfers to neighbouring lands*) as marine waters are not static and what takes place outside or within the Parks Canada boundaries will affect both jurisdictions. At this time we are waiting approval from Parks Canada Management with responses to date very positive.

The Green Shores initiative, including protection of the associated Marine Riparian Areas, is critical to the marine ecosystems and the well-being of "all waterfront property owners" and those who use our shorelines, beaches & marine waters. There is a critical need for good stewardship of these areas and through our proposed initiative we aim to provide educational information towards reaching this goal.

We look forward to working with the Local Trust Committees & Parks Canada to reach the goal of preservation & protection of the foreshore and marine ecosystems, for this is within the mandate of the Pender Islands Conservancy Association.

Waiting for your response prior to moving forward - would you kindly give consideration for this proposal to be placed on your next Local Trust Committee agenda for decision - thank you.

Yours truly,

Sara Steil for PICA Shoreline Project

cc to Planner Andrea Pickard
 Sylvia Pincott President / Chair PICA

Andrea Pickard

From: Sara & Dick Steil <steils@shaw.ca>
Sent: April-08-12 8:14 PM
To: Liz Montague; Mike Jones; Ken Hancock; Gary Steeves; Peter Luckham
Cc: Andrea Pickard; *Sylvia & Keith Pincott
Subject: Shoreline Protection Information

Importance: High

Hello Trustees

For your consideration when reviewing Shoreline protection for various reasons.

I noted, on the South Pender LTC April 10th Agenda, the map showing various types of waterfront. While consideration is being given for shoreline protection re 'Green Shores for soft, natural barriers vs hardening shorelines, etc' and rightly so, protection consideration should also be in the equation with regards to bluffs, cliffs, low rock/boulder & sea cliff for it is unfortunately sometimes the norm for property owners to use these deep sea areas for disposal of debris, or other usable items on occasion.

As you are aware, rockfish are listed as seriously threatened & given status by DFO with includes Rockfish Conservation Areas (RCA). These areas around South and North Pender are significant (I do have a map showing the areas but unfortunate the file is too large to send electronically). This is one of the reasons I have requested in my previous email (PICA Shoreline / Marine Riparian Areas Forum proposal) that 'all' waterfront owners should be included.

Thank you for your consideration
Sara Steil
PICA Shoreline Project

Sara J. Steil

*6504 Harbour Hill Road
Pender Island, B.C. V0N 2M1
Ph: (250) 629-6885
Fax: (250) 629-6880
Email: steils@shaw.ca*

April 10, 2012

Hi Andrea

Attached, information for the SPILTC Trustees & yourself,

Information we acquired from Parks Canada re Shoreline Protection Project -

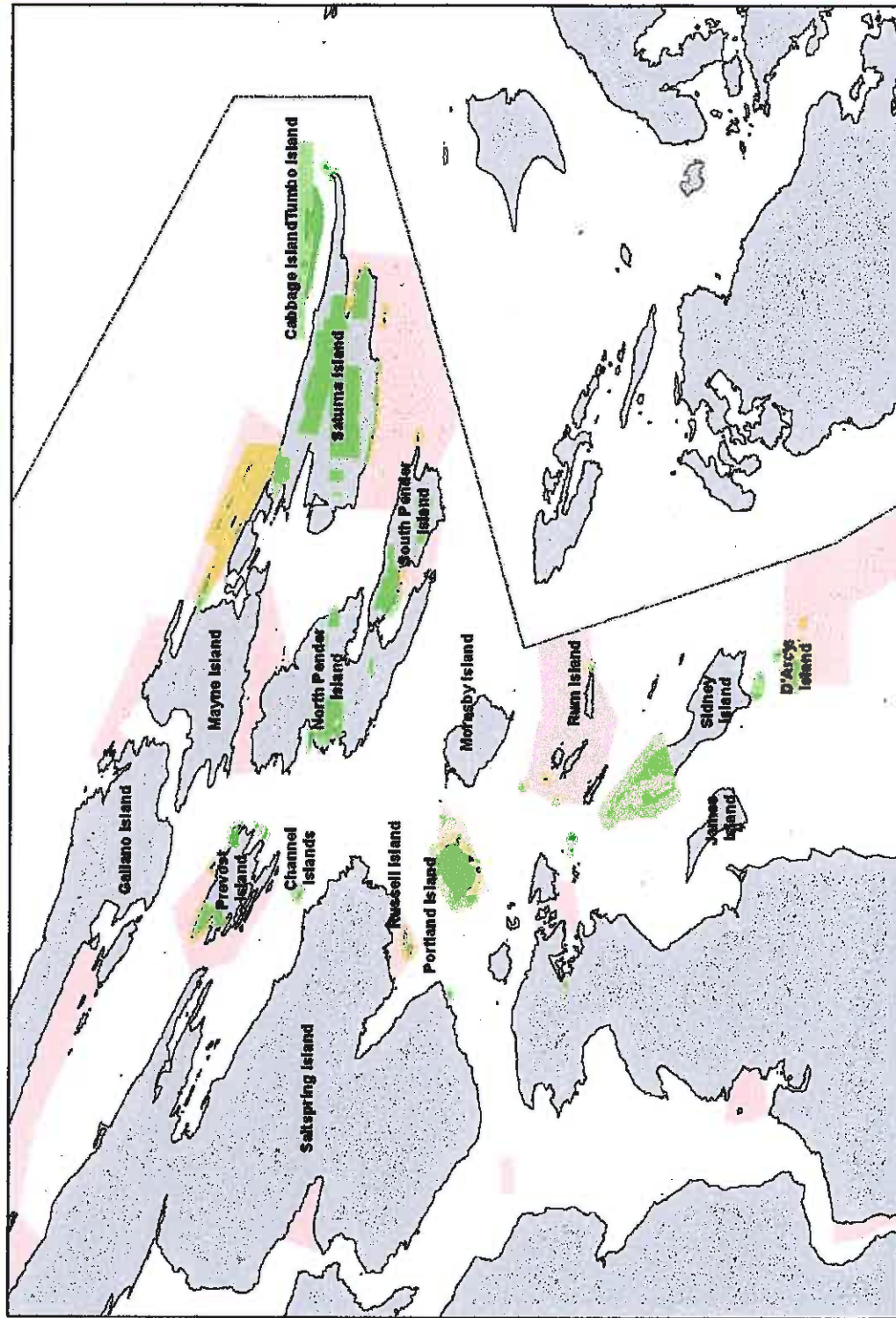
- 1) Rockfish Conservation Areas DFO map (RCA's shown in pink);
- 2) Anchoring / mooring buoys information to protect marine ecosystems - these systems are brought forward over & above requirements by Transport Canada for conservation purposes.

We hope this information is helpful to assist Trustees in decision making.

Regards

Sara

GINPR and Existing RCAs



parkscanada.gc.ca

Bringing you Canada's natural and historic treasures

Anchoring & Mooring Buoys

Sara,

Sorry for the delay replying. Been out of the office part of this week. Best practice would be firstly to avoid anchoring/mooring in sites with sensitive resources such as eelgrass. If this can't be avoided, then its best to install mooring buoys rather than have unrestrained anchor use. Use of conservation moorings that have a rubber or rope line and a mid water column float to keep all tackle off the bottom, would be the best solution for avoiding impacts to sensitive bottom resources. I'll send you some additional information on this next week when back to the office.

Steve

Steve Oates
Environmental Assessment
Parks Canada Agency
Western and Northern Service Centre
300-300 West Georgia Street
Vancouver, B.C. V6B 6B4
604.666.0286
604.666.7957 fax
steve.oates@pc.gc.ca

From: "Sara & Dick Steil" <steils@shaw.ca>
To: <Steve.Oates@pc.gc.ca>
Date: 28/03/2012 11:07 AM
Subject: Anchoring / Mooring Buoys

Hi Steve

I'm the one always asking for info to 'educate boaters'!!

Need more advice please -

While Transport Canada has their regs re mooring buoys there doesn't seem to be any ecosystem protection considered or given on the issue.

I'm been preaching to our CPS Squadron members about the damage being caused by anchoring & mooring buoys with the circle drag aspect plus not being conscious of what is on the sea bed which is causing a fair amount of ecosystem damage as you brought to the forefront during PC Marine Stakeholders workshop.

In your view what should be practiced by boaters to lessen the impact they are having in the anchoring and mooring buoy sites (in & outside Park Canada's waters)?

Speaking to a local diver, eelgrass in waters 20 to 50 feet in depth can be found in just about every bay & inlet around the Pender's and guess where boaters wish to anchor or place mooring buoys!

Many thanks

Sara

MAYNE ISLAND INTEGRATED WATER SYSTEMS SOCIETY

miiwss.com

COPIED TO

April 3, 2012

Re: Temporary Use Permits and Rezoning Applications

PLANNER

LTC

Chair

Dear Chair and Council Members,



It has come to our attention, due to an STVR TUP application process on Mayne Island, that only the surrounding homeowners are notified of the application, enabling only immediate neighbours the ability to be aware of the process at the outset.

Many of the TUPs or rezoning applications on the Gulf Islands are within the Letters Patent boundaries of a water system. It is our belief that the water systems, regardless of their governance or ownership methods, must have an equal opportunity for notification of possible consumption pattern changes within their boundaries, kept advised throughout the process, and given priority at any public meetings. Each LTC should be insisting that the notification process, as currently practised by Trust staff, be expanded to include all affected water systems.

In the case of STVRs, the buildings will be rented out primarily during the peak tourist times which coincide with island's peak drought seasons. A water system must have the opportunity for input as to whether they are able to supply drinking water to short term renters without stressing their wells, while maintaining their ability to supply their permanent stake holders who rely on the purveyor as sole supplier of drinking water on a full time basis.

It is to be expected that most short term renters are unaware of unique island water situations, since they are not accustomed to being intimately involved with their water source. Thus, consumption will be higher than a resident, either because they are inexperienced or simply don't care given the rent they pay.

Rezoning merits the same attention, since possibly a business will have higher water demands than the current usage pattern.

It has been a problem for many systems in the past to have an effective ability to enforce bylaws re usage abuse, nor can they control, in reality, the number of people using a house at any given time. IT bylaw enforcement support is so far after the fact as to be ineffectual in a crisis situation.

The water systems remain, as of the present, in the dark as to what the situation is in any given house at any given time. Water systems only have the option to turn off the water, which, by its nature, is a confrontational reaction, and well after the fact. When consumption jumps within a water system, the paid staff naturally suspect a leak and will go out in search of the source. They must also read meters until they find a high consumption anomaly. All of this is expensive staff time for a small system, and is avoidable if they had been made aware of possible high consumption houses.

This is more urgent when the TUP morphs into a rezoning as most do, or the Trustees set up STVR category of a permanent nature and the problems become a life long issue, regardless of the ownership or use of that house after a resale.

It would be the wish of MIIWSS, that this notification process be instituted as soon as possible, with the fast approaching tourist season.

Water Boards have a difficult job and we expect them to be stewards of our finite water supplies. Water Boards

also purvey to higher density areas, resulting in the disadvantage of deep drawdowns at critical supply times. Water boards provide also excellent consumption control methods, hence conservation of drinking water.

The Islands Trust and public actions should reflect all measures we can to assist in achieving that elusive goal of preservation of challenged aquifers.

We requested that the Islands Trust Executive Council consider this request as an overall approach, but while they agreed with the goals, they felt it was an island by island issue. We are approaching each LTC with this request in that manner.

Regards, Mary Cooper,



Chair, MIIWSS
567 Club Cres.,
Mayne Island, BC, V0N 2J1

250-539-3491



PENDER ISLANDS TRANSPORTATION MANAGEMENT PLAN
(Developed by the Moving Around Pender (MAP) Alternative Transportation Society in
response to a request from the North Pender Island Local Trust Committee LTC)
(APRIL 16 VERSION)

TABLE OF CONTENTS:

1. Glossary of abbreviations
2. Executive Summary
 - a. Short Term Action Items
 - b. Longer Term Action Items
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 - a. Purpose
 - b. Background
4. Vision Map
5. Transportation initiatives
 - a. Car Stops
 - b. Designated Bicycle/Pedestrian Route (*Magic-Ferry Route*)
 - c. Otter Bay Bicycle Shelter
 - d. Alternative Transportation Routes
6. Marine Transportation and docks
7. Intersection with other issues:
 - a. Land Use
 - b. Trails and Parks
 - c. Community Safety
 - d. Parking
8. List of Appendices

1. Glossary of abbreviations:

IT: Islands Trust

LTC: Local Trust Committees

CRD: Capital Regional District

MOTI: Ministry of Transport and Infrastructure (formerly MOTH – Ministry of Transportation and Highways)

MAP: Moving Around Pender; Alternative Transportation Society

NPI: North Pender Island

SPI: South Pender Island

ATR: Alternative Transportation Routes

OCP: Official Community Plan

RCMP: Royal Canadian Mounted Police

PICA: Pender Island Conservation Association

PIPRC: Pender Island Parks and Recreation Committee

PCT: Pender Community Transition

GINPR: Gulf Islands National Park Reserve

ERV: Emergency Response Vehicle

EXECUTIVE SUMMARY:

This transportation management plan was developed with wide input from interested parties and individuals on the Pender Islands with the aim that the document will form an initial blueprint for improvements in the safety, effectiveness and environmental impact of all forms of transportation on the Islands. The report is viewed as a living document that will evolve over time in response to additional feedback and consultation.

The plan recognizes the unique and natural qualities of the Pender Islands and attempts to incorporate and build on existing infrastructure and geography to improve the safety and co-existence of cyclists, pedestrians and vehicles moving around on the Penders.

The Pender Islands are rural, with a relatively low population and are dependent upon ferry links. The geology of Pender Island is characterized by rolling hills with north-south headlands and high ridges of erosion-resistant sandstone/conglomerate separated by narrow valleys.

Pender has a long history of working with the geology, the Islands' resources and using adjacent water. (The culmination of uses and zoning over time is included in the 2004 / 07 Official Community Plan.) Agriculture, logging, a brick making enterprise, a herring saltery, a fertilizer

plant and a cedar shake roofing company created the foundation for the current roadways. Roads are mainly narrow, paved, with many curves and hills. For the most part Pender roads do not include features for, and are not friendly to, pedestrians and cyclists. Every year, the volume of motorized vehicles has increased causing many safety concerns, increasing the need to reduce vehicle pressure on the Islands and to make provisions for pedestrians and cyclists. The volume of traffic is also at odds with the serene and natural beauty of the Islands.

This Plan identifies several hazardous areas for pedestrians and cyclists on a 'Vision Map' and on a proposed "Magic Ferry Route" for the Islands' major transportation corridor. The Plan concentrates on finding solutions for several hazardous areas. The main initiatives include:

- Car Stops
- Multi modal routes
- Bike sheds
- Connecting Otter Bay Ferry Terminal to Magic Lake (Magic Ferry Route)
- Alternative Transportation Routes
 - Einer's Hill bypass
 - Community Hall – Library/Nu To Yu connector
 - Earl's Trail (Browning to Driftwood)
 - Scarff – Magic Lake connector
 - Shingle Bay – Irene Bay Road connector

The Plan also draws attention to issues that can be developed more thoroughly as the Transportation Plan evolves:

- Land use and planning,
- Safety re: emergency response vehicles, and evacuation routes
- Parks and park trail systems
- Environmental considerations
- Marine Transportation

The short term recommendations of the Plan are:

Short Term Action Items:

1. Submit the Transportation Plan to the LTC
2. Ensure that the Transportation Plan is made available to the MOTI to incorporate appropriate sections into their road action plans
3. Support the expansion of the number of Car Stops across the island where warranted
4. Implement a mechanism at the most appropriate level of government to secure road-side or road-adjacent lands which provide safe improvements for cyclists and pedestrians
5. Work with LTC and CRD to have MOTI do a survey of available right-of-ways for shared roadways and alternate transportation routes
6. Work with LTC and CRD to have MOTI do a survey of dangerous spots along Pender thoroughfares and prioritize these spots for remedial action.
7. Improve warning signs at these sites or introduce new signs
8. Establish creative mechanisms to acquire and hold lands for use as ATRs. Dialog with roadside owners where necessary to secure right-of-ways and transfer of liability to CRD
9. Give deteriorating roads, bridges, and transit systems priority in funding, and limit roadway/highway expansion
10. Control road-side vegetation and debris that may interfere with or compromise the safety of pedestrians and cyclists by undermining the road surface
11. Begin a dialogue with the RCMP to evaluate feasibility of some specific traffic calming measures including:
 - o Speed bumps, reduced speed limits and/or better enforce speed limits, or electronic speed indicators
 - o The establishment of pedestrian cross walks or stop signs at strategic locations
12. Design and conduct a Survey of Pender Islanders and visitors regarding perceived safety of the Penders transportation routes and desirability of possible alternatives
13. Partner with existing organizations and governments to create funds to purchase and to maintain ATRs
14. Design and implement traffic surveys to document traffic volume and peak times

15. MAP to initiate direct interaction with other groups and organizations on the Penders who have interest in, or are impacted by, transportation issues. Including PICA, PIPRC, PCT, GINPR
16. Support the recent advent of bicycle repair and maintenance facilities at the Pender Island Recycling Station

Longer Term Action Items:

1. Widen those areas of the road-side route which are deemed to be unsafe for bicycle/pedestrian passage, with a primary focus on sharp or blind corners, steep gradients, steep or precipitous road-side edges
2. Develop off road multi-modal paths using alternate routes or paths separated from the roadway (ie on the other side of the drainage ditches) where shared roadways are problematic
3. Construct ATRs according to site-specific criteria to permit safe passage of cyclists and pedestrians in both directions, while minimizing the environmental impact of the surrounding terrain, water-courses and vegetation
4. Consider development on the Shingle Bay- Irene Bay Rd ATR of a single lane road with controlled access to allow passage of emergency response vehicles (road could be gated and open only to pedestrians and cyclists except in an emergency)
5. Continue to gather feedback from public on hazardous areas
6. Promote zoning for marinas that house only non-fossil-fuel powered vehicles
7. Support the installment of infrastructure at Car Stops to increase the comfort, convenience and safety of travelers. This could be in the form of additional benches and/or shelters and/or bicycle racks
8. Support widening of pullouts at Car-Stops to allow:
 - safer vehicle pullout
 - safer passage of vehicles on the roadway while the pullout is occupied
 - potential use by emergency response vehicles

9. Identify routes that feed into the Magic Ferry corridor and provide infrastructure such as shelters, benches, and signs

INTRODUCTION

"I number it among my blessings that my father had no car, while most of my friends had, and sometimes took me for a drive. This meant that all these distant objects could be visited just enough to clothe them with memories, and not impossible desires, while yet they remained ordinarily as inaccessible as the Moon. The deadly power of rushing about wherever I please had not been given to me.

- C.S. Lewis, "Surprised by Joy"

This Pender Islands' Transportation Plan provides a framework to explore the expansion of travel options on the Pender Islands, including, but also looking beyond, the conventional, carbon-fueled combustion engine vehicle. Since the arrival of BC Ferries and car service to the Pender Islands, the automobile has been the dominant mode of transportation for moving about the islands. The potential for walking, cycling and other forms of transportation as alternatives to the motor vehicle is vast but is far from being attained on the Pender Islands. While there are some irremediable limiting factors (age, weather, terrain, etc.) that influence the island residents' and visitors' desire or ability to walk or bicycle, this Transportation Plan attempts to address those other factors that may be managed.

Improving the transportation options that do not require conventional combustion engines will bring environmental, health and commercial benefits. An integrated transportation plan will positively contribute to commercial and tourism interests and with foresight, can protect environmental values on the Penders. Reductions in the burning of fossil fuels will cut back on both local pollution as well as global climate degradation. Populations become healthier when they breath cleaner air and exercise more. Improved physical fitness and the slower pace of pedestrians and cyclists allow more interaction with friends and neighbours to build greater sense of community.

The Penders can become a destination for visitors seeking a clean, safe bicycling and walking environment. Besides reducing harmful carbon emissions, and improving air quality implementing action items in this plan will increase the pleasure of cycling and walking on the Penders. Additional benefits are decreased noise and less road "wear", hence reduced taxes on road maintenance,



STAFF REPORT

April 11, 2012

File No.: NP-DVP-2012.3

To: North Pender Island Local Trust Committee
For the meeting of April 26, 2012

From: Kris Nichols,
Planner 1

CC: Andrea Pickard
Island Planner

Re: Development Variance Application

Owner: Robert Thompson
Applicant: Same as above
Location: Lot 1055, Section 9, Pender Island, Cowichan District, Plan 23175
2655 Galleon Way

THE PROPOSAL:

The purpose of the application is to vary Clause 8.1.5 (1) (a) of the North Pender Island Land Use Bylaw 103, 1996 for the construction of a 105 m² (1128 ft²) single family residence. See Schedule B - Proposed Development Variance Permit for building elevations (design). The subject property is currently undeveloped located on Galleon Way in the Magic Lake subdivision.

The proposal is to vary the required setback from the front lot line from 7.6 metres to 3.0 metres (as shown in Figure 1 – Site Plan) for the construction of a single family house. The application states that the variance is required in order to ensure that the house is built on a level portion of the lot, but in doing so requires that the house be built closer to the front lot line. As can be seen in the pictures and Figures 2 and 4, the property slopes steeply away from the flat area near the road frontage. If the applicants were to comply with the front lot line setback it would mean that their single family residence be constructed overhanging the steep bank.

A draft Development Variance Permit is attached as Schedule B which includes the building setbacks. The proposed construction of the single family residence is at an angle to the front lot line and therefore the setback will be not less than 3.00 metres (10.0 ft) as shown in Figure 3.

SITE CONTEXT:

The subject property is a 0.15 ha (0.37 acre) undeveloped property on Galleon Way. Adjacent properties along Galleon are of a similar size and shape. The property is treed with a relatively

flat area closer to Galleon Way end of the property. This flat area is bordered by a slight grade (primarily in the road right-of-way) from Galleon Way and on the southwest by a steep slope. Most of the properties directly adjacent to the lot have established residences.

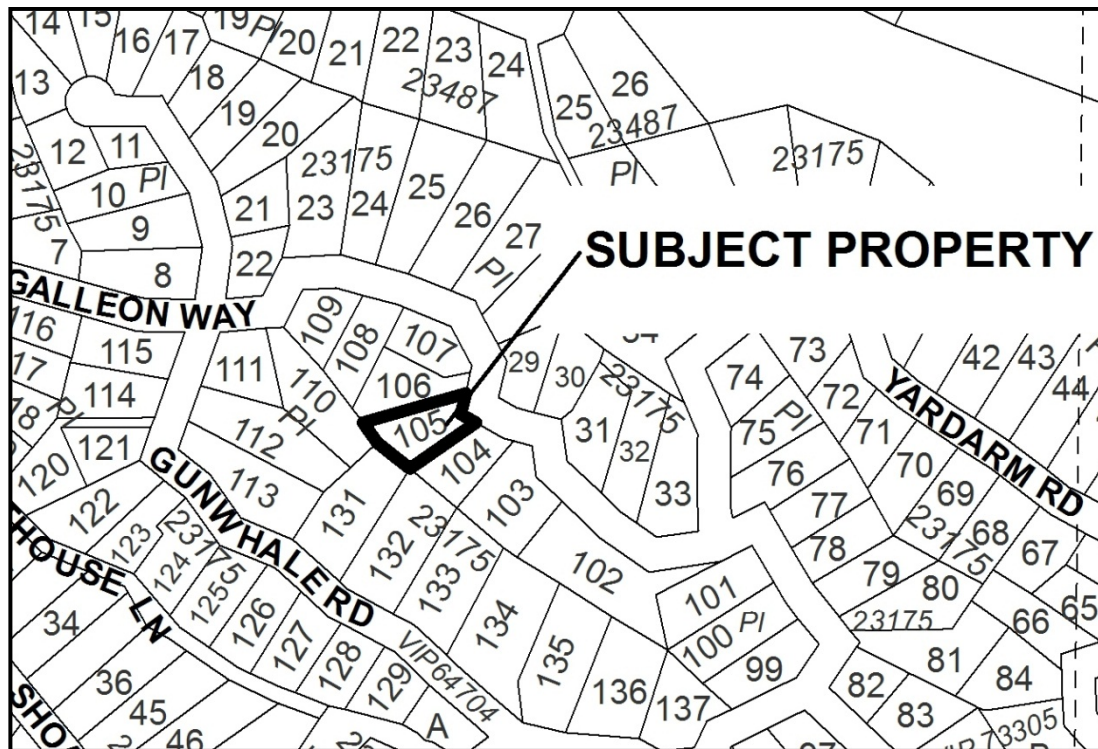
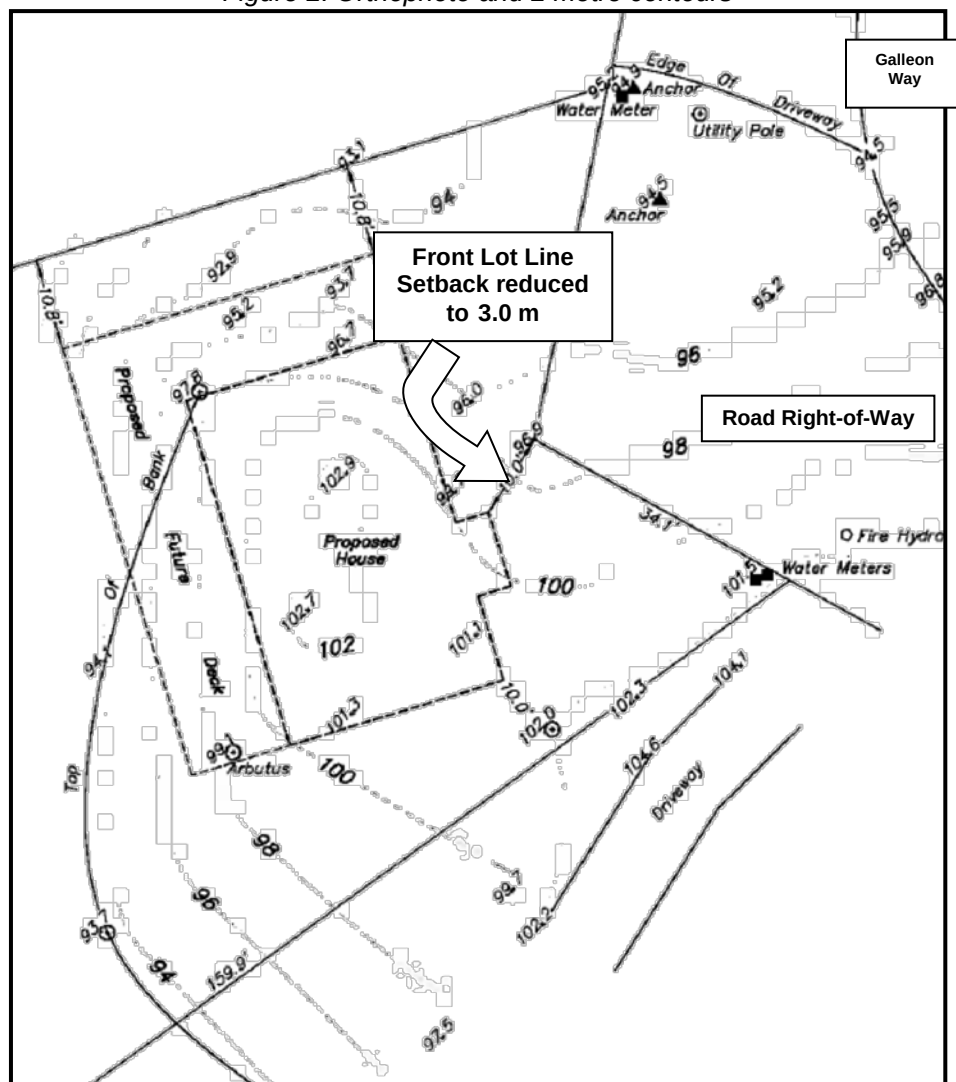


Figure 1: Subject Property Map

The proposed location (see Figure 3) of the single family residence is 3.0 metres (10 ft) from the front lot line, however, the built portion of the road (Galleon Way) is approximately 18 metres (60 ft) from the property line and therefore the impact on the road will be negligible.

The road right-of-way exists, but is unbuilt, and as a result the owner is required to obtain a permit from the Ministry of Transportation as the proposed house is within 4.5 metres of that right-of-way. The owner has received the required permit from the Ministry of Transportation.





Picture 1: Galleon Way road frontage



Picture 2: Slope toward southwest of property



Picture 3: Slope toward Galleon Way

CURRENT PLANNING STATUS OF SUBJECT LANDS:

Trust Policy Statement:

There are no directive policies relevant to this application.

Official Community Plan

The subject property is designated Rural Residential in the Official Community Plan (OCP); relevant policies include:

- 2.1.A – Maximum site coverage and setback and height limitations shall be regulated, and maximum floor area regulations may be established, to preserve rural character and to minimize resource and energy demands on the island.

There are no development permit areas located on this property.

Land Use Bylaw:

The subject property is zoned Rural Residential (RR) and the Land Use Bylaw as are other properties in the area.

Islands Trust Fund:

There are no Trust Fund Board covenants on the property.

Sensitive Ecosystems and Hazard Areas:

The steep slope hazard mapping shows low and medium hazard in the southwest corner of the property where the slope is the steepest.



Figure 4: Steep Slope Hazard Areas

Archaeological Sites:

There are no registered archaeological sites on the property or in close proximity.

Covenants:

There are no registered covenants on title.

Climate Change Mitigation and Adaption

The property is currently well treed. It is anticipated that the construction of the residence will require the removal of several trees and lower vegetation as has been done with many of the developed properties in the area.

RESULTS OF CIRCULATION:

Notice was circulated to neighbouring residents and owners for comment and is attached as Schedule B. At the time of writing this report no comments have been received. Two neighbours did contact staff regarding clarification of the application details specifically around the distance from the built road versus the road right-of-way. If any comments are received they will be brought to the Local Trust Committee meeting.

The applicant has attempted to contact the immediate neighbours, but due to the seasonal nature of their use was unable to speak to them.

ISSUES SUMMARY:

Applicant's stated rationale for the variance. The applicant has stated that their lot is very challenging from a building perspective. It has a relatively small building site that is constrained by sloping lands toward Galleon Way and steeply sloping toward the southwest corner. If they were to meet the setback requirements, they would be forced to build over a steep slope which would be very costly. By moving the proposed construction toward the front lot line, it permits for building on a relative flat area. The owner's intent is to use this residence as a retirement home and therefore require sufficient floor area to accommodate bedrooms on the main floor. Despite the proposed house being within 3 metres of the front lot line they are still over 18 metres from the built portion of Galleon Way due to a large unbuilt right-of-way.

The overall intent of the regulation being varied. The overall purpose of the setback regulations is to minimize impacts on adjacent property related to: building code requirements, aesthetic, and privacy concerns. Regulating setbacks also helps to provide a consistent pattern of development within a given zone. Any alternative to a DVP would be costly and disruptive as it would involve significant work to the southwest corner of the house as it would be located over the steep slope so that it conforms to the required setback.

Potential impacts of granting the variance. Granting a variance can potentially create an expectation in the community with regard to future applications. As variances consider the unique circumstances pertaining to a particular situation that may warrant the relaxation of a specific zoning regulation each application should be evaluated on its own merits.

STAFF COMMENTS:

The need for the variance is due to the applicant wishing to construct a single family residence on a lot that has building constraints due to the steep slope existing on the property. If the owner met the setback requirement, it would mean that they would have to build over the steep slope which would require additional cost and engineering. By building closer to the front lot line it permits the construction to occur on a flat area. Despite being closer to the front lot line the house would still be approximately 21 metres from the built portion of Galleon Way. There is a large 18 metre section of unconstructed road and uncleared right-of-way that is between the built/paved road and the front lot line. The location of the house will be similar to the location of the the residences on the adjacent properties.

Based on the fact that the construction of this residence should have negligible impact on the surrounding properties and the constructed road, staff is recommending approval of this development variance permit.

RECOMMENDATIONS:

THAT Development Variance Permit NP-DVP-2012.3 (Thompson) **BE APPROVED.**

Prepared and Submitted by:

Kris Nichols

April 11, 2012

Date

Concurred in by:



Robert Kojima, Regional Planning
Manager

April 18, 2012

Date

Schedules:

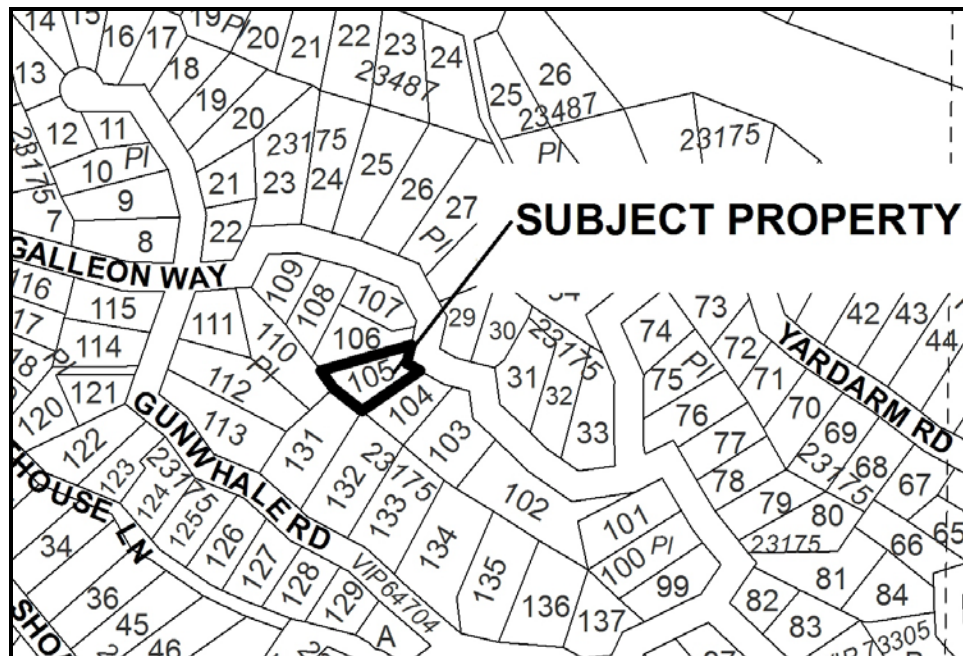
Schedule A: Notice of Development Variance Permit
Schedule B: Proposed Development Variance Permit

**NOTICE
NP-DVP-2012.3
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**

NOTICE is hereby given that the North Pender Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, pursuant to Section 922 of the *Local Government Act*. The proposed permit would vary the North Pender Island Land Use Bylaw 103, 1996 by varying Clause 8.1.5 (1) (a) for the construction of a single family residence.

The property is located at 2655 Galleon Way and is legally described as, Lot 105, Section 9, Pender Island, Cowichan District, Plan 23175, PID: 003-055-752

The general location of the subject property is shown on the following sketch.



A copy of the proposed permit may be inspected at the Islands Trust Office, 200 - 1627 Fort Street, Victoria, B.C. V8R 1H8 between the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday inclusive, excluding statutory holidays, commencing April 13, 2012 and continuing up to and including April 23, 2012.

For the convenience of the public only, and not to satisfy Section 922(5) (c) of the *Local Government Act*, additional copies of the Proposed Permit may be inspected at various Notice Boards on Pender Island, B.C., commencing April 13, 2012. Also, attached for your convenience is a copy of the proposed permit.

Enquiries or comments should be directed to Planner Kris Nichols at (250) 405-5170, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: information@islandstrust.bc.ca before for 4:30 pm, April 23, 2012.

The North Pender Island Local Trust Committee may consider a resolution allowing for the issuance of the permit during the regular business meeting starting at 9:45 a.m., April 26, 2012 at the Pender Island Community Hall (Lounge) on North Pender Island.

All applications are available for review by the public. Written comments made in response to this notice will also be available for public review.

Kathy Jones
Deputy Secretary



Islands Trust

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT VARIANCE PERMIT

NP-DVP-2012.3

To: Robert Thompson

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

Lot 105, Section 9, Pender Island, Cowichan District, Plan 23175, PID: 003-055-752

2. North Pender Island Land Use Bylaw 103, 1996 is varied as follows to allow for the construction of a single family residence:

a) Clause 8.1.5 (1)(a) is varied to reduce the front lot line setback from 7.6 metres to 3.0 metres.

The location of the single family residence building shall be consistent with Schedules 'A' and 'B' which are attached to and form part of this permit.

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "North Pender Island Land Use Bylaw No. 103, 1996" and to obtain other approvals necessary for completion of the proposed development, including approval of the Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER LOCAL TRUST COMMITTEE THIS ____ DAY OF ____, 2012.

Deputy Secretary, Islands Trust

Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ____ DAY OF ____, 2014, THIS PERMIT AUTOMATICALLY LAPSES.

SCHEDULE 'A'

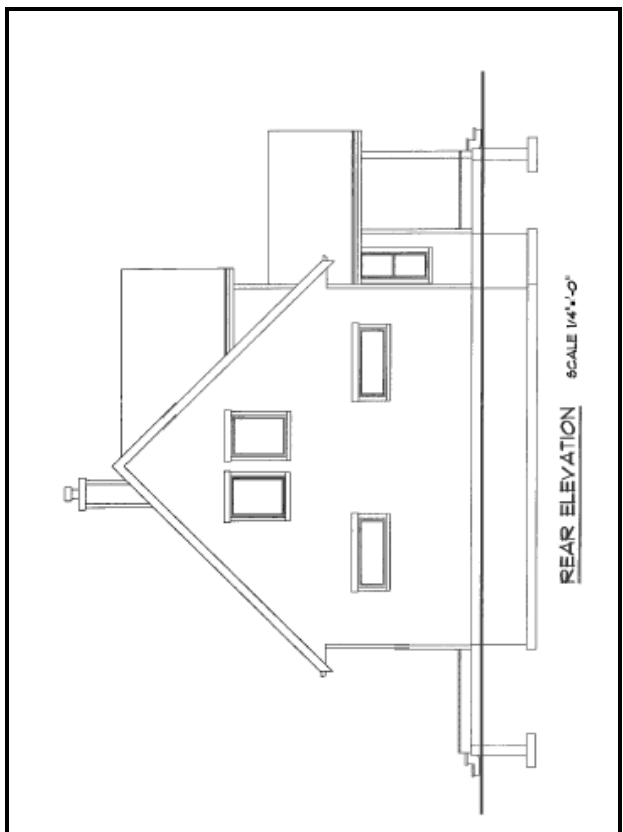
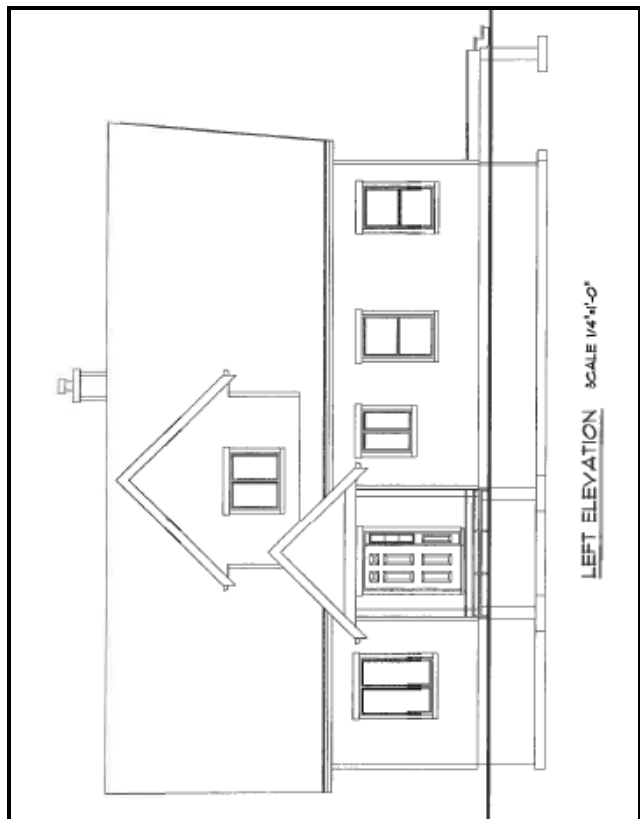
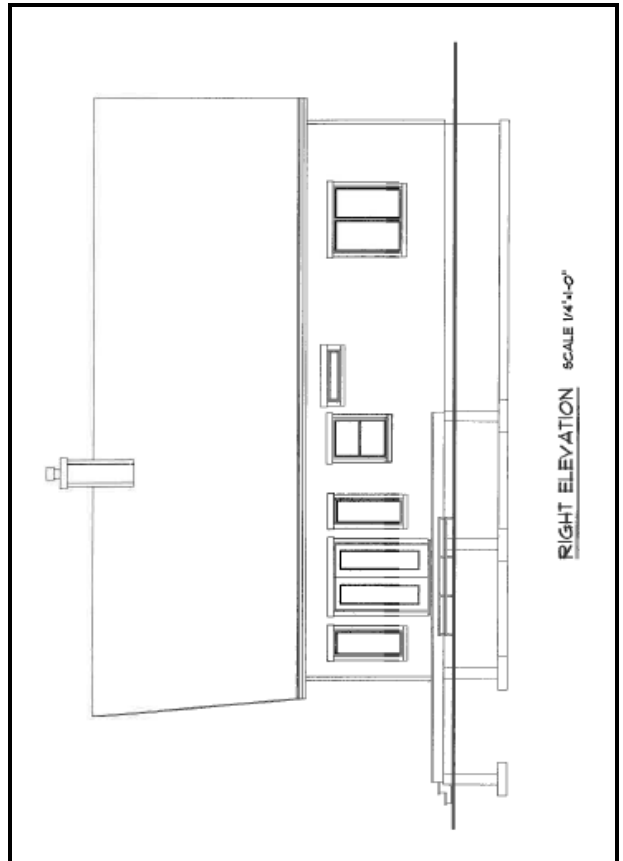
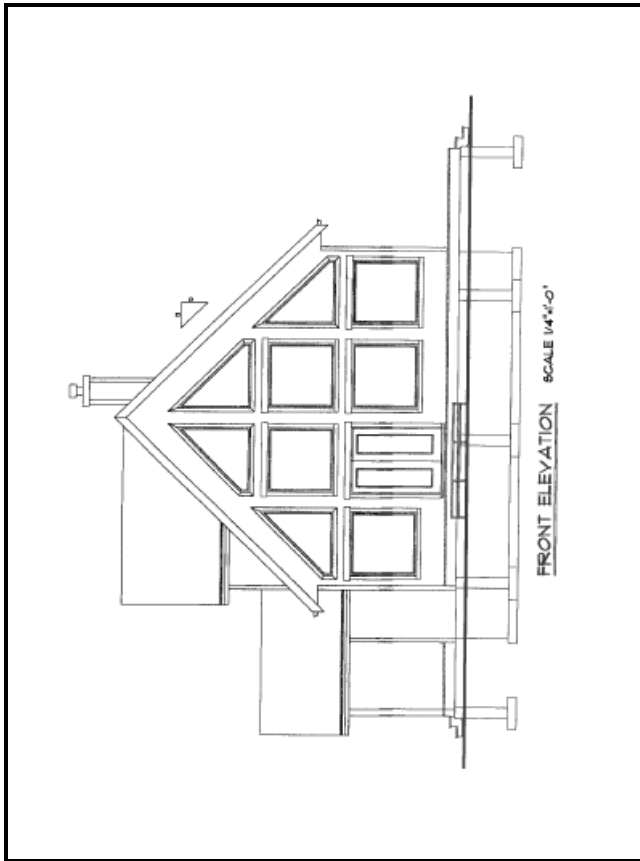


PROPOSED

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

NP-DVP-2012.3

SCHEDULE 'B'





STAFF REPORT

April 17, 2012

File No.: NP-RZ-2011.12
(Lockhart)

To: North Pender Island Local Trust Committee
For the meeting of April 26, 2012

From: Andrea Pickard
Island Planner
Local Planning Services

Re: Bylaw Amendment Application

Owner: Sandra MacPherson and Noel Hall
Applicant: Lockhart Industries c/o Doug Lockhart
Location: 6640 Razor Point Road
Lot B, Section 11, Pender Island, Cowichan District, Plan 32264 Except
Part in Plan VIP68515

THE PROPOSAL:

The application is for a bylaw amendment to rezone a portion of the Water 1(W1) zone abutting the subject property to permit an ocean-based geothermal system to be sited in the marine waters to provide domestic heating and cooling for the upland residential property. The application was initiated following Bylaw Enforcement since the system was installed during house construction. Installation of the system components within the foreshore, intertidal and ocean is completed, while some components at the residential end are still waiting to be finalized until house construction is completed. The ocean based portion of the geothermal system is located in the vicinity of an existing dock.

The adjacent marine waters are also designated as a sensitive intertidal development permit area, however the installation is not within the DPA so a development permit is not required.

The LTC received a preliminary staff report at the March meeting and directed staff to proceed with the application and prepare a draft bylaw. The purpose of this report is to review the draft bylaw, consider any revisions, and seek direction for the next steps for community consultation. There have been professional reports submitted for this application which are available on the North Pender page of the Islands Trust website under "proposed ocean-based geothermal system application", including an underwater video survey of the marine environment.

The industry association is GeoExchange BC. The preferred terminology for this type of system is geoexchange system, with geothermal being preferred for higher temperature systems. The term geoexchange will be used for this application.

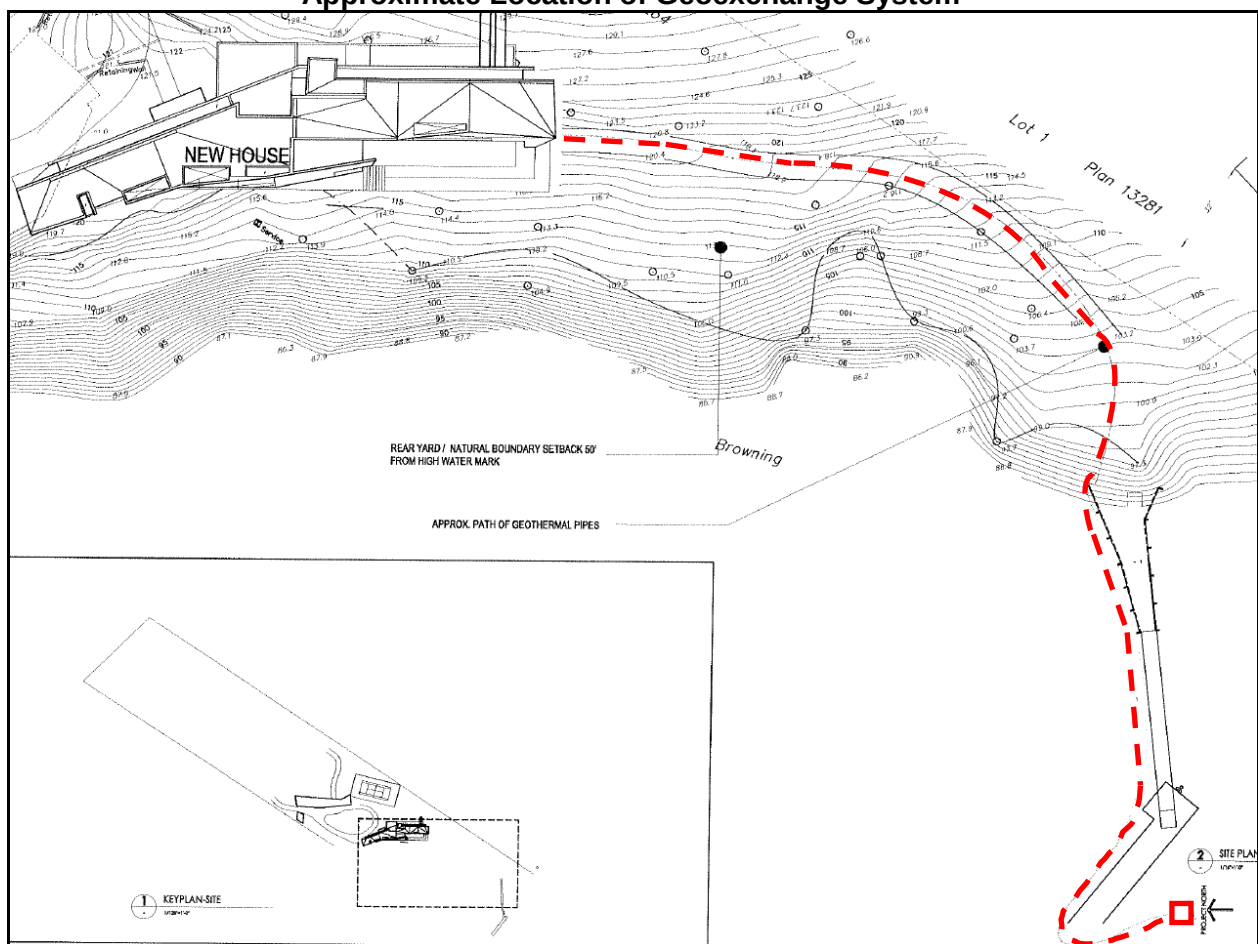
This particular installation is a closed loop system using only freshwater as the heat transfer fluid. The system uses six, titanium heat transfer plates that are located in approximately 30 feet of water at low tide. The plates measure 1.2 m wide, 2.6 m long and 1.5 cm thick, and are supported horizontally slightly above the seabed.

The installation includes six, 2" high-density polyethylene pipes that connect to the heat transfer plates; these are weighted down to hold them in place using heavy chains. The intertidal portion is sealed with concrete for approximately 10 metres in length.

The upland portion of the lines are buried below ground and located under a wooden walkway that runs from the house to the dock. There are no visible above ground structures as all related equipment is located within a mechanical room in the house or otherwise buried.

The owners have scheduled maintenance on a quarterly basis with the installer. The control system includes a monitoring system that includes a pressure test to detect leaks. If there was a significant leak detected by the system it would shut down the system and an alarm would be relayed from the control system to the owners, the installer and the controls contractor.

Figure 1: Site Plan of Subject Property Shoreline with Approximate Location of Georexchange System



SITE CONTEXT:

The subject property is a residential waterfront lot on Razor Point Road fronting onto Pollard Cove. The property is 2.7 ha (6.68 ac) in size. Properties in the area are quite varied in size with some as small as 0.6 ha (1.5 ac) to over 5.7 ha (14 ac).

Based on GIS data the property rises moderately to 12m above sea level adjacent to the shoreline, then is gently sloping through the remainder of the property to a maximum of 38 m asl.

Figure 2: Subject Property Map

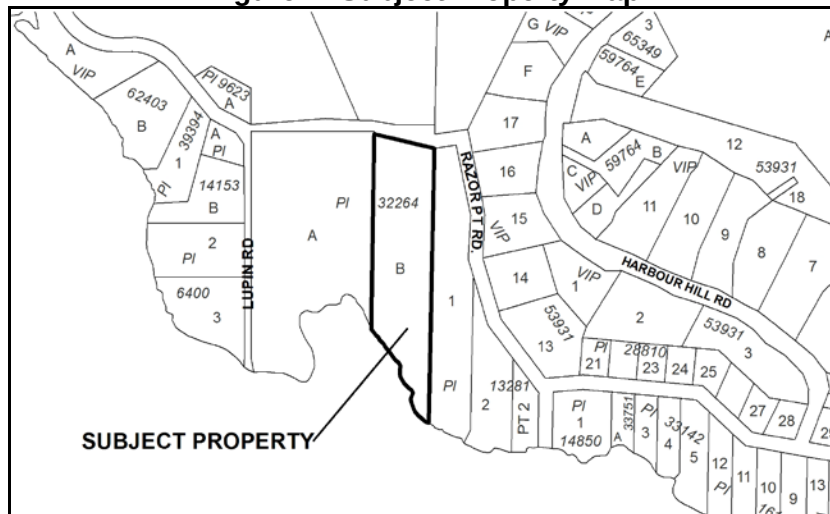


Figure 3: Orthophotos



CURRENT PLANNING STATUS OF SUBJECT LANDS:

Trust Policy Statement:

Directive policies relevant to this application include:

Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address:

- 3.1.3 - the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area
- 3.4.4 - the protection of sensitive coastal areas
- 3.4.5 – the planning for and regulation of development in coastal regions to protect natural coastal processes
- 4.5.10 – the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments
- 5.1.3 – the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic values of the Trust Area

Official Community Plan:

The subject property is designated Agriculture and the adjacent waters are designated Marine in the OCP. OCP Policies relevant to this application include:

- 4.2.1 – Regulations should protect natural coastal processes from the impacts of development
- 4.2.7 – Maintenance of public access and the right to recreational use of the foreshore shall be protected
- 4.2.8 – Filling, deposit, or excavation of materials on the foreshore shall be prohibited
- 4.2.10 – No structures, including boathouses and multiple-user docks, should be permitted in coastal and foreshore areas unless an environmental impact assessment indicates that there is no disruption to natural coastal processes
- 4.7.8 – The Local Trust Committee should consider potential climate change impacts and GHG emissions in reviewing any application.
- 4.7.10 – The Local Trust Committee may consider amending zoning regulations to permit or facilitate small-scale renewable energy production, such as solar collectors, wind turbines and geothermal heating.

Land Use Bylaw:

The upland portion of the property is zoned Agriculture (AG) and the adjacent marine area is zoned Water 1 (W1) which allows:

- Private floats, wharves, ramps and walkways accessory to the residential use of an abutting upland lot or lots abutting the sea and providing access to that lots or those lots;
- Pilings necessary for the establishment or maintenance of the use above,
- Boat launching ramps; and
- Marine navigation, marine navigation aids and marker buoys.

Neighbouring parcels are zoned:

North – Agriculture and Rural

East – Agriculture and Rural Residential

West – Agriculture, Rural Residential and Rural

Surrounding marine waters are zoned W1. Further west in Port Browning there is a portion of water zoned Water 4 (W4) for the public dock and Water 2 (W2) for the Port Browning Marina.

Islands Trust Fund:

There are no Trust Fund Board properties or covenants in the vicinity of the subject property.

Sensitive Ecosystems and Hazard Areas:

The adjacent marine waters are designated as a sensitive intertidal development permit area (DPA). There are no upland DPA's on the subject property.

The shoreline is identified as having areas of low, moderate and high steep slope hazards; the area of installation is a combination of low and moderate slope hazard.

Figure 4: Development Permit Areas

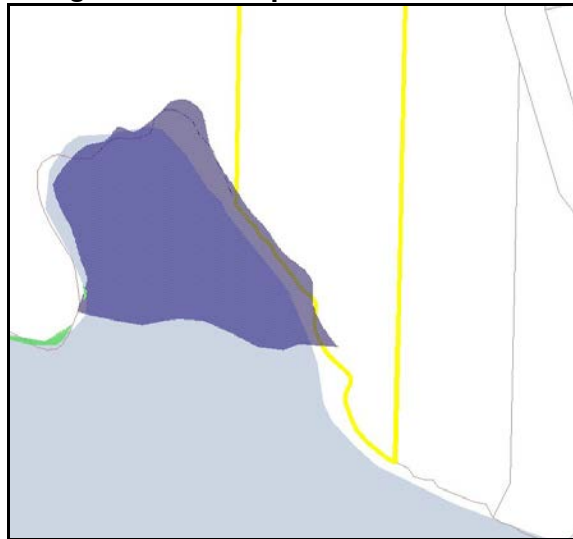
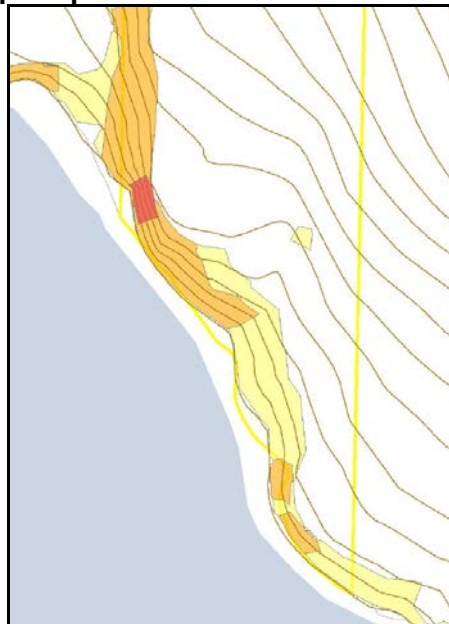


Figure 5: Steep Slope Hazard Areas and 2m Contour Intervals



Archaeological Sites:

There is a registered archaeological site in the area and owners had obtained the necessary archaeology reports and permits from the Archaeology Branch. The archaeological work consisted to two main components; upland there is a service trench measuring approximately 15 metre long and 0.5 wide that runs through a shell midden, and the geoeexchange lines located in the intertidal zone. The service trench was excavated by the archaeologist and two First Nations monitors from the Pauquachin and Tsawout First Nations between April 19th and 30th, 2010. A monitor was also on-site during installation of the geoeexchange lines on July 11 and 13, 2011.

Covenants:

There are no registered covenants on the subject property.

Climate Change Adaptation and Mitigation:

Consideration of alternative, renewable energy sources to fossil fuels is a recognized mitigation strategy. The applicants have provided a calculation of the estimated emissions reduction with the geoeexchange system for this home.

The annual GHG emissions for this particular home, using an ocean loop geoeexchange system are estimated to be 2.2 tons CO²e.

The same home using electric baseboards would be 9.8 tons, a high efficiency propane broiler would be 54 tons, or a ground based geoeexchange loop would be 3.3 tons.

Communications:

The draft bylaws would be forwarded to the following referral agencies for comment; the LTC may also direct staff to include other agencies not listed. Additionally the LTC may choose to refer the proposal to the Advisory Planning Commission.

- First Nations:
 - o Chemainus
 - o Cowichan Tribes
 - o Halalt
 - o Lake Cowichan
 - o Lyackson
 - o Pauquachin
 - o Penelakut
 - o Tsartlip
 - o Tsawout
 - o Tsawwassen
 - o Tseycum
- Fisheries and Oceans Canada (DFO)
- Parks Canada
- Ministry of Forest, Lands and Natural Resource Operation (MFLNRO) – Aquaculture Branch
- MFLNRO – Ecosystems Protection Branch
- MFLNRO – Archaeology Branch
- MFLNRO – Crown Lands and Resource
- CRD, Building Inpsection Services
- Mayne Island Local Trust Committee
- Salt Spring Island Local Trust Committee

- Saturna Island Local Trust Committee
- South Pender Island Local Trust Committee
- Islands Trust Fund
- Islands Trust, Bylaw Enforcement

Furthermore the public hearing notice would be circulated to all property owners and tenants within 100 m of the subject property in advance of the public hearing.

STAFF COMMENTS:

Although a new boardwalk to access the foreshore has been constructed in the upland area, there remain numerous mature trees with many new plantings throughout. The walkway appears to have been constructed in a manner to minimize impacts and the geoexchange lines connecting the house to the ocean loop are located below the walkway.

The upland section of the dock/ramp does not comply with the Land Use Bylaw since it would exceed the 1.2 metre width that is exempt under subsection 3.7.2. This has been brought to the owners' attention and a separate variance application will be submitted to address that.

The owners are also aware that an application to the Ministry of Forests, Lands and Natural Resource Operations for a Crown land license of occupation is required. The Ministry requires a separate license for geoexchange systems from a new or existing dock license, although the area of license may overlap. An accurate survey of the location of the lines will be required, a copy of which to be provided to the Islands Trust.

Except for the accurate location of the geoexchange system, staff has not identified any additional professional reports to be required from the applicant. The proposal is consistent with policies in the Policy Statement and OCP; therefore an amendment to the OCP is not required. Although this was installed in advance of a rezoning application, the owner's had undertaken efforts to ensure the installation had minimal impacts and did not adversely impact the marine and foreshore environments.

The next steps possibly are:

- April LTC: Make any revisions to the draft bylaw
- Refer the draft bylaw to referral agencies for comment
- Optional scheduling of a Community Information Meeting (CIM) as part of the May LTC agenda or in combination with the seawall application. Tentatively Saturday June 9th is scheduled for the CIM and Public Hearing of a seawall; the CIM for this application could be held the same day.
- June LTC: Consider any revisions and give the draft bylaw First Reading and direct staff to schedule a Public Hearing
- Hold Public Hearing as part of the August LTC agenda or a separate date in advance of the LTC meeting
- August LTC: Consideration of input and possible amendments to the proposed bylaw
- Given Second and Third Reading
- Refer the Proposed Bylaw to Executive Committee
- Fall: Adopt the Proposed Bylaw after receiving Executive approval

RECOMMENDATIONS:

Options:

1. THAT the North Pender Island Local Trust Committee directs staff to schedule a Community Information meeting for application NP-RZ-2011.2 (Lockhart), to be held in conjunction with the May meeting of the Local Trust Committee.
2. THAT the North Pender Island Local Trust Committee directs staff to schedule a Community Information meeting for application NP-RZ-2011.2 (Lockhart), to be held on a Saturday in advance of the June meeting of the Local Trust Committee.
3. THAT the North Pender Island Local Trust Committee directs staff to schedule a Community Information meeting for application NP-RZ-2011.2 (Lockhart), to be held in conjunction with the June Community Information Meeting being scheduled for a proposed seawall application.

Prepared and Submitted by:

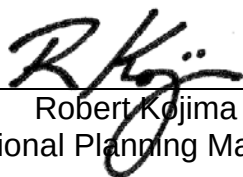


Andrea Pickard

April 18, 2012

Date

Concurred in by:



Robert Kojima
Regional Planning Manager

April 18/12

Date

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 191

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

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

AND WHEREAS the North Pender Island Local Trust Committee wishes to amend Land Use Bylaw 103, 1996;

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

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

A. Bylaw No. 103, cited as "North Pender Island Land Use Bylaw 103, 1996" is amended as follows:

1. The following is inserted as a new Section 8.19.7 in the Water 1 (W1) Zone

8.19.7 Site Specific Regulations

The regulations listed in Column 3 of the following table only apply to the land identified in Column 2 of the same row. These lands are identified on the zoning map by the site-specific zoning reference listed in Column 1.

Column 1 Site- Specific Zone Reference	Column 2 Legal Description	Column 3 Site Specific Regulations
W1(b)	The land covered with water fronting Lot B, Section 11, Pender Island, Cowichan District, Plan 32264, Except part in Plan VIP68515,	(1) In addition to the uses permitted in 8.19.1 the following is permitted: (a) Placement of a closed-loop, ocean-based geothermal heat exchange system for the purpose of domestic heating and cooling accessory to the upland residential property

2. Schedule "D" (Zoning Map for North Pender Island) is amended in accordance with the map attached to and forming part of this bylaw as Plan No. 1.

B. This Bylaw may be cited as "North Pender Island Land Use Bylaw 103, 1996, Amendment No. 2, 2012".

C. 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 _____ day of _____, 20__

READ A SECOND TIME this _____ day of _____, 20__

PUBLIC HEARING HELD this _____ day of _____, 20__

READ A THIRD TIME this _____ day of _____, 20__

APPROVED BY THE EXECUTIVE COMMITTEE this day of _____ 20__

ADOPTED this _____ day of _____, 20__

Chair

Secretary



Memorandum

200 - 1627 Fort Street Victoria BC V8R 1H8

Telephone (250) 405-5151 FAX: (250) 405-5155

Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC 1.800.663.7867

information@islandstrust.bc.ca www.islandstrust.bc.ca

Date April 18, 2012 File: NP-SUB-2008.3 (Wey)

To North Pender Island Local Trust Committee
For the meeting of April 26

From Andrea Pickard
Island Planner
Local Planning Services

Re Proposed 4-lot Subdivision at 5442 Hooson Road
The East ½ of the South West ¼ of Section 19, Pender Island, Cowichan District, Except Parts in
Plans 6524, 7273, 14358 and 21848

At the March meeting of the North Pender Island Local Trust Committee (LTC) the LTC discussed two covenants related to this subdivision file. One is a covenant that is required in order to ensure the provision of potable water for the proposed lots is met through installation of a water treatment system. The second was a natural areas covenant to protect two surface water bodies (ponds) through a modified conservation covenant.

Potable Water Covenant: At the time of discussion staff believed that the CRD Building Inspection Division would be a co-holder of the potable water covenant since fulfillment of the conditions would be required at the time of building permit and the covenant document had been prepared with that understanding. After the LTC meeting the CRD since confirmed they will not be a co-holder of the covenant. The covenant has since been revised to remove the CRD signature block and related references to the CRD removed. The revised covenant is attached for your reference.

Water Bodies Covenant: At the March meeting the LTC was agreeable to be a co-holder of this covenant in conjunction with the Pender Islands Conservancy Association (PICA). After further discussions with the owner and with legal advice the final draft of the covenant is attached. One key difference between this and a 'conservation covenant' as administered through the Trust Fund Board is the deletion of the 'rent charge' section. The rent charge section is a method to financially penalize property owners for breaches of a covenant. Rent charge sections can be difficult to interpret and may appear to be unnecessarily complicated; including it was not acceptable to the owner. The result of not including a rent charge is that if enforcement was required and voluntary compliance by way of mutual agreement between the covenant holders and the property owner could not be reached, ultimately it would be a ruling from a court of law to specify the required actions to remedy the breach. If the current draft is acceptable to the LTC, staff will have a final version prepared with the required forms to have the covenant executed and registered.

Additionally at the March LTC meeting the topic of financial support to the PICA for preparation of a baseline report was discussed. The LTC agreed to provide matching funds up to \$750. The owner has agreed to contribute \$500 for this purpose. The covenant is attached for your reference.

The purpose of this memo is to:

- Inform the LTC of the change to the potable water covenant and confirm that they accept the revised version for signature by the Chair, and
- To confirm the LTC will accept this version of the water bodies covenant and delegate the Chair to sign on behalf of the LTC.

RECOMMENDATIONS:

1. THAT the North Pender Island Local Trust Committee agrees to be the sole covenant holder for a section 219 covenant requiring a water treatment system for potable water as a condition of subdivision for NP-SUB-2008.3 (Wey), and it delegates the Chair to sign the revised covenant.
2. THAT the North Pender Island Local Trust Committee agrees to be a co-holder for a conservation covenant for the two water bodies identified on the proposed subdivision plan for NP-SUB-2008.3 (Wey), and it delegate the Chair to sign the covenant.

pc Robert Kojima, Regional Planning Manager

**LAND TITLE ACT
FORM C**

(Section 233)

Province of British Columbia

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

Page 1 of 25 Pages

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

William Buholzer
YOUNG ANDERSON
1616 – 808 Nelson Street
Vancouver, BC V6Z 2H2
Phone: (604) 689-7400

Signature of Agent for Applicant

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

(PID)

009-684-816

(LEGAL DESCRIPTION)

The East ½ of the South West ¼ of Section 19, Pender Island, Cowichan District, Except Parts in Plans 6524, 7273, 14358 and 21848

3. NATURE OF INTEREST:*

Description

Document Reference
(page and paragraph)

Person Entitled to Interest

s.219 Covenant

Entire Instrument

Transferee

Priority Agreement

Page 10

Transferee

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

(a) Filed Standard Charge Terms

—

D.F. No.

(b) Express Charge Terms

X

Annexed as Part 2

(c) Release

—

There is no Part 2 of this Instrument.

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

5. TRANSFEROR(S):*

0734706 B.C. LTD., Inc. No. 0734706 [as to Covenant]
HSBC BANK CANADA [as to Priority]

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

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a Corporation under the *Islands Trust Act*, R.S.B.C. 1996, c.239, with an office at Suite 200, 1627 Fort Street, Victoria, British Columbia, V8R 1H8

LAND TITLE ACT

FORM C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT-PART 1

Page 2

7. ADDITIONAL OR MODIFIED TERMS:*

N/A

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

Officer Signature

Execution Date

Party(ies) Signature

Y M D

_____ 2012 ____ ____

0734706 B.C. LTD by its
authorized signatory(ies):

Name:

(as to both signatures)

Name:

Transferee Signature

_____ 2012 ____ ____

HSBC BANK CANADA by its
authorized signatory(ies):

Name:

(as to both signatures)

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.

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

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

Q:\00002\0659\Cov-219-Bb-Potable Water Without Crd.Doc

Mar 28, 2012 2:43 PM/CR

LAND TITLE ACT
FORM D

EXECUTIONS CONTINUED

Page 3

Officer Signature

Execution Date
Y M D

Party(ies) Signature(s)

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

Chair:

(as to all signatures)

Chief Administrative Officer:

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.

PART 2 – TERMS OF INSTRUMENT

SECTION 219 COVENANT

This Agreement dated for reference the ____ day of _____, _____ is

AMONG:

0734706 B.C. Ltd., Inc. No. 0734706, 50 Fitzgeorge Avenue,
London W140SW United Kingdom

(the “**Owner**”)

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a
Corporation under the *Islands Trust Act*, R.S.B.C. 1996, c.239, with
an office at Suite 200, 1627 Fort Street, Victoria, British Columbia,
V8R 1H8

(the “**Local Trust Committee**”)

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of that parcel of land located on North Pender Island, British Columbia which is legally described as:

Parcel Identification Number: 009-684-816

Legal Description: The East ½ of the South West ¼ of Section 19, Pender Island, Cowichan District, Except Parts in Plans 6524, 7273, 14358 and 21848

(the “**Land**”);

AND WHEREAS the Owner proposes to subdivide the Land, according to a plan of subdivision completed and certified correct on the 26th day of October, 2011 by Lloyd R.P. Eakins, B.C.L.S., a copy of which is attached hereto as Schedule “A”, into Lots 1, 2, 3 and 4 as indicated on Schedule “A”, which Lots are referred to as such in this Agreement.

- B. The Local Trust Committee’s Land Use Bylaw No. 103, 1996 (the “**Land Use Bylaw**”) requires each lot created by subdivision to have a source of potable water.

- C. The Land will not be connected to a community water system and instead, water will be supplied by a private well provided on each of Lots 1, 2, 3 and 4 (the "Wells").
- D. The Owner has had a report dated November 18, 2008 prepared by Hodge Hydrogeology Consulting, and a supplementary report dated September 23, 2011 by the same consultant (the "Reports") copies of which are attached hereto as Schedule "B".
- E. The Reports indicate that water in the amounts required by the Land Use Bylaw is potentially available on each of Lots 1, 2, 3 and 4; that the water does not meet the Drinking Water Protection Regulation (*Drinking Water Protection Act*) standards for coliform bacteria, or the Guidelines for Canadian Drinking Water Quality standards for coliform and non-coliform bacteria, arsenic, sodium, iron, manganese, pH or turbidity, all as indicated in Schedule "B"; and that the water would meet or exceed these standards if properly treated.
- F. Section 219 of the *Land Title Act* (British Columbia) provides that there may be registered as a charge against the title to land a covenant, whether of a negative or positive nature, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specified amenity on the land.
- G. The Owner wishes to grant and the Local Trust Committee wishes to accept a covenant under s. 219 of the *Land Title Act* (British Columbia) to regulate the use of the Land in the interests of confirming that groundwater management and treatment methods will be implemented by the Owner and all future owners, tenants, and other occupiers of Lots 1, 2, 3 and 4 in the manner specified in the Reports.

This Agreement is evidence that in consideration of the premises and covenants herein contained, the payment of two dollars (\$2.00) by the Local Trust Committee to the Owner, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Restriction on Use

- 1. The Owner shall not use the Land including any lots into which the Land may be subdivided, nor occupy any building or structure located on the Land, for any residential or domestic purpose, nor make application for an occupancy permit for any residential or domestic occupancy unless the Owner is in full compliance with the terms of this Agreement.

Water Treatment System

2. The Owner shall, in respect of each of Lots 1, 2, 3 and 4:
 - (a) install and operate in accordance with the manufacturer's and installer's instructions a water treatment system (the "Water Treatment System") which is effective to make the water from the Well on that lot potable in terms of the health and aesthetic criteria set out in the Land Use Bylaw from time to time, the Drinking Water Protection Regulation under the *Drinking Water Protection Act* and the Guidelines for Canadian Drinking Water Quality (collectively, the "Applicable Standards").
 - (b) provide documentation to the Local Trust Committee and the Capital Regional District that the Water Treatment System on the lot produces water that is safe to drink and suitable for domestic purposes, and at a minimum specifically treats to the required level those water quality parameters that did not meet the Applicable Standards as identified in the Reports, as a condition to obtaining an occupancy permit for the Land.
 - (c) ensure that all water pumped from the Well on the lot flows into an storage tank located on the lot with a minimum capacity of 4546 litres (1000 gallons) prior to any home distribution, and the storage tank shall be installed and operational as a condition to obtaining an occupancy permit for the Land.
 - (d) ensure that the Well on the lot is equipped with a flow meter and totalizer that accurately reads the rate at which water is pumped from the Well, and pump water from the Well on the lot at rates not exceeding 0.38, 0.93, 0.43 and 0.32 Imperial gallons per minute respectively for Lots 1, 2, 3 and 4.
 - (e) ensure that the water levels in the Well on the lot are monitored at least once per month to ensure that the water level does not fall below the pump. Such monitoring may be accomplished through installation of a polyvinyl chloride monitor pipe on the Well as noted in the Reports.
 - (f) be solely responsible for all aspects of the Water Treatment System, including its installation, monitoring and effectiveness.
3. The Owner shall, in respect of Lot 4, set the submersible pump for the Well at 180 metres or 590 feet.

4. In circumstances where the Owner in respect of any of Lots 1, 2, 3 or 4 is not the tenant or occupier of the Lot, the Owner shall ensure that the tenant or occupier is taking all reasonable measures required to ensure that the Owner's obligations under this Agreement are fully performed.
5. In the event that the Land is subdivided into parcels whose boundaries do not correspond precisely to those described in Schedule "A", references in this Agreement to Lots 1, 2, 3 and 4 shall be interpreted as references to lots created by the subdivision whose location and area approximate the location and area of Lots 1, 2, 3 and 4 shown on Schedule "A".

No Effect On Laws or Powers

6. This Agreement does not
 - (a) affect or limit the discretion, rights, duties or powers of the Local Trust Committee under any enactment or at common law, including in relation to the use or subdivision of the Land;
 - (b) impose on the Local Trust Committee any duty of care or other legal duty of any kind to the Owner or to anyone else;
 - (c) oblige the Local Trust Committee to enforce this Agreement, which is a policy matter within the sole discretion of the Local Trust Committee;
 - (d) affect or limit any enactment relating to the use or subdivision of the Land;
 - (e) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

Limitation on Obligations

7. The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner, or which the Owner permits or allows, in respect of the Owner's particular lot or lots. The Owner is liable only for the covenants and obligations contained in this Agreement and breaches of this Agreement which occur while the Owner is the registered owner of any interest in the Land and then only to the extent of that interest.

Indemnity

8. The Owner hereby indemnifies and saves harmless the Local Trust Committee, and its elected and appointed officials, officers, employees and agents, from and against all loss, damage, cost, actions, suits, debts, expenses and harm of any kind whatsoever which the Owner may at any

time suffer or incur arising out of or related to this Agreement or any breach of it.

No Liability in Tort

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

Covenant Runs With the Land

10. Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under section 219 of the *Land Title Act* (British Columbia) in respect of the Land. This Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated.

Registration

11. The Owner agrees to do everything necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered or pending registration in the Land Title Office at the time of application for registration of this Agreement.
12. The Owner shall be entitled to a discharge of this Agreement, upon presentation of a registrable discharge document for execution by the Local Trust Committee, in the event that the Owner's application to subdivide the Land in the manner described in Schedule "A" has been refused in writing by the approving officer having jurisdiction and the Owner has provided a copy of the refusal letter to the Local Trust Committee, or the Owner has withdrawn the application and the approving officer has confirmed the withdrawal in writing to the Local Trust Committee.

Waiver

13. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver by the Local Trust Committee of a breach of this Agreement by the Owner does not operate as a waiver of any other breach of this Agreement.

Severance

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

No Other Agreements

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

Binding of Successors

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

Further Acts

17. The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

Deed and Contract

18. By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

Execution Using Form C

19. As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed the Land Title Office Form C which is attached hereto and which forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

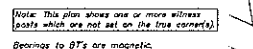
WHEREAS:

- A. 0734706 B.C. LTD. (the "Owner") is the registered owner of The East ½ of the South West ¼ of Section 19, Pender Island, Cowichan District, Except Parts in Plans 6524, 7273, 14358 and 21848 (the "Land");
- B. The Owner granted HSBC BANK CANADA (the "Prior Chargeholder") a mortgage, which was registered against the title to the Land in the Victoria Land Title Office under number EX154428 (the "Prior Charge");
- C. The Owner granted to the North Pender Island Local Trust Committee (the "Subsequent Chargeholder") a Section 219 Covenant which is registered against the title to the Land under number _____ (the "Subsequent Charge"); and
- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT WITNESSES THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION RECEIVED BY THE PRIOR CHARGEHOLDER FROM THE SUBSEQUENT CHARGEHOLDER (THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED):

- 1. The Prior Chargeholder hereby consents to the granting and registration of the Subsequent Charge and the Prior Chargeholder hereby agrees that the Subsequent Charge shall be binding upon its interest in and to the Land.
- 2. The Prior Chargeholder hereby grants to the Subsequent Chargeholder priority for the Subsequent Charge over the Prior Chargeholder's right, title and interest in and to the Land, and the Prior Chargeholder does hereby postpone the Prior Charge and all of its right, title and interest thereunder to the Subsequent Charge as if the Subsequent Charge had been executed, delivered and registered prior to the execution, delivery and registration of the Prior Charge.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C which is attached hereto and forms part of this Agreement.



PART 2 – TERMS OF INSTRUMENT

SECTION 219 COVENANT

And

Section 218 Statutory Right of Way

This Agreement dated for reference the ____ day of _____, _____ is

AMONG:

0734706 B.C. Ltd., Inc. No. 0734706, 2300 – 1055 Dunsmuir Street, Vancouver, British Columbia, V7X 1J1

(the “**Owner**”)

AND:

PENDER ISLANDS CONSERVANCY ASSOCIATION, P.O. Box 52, Pender Island, British Columbia, V0N 2M0

(the “**Pender Islands Conservancy Association**”)

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a Corporation under the *Islands Trust Act*, R.S.B.C. 1996, c.239, with an office at Suite 200, 1627 Fort Street, Victoria, British Columbia, V8R 1H8

(the “**Local Trust Committee**”)

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of that parcel of land located on North Pender Island, British Columbia which is legally described as:

Parcel Identification Number: 009-684-816

Legal Description: The East ½ of the South West ¼ of Section 19, Pender Island, Cowichan District, Except Parts in Plans 6524, 7273, 14358 and 21848

(the “**Land**”);

AND WHEREAS the Owner proposes to subdivide the Lands, according to a plan of subdivision completed and certified correct on the ____th day of _____, ____by (surveyor), a copy of which is attached hereto as Schedule "A"

AND WHEREAS the plan of subdivision includes two areas identified as "Covenant Plan EPP16007", which are referred to in this agreement

(the "Covenant Areas").

- B. The Covenant Areas contain significant natural area values including surface water bodies, flora, fauna and natural features of importance to the Owner, the Covenant Holders and the public.
- C. The Owner intends to grant and the Local Trust Committee and the Pender Islands Conservancy Association wish to accept a covenant under s. 219 of the *Land Title Act* (British Columbia) to regulate the use of the Covenant Areas in the interests of ensuring the preservation and protection of the natural state of the Covenant Areas.
- D. A statutory right of way pursuant to section 218 of the *Land Title Act* in favour of the Covenant Holders is necessary for the operation and maintenance of the undertakings of the Covenant Holders.
- E. The North Pender Island Local Trust Committee is authorized to accept covenants under section 219 and statutory right of ways under section 218 of the *Land Title Act*.
- F. The Pender Islands Conservancy Association has been designated by the British Columbia Minister of Forests, Lands and Natural Resource Operations as a person authorized to accept covenants under section 219 of the *Land Title Act* and as a person authorized to accept a statutory right of way under section 218 of the *Land Title Act*; and
- G. Section 219 of the *Land Title Act* (British Columbia) provides that there may be registered as a charge against the title to land a covenant, whether of a negative or positive nature, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specified feature on the land.

In consideration of the payment of two dollars (\$2.00) now paid by each of the Covenant Holders to the Owner, the receipt and sufficiency of which is hereby acknowledged by the Owner, and in consideration of the promises exchanged below, the parties covenant and agree as follows, in accordance with sections 218 and 219 of the *Land Title Act* (British Columbia):

1. Interpretation

1.1 In this Agreement:

- a) "Covenant Holders" means, unless the context otherwise requires, the Pender Islands Conservancy Association and the North Pender Island Local Trust Committee collectively and "Covenant Holder" means either of them, as the context may require;
- b) "Natural State" means the state of the Covenant Area as described in the Report;
- c) "Notice of Breach" means a notice of breach given under section 7.2; and
- d) "Report" means the baseline documentation report that describes the Covenant Area and the features in the form of text, maps, and other records of the Covenant Area as of the date of registration of this Agreement, a copy of which has been provided to all parties, and a condensed version of which is attached as Schedule B.

2. Restriction on Use

- 2.1 Except as expressly permitted in this Agreement, the Owner shall not do anything, or allow anything to be done, that does or could reasonably be expected to destroy, impair, diminish, negatively affect, or alter the Covenant Areas from its natural state.
- 2.2 Without restricting the generality of Section 2.1, the Owner shall not, except with the prior written approval of the Covenant Holders cause or allow:
 - (a) silts, leachates, fills or other deleterious substances to be released as a result of human activity into any watercourse on the Covenant Areas;
 - (b) soil, gravel or rock to be disturbed, explored for minerals, moved or removed from or deposited in or on the Covenant Areas;
 - (c) the alteration or interference with the hydrology of the Covenant Area as a result of human activity, including the diversion of natural drainage or flow of water in, on or through the Covenant Areas;
 - (d) fill, rubbish, ashes, garbage, waste or other material foreign to the Covenant Areas to be deposited in, on or under the Covenant Area;
 - (e) pesticides, herbicides, fungicides or insecticides to be applied to or introduced onto the Covenant Areas;

- (f) native plants, including trees and shrubs, to be cut down, destroyed, damaged, defoliated, or removed from the any part of the Covenant Areas;
- (g) the construction, building, or affixing of any buildings, structures, fixtures or improvements on the Covenant Areas;
- (h) fishing, hunting, gathering, or grazing domestic animals, to be carried out on the Covenant Areas;
- (i) the construction of any new roads or trails on the Covenant Areas; or
- (j) fires to be ignited in or on the Covenant Areas.

The Covenant Holders will not unreasonably withhold any such prior written approval. In particular and without limiting the generality of the foregoing, if the Owner presents a plan intended to improve the health, vigor or regeneration of the Covenant Areas or to abate the hazard of fire, harmful insects or disease, the Covenant Holders will give due consideration to such plan and will not unreasonably withhold approval.

3. Baseline Documentation Report

- 3.1 The parties each agree that the Covenant Area and the features are described in the Report and that the Report provides a reasonably accurate description of the Covenant Area and its features as of the date of this Agreement.
- 3.2 The parties agree that the Report is intended to serve as an information baseline for this Agreement, for the purpose of monitoring compliance with the terms of this Agreement.
- 3.3 The Covenant Holders have provided a copy of the full Report to the Owner.
- 3.4. The parties each acknowledge that the flora and fauna on the Covenant Area will evolve through natural succession over time and, unless otherwise expressly stated, references to the Report are intended to take into account the natural succession of the flora and fauna over time, without human intervention other than as expressly permitted by this Agreement.

4. Owner's Reserved Rights

- 4.1 Subject to Part 2, the Owner reserves all of its rights with respect to the Covenant Areas, including the right to use, occupy and maintain the

Covenant Areas in any way that is not expressly restricted or prohibited by this Agreement, so long as the use, occupation or maintenance is consistent with the intent of this Agreement.

- 4.2 The Owner may trim, prune, cut down, or remove any non-native invasive plants from any part of the Covenant Areas.
- 4.3 Nothing in this Agreement restricts or affects the right of the Owner or any other party to do anything reasonably necessary to:
 - (a) prevent potential injury or death to any individual; or
 - (b) prevent, abate or mitigate any damage or loss to any real personal property;

provided that the Owner shall send notice of such action to the Covenant Holders within 30 days after taking such action.

5. Statutory Right of Way

- 5.1 The Owner grants, conveys and transfer to each Covenant Holder, including for clarity at any one time a reasonable number of its employees, agents, servants, worker and invitees, but for clarity, not the public generally, the full, free and uninterrupted right, license, liberty, privilege, easement and statutory right of way over the Land for the sole purpose of accessing the Covenant Areas permitting each Covenant Holder to do the following:
 - (a) to access and inspect the Covenant Areas at all reasonable times upon prior written notice by a Covenant Holder to the Owner of at least 24 hours, unless, in the reasonable opinion of a Covenant Holder, there is an emergency or other circumstance which makes giving such notice impractical;
 - (b) to enter upon the Land in order to monitor, implement or enforce this Agreement;
 - (c) to take soil, water or other samples, and visual or audio recordings as necessary of the Covenant Areas to monitor compliance and enforce the terms of this Agreement;
 - (d) to rehabilitate or restore the natural state of the Covenant Areas to as near the pre-existing natural state as is feasible, should an act of nature or any person destroy, diminish or alter the Covenant Areas from its natural state;

- (e) to carry out or evaluate any program agreed upon by the parties for the protection, preservation, conservation, maintenance, restoration or enhancement of all or any portion of the Covenant Areas; and
- (f) to place survey pins or other markings on the Land to clearly identify the Covenant Areas, or to increase visibility of existing survey pins or other markings.

5.2 The Covenant Holders may bring workers, contractors, employees, and vehicles, equipment and other personal property across the Land when exercising their rights under this Agreement. Under no circumstances shall the Covenant Holders be entitled to leave its vehicles or equipment on the Land, outside of the Covenant Areas, overnight without the prior consent of the Owner.

5.3 Despite the scope of the statutory right of way granted, the Covenant Holders shall make reasonable attempts to inform the Owners before entering onto the Land, only use the portion of the Land outside of the Covenant Areas necessary for the purposes of accessing to and from the Covenant Areas, and shall use its best efforts to minimize its use of such land at all times.

6. No Effect On Laws or Powers

6.1 This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the Local Trust Committee or the Pender Islands Conservancy Association under any enactment or at common law, including in relation to the use or subdivision of the Land;
- (b) impose on the Local Trust Committee or the Pender Islands Conservancy Association any duty of care or other legal duty of any kind to the Owner or to anyone else;
- (c) oblige the Local Trust Committee or the Pender Islands Conservancy Association to enforce this Agreement;

7. Enforcement

7.1 The Owner agrees that the public interest in the preservation and protection of the natural state of the Covenant Area favours an order for specific performance of the Owner's obligations in this Agreement, and that the damages are not an adequate remedy for the Covenant Holder in the event of any breach by the Owner.

7.2 If either Covenant Holder, in their sole discretion, believe that the Owner has neglected or refused to perform any of the obligations set out in this

Agreement or is in breach of any term of this Agreement, that Covenant Holder may give a Notice of Breach to the Owner and the other Covenant Holder setting out particulars of the breach, including the Covenant Holder's estimated maximum costs of remedying the breach.

7.3 On receipt of a Notice of Breach, the Owner must:

- (a) immediately cease all activities giving rise to the breach; and
- (b) within 60 days remedy the breach or make arrangements satisfactory to the Covenant Holder to remedy the breach, including with respect to the time within which the breach must be remedied.

7.4 For clarity, the requirement in Section 7.3 to remedy a breach requires the Owner to undertake such rehabilitation or restoration necessary to remedy any damage done to the Covenant Areas contrary to this Agreement, at the Owner's sole expense.

7.5 If the Owner does not comply with the requirements of the Section 7.3 within the time required or agreed upon, either Covenant Holder may enter upon the Land and take any required actions to cease any activities giving rise to the breach, and to remedy the breach or carry out the arrangements referred to in Section 7.3. The Owner must reimburse that Covenant Holder for any expenses incurred in taking any action under this Section, up to the estimated maximum costs of remedying the breach as set out in the Notice of Breach.

7.6 By this Section, each Covenant Holder appoints the other its agent for the purpose of recovering any debt owed by the Owner to the Covenant Holder who incurred expenses under this Article, including through legal proceedings, and the Covenant Holder who recovers the debt holds it, less reasonable legal fees and disbursements and other reasonable expenses of recovery, as agent for the Covenant Holder that incurred the expenses.

8. Limitation on Obligations

8.1 The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner, or which the Owner specifically permits or allows, in respect of the Owner's particular lot or lots. The Owner is liable only for breaches of this Agreement which occur while the Owner is the registered owner of any interest in the Land and then only to the extent of that interest.

8.2 The Owner is not liable for:

- (a) alterations to the Covenant Areas resulting from acts of nature, or causes beyond the Owner's reasonable control, including accidental fire, flood, or storm, and trespass and vandalism for which the Owner has taken reasonable actions to prevent;
- (b) any prudent action taken by the Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Covenant Areas resulting from acts of nature, including accidental fire, flood, or storm; or
- (c) injury or alteration to the Covenant Areas caused by the Covenant Holders.

9. Indemnity

The Owner hereby indemnifies and saves harmless the Local Trust Committee and the Penders Island Conservancy Association, and their elected and appointed officials, officers, employees and agents, from and against all loss, damage, cost, actions, suits, debts, expenses and harm of any kind whatsoever which the Owner may at any time suffer or incur arising out of or related to this Agreement or any breach of it.

10. No Liability in Tort

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

11. Covenant Runs With the Land

Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under section 219 of the *Land Title Act* (British Columbia) in respect of the Land. This Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means and any parcel into which the Land is consolidated.

12. Registration

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

13. Waiver

An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver by the Local Trust Committee and Pender Islands Conservancy Association of a breach of this Agreement by the Owner does not operate as a waiver of any other breach of this Agreement.

14. Severance

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

15. No Other Agreements

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

16. Binding of Successors

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

17. Further Acts

The Owner must do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

18. Deed and Contract

By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

19. Execution Using Form C

As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed the Land Title Office Form C which is attached hereto and which forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

WHEREAS:

- A. 0734706 B.C. LTD. (the "Owner") is the registered owner of The East $\frac{1}{2}$ of the South West $\frac{1}{4}$ of Section 19, Pender Island, Cowichan District, Except Parts in Plans 6524, 7273, 14358 and 21848 (the "Land");
- B. The Owner granted HSBC BANK CANADA (the "Prior Chargeholder") a mortgage, which was registered against the title to the Land in the Victoria Land Title Office under number EX154428 (the "Prior Charge");
- C. The Owner granted to the North Pender Island Local Trust Committee and the Pender Islands Conservancy Association (the "Subsequent Chargeholders") a Section 219 Covenant which is registered against the title to the Land under number _____ (the "Subsequent Charge"); and
- D. Section 207 of the *Land Title Act* permits the Prior Chargeholder to grant priority over a charge to a subsequent chargeholder.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT WITNESSES THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION RECEIVED BY THE PRIOR CHARGEHOLDER FROM THE SUBSEQUENT CHARGEHOLDER (THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED):

- 1. The Prior Chargeholder hereby consents to the granting and registration of the Subsequent Charge and the Prior Chargeholder hereby agrees that the Subsequent Charge shall be binding upon its interest in and to the Land.
- 2. The Prior Chargeholder hereby grants to the Subsequent Chargeholder priority for the Subsequent Charge over the Prior Chargeholder's right, title and interest in and to the Land, and the Prior Chargeholder does hereby postpone the Prior Charge and all of its right, title and interest thereunder to the Subsequent Charge as if the Subsequent Charge had been executed, delivered and registered prior to the execution, delivery and registration of the Prior Charge.

As evidence of its agreement to be bound by the above terms of this Consent and Priority Agreement, the Prior Chargeholder has executed and delivered Part 1 of *Land Title Act* Form C which is attached hereto and forms part of this Agreement.

END OF DOCUMENT

Subdivision Plan of:
The East Half of the South West Quarter
Section 19, Pender Island, Cowichan District,
Except Parts in Plans 6524, 7273, 14358 and 21848.

BCGS 928,074

Plan EPP16005

The intended plot size of this plan is 884m in height
by 880m in width (0.8 ha) when plotted at a scale
of 1:1000.

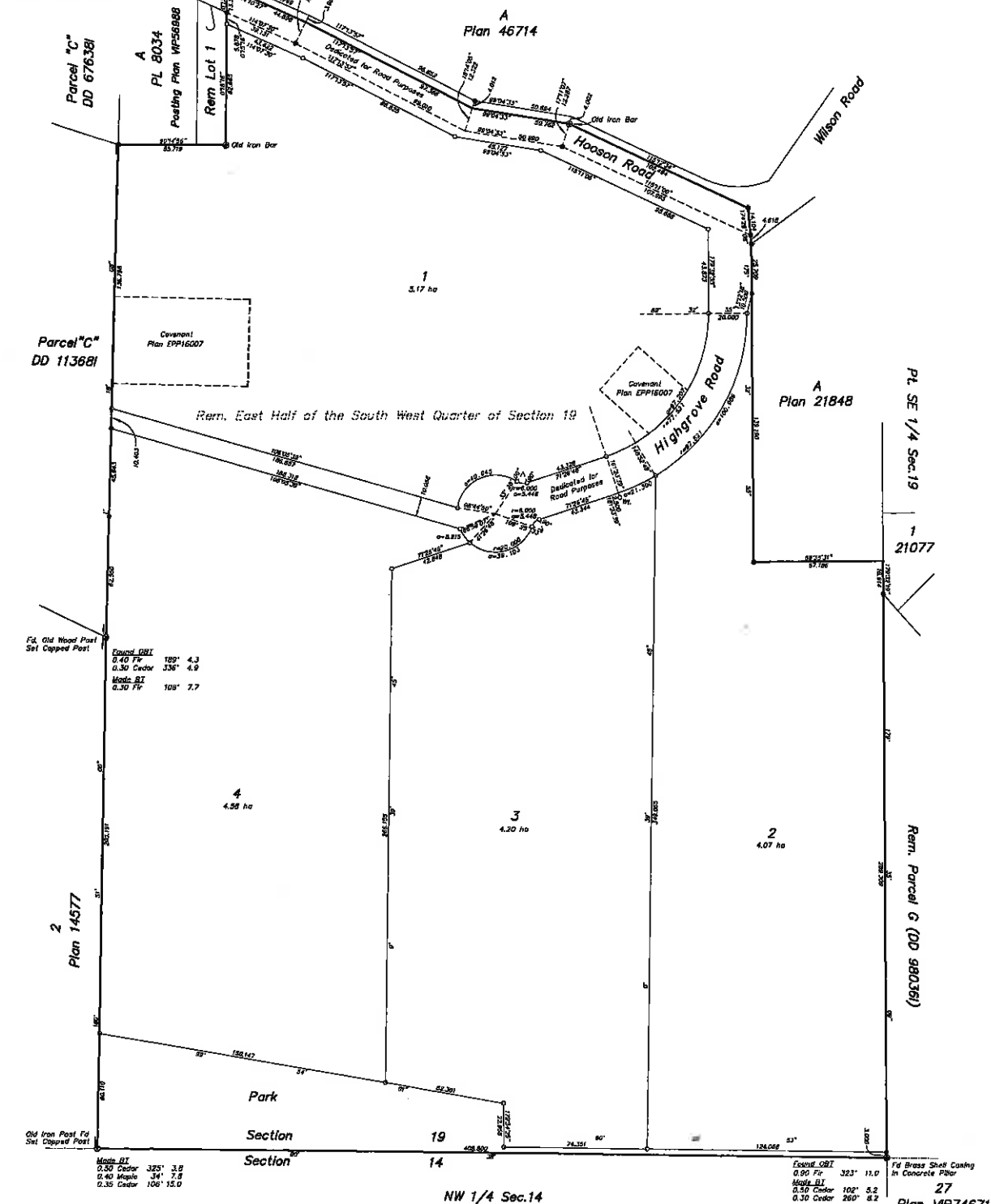
Distances are in metres, unless otherwise indicated.
Magnetic bearings derived from Plan 14577.

Legend:

- Denotes Iron-Standard Post Found
- Denotes Standard Iron Post Found
- Denotes Standard Iron Post Placed
- ▲ Denotes Standard Aluminum Post Found
- Denotes Standard Copper Post Set
- W Denotes Witness

Note: This plan shows one of three witness
posts which are not set on the true corner(s).

Bearings to BT's are magnetic.



This plan lies within the jurisdiction of the
Approving Officer for the Ministry of Transportation and Infrastructure.

The field survey represented by this plan was
completed by Lloyd R. P. Cooke, BCLS, on
the 14th day of March, 2012.

This plan lies within the
Capital Regional District.

RICHARD J. WEY & ASSOCIATES
Land Surveying Inc.
www.rjwey.com
#1-2277 James White Boulevard
Surrey, BC V4B 1Z2
Telephone (250) 636-2133
Fax (250) 636-2132



ECOLOGICAL OVERVIEW OF HOOSON ROAD COVENANT AREAS

This report, prepared by the Pender Islands Conservancy Association, will provide a brief ecological overview of the two covenant areas included in Section 219 Covenant Agreement dated, 2012, between:

0734706 B.C. Ltd., Inc. No. 0734706, the North Pender Island Local Trust Committee, and Pender Islands Conservancy Association, and entailing the following property on North Pender Island:

Parcel Identification Number: 009-684-816

Legal Description: The East 1/2 of the Southwest 1/4 of section 19, Pender Island, Cowichan District, except parts in Plans 6524, 7273, 14358 and 21848.

The property generally is within the Moist Maritime Bioclimatic Subzone of the Coastal Douglas Fir Bioclimatic Zone. The two covenant areas each include small "dug" ponds within Wetland Ecosystems, and within an area disturbed by logging operations approximately eight years ago. The ponds have naturalized to some extent since that time, and now provide important wetland habitat for a number of plant and animal species.

Wetland ecosystems are rare and precious on the Gulf Islands, and provide vital natural services. They serve as water filtration systems, capture and store water, and aid in ground water recharge and flood control. They also provide important breeding and feeding areas for birds, amphibians and beneficial insects.

The flow of water from the covenant area ponds is west towards Hope Bay Stream, which is protected under Province of B.C. Riparian Regulations as significant salmon habitat, and is included as a North Pender Riparian and Aquatic Development Permit Area under Islands Trust.

One of the ponds is near the eastern boundary of the property, and will be referred to as the "Eastern Pond". The other, near the western boundary, will be referred to as the "Alder Pond".

The ponds were visited by members of the Pender Islands Conservancy Association during the month of March 2012, photographs were taken, as attached, and a note made of species observed. Since many plants were still dormant and it was early for emerging vegetation, a further assessment later in the season will likely add significantly to the number of species observed, and confirm those species with uncertain identification. Initial observations included the following:

Vertebrate Species - Both Ponds and Immediately Surrounding Area

Pacific Chorus Frog, *Pseudacris regilla* - singing at both ponds
Northwestern Garter Snake, *Thamnophis ordinoides* (not seen, but likely to be on site)
Roughskin Newt, *Taricha granulosa* (not seen, but likely to be near wetland areas)

Columbian Black-tailed Deer, *Odocoileus hemionus*
Townsend's Vole, *Microtus townsendii* (not seen, but likely to be near meadow area)
Deer Mouse, *Peromyscus keeni* (not seen, but likely to be near meadow area)

Canada Goose, *Branta canadensis* - pair on Eastern Pond
Mallard, *Anas platyrhynchos* - pair on Alder Pond
Hooded Merganser, *Lophodytes cucullatus* - pair on Eastern Pond
Turkey vulture, *Cathartes aura*; commonly seen in summer
Bald Eagle, *Haliaeetus leucocephalus*; commonly seen in summer
Red-tailed Hawk, *Buteo jamaicensis*
Red-breasted Sapsucker, *Sphyrapicus ruber* - not a commonly seen species
Northern Flicker, *Colaptes auratus*
Chestnut-backed Chickadee, *Poecile rufescens*
American Robin, *Turdus migratorius*
Varied Thrush, *Ixoreus naevius*
Song Sparrow, *Melospiza melodia*
Dark-eyed Junco, *Junco hyemalis*
Pine Siskin, *Carduelis pinus*

Eastern Pond

This pond has evidence of serious disturbance during road building, with sediment continuing to flow into the pond from a non-vegetated equipment access area on the east side that extends to the roadway.

Indigenous plants are interspersed with introduced species, and an aged (and likely unsafe) wooden arbour structure is at the pond's edge.

Indigenous Plants

Red Alder, *Alnus rubra*
Western Redcedar, *Thuja plicata*
Rose, sp ??
Salmonberry, *Rubus spectabilis*
Creeping Buttercup, *Ranunculus repens*
Stinging Nettle, *Urtica dioica*

Indigenous Plants (Continued)

Cattail, *Typha latifolia*
Grasses *spp* ??
Common Rush, *Juncus effusus*
Bracken Fern, *Pteridium aquilinum*
Sword Fern, *Polystichum munitum*
Horsetail, *Equisetum sp?*

Introduced Plants

Weeping Willow
Contorted Willow
Hawthorn, *sp??*
Laurel
Rhododendron
Lily of the Valley Shrub, *Pieris japonica*
Foxglove, *Digitalis purpurea*
Forsythia
Daffodils
Yellow Iris ?

Invasive Species

Scotch Broom, *Cytisus scoparius*
Canada Thistle, *Cirsium arvense*
Himalayan Blackberry, *Rubus discolor*

Recommendations for Eastern Pond

Replanting with indigenous vegetation between shore and road is recommended to prevent continuing erosion. There is also opportunity for restoration with native plant species around the pond perimeter.

A fenced area immediately to the north of the covenant area is infested with Scotch Broom. It is recommended that Broom be removed as soon as possible to prevent seeding into covenant area and far beyond.

The wooden structure on the covenant area presents a possible liability issue. Its removal is recommended, along with miscellaneous equipment and chair.

Alder Pond

Indigenous Plants

Red Alder, *Alnus rubra*
Western Redcedar, *Thuja plicata*
Douglas-fir, *Pseudotsuga menziesii*
Grand Fir, *Abies grandis*
Bigleaf Maple, *Acer macrophyllum*
Rose, spp ??
Salmonberry, *Rubus spectabilis*
Willow sp ?? - likely Scouler's Willow, *Salix scouleriana*
Fringecup, *Tellima grandiflora*
Foamflower, *Tiarella trifoliata*
Creeping Buttercup, *Ranunculus repens*
Stinging Nettle, *Urtica dioica*
Swamp Lantern, *Lysichiton americanum*
Cattail, *Typha latifolia*
Grasses spp ??
Common Rush, *Juncus effusus*
Bracken Fern, *Pteridium aquilinum*
Sword Fern, *Polystichum munitum*
Horsetail, *Equisetum sp?*
Mosses, spp ??
Lichens, spp ??

Invasive Species

Scotch Broom, *Cytisus scoparius*
Canada Thistle, *Cirsium arvense*
Himalayan Blackberry, *Rubus discolor*

Recommendations for Alder Pond

Red Alders surrounding the pond have grown in very densely over a period of about six years, but will self-thin over time. Alternately, they could be thinned to a wider spacing now to avoid tall un-branched trunks and a heavy canopy.

A significant and valuable Wetland Ecosystem, that has been relatively undisturbed, extends north beyond the covenant boundary of the Alder Pond. This fragile area is also in need of special care and protection. Delicate mosses and ferns carpet the ground. There are mature trees, along with "wildlife trees" - dead and dying trees that provide important habitat for cavity dwelling species such as woodpeckers, owls, nuthatches and chickadees, as well as roosting habitat for several bat species.

Future owners of this property may wish to place an additional conservation covenant between the Alder Pond and the northern property line. This could be under the Islands Trust Natural Areas Property Tax Exemption Program, NAPTEP, which would provide a 65 percent reduction in property taxes on the covenanted portions of the property.

Recommendations for Both Covenant Areas

Ways in which the ponds and wetland ecosystems can be protected include:

- Prevent disturbance by humans and equipment, livestock or pets.
- Avoid infilling, draining, and ditching.
- Allow natural ecological processes to occur.
- Control the spread of invasive plant species - particularly Scotch Broom and Canada Thistle.
- Create and retain a vegetated buffer around wetlands and associated riparian ecosystems.
- Restrict pesticide, fertilizer or other chemical use.

A number of significant "wildlife trees" are in the immediate vicinity of the covenant areas - dead and dying Maple, Fir, Cedar and Alder, and tall stumps. Some have natural and/or woodpecker-created cavities that will provide important habitat for cavity-nesting bird species - which could include the Hooded Mergansers observed on the Eastern Pond. Although these features are outside the covenant areas, small "Wildlife Tree" signs could be placed on them to alert future property owners to their habitat values.

With protection as listed above, naturalizing of the ponds will continue to the benefit of the wetland ecosystem. Some restoration plantings with suitable indigenous plants, and protection of mature trees and wildlife trees in the vicinity would enhance this significantly.

Sylvia D. Pincott
for Pender Islands Conservancy Association
March 2012





Eastern Pond from Roadway



EASTERN POND
MUD FLOW INTO POND



**Eastern Pond
Arbour, tank and pipe, recommended for removal**

A photograph of a pond in a wooded area. The foreground is filled with tall, dry, brown grasses and reeds. The middle ground shows a calm body of water reflecting the sky and the surrounding trees. In the background, there are several tall, thin trees with bare branches, and a dense forest of evergreen trees is visible on the far shore. The sky is overcast and grey.

**Eastern Pond
Common Rush in foreground
Cattails in background**



EASTERN POND
DISTURBED AREAS PRESENTLY SENDING SILT INTO POND



SOME CLEANUP NEEDED



EASTERN POND
IMPORTANT SALMONBERRY THICKET



EASTERN POND
VIEW TO NORTHWEST



FENCED-IN SCOTCH BROOM
IMMEDIATELY TO NORTH OF EASTERN POND
COVENANT AREA



Overview of Alder Pond
Looking Northwest

A photograph of a forest path leading to a pond. In the foreground, a large, weathered log lies horizontally across the frame. To the left, there are several evergreen trees with green needles. The path is a narrow, light-colored trail that winds through the forest. In the background, a body of water (the pond) is visible, surrounded by more trees. The overall scene is a natural, wooded area.

APPROACH TO ALDER POND





Alder Pond - Northern Shore



Significant Trees to North of Alder Pond



**Wildlife Tree
North of Alder Pond**



Wildlife Trees to North of Alder Pond



DENSITY OF ALDERS
AROUND ALDER POND



Wildlife Tree at SW Corner of
Alder Pond Covenant Area
(with PLCA volunteer)



Sword Fern Glade
looking up to Southwest Corner of
Alder Pond Covenant Area



Alder Pond in 2006



STAFF REPORT

April 17, 2012

File No: NP-6500-20
Shoreline Review

To: North Pender Island Local Trust Committee
For the meeting of April 26, 2012

From: Andrea Pickard
Island Planner
Local Planning Services

CC: Robert Kojima, Regional Planning Manager

Re: Shoreline Review

BACKGROUND:

At the regular meeting of March 22, 2012, the North Pender Island Local Trust Committee directed staff to report back on the shoreline protection initiatives and possible work to be considered. This staff report will briefly summarize the key issues relating to shoreline development and provide options on the scope of a shoreline review specifically for North Pender Island.

Existing Policies: In giving consideration to policy or regulatory changes, the LTC should be guided by existing relevant policies.

Islands Trust Policy Statement: the Policy Statement includes commitments of Council, directive policies, and recommendations. Directly relevant policies are:

- 3.4.4: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
- 3.4.5: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.
- 4.5.8: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses
- 4.5.10: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
- 4.5.11: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.

- 5.5.4: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
- 5.5.5: Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.

Trust Council Strategic Plan: Trust Council has adopted a Strategic Plan, which identifies priorities agreed to by Trust Council for the term. The Strategic Plan is reviewed, revised and updated from time-to-time. While it can be anticipated that the current Council will make some changes, the following priorities in the current Strategic Plan are relevant:

- 2.3: To advance the stewardship of coastal areas and marine shore lands
 - o 2.3.1: Provide stewardship information about waterfront lands to community members
 - o 2.3.4: Develop and implement new land use planning tools for shoreline and marine protection

Official Community Plan: the OCP is intended to provide guidance to the LTC in future land use decision-making. The OCP includes a number of objectives and policies relevant to shoreline development issues:

Coastal Area Objectives

- 1) To protect sensitive coastal areas.

Coastal Area Policies

- 4.2.1 Regulations should protect natural coastal processes from the impacts of development.
- 4.2.2 Ocean vistas may be protected by regulation.
- 4.2.3 Use of the foreshore, and the surface of marine waters within the North Pender Island Local Trust Area shall be regulated by zoning.
- 4.2.4 All offshore reefs and islets shall remain free of any development of structures other than aids to navigation.
- 4.2.5 The Local Trust Committee shall implement zoning regulations, appropriate development permit area guidelines and consider adoption of a development approval information bylaw in order to ensure that all tidal and coastal fresh water marshlands are retained in their natural state.
- 4.2.6 Marshes, bluffs and other natural features along the coast shall be protected from erosion, pollution and other impacts of development by:
 - a) ensuring that any use of the foreshore does not result in permanent damage to natural features;
 - b) encouraging use of community docks or multi-user docks; and
 - c) ensuring that waterfront development is sufficiently setback to permit natural erosion and accretion processes to occur without endangering structures.
- 4.2.7 Maintenance of public access and the right to recreational use of the foreshore shall be protected.
- 4.2.8 Filling, deposit, or excavation of materials on the foreshore shall be prohibited.
- 4.2.9 Aquaculture shall be subject to rezoning.

- 4.2.10 No structures, including boathouses and multiple-user docks, should be permitted in coastal and foreshore areas unless an environmental impact assessment indicates that there is no disruption to natural coastal processes.

REGULATORY FRAMEWORK:

Land Use Bylaw: The LUB includes regulations applicable to shoreline development either directly within the marine zones, which specify the permitted uses and size and siting regulations, or by the setback to the sea regulation applicable to the upland property, which is 15 metres for North Pender Island.

Zoning of the marine waters adjacent to the shoreline is primarily the Water 1 (W1) zone and essentially all waterfront residential lots would be adjacent to the W1 zone which includes private docks and floats and boat launching ramps. Other shoreline zones include the W2 (which includes marinas), the W4 (which includes ferry docks and public ports), and the W5 (which is adjacent to the National Park).

Archaeological Sites: There several registered archaeological sites along the shoreline (principally middens) which would be protected under the provincial *Heritage Act*. Many registered sites are adjacent to the area zoned to permit docks and there are also likely to be additional unrecorded sites. Islands Trust planning staff review all applications (including referrals for Crown licenses and subdivision) for the presence of archaeological sites, if one is noted, the owner and applicant are informed and directed to contact the Archaeological Branch of the Ministry of Forests, Lands and Natural Resource Operations to ensure they obtain the necessary approvals.

Development Permit Areas: North Pender Island has implemented development permit areas (DPA) for sensitive ecosystem protection, including intertidal ecosystems. There are approximately 60 distinct intertidal development permit areas located around the North Pender shoreline that would include over 56 ha. Furthermore, there are three locations along the shoreline where the outflow of a watershed is subject to the Riparian and Aquatic Development Permit Area, indicating a high likelihood of sensitive fish habitat.

Covenants: There are s.219 covenants registered on some upland lots adjacent to the W1 zone. Primarily these are geo-technical or flood plain covenants registered at the time of subdivision, are not granted to the LTC, and would be unlikely to preclude the installation of docks unless extensive work is proposed on the upland lot for access to the proposed dock.

Jurisdiction: The permitting of docks or other structures below the natural boundary of the sea involves multiple jurisdictions. The foreshore is owned by the provincial Crown and the use of the foreshore for a residential dock requires tenure from the province. The Land Tenures Branch of the Ministry of Forests, Lands and Natural Resource Operations is the provincial agency which approves tenure applications; applications are made to FrontCounter BC, which in turn refers the application to local government, federal agencies and First Nations. If approved, the applicant is granted a license of occupation over a portion of the foreshore for the dock. Federal agencies having jurisdiction review applications for navigational issues and for fisheries impacts. Local governments, including LTCs, have jurisdiction through the zoning power, and can permit docks as a use (or not) and regulate the siting and size of the use. Local governments do not have the ability to regulate vessels or navigation.

Regulatory Tools: Regulation of development activity along the shoreline could be addressed by amending the Land Use Bylaw to reconsider the permitted uses, setbacks, exemptions from setbacks, and siting and size of structures.

Development of the shoreline (walkways, erosion protection, land clearing etc.) could be managed generally through designation of a new shoreline DPA for all shoreline properties. Guidelines of a DPA could be drafted to address development in hazardous (steep slope) areas, development in environmentally sensitive marine areas, and development in the upland area generally (eg: limit tree and vegetation removal).

Alternatively the existing intertidal DPA boundaries and guidelines could be amended to better address upland development and other types of shoreline uses.

LAND USE ISSUES:

The following are some of the issues that have arisen in relation to shoreline development:

- Setbacks: The current setback from the sea is 15 metres (~50 feet). The setback to the natural boundary of the sea is under the General Regulations and the following are exempt: a fence, septic field, pump house, walkways and a set of stair less than 1.2 m wide and 1 m in height. It also specifically includes paved areas of asphalt, concrete or similar materials.
- Stairs/structures for Foreshore Access: Construction of paths, stairs or walkways to access the foreshore can range greatly from being sensitively designed, low-impact structures designed to blend into the environment, to more grandiose structures with increased footprints and related impacts. It is of note that a set of stairs is limited to a width of 1.2 m and height of 1 m within the LUB; however there is no building permit required except where the stairs are attached to a building or other permitting process unless the stairs or walkway are proposed to be within a sensitive ecosystem DPA. It seems to be with increased frequency that issues related to stair structures are raised throughout the southern Gulf Islands. Stair structures have become increasingly elaborate with wide deck-like features, or they can be elevated well above the natural grade for views, and be constructed on near vertical slopes.
- Docks: Docks for residential properties are currently permitted in the W1 zone and are limited in size and siting to: 37 m² (~400ft²) in area, a ramp/walkway width of 1.5 m and height of 1m, and a setback of 3 m (10ft) to projected property lines. The installation of docks can have a variety of negative localized impacts on the immediate marine and intertidal ecosystems; as well as contributing to the cumulative impacts on the shoreline ecosystem. These impacts can be caused by: alterations to natural beach processes by interfering with sediment source or deposition, impacts to marine habitat from shading effects, the alteration or removal of riparian vegetation potentially contributing to increased erosion. Currently zoning allows docks along the vast majority of the shoreline in the W1 zone, which also permits boat launching ramps. The LTC could consider amending the marine zones to restrict docks in locations that are unsuitable due to high wave energy environments or steep topography.
- Erosion Protection Measures: Coastal properties are vulnerable to erosional influences that are often part of the natural coastal process. The real or perceived threat to property often results in owners wanting to harden the foreshore. Experience has shown hardening of the shoreline can often result in negative, unintended consequences such as: transferring erosion to adjacent locations; interfering with natural coastal process, particularly cutting off the source of beach materials; and the loss of habitat and

vegetation. In high energy wave environments hard surfaces can also result in the energy forces being transferred upland, rather than being dissipated and this can impact upland structures.

There has been a shift in recent years to alternative approaches that have less environmental and visual impacts. Protection measures are often referred to as a spectrum from 'soft' to 'hard', where 'soft' measures utilize less rigid materials such as vegetation, while 'hard' measures refer to those with solid, hard surfaces such as concrete walls. In general, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. There is a range of measures that include:

- Vegetation enhancement
- Upland drainage control
- Biotechnical measures
- Beach enhancement
- Anchor trees
- Gravel placement
- Rock (rip rap) revetments
- Gabions
- Concrete or rock groins
- Retaining walls or bulkheads
(concrete, lock blocks, etc.)
- Seawalls

SOFT



HARD

It is anticipated that the current Trust-wide shoreline mapping and Greenshores projects, which are ongoing, will provide more information to the Local Trust Committees later this year. These projects should also provide more analysis and recommendations for erosion protection measures as they pertain to different shoreline types.

Currently, if a proposed structure for erosion protection is to be sited within the 15 m setback to the sea, a variance to the LUB would be required. Any erosion protection structures beyond the natural boundary of the sea would require a license of occupation for Crown land, and an amendment to the LUB (rezoning) and the Official Community Plan. A development permit may also be required if it is located within a DPA.

- Ocean-based Geothermal Systems: Ground based geothermal systems and exterior heat pump systems for domestic heating and cooling are considered an accessory use; as long as the structures comply with the property setbacks they are permitted. In recent years there has been increasing interest to install ocean-based geothermal systems. These systems are located beyond the residential property boundary and are not a permitted use in the marine zones. Currently a site-specific amendment to the LUB (rezoning) would be required to allow an ocean-based installation. The LUB could be amended to include them as a permitted use in the marine zones and rely on the necessary approvals from higher levels of government (DFO, Crown lands) to ensure environmental impacts are minimal. However, the type and method of installation for such systems can vary greatly; if there were community concerns that they should be regulated through local bylaws they could be addressed through either a development permit area or continuing to only allow them through site-specific zoning process.

- **Hazards:** Events such as severe storms and on-going changes such as sea level rise or shoreline erosion can result in damage to or destruction of shorelines or structures. The impacts of natural hazards on docks themselves is mitigated by the fact these are unoccupied structures and thus unlikely to pose a hazard to human life. The impact of dock construction on shoreline erosion is likely to be far less than the impacts of extensive removal of upland vegetation for other development or the installation of shoreline hardening such as seawalls.
- **Visual and Noise:** Like any development, the installation and use of docks can be expected to have some level of impact on the neighbouring properties and the community more generally. Docks can be highly visible from adjacent properties and from the sea, particularly a proliferation of docks in close proximity to each other. The use of docks can also result in noise impacts on neighbours; particularly noise from boat engines travels readily over water.

Shoreline Considerations:

Coastal environments are formed by dynamic processes influenced by waves, movement of sediments and water levels. Wave effects are influenced by their size, wind velocity and duration, and the fetch (distance). Along with the currents, the depth of water and the angle the wave approaches and is then deflected along the shoreline establish the direction sediments are moved along the beach, known as longshore drift. Longshore drift cells are then identified as having an eroding shore (sediment source), transport shore and depositional shore (accretion). Cyclic effects of seasonal storms, extreme tides and storm surges can also move significant amount of sediments directly away from, or onto the shoreline within a relatively short time period.

Shorelines are also referred to by their energy level, or amount of wind exposure and whether they are eroding, transport or depositional shorelines. Whether a shoreline is a high, medium, or low energy location indicates the potential volume of sediment moved (removed or deposited), how established the vegetation can be and how susceptible it is to damage, and may also indicate those areas most vulnerable to storm events and climate change effects.

The physical properties of the shoreline also play a key role in influencing the habitat and biological communities. The types of substrate (bedrock to sand), the wave exposure, salinity and temperature, and tidal elevation all influence the biological diversity of the foreshore and intertidal areas.

While land use changes may have no impact to coastal influences such as wave fetch and energy exposure, it can hugely influence the natural longshore movement of beach sediments and the range and diversity of habitat and related species. Although we use the term 'shoreline' it is important to recognize that coastal ecosystems are areas much broader than a line and consists of nearshore, foreshore and backshore components. Activities in any one area can have significant impacts in others. Upland areas often contain sensitive ecosystems which are fragile and can be easily damaged directly by upland activities. Alterations to the upland and foreshore areas can also impact the biodiversity and marine habitats such as sensitive eel grass beds, clam beds and forage fish habitat. Coastal wetlands and estuaries have particularly high levels of biodiversity and provide an unmatched level of service for filtration of surface run off and buffering capacity for storm events.

Resources: The following recent mapping projects and other resources can also provide further information when considering shoreline impacts.

Sensitive Ecosystem Mapping (SEM): the scope of the recent SEM project did not extend to the foreshore or marine areas and the source of intertidal mapping is uncertain. The SEM did classify sensitive areas on the upland and the shoreline has a significant amount of cliff, woodland and herbaceous ecosystems now captured in development permit areas. Raptor nest DPA's are also generally located adjacent to the shoreline. The sensitive ecosystem development permit areas would regulate shoreline development only in locations where they exist.

Steep Slope Hazard Mapping: this project mapped and classified areas of potential geological hazard based on slope. It was intended to address hazards associated with rockfall and not with the sea (e.g. storm surges, wave action, etc.) In fact, one of the data limitations of the DEM (Digital Elevation Model) is that it does not include mean sea level, meaning that the degree of error within the intertidal and immediate upland is greater than on the land.

Shoreline Type: as part of an overall Islands Trust initiative, preliminary shoreline mapping has been completed categorizing the shoreline types. Attached to this report is the preliminary draft mapping of the North Pender shoreline types, a report of the methodology for this materials is anticipated in the coming months.

Parks Canada Mapping: as part of the Gulf Islands National Park Reserve a shoreline mapping project was completed and is now available through an on-line interactive mapping tool the 'Southern Gulf Islands Atlas'.

Best Management Practices: most relevant to shoreline development would be the BMP's established by Fisheries and Oceans Canada (DFO) which also includes timing windows to avoid disturbance during the most sensitive periods.

Greenshores: is a program of the Stewardship Centre for BC, a non-profit organization to support an information based approach to minimize the impacts of human settlements on the shoreline. Their guiding principles are: preserve the integrity or connectivity of coastal processes, maintain or enhance habitat diversity and function, minimize or reduce pollutants to the marine environment, and reduce cumulative impacts to the coastal environment. Currently an Islands Trust initiative, in collaboration with the San Juan Islands, is creating a credit system for home owners based on the greenshores approach.

Provincial Stewardship Series: with a goal to strengthen ecological stewardship in BC there have been numerous publications on a range of environmental topics prepared under the Stewardship Series. A key one being 'Coastal Shore Stewardship: A Guide for Planners, Builders and Developer on Canada's Pacific Coast'.

STAFF COMMENTS:

While there are concerns about shoreline development generally, no specific concerns with the current policies or regulations had been identified by staff. Concerns over the number of shoreline structures that may have knowingly, or unknowingly, been constructed by home owners over the years has been identified; however the level of impact has not been confirmed nor quantified in any way. Staff would suggest issues with stairs to access the foreshore, seawalls, and docks as the most common concerns with development in the shoreline area.

Since 2000 the LTC has considered at least 15 variance applications to reduce the setback to the sea; of those 11 were approved and 4 denied. A separate variance application to increase the permitted size of a float was withdrawn and that remains an active bylaw enforcement file. The LTC has previously considered the issue of violations to the setback to the sea and requested a report from the Bylaw Enforcement Coordinator to report on options. That request arose in part from a bylaw complaint and discussion during the subsequent development variance permit (DVP) application for a structure (stairs/deck) at the shoreline, the LTC approved a smaller structure than requested.

To proceed with addressing shoreline issues the LTC should consider both the range of possible outcomes and various methods for community discussion on the subject.

Since there is no single issue that has been identified at this point, the LTC may want to begin with general consultation with the community to assist with scoping of the project. The primary objective would be to determine what shoreline issues are of most concern and which issues the community would support some level of regulation to provide certainty that shoreline development has minimal impacts in advance of, rather than in response to, proposed or initiated development.

Consultation could include:

- Establishing a Task Force (Special Project Advisory Planning Commission) to review shoreline development, identify the shoreline issues of concern, and make recommendations on the options of how to address them. Staff could be directed to draft terms of reference for the LTC to consider.
- Holding of a Community Information Meeting(s).
- Referral to the Advisory Planning Commission.
- Use a newsletter or mail out to gather input from the community.
- Use of an online survey to gather input from the community on shoreline issues.
- Public workshops or open houses designed to gather feedback through various displays and selection boards.

The range of outcomes would include:

- No action by the LTC at this time and wait for the outcome of the Greenshores Project
- Creation of educational/informational materials only with no regulatory changes.
- Amend the regulations in the Land Use Bylaw (eg: the extent of shoreline allowed docks, or consider the marine zones and permitted uses).
- Consider amending the existing Intertidal Development Permit Area to better capture foreshore and upland activity.
- Consider a shoreline development permit area that could include specific guidelines for various types of development and shoreline types, with exemptions for types of low-impact land use.

OPTIONS:

A key consideration in going forward is the scope and extent of the shoreline project the LTC wants to undertake, in addition to and largely separate from, the ongoing Trust wide work. There is a list of options below drafted as possible resolutions for consideration.

1. THAT the North Pender Island Local Trust Committee direct staff to proceed no further at this time until more information on the Trust wide shoreline mapping and Greenshores initiatives are brought forward.
2. THAT the North Pender Island Local Trust Committee direct staff to draft terms of reference for a shoreline task force.
3. THAT the North Pender Island Local Trust Committee direct staff to refer the subject to the Advisory Planning Commission for comment.
4. THAT the North Pender Island Local Trust Committee direct staff to draft a survey questionnaire to gather input from the community regarding shoreline issues.
5. THAT the North Pender Island Local Trust Committee direct staff to draft information that could be used in a Trustee Newsletter to gather input from the community regarding shoreline issues.
6. THAT the North Pender Island Local Trust Committee direct staff to report back on more specific regulatory amendments that could be considered for the Land Use Bylaw.
7. THAT the North Pender Island Local Trust Committee direct staff to report back on options to amend the existing intertidal development permit area and a Shoreline Development Permit Area to address shoreline development.
8. THAT the North Pender Island Local Trust Committee direct staff to report back on options to consider a new Shoreline Development Permit Area to address shoreline development generally.

RECOMMENDATION:

The Local Trust Committee direct staff to report back with a draft scope, timeline, budget and workplan for the preferred approach for advancing the shoreline review.

Respectfully submitted by:



Andrea Pickard

April 18, 2012

Date

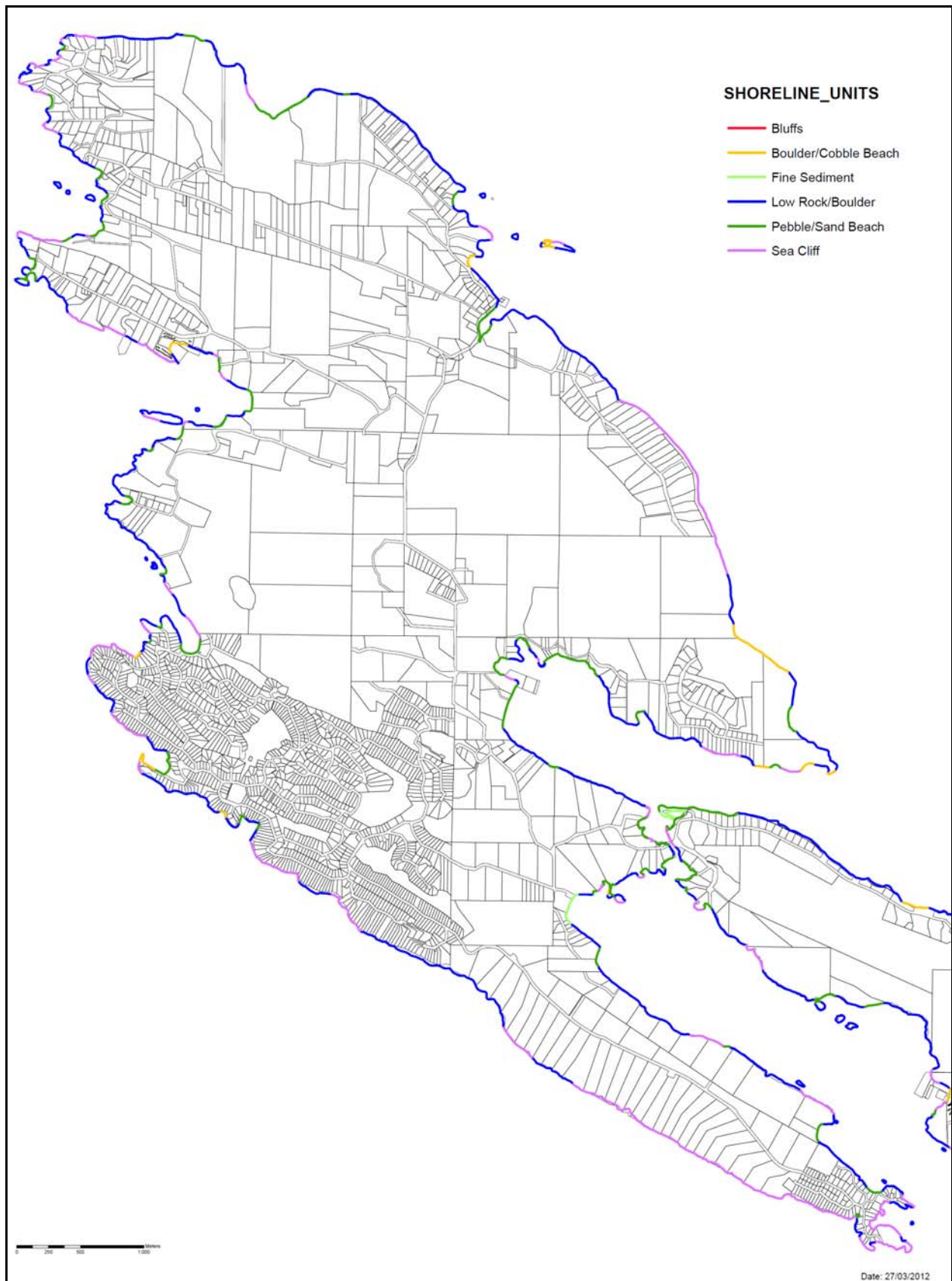
Concurred in by:



Robert Kojima
Regional Planning Manager

April 18, 2012

Date





Islands Trust

Top Priorities

North Pender Island

No.	Description	Activity	Received / Initiated	Responsibility	Target Date	Status
1	Associated Islands Bylaws	Undertake LUB and OCP review regarding Sidney Island	Mar-31-2011	Andrea Pickard		On Going
2	Shoreline Development Review	Identify and assess issues and impacts associated with development on the foreshore and immediately upland of the natural boundary, including docks, stairs, seawalls, erosion, landslip, sea level rise and structures near the natural boundary. Consider options to address issues, including designation of a shoreline DPA	Sep-22-2011	Andrea Pickard		On Going
3	LUB Amendments Related to Subdivision and Roads	- road classification and design standards review, including heritage roads and subdivision standards (s.4.15) and related OCP policies - subdivision servicing regulation review - stormwater management regulation review - review of marine zoning regulations in conjunction	Sep-22-2011			On Going



Islands Trust

Print Date: Apr-18-2012

Projects

North Pender Island

No.	Description	Activity	Received / Initiated	Status
1	Affordable Housing Task Force	Circulate report to community groups, develop terms of reference, appoint task force as an APC, receive report, undertake community and stakeholder consultation, review options, consider bylaw amendments or other initiatives for implementation.	Jan-22-2009	On Going
2	Climate Change Adaptation and Community Resilience	Consider baseline data consider policy and regulatory land use changes to help adapt to climate change impacts.	Jan-22-2009	On Going
3	Tourism Plan	Support efforts to develop a tourism plan	Jan-22-2009	On Going
4	Agricultural Projects	Consider implementing agricultural initiatives identified in OCP	Jan-22-2009	On Going
5	Other OCP projects:		Jan-22-2009	On Going
	1. View corridor review			
	2. Parks and Conservation area review			
	3. Pedestrian and Cycle paths			
	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	Agricultural Building Watercourse Setbacks	Jul-28-2011	On Going	
7	Geological Hazard Mapping	Continue work on proposed DPA for Hazardous Areas	Feb-22-2012	On Going
8	LUB Amendments	• review of industrial zoning, including waste management • tourist commercial zoning review • home industry regulation • ferry terminal zoning • 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 • height exemptions for agricultural or forestry buildings and boat sheds • max floor area for principal dwellings	Mar-22-2012	On Going



Islands Trust

Print Date: Apr-18-2012

Applications w/ Status - North Pender Island Status: Open

Applications

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2010.4	Lloyd Eakins (For TWA) Planner: Andrea Pickard	Apr-19-2010	RAZOR POINT RD of a 15 lot subdivision, request a variance for lots 8 (vary sec. 4.10.3 of LUB) and 13 & 14 (vary sec. 4.12.1 of LUB)

Planning Status

Status Date: Feb-28-2012

decision deferred until amending the consolidated covenant is investigated and the AO and DSO comment on the drainage rpt

Status Date: Jan-26-2012

jan meeting cancelled, on Feb agenda

Status Date: Jan-10-2012

on Jan agenda, draft covenant and drainage rpt included

File Number	Applicant Name	Date Received	Purpose
NP-DP-2011.9	Nagrikan Holdings Ltd - Ralph Turner Planner: Andrea Pickard	Nov-10-2011	1215 OTTER BAY RD To allow for a construction of a sea wall to protect an archaeological site from eroding.

Planning Status

Status Date: Mar-26-2012

Permit reviewed, approved in principle but will reconsider after related rezoning is complete

Status Date: Mar-12-2012

on Mar agenda

Status Date: Feb-07-2012

x-ref to NP-RZ-2011.1, preliminary staf rpt on Feb agenda

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2012.2	Duncan Shantz Planner: Kris Nichols	Feb-13-2012	To vary the rear property line from 4.4 m. to allow building to remain as is.

Planning Status

Status Date: Mar-30-2012

Spoke with applicant and as they are getting a new survey will not be ready for April meeting.

Status Date: Mar-02-2012

Spoke with applicant wished to hold application until the April meeting to check on other building locations.

Status Date: Feb-29-2012

Initiating review of application/notice and permit

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2012.3	Robert Thompson Planner: Kris Nichols	Mar-13-2012	To construct a dwelling within the front yard setback

Planning Status

Status Date: Apr-24-2012

on Apr agenda

Status Date: Apr-03-2012

Notice and proposed permit send out

Status Date: Mar-16-2012

owner advised MOTI permit required

Rezoning

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2011.1	Natrikan Holdings LTC - Ralph Turner Planner: Andrea Pickard	Dec-13-2011	1215 OTTER BAY RD To amend a portion of W1 zone to allow for a construction of a sea wall to protect an archaeological site.

Planning Status

Status Date: Mar-26-2012

Given First Reading at March meeting, schedule CIM and PH for a weekend date

Status Date: Mar-12-2012

on Mar agenda - draft bylaw and DP

Status Date: Feb-27-2012

direction to proceed with application

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2011.2	Lockhart Industries - Doug Lockhart Planner: Andrea Pickard	Dec-09-2011	6640 RAZOR POINT RD To include geoechange (geothermal) ocean loops for domestic heat pumps in the W1 zone.

Planning Status

Status Date: Apr-18-2012

on Apr agenda with draft bylaw 191

Status Date: Mar-26-2012

direct to proceed with draft bylaws

Status Date: Mar-12-2012

preliminary report on Mar agenda

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2008.3	Richard Wey Planner: Andrea Pickard	Mar-19-2008	5442 HOOSON RD : Creating 4 lots

Planning Status

Status Date: Apr-18-2012

On Apr for revised potable water and conservation covenant

Status Date: Mar-26-2012

mar agenda LTC accept both park and covenant

Status Date: Mar-14-2012

on Mar agenda for potable water covenant and proposed park

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2008.5	Richard Wey & Associates Planner: Andrea Pickard	Apr-15-2008	6621 HARBOUR HILL DR (TWA): To Create 15 lots

Planning Status

Status Date: Mar-12-2012

pending owner commenting on requested covenant amendments and Gardom Pond issues to be clarified

Status Date: Feb-08-2012

DP on Feb agenda

Status Date: Jul-29-2011

DVP and 10per cent lot waiver approved. DP tabled until next agenda

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2008.9	JJ Properties Inc	Oct-21-2008	James Island - To create 83 lots CONTACT PERSON - SHELLY O'CALLAGHAN (604) 641-4801 lawyer's office - Bull Houser & Tupper

Planner: Andrea Pickard

Planning Status

Status Date: Jul-07-2009

PLA received from MoTI

Status Date: Nov-20-2008

Referral response sent to MoTI

Status Date: Nov-17-2008

Revised plan received and reviewed

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2011.1	Richard Wey & Associates Land Surveying Inc	May-16-2011	4606 OAK RD & 4602 OAK RD Boundary adjustment

Planner: Andrea Pickard

Planning Status

Status Date: Feb-27-2012

DP approved

Status Date: Jan-10-2012

DP application rec'd - xref NP-DP-2012.1

Status Date: Oct-06-2011

PLA issued

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2011.2	JM Wood Investment Ltd	Sep-02-2011	application to subdivide Parcel K (DD50314-i) into two fee simple lots. Separated by the dedication of Clam Bay Road

Planner: Andrea Pickard

Planning Status

Status Date: Feb-07-2012

PLA issued

Status Date: Sep-28-2011

response sent to MOTI, copied to app/owner

Status Date: Sep-08-2011

Forwarded to Planner and Trustees

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2011.3	Strongitharm Consulting Ltd	Nov-09-2011	Boundary adjustment
Planner: Kris Nichols			

Planning Status

Status Date: Dec-06-2011

response sent to MOTI

Status Date: Nov-30-2011

Sent letter of acknowledgement of receipt of application and fees to applicant. Copied trustees and forwarded file to planner.

Status Date: Nov-14-2011

Sent application form to applicant to complete and letter requesting fees.

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2012.1	Allison Coffey c/o Richard Wey & Associates	Jan-13-2012	Boundary Adjustment
Planner: Kris Nichols			

Planning Status

Status Date: Mar-01-2012

Sent referral response to hways

Status Date: Feb-20-2012

site visit conducted

Status Date: Feb-09-2012

Initiated Referral Response

ISLANDS TRUST BRIEFING

DATE: 11 April 2012

TOPIC: ENFORCEMENT OPTIONS TO REMOVE UNLAWFULLY LOCATED SIGNS.

DIRECTED TO: North Pender Island Local Trust Committee
Meeting of 26 April 2012.

CONFIDENTIAL: NO

DESCRIPTION OF ISSUE: At the March meeting of the North Pender Island LTC Trustee Steves noted the complaints that he was receiving about the ongoing proliferation of illegal roadside signage on North Pender. The LTC directed the Bylaw Enforcement Manager to report on options on how to remove unlawful signs from roadways.

BACKGROUND: North Pender Island Land Use Bylaw No. 103 section 5 identifies the type, size and locations for legal signs. All others are unlawful.

5.1 Rural Residential (RR) and Rural (R) Zones

5.1.1 In any Rural Residential (RR) Zone or Rural (R) Zone, no sign may be erected on any premises or affixed to the outside of any structure except a single sign in respect of any home business or home industry or combination of them, and a single sign pertaining to the lease, sale, name of owner or property or use of a lot or building on which they are placed, and none may exceed a total area of 0.6 m²

5.2 Commercial and Industrial Zones

5.2.1 In any Commercial, Agricultural, Institutional or Industrial zones, no signs of any kind or nature may be erected on any premises or affixed to the outside of any structure, except for one sign not exceeding a total area of 1.1 m² within 7.5 metres of the front or side lot line and one such sign on each business premise, advertising the type of business, occupation or trade conducted on the premises or the principal produce or service sold, and one sign not exceeding the area specified in Subsection 5.1.1 in respect of any accessory dwelling permitted on the lot. For the purpose of this subsection, two

identical signs, back to back and facing opposite directions, are considered to be one sign.

5.3 Prohibited Signs

5.3.1 Any sign that is internally illuminated; any sign with moving parts; and any noise-making sign is prohibited.

5.4 Lighting of Signs

5.4.1 Any light illuminating a sign must be controlled so as not to cast light onto neighbouring property or into the eyes of oncoming motorists.

5.5 Obsolete Signs

5.5.1 Any sign which has become obsolete because of discontinuance of the business, service or activity which it advertises must be removed from the premises within thirty days after the sign becomes obsolete.

5.6 Public Service Signs

5.6.1 Nothing in this Bylaw prohibits the erection of a sign by an agency of government for purposes of public health or safety, or by a candidate in a municipal, provincial or federal election during the period prior to the election.

Violations of the above bylaw sections may be subject to a \$150.00 fine under the new Bylaw Enforcement Notice Bylaw. This fine is reduced by 75% if the violator negotiates and completes a compliance agreement.

COMMENT: The effect of Sections 5.1.1 and 5.2.1 is that all signs must be on the lot where the business related to the sign exists. Signs cannot be placed on strategically located properties where there is high visibility to high traffic volumes which advertise businesses located on a different lot. As signs must be placed on a lot and because a roadway is not a lot signs placed on the roadway are also unlawful. The sign regulations apply to the roadway even though it is Provincial territory because the zone boundaries go to the centre of the road. The only signs that are exempt from the Land Use Bylaw are signs that are erected with the permission of the Department of Highways. The Department of Highways does not issue permits for signs advertising businesses that violate local bylaws and will remove signs from roadways if requested to do so by local authorities.

Currently bylaw enforcement officers only enforce the sign regulations in the Land Use Bylaw if there is a specific complaint. As there are few complaints unlawful signs have tended to proliferate and to remain. This probably has created a belief that they are

“okay” if not lawful. Additionally, as more signs are posted the need to match the advertising efforts of competing businesses drives the need to post more unlawful signs. Most unlawful signs on the roadway advertise nearby businesses but some advertise service organizations such as Lions Clubs or the Canadian Legion. Unfortunately, the service club signs are also unlawful and would be subject to removal unless they have a permit from the Department of Highways.

Options for the Local Trust Committee for preventing the proliferation of unlawful signs on the roadway are:

1. Request the Department of Highways to remove all signs on the roadway that do not have a permit and;
2. Adopt an enforcement policy directing bylaw enforcement officers to proactively enforce the sign regulations as they pertain to location.

If option 2 is adopted the bylaw enforcement officer would issue a warning notice for each unlawfully located sign that is seen whenever they are present on Island for normal enforcement work. If the sign was not removed or if it was reposted after a removal by the Department of Highways the bylaw enforcement officer would issue a bylaw violation notice.

Recommendations:

1. That the North Pender Island Local Trust Committee ask the Department of Highways to remove all signs on the roadway that do not have a permit issued by the Department of Highways.
2. That the North Pender Island Local Trust Committee direct bylaw enforcement staff to proactively initiate appropriate enforcement action against all unlawfully located signs on North Pender Island whenever one is seen by bylaw enforcement staff.

PREPARED BY: Miles Drew, BE Manager

SUBMITTED BY: Miles Drew, BE Manager

REVIEWED BY: (

REVIEWED BY EXECUTIVE COMMITTEE:

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OTHER REVIEW:

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ISLANDS TRUST BRIEFING

Date: April 16, 2012

TOPIC: BYLAW ENFORCEMENT INVESTIGATIONS REPORT NORTH PENDER ISLAND

DIRECTED TO: North Pender Island Local Trust Committee
Meeting of April 26, 2012

CONFIDENTIAL: No

DESCRIPTION OF ISSUE: A report to summarize bylaw enforcement investigations activity up to April 16, 2012.

BACKGROUND: This briefing is prepared for the North Pender Island Local Trust Committee (NPILTC) to highlight the current status of the bylaw enforcement program.

Resources: Bylaw enforcement staff consists of the Bylaw Enforcement Coordinator, one full time bylaw enforcement officer, one temporary part time bylaw enforcement officer and one part time clerical assistant serving the Islands Trust Area as a whole. Peter Phillips concentrates on the Northern Region, and Geoff Kinnear deals with the Southern Region and Salt Spring Island. Miles Drew is the Bylaw Enforcement Manager. The temporary bylaw enforcement officer position has been made regular and we are currently in the process of filling this position on a permanent basis.

Reporting:

Table of New and Closed Files by Officer

Assigned To	Region	New Files 2012	Closed Files 2012
Miles Drew	North Pender	0	7
Geoff Kinnear	North Pender	5	1
Total New and Closed		5	8

Table of Active Files by Quarter

Assigned To	Region	May 9 2011	Sept 7 2011	Nov 9 2011	Feb 7 2012	April 16, 2012
Miles Drew	North Pender			24	10	10
Geoff Kinnear	North Pender			13	22	27
Peter Phillips	North Pender			0	0	0
Total	North Pender			37	32	37

Table of Active Files by Local Trust Area and Violation Type

Local Trust Area	Density	Dev. Permit	Home Occupation	Land Use	Siting	Soil	STVR	Unenclosed Vehicle	Unlawful Dwelling	Totals
North Pender			2	10	10		10	3	2	37

The above table gives a general indication of the type of issues bylaw enforcement officers are attempting to resolve. One third of the files are STVR files. Staff believes that many of these STVRs are no longer active. STVR files are scheduled for review in early May so that STVRs that continue to operate in an overtly commercial manner can be subject to enforcement and prosecution this summer. The STVR review will likely result in the closure of some of the ten currently open files

Projects:

Bylaw Adjudication

A bylaw has been adopted by the NPILTC. Staff expects to start issuing bylaw violation notices in May.

STVR

Enforcement continues on the few remaining overtly commercial STVRs on North Pender.

ATTACHMENT: No

PREPARED BY: Miles Drew
Bylaw Enforcement Coordinator

Reviewed Feb 14, 2012 by
David Marlor, DLPS

Q:\Reports\Local Trust Committees\North Pender LTC\2012\Briefing - Bylaw Investigations Report for NPI LTC April 16 2012.doc

Kathy Jones

From: Linda McClung
Sent: March-29-12 9:51 AM
To: Andrea Pickard; Gary Steeves; Ken Hancock; Kris Nichols; Peter Luckham; Robert Kojima; Sharon Lloyd-deRosario; Kathy Jones
Cc: Nancy Roggers; Cindy Shelest
Subject: North Pender March/12 Expense Report

Please direct all questions relating to the attached detailed expenditure reports to Nancy by email.

Thanks.

650 North Pender	Invoices posted to March 31, 2012	Budget	Spent	Balance
65000	LTC "Trustee Expenses"	1,200.00	518.30	681.70
65200	LTC Local Exp LTC Meeting Expenses	3,600.00	3,191.77	408.23
65210	LTC Local Exp APC Meeting Expenses	1,840.00	428.44	1,411.56
			-	
65220	LTC Local Exp Communications	1,150.00		1,150.00
65230	LTC Local Exp Special Projects	2,000.00	717.46	1,282.54
			-	
65240	LTC Local Exp Miscellaneous	810.00		810.00
TOTAL LTC Local Expense		9,400.00	4,337.67	5,062.33
		-	-	-
72300	Project OCP update			

Sharon Lloyd-deRosario

From: Andrea Pickard
Sent: April-11-12 1:20 PM
To: Sharon Lloyd-deRosario
Cc: Kathy Jones; Robert Kojima
Subject: FW: N. Pender LTC budget information
Attachments: 41viii LTC Local Expense Account.pdf

Please add this to the NP agenda.

thanks

From: Cindy Shelest
Sent: April-11-12 1:18 PM
To: Gary Steeves; Ken Hancock; Peter Luckham
Cc: Andrea Pickard; Kris Nichols; Robert Kojima; Nancy Rogers
Subject: N. Pender LTC budget information

Hello Trustees,

Please find below the Fiscal 2012/13 LTC trustee and local expense budgets. Some LTCs distribute their "LTC Meetings" budget out amongst the APC, Communications, Special Projects and Miscellaneous LTC expense accounts. As outlined in the attached LTC Local expense account policy Section 1d, please prepare and adopt by resolution a detailed working budget that outlines the anticipated expenditures for the year. If you want to split the budget out into the various categories listed please include that in your resolution.

Budget Information for Fiscal 2012/13		Budget
650 N. Pender	65000 Trustee Expense	1,500.00
650 N. Pender	65200 LTC Meetings	9,400.00
	65210 APC Meetings	
	65220 Communications	
	65230 Special Projects	
	65240 Miscellaneous	
	TOTAL LTC Local Expense	9,400.00
650 N. Pender	72300 OCP/LUB Expense	5,000.00

Let me know if you have any questions/concerns. Thanks, Cindy

Cindy Shelest
 Director Administrative Services
 Islands Trust
 200-1627 Fort Street, Victoria, BC V8R 1H8
 phone: 250-405-5150 cell: 250-896-1882
 fax: 250-405-5155
 Email: cshelest@islandstrust.bc.ca
www.islandstrust.bc.ca

Preserving *Island* communities, culture and environment



Please consider the environment before printing this email

"You can live each day in a world filled with "problems," or rise each morning and embrace a world filled with unseen solutions... eager for you to find them. The decision is yours...both worlds exist. The one you choose is the one you will create." -Michael McMillan.

4.1.viii. Policy & Procedure

LOCAL TRUST COMMITTEE LOCAL EXPENSE ACCOUNT

Trust Council: June 6, 1992

Amended: September 16, 2005; June 13, 2008; March 9, 2011

A: PURPOSE:

To define procedures for the planning, accounting and administration of Local Trust Committee (LTC) Local Expense account as provided for in the annual budget. Implementation of the policy will allow for independent management of and responsibility for the funds by the Local Trust Committee.

B: REFERENCES:

1. Annual Budget Document
2. *Islands Trust Act, S. 14*

C: POLICY:**1. Planning**

- a) A funding allocation for each local trust committee will be prepared at the beginning of every fiscal year, subject to the total amount approved in the Islands Trust budget;
- b) The allocation will be based on the pro-rata share of converted assessed values for each local trust area, adjusted as follows:
 1. the minimum local expense budget for an LTC is adjusted to \$3,000
 2. any adjustment required to bring the total of all LTC Local Expense budgets to the total amount approved by the Islands Trust Council shall be applied to the three highest local expense budgets in proportion to those budgets
 3. the resulting calculated amounts for each LTC shall be rounded to \$100 until the total result equals the total amount approved by the Islands Trust Council
- c) Local Expense funds may be enhanced through an internal transfer for funds from the LTC Trustee (Travel) Expense account. Similarly, funds may be transferred from Local Expenses to Trustee Expenses; and
- d) LTCs should prepare and adopt by resolution a detailed working budget that outlines the anticipated expenditures for the year.

2. Disbursement

- a) Disbursements must only be made as authorized by the *Islands Trust Act* and typically include the following:
 - i) Advisory Planning Commission expenses (meeting and secretarial costs)
 - ii) LTC meeting costs including hall rental, external facilitation costs, and secretarial costs
 - iii) Local mail-outs and/or trustee newsletters
 - iv) Open house costs
 - v) Funding to outside organizations or individuals for goods or services that support the land use planning mandate of the LTC.

- b) Disbursements must be made in accordance with the budget allocation, be processed via the Trust's financial system, and comply with all financial policies and procedures, including use of purchase orders or service contracts where required, and appropriate approvals by the Treasurer and/or designate;
- c) Disbursements should be approved by a local trustee as authorization to charge the expense against the local expense account, however any disbursement over \$200 must be approved by resolution of the local trust committee;
- d) Expenditures under \$20 should be charged as a personal expenditure and will be reimbursed accordingly through an expense voucher submission; and
- e) Expenditures cannot exceed the annual budget allocation provided to each LTC by Trust Council. However, if an LTC anticipates extraordinary costs they should approach Executive Committee for a budget adjustment.

3. Reporting

- a) LTCs, via the Regional Planning Managers, will be provided with monthly expense summaries; and
- b) Trust Council will be apprised of the status of the overall Local Expense budget on a quarterly basis.

4. Responsibilities

- a) Trust Council is responsible for approving the annual LTC Local Expense budget allocation;
- b) The Treasurer is responsible for preparing the annual budget request; for calculating the distribution to LTC's, for ensuring that periodic reports are provided to LTCs, and for ensuring that all financial controls, policies and procedures are adhered to;
- c) Regional Planning Managers are responsible for coordinating LTC budget requirements and for assisting LTCs in the planning and disbursement of Local Expense funds; and
- d) Local Trust Committees are responsible for adopting a budget for the funds allocated to them, for spending funds according to that budget, and for ensuring that all planned disbursements are reported to the Trust's finance department.

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.	May 25, 2006	NP-LTC-82-06	Enforcement Policy - STVR	1. THAT given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities, STVRs that have one or more of the following characteristics will be subject to enforcement: 1. They are advertised on the internet, newspapers or other media; 2. They are not managed by the property owner; 3. More than one dwelling on the lot is simultaneously made available for STVR; 4. While the property is rented persons are also staying in tents, trailers or RVs; 5. There are issues related to health and safety; 6. There is a written complaint by owners or residents about bona fide nuisance issues such as noise or parking congestion related to the STVR; 7. The owner of the property uses more than one property on North Pender Island as a STVR. 2. THAT nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the North Pender Island Local Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time;
4.	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.
5.	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.



Islands Trust

Preserving **island** communities, culture and environment.

[Meeting Agendas](#)
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Population (2011):

Approximately 2,035

Size:

2,709 hectares (6,694 acres)

Location:

15 kilometres east of the Swartz Bay ferry terminal on Vancouver Island.

[Land Use Planning](#)
[Related Planning Services](#)
[Related Resources](#)
[Trust Area Mapping](#)
[Related Links](#)

North Pender Island Local Trust Committee

Latest News

In this section you will find current news items that are relevant to your Local Trust Area and your community. [Subscribe](#) to the North Pender Island Latest News updates and receive the latest information on official community plan reviews, staff reports, notifications and other documents published in the latest news section.

March 2012

- [Expression of Interest for the Southern Local Trust Areas Board of Variance](#)
- [North Pender Island Advisory Planning Commission Expression of Interest Notice and Application Form](#)

November 2011

Hooson Road Realignment

- [Staff Report - November 16, 2011](#)
- [Engineering Drawing - Intersection](#)
- [Engineering Drawing - New Road](#)
- [Adopted Minutes - October 22, 2011 Hooson Road Workshop](#)

[Pender Post Trustee Reports](#)

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Planner Office Hours on Pender Island

- [Planning Office Hours on Pender Island](#)

North Pender Island Local Trust Committee Projects

General

- ["A Guide to Environmentally Friendly Building and Renovating in the Southern Gulf Islands" booklet](#)
- [A "Choosing a Building Site on your Lot" fact sheet](#)
- [A "Making Changes to your Lot Line" fact sheet](#)
- [An "Applying for a Variance" fact sheet](#)
- [Development Approval Information Bylaw No. 134](#) - outlines information required when submitting a Development Permit, Temporary Use Permit or Rezoning Application
- [Policies and Standing Resolutions - June 2009](#)
 - NP-LTC-05-05 - Advisory Planning Commission Appointments Policy
 - NP-LTC-80-06 - Communications Policy
 - NP-LTC-82-06 - Enforcement Policy - Short Term Vacation Rentals
 - NP-LTC-146-07 - Special Occasion License Policy
- [Buying Property on North Pender Island? What Every Potential Purchaser Should Know - May 2008 Update](#)
- [Who Lives Here? - North Pender Ecosystem, Habitat and Wildlife](#)
Note that this presentation requires Quicktime to be loaded on your computer - this application can be obtained at no charge from <http://www.apple.com/quicktime/download/> - As well note that this presentation is 3 MB in size.

Proposed Seawall Application

Committee Links

[Committee Home](#)
[Trustee Membership](#)
[Contact Trustees](#)
[Contact Planning Staff](#)
[Planning Bylaws](#)
[Administrative Bylaws](#)
[Meetings Schedule](#)
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[Meeting Minutes](#)
[Resolutions-Without-Meeting](#)
[Associated Islands](#)
[Land Use Application Forms](#)

- [Proposed Bylaw No. 190](#)

Staff Reports:

- [Staff Report - February 23, 2012](#)
- [Staff Report - March 12, 2012](#)

Professional Reports:

- [Biologist 2007](#)
- [Biologist 2011](#)
- [Geotechnical Engineer 2007](#)
- [Geotechnical Engineer 2011](#)
- [Geotechnical Engineer 2012](#)
- [Hydraulic Engineer 2011](#)
- [Hydraulic Engineer 2012](#)
- [Enginner Comment 2012](#)
- [Landscaping Plan](#)
-

Proposed Ocean-Based Geothermal System Application

Staff Reports:

- [Staff Report - March 14, 2012](#)

Professional Reports:

- [Department of Fisheries and Oceans Letter dated April 6, 2012](#)
- [Environmental Report - October 28, 2010](#)
- [Environmental Report - August 4, 2011](#)
- [Green House Gas Emissions](#)
- [Underwater Video](#)

Hooson Road Realignment

- [Staff Report - November 16, 2011](#)
- [Engineering Drawing - Intersection](#)
- [Engineering Drawing - New Road](#)
- [Draft Minutes - Oct. 22 Hooson Road Workshop](#)
- [Staff Report - February 8, 2012](#)

Sidney Island Bylaw Review

- [Draft Bylaw No. 187 \(LUB Amendment\)](#)
- [Draft Bylaw No. 189 \(OCP Amendment\)](#)
- [Proposed Hazard Land DPA Map](#)
- [Staff Report - July 12, 2011](#)
- [Staff Report - September 12, 2011](#)
- [North Pender Associated Islands Official Community Plan Bylaw No. 147, 2002](#)
- [North Pender Associated Islands Land Use Bylaw No. 148, 2003](#)
- [Geotech Covenant](#)
- [Staff Report - January 9, 2012](#)

Climate Change Action

- [Climate Wise Islands](#)
- [Adopted Bylaw No. 183](#)
- [Staff Report - May 17, 2010](#)

Geological Hazard Mapping

- [Steep Slopes Hazard Map](#)
- [C.N. Ryzuk and Associates Report - December 11, 2009](#)

Environmental Development Permit Areas (EDPAs)

- EDPA Information Sheets:
 - [Development Permit Area 1 \(Woodland Sensitive Ecosystem\)](#)
 - [Development Permit Area 2 \(Herbaceous Sensitive Ecosystem\)](#)
 - [Development Permit Area 3 \(Riparian Sensitive Ecosystem\)](#)
 - [Development Permit Area 4 \(Wetland Sensitive Ecosystem\)](#)
 - [Development Permit Area 5 \(Cliff Sensitive Ecosystem\)](#)
 - [Development Permit Area 6 \(Intertidal Sensitive Ecosystem\)](#)

- [Development Permit Area 7 \(Raptor and Heron Nests Sensitive Ecosystem\)](#)
- [Development Permit Area 10 \(Riparian and Aquatic\)](#)
- [OCP Part 5 "Preserving and Protecting Our Ecosystem"](#)
- [Development Permit Area Guide for North Pender Island](#)
- [Refer to North Pender Island OCP and Development Permit Area Schedules](#)

Ecosystem Mapping Webpage

Archived Postings

Note: this is a list of previously posted information and may not include all available documentation. Please contact staff if your require more information

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DRAFT – For Review by the North Pender Island Local Trust Committee

The North Pender Island Local Trust Committee Annual Report

April 1, 2011 – March 31, 2012

Over the reporting period, the North Pender Island Local Trust Committee (LTC) held nine regular business meetings and one Community Information meeting. The LTC considered applications for ten development permits, eight development variance permits, two temporary use permits, and two rezoning applications. Four new subdivision applications were referred from the Ministry of Transportation and Infrastructure, as well as approximately thirty referrals for building permits and special occasion licences. Two ongoing subdivision files have also had various aspects considered by the LTC. The final phase of the Harbour Hill subdivision, a fifteen-lot subdivision was discussed at three separate meetings. The four-lot subdivision file on Hooson Road was also considered by the LTC; most notable the related road works on Hooson Road, one of North Pender's heritage roads.

During 2011 the Local Trust Committee also came into compliance with the provincial *Fish Protection Act* by adopting the Riparian and Aquatic Development Permit Area; including the creation of a new information brochure. Although it is not the jurisdiction of the Local Trust Committee, the Trustees have become involved with bringing residents and stakeholders together to address safety concerns with the Gardom Pond dam. The LTC also contributed to the development of three new Frequently Asked Questions information sheets and the Guide to Environmentally Friendly Building and Renovating in the Southern Gulf Islands.