



North Pender Island Local Trust Committee Regular Meeting Agenda

Date: February 22, 2018
Time: 10:00 am
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

	Pages
1. CALL TO ORDER	10:00 AM - 10:30 AM
2. APPROVAL OF AGENDA	
3. TOWN HALL AND QUESTIONS	
4. COMMUNITY INFORMATION MEETING	
none	
5. PUBLIC HEARING	
none	
6. MINUTES	10:30 AM - 10:45 AM
6.1 Local Trust Committee Minutes Dated January 30, 2018 (for Adoption)	4 - 12
6.2 Section 26 Resolutions-without-meeting Report	
none	
6.3 Advisory Planning Commission Minutes Dated June 27 & October 25 2017 (for Receipt)	13 - 19
7. BUSINESS ARISING FROM THE MINUTES	
7.1 Follow-up Action List Dated February 2018	20 - 21
8. DELEGATIONS	
none	
9. CORRESPONDENCE	
<i>Correspondence received concerning current applications or projects is posted to the LTC webpage</i>	
none	

10.	APPLICATIONS AND REFERRALS	10:45 AM - 11:45 AM	
10.1	NP-RZ-2016.2 (Port Browning/MBMG) - Staff Report (Bylaws 206 - 210) (attached) For approval of Covenants		22 - 102
10.2	NP-TUP-2017.5 (Kroeker) - Staff Report (attached)		103 - 121
10.3	NP-SUB-2017.1 (Richardson/Hemsworth) - 10% Frontage Exemption - Staff Report (attached)		122 - 124
10.4	NP-DVP-2017.4 (Johnson) - Staff Report (attached)		125 - 158
10.5	Mayne Island Local Trust Committee Bylaw No. 171 Referral (attached) For response		159 - 161
11.	LOCAL TRUST COMMITTEE PROJECTS	11:45 AM - 12:00 PM	
11.1	First Nations Interests - Staff Report & Project Charter/Presentation (attached)		162 - 196
12.	REPORTS	12:00 PM - 12:30 PM	
12.1	Work Program Report (attached)		
12.1.1	<u>Top Priorities Report Dated February 2018</u>		197 - 197
12.1.2	<u>Projects List Report Dated February 2018</u>		198 - 200
12.2	Applications Report Dated February 2018 (attached)		201 - 207
12.3	Trustee and Local Expense Report Dated December 2017 (attached)		208 - 208
12.4	Adopted Policies and Standing Resolutions (attached)		209 - 209
12.5	Local Trust Committee Webpage		
12.6	Chair's Report		
12.7	Trustee Report		
12.8	Trust Fund Board Report Dated January 2018		210 - 212
13.	NEW BUSINESS		
13.1	Executive Committee re: Farm Industry Review Board & Aquaculture - Staff Memo & Attachment (attached)		213 - 214
14.	UPCOMING MEETINGS		
14.1	Next Regular Meeting Scheduled for March 22, 2018, at the Royal Canadian Legion Hall, Pender Island		

15. TOWN HALL

16. CLOSED MEETING

none

17. ADJOURNMENT

12:30 PM - 12:30 PM



DRAFT

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

North Pender Island Local Trust Committee Minutes of Regular Meeting

Date: January 30, 2018
Location: Pender Island Legion
1344 MacKinnon Road, North Pender Island, BC

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

Staff Present: Justine Starke, Island Planner
Shannon Brayford, Recorder

Public Present: There were approximately 11 members of the public in attendance.

1. CALL TO ORDER

Chair Grams called the meeting to order at 10:02 am. He acknowledged that the meeting was being held in territory of the Coast Salish First Nations.

Chair Grams informed those in attendance that the meeting was being recorded and read a written statement.

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as presented.

3. TOWN HALL AND QUESTIONS

Michael Sketch spoke against Land Use Bylaw (LUB) 215 and the proposed amendment to Official Community Plan (OCP) Bylaw 215. He recommended greater consideration of decisions on lands in the Agricultural Land Reserve (ALR), consideration for First Nations consultation and specific wording amendments to the proposed bylaws.

Dale Henning spoke to the rezoning of the property generally called “MacDonald Farm” and asked questions for clarification regarding the source of the application and the considerations given to adjacent neighbours. He encouraged having the Capital Regional District (CRD) provide an overview of financial viability of a waste service at this site.

4. COMMUNITY INFORMATION MEETING none

5. PUBLIC HEARING

none

6. MINUTES

6.1 Local Trust Committee Minutes Dated November 23, 2017

By general consent the Local Trust committee meeting minutes of November 23, 2017 were Adopted as presented.

6.1.1 North Pender Island Local Trust Committee Public Hearing Record Dated November 23, 2017

Received for information.

6.2 Section 26 Resolutions-without-meeting Report Dated January 2018

Received for information.

6.3 Advisory Planning Commission Minutes

none

7. BUSINESS ARISING FROM THE MINUTES

7.1 Follow-up Action List Dated January 2018

Received for information.

8. DELEGATIONS

none

9. CORRESPONDENCE

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

none

10. APPLICATIONS AND REFERRALS

10.1 NP-DP-2017.4 (Mansley) - Staff Report

Chair Grams invited Planner Starke to provide an overview of the application and related staff report.

NP-2018-001

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2017.4 (Mansley).

CARRIED

10.2 NP-DVP-2017.2 (Richardson/Hemsworth) - Staff Report

Planner Starke provided an overview of the application and related staff report. She noted the role of the Ministry of Transportation and Infrastructure in approving subdivisions.

A discussion was held by the Local Trust Committee (LTC) regarding the variance and concerns of neighbours.

Trustee Masselink recommended that, at some point in the future, the LTC complete a deeper evaluation of subdivision potential in this area.

NP-2018-002

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee approve issuance of Development Variance Permit NP-DVP-2017.2 (Richardson and Hemsworth).

CARRIED

10.3 NP-RZ-2017.1 (PIPRC) - Staff Memo / Bylaw 213

Planner Starke provided an overview of the application and related staff report.

NP-2018-003

It was MOVED and SECONDED,

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

CARRIED

10.4 NP-DVP-2017.4 (Glen Johnson) - Staff Report

Planner Starke provided an overview of the application and related staff report.

A discussion was held in which the LTC asked questions of the applicant and staff regarding the involvement of other agencies, concerns of neighbours, and potential modifications to the structure.

NP-2018-004

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee request that, with regard to NP-DVP-2017.4 (Glen Johnson), the Capital Regional District Building Inspector provide confirmation that the existing structure, particularly those areas intruding into the setback, are structurally sound.

CARRIED

10.5 Salt Spring Island Local Trust Committee Bylaw No. 509 Referral

NP-2018-005

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee respond to the Salt Spring Island Bylaw No. 509 referral with "Interests Unaffected".

CARRIED

10.6 Mayne Island Local Trust Committee Bylaw No. 172 Referral

NP-2018-006

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee respond to the Mayne Island Local Trust Committee Bylaw No. 172 referral with "Interests Unaffected".

CARRIED

11. LOCAL TRUST COMMITTEE PROJECTS

11.1 Secondary Suites - Staff Report

Planner Starke provided an overview of the Staff Report highlighting key limitations and regulations that address specific community concerns.

A brief discussion was held regarding the regulations.

NP-2018-007

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 216, cited as "North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No, 1, 2018," be read a First time.

CARRIED

NP-2018-008

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 217, cited as “North Pender Island Land Use Bylaw, 103, 1996, Amendment No. 1, 2018,” be read a First time.

CARRIED

NP-2018-009

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee has reviewed the Islands Trust Policy Statement Directives Only Checklist and determined that Bylaw No. 216, cited as North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2018” and Bylaw 217 cited as, “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 1, 2017”, are not contrary to or at variance with the Island Trust Policy Statement.

CARRIED

NP-2018-010

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee refer Bylaws 216 and 217 to the Advisory Planning Commission for feedback.

CARRIED

11.2 Waste Management - Staff Report

Planner Starke provided an overview of the Staff Report highlighting proposed amendments to the draft bylaws and the rationale for those recommendations from the referral responses.

A discussion of the amendments was held.

NP-2018-011

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee rescind First Reading of Bylaw No. 214, cited as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 2, 2017.

CARRIED

NP-2018-012

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee rescind Bylaw No. 215, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2017.

CARRIED

NP-2018-013

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 215, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2017,” be amended to replace Schedule 4, as received by the North Pender Island Local Trust Committee on January 30, 2018.

CARRIED

NP-2018-014

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 215, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2017,” be read a First time, as amended.

CARRIED

NP-2018-015

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 215, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2017,” be read a First time, as amended.

CARRIED

NP-2018-016

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee request staff to bring an analysis of land use impacts that would result from changing the zone boundaries of the proposed Industrial 2 (e) zone.

CARRIED

NP-2018-017

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee request staff to commission one or more archaeological assessments on the subject properties of North Pender Island Local Trust Committee Bylaw No. 215.

CARRIED

12. REPORTS

12.1 Work Program Report

12.1.1 Top Priorities Report Dated January 2018

Received for information.

12.1.2 Projects List Report Dated January 2018

Received for information.

12.2 Applications Report Dated January 2018

Received for information.

12.3 Trustee and Local Expense Report Dated November 2017

Received for information.

12.4 Adopted Policies and Standing Resolutions

Received for information.

12.5 Local Trust Committee Webpage

No comments were made.

12.6 Chair's Report

Chair Grams reported the following points:

- The outcomes from a meeting with the Ministry of Municipal Affairs and Housing to address amendments to the Islands Trust Act.
- A request that the Ministry support a review of a coordinated service model was well received.
- Trust Council's initial review of the Islands Trust Act was completed; however support of the Ministry would be required for this project to move forward.

12.7 Trustee Report

Trustee Masselink provided a report noting that the Province of British Columbia is currently undergoing an Agricultural Land Reserve Revitalization Process. He provided an outline of the proposed process, noting that an upcoming meeting to be held in Nanaimo.

Trustee Barber provided a report with an overview of the LTC's plans for improving access to housing on the island.

12.8 Trust Fund Board Report Dated November 2017

Received for information.

13. NEW BUSINESS

13.1 Briefing re: Housing Agreement Administration

Planner Starke provided an overview of the report, outlining the uses of housing agreements and noting that North Pender Island does not currently have any such agreements.

14. UPCOMING MEETINGS

14.1 Next Regular Meeting Scheduled for 10:00 am, February 22, 2018, at the Anglican Church Hall, Pender Island

15. TOWN HALL

Dale Henning commented on NP-DVP-2017.4 (Glen Johnson), recommending that driveway and culvert construction be required with expedience.

Dale Henning commented that the MacDonald Farm appears to be better suited for inclusion in the Agricultural Land Reserve than the property owned by the Burdettes.

Michael Sketch requested information on which agencies would be included in the multi-agency coordinated service review, as mentioned in Chair Gram's report.

Michael Sketch requested information on the Bylaw 215, noting that if a bylaw permits boat storage on land that does not have that use permitted by the Agricultural Land Commission (ALC), then it could create a challenge for Islands Trust enforcement.

Planner Starke provided information on the rezoning process, bylaw enforcement practices, and the rationale for the specific amendment.

Keith Valentine spoke in favour of permitting secondary suites.

16. CLOSED MEETING (Distributed Under Separate Cover)

16.1 Motion to Close Meeting

NP-2018-018

It was MOVED and SECONDED,

That the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3 s. 90(1) [a, d] for the purpose of considering:

- Adoption of In-Camera Meeting Minutes Dated November 23, 2017
- APC Membership Terms

AND that the recorder and staff attend the meeting.

CARRIED

16.2 Recall to Order

Chair Grams recalled the meeting to order at 11:53 am.

16.3 Rise and Report

Chair Grams read the following motion from the in-camera meeting:

“It was moved, seconded and carried, that the North Pender Island Local Trust Committee direct staff to invite the existing Advisory Planning Commission members to apply for re-appointment for up to a 1 year term and to advertise for expression of interest for more candidates.”

17. ADJOURNMENT

By general consent the meeting was adjourned at 11:55 a.m.

George Grams, Chair

Certified Correct:

Shannon Brayford, Recorder



North Pender Island Advisory Planning Commission Minutes of a Meeting

COPIED TO

☒ PLANNER

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

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



Staff Present Robyn Ludwig, Recorder

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

1. CALL TO ORDER

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

2. APPROVAL OF AGENDA

By general consent the agenda was approved as amended.

2.1 Election of Chair and Vice-chair

NP-APC-2017-001

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

CARRIED

NP-APC-2017-002

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

CARRIED

3. MINUTES OF JANUARY 4, 2017 FOR ADOPTION

By general consent the minutes were adopted as presented.

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

a. Applicant questions and comments

The APC had discussion on the following issues:

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

b. Public questions and comments

No members of the public were present.

c. Commissioners consideration of referral

NP-APC-2017-003

It was MOVED and SECONDED,

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

CARRIED

NP-APC-2017-004

It was MOVED and SECONDED,

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

CARRIED

NP-APC-2017-005

It was MOVED and SECONDED,

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

CARRIED

NP-APC-2017-006

It was MOVED and SECONDED,

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

CARRIED

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

5. ADJOURNMENT

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



Michael Symons, Chair

Certified Correct:



Robyn Ludwig, Recorder



DRAFT

North Pender Island Advisory Planning Commission Minutes of a Meeting



Date: Wednesday, October 25, 2017 (10:00 a.m.)

Location: Pender Island Community Hall
4418 Bedwell Harbour Road, North Pender Island, BC

Members Present: Michael Symons (Chair)
Dorothy Murdoch
Ron Underhill
Benjamin McConchie
Barbara Johnstone Grimmer
Garnet Coburn

Staff Present: Justine Starke, Island Planner
Shannon Brayford, Recorder

Regrets: None

Others Present: Dianne Barber, North Pender Island Trustee
Five members of the public were in attendance



1. CALL TO ORDER

At 10:03 am Chair Michael Symons welcomed everyone and called the meeting to order.

2. APPROVAL OF AGENDA

It was recommended that item 4) Posting of the Meetings be added.

By general consensus, the agenda was approved as amended.

3. MINUTES OF JUNE 27, 2017 FOR ADOPTION

There was general consensus that adoption of the minutes shall be postponed to later in the meeting.

4. POSTING OF THE MEETINGS

A discussion was held regarding the notification process and it was noted that public attendance could be improved. Recommendations included advertising the meetings on the Islands Trust website and on Facebook. There was general agreement that the APC would like the Trustees to direct staff to increase advertising efforts

5. PUBLIC COMMENTS

A member of the public recommended that the heavy traffic of the ferry route be used to facilitate advertising meetings.

Trustee Barber recommended that the APC address the specifics of each property included in the application and provide the LTC with opinions on each.

Chair Symons noted for the record

- A print copy of the referral was not provided to all members who requested it.
- The referral package did not include a summary of the information, but rather links to extensive volumes of material.

6. NORTH PENDER ISLAND LOCAL TRUST COMMITTEE REFERRAL BYLAWS NO. 214 & 215

Barbara Johnstone-Grimmer disclosed that she owns one of the properties being impacted by this bylaw. She noted that she will be offering general comments on the bylaws only.

Chair Symons recommended that each member of the APC provide initial comments in turn. This process was followed and Planner Starke provided responses and clarifications as were requested.

A discussion of the following points was held:

- The benefits of a needs assessment and whether it should have been completed prior to the project.
- Data that may be missing that would facilitate decision making.
- The impact this project could have on the Recycling Depot.
- The most appropriate and efficient process for moving forward and how the project may have been structured from the beginning.
- Which sites would be inappropriate for such a use. Some individual members made comments on the drawbacks of the MacDonald Farm, Razor Point, and Southridge Farm Store sites.
- Which sites would be appropriate for such a use. Some members noted the benefits of the Razor Point site.
- Whether the APC should provide recommendations for additional sites.

It was noted that the Razor Point property's Agricultural Land Commission application was not approved. Ann Burdett, a member of the community, noted that the application had expired and that it is only applicable to a portion of the overall property.

NP-APC-2017-009

It was moved by Ron Underhill, and Seconded by Barbara Johnston Grimmer, THAT the process to approve draft bylaws related to Waste Transfer, compost, and commercial recycling be halted until planning staff and North Pender Island Trustees provide a clear written public statement of the community needs for these expanded facilities, an analysis of alternative solutions, and an explanation of why and how the proposed bylaws best suit the needs.

CARRIED
Ben McConchie opposed

Discussion of the motion included the following statement, which Ron Underhill read into the record:

“Of broad concern is that a lot of effort and emotion has been spent on the issue of waste management without understanding the needs versus emotional assumptions about the needs. Specifically of concern is the inclusion of community composting facilities which are complex and expensive and have a history of failure on Vancouver Island within communities larger and with more money than the Penders.”

Additional discussions were held on the following points:

- The rationale of the LTC for initiating this project and the assumptions held within the rationale.
- The limited ability of the Islands Trust Local Trust Committee in dealing with land use alone.
- The benefits of having had a more centralized body with a broader scope initiative the project.

It was moved by Ben McConchie, and seconded by Dorothy Murdoch, that the Advisory Planning Commission recommend that Trustees encourage the applicants of the Razor Point property to reapply for a Temporary Use Permit and then utilize the resultant pilot project to better understand the needs of the community for a waste transfer facility in collaboration with Capital Regional District staff.

A discussion of the motion was held including whether a specific site should be included in the motion.

Ron Underhill recommended a friendly amendment to the motion so that it would read.

NP-APC-2017-011

It was moved by Ron Underhill, and Seconded by Garnet Coburn, THAT the minutes of June 27, 2017 be adopted as presented.

CARRIED

Chair Symons noted a return to the previously postponed Item 3.

NP-APC-2017-010

It was moved by Benjamin McConchie, and Seconded by Dorthy Murdoch,
THAT the Advisory Planning Commission recommend that Trustees encourage applications for Temporary Use Permits for Waste Management and then utilize the resultant pilot projects to better understand the needs of the community for a waste transfer facility in collaboration with Capital Regional District staff.

CARRIED

Dianne Barber made a comment on the minutes noting that the trustees are not looking to damage the business of the Razor point owners.

7. ADJOURNMENT

By general consensus the meeting was adjourned at 11:25am.

Michael Symons, Chair

Certified Correct:

Shannon Brayford, Recorder

Follow Up Action Report

North Pender Island

21-Sep-2017

Activity	Responsibility	Target Date	Status
Waste Management - Request Trust Council to amend DAI bylaw.	Sharon Lloyd-deRosario Justine Starke	14-Feb-2018	On Going

26-Oct-2017

Activity	Responsibility	Target Date	Status
NP-RZ-2016.1 (mainroad) - CIM and Public Hearing held. LTC deferred 3rd reading and directed staff to return with bylaw amendments: 1) reconfigure zone boundary to align with topography. 2) remove gravel crushing from permitted uses. Also, LTC wants assurance fire dept. concerns have been addressed. A new Public Hearing will be required.	Sharon Lloyd-deRosario Phil Testemale	10-Jan-2018	On Going

30-Jan-2018

Activity	Responsibility	Target Date	Status
DP-2017.4 (Mansley) - Permit approved for issuance.	Sharon Lloyd-deRosario Phil Testemale	14-Feb-2018	Done
NP-DVP-2017.2 - (Richardson/Hemsworth) Permit approved for issuance.	Sharon Lloyd-deRosario Phil Testemale	14-Feb-2018	Done

Follow Up Action Report

NP-RZ-2017.1 (PIRPC) - Bylaw 213 adopted.	Sharon Lloyd-deRosario Phil Testemale	14-Feb-2018	On Going
NP-DVP-2017.4 (Glen Johnson) - Decision deferred pending confirmation from CRD of the structural integrity of the portion of the building that encroaches on the setback.	Phil Testemale	14-Feb-2018	On Going
Bylaw Referrals: SSI Bylaw 509 - Interests unaffected Mayne Island Bylaw 172 - Interests unaffected	Sharon Lloyd-deRosario	14-Feb-2018	Done
Bylaws 214/215 - Waste Management. First Reading Rescinded. Bylaws amended. First Reading given. Bylaws to be re-referred to select agencies. Staff to conduct land use analysis of impacts of changing zone boundaries. Staff to inquire on cost and timing of archaeological work.	Sharon Lloyd-deRosario Justine Starke	14-Feb-2018	On Going
Bylaws 16/17 (Secondary Suites) given first reading. (Done) Refer to agencies. Refer to APC. Refer to First Nations.	Sharon Lloyd-deRosario Justine Starke Lori Foster	14-Feb-2018	Done



STAFF REPORT

File No.: NPI Bylaws 206, 207, 208,
209 & 210 (NP-RZ-2016.2
and NP-RZ-2016.3)

DATE OF MEETING: February 22, 2018

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale, A/Planner 2
Southern Team

COPY: Justine Starke, Island Planner

SUBJECT: Staff Report - Port Browning Marina OCP amendment and rezoning
Applicant: Mill Bay Marine Group Gary Henshaw C/o Lloyd Eakins
Location: Surveyed Water Lot DL 107 and Unsurveyed Water Area, Port Browning
Harbour, Pender Island, Cowichan District adjacent to 4605 Oak; AND
LOT A (DD G54184) of Section 11, Pender Island, Cowichan District,
Plan 7982 (4605 Oak Road); AND

Lot 4, Section 11, Pender Island, Cowichan District, Plan 7982 (4606 Oak
Road) ; AND

Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part
in Plan 21227 and 1772RW (4602 Oak Road)

RECOMMENDATION

1. That the North Pender Island Local Trust Committee accept two (2) covenants under section 219 of the *Land Title Act* from the registered owners of LOT A (DD G54184), Section 11, Pender Island, Cowichan District, Plan 7982 and Lot 4, Section 11, Pender Island, Cowichan District, Plan 7982 and designate any member of the Local Trust Committee to sign the two (2) covenants for NP-RZ-2016.2 (4605 and 4606 Oak Road).
2. That upon confirmation of registration of the two (2) covenants with the Land Title Office, the North Pender Island Local Trust Committee direct staff to conduct a vote by Resolution Without Meeting to adopt NPILTC Bylaw No. 206.

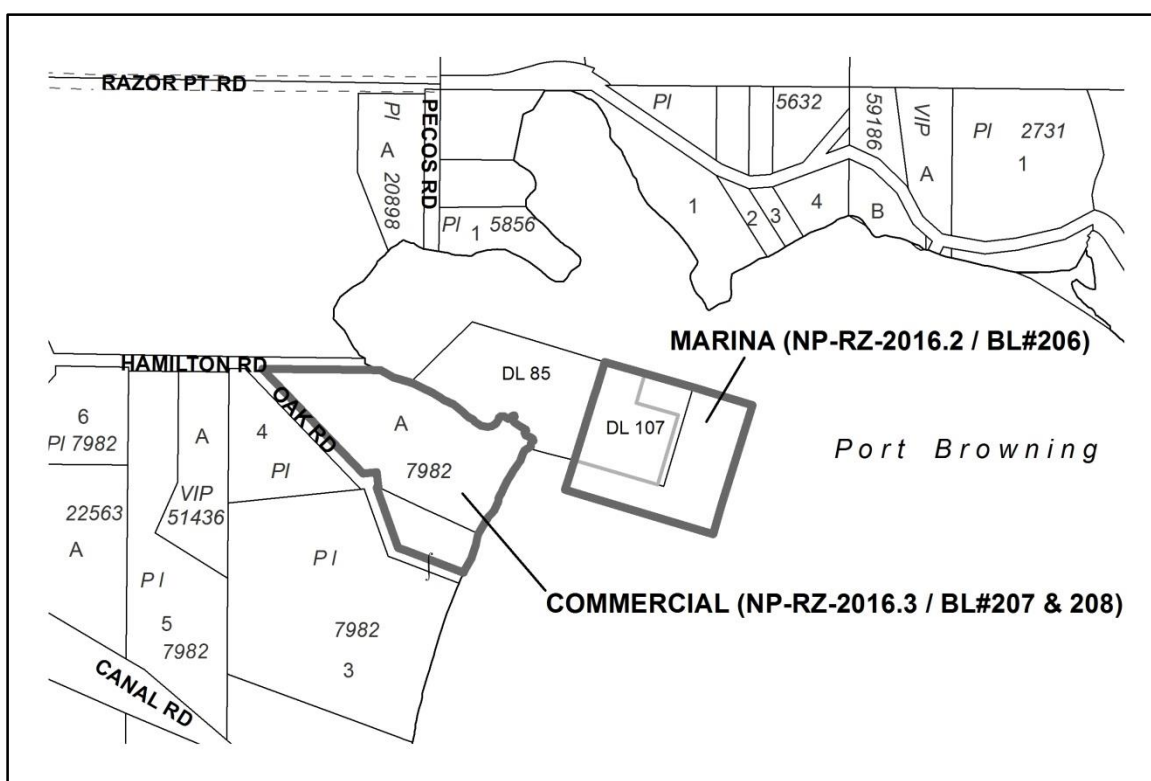
REPORT SUMMARY

The purpose of this report is to present two (2) Section 219 Covenants for acceptance and designation of a signing authority by the Local Trust Committee (LTC), and further to direct staff to conduct a vote by Resolution Without Meeting (RWM) for Final Adoption of Bylaw 206 once the covenants are registered.

The above recommendations are supported as the two covenants satisfy all conditions required by the LTC as a condition of zoning approval for the Port Browning Marina; Bylaw 206 has received Executive Committee approval; and, once the covenants are registered with the Land Title Office (LTO), a RWM will allow the rezoning to be adopted and for the applicant to schedule marina reconstruction without further delay.

It is noted that Bylaws 207, 208, 209 & 210 have also received Executive Committee approval, and Bylaws 207 and 209 have been forwarded to the Minister of Community, Sport and Cultural Development for approval. At the time of writing, confirmation of the latter has not yet been received. Recommendation for final adoption of these bylaws will be brought to the LTC once this is confirmed.

FIGURE 1: SUBJECT PROPERTIES



BACKGROUND

Background to these applications, including five (5) staff reports and with site context for each of the applications, is available on the Islands Trust website: <http://www.islandstrust.bc.ca/islands/local-trust-areas/north-pender/current-applications/>

Overall the objectives of the bylaws (206 to 210 inclusive) are as follows:

- Expand the area of marina use and allow for a sewage pump out ;
- Allow for a new floating breakwater (attenuator);
- Expand the area for commercial tourist accommodation;

- Increase lot coverage provisions for buildings;
- Reduce the number of commercial accommodation units (density);
- Increase the maximum floor area for any unit, while reducing overall floor area on site; and,
- Allow the relocation of sewer infrastructure for the resort and marina.

Specifically **Bylaw 206** (Attachment 1) proposes the following:

- To rezone DL 107 and an unsurveyed water area from **Water 1 (W1)** to **Water 2 (W2)** and **Water 2 (a) (W2[a])** and to make amendments to the **Water 2 (W2)** zone to permit sewage pump out facilities and limited accessory buildings and structures on docks.

In summary, the conditions that have been incorporated into the permanent covenant (Attachment 2) are as follows:

- Restricting the maximum **density** for commercial accommodation to **29** units;
- **Archaeological Protection** by incorporation of recommendations of the **Archaeological Impact Assessment (AIA)** report (Madrone Environmental Consultants, March 10, 2017);
- Preservation of the **Open Field Area** permitting only limited structures and maintenance of public access; and,
- Access to a **25 metre Pool** through a Statutory Right of Way.

In summary, the items to be incorporated in a temporary covenant (Attachment 3) are as follows:

- Installation and operation of **Sewer Pump-Out Facility**;
- Construction of a **25 metre Pool**; and,
- An access agreement with the **Pender Islands Junior Sailing Club** in its current location.

The two (2) covenants are discussed further in 'Issues and Opportunities' below.

Specific File Activity:

The rezoning applications have been reviewed previously by the Local Trust Committee on June 30, July 28, October 27, 2016, and January 26, April 27, 2017 and May 25, 2017.

The following is a summary of a key resolution and activities that have occurred for this application since the last report on May 25, 2017 to the Local Trust Committee:

- The LTC passed the following resolution at its April 27, 2017 regular meeting:

NP-2017-037

It was MOVED and SECONDED,

that, prior to the Final Adoption of Draw Bylaws 206, 207, and 208, the North Pender Island Local Trust Committee receive two (2) Section 219 Covenants as follows:

- i. A permanent covenant to protect identified archaeological resources, implementing the recommendations of the Archeological Impact Assessment (Madrone Environmental Services Ltd, March 10, 2017) and limiting maximum density; and

- ii. A temporary covenant to secure future community amenities for the upland portions of the development.

- A Public Hearing was held on May 25, 2017.
- the LTC passed the following resolutions at its May 25, 2017 regular meeting:

NP-2017-060

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 206, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2016”, be read a third time.

CARRIED

NP-2017-061

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 207, cited as “North Pender Island Official Community Plan Bylaw 171, 2007, Amendment No. 3, 2016”, be read a third time.

CARRIED

NP-2017-062

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 208, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 4, 2016”, be read a third time.

CARRIED

NP-2017-063

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 209, cited as “North Pender Island Official Community Plan Bylaw 171, 2007, Amendment No. 4, 2016, ”, be read a third time.

CARRIED

NP-2017-064

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee Bylaw No. 210, cited as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 5, 2016”, be read a third time.

CARRIED

NP-2017-065

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee proposed Bylaws No. 206, 207, 208, 209, and 210 be forwarded to the Secretary of the Islands Trust for Executive Committee Approval.

CARRIED

NP-2017-066

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee proposed Bylaws No. 207 and 209 be forwarded to the Minister of Community, Sport and Cultural Development for approval.

CARRIED

- The Executive Committee passed the following resolution at its regular meeting on July 19, 2017:

5.1.1 North Pender Island LTC Bylaw No. 206 (LUB Amendment)

EC-2017-089

It was MOVED and SECONDED,

THAT the Islands Trust Executive Committee approve Bylaw No. 206, cited as “North Pender

Island Land Use Bylaw 103, 1996, Amendment No. 3, 2016”in accordance with Section 27 of the *Islands Trust Act*.

CARRIED

- The applicant negotiated with the CRD, the Pender Islands Junior Sailing Association and Islands Trust staff to finalize the two (2) Section 219 covenants.
- The two covenants have been forward by legal counsel to the applicant for execution.

ANALYSIS

Policy/Regulatory

Refer to prior Staff Reports for this analysis: <http://www.islandstrust.bc.ca/islands/local-trust-areas/north-pender/current-applications/>

Issues and Opportunities

Section 219 Covenants

The conditions in the two covenants have been summarized above, and they are attached in full (Attachments 2 and 3). The following is an explanation of the process and some specific conditions that the LTC should be informed of:

- **LTC of the resolution that was adopted concerning the content of the covenants** The access portion of the pool and the general public:
 - This condition was originally to be with the CRD as the applicant was pursuing funding for the pool and given the CRD’s parks and recreation function. As the applicant was unable to reach an agreement with the CRD, it is now in the form of a Statutory Right of Way (permanent covenant) in favour of the LTC which ensures that access in perpetuity.
 - Public access and use of the pool between the hours of 10 a.m. and 4 p.m. from the May long weekend and Labour Day weekend, annually.
 - Free public access for a period of five (5) years after which the owners can submit a request to the LTC to charge a reasonable fee for public use, and the LTC agrees not to unreasonably withhold such a request.
- The applicants have reached a five (5) year agreement for access with the Pender Islands Junior Sailing Association. This was delayed by insurance issues and the need for the PIJSA had to resolve their society (legal) status.
- Protection of the open field area was put in the permanent covenant to ensure protection in perpetuity.

For certainty: the two covenants have the purpose of ensuring that community benefits and protections are secured through the development process. This allows the marina development (the subject of Bylaw 206) to proceed in advance of the upland development. With the exception of the sewer pump-out, all amenities are located on the upland properties and those in the temporary covenant must be provided prior to occupancy of any commercial accommodation unit.

It is noted that once the rezoning is adopted, the owners are still required to obtain Development Permits (DP) for the proposed development. It is anticipated that a DP application for the marina will be received shortly after adoption of Bylaw 206.

Rationale for Recommendation

The above recommendations on page 1 are supported as:

- The two covenants satisfy all conditions required by the Local Trust Committee as a condition of zoning approval for the Port Browning Marina (bylaws 2016 to 210 inclusive);
- Bylaw 206 has received Executive Committee approval; and,
- Once the covenants are registered with the LTO, a RWM will allow the rezoning bylaws to be adopted and for the applicant to schedule the marina reconstruction and expansion without further delay.

ALTERNATIVES

1. Request further information or amendment to the covenant(s)

The LTC may request further information be provided or limited amendments be made prior to making a decision on accepting the two (2) Section 219 Covenants. As the bylaws are post public hearing, such a request would need to be limited. If selecting this alternative, the LTC should describe the specific information or amendments needed and the rationale for this request.

Resolution:

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

That the North Pender Island Local Trust Committee amend the terms of the _____ covenant as follows _____.

2. Defer Reconsideration and Adoption

The LTC may decide to defer reconsideration and adoption of Bylaw 206 to the next regular meeting by not moving on recommendation 2 on page 1.

3. Proceed no further

The LTC may decide to proceed no further with Bylaw 206.

Resolution:

That the North Pender Island Local Trust Committee proceed no further with Bylaw 206.

NEXT STEPS

1. Execution and registration of the covenants with the LTO

2. RWM vote on Final Adoption of Bylaw 206.
3. Upon confirmation of Ministerial Approval, staff will forward Bylaws 2017 to 210 to the LTC for reconsideration and Final Adoption.
4. The applicants will submit a DP application for the marina portion of the development.

Submitted By:	Phil Testemale, A/Planner 2	February 14, 2018
Concurrence:	Robert Kojima, Regional Planning Manager	February 14, 2018

ATTACHMENTS

1. Bylaw No. 206 (Executive Committee Approval)
2. Section 219 covenant (permanent)
3. Section 219 covenant (temporary)

PROPOSED

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 206

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

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

1. Citation

This bylaw may be cited for all purposes as “North Pender Island Land Use Bylaw 103, 1996, Amendment No. 3, 2016”.

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

2.1 Section 1.1 – Definitions, “marina” is amended by inserting a comma and the word “marine sewage pump-out stations”, after “walkways” and before “and”.

2.2 Clause 8.20.1 (1) (h) is amended by removing the word “and”.

2.3 Clause 8.20.1 (1) (i) is amended by removing the period after “buoys” and replacing it with a semi-colon and the word “and”.

2.4 Article 8.20.1 (1) is amended by inserting the following as clause 8.20.1 (1) (j):

“(j) accessory buildings on docks for which the maximum floor area of all accessory buildings on docks is not to exceed 37 m² within any one location in the W2 zone”.

2.5 Section 8.20 Water 2 (W2) is amended by the insertion of the following as Subsection 8.20.5:

“ 8.20.5 Site Specific Regulations

- (1) 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	Column 2	Column 3
Site-Specific Zone Reference	Legal Description	Site Specific Regulations
W2(a)	Part of District Lot 107, Cowichan District and Unsurveyed Crown Land covered by water being part of the bed of Port Browning, Cowichan District.	Despite 8.20.1(1), the only use permitted in this area are floating wave attenuators.

2.6 Schedule “D” – Zoning Map, is amended by changing the zoning classification of District Lot 107, Cowichan District and Unsurveyed Crown Land covered by water being part of the bed of Port Browning, Cowichan District, from Water 1 (W1) to Water 2 (W2) and Water 2 (a) (W2 [a]), as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “1” to Bylaw No. 103 as are required to effect this change.

3. Severability

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

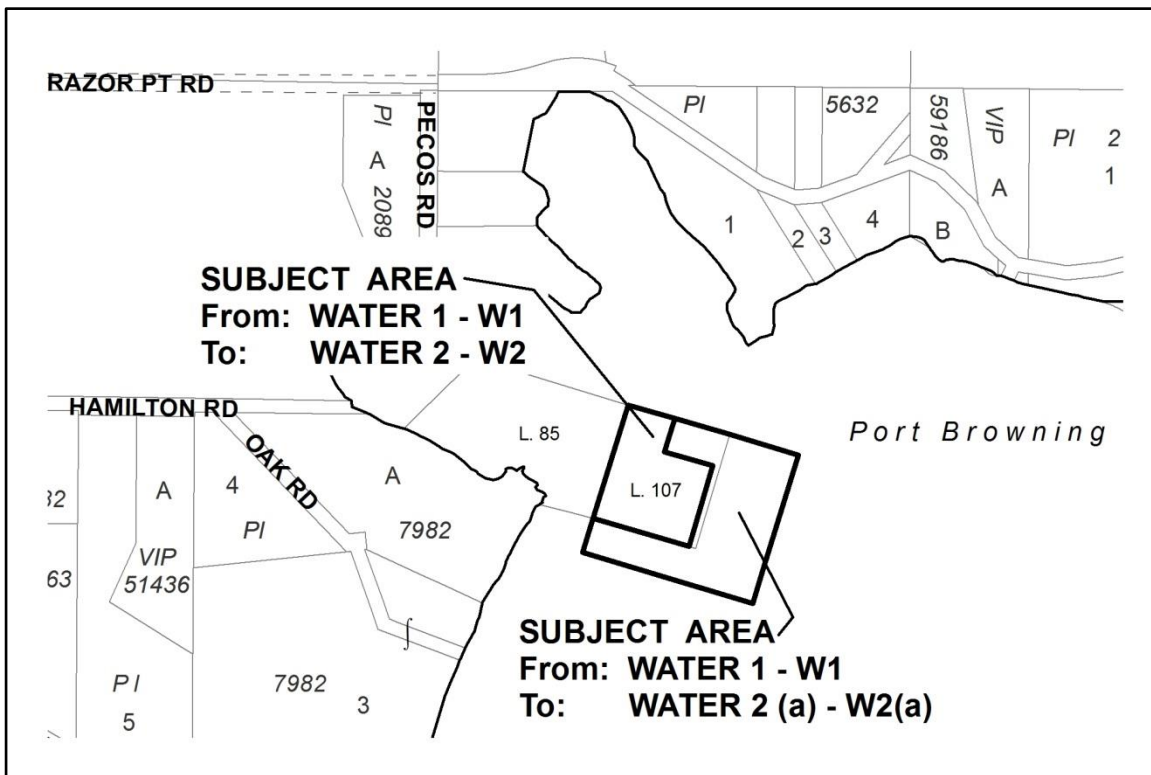
READ A FIRST TIME THIS	26 th	DAY OF	JANUARY	2017
READ A SECOND TIME THIS	27 th	DAY OF	APRIL	2017
PUBLIC HEARING HELD THIS	25 th	DAY OF	MAY	2017
READ A THIRD TIME THIS	25 th	DAY OF	MAY	2017
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS				
	19 th	DAY OF	JULY	2017
ADOPTED THIS		DAY OF	_____	20____

Chair

Secretary

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 206

Plan No. 1



TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT & STATUTORY RIGHT OF WAY – PERMANENT

This AGREEMENT dated for reference the 31st day of January 2018, is

BETWEEN:

LUCILLE HENSHAW, P.O. Box 126, Pender Island, British Columbia, V0N 2M0

("Henshaw")

AND:

PORT BROWNING MARINA RESORT LTD., (INC. NO. BC1037734), 740
Handy Road Mill Bay, British Columbia, V0R 2P1

("Port Browning Marina", which collectively with Henshaw are referred to
in this Agreement as the "Owners")

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 "LTC")

WHEREAS:

- A. Henshaw is the registered owner in fee simple of that certain parcel of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW ("Lot 3");
- B. Port Browning Marina is the registered owner in fee simple of those certain parcels of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-034-311, Lot A (DD G54184) of Section 11, Pender Island, Cowichan District, Plan 7982 ("Lot A", which collectively with Lot 3 are referred to in this Agreement as the "Lands");
- C. The Owners propose to develop the Lands for purposes of renovating or constructing a restaurant, marina, clubhouse, lodge and cabins, in accordance with the provisions of the North Pender Island Official Community Plan and have requested an amendment to

the present zoning requirements of the Lands (the "Zoning Amendment") and as a condition of the LTC granting the Zoning Amendment, the Owners have agreed to enter into this Section 219 Covenant;

- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of a municipality, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specific amenity on the land;
- E. The Owners wish to grant and the LTC wishes to accept a covenant over the Lands restricting the use of the Lands and the buildings on the Lands, and the preservation and protection of certain archaeological resources on the Lands in the manner herein provided so that the Zoning Amendment can proceed more expeditiously;
- F. The statutory right of way granted herein is necessary for the operation and maintenance of the LTC's undertaking.

NOW THEREFORE in consideration of the premises and the covenants herein contained, the payment of \$1.00 by the LTC to the Owners, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree, pursuant to Sections 218 and 219 of the *Land Title Act* as follows:

INTERPRETATION

1. In this Agreement:
 - (a) "Areas 1, 2 and 4" mean those areas of the Lands labelled "Areas 1, 2 and 4" on the Site Plan.
 - (b) "Area 3" means that area of the Lands labelled "Area 3" on the Site Plan.
 - (c) "ASA Permit" means an archaeological site alteration permit under sections 12 or 14 of the *Heritage Conservation Act*.
 - (d) "DeRt-11 Area" means that area of the Lands labelled "DeRt-11" on the Site Plan.
 - (e) "Open Field Area" means that area of the Lands labelled "Open Field Area" on the Site Plan.
 - (f) "Protected Archaeological Area" means that area of the Lands labelled "Protected Archaeological Area" on the Site Plan.
 - (g) "Report" means the Archaeological Impact Assessment report, prepared by Madrone Environmental Services Ltd., dated March 10, 2017, a copy of which is

attached hereto as Schedule “A”.

- (h) “Site Plan” means that site plan attached as Schedule “B”.
- (i) “Swimming Pool Facility” means an in-ground heated 25 metre long swimming pool located on the Lands, required by the LTC as a condition of the LTC adopting the Zoning Amendment.

GRANT OF SECTION 219 COVENANT

- 2. The Owners covenant and agree with the LTC that the Lands shall be used and built upon only in accordance with this Agreement.

MAXIMUM NUMBER OF UNITS

- 3. The Owners covenant and agree that the maximum number of commercial accommodation units built, constructed, or placed on the Lands shall not exceed twenty-nine (29) units.

ARCHAEOLOGICAL PROTECTION

- 4. The Owners covenant and agree that for the DeRt-11 Area, the Owners shall not do or permit to be done any of the following until and unless the Owners have received written permission from the Archaeology Branch of the Province of British Columbia for the specific activity, and provided a copy of such permission to the LTC:
 - (a) deposit any soil, earth, fill or other material for the purpose of filling in or raising the level of the land of the Protected Archaeological Area;
 - (b) remove or displace any soil, earth, fill, or rocks, shells, wood, plants or other beach material from the Protected Archaeological Area;
 - (c) remove, destroy, damage, alter or disturb any object or thing protected as a heritage object under the *Heritage Conservation Act* (British Columbia) from the Protected Archaeological Area; and
 - (d) construct, erect, or place any building, modular home, mobile home or unit, improvement or other structure on the Protected Archaeological Area.
- 5. The Owners covenant and agree that for Areas 1, 2, 3 and 4, the Owners shall not construct, erect, or place any building, modular home, mobile home or unit, improvement or other structure on, or remove or displace any soil, earth, or fill from Area 1, 2 and 4 until and unless the Owners have obtained an ASA Permit and provided a copy of the ASA Permit to the LTC.

6. Without limiting the foregoing, the Owners covenant and agree that the Lands shall not be used or disturbed, and no building or structure shall be located, constructed, reconstructed, moved or extended on the Lands, except in compliance with the recommendations in the Report (specifically pages 26 and 27).
7. The Owners acknowledge and agree with the LTC that in order for the LTC to provide its consent for the Owners to undertake any of the activities set out in sections 4 and 5, the LTC may, among other requirements, require the Owners to carry out appraisals, inspections, inventories, surveys, studies, analyses and other investigations of the Lands and the potential heritage or archaeological impact of any activity on the Lands. The Owners covenant and agree to complete all requirements of the LTC at the Owners' sole cost and expense.

USE OF AND BUILDING ON OPEN FIELD AREA

8. With respect to the Open Field Area, the Owners covenant and agree with the LTC as follows:
 - (a) the Owners shall not build, construct or place any building, structure or mobile home on the Open Field Area; and
 - (b) the Owners shall not install any permanent fencing, walls or other physical barriers which would impede or prevent access to the Open Field Area from any other adjacent part of the Lands or from the adjacent foreshore.

OWNERS' RIGHTS

9. Notwithstanding section 8 above, the Owners may:
 - (a) place on the Open Field Area an open rack-style storage structure for kayaks, canoes or paddleboards, to a maximum of 10 square metres;
 - (b) locate or place on the Open Field Area tents, tables, chairs and performances stage(s) for special events and private functions, located for a period of time not to exceed 96 hours in duration;
 - (c) place or construct on the Open Field Area one storage shed, to a maximum size of 27.8 square metres; and
 - (d) deny access to the Open Field Area to any person who, in the reasonable opinion of the Owners, is undertaking behaviour incompatible with the use of the Open Field Area.

GRANT OF STATUTORY RIGHT OF WAY – SWIMMING POOL FACILITY

10. The Owners hereby grant, convey, and confirm to the LTC in perpetuity the full, free and uninterrupted right, liberty, easement, and statutory right of way (the "Statutory Right of Way") for the LTC and all members of the public, in common with the Owners and their employees, contractors, agents, tenants, and invitees, at all times hereafter from time to time at their will and pleasure to enter, go, be on, pass and repass upon, over, and across the Lands for the purpose of accessing and using the Swimming Pool Facility, provided however that use of and access to and from the Swimming Pool Facility by the public will be limited to between the Friday before May 25 and the first Monday in September each year and between the hours of 10 a.m. and 4 p.m. each day, and provided that access to and from the Swimming Pool Facility will be limited to only those portions of the Lands that are reasonably necessary to obtain such access. For certainty, members of the public may access and use the Swimming Pool Facility free of charge; however, following the date that is five (5) years from the date on which this Agreement is registered on title to the Lands in the Land Title Office, the Owners may submit a request to the LTC to impose a reasonable fee on public use of the Swimming Pool Facility, and the LTC covenants and agrees not to unreasonably withhold its approval of such request. In connection with the Statutory Right of Way granted hereby, the LTC may do all things on the Lands that, in the LTC's reasonable opinion, are necessary in order to ensure that the public may access and use the Swimming Pool Facility, and may do all other things on the Lands as are reasonably necessary and incidental to the Statutory Right of Way granted herein.

OWNERS' OBLIGATIONS

11. The Owners must:
 - (a) not do or permit to be done anything on the Lands which in the opinion of the LTC, acting reasonably, may interfere with, injure, or impair the operating efficiency of, or obstruct or discourage access to or the use of, the Swimming Pool Facility or the LTC's rights under the Statutory Right of Way; and
 - (b) permit the LTC to peaceably hold and enjoy the rights granted by the Statutory Right of Way.

DISCHARGE

12. The parties agree that the Owners shall be entitled to a discharge of this Agreement from title to the Lands at the Owners' expense if the Zoning Amendment is not adopted by the LTC.
13. After the filing of a subdivision plan of Lot 3 generally in accordance with the draft site

or subdivision plan attached as Schedule "C", the Owners may provide a release to the LTC for signature by the LTC's authorized signatories of this Agreement from that part of Lot 3 shown as "Section 1" having an area of 3.92 ha on Schedule "C". The LTC covenants and agrees not to unreasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.

SEVERANCE

14. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.

RUNS WITH THE LANDS

15. The covenants set forth herein shall charge the Lands pursuant to Section 219 of the *Land Title Act* and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or part thereof, and shall attach to and run with the Lands and each and every part into which the Lands may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise howsoever.

INDEMNITY

16. The Owners hereby release, indemnify and save harmless the LTC, its elected officials, officers, employees, agents and others for whom the LTC is responsible at law from and against any and all manner of actions, cause of action, claims, costs, expenses (including actual legal fees), losses, damages, debts, demands and harm, by whomsoever brought, of whatsoever kind and howsoever arising out of or related to the Agreement or any breaches or non-performance of this Agreement by the Owners.

BYLAWS TO THE CONTRARY

17. This Agreement shall restrict the use of the Lands and buildings on the Lands in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the LTC, which, except in the case of direct collision with the provisions contained in this Agreement, will continue to have application.

FURTHER ASSURANCES

18. The parties hereto shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Agreement. The Owners agree to do everything reasonably necessary at the Owners' expense to ensure that this Agreement is registered against the title to the Lands with priority over all financial charges, options, rights of first refusal, leases, liens, and encumbrances

registered or the registration of which is pending.

WAIVER

19. Waiver by the LTC of any default by the Owners shall not be deemed to be a waiver of any subsequent default.

POWERS PRESERVED

20. Nothing contained or implied herein shall prejudice or affect the rights and powers of the LTC in the exercise of its functions pursuant to the *Local Government Act* or its rights and powers under all of its public and private statutes, bylaws, orders and regulations, including, without limitation, the *Community Charter*, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owners.

INVESTIGATIONS BY THE LTC

21. The Owners hereby irrevocably authorize the LTC to make such inquiries as it considers necessary and reasonable in order to confirm that the Owners are complying with this Agreement and irrevocably authorize and direct the recipient of any request for information from the LTC to provide such information to the LTC.

NO PUBLIC LAW DUTY

22. Wherever in this Agreement the LTC is required or entitled to exercise any discretion in the granting of consent or approval or is entitled to make any determination, take any action or exercise any contractual right or remedy, the LTC may do so in accordance with the provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, shall have any application.

REFERENCES

23. In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article,

section or Schedule of this Agreement;

- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided; and
- (f) reference to a "party" is a reference to a party to this Agreement and to their respective heirs, executors, administrators, successors, assigns, trustees, receivers, agents, officials, employees and invitees, under the context requires or allows.

SCHEDULES

24. Schedules "A" through "C" form part of this Agreement.

THE LTC'S REPRESENTATIVE

25. Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the Islands Trust Director of Local Planning Services or his/her delegate (the "Director of Local Planning Services"), unless expressly provided to be taken or made by another official of the LTC.

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



ARCHAEOLOGICAL IMPACT ASSESSMENT

Proposed Port Browning Marina Redevelopment – Heritage Inspection Permit 2016-0323

PREPARED FOR

**Mill Bay Marina Group
740 Handy Road
Mill Bay, BC
V0R 2P1**

PREPARED BY:

Madrone Environmental Services Ltd.

March 10, 2017

MADRONE ENVIRONMENTAL SERVICES LTD.

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DOSSIER 16.0175



Credits

Permit Holder/Field Director	Pat McCashin, B.A., RPCA
Field Director	Steven Hamm, B.A.
Field Crew	Andrew Hickok, PhD Irvine Canute (Cowichan Tribes) Adriane Underwood (Tsawout)
Report Authors	Steven Hamm, B.A. Andrew Hickok, PhD Pat McCashin, B.A., RPCA
Osteological Analysis	Andrew Hickok, PhD
Artifact and Faunal Analysis	Andrew Hickok, PhD Steven Hamm, B.A.
GIS and Graphics	Anna Jeffries
Report Production	Lisa Hooge

Management Summary

At the request of Mill Bay Marina Group, Madrone conducted an archaeological impact assessment (AIA) of the proposed Port Browning Marina Redevelopment. Fieldwork was conducted between October 4-7th and November 8-9th in 2016. The project area is located in the Port Browning area of Pender Island and is partially within the recorded boundaries of archaeological site DeRt-11.

AIA fieldwork was conducted with a crew of two to three Madrone archaeologists and two First Nations representatives. All work was conducted under Heritage Inspection Permit 2016-0323. The project area is within the asserted traditional territories of the Senchoten, Tsawout, Tseycum, Tsartlip, and Paquachin First Nations, and the Hul'qui'minum Treaty Group (HTG).

The landscape and presence and condition of DeRt-11 significantly varies across the project area and will be discussed below in four different areas (Figure 5, 5A-5C). A total of 120 subsurface tests were excavated with 47 tests being positive for cultural material. Thirty auger tests were excavated with three having positive results. Thirty-eight machine tests were excavated with nine having positive results. Fifty-two shovel tests were excavated with 35 having positive results. Four formed artifacts, a modest faunal collection, a cairn burial, and human remains were encountered.

All proposed development components located within the original and revised boundaries of archaeological site DeRt-11 (Figures 4 – 5c) with potential to cause subsurface disturbance will require archaeological monitoring under the authority of an Archaeological Site Alteration (ASA) permit pursuant to section 12 of the Heritage Conservation Act. For portions of the project area in Areas 3 and 4 that were not intensively tested due to the presence of fill and active service lines, we recommend a program of spot monitoring during construction.

Due to the presence of an intact cairn burial, intact archaeological deposits, and scattered human remains, we recommend project redesign to avoid any subsurface disturbances to Area 1 (Figure 5 and 5C).

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FIGURE 6. PREVIOUS TESTING	18



ARCHAEOLOGICAL IMPACT ASSESSMENT

Proposed Port Browning Marina Redevelopment – Heritage Inspection Permit 2016-0323

1 Introduction

At the request of Mill Bay Marina Group, Madrone conducted an archaeological impact assessment (AIA) of the proposed Port Browning Marina Redevelopment. Fieldwork was conducted between October 4-7th and November 8-9th in 2016. The project area is located in the Port Browning area of Pender Island and is partially within the recorded boundaries of archaeological site DeRt-11 (Figures 1 - 3).

AIA fieldwork was conducted with a crew of two to three Madrone archaeologists and two First Nations representatives. All work was conducted under Heritage Inspection Permit 2016-0323. The project area is within the asserted traditional territories of the Senchoten, Tsawout, Tseycum, Tsartlip, and Paquachin First Nations, and the Hul'qui'minum Treaty Group (HTG).

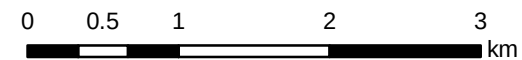


LOCATION: Pender Island, BC	NTS MAP: 92B/14	CLIENT: Mill Bay Marina Inc.	MAP DATE: January 25, 2017	DRAWN BY: Anna Jeffries	DOSSIER: 16.0175	PERMIT # : 2016-0323
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Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

- Previously Recorded Archaeological Site
- Study Area



1: 50,000

NAD_1983_UTM_Zone_10N



LOCATION: Pender Island, BC	NTS MAP: 92B/14	CLIENT: Mill Bay Marina Inc.	MAP DATE: March 8, 2017	DRAWN BY: Anna Jeffries	DOSSIER: 16.0175	PERMIT # : 2016-0323
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Capital Regional District and ESRI



Previously Recorded Archaeological Site
Adjustments to Previously Recorded
Archaeological Site Boundary



Inferred Adjustment to Archaeological Site
Boundary

Sources:
Cadastral fabric & 2013 Orthophoto provided through from Capital Regional District WMS

0 50 100 200
Meters
1: 5,000

NAD_1983_UTM_Zone_10N



FIGURE 3: Project Area



LOCATION: Pender Island, BC	NTS MAP: 92B/14	CLIENT: Mill Bay Marina Inc.	MAP DATE: March 9, 2017	DRAWN BY: Anna Jeffries	DOSSIER: 16.0175	PERMIT # : 2016-0323
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Capital Regional District and ESRI



Previously Recorded Archaeological Site
Adjustments to Previously Recorded
Archaeological Site Boundary



Inferred Adjustment to Archaeological Site
Boundary

Sources:
Cadastral fabric & 2013 Orthophoto provided through from Capital Regional District WMS

0 12.5 25 50 75
Meters

1: 1,500

NAD_1983_UTM_Zone_10N

2 Proposed Project

The proposed redevelopment of the Port Browning Marina will have several development components that may come into conflict with archaeology site DeRt-11 (Figure 4). Project components include:

- Minor functional improvement of pub and Renovation of Cafe, including covered deck.
- Renovation of Cafe, including covered deck
- Improvement of service areas and structures
- New hidden service yard (garbage, recycling, etc.)
- New entrance driveway from Oak Road located in a gap in the trees
- Redesigned and 'Greened' parking areas
- New 'Clubhouse' group building with swimming pool; washrooms accessible for events on the 'lawn'
- Visitors Cabins (14 units) on high ground and away from shorelines
- Visitor Lodge (9 units) on high ground overlooking the community
- Preserve and enhance orchard (fruit to be used by Cafe)
- Replace and enlarge marina moorage including new access ramp and breakwater improvement
- Preserve and enhance shoreline trees and landscape
- Maintain and enhance trees and landscape along Oak Road



3 Project Area

The proposed project is located at Port Browning on North Pender Island. Specifically, the project area includes the Port Browning Marina and Pub commercial operation and includes the lands legally described as:

4605 Oak Rd, Pender Island, BC V0N 2M1. 'Port Browning Marina' Lot A Plan 7982 Section 11, Plan 1 and 2, Zone C3(a) and 'Rural Lot' Lot 3 Except Part Plan 21227 Zone R

The subject properties contain a portion of a shell midden site recorded as DeRt-11, the "Hamilton Beach Site". Lot A contains a swimming pool and tennis court, located outside of the recorded archaeological site boundaries. A building that contains a pub, beer and wine store and a small restaurant, is situated on a small rise just on the edge of the recorded shell midden deposit. A dock access ramp situated just below the pub is anchored to a concrete pad that sits on top of the midden area. This leads to a marina facility that occupies two adjacent water lots. The majority of the archaeological site area (as previously recorded) is presently undeveloped and includes parts of a grassy field (much of which was created by infilling a small wetland (Simonsen and Somogyi 2006), an old orchard and a rocky point of land that forms the northeast corner of the Port Browning property.

3.1 Biogeoclimatic Environment

The project area is situated within the Coastal Douglas Fir (CDF) biogeoclimatic zone. This zone consists of a small coastal portion of southeastern Vancouver Island, several Gulf Islands and a stretch of the mainland coast (Nuszdorfer *et al.*, 1991: 82). The CDF zone is relatively dry with a mild annual temperature range and a diversity of biomass that occupies rock outcroppings along seaside, aquatic and forest habitats.

The CDF zone is characterized by the predominance of Douglas fir (*Pseudotsuga menziesii*), an understory of salal (*Gaultheria shallon*), and/or Oregon grape (*Mahonia aqua folium*). Other tree species common to this zone include western red cedar (*Thuja plicata*), grand fir (*Abies grandis*), Red alder (*Alnus rubra*) and, in drier areas, arbutus (*Arbutus menziesii*) and Garry Oak (*Quercus garryana*). Other less-common species include Sitka spruce (*Picea sitchensis*), western hemlock (*Tsuga heterophylla*), shore pine (*Pinus contorta*), bitter cherry (*Prunus emarginata*), bigleaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), black cottonwood (*Populus trichocarpa*), and trembling aspen (*Populus tremuloides*) (Nuszdorfer *et al.*, 1991: 82).

Native terrestrial mammal species commonly found within the Coastal Douglas Fir zone include black-tailed deer (*Odocoileus hemionus*), black bear (*Ursus americanus*), and various other small land mammals. Sea mammals species in the zone include harbour seal (*Phoca vitulina richardi*), northern sea lion (*Eumetopias jubata*), California sea lion (*Zalophus californianus*), killer whale (*Grampus rectipinna*) and harbour porpoise (*Phocoena vomerina*).

Birds species found in this zone include the pileated woodpecker (*Dryocopus pileatus*), blue grouse (*Dendragapus obscurus*), Stellar's jay (*Cyanocitta stelleri*), great blue heron (*Ardea herodias*), raven (*Corvus corax*), hooded merganser (*Lophodytes cucullatus*), mallard (*Anas platyrhynchos*), Canada goose (*Branta canadensis*) and glaucous gull (*Larus hyperboreus*) (Nuszdorfer *et al.*, 1991: 88-90).

Fish species in this zone include dogfish (*Squalus suckleyi*), skate (*Raja binoculata*), Pacific herring (*Clupea harengus*), rockfish (*Sebastes* spp.), flounder (*Atheresthes stomias*), halibut (*Hippoglossus stenolepis*), sole (numerous species), ling cod (*Ophiodon elongates*) and several species of sea perch (Mitchell 1971). Five species of salmon also reside in the ocean and rivers surrounding the study area depending on the season which include Chinook (*Onorhynchus tshawytscha*), chum (*O. keta*), Coho (*O. kisutch*), pink (*O. gorbuscha*) and sockeye (*O. nerka*).

The various species of shellfish in the zone include, butter clam (*Saxidomus giganteus*), littleneck clam (*Protothaca staminea*), horse clam (*Schizothaerus nuttalli*), basket cockle (*Clinocardium nuttalli*), mussel (*Mytilus edulis*), native oyster (*Ostrea lurida*), whelk (*Nucella* sp.), wrinkle purple (*Nucella lamellose*), periwinkle (*Littorina* sp.), limpet (*Lottidae*), and acorn barnacle (*Balanus nubilis*).

3.2 Ethnography

The study area is within the asserted traditional Coast Salish territories of the Senchoten speaking Saanich peoples, the Tsawout, Tseycum, Tsartlip, and Paquachin First Nations, and the Hul'qui'minum Treaty Group (HTG) First Nations, speakers of the Island dialect of the Halkomelem language (Suttles 1979, 1990; Thompson and Kinkade 1990).

Traditionally, the Coast Salish used rectangular cedar plank houses as primary dwellings. Villages often consisted of one or more houses as well as a number of smaller structures on the foreshore of sheltered bays or watercourses. Temporary shelters of rush mats were used in some locations for shorter seasonal occupations, and at some resource procurement locations permanent plank or bark covered houses were built (Barnett 1955; Suttles 1974, 1979, 1990). A wide variety of objects including tools, weapons and hunting

and fishing gear were manufactured by flaking stone (particularly basaltic and granodioritic stone), grinding stone (particularly slate, but also nephrite and others) and working bone, antler and shell (Mitchell 1990; Suttles 1990). A variety of plant materials were extremely important, most prominently, red cedar (*Thuja plicata*), which was employed to manufacture houses, canoes, boxes, clothing, bags, baskets and mats, among other items (Barnett 1955; Turner 1998). Blankets and clothing were sometimes woven from hair of dogs (*Canis familiaris*), mountain goats (*Oreamnos americanus*) and other materials, such as stinging nettle (*Urtica dioica*) fibres. Nettle fibres were also used for textiles and cordage (Schulting 1994; Turner 1995; Wells 1966).

Among the Coast Salish, fishing was the principal economic activity, particularly of salmon (*Oncorhynchus sp.*), but also Pacific herring (*Culpea pallasii*), flat fish and many other fish species. Clam gardens and other methods of aquaculture were practiced, birds were taken, particularly waterfowl, and both land and sea mammals were hunted by a variety of methods, particularly deer, elk and seal (Barnett 1955; Monks 1987; Suttles 1990; Groesbeck *et al.* 2014; McKechnie *et al.* 2014). Plant foods, particularly blueberry, cranberry and wapato were also gathered for subsistence (Pojar and Mackinnon 1994; Turner 1974, 1995). Coast Salish followed an annual round, congregating in the ceremonial season at winter villages and dispersing to hereditarily owned resource sites throughout their territory the remainder of the year. Ethnographically three social classes were recognized: a large upper class of nobility with rights and titles, and sacred and ritual knowledge; smaller commoner class; and a small number of slaves owed by the most wealth households. A detailed ethnographic description of Coast Salish lifeways can be found in Barnett (1955), Suttles (1974, 1979, 1990), Ham (1982), and others.

3.3 Archaeology

Archaeological research in the Strait of Georgia region dates back to the beginning of the twentieth century. The first culture history was produced by Charles Borden (1950) and Arden King (1950) using variations in artifact types over time, with subsequent syntheses produced by Borden (1968, 1970) and Mitchell (1971, 1990). A generalized sequence for the region has developed based on the works above, as well as Carlson (1960, 1970), Ham (1982), Ham *et al.* (1986), Matson (1976), Matson *et al.* (1980), and Mitchell (1971). Summaries were produced by Carlson (1983, 1990) and Mitchell (1990). Matson and Coupland (1995), Ames and Maschner (1999) and others have offered more recent syntheses, although there remains some disagreement on terminology. But there has not been a new synthesis to incorporate the research of the last twenty years.

In the early Holocene after the recession of the glaciers and initial peopling of the coast, a generalized coastal adaptation of small mobile groups of land and sea mammal hunter-gatherers and fishers is present coast-wide, called the Lithic stage (10,000-5500 BP; also commonly known as Old Cordilleran or Pebble Tool Tradition). By the mid-Holocene, with sea level and river gradients reaching near modern levels, and environmental stability, human populations grew and began to develop social differentiations and new regional adaptations. Four archaeological phases are commonly recognized in the Strait of Georgia region starting with Charles phase, beginning at approximately 5500 BP, followed by Locarno Beach phase (ca. 3300 BP), Marpole phase (ca. 2400 BP) and finally, the Strait of Georgia phase (ca. 1500 BP), presented in Figure X. Increasing population size and increasing social complexity are thought to continue to develop until reaching a plateau of complexity in Marpole phase, resembling the ethnographic populations, which Matson and Coupland (1995) termed the “Developed Northwest Coast Pattern.” However, others observe a climax in Marpole phase and subsequent decline in both population and complexity in the Strait of Georgia phase (Borden 1983; Carlson 1983, 2008; Angelbeck 2009; Angelbeck and Grier 2012; Hickok 2013).

Recently there have been calls for a re-evaluation of some of our current theories and interpretations. The emphasis on salmon may be overstated, and subsistence economies more diverse in the past, and the relationship between salmon, storage and cultural complexity more complicated (Monks 1987; Moss 2011; Groesbeck *et al.* 2014; McKechnie *et al.* 2014). Moss (2011) asserts that coastal mid-Holocene environmental stabilization varied by time and location, not coast-wide around 5000 BP (contra Fladmark 1975, 1982). The introduction of ground stone technology, beads and labrets at around 4000 BP, mid-Charles phase, coincides with a florescence of extravagantly beaded burials, suggesting a possible shift in culture and the beginnings of social hierarchies; possibly warranting a division of Charles phase (Curtin 1991; Ames *et al.* 2010; Cybulski 2011). Ames *et al.* (2010) also show that ground stone increases in proportion over time but does not replace flaked stone. Clark (2010) demonstrated that ‘Marpole’ was focused in areas that are traditionally Halkomelem speaking and limited in time and space. The decline in the Strait of Georgia phase may have been brought about by a possible epidemic of treponemal infection in the preceding phases not previously accounted for in the archaeological interpretation of the region (Hickok 2013). Treponemal infection produces syphilis and, when congenital, can severely impact fertility rates (Curtin 2005; Hickok 2013). The early Strait of Georgia phase appears to have been a time of increased conflict, which Angelbeck (2009; Angelbeck and Grier 2012) advocates is a period of heterarchy with competing chiefs, and suggests a return to elite hegemony in the last 500 years, suggesting another possible new phase (Schaepe 2009; Angelbeck 2009; Angelbeck and Grier 2012).

A very prominent archaeological site, Pender Canal (DeRt-1 and DeRt-2), is approximately two kilometers south of DeRt-11. Pender Canal was initially village site and cemetery in Charles phase and Locarno Beach phase, with over 150 burials including several elaborate burials with intricately carved antler spoons, thought to be evidence of ceremonial feeding of the dead. It was used as a camp site and portage site in subsequent phases – possibly because of the lack of ground water with the tilting of the Juan de Fuca plate (Carlson and Hobler 1993).

3.4 History

The earliest recorded European contact in the region is the 1791 Spanish expedition lead by Eliza. However, his writings indicate that the aboriginal population there told him they had already been visited by a large ship, and overland by traders with horses, and they showed him a few engraved brass bracelets. The next year, the Spanish once again visited region with an expedition led by Galiano (Wagner 1933:186-187). An English expedition led by Vancouver also arrived in 1792, establishing an observatory at Birch Bay (Newcombe 1923). Traveling down the river from the interior, Simon Fraser reached the mouth of the Fraser River in 1808 (Lamb 1960).

In the early 1820s the Hudson's Bay Company began exploring the region seeking beaver pelts. By 1827 they had established Fort Langley on the Lower Fraser above the head of the delta. The fort soon became a center for trade over a wide region (Suttles 1990:470-471). The Oregon Treaty of 1846 established the boundary between the United States and British claimed territory, and the British assert their sovereignty over British Columbia. In 1858 the Fraser River Gold Rush brought many people to the region, and in 1859 Governor James Douglas adopts a policy of "benevolent assimilation" of the aboriginal population (K. Carlson 2001). A history of the region from the indigenous perspective is presented in the volume *A Stó:lō Coast-Salish Historical Atlas* (K. Carlson 2001).

In 1902-1903, the isthmus between North and South Pender Island was removed to allow marine traffic passage to Vancouver Island, creating Pender Canal. The isthmus was the location of an indigenous portage site and camp site ethnographically, and a village site archaeologically (DeRt-1 and DeRt-2), as noted above. Extensive erosion of the site occurred subsequently and approximately 80% of the archaeological sites were excavated by Roy Carlson and Philip Hobler (1993) and the Simon Fraser University archaeology field school between 1984 and 1987.

3.5 Previous Archaeology at DeRt-11

An archaeological excavation was carried out at DeRt-11 in the summer of 1971. This project was directed by Simon Fraser University Graduate Student, Margo Chapman and included the systematic excavation of five, 1 x 2 meter "test pits" dug to depths from 40 centimeters to 110 cm. (Chapman, 1971; 61). This project was undertaken in response to a proposal to construct a new marina and resort complex, as it was feared that "...the site was in immediate danger of being destroyed" (Chapman, 1971; 59). Prior to the 1971 excavation project, a small artifact collection and some human skeletal remains from the site had been collected by local residents and deposited with the B.C. Provincial Museum, as documented in both the 1974 Site Record Form and in Chapman's 1971 report (Chapman, 1971; 61).

Chapman's 1971 excavation project focused on a small area at the south end of Lot A, in the vicinity of the old orchard (Figure 6). Five excavation units were situated just in from the shoreline in an area found to contain the deepest shell midden deposits within those portions of the site within Lot A. Chapman's excavation project examined approximately 8 cubic meters of archaeological deposits that yielded a total of 20 artifacts - mostly bone and antler items. Only two stone artifacts were recovered, along with a small collection of faunal bone remains. Most of these items were found in three of the five units excavated and Chapman concludes that the shell midden in this part of Lot A extended only about 12 meters inland from the shoreline (Chapman, 1971; 64). She also concluded that, although the Hamilton Beach Site was "extensive", it was not "very productive" based on the small yield of artifacts and other archaeological remains from her five excavation units (Chapman, 1971; 64).

Following Chapman's 1971 excavation project, the only archaeological interest shown in the Hamilton Beach Site is contained in some correspondence from August of 1979, between Lou Henshaw and the Provincial Archaeologist's Office in Victoria (see Appendix I for copies). This correspondence related to plans for future land development by the property owners and what potential impact these developments might have on the archaeological site. Of note was a proposal to in-fill a small wetland (or "marsh" area) that was located just inland of a shoreline berm feature (see Diagram 1). An August 30th 1979 letter from the Provincial Archaeologist to Lou Henshaw indicates that the former had no problem with the in-filling of the marsh, "...so long as the narrow strip of midden deposit to the seaward side of the marsh area can be left undisturbed". The marsh area was subsequently filled in with up to 8 feet of local soil, gravel and clay material in 1979 or 1980 (Simonsen and Somogyi 2006).

In 2006 Bjorn Simonsen conducted an AIA on portions of the subject property (Figure 6; Simonsen and Somogyi 2006). This study found that archaeological deposits were not as extensive or as contiguous as previously recorded. One artifact and a small amount of faunal material were collected during this study.

4 Methods

Prior to conducting the assessment a search for archaeological sites was conducted using RAAD (through the Archaeology Branch), which provides detailed geographical information for previously recorded archaeological sites and some archaeological potential models in British Columbia. An extensive background review of published and non-published ethnographic, archaeological and geological studies was also completed.

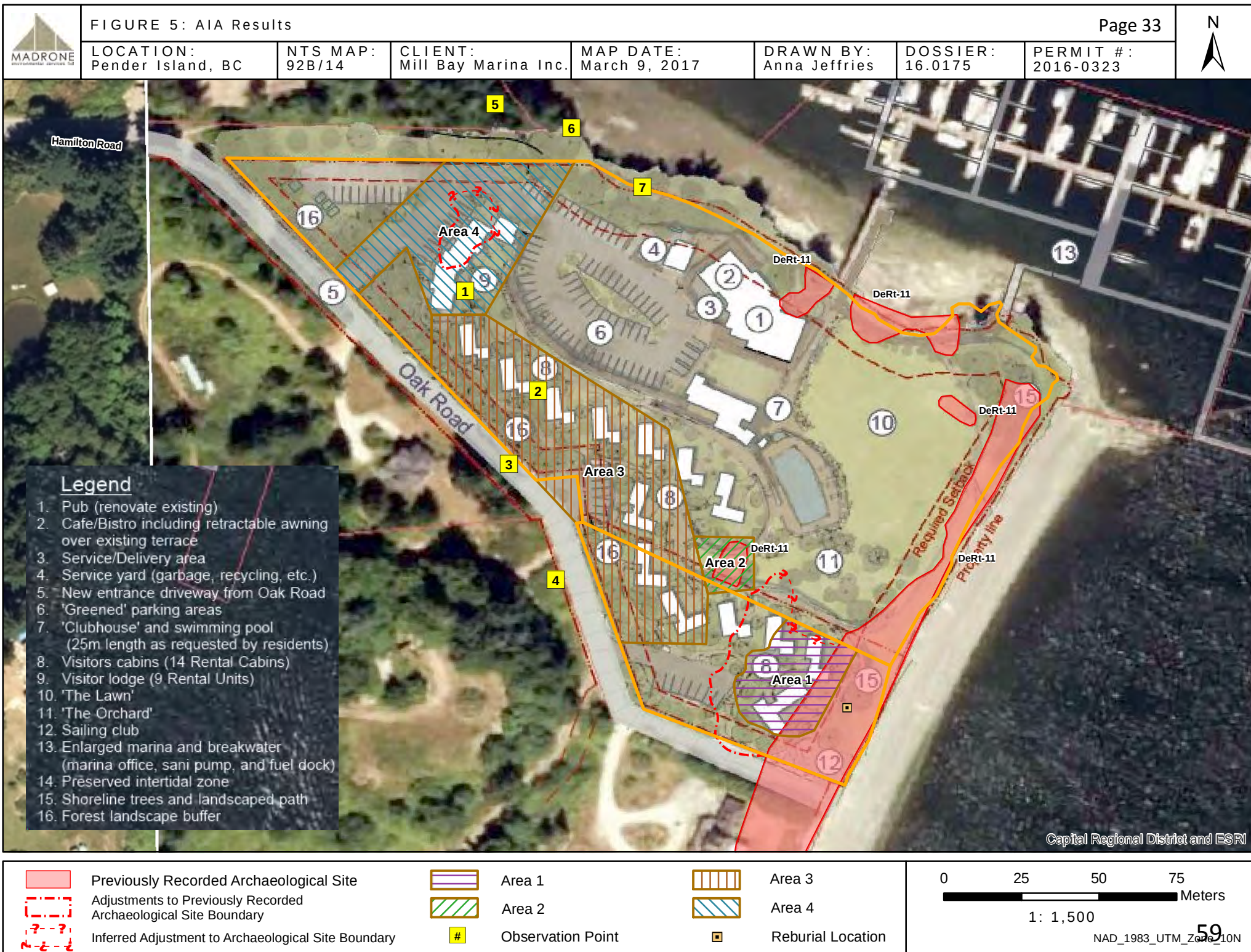
The AIA was conducted utilizing machine and shovel subsurface testing, as well as an intensive pedestrian survey of the proposed project area. While the initial intent was to conduct subsurface testing in a 5 – 10 m interval grid of areas to be impacted by the proposed development, the presence of active subsurface utilities and areas covered by buildings and asphalt limited subsurface testing methods. Areas with no proposed project impacts were not inspected.

Shovel tests measured 40 x 40 cm and machine tests measured 1.2 x 1 m. Subsurface tests were excavated to culturally sterile deposits unless utilities and large boulders prevented deeper testing. All deposits with potential to contain archaeological materials were screened 100 %. A log of stratigraphy, field notes and photos were maintained throughout the project.

Faunal remains were analyzed utilizing the comparative collection at Simon Fraser University and were screened for human remains by Osteologist Dr. Andrew Hickok. When human remains were encountered the Archaeology Branch and appropriate First Nations were notified. In discussions with the Archaeology Branch and First Nations it was decided that the remains were to be reburied, with minimal analysis, in a location with little potential to be disturbed by future developments.

5 Results

The landscape and presence and condition of DeRt-11 significantly varies across the project area and will be discussed below in four different areas (Figure 5, 5A-5C). A total of 120 subsurface tests were excavated with 47 tests being positive for cultural material. Thirty auger tests were excavated with three having positive results. Thirty-eight machine tests were excavated with nine having positive results. Fifty-two shovel tests were excavated with 35 having positive results.





LOCATION:
Pender Island, BC

NTS MAP:
92B/14

CLIENT:
Mill Bay Marina Inc.

MAP DATE:
March 9, 2017

DRAWN BY:
Anna Jeffries

DOSSIER:
16.0175

PERMIT #:
2016-0323



Capital Regional District and ESRI



Previously Recorded Archaeological Site

● Positive Auger Test (AT)



Area 1



Adjustments to Previously Recorded
Archaeological Site Boundary

○ Negative Auger Test (AT)



Area 2



Inferred Adjustment to Archaeological Site
Boundary

■ Positive Shovel (ST)/ Machine Test (MT)



Area 3

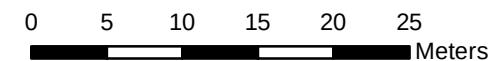


Observation Point

□ Negative Shovel (ST)/ Machine Test (MT)



Area 4



1: 500

NAD_1983_UTM_Zone_10N

60



LOCATION:
Pender Island, BC

NTS MAP:
92B/14

CLIENT:
Mill Bay Marina Inc.

MAP DATE:
March 9, 2017

DRAWN BY:
Anna Jeffries

DOSSIER:
16.0175

PERMIT #:
2016-0323



Previously Recorded Archaeological Site



Positive Auger Test (AT)



Area 1



Adjustments to Previously Recorded
Archaeological Site Boundary



Negative Auger Test (AT)



Area 2



Inferred Adjustment to Archaeological Site
Boundary



Positive Shovel (ST)/ Machine Test (MT)



Area 3



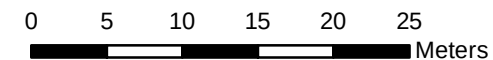
Observation Point



Negative Shovel (ST)/ Machine Test (MT)



Area 4



1: 500

NAD_1983_UTM_Zone_10N

LOCATION:
Pender Island, BC

NTS MAP:
92B/14

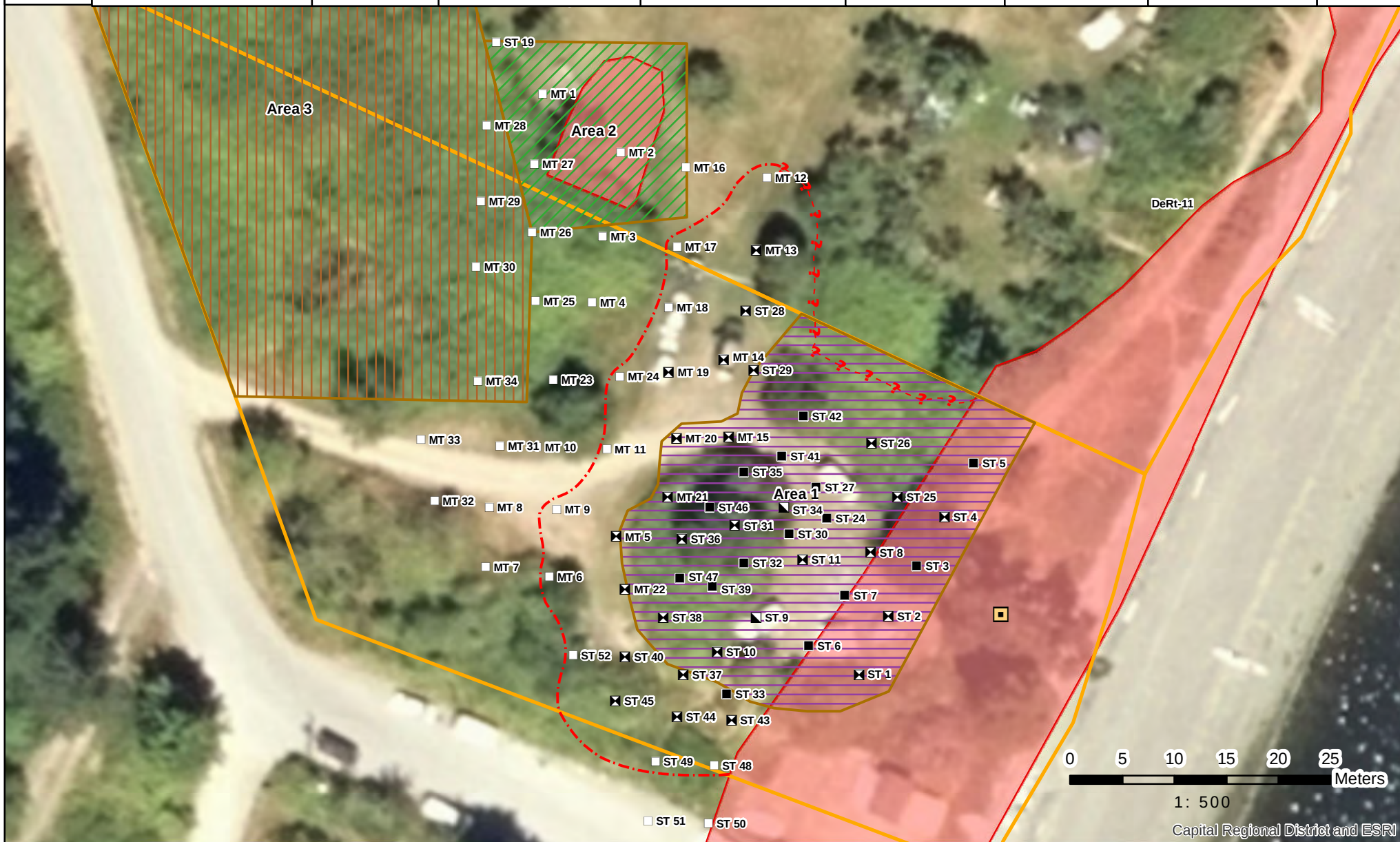
CLIENT:
Mill Bay Marina Inc.

MAP DATE:
March 10, 2017

DRAWN BY:
Anna Jeffries

DOSSIER:
16.0175

PERMIT #:
2016-0323



1: 500

Capital Regional District and ESRI

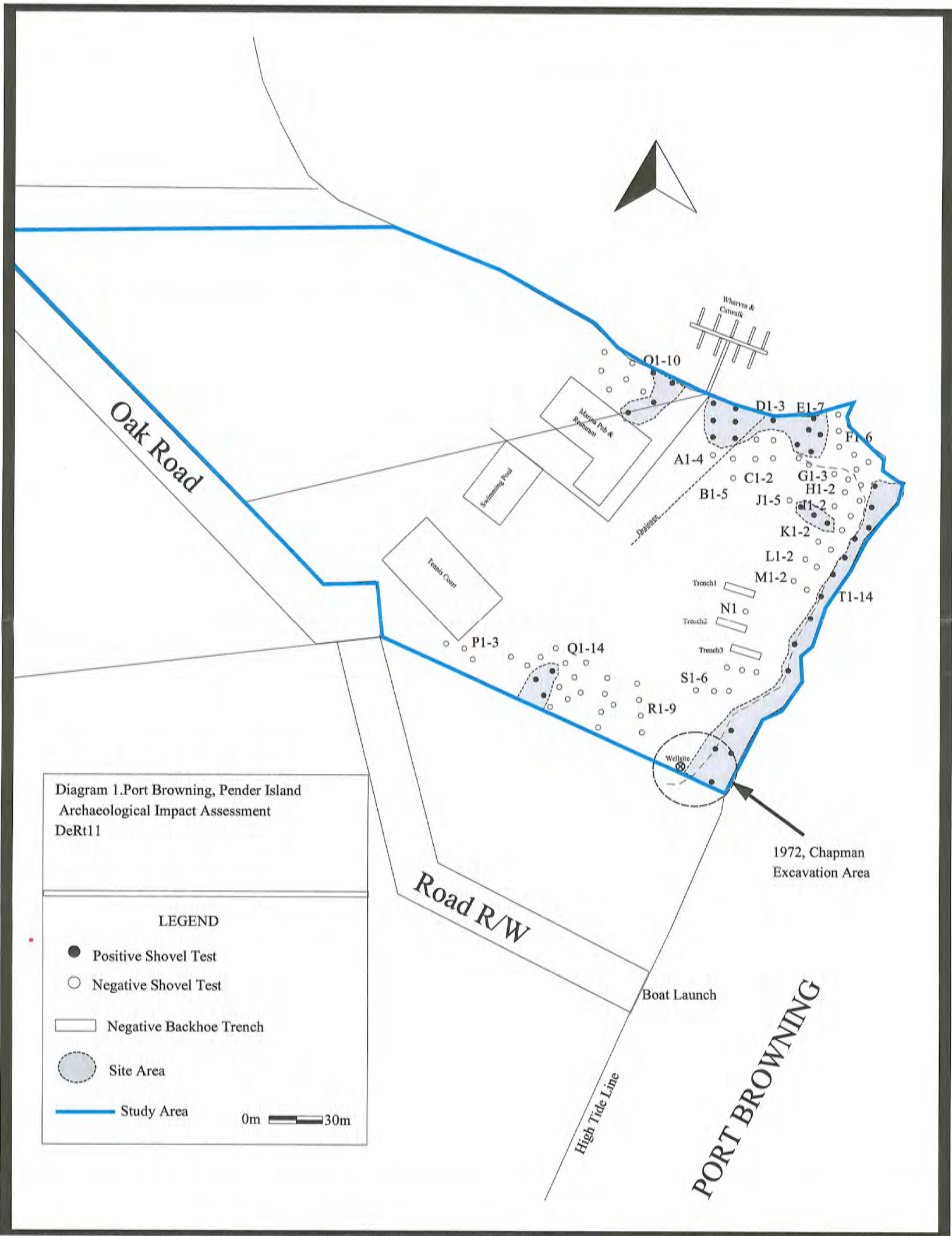
- Previously Recorded Archaeological Site
- Adjustments to Previously Recorded Archaeological Site Boundary
- Inferred Adjustment to Archaeological Site Boundary
- Reburial Location

- Positive Auger Test (AT)
- Negative Auger Test (AT)
- Positive Shovel (ST)/ Machine Test (MT)
- Negative Shovel (ST)/ Machine Test (MT)

- Positive Test Disturbance**
- Inact
- Intact with Disturbed
- Disturbed

- Area 1
- Area 2
- Area 3
- Area 4

NAD_1983_UTM_Zone_10N



Area 1

This portion of the project area is on a small raised level landform and has been previously impacted by an old farmhouse, access roads and a well (Figure 5C). Investigations extended the boundaries of DeRt-11 by 60 m NE/SW and 35 m NW/SE.

Subsurface testing in this area revealed a thin layer of disturbed deposits overlying a thin layer of intact archaeological deposits. Four formed artifacts were collected from this area. An intact cairn burial was encountered in ST 27 and scattered human remains were also encountered throughout this area. Disturbed archaeological deposits extend beyond the landform that area 1 consists of but had no human remains or artifacts present.

Area 2

This portion of the project area is where a previous study identified a small patch of redeposited archaeological materials (Figure 5C). Six MTs were excavated with negative results. As no development components are proposed for this area intensive testing was not undertaken.

Area 3

This portion of the project area consists of terrain sloping 20-40 degrees to the northeast (Figure 5, 5A-5C). Previous disturbances to this area include several active service lines in the southern portion, the construction of Oak Road, a tennis court, two small homes and a parking lot. From observation points 3-4 the road has been cut from the slope. Observation point 2 has natural exposures under an existing house confirming that native sediments have been stripped away and leveled.

From the northeast of this area to the pub has been stripped of sediments and capped with fill and pavement for construction of the parking lot, tennis court, and pub.

Area 4

The upper northwestern portion of the property is a relatively level landform that has been subjected to significant previous disturbances (Figure 5A). Much of the area has been graded for gravel roads, a septic field, various service lines, and a pump station. The eastern portion of this area has been previously excavated and leveled from observation point 1 to the east and northeast, which would have removed any archaeological deposits that may have been present in the past. Observation points 5-7 have large areas of exposures illustrating that this portion of the project area consists of 15-40 cm of clays and

silts overlying bedrock. A small pocket of redeposited midden was identified in MT 36, mixed with imported fill. The heavy presence of fill and active service lines consistently prevented subsurface testing from reaching basal deposits resulting in an ambiguous boundary defining the extent of redeposited materials.

5.1 Stratigraphy

Area 1

The general stratigraphy in this area consists of 5-10 cm of duff overlying 10-40 cm of sandy loam shell midden with the upper 10-20 cm often being disturbed deposits. Culturally sterile compact silts were encountered between 30-50 cm below surface and overlying bedrock.

Area 2 and 3

The general stratigraphy of this area consists of 7-10 cm of duff overlying 30 cm of disturbed brown loam. Culturally sterile silts were encountered 30-50 cm below surface and overlying glaciomarine clays extending to 1.5 m below surface.

Area 4

The general stratigraphy of this area consists of 15-40 cm of clays and silts overlying bedrock. The cultural deposits observed are mixed with imported fill and were encountered 10-33 cm below surface.

5.2 Artifacts

Four formed artifacts were recovered, but no debitage.

Table 1 Artifacts Recovered from DeRt-11 AIA

Artifact Number	Artifact Type	Material	Context	Depth (cm dbd)	Completeness	Length (mm)	Width (mm)	Thickness (mm)	Weight (g)	Notes
DeRt-11: 64	Metapodial splinter awl	deer bone	St 5	20-30	complete	104.2	26.4	17.0	13.7	proximal deer metapodial
DeRt-11: 65	Tear-shaped biface	fine-grained basalt	ST 7	~30	complete	72.4	31.2	11.7	23.5	roughly finished
DeRt-11: 66	Bone point	bone	ST 9	~5	distal half?	72.1	5.9	4.1	1.3	unipoint or bipoint indeterminate; 2 pieces, refit
DeRt-11: 67	Unilaterally barbed fixed point	bone	ST 47	30-76	proximal half	86.2	12.1	6.7	8.0	open barbs

5.2.1 Stone Artifacts

Tear-Shaped Bifaces (n=1)

DeRt-11: 65 was recovered from ST 7, approximately 30 cm dbs. Tear-shaped bifaces are characterized as widest below the horizontal center with one pointed end, and with excurvate blade edges and a convex base (Loy and Powell 1977). Tear-shaped bifaces have been reported from assemblages from Charles phase through Marpole phase, and occasionally in Gulf of Georgia phase assemblages (Ham 1982; Mitchell 1990; Keddie 2008). This basalt biface is made from fine-grained basalt but roughly finished. DeRt-11: 65 measures 72.4 mm long, 31.2 mm wide, 11.7 mm thick, and weighs 23.5 g.

5.2.2 Bone Artifacts

Metapodial Splinter Awl (n=1)

DeRt-11: 64 was recovered from ST 5, between 20 to 30 cm dbs. Metapodial awls are manufactured from the metapodial bones of ungulates with some evidence of the proximal or distal features that enable identification. Metapodials were often used; the flared ends provide a good grip and the straight shaft a useful working end. This metapodial awl is formed from a proximal deer metapodial splinter and roughly finished with a blunt tip. DeRt-11: 64 measures 104.2 mm long, 26.4 mm wide, 17.0 mm thick, and weighs 13.7 g.

Small Bone Point (n=1)

DeRt-11: 66 was recovered from ST 9, approximately 5 cm dbs. Small bone points are generally manufactured from mammal bone, but also bird bone, and were used for a variety of purposes from fishhook barbs and herring rakes to gorges and leisters (Mitchell 1990). This bone point is made from mammal bone and is broken. It is not clear if it is a unipoint or a bipoint, or the specific intended function. DeRt-11: 66 measures 72.1 mm long, 5.9 mm wide, 4.1 mm thick, and weighs 1.3 g.

Unilaterally Barbed Fixed Point (n=1)

DeRt-11: 67 was recovered from ST 47, between 30 to 76 cm dbs. Unilaterally barbed bone points are large points with one or more triangular, beaked, or enclosed barbs on one margin, fixed firmly to a shaft (McMurdo 1972; Loy and Powell 1977). These points were often used for arming fishing spears and are reported in Marpole phase and Gulf of Georgia phase assemblages (McMurdo 1972; Mitchell 1990). This unilaterally barbed point fragment is of the proximal end, which is spatulate and tapered, with small beaked barbs. DeRt-11: 67 measures 86.2 mm long, 12.1 mm wide, 6.7 mm thick, and weighs 8.0 g.

5.3 Faunal Remains

A small faunal sample of 96 vertebrate skeletal elements from at least 10 taxa was recovered from shovel tests and machine tests during the subsurface investigation program. All elements were identified to the most specific taxon possible with reference to the Simon Fraser University, Department of Archaeology comparative faunal collection. A complete list of elements by provenience is presented in Appendix A. Age and taphonomic changes are also noted. The number of identified species present (NISP) is in provided Table 2. Scientific names of taxon used can be found in Banfield (1974) and Godfrey (1979), for mammals and birds, respectively, and in Eschmeyer *et al.* (1983) and Hart (1983) for fish. The vertebrate sample was divided into land mammal, sea mammal, birds, and fish. No column samples were taken but invertebrates, including butter clams (*Mytilus edulis*), horse clams (*Schizothoenus capax*), bay mussel (*Mytilus edulis*), native oyster (*Ostrea*), and gastropods were observed.

Five taxa of land mammals were collected, as well as 17 unidentifiable mammal elements. These are, in the order of element frequency: mule deer (n=33), rat (n=10), elk (n=7), dog (n=5), and cow (n=4); however, the rat elements are from a single immature individual and likely incidental. The cow bones exhibit bandsaw cuts, as does one deer tibia. Two deer elements display burning and one has carnivore gnawing marks. One sea mammal element was recovered: a dolphin temporal petrous; bringing the total number of

identified mammal taxa to six. Ten bird elements were collected, including duck family (n=3), and chicken (n=2). Two taxa of fish, salmon (n=6) and herring (n=3), were identified, and 10 unidentifiable fish elements were also recovered.

This vertebrate assemblage is typical of Northwest Coast collections, predominated by deer, elk, and salmon, with some sea mammal and waterfowl. Indicators of seasonality are sparse, but include salmon – mostly taken in the late summer and fall, but also other times of year, depending on the species – and herring, taken in March. The presence of chicken bones, cow bones and bandsaw cut elements indicate historic occupation of the site.

Table 2. Summary of NISP for DeRt-11 AIA

Common Name	Taxon	Total	Percent
Cow	<i>Bos</i> sp.	4	4.2
Elk	<i>Cervus elaphus</i>	7	7.3
Mule deer	<i>Odocoileus</i> sp.	33	34.4
Dog	<i>Canis familiaris</i>	5	5.2
Rat	<i>Rattus</i> sp.	10	10.4
Unidentified mammal	Mammalia	17	17.7
Total land mammal		66	68.8
Pacific white-side dolphin	<i>Lagenorhynchus obliquidens</i>	1	1.0
Total sea mammal		1	1.0
Duck family	Anatidae	3	3.1
Chicken	<i>Gallus gallus domesticus</i>	2	2.1
Unidentified bird	Aves	5	5.2
Total bird		10	10.4
Salmon	<i>Oncorhynchus</i> sp.	6	6.3
Pacific herring	<i>Clupea pallasii</i>	3	3.1
Unidentified fish	Osteichthyes	10	10.4
Total fish		19	19.8
Total elements		96	100

5.4 Human Remains

Three scattered fragments of human skeletal remains were identified during shovel testing. A left distal radius was found *in situ*, in ST 34 (28 cm db), in intact deposits; the remainder of the radius appeared to continue into the east wall but was left undisturbed. A

tibia diaphysis fragment (with the anterior crest) was found in ST 7 (20-30 cm dbs), and a long bone fragment was found in ST 5 (30-40 cm dbs), in disturbed deposits. A minimum of one individual is represented, but likely more individuals are present and scattered due to past disturbance.

A rock feature was identified in ST 27 at 30 cm dbs, consisting of tabular sandstone, similar to subsurface burial cists and rock features reported in Locarno Beach phase components at Pender Canal and other sites (Carlson 1991; Carlson and Hobler 1993; Matson and Coupland 1995).

6 Resource Evaluation

The condition of DeRt-11 varies across the project area and the significance of deposits is discussed below by area.

6.1 Scientific Significance

Area 1

The presence of intact deposits, burial features, scattered human remains, and formed artifacts can enhance the understanding of the culture history of the area. Scientific significance is considered to be high.

Area 4

Cultural deposits in this area are highly disturbed and mixed with imported fill. These deposits are unlikely to significantly contribute to the archaeological record. Scientific significance is considered to be low.

6.2 Public and Economic Significance

The assessed portion of DeRt-11 in the project area consists of shallow deposits that are not observable without excavation. The potential to use the site in situ to further understanding and educate the public and facilitate cultural tourism is considered low.

6.3 Ethnic Significance

All portions of DeRt-11 in the project area, regardless of scientific significance, have the potential to contain human remains. This along with the proximity to natural resources

and other archaeological sites indicate the significance of DeRt-11 to First Nations communities is considered to be high.

7 Recommendations

All proposed development components located within the original and revised boundaries of archaeological site DeRt-11 (Figures 4 – 5c) with potential to cause subsurface disturbance will require archaeological monitoring under the authority of an Archaeological Site Alteration (ASA) permit pursuant to section 12 of the *Heritage Conservation Act*. Specific recommendations for individual areas are discussed below.

7.1 Area 1 (Figures 5 and 5c)

Area 1 consists of the raised and level landform within DeRt-11 (Figure 5c). As this area contains intact archaeological deposits, an intact cairn burial feature, scattered human remains, and formed artifacts; this section is considered to have high significance. Madrone highly recommends project redesign so that Area 1 is not subject to any potential impacts. When providing notifications to the applicable First Nations about the presence of an intact burial and human remains they informed us they are opposed to development of this area. If project redesign/avoidance is not feasible Madrone recommends consultation with the applicable First Nations and Archaeology Branch.

Project components within portions of DeRt-11 presented in Figure 5c that are outside of Area 1 can proceed with archaeological monitoring under an ASA.

7.2 Area 2 (Figure 5):

No archaeological deposits associated with DeRt-11 were identified in Area 2 during the AIA. Intensive subsurface testing was not conducted in this area as no development components are proposed here. If development plans change to include potential subsurface disturbance in this area, Madrone recommends archaeological monitoring under an ASA.

7.3 Area 3 (Figure 5):

Due to the presence of buried active service lines, dense brush, and areas capped by asphalt and/or fill, Area 3 was not subject to intensive testing. Inspections of natural sediment exposures, the surrounding landscape, and discussions with the previous owner suggesting extensive subsurface disturbance in the past all suggest low potential to contain

archaeological materials. However, there is potential for redeposited and/or discrete pockets of archaeological materials to be present.

Madrone recommends including Area 3 in the ASA with a program of spot monitoring during initial subsurface disturbances to confirm the absence/presence of archaeological materials.

7.4 Area 4 (Figure 5 and 5a):

Due to the presence of buried active service lines, septic field, and areas capped by asphalt and/or fill, subsurface testing was not able to sufficiently assess the vertical and horizontal extent of DeRt-11 in Area 4. Based on our observations we suspect this portion of DeRt-11 to be a discrete pocket of redeposited shell midden.

Madrone recommends that archaeological monitoring be conducted under an ASA for any proposed development components with potential to cause subsurface disturbance in Area 4.

7.5 Remaining Areas:

The remaining project components not addressed above are in areas assessed as having low archaeological potential. No further archaeological work is required in these areas as currently designed in Figure 4 and 5.

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memini. Nescio. et susceperunt me consolationes miserationum tuarum, sicut audiui a parentibus carnis meae, ex quo et in qua me formasti in tempore; non enim ego memini.

Style “Main Body”: Nescio. et susceperunt me consolationes miserationum tuarum, sicut audiui a parentibus carnis meae, ex quo et in qua me formasti in tempore; non enim ego memini.

e.



APPENDIX A

Faunal Analysis - List of Elements by Provincience

Shovel Test 320-30 cm dbs

Dog, rib fragment
Unidentifiable mammal, misc. fragment
Unidentifiable bird, shaft fragment
Salmon, 2 spine fragments
Fish bone, cranial fragment

30-40 cm dbs

Dog, caudal vertebra

Shovel Test 410-20 cm dbs

Deer, shaft fragment
Unidentifiable bird (medium), shaft fragment

Shovel Test 520-30 cm dbs

Elk, shaft splinter fragment
Deer, 1 shaft fragment, 1 vertebra fragment
Unidentifiable fish bone, cranial fragment

30-40 cm dbs

Salmon, vertebra

Shovel Test 610-20 cm dbs

Deer, vertebra fragment
Unidentifiable mammal, 1 shaft fragment, 2 misc. fragment
Herring, vertebra

Shovel Test 720-30 cm dbs

Deer, 4 shaft fragments
Herring, 2 vertebra fragments
Unidentifiable fish, cranial bone
Unidentifiable bone (fish spine?)

Shovel Test 920-30 cm dbs

Unidentifiable fish, spine fragment

Shovel Test 1020-30 cm dbs

Dog, left ilium fragment

Shovel Test 247-20 cm dbs

Cow, rib fragment (bandsaw cut)

Deer, 1 shaft fragment, 1 vertebra fragment

Unidentifiable fish, cranial bone

Shovel Test 262

Porpoise, petrous temporal

Cow, rib fragment (bandsaw cut)

Elk, carpal

Deer, shaft fragment

Unidentifiable mammal, misc. fragment

Shovel Test 270-15cm dbs

Cow, rib fragment (bandsaw cut)

Unidentifiable mammal, 2 misc. fragments

Chicken, 1 sternum fragment, 1 coracoid fragment

Shovel Test 290-20 cm dbs

Elk, antler proximal beam (fragmented)

Deer, tibia (bandsaw cut)

Deer, 2 shaft fragments, 1 mandible fragment

Unidentifiable fish, bone fragment

Shovel Test 31~45 cm dbs

Elk, scapula fragment

50-60 cm dbs

Elk, tarsal

Shovel Test 340-10 cm dbs

Cow, rib fragment (bandsaw cut)

Unidentifiable mammal (large), 1 shaft fragment, 1 vertebra fragment

Deer, shaft fragment (burned)

Unidentifiable mammal (small), misc. fragment (calcine)
 Unidentifiable mammal (small), shaft fragment
 Rat (immature), 10 elements (including left innominate, femur, distal femur
 epiphysis, tibia, proximal tibia epiphysis, vertebra, scapula, radius,
 metatarsal
 and two shaft fragments
 Duck family (medium), 2 carpometacarpus fragments
 Unidentifiable bird (medium-large), shaft fragment
20-25 cm dbs
 Unidentifiable mammal (small), mandible fragment

Shovel Test 38~23 cm dbs

Unidentifiable mammal (medium-large), 5 shaft fragments, 1 misc. fragment

20-40 cm dbs

Unidentifiable mammal (small), misc. fragment

Unidentifiable fish, 2 misc. fragments

Shovel Test 4110-20 cm dbs

Elk (immature), radius distal epiphysis

Deer, 5 scapula fragments, 1 rib fragment, 1 humerus fragment (carnivore
 gnawing)

Unidentifiable bird (medium), shaft fragment

Shovel Test 426-11 cm dbs

Deer, vertebra fragment

Shovel Test 470-76 cm dbs

Deer, 5 shaft fragments

76-90 cm dbs

Dog, rib fragment

Unidentifiable mammal (small-medium), 2 shaft fragment

Unidentifiable mammal (immature, small-medium), vertebral epiphysis

Machine Test 5~22 cm dbs

Unidentifiable mammal (small-medium), shaft fragment

Machine Test 1210-20 cm dbs

Deer, lower incisor

Unidentifiable mammal (small-medium), 1 shaft fragment, 1 rib fragment

Salmon, 1 vertebra, 1 spine

Slump

Unidentifiable mammal (small-medium), 2 shaft fragments (bandsaw cut)

Unidentifiable mammal (small-medium), 2 shaft fragments (digested)

Duck family (medium), humerus fragment

Unidentifiable fish (small-medium), vertebra fragment

Backdirt

Unidentifiable mammal (small-medium), shaft fragment (bandsaw cut)

Unidentifiable mammal (small-medium), shaft fragment

Unidentifiable bird (medium), shaft fragment

Salmon, 1 vertebra

Unidentifiable, 4 misc. bone fragments

7m North of Machine Test 12Surface

Elk, tibia fragment

Machine Test 140-10 cm dbs

Deer, astragalus

Unidentifiable mammal (medium), shaft fragment

Machine Test 220-10 cm dbs

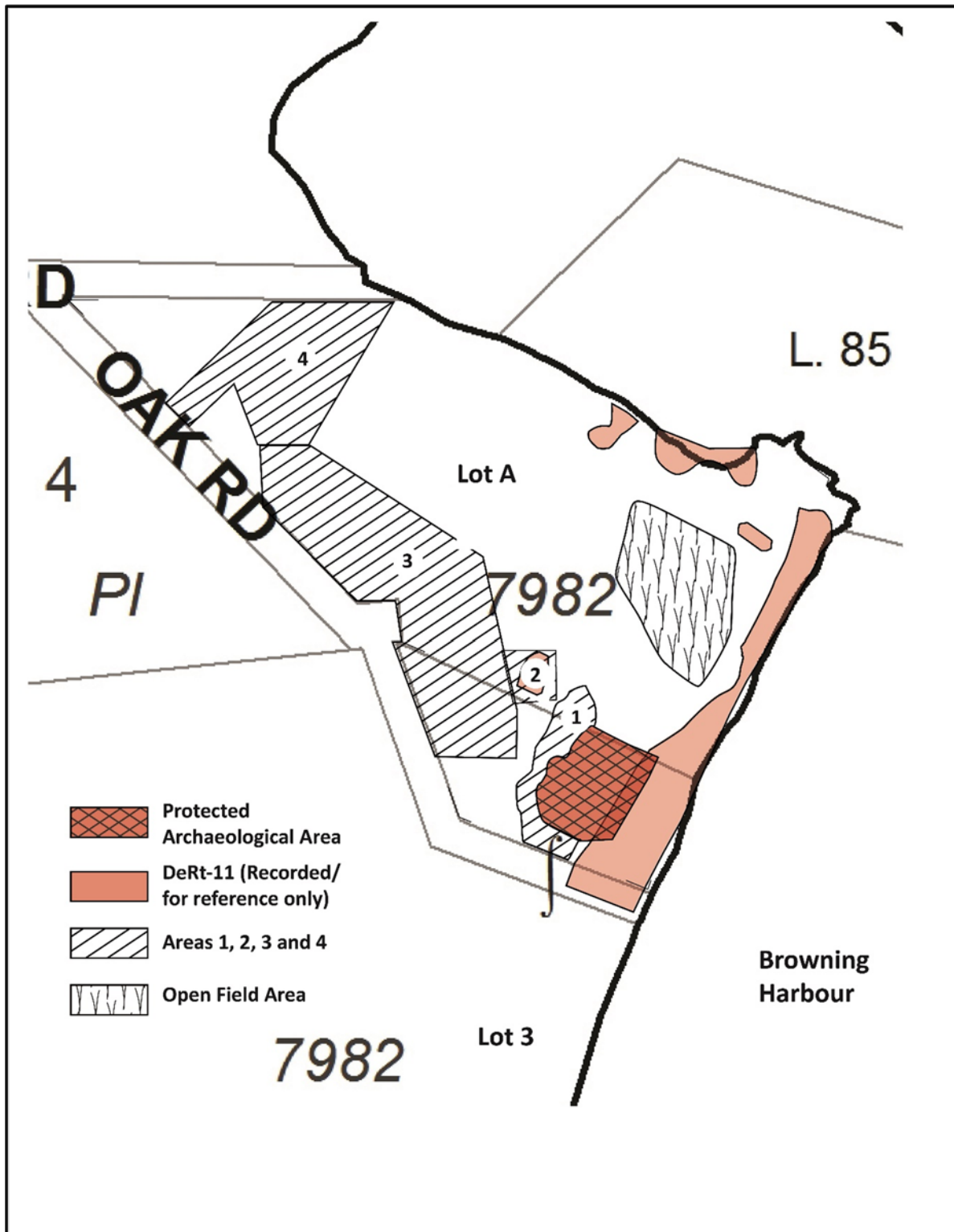
Deer, 1 vertebra fragment, 1 ulna fragment

Dog, talus

Unidentifiable mammal (small-medium), shaft fragment (bandsaw cut)

SCHEDULE "B"

Site Plan showing sub-areas



CONSENT AND PRIORITY AGREEMENT

WHEREAS **VANCOUVER CITY SAVINGS CREDIT UNION, INC.NO. FI 97** (the "Chargeholder") is the holder of a Mortgage and an Assignment of Rents (collectively called the "Charge") encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4670640** and **CA46709640**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant and Section 218 Statutory Right of Way attached hereto (together, the "Covenant/SRW") and the Chargeholder hereby agrees that the Covenant/SRW shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant/SRW over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant/SRW as if the Covenant/SRW had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

WHEREAS **PORT BROWNING MARINA RESORT LTD., INC.NO. BC1037734** (the "Chargeholder") is the holder of an Option to Purchase and a Right of First Refusal (together, the "Charge") encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4671308** and **CA4671309**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant and Section 218 Statutory Right of Way attached hereto (the "Covenant/SRW") and the Chargeholder hereby agrees that the Covenant/SRW shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant/SRW over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant/SRW as if the Covenant/SRW had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

END OF DOCUMENT

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT – TEMPORARY

This AGREEMENT dated for reference the 31st day of January 2018, is

BETWEEN:

LUCILLE HENSHAW, P.O. Box 126, Pender Island, British Columbia, V0N 2M0

("Henshaw")

AND:

PORT BROWNING MARINA RESORT LTD., (INC. NO. BC1037734), 740
Handy Road Mill Bay, British Columbia, V0R 2P1

("Port Browning Marina", which collectively with Henshaw are referred to
in this Agreement as the "Owners")

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 "LTC")

WHEREAS:

- A. Henshaw is the registered owner in fee simple of that certain parcel of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW ("Lot 3");
- B. Port Browning Marina is the registered owner in fee simple of those certain parcels of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-034-311, Lot A (DD G54184) of Section 11, Pender Island, Cowichan District, Plan 7982 ("Lot A", which collectively with Lot 3 are referred to in this Agreement as the "Lands");
- C. The Owners propose to develop the Lands for purposes of renovating or constructing a restaurant, marina, clubhouse, lodge and cabins, in accordance with the provisions of the North Pender Island Official Community Plan and have requested an amendment to

the present zoning requirements of the Lands (the "Zoning Amendment") and as a condition of the LTC granting the Zoning Amendment, the Owners have agreed to enter into this Section 219 Covenant;

- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of a municipality, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specific amenity on the land; and
- E. The Owners wish to grant and the LTC wishes to accept a covenant over the Lands restricting the use of the Lands and the buildings on the Lands, in the manner herein provided so that the Zoning Amendment can proceed more expeditiously.

NOW THEREFORE in consideration of the premises and the covenants herein contained, the payment of \$1.00 by the LTC to the Owners, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree, pursuant to Section 219 of the *Land Title Act* as follows:

GRANT OF SECTION 219 COVENANT

- 1. The Owners covenant and agree with the LTC that the Lands shall be used and built upon only in accordance with this Agreement.

USE OR OCCUPATION OF COMMERCIAL ACCOMMODATION UNITS

- 2. The Owners covenant and agree that no commercial accommodation unit located on the Lands shall be used or occupied, and the Owners shall not apply for or be entitled to receive an occupancy permit for any commercial accommodation unit on the Lands until and unless the Owners:
 - (a) install and operate a marine pump-out station on District Lots 85 and/or 107 for the use of resident and transient vessels and that:
 - (i) such pump-out station be capable of accommodating the volume of discharge generated by client vessels;
 - (ii) the marine pump-out station be installed and operated in accordance with the *British Columbia Sewerage System Regulation* and any and all other applicable regulations of other public agencies;
 - (iii) confirmation of such compliance be made available upon request by the LTC; and
 - (iv) the Owners are responsible for all costs associated with this service including any holding tank system installation and contracting the hauling of waste to an approved site;

- (b) have substantially completed construction of an in-ground, heated 25 metre long swimming pool on the Lands (the "Swimming Pool Facility"), to the satisfaction of the LTC. For the purposes of this subsection "substantially completed" means completion of the installation of all mechanical components of the Swimming Pool Facility, including functioning pumps and electrical components; and
- (c) have entered into a licence or easement agreement in favour of the Pender Islands Junior Sailing Association, substantially in the form attached as Schedule "A".

DISCHARGE

- 3. The parties agree that the Owners shall be entitled to a discharge of this Agreement from title to the Lands at the Owners' expense if the Zoning Amendment is not adopted by the LTC.
- 4. After the filing of a subdivision plan of Lot 3 generally in accordance with the draft site or subdivision plan attached as Schedule "B", the Owners may provide a release to the LTC for signature by the LTC's authorized signatories of this Agreement from that part of Lot 3 shown as "Section 1" having an area of 3.92 ha on Schedule "B". The LTC covenants and agrees not to unreasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.
- 5. After satisfaction of all of those conditions specified in sections 2 and 3 herein, the Owner may provide a release of this Agreement to the LTC for signature by the LTC's authorized signatories. The LTC covenants and agrees not to unreasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.

SEVERANCE

- 6. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.

RUNS WITH THE LANDS

- 7. The covenants set forth herein shall charge the Lands pursuant to Section 219 of the *Land Title Act* and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or part thereof, and shall attach to and run with the Lands and each and every part into which the Lands may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise howsoever.

INDEMNITY

8. The Owners hereby release, indemnify and save harmless the LTC, its elected officials, officers, employees, agents and others for whom the LTC is responsible at law from and against any and all manner of actions, cause of action, claims, costs, expenses (including actual legal fees), losses, damages, debts, demands and harm, by whomsoever brought, of whatsoever kind and howsoever arising out of or related to the Agreement or any breaches or non-performance of this Agreement by the Owners.

BYLAWS TO THE CONTRARY

9. This Agreement shall restrict the use of the Lands and buildings on the Lands in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the LTC, which, except in the case of direct collision with the provisions contained in this Agreement, will continue to have application.

FURTHER ASSURANCES

10. The parties hereto shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Agreement. The Owners agree to do everything reasonably necessary at the Owners' expense to ensure that this Agreement is registered against the title to the Lands with priority over all financial charges, options, rights of first refusal, leases, liens, and encumbrances registered or the registration of which is pending.

WAIVER

11. Waiver by the LTC of any default by the Owners shall not be deemed to be a waiver of any subsequent default.

POWERS PRESERVED

12. Nothing contained or implied herein shall prejudice or affect the rights and powers of the LTC in the exercise of its functions pursuant to the *Local Government Act* or its rights and powers under all of its public and private statutes, bylaws, orders and regulations, including, without limitation, the *Community Charter*, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owners.

INVESTIGATIONS BY THE LTC

13. The Owners hereby irrevocably authorize the LTC to make such inquiries as it considers necessary and reasonable in order to confirm that the Owners are complying with this Agreement and irrevocably authorize and direct the recipient of any request for

information from the LTC to provide such information to the LTC.

NO PUBLIC LAW DUTY

14. Wherever in this Agreement the LTC is required or entitled to exercise any discretion in the granting of consent or approval or is entitled to make any determination, take any action or exercise any contractual right or remedy, the LTC may do so in accordance with the provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, shall have any application.

REFERENCES

15. In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
 - (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided; and
 - (f) reference to a "party" is a reference to a party to this Agreement and to their respective heirs, executors, administrators, successors, assigns, trustees, receivers, agents, officials, employees and invitees, under the context requires or allows.

SCHEDULES

16. Schedules "A" and "B" form part of this Agreement.

THE LTC'S REPRESENTATIVE

17. Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the Islands Trust's Director of Local Planning Services or his/her delegate (the "Director of Local Planning Services"), unless expressly provided to be taken or made by another official of the LTC.

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

LICENSE OF OCCUPATION

THIS AGREEMENT dated for reference the 31st day of January 2018, is

BETWEEN:

LUCILLE HENSHAW, P.O. Box 126, Pender Island, British Columbia, V0N 2M0
(“Henshaw”)

AND:

PORT BROWNING MARINA RESORT LTD., (INC. NO. BC1037734), 740 Handy Road, Mill Bay, British Columbia, V0R 2P1

(“Port Browning Marina”, which collectively with Henshaw are referred to in this Agreement as the “Owners”)

AND:

PENDER ISLANDS JUNIOR SAILING ASSOCIATION, c/o Bruce Waygood, Commodore, 1200 Otter Bay Rd, Pender Island, BC, V0N 2M1

(the “Sailing Club”)

WHEREAS:

- A. Henshaw is the registered owner in fee simple of that certain parcel of land and premises on North Pender Island, in the Province of British Columbia, more particularly described as PID: 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (“Lot 3”);
- B. Port Browning Marina is the registered owner in fee simple of those certain parcels of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-034-311, Lot A (DD G54184) of Section 11, Pender Island, Cowichan District, Plan 7982 (“Lot A”);
- C. Collectively, Lot 3 and Lot A are referred to in this Agreement as the “Lands”;
- D. The Sailing Club wishes to license that portion of the Lands shown outlined in bold on the sketch attached as Schedule “A” (the “Premises”), and the Owners wish to grant a license of the Premises to the Sailing Club, on the terms and conditions set out in this Agreement;

THIS AGREEMENT is evidence that, in consideration of the promises contained in this Agreement and the payment of \$1.00 (the “License Fee”) by the Sailing Club to the Owners (the receipt and sufficiency of which the Owners hereby acknowledges), the parties covenant and agree as follows:

1. **Grant of License** – The Owners hereby grant to the Sailing Club a license (the “License”) to enter upon, use, and occupy the Premises for the Term, on the terms and conditions of this Agreement and for the purposes set out in this Agreement.
2. **Term** – The term of this Agreement is 5 years, beginning on March 31, 2018 and expiring on March 31, 2023, subject to earlier termination pursuant to the terms of this Agreement. The Sailing Club may make one (1) written request for renewal of this Agreement no sooner than twelve (12) months and no later than six (6) months prior to the end of the initial term and, if the Sailing Club is in compliance with all provisions of this Agreement, upon receipt of the written request the Owners shall renew this Agreement without further documentation for an additional term of 5 years, upon the same terms and conditions except for this right of renewal. The initial term, together with any term of renewal, are referred to throughout this Agreement as the "Term".
3. **Purpose** – The Sailing Club shall only use the Premises for the purpose of operating a sailing school and related activities, and for the storage of small sailing craft and associated equipment.
4. **No Interest in Land** – The Sailing Club acknowledges and agrees that this Agreement creates a non-exclusive contractual license only and the Sailing Club acquires no interest in the Premises or the Lands but only the non-exclusive right to access and use the Premises in accordance with the terms and conditions of this Agreement.
5. **Sailing Club's Covenants** – The Sailing Club covenants and agrees with the Owners:
 - (a) to promptly pay, when due, all amounts required to be paid by it under this Agreement;
 - (b) not to do, suffer or permit anything in, on or from the Premises that may be or become a nuisance or annoyance to the owners, occupiers or users of any lands or premises adjacent to or near the Premises, including other occupiers and users of Lands, or to the public, including the accumulation of rubbish or unused personal property of any kind;
 - (c) not to do, suffer or permit any act or neglect that may in any manner directly or indirectly cause injury to the Premises or the Lands;
 - (d) to carry on and conduct its activities in, on and from the Premises in a good, efficient, and business-like manner;
 - (e) to provide all equipment, furnishings and supplies that may be required to use the Premises for its purposes and to maintain and repair the Sailing Club's property on the Premises so that it is at all times in a good condition and state of repair;
 - (f) to keep the Premises in a safe, tidy, and sanitary condition and keep the Premises free of any rubbish, litter and debris and keep the areas adjacent to the Premises free of any rubbish, litter and debris originating from the Premises;

- (g) to take all reasonable precautions to ensure the safety of all persons using the Premises; and
 - (h) to carry on and conduct its activities in, on and from the Premises in compliance with any and all laws, statutes, enactments, bylaws, regulations and orders from time to time in force, including all laws relating to the environment, environmental protection, pollution or public or occupational safety or health, and to obtain all required approvals and permits thereunder, and not to do or omit to do anything in, on, or from the Premises in contravention thereof.
6. **Routine Repair and Maintenance** – The Sailing Club must keep the Premises and all fixtures and appurtenances located therein in good repair consistent with standards of repair generally accepted in British Columbia with respect to comparable premises and necessary for the Sailing Club's use and occupation of the Premises. Upon written notice from the Owners, the Sailing Club shall make such repairs as are required by the Owners in the notice within thirty (30) days.
 7. **Owners Right of Repair** – If at any time during the Term the Sailing Club fails to keep the Premises in the condition required under this Agreement, the Owners may, by their employees, contractors and agents, enter upon the Premises for the purpose of remedying the Sailing Club's default if the Sailing Club fails to remedy such default within thirty (30) days following notice thereof from the Owners. The Sailing Club shall reimburse the Owners for the Owners' costs of remedying such default within twenty-one (21) days following receipt of an invoice from the Owners.
 8. **Alterations to Premises** – The Sailing Club shall not make any improvements or alterations to the Premises without the prior written consent of the Owners, which consent may not be unreasonably withheld.
 9. **Minimum Work Standards** – The Sailing Club shall ensure that any repairs or work with respect to the Premises done by or on behalf of the Sailing Club pursuant to sections 6 and 8 comply with all applicable laws, statutes, enactments, regulations, bylaws and orders from time to time in force, including the applicable building code and local government bylaws.
 10. **Entry by Owners** – The Owners may enter into the Premises at any time for the purpose of inspecting the Premises in order to determine whether the Sailing Club is complying with the requirements of this Agreement.
 11. **Termination Due to Default** – If and whenever
 - (a) the Sailing Club does not fully observe, perform and keep each and every term, covenant, agreement, stipulation, obligation, condition and provision of this Agreement to be observed, performed and kept by the Sailing Club, and persists in such default for thirty (30) days after written notice by the Owners; or
 - (b) the Sailing Club vacates or abandons the Premises or uses or permits or suffers the use of the Premises for any purpose other than the purposes permitted by this

Agreement, and such default persists for five (5) days after written notice by the Owners,

then the Owners may, at their option, terminate this Agreement and the Term then becomes immediately forfeited and void and the Sailing Club must immediately cease all use and occupation of the Premises and must vacate and deliver up possession of the Premises and the Owners may without notice or any form of legal process and without any adherence to public law duties or procedural fairness or the principles of natural justice, forthwith re-enter the Premises and repossess and enjoy the same.

12. **Ownership of Improvements at Termination** – If the Sailing Club does not, within twenty-one (21) days following termination or expiry of this Agreement, remove all improvements and alterations to the Premises done by or on behalf of the Sailing Club, whether during the Term or otherwise, those improvements and alterations are then forfeited to and become the permanent property of the Owners, without compensation to the Sailing Club.
13. **State of Premises at Termination** – Upon the expiry or earlier termination of this Agreement, the Sailing Club shall leave the Premises in a good, neat and tidy condition and otherwise in the condition they are required to be kept by the Sailing Club during the Term under the provisions of this Agreement.
14. **Remedies Cumulative** – No reference to or exercise of any specific right or remedy by the Owners prejudices or precludes the Owners from any other remedy, whether allowed at law or in equity or expressly provided for in this Agreement. No such remedy is exclusive or dependent upon any other such remedy, but the Owners may from time to time exercise any one or more of such remedies independently or in combination.
15. **Continuing Occupation** – If, after the termination of this Agreement, the Owners permit the Sailing Club to remain in possession of the Premises and the Owners accept money from the Sailing Club in respect of such possession, a tenancy from year to year will not be created by implication of law and the Sailing Club will be deemed to be a monthly occupier of the Premises only, subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.
16. **Insurance Requirements** – The Sailing Club shall, at its sole expense, obtain and maintain during the Term:
 - (a) commercial general liability insurance providing coverage for death, bodily injury, injury to participants, tenants legal liability, property loss and damage, and all other losses, arising out of or in connection with the operations, use and occupation of the Premises in an amount of not less than Two Million Dollars (\$2,000,000.00) per occurrence; and
 - (b) “all risks” insurance, for replacement cost, on all improvements from time to time making up part of the Premises and all of the Sailing Club’s fixtures and personal property on the Premises.

17. **Insurance Policies** – All policies of insurance required to be taken out by the Sailing Club must be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia and must name the Owners as additional insured.
18. **Sailing Club's Representations and Warranties** – The Sailing Club represents and warrants that the Sailing Club has the power and capacity to enter into and carry out the obligations under this Agreement.
19. **Owners' Representations and Warranties** – The Owners represent and warrant that the Owners have the power and capacity to enter into and carry out the obligations under this Agreement.
20. **Interpretation** – In this Agreement:
 - (a) reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;
 - (b) a particular numbered section or lettered Schedule is a reference to the correspondingly numbered section or lettered Schedule of this Agreement;
 - (c) an "enactment" is a reference to an enactment as that term is defined in the *Interpretation Act* (British Columbia) of the day this Agreement is made;
 - (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced;
 - (e) section headings are inserted for ease of reference and are not to be used in interpreting this Agreement;
 - (f) a party is a reference to a party to this Agreement;
 - (g) time is of the essence;
 - (h) where the word "including" is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word "including"; and
 - (i) a reference to a party is deemed to include the heirs, executors, administrators, successors, assigns, servants, employees, agents, contractors, elected and appointed officials, officers, directors, licensees and invitees of such party where the context so requires and allows.
21. **Notices** – Where any notice, request, direction or other communication must be given or made by a party under the Agreement, it must be in writing and is effective if delivered in person, sent by registered mail addressed to the party for whom it is intended at the address set forth above in this Agreement, or sent by email, to the Owners at email address: contact@mbmg.ca or to the Sailing Club at email address:

kbwaygood@shaw.ca, as the case may be. Any notice is deemed to have been given if delivered in person, when delivered; if by registered mail, when the postal receipt is acknowledged by the other party; and, if by email, when transmitted. The address or email address of a party may be changed by notice in the manner set out in this provision.

22. **No Assignment** – The Sailing Club shall not assign the Sailing Club's rights or interest in this Agreement without the prior written consent of the Owners, which consent may be withheld in the Owners' sole discretion.
23. **Binding on Successors** – This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns, notwithstanding any rule of law or equity to the contrary.
24. **Law of British Columbia** – This Agreement must be construed according to the laws of the Province of British Columbia.
25. **Entire Agreement** – The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of the Agreement.
26. **Waiver or Non-Action** – Waiver by either party of any breach of any term, covenant or condition of this Agreement by the other party must not be deemed to be a waiver of any subsequent default by that party. Failure by either party to take any action in respect of any breach of any term, covenant or condition of this Agreement by the other party must not be deemed to be a waiver of such term, covenant or condition.

As evidence of their agreement to be bound by the above terms, the Owners and the Sailing Club each have executed this Agreement on the respective dates written below:

Signed, Sealed and Delivered in the)
presence of:)

)

)

Name)

)

)

Address)

)

)

Occupation)

)

)

Date)

LUCILLE HENSHAW

PORT BROWNING MARINA RESORT LTD. by
its authorized signatories:

Name:

Name:

Date: _____

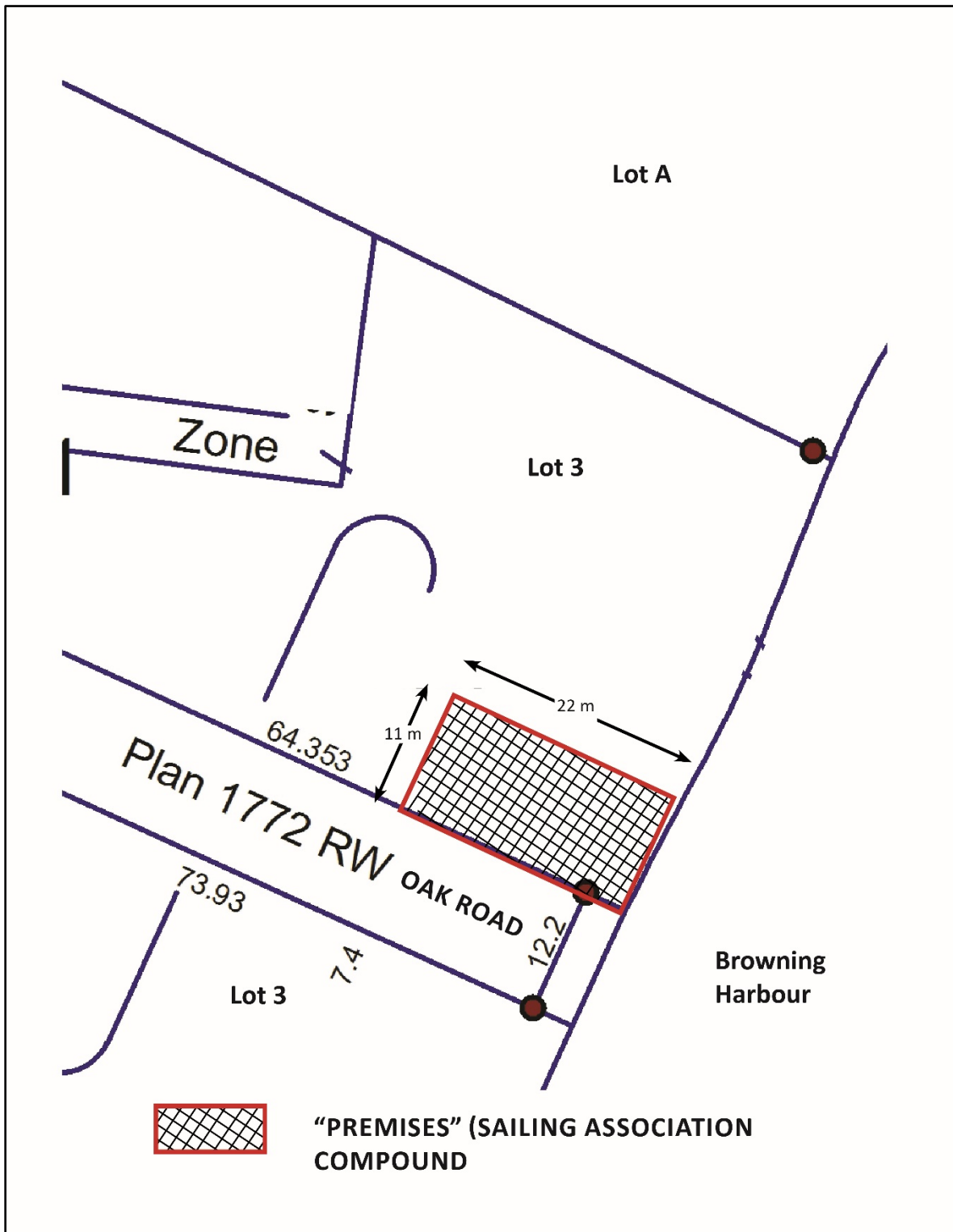
PENDER ISLANDS JUNIOR SAILING ASSOCIATION by
its authorized signatories:

Name:

Name:

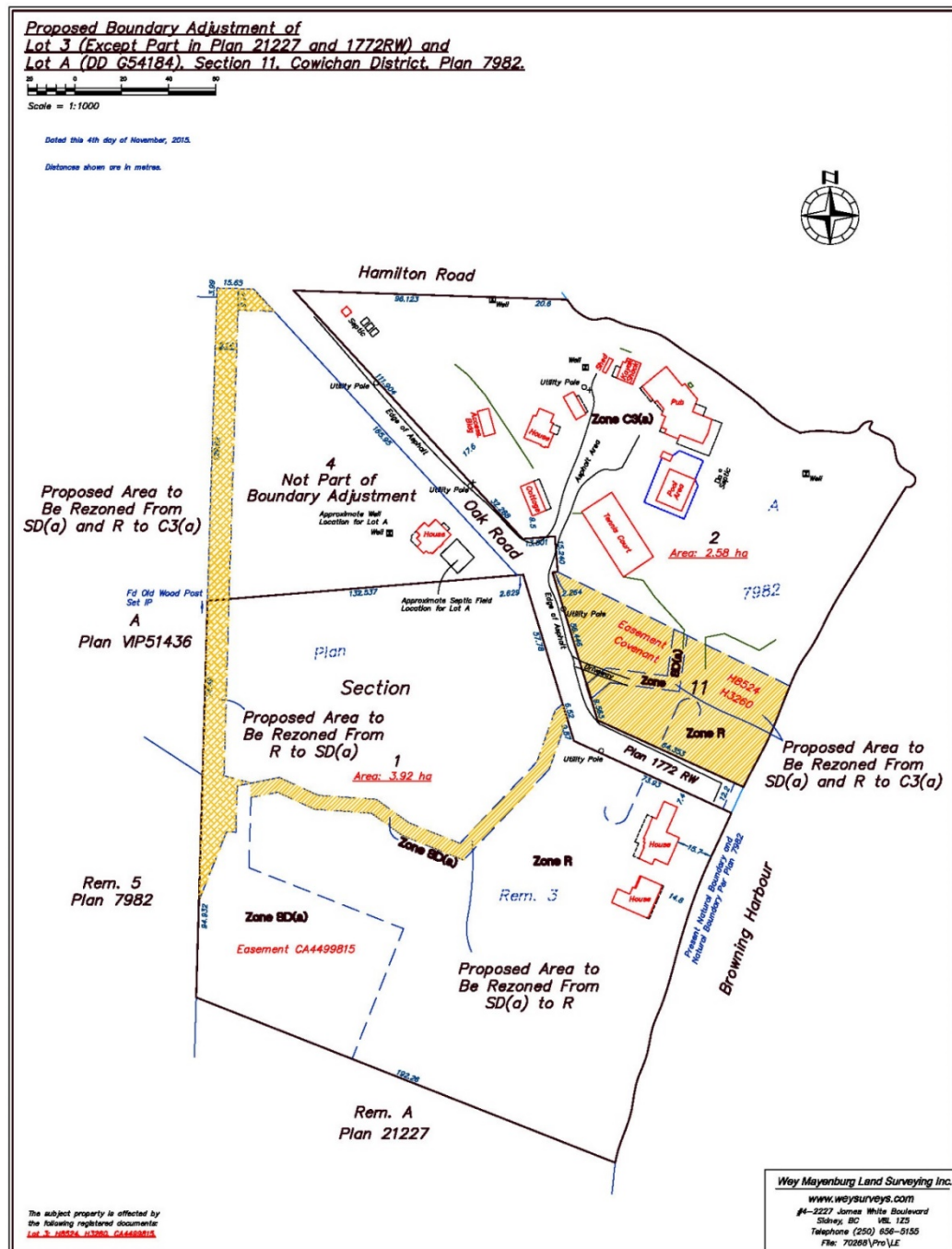
Date: _____

Schedule A to License of Occupation

Sketch of Premises

SCHEDULE "B" TO SECTION 219 COVENANT - TEMPORARY

Draft subdivision Plan



CONSENT AND PRIORITY AGREEMENT

WHEREAS **VANCOUVER CITY SAVINGS CREDIT UNION, INC.NO. FI 97** (the “Chargeholder”) is the holder of a Mortgage and an Assignment of Rents (collectively called the “Charge”) encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the “Lands”) described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4670640** and **CA46709640**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant attached hereto (the “Covenant”) and the Chargeholder hereby agrees that the Covenant shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant over the Chargeholder’s right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

WHEREAS **PORT BROWNING MARINA RESORT LTD., INC.NO. BC1037734** (the "Chargeholder") is the holder of an Option to Purchase and a Right of First Refusal (together, the "Charge") encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4671308** and **CA4671309**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant attached hereto (the "Covenant") and the Chargeholder hereby agrees that the Covenant shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

END OF DOCUMENT

DATE OF MEETING: February 22, 2018

TO: North Pender Island Local Trust Committee

FROM: Jason Youmans, Island Planner
Southern Team

COPY: Justine Starke, Island Planner
Robert Kojima, Regional Planning Manager

SUBJECT: Temporary Use Permit for Short Term Vacation Rental
Applicant: Mark Kroeker
Location: 2602 Harpoon Road

RECOMMENDATION

1. That the North Pender Island Local Trust Committee issue Temporary Use Permit NP-TUP-2017.5.

REPORT SUMMARY

The purpose of the report is to consider a Temporary Use Permit (TUP) for the Short Term Vacation Rental (STVR) of an existing dwelling unit (see Appendix 1).

In sum, the above recommendation to issue the TUP is supportable. While the application is for a significant number of guests (16), the house is large – 8 bedrooms – and built to accommodate families or groups. Additionally, the proposed permit contains conditions to ensure that the use does not unreasonably impact the local area. In the event the STVR does become a cause of neighbourhood concern, permit compliance can be enforced or, ultimately, the LTC can reject renewal of the TUP.

As of the date of publication of this staff report, staff have received verbal concerns from one immediate neighbour regarding noise and operational aspects of the STVR at the subject property.

BACKGROUND

The proposal is for a TUP for Short Term Vacation Rental use within an existing eight (8) bedroom dwelling on the property. The application is a result of bylaw enforcement action on unlawful short term vacation rentals on North Pender Island (NP-BE-2012.11). A further bylaw violation complaint was received in 2014.

Through this TUP application, the applicant wishes to bring the property into compliance and maintain the STVR use. Prior to its operation as an STVR, the owners ran a bed-and-breakfast from the dwelling until moving off Island due to age.

The applicant states that in recent years the house has been booked for vacation rentals approximately 12 to 16 weeks per year. The applicant has provided a copy of the information given to STVR guests upon arrival. See Appendix 6.

There is no new construction or land alteration associated with this application.

The applicant [advertises](#) on Vacation Rental By Owner (VRBO).

The proposed TUP is for a term of three (3) years which can be renewed for a further three (3) years by application.

A copy of proposed permit NP-TUP-2017.5 and a completed TUP checklist are attached as Appendices 1 and 2. Appendices 3 and 4 provide information on the context of the site.

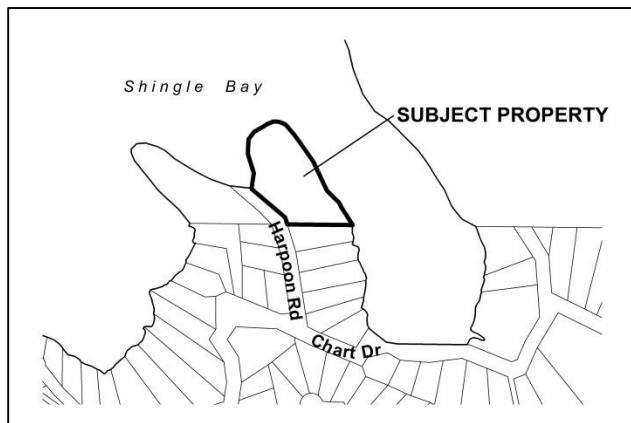


Image 1: Relative location of subject property.



Image 2: 2013 ortho photo of subject property.

ANALYSIS

Policy/Regulatory

Official Community Plan:

Bylaw 203, adopted by the North Pender Island Local Trust Committee in April 2017 introduced a number of guidelines concerning the issuance of TUPs for STVRs. The subject application is generally consistent with the OCP guidelines. See Appendix 2 for a full review of applicable guidelines.

The property is not located in any terrestrial development permit areas (DPAs). However, the eastern shoreline of the property is characterized by the Intertidal Sensitive Ecosystem DPA. The subject application does not involve disturbance to the DPA area.

Land Use Bylaw:

The property is zoned Rural Residential (RR). RR zoning permits a single-family dwelling and accessory uses. The RR zone permits STVRs as a home occupation. However, as the owners of the subject STVR do not reside on the property, operation of an STVR requires a temporary use permit application.

The existing viewing platform (see Image 7 in Appendix 4) may be a violation of the 15 metre setback for structures from the natural boundary of the sea. The applicants were made aware of the potential encroachment. Site visit did not suggest any additional non-conformities of concern.

Issues and Opportunities

STVR Location Map/Cumulative Impacts

See Appendix 5 for a map of issued STVR TUPs and those currently under consideration.

To date, four TUPs for STVRs have been issued on North Pender Island. One additional application for an STVR TUP is in process.

The property subject of this application is located approximately 500 linear metres from the nearest STVR authorized under TUP (NP-TUP-2017.3). Staff do not consider that granting the subject permit would constitute an unreasonable cumulative impact.

Applicant's Rationale for the Proposed Use

In their application to the Islands Trust the applicant states, "The owner is 93 years old and the rental income from short term rentals is her primary source of income."

Response to Neighbour and Public Notification

At the time of publication of this staff report, staff have had a telephone conversation with one concerned neighbour. Staff have asked this neighbour to provide a written summary to the LTC, but this was not received in advance of publication of this staff report. Primary concerns of this neighbour related to noise generated by the large number of guests during its time as both a bed-and-breakfast and subsequently as an STVR. The neighbour also expressed concerns about operational aspects of the STVR, including questions about the availability of an on-island manager to meet and assist guests.

At the LTC meeting of February 22 staff will provide a verbal summary of correspondence received.

Permit Conditions

The proposed TUP incorporates most of the conditions that have been established in the OCP. It allows for a maximum of 16 guests and all parking must be accommodated on site.

Outdoor Fires

The proposed permit contains a prohibition on outdoor fires. The property currently contains an outdoor fire ring (see Image 7 of Appendix 4). The applicant has indicated that the fire ring can be removed if requested. Staff will make this request, or the LTC can make permit issuance conditional upon removal of the fire ring.

Number of Guests

The proposed TUP would authorize up to 16 guests in the subject dwelling, not more than 12 of which may be over 19 years of age. The applicants state they regularly rent to large families or multi-family groups, and that at eight bedrooms and four bathrooms, the dwelling was constructed to handle this capacity.

The applicants state that the septic system is regularly maintained and have provided a system service receipt dated 2015.

The applicants state in the information they provide to their guests that, “Loud parties or events that would disturb the neighbours may result in an immediate termination of the booking without refund or other compensation.” This demonstrates that they are cognizant of the impact that poor management of the STVR could have on the neighbourhood.

While 16 is a large guest capacity, the OCP does not contain guiding policies as to what the permitted maximum number of guests should be. In the absence of such a policy, staff do not have a recommendation on this matter.

Consultation

See “Statutory Requirements” section below.

Statutory Requirements

TUP Notices were circulated to surrounding property owners and residents on or before February 9, 2018 and published in the Gulf Islands Driftwood newspaper February 14, 2018 edition. Notice was also posted to the North Pender Island community bulletin boards. The notification period will end at 4:30 p.m. on February 21, 2018.

See “Response to Public and Neighbourhood Notification” above for responses received to date.

Correspondence may be sent to information@islandstrust.bc.ca. Correspondence received prior to the meeting will be distributed to the LTC.

Protocols

N/A

Agencies

Staff referred the subject application to the CRD Magic Lake Water Service for information. No response was received.

First Nations

Temporary Use Permit applications do not generally trigger a requirement for First Nations referral. No recorded archaeological sites are located within 100 metres of the subject property. However, the shoreline in the vicinity of the subject property is an area of archaeological potential.

Rationale for Recommendation

Despite the large number of guests being sought, the property is reasonably buffered from nearby residences and operated for many years as a B&B and more recently as an STVR with only one bylaw violation complaint recorded in that time. In light of the foregoing, and in the absence of specific policies that speak to a cap on the number of guests an STVR may host, staff support issuance of permit NP-TUP-2017.5.

ALTERNATIVES

1. Amend the permit and issue the permit as amended

As noted above, staff have received verbal concerns about the proposed permit from an immediate neighbour to the property, and it is possible that more concerns may be raised in advance of the LTC meeting. In light of neighbourhood concerns, the LTC may consider that 16 guests is more than it is prepared to support. Alternatively, the LTC may determine that it is only prepared to support this large number of guests on a trial basis. If this is the case, the LTC may amend the proposed permit to authorize a lower number of guests or a limited permit duration and issue the permit as amended. Recommended wording for such direction would be as follows:

1) *That the North Pender Island Local Trust Committee amend temporary use permit NP-TUP-2017.5 by:*

a) Limiting the term of permit issuance to (X) years

And/Or

b) Limiting the number of guests to (X)

2) *That the North Pender Island Local Trust Committee issue temporary use permit NP-TUP-2017.5 as amended.*

Staff Comment: A limited permit duration may be easier for staff to manage from an administrative and enforcement perspective.

2. Request further information

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

Resolution:

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

_____.

3. Deny the application

LTC Resolution:

That the North Pender Island Local Trust Committee deny application NP-TUP-2017.5 (Kroeker).

NEXT STEPS

If the LTC resolves to issue the permit, the permit will be issued accordingly. Alternatively, staff will undertake whatever direction is provided by the LTC.

Submitted By:	Jason Youmans, Island Planner	February 14, 2018
Concurrence:	Robert Kojima, Regional Planning Manager	February 14, 2018

ATTACHMENTS

1. Proposed permit NP-TUP-2017-5
2. OCP Guideline Checklist
3. Site Context
4. Maps/Plans/Photographs
5. North Pender STVR TUP Map
6. Applicant Submission
7. TUP Notice

PROPOSED



Islands Trust

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE TEMPORARY USE PERMIT NP-TUP-2017.5 (Kroeker)

2602 Harpoon Road

To: Lenora Kroeker

1. This Permit applies to the land described below:

Lot B, Section 16, Pender Island, Cowichan District, Plan 46553
(PID: 010-977-929).

2. This Permit is issued for the purpose of permitting the owner to conduct the following use on their property:

- a) a Short Term Vacation Rental within the Dwelling Unit.

3. and is subject to the following conditions:

- a) either the property owner or other on-island contact must be available on North Pender Island by telephone 24 hours/day, seven days per week. The name and contact number of property owner and/or the on island contact person must be provided to guests upon arrival;
 - b) the property owner or Short Term Vacation Rental operator must provide neighbours within a 200 metre radius of the vacation rental with the contact person's phone number, and a copy of the temporary use permit;
 - c) the property owner or Short Term Vacation Rental operator must provide guests with information on noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care, and control of pets (if permitted). The guest information must also remind guests that the property is located in a residential area;
 - d) the property owner or Short Term Vacation Rental operator must provide guests with information on the location of the woodland sensitive ecosystem located on the property, and how to avoid or minimize impacting the sensitive feature. The property owner or Short Term Vacation Rental operator must also provide guests with information about the sensitive shoreline ecosystems in the vicinity and how to avoid or minimize impacting the sensitive feature.
 - e) the maximum number of guests is limited to sixteen (16), of which not more than twelve (12) may be nineteen (19) years of age or older.
 - f) camping and occupancy of recreational vehicles are prohibited;
 - g) Signage advertising the Short Term Vacation Rental may not exceed 0.6 square metres;
 - h) the rental or provision of motorized personal watercraft is prohibited;
 - i) all outdoor fires are prohibited;
 - j) All parking for the Short Term Vacation Rental must be contained on the subject property;

- k) the holder of this Permit, will be held accountable for any violation of the conditions of this Permit. The Islands Trust Bylaw Investigations Officer may enter the property between the hours of 9:00 am and 5:00 pm on any day without prior consultation with the holder of the Permit, or commercial vacation renter for the purpose of investigating a complaint;
 - l) the property owner or Short Term Vacation Rental operator must provide guests with emergency service contact information and to provide a means for contacting them;
 - m) the property owner or Short Term Vacation Rental operator must post the name and contact number of the property owner or on-island contact person, and permit information at the entrance to the house;
4. This permit is valid for three (3) years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust, or apply for a renewal of this permit.
5. 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 approvals from the Capital Regional District, Island Health and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS XXth DAY OF _____, 2018.

Deputy Secretary, Islands Trust

Date Issued

APPENDIX 2: TUP CHECKLIST FOR SHORT TERM VACATION RENTAL

NP-TUP-2017.5 (Kroeker)
2602 Harpoon Road

Guidelines	Comments
Overall TUP Guidelines	
a) Time Period - For the purpose of a temporary use permit, "short term vacation rental" means the use of a dwelling or cottage as temporary commercial accommodation for a period of less than a month at a time by persons, other than the owner or a permanent occupier.	Proposed use is consistent with STVR definition.
b) Residential Appearance - The Local Trust Committee may consider issuance of a short term vacation rental permit provided the proposal would not alter the residential appearance of the residence	The applicant states that the STVR use necessitates no changes to the residential character of the property. Site visit by staff confirms that property is of residential appearance with no outward indication of commercial use, other than sign shown in Figure 5 of Appendix 4.
c) Cumulative Effects - The Local Trust Committee should consider the cumulative effects on the neighborhood and Island of all the temporary use permits issued for commercial vacation rentals.	As of the date of this staff report, the North Pender Island Local Trust Committee has approved four (4) TUPs for short term vacation rentals on North Pender Island. These are in addition to any short term vacation rentals operating lawfully as home-based businesses. There is an authorized STVR (NP-TUP-2017.3) located 500 metres away from the subject property at 1603 Schooner Way. It is at the LTC's discretion where the threshold for cumulative impacts lies, however, four STVRs does not seem to constitute an excessive amount.
d) Water and Septic - The landowner should demonstrate an adequate supply of water and septic capacity for the duration of the proposed use. A pump test or other report may be requested in the application process. Where there is inadequate groundwater, a rainwater cistern may be required as a condition of the permit. If the lot is served by a community water system, the application should be referred to the water system	The lot is serviced by the Capital Regional District's Magic Lake Community Water System. Staff have referred the proposed TUP to the Magic Lake Water System for information. No response received as of publication of this staff report. Applicant indicates that the septic system was installed in 1991 and is adequate to service an

APPENDIX 2: TUP CHECKLIST FOR SHORT TERM VACATION RENTAL

Guidelines	Comments
for information.	eight bedroom home with four bathrooms. Applicant has provided receipt from recent system maintenance.
e) Parking - the landowner should demonstrate that the property is able to accommodate off-street parking for a minimum of two vehicles	Site visit confirms there is sufficient on-site parking for more than four cars. Draft permit states that all STVR parking must be contained on site.
f) Sensitive Ecosystems - If the proposal is located on a property identified as containing a sensitive ecosystem, the permit should require that the landowner provide information for guests indicating the location of the sensitive areas, and information on how to avoid impacting the sensitive features	The property contains the woodland ecosystem. Provision of information regarding this ecosystem is a condition of draft permit.
g) Signage - The Permit should restrict advertising to one unilluminated sign, with a maximum area of 0.6 m2	Included as a condition of draft permit. Existing signage appears to be in compliance with maximum permitted size.
h) Operator Contact I - The permit should require that the owner or other contact be available on North or South Pender Island by telephone 24 hours/day, seven days per week.	Applicant has provided staff with the name and information of an on Island contact they state is available 24/7. Included as a permit condition.
i) Operator Contact II - The permit should require the owner or manager provide neighbours within a 200 metre radius of the vacation rental with the owner or manager's phone number, and a copy of the temporary use permit	Included as a condition in draft permit.
j) Guest Information - The permit should require the landowner post the following information for guests: a) remind guests that the property is located in a residential area; b) information on noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care and control of pets (if pets are permitted); c) emergency service contact information, and to provide a means for contacting them;	Included as a condition in draft permit.
k) Accessory Buildings - The Local Trust Committee may consider issuing a permit to operate a short term vacation rental in an accessory building if the total floor area of all buildings on the property do not exceed 185 m2, and if the building has received an occupancy	Not applicable. STVR use is in primary dwelling.

APPENDIX 2: TUP CHECKLIST FOR SHORT TERM VACATION RENTAL

Guidelines	Comments
permit for residential use under the BC Building Code.	
l) Bylaw Enforcement - The Permit should include a provision stating that the bylaw enforcement officer may enter the property between certain hours, without prior consultation, if a complaint is received	Included as a condition in draft permit.
Permit Conditions	
m) Conditions - In addition to any other conditions the LTC may consider appropriate, the permit may: i. Limit the number of bedrooms that can be used for short term vacation rentals	Draft permit <i>does not</i> include such a limitation. The applicants wish to have the ability to use all bedrooms in the dwelling.
ii. require mitigating measures to address neighbours' concerns, such as retention of existing screening and fencing, or installation of additional screening	Draft permit <i>does not</i> include such a limitation. To be determined following neighbourhood notification.
iii. require the landowner/operator to post contact information and permit information at the entrance to the property	Included as a condition in draft permit
iv. prohibit camping or occupancy of RVs on the property	Included as a condition in draft permit
v. prohibit the rental or provision of motorized personal watercraft	Included as a condition in draft permit
vi. prohibit watercraft that has been brought from off island to be used on Magic Lake or Buck Lake	Included as a condition in draft permit
vii. prohibit outdoor fires	Included as a condition in draft permit
viii. establish the dates during which the use may occur	To be determined following neighbourhood notification.
Agriculture Land Reserve	
n) Agriculture Land Reserve - A temporary use permit respecting a parcel in the Agricultural Land Reserve may require the approval of the Agriculture Land Commission prior to the permit being issued.	Not Applicable.

ATTACHMENT 3 – SITE CONTEXT

LOCATION

Legal Description	Lot B, Section 16, Pender Island, Cowichan District, Plan 46553
PID	010-977-929
Civic Address	2602 Harpoon Road

LAND USE

Current Land Use	Short Term Vacation Rental (STVR) and family vacation home
Surrounding Land Use	Rural residential

HISTORICAL ACTIVITY

File No.	Purpose
NP-BE-2012.11	Bylaw enforcement concerning operation of an unlawful short term vacation rental.
UN-DVP-1989.27	Does not appear to have been issued
UN-DVP-1989.2	Does not appear to have been issued

POLICY/REGULATORY

Official Community Plan Designations	Land Use Designation: Rural Residential (RR) DPAs: 6 (Intertidal Sensitive Ecosystem)
Land Use Bylaw	Land: Rural Residential (RR) Water: Water 1 (W1)
Other Regulations	Existing viewing platform may violate Section 3.7.1 requiring that structures be set back 15 metres from the natural boundary of the sea.
Covenants	Restrictive Covenant EB27018: Covenant with the Ministry of Transportation at the time of subdivision prohibiting construction of buildings and structures within a specified distance of the natural boundary of the sea as shown on site plan. Existing viewing platform may be a violation of covenant terms.
Bylaw Enforcement	NP-BE-2012.11 – Unlawful operation of a short term vacation rental (STVR). This TUP application is being made to address the issues noted in file NP-BE-2012.11. Further anonymous complaints received in 2014.

SITE INFLUENCES

Islands Trust Fund	Islands Trust Fund does not have interests in the subject property or any properties in the vicinity.
Regional Conservation Strategy	The undeveloped portions of the subject property are categorized as having medium-high relative habitat composition value.
Species at Risk	Subject property is within the Coast Douglas Fir/Oregon Grape sensitive

	ecosystem.
Sensitive Ecosystems	Islands Trust Sensitive Ecosystem Mapping (SEM) shows the subject property to contain a secondary class Woodland Ecosystem.
Hazard Areas	The perimeter of the subject area is of moderate steep slope risk.
Archaeological Sites	The subject property is not within 100 metres of a recorded archaeological site. It is, however, identified as an area of archaeological potential. Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the <i>Heritage Conservation Act</i>. If such material is encountered during development, all work should cease and Archaeology Branch should be contacted immediately as a <i>Heritage Conservation Act</i> permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	Use of the property as a large STVR may result in increased greenhouse gas emissions associated with transportation of guests to and from the Island. Staff are unaware of any climate-change related risks to the subject property. At the least, any climate change related risks will not be exacerbated by this TUP application.
Shoreline Classification	Rock Shoreline - Low Rock/Boulder and Pebble/Sand Beach
Shoreline Data in TAPIS	Surf Smelt/Pacific Sandlance shoreline habitat on west side of subject property. Eelgrass habitat in the waters surrounding the subject property.

ATTACHMENT 4 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS



Image 3: Eelgrass and forage fish habitat presence in vicinity of subject property.



Image 4: Secondary class mature forest ecosystem on subject property.



Image 5: Driveway entrance to subject property.



Image 6: Front view of subject property.



Image 7: Fire pit and viewing platform in backyard of subject property.



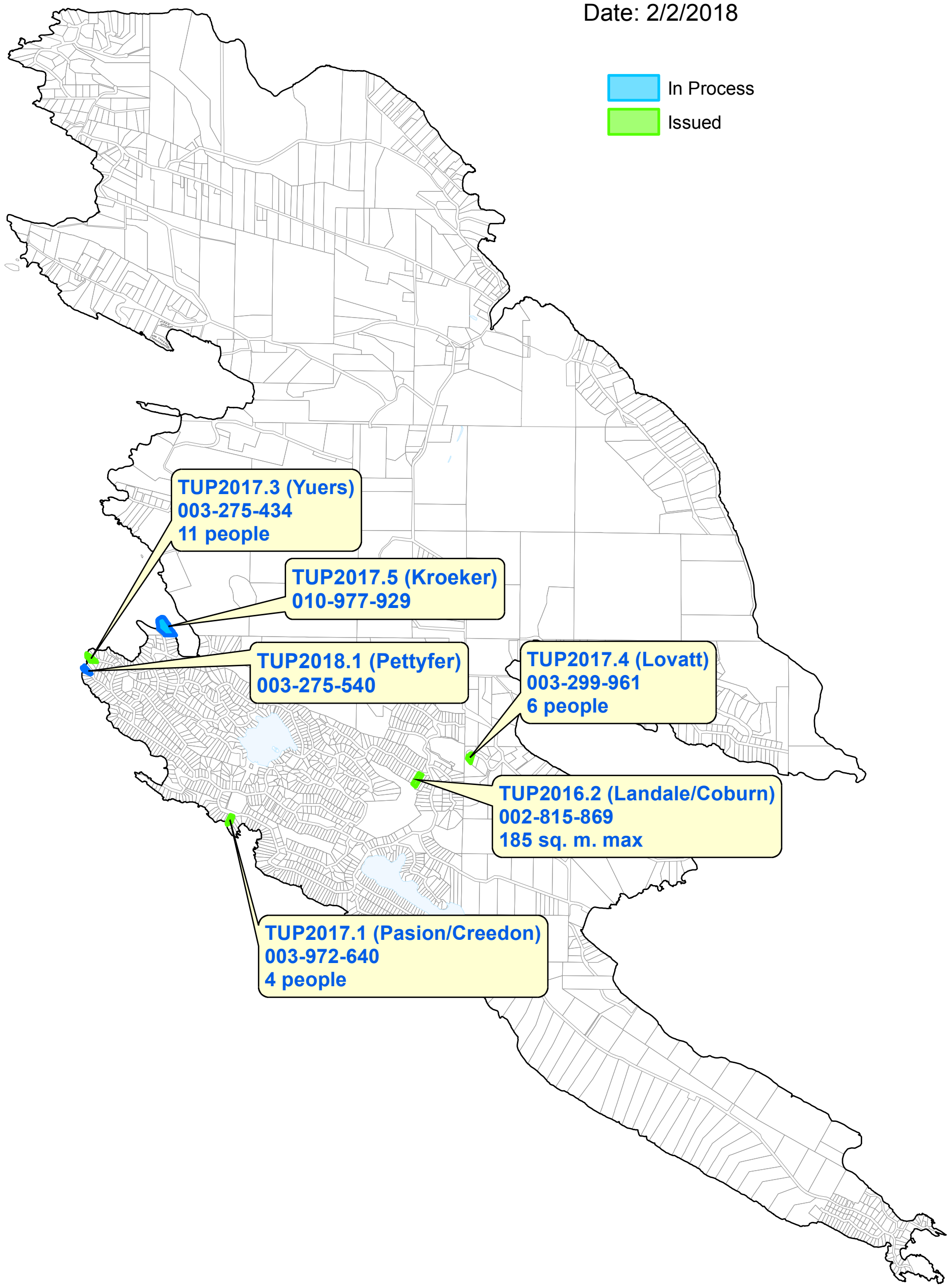
Image 8: Rear view of subject dwelling unit.



Image 9: Dock at subject property.

North Pender Island STVR Temporary Use Permits

Date: 2/2/2018



Whalekum-inn Vacation Home rental
 2602 Harpoon Road
 RR 2 Pender Island, BC
 V0N 2M2

For booking inquiries: [REDACTED]

Email: [REDACTED]

Booking Policies 2017:

- ☐ A \$500 damage fee is required to confirm your reservation and is refundable until 30 days prior to your booking. The full balance is due 30 days before your stay.
- ☐ All payments not made thru the VRBO booking system, must be made by Cheque made payable to [REDACTED]
- ☐ Rates are subject to change without notice.

Terms of Use:

- ☐ Check in time: 5 pm. Check out time is 11 am. We realize that ferry times can be awkward and will accommodate ferry schedules when we can. However we cannot guarantee ahead of time that this will be possible due to preparing the house for the next guests.
- ☐ Please phone the Island care taker, [REDACTED] prior to arriving at the house in order to arrange to meet and receive instructions required for your stay. She can be contacted at [REDACTED]
- ☐ Loud parties or events that would disturb the neighbours, may result in an immediate termination of the booking without refund or other compensation.
- ☐ Tents are not permitted.
- ☐ Group sizes should not exceed 12 people.
- ☐ There is a world-class Frisbee Golf Park on Pender Island.
- ☐ Because Pender is a small island, garbage disposal is a significant environmental issue. There is no garbage pickup or landfill site. Containers are provided for recyclable items. Please use these, following the instructions provided at the villa. We compost all raw fruit and vegetable garbage. Meat scraps and bones can be fed to fish and seagulls in the ocean. **Guests are asked to take their garbage out with them upon leaving. Garbage can be dropped at Medicine Beach Liquor Store (open 7 days/week, 10-10). Garbage drop off fee is \$5.75 for regular size black garbage bag. Regular size black garbage bags can be found in one of the laundry room cupboards**

☐ The villa has its own dock in a sheltered bay. You are welcome to use the dock for your boating needs during your stay. **Please check your charts carefully before entering Shingle Bay. There is a dangerous tidal reef at the entrance to Shingle Bay that is frequently underwater and invisible during high tides.**

Please do not touch or remove any sea-life animals found in the intertidal areas of the property.

☐ We do have a no pet policy.

☐ There is a strict fire ban on the island from July-Sept. Burning permits are required during other times. Please check online at the Pender Fire Dept. Tree cutting is not permitted at any time.

FIRE EXTINGUISHERS ARE AVAILABLE IN THE KITCHEN

Emergencies:

☐ Island Emergency phone numbers are posted on the cabinet door above the kitchen telephone.

☐ Long distance calls are not permitted on the house phone.

Thank you and enjoy your stay!!

May you find the Whalekum-inn, a place of peace and refreshment.



NOTICE
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2017.5

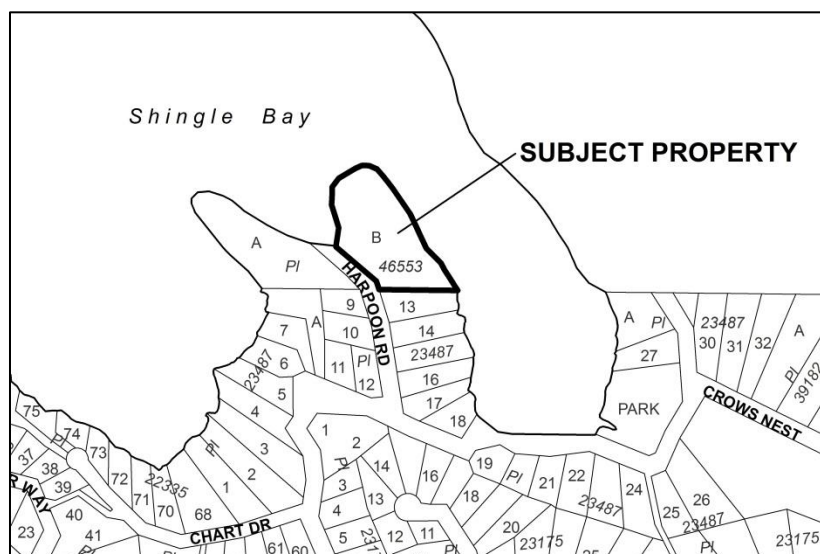
NOTICE is hereby given that the North Pender Island Local Trust Committee will be considering a resolution allowing for the issuance of a Temporary Use Permit pursuant to Section 493 of the *Local Government Act*. The proposed permit would apply to Lot B, Section 16, Pender Island, Cowichan District, Plan 46553 (PID: 010-977-929). This property is located at 2602 Harpoon Road.

The purpose of this temporary use permit would be to permit:

- a) A Short Term Vacation Rental within the Dwelling Unit.

The establishment of these uses would be subject to the conditions specified in the permit. The permit would be issued for three years and the owner may apply to the North Pender Island Local Trust Committee to have it renewed once for an additional three years.

The general location of the subject property is shown in 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. and 4:30 p.m., Monday to Friday inclusive, excluding Statutory Holidays, commencing, **February 9, 2018** and up to and including **February 21, 2018**.

Enquiries or comments should be directed to Planner Jason Youmans at (250) 538-5603, 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 4:30 p.m., **February 21, 2018**. 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 **10 a.m.**, Thursday, **February 22, 2018**, at the Anglican Church Hall, 4703 Canal Road 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.

Sharon Lloyd-deRosario, Deputy Secretary



File No.: NP-SUB-2017.1 (Richardson
and Hemsworth)
(Cross Ref. NP-DVP-2017.2)

DATE OF MEETING: February 22, 2018
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale, A/Planner 2
Southern Team
COPY: Justine Starke, Island Planner
SUBJECT: 10 % Lot Frontage Waiver – 3210 Armadale Road, North Pender

RECOMMENDATION

1. That the North Pender Island Local Trust Committee exempt proposed Lot Rem. 13, Section 22, Pender Island, Cowichan District, Plan 4105 of subdivision NP-SUB-2017.1 (Richardson and Hemsworth) from the 1/10 perimeter provision of Section 512 of the *Local Government Act* and subsection 4.3.1 of North Pender Island Land Use Bylaw No. 103, 1996.

PURPOSE

The purpose of this memo is to consider a 10% frontage waiver as condition for the above-noted subdivision.

The above recommendation is supported as: a Development Variance Permit (NP-DVP-2017.2) has been approved for issuance by the Local Trust Committee for the proposed subdivision configuration; and, Section 512 (2) of the *Local Government Act* allows a local government to exempt a parcel from the 10% perimeter and minimum frontage established in a bylaw.

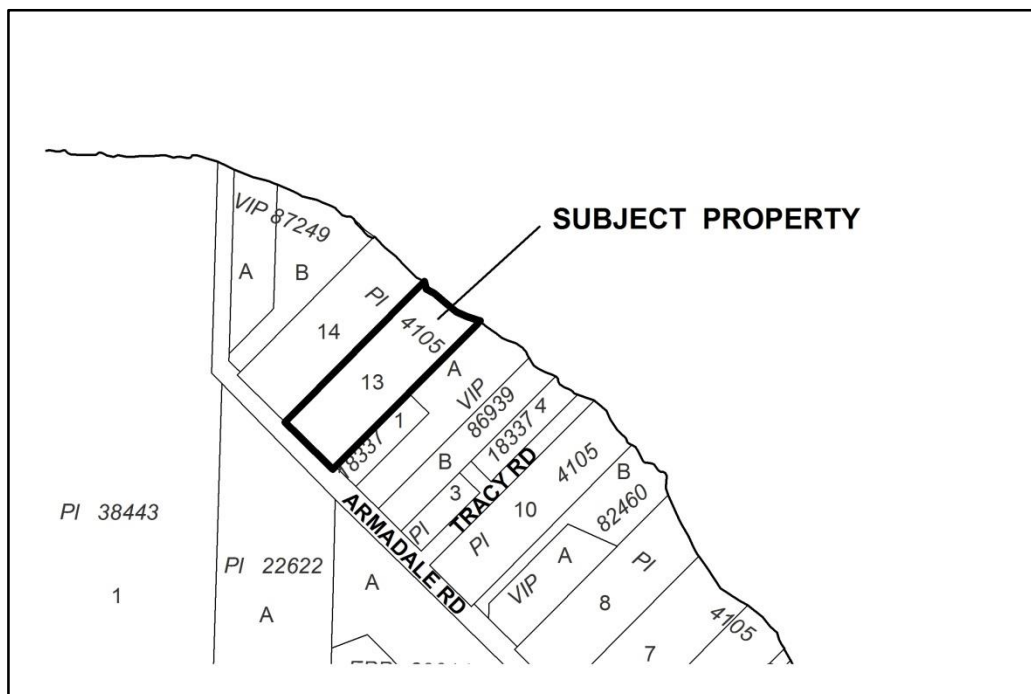
BACKGROUND

This subdivision proposal was the subject of NP-DVP-2017.2 which was approved by the LTC at its January 30, 2018 Regular Meeting. The above recommendation should have been included with the staff report for the DVP; however, it was omitted by an oversight.

Background information on the DVP including a staff report, is available on the Islands Trust website: <http://www.islandstrust.bc.ca/islands/local-trust-areas/north-pender/current-applications/>

The proposed subdivision plan is shown in Attachment 1.

Figure 1 – Subject Property

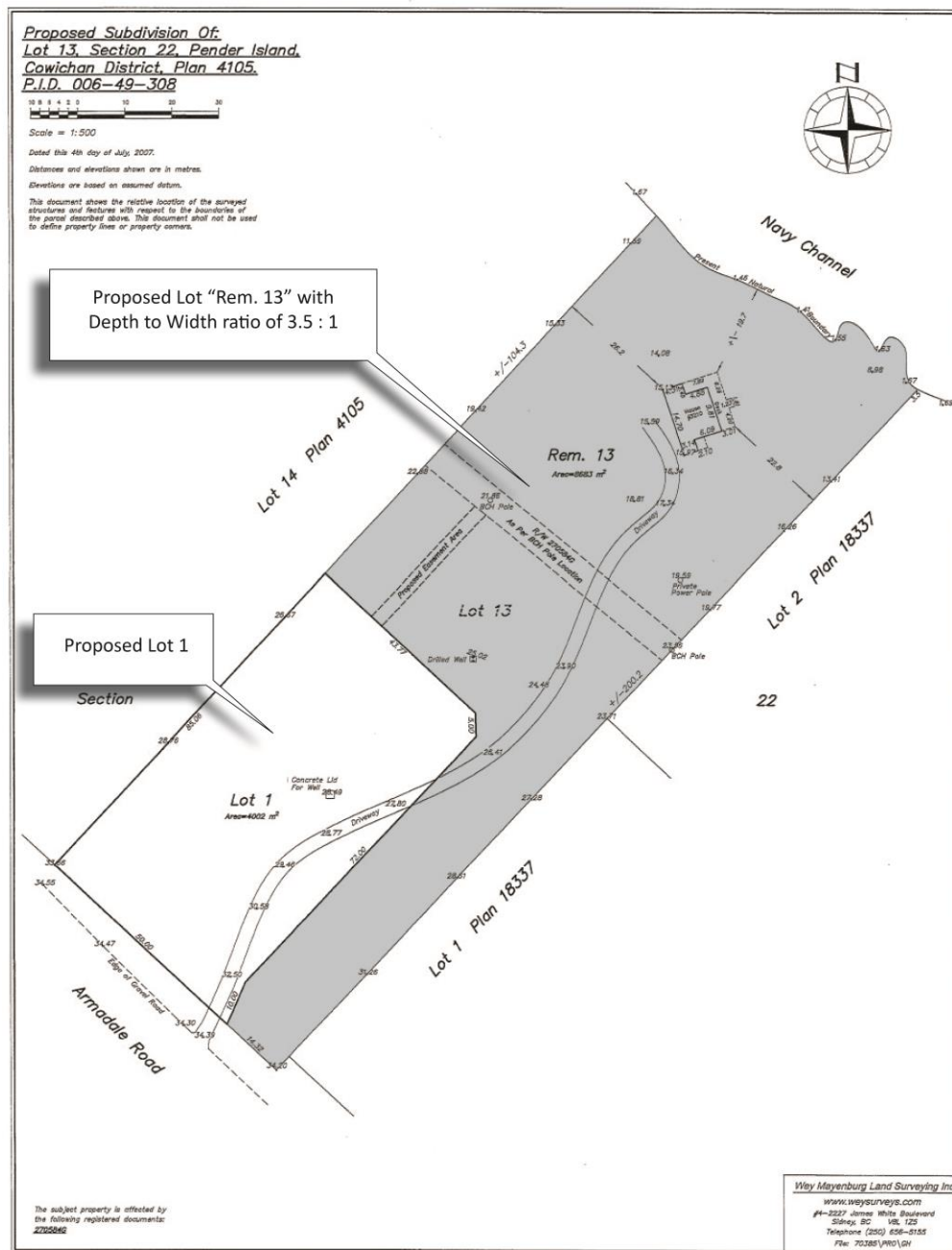


Submitted By:	Phil Testemale, A/Planner 2	February 14, 2018
Concurrence:	[Managing Staff Name, Credentials Title]	February 14, 2018

ATTACHMENTS

1. Subdivision Plan

ATTACHMENT 1 – SUBDIVISION PLAN





File No.: NP-DVP-2017.4
(NP-BP-2017.14.)

DATE OF MEETING: February 22, 2018
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale, A/Planner 2
Southern Team
COPY: Justine Starke, Island Planner
SUBJECT: Requested Information from Building Inspector

RECOMMENDATION

1. **Approve the application as per the recommendation on page 1 of the staff report of January 30, 2018 (Attachment 1)**

PURPOSE

The purpose of this memo is to provide requested information from the Local Trust Committee from the CRD Building Inspector and next steps for the application.

At its January 30, 2018 Regular Meeting, the LTC passed the following resolution:

NP-2018-004

It was MOVED and SECONDED,

That the North Pender Island Local Trust Committee request that, with regard to NP-DVP-2017.4 (Glen Johnson), the Capital Regional District Building Inspector provide confirmation that the existing structure, particularly those areas intruding into the setback, are structurally sound.

CARRIED

The Building Inspector has provided the e-mail response that is Attachment 2. In summary, the Building Inspector cannot assess the structural integrity of the dwelling until a Building Permit (BP) is issued. A BP cannot be issued without a Development Variance Permit or a Board of Variance Order. Once a BP is issued any structural deficiencies would be repaired in accordance with the BC Building Code.

The Building Inspector had stated previously that prior to activating a BP, an engineer would need to review the plywood for structural integrity. This was because it's been exposed to weather for so long, not that the building was necessarily structurally unsound. The applicant could, as an alternative, remove and replace the weather exposed sheathing with new plywood. This option was included as part of the cost estimates for completion that he submitted previously (Attachment 1) and he has stated that he would replace any plywood sheathing necessary.

If the DVP is issued there is no guarantee that the applicant would proceed with the work: costs may escalate and make it uneconomical, and other issues may arise during work. However, the applicant has stated that he intends to complete the building. To be clear though, he cannot proceed at all on the work he's proposing without a variance. Therefore practically, the variance is the precondition for work to repair and complete the building. Alternately, if the variance is refused, then it is unlikely the building, or the encroaching portion, is going to be removed or repaired anytime soon.

Further background to this application and staff's recommendation is included in the staff report of January 30, 2018 (Attachment 1).

ALTERNATIVE

2. Deny the application

The LTC may deny the application.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DVP-2017.4 (Johnson).

Submitted By:	Phil Testemale, A/Planner 2	February 14, 2018
Concurrence:	Robert Kojima, Regional Planning Manager	February 14, 2018

ATTACHMENTS

1. Staff Report and attachments – January 30, 2018
2. E-mail received from C. Watson, CRD Building Inspector

File No.: NP-DVP-2017.4 (G. Johnson)
(NP-BP-2017.14)

DATE OF MEETING: January 30, 2018

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale, A/Planner 2
Southern Team

COPY: Justine Starke, Island Planner
Robert Kojima, Regional Planning Manager

SUBJECT: Development Variance Permit application

Applicant: Glen Johnson

Location: 2745 Shoal Road

RECOMMENDATION

- 1. That the North Pender Island Local Trust Committee approve issuance of Development Variance Permit NP-DVP-2017.4 (G. Johnson)**

REPORT SUMMARY

The purpose of this report is to consider a Development Variance Permit (DVP) for an existing dwelling that was sited in error.

At its regular meeting on November 23, 2017, the Local Trust Committee (LTC) requested further information from the applicant on alternatives to altering and/or relocating the house to conform to the setbacks.

The above recommendation is supported as the variances are for an unintended siting error for a dwelling constructed without a survey. The variances are minor in nature. The applicant has supplied cost estimates to alter or relocate the dwelling all of which are substantially higher than completing the dwelling as configured in its current location. Concerns of neighbours have been reported to the LTC and heard at the November 23, 2017 meeting. These focus largely on the state of disrepair and long-term vacancy of the dwelling as well as neighbourhood context and character. Granting the variance would allow the applicant to complete and occupy the dwelling, thereby improving that situation without incurring unnecessarily large costs of otherwise complying. The variance does not challenge the intent of the bylaw provision.

BACKGROUND

As stated above, the application was reviewed by the LTC on November 23, 2017. The staff report and attached background information are available here: http://www.islandstrust.bc.ca/media/344822/np-2017-11-23_agd-pkg.pdf

In response to the request by the LTC noted above, the applicant has provided the following:

1. An e-mail from the CRD Building Inspector with requirements to reactivate the Building Permit for the dwelling (Attachment 1);
2. An estimate for completion of the dwelling to obtain a Final Occupancy Permit either where situated or in a new location. (Attachment 2).
3. An estimate to alter the dwelling to conform to setbacks (reduce size) and complete the building to Final Occupancy (Attachment 3) and building plans showing the resulting size and configuration of dwelling (Attachment 4).
4. Estimates from two (2) contractors and two (2) house moving companies for additional costs to alter the dwelling (removing existing foundations, constructing new foundations, drainage etc.), move the building and attach to new foundations (Attachment 5).

The forgoing estimates are discussed in more detail in 'Issues and Opportunities' – below.

The proposal is to vary the front and interior side yard setbacks of the North Pender Land Use Bylaw No. 103, 1996 (LUB) for an existing dwelling located at 2745 Shoal Road. The variance will permit the applicant to undertake repairs and obtain a Final Occupancy permit from the CRD for the 50.7 m² (546 ft²) dwelling with a 31.4 m² (338 ft²) deck (see Figure 2). Specifically, the proposed variance will allow for the following:

Clause 8.1.5 (1) (a) which states that no building or structure may be located within 7.6 metres of any front or rear lot line is varied to permit the **construction of a dwelling** within **4.95 metres** of a front lot line; And,

Clause 8.1.5 (1) (b) which states that no building or structure may be located within 3.0 metres of any interior side lot line is varied to permit the **construction of a dwelling** within **1.4 metres** of an interior side lot line.

The application is the result of a Building Permit (BP) referral from the CRD (NP-BP-2017. 14). The BP application is a reactivation of a lapsed BP that was originally issued in 1998.

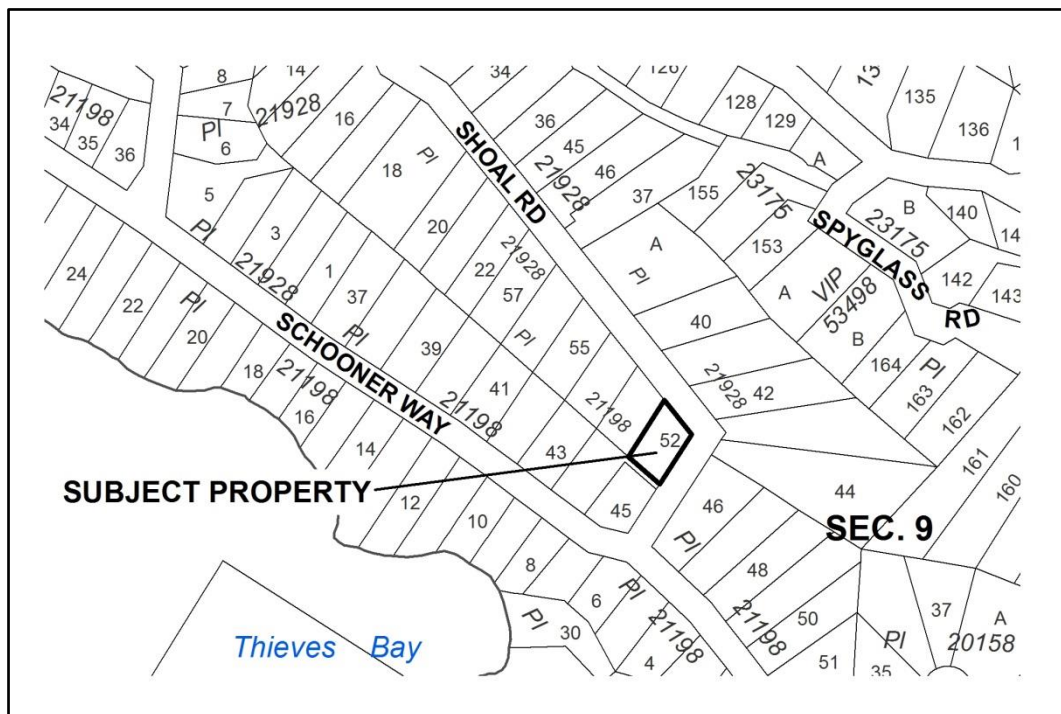
The applicant has indicated that his intention is to renew the building permit and complete the project.

Currently the building is vacant and there are no other buildings or structures on the property. Distance from the front of the dwelling to the road surface is approximately 15 m. and from the closest point of the dwelling to the most immediate neighbour to the west is approximately 22 m. (Figure 2)

A copy of the notice and draft NP-DVP-2017.4 are Attachment 8 and 9.

Staff visited the site on October 5, 2017.

Figure 1 – Subject Property

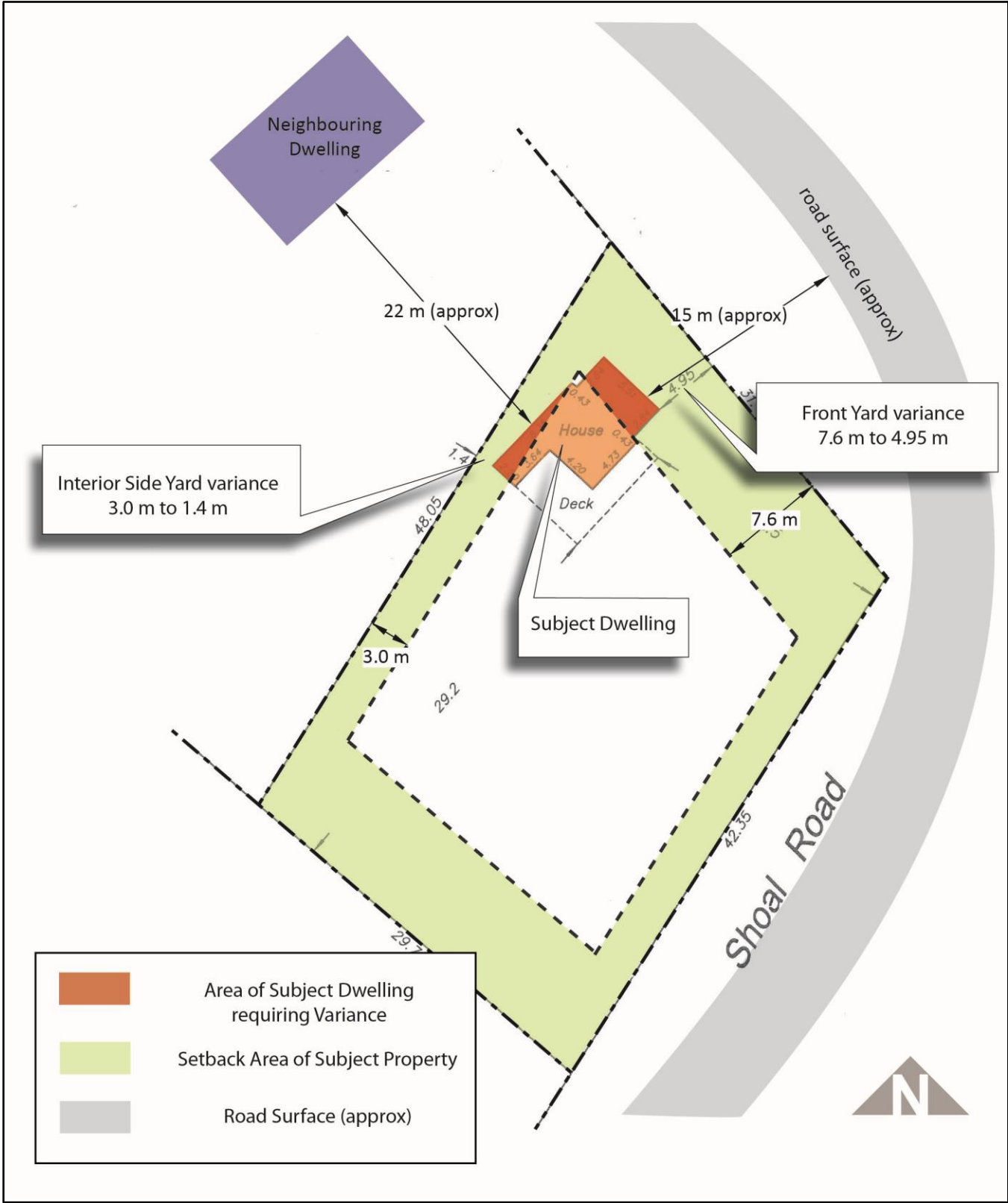


ANALYSIS

Policy/Regulatory

Refer to Previous Staff Report

Figure 2 – Site Plan



Issues and Opportunities

Alternative Scenarios for Applicant

As reported previously the applicant has three (3) other options for addressing the siting error. In summary these are:

1. Alter the building where it is currently sited to conform to the setbacks.
2. Relocate the building on the property.
3. Apply for a Board of Variance Order.

The LTC requested that the applicant provide further information on cost estimates for alternatives. These estimates are attached in full as Attachments 2 to 5. With the exception of a Board of Variance alternative, the following table summarizes and compares these estimates:

Scenario	Building Alterations to Final Occupancy	Add'l Building Alterations for Move (Foundation, Drainage, etc.)	House Moving	Total Cost	Additional Cost (over completion with current siting)
Completion of Dwelling as sited	\$61,910	n/a	n/a	\$61,910	n/a
Alter (reduce) Dwelling to conform to setbacks	\$94,290 ¹	n/a	n/a	\$94,290 ²	\$32,380 ²
Relocate and Complete Dwelling	\$61,910	\$62,653.50 to \$99,670 ³	\$23,625 to \$30,000	\$148,188.50 To \$191,360	\$86,278.50 to \$129,450

¹ Only one estimate (BCF Constructors)

² This figure **does not** account for the reduced valuation that would result. Alteration would be a 49% size reduction in the size of the dwelling (Attachment 4). The current assessed value is \$129,000. BC Assessment uses multiple factors such as size, age, shape, quality, condition, location...permitted uses, etc.

³ Two estimates (Estimate from Hamson Const. = range from \$62,653.50 to \$99,670; BCF Constructors = \$99,587)

In summary, the costs (over and above the \$61,910 completion estimate) to alter or relocate the building are substantial. It is noted (above and here) that the \$32,380 additional to alter the building in place does not account for the lost valuation as a result of halving the size of an already small dwelling. In addition, the functional liveability of such a dwelling would be reduced.

Given the costs, as well as the minor nature of the variances and the minimal impacts to neighbours due to its siting, staff is of the opinion that denying the application would cause the applicant to incur unnecessary costs.

Rationale for the Variance

The applicant's rationale for the variance is that there was an error in siting the side and road setback which he recently discovered (May of 2017). He was intending to keep the structure on the drier and better draining upper portion of the property. Further, he has stated that he takes full personal responsibility for the situation as it currently stands, and that he intends to renew his building permit and complete the project.

The Overall Intent of the Regulation (s) being Varied

The overall purpose of the setback regulations (Front and Interior Side Yard) is to minimize impacts on adjacent property related to:

- Limiting the visual impact of development on adjacent properties.
- Establishing a consistent development pattern within a local area.
- Protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
- Maintaining a rural character.
- Establishing certainty with respect to residential development by maintaining consistent siting regulations.

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.

Nature of Variance and Neighbour Concerns, Screening and Building Condition

Neighbour concerns are addressed in the next section. Other issues and concerns were analysed in the previous Staff Report.

Circulation/Consultation

DVP Notices were circulated to surrounding property owners and residents. The notification period ended at 4:30 p.m. on November 22, 2017. There has been no further notice as the application remains unchanged.

Staff received one submission signed by 21 neighbours in response to the notification for November 23, 2017 (Attachment 6). The concerns cited in the letter are itemized using the criteria outlined above (*"Overall Intent of Regulation..."*).

The applicant has consulted with direct neighbour to the northwest. Additionally issues and concerns were presented by neighbours at the November 23, 2017 LTC Regular meeting

To summarize and respond to neighbour concerns: these largely focus on the state of the dwelling and its long-term vacancy which the applicant is now seeking to resolve by completing the building. The petition variously asserts that the siting is not in keeping with the rural / "island" feel of Magic Lake Estates and that the proximity

is “urban” in nature. This is inaccurate as the distance of 20 metres between the dwelling and the closest neighbour is typically larger than the average and well over the 6 metre separation if dwellings on both properties were sited to minimum siting regulations. Attachment 7 is a map of neighbourhood building footprints (existing) that shows the surrounding pattern and distances and demonstrates that the siting distances are not at odds with the norm. Questions of the applicant’s original intentions when siting the building are speculative. The fact that there was no requirement for surveys by the CRD at the time, the neighbouring property (west) was undeveloped and siting errors were common is relevant.

At the time of writing staff has not received any further submissions, but has had one request for further CRD information and processes, specifically on the Board of Variance.

Any further correspondence received prior to the LTC meeting will be forwarded to Trustees and reported at the meeting.

Rationale for Recommendation

The recommendation on Page 1 is supported as:

- The siting was unintended and despite obtaining a BP, no survey was required by the CRD at that time.
- The variances are minor in nature.
- The applicant has responded to the LTC’s request for further information on costs to alter or move the dwelling. These are substantially higher than those to complete the dwelling as configured and as currently sited.
- Notification to date resulted in the written submission from neighbours which focuses primarily on the current building condition and vacant state of the dwelling. They also addressed privacy and the approvals process.
- Granting the variance will allow the applicant to complete the dwelling which will improve the appearance of the building and allow it to be occupied.
- The variance does not impact the intent of the bylaw regulation.

ALTERNATIVES

1. Request further information

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

Recommended wording for the resolution is as follows:

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

2. Deny the application

The LTC may deny the application.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DVP-2017.4 (Johnson).

Submitted By:	Phil Testemale, A/Planner 2	January 18, 2018
Concurrence:	Robert Kojima, Regional Planning Manager	January 18, 2018

ATTACHMENTS

1. E-mail from CRD Building Inspector to Applicant.
2. Cost Estimate for completing dwelling and obtaining Final Occupancy.
3. Cost Estimate for altering (reducing) dwelling, completing and obtaining Final Occupancy
4. Plans for Altered Dwelling
5. Cost estimates (2) foundation and drainage work and estimates (2) to move (relocate) dwelling.
6. Petition letter from neighbours (Rec'd November 15, 2017)
7. Map of Neighbourhood existing building and structures.
8. Draft Variance Permit NP-DVP-2017.4
9. Notice

Phil Testemale

From: Chris Watson <cwatson@crd.bc.ca>
Sent: Wednesday, November 29, 2017 4:06 PM
To: gwj70@hotmail.com
Cc: Phil Testemale
Subject: FW: 2745 Shoal road
Attachments: 020.jpg; 016.jpg; 014.jpg; 009.jpg

Hi Glen; here is the e mail again.



Making a difference...together
PLANNING AND PROTECTIVE SERVICES
Chris Watson, Building Inspector
T 250 360 3230 cwatson@crd.bc.ca

From: Chris Watson
Sent: Friday, June 02, 2017 2:31 PM
To: 'gwj70@hotmail.com' <gwj70@hotmail.com>
Cc: Lyne Moyes <lmoyes@crd.bc.ca>; Robert Gutierrez (rgutierrez@crd.bc.ca) <rgutierrez@crd.bc.ca>
Subject: 2745 Shoal road

Thank you for your application to complete converting an accessory building to a single family Dwelling.
Due to the time frame the plywood has been exposed to the weather.
No consideration of re activation will happen until:

- 1) Registered structural Engineers review of the ply wood for structural integrity and approval has been received along with mould removal, mitigation and reports times two to our office.
- 2) Embossed BC land survey with distances to property lines is received.
- 3) Curtain drainage ditch with appropriate drain rock and perforated pipe as per the septic final requirements.is installed and approved by septic installer.

Due to the standing water next to the footings and lack of perimeter drainage. Your Notice on title will remain in Perpetuity.

There will be more items required for final inspection once the permits are issued.

Cheers



Making a difference...together
PLANNING AND PROTECTIVE SERVICES
Chris Watson, Building Inspector
T 250 360 3230 cwatson@crd.bc.ca

This message is intended only for the use of the individual or entity named above, and may contain information that is privileged, confidential or exempt from disclosure under applicable law. If you are not the intended recipient or their employee or agent responsible for receiving the message on their behalf your receipt of this message is in error and not meant to waive privilege in this message. Please notify us immediately, and delete the message and any attachments without reading the attachments. Any dissemination, distribution or copying of this communication by anyone other than the intended recipient is strictly prohibited. Thank you. Please consider the environment before printing this email.

BCF Constructors Ltd
2635 Gunwhale Road
Pender Island, B.C.
V0N 2M2
250 629-3084 Office
250 629-3085 Fax
250 744-9160 Cell
Email bcfconstructors@shaw.ca

January 18, 2018

Proposal 417

Glen Johnson
 2745 Shoal Road
 Lot 52 Section 9 Plan 21198 Cowichan Land District
 Pender Island BC

Proposal to facilitate completion of Single family dwelling to obtain occupancy certification

Scope of work:

- Survey existing structure to establish location – present to CRD for verification (Registered Professional Certification) Cost of Survey not included in this proposal - Budget \$1,400.00
- Replace deteriorated exterior plywood as required based on visual inspection and destructive investigation - **Allowance \$1,000.00** Cost of Building Envelope Engineer report not included in this proposal – Budget \$1,500.00 (Registered Professional Certification)
- Supply and install window and door flashings as required by building code
- Supply and install appropriate building paper and mid grade vinyl siding
- Repair / replace miscellaneous fascia boards, paint as required
- Install gutters and rain water leaders
- *Hand excavate areas around foundation – evaluate foundation bearing capacity – report to Building Inspection department, proposal does not include geotechnical report if required. Foundation remedial work not included in this proposal – Budget \$5,000.00
- Foundation damp proofing / floor system / foundation insulation to be evaluated and priced once foundation remedial work completed Cost of remedial work not included in this proposal - Budget \$3,000.00
- Concrete slurry ground seal in crawl area under house - cost to be evaluated upon completion of foundation remedial work Cost of slurry ground seal not included in this proposal - Budget \$3,500.00
- Install underground rain water leaders maximum ten feet from base of foundation – evaluate off drainage to road side trench
- Install pressure treated wood frame vinyl siding clad skirting as required around perimeter of structure
- Install fresh air make up vent exterior to interior penetration (code compliant)
- Provide plumbing / electrical service connections for laundry in suitable interior location
- Provide miscellaneous interior trims / baseboards as required
- Coordinate Inspections and all disciplines / CRD Building Inspection Department

End of Scope

*The site appears to be somewhat boggy. A geotechnical inspection and report revealing soil conditions will most likely be required in order to establish proper footing for the dwelling's future foundation. These conditions will determine the overall cost of the foundation remedial work. Geotechnical survey (Not included in this proposal) Additional costs to alleviate drainage issues for rain water leader connection and other site drainage issues – protect septic field and neighboring properties from flood damage (Not included in this proposal) - Budget \$4,000.00

ALL PERMITS BY OTHERS - Budget \$800.00

<u>\$38,800.00 + GST \$1,900.00 =</u>	<u>\$40,700.00</u>
<u>Total budget and allowance items listed above: \$20,200.00 + GST \$1,010.00</u>	<u>\$21,210.00</u>
<u>Grand total</u>	<u>\$61,910.00</u>

Respectfully Submitted,

Bob Funk
 BCF Constructors Ltd.

11
BGF Constructors Ltd
2635 Gunwhale Road
Pender Island, B.C.
VON 2M2
250 629-3084 Office
250 629-3085 Fax
250 744-9160 Cell
Email bfcconstructors@shaw.ca

January 18, 2018

Proposal 417

Glen Johnson
2745 Shoal Road
Lot 52 Section 9 Plan 21198 Cowichan Land District
Pender Island BC

Proposal to facilitate side and front yard setback requirements - partial demolition / reconstruction of Single family dwelling
Obtain occupancy certification

Scope of work:

- Survey existing structure to establish locations / mark building to facilitate demolition and modifications (see attached Drawing) Present to CRD for verification (Registered Professional Certification) Cost of Survey not included in this proposal - Budget \$1,400.00
- Demolish existing office and bedroom north side portion of dwelling parallel to front yard setback, demolish portion of kitchen bathroom space West side portion of dwelling parallel to side yard setback (see attached drawings)
- *Evaluate foundation soil bearing capacity conditions under modified footprint, excavate accordingly, construct maximum 3' high foundation, install drain tile, damp-proof (areas affected by demolition)
- Reconstruct new wood frame walls in affected areas where old existing walls removed, relocate windows as required
- Repair – make good roof structure and metal roofing
- Re-wire electrical components to code
- Modify plumbing rough in to facilitate new bathroom and laundry facilities in new location – fixtures and finishes by others
- Insulate / drywall new walls, roof assembly, paint not included
- Replace deteriorated exterior plywood as required based on visual inspection and destructive investigation - **Allowance \$1,000.00** Cost of Building Envelope Engineer report not included in this proposal – **Budget \$1,500.00** (Registered Professional Certification)
- Supply and install window and door flashings as required by building code
- Supply and install appropriate building paper and mid grade vinyl siding
- Repair / replace miscellaneous fascia boards, paint as required
- Install gutters and rain water leaders
- *Hand excavate areas around old existing foundation – evaluate foundation bearing capacity – report to Building Inspection department, proposal does not include geotechnical report if required. Foundation remedial work not included in this proposal – Budget \$4,000.00
- Foundation damp proofing / floor system / foundation insulation to be evaluated and priced once existing remaining old existing foundation remedial work completed Cost of remedial work not included in this proposal - Budget \$2,000.00
- Concrete slurry ground seal in crawl area under house - cost to be evaluated upon completion of existing foundation remedial work Cost of slurry ground seal not included in this proposal - Budget \$2,500.00
- Install underground rain water leaders maximum ten feet from base of foundation – evaluate off drainage to road side trench
- Install pressure treated wood frame vinyl siding clad skirting as required around perimeter of structure
- Install fresh air make up vent exterior to interior penetration (code compliant)
- Provide plumbing / electrical service connections for laundry in suitable interior location
- Provide miscellaneous interior trims / baseboards as required
- Coordinate Inspections and all disciplines / CRD Building Inspection Department

End of Scope

*The site appears to be somewhat boggy. A geotechnical inspection and report revealing soil conditions will most likely be required in order to establish proper footing for the dwelling's future foundation. These conditions will determine the overall cost of the foundation remedial work. Geotechnical survey (Not included in this proposal) Additional costs to alleviate drainage issues for rain water leader connection and other site drainage issues – protect septic field and neighboring properties from flood damage (Not included in this proposal) - Budget \$4,000.00

ALL PERMITS BY OTHERS - Budget \$800.00

\$72,600.00 + GST \$3,630.00 =	\$76,230.00
Total budget and allowance items listed above: \$17,200.00 + GST \$860.00 =	\$18,060.00
Grand total	\$94,290.00

Respectfully Submitted,

Bob Funk
BCF Constructors Ltd.

BCF Constructors Ltd
2635 Gunwhale Road
Pender Island, B.C.
V0N 2M2
250 629-3084 Office
250 629-3085 Fax
250 744-9160 Cell
Email bcfconstructors@shaw.ca

January 18, 2018

Proposal 413

Glen Johnson
2745 Shoal Road
Pender Island BC

Proposal to facilitate existing house move in conjunction with (Nickel Brothers House movers paid by others)

Scope of work:

- Site survey within building envelope to relocate structure
- Establish lot services underground locations (water and sewer, electrical lines) and expose
- Disconnect Hydro service connection **by others**
- Deconstruct existing wood deck
- *Excavate area of new building location to facilitate house moving equipment
- Prepare structure for house moving contractor as per their requirements / specifications
- Disconnect sewer and water connections
- Re route sewer and water lines within new foundation footprint
- Call for CRD building inspection on sewer and water service relocation
- Liaise with house move contractor to move structure over new footprint location
- *Construct new perimeter foundation under moved structure, 3' maximum height – code compliant
- Call for CRD Inspection and pour / strip foundation concrete walls
- Site survey to confirm new foundation, certify location is within building envelope
- Insulate foundation with approved foam board insulation - code compliant
- Pour concrete ground seal – code compliant
- Liaise with house move contractor to lower structure
- Fasten structure to new foundation – code compliant
- Install weeping tiles and drain rock – code compliant
- Install roof rain water leaders – code compliant
- Re connect sewer and water service
- Back fill and rough grade
- Reconstruct wood deck NOT INCLUDED **by others** – code compliant
- Reconnect hydro service **by others**
- Call for CRD Building inspection

End of Scope

*The site appears to be somewhat boggy. A geotechnical report revealing soil conditions will most likely be required in order to establish proper footing for the dwellings future foundation. These conditions will determine the overall cost of the excavation costs, house move and the foundation height. This proposal is limited to a 2' excavation depth and a 3' high perimeter foundation wall. **ALL PERMITS BY OTHERS**

Total estimated budget:

94,845.00 + GST 4,742.25 = 99,587.25

Respectfully Submitted,

Bob Funk
BCF Constructors Ltd.

Hamson Construction
paulhamsonconstruction@hotmail.com
250-538-8331

December 28, 2017

Proposal to move house to bring into compliance with CRD & Island Trust for :
Glen Johnson
2745 Shoal Road
Pender Island, BC V0N 2M2

This proposal is only to attach the existing house, as is, to a new foundation to meet set back requirements only.

PRE-MOVE PREP

- pre site surveys
- find all underground services (water, sewer and hydro)
- disconnect all services from structures – By Others
- remove all wood deck and stairs
- excavate new site
- prep transport area for move
- allow prep for 4000 psf requirements as per Nickel Bros requirements
- prep structure for move as per Nickel Bros requirement
- coordinate and supervise move
- coordinate site inspections for CRD

HOUSE MOVE PREP

- Form and pour all footings and foundation to code (note that due to poor soil conditions a geotek may be needed to determine conditions).
- insulate interior foundation walls, ground seal and ground cover
- all perimeter drains, rain leaders, curtain drains
- *EXTRA* - If excavation needs to be over 2 feet in depth and an interior foundation drain or sump is needed this would be an extra cost
- coordinate and supervise lowering house onto foundation
- attach house to foundation
- reattach all services – By Others
- coordinate CRD inspections
- back fill new foundation
- restore old site and move debris from house move
- *EXTRA* - deck foundations and replacement of deck and stairs will be dealt with as an extra cost once new structure elevations are set.
- new site survey

All "By Other" costs are covered but the responsibility is outside of the scope of Hamson Construction.

All *EXTRAS* are NOT included in this budget proposal

All geotechnical, structural engineering, and results of beyond code compliance part 9 are outside of this proposal and will be dealt with as extras.

Known Budget Proposal Estimate = \$59,670 + \$2,983.50 GST = \$62,653.50

Possible *EXTRA* Projections = \$35,000

Total Possible Budget = \$94,670 (Excluding permit and fees and Nickle Bros moving costs)

Kind Regards,
Paul Hamson

To: Glen Johnson
Email: gwj70@hotmail.com
Attention: Glen

Date: December 4, 2017

NICKEL BROS.

- ❖ Is the West Coast's largest and most experienced land and marine structural mover.
- ❖ **Operates** 3 regional offices in British Columbia and Washington State to provide our clients with prompt, professional service throughout the Pacific Northwest.
- ❖ **Maintains** the industry's finest Health and Safety Program, safely moving more than 300 structures per year.
- ❖ **Provides** engineering, design, and equipment solutions for any structural moving challenge, including Unified Jacking Systems, Hillman Rollers, and hydraulically controlled Transporters with up to 1000 ton capacity.
- ❖ **Protects** clients from building/structure repair or replacement costs resulting from minor damage to complete loss, with the industry's most comprehensive **Cargo Damage Insurance Policy**. **Cargo Insurance Policy for up to \$250,000 with the option to increase.**

Nickel Bros. Insurance:

- ➔ \$10,000,000 CND of General Liability Insurance
- ➔ \$2,000,000 CND of Cargo Insurance (this covers marine and land transportation)
- ➔ \$1,000,000 CND of Cargo Legal Liability Insurance

Our budget quote to move on site the structure located on **Pender Island** approximately **8 feet diagonally** is **\$30,000.00**. This price is valid for 60 days and does not include applicable taxes.

Nickel Bros. will provide all equipment, material and labour to complete this project in accordance with all applicable Health and Safety regulations and BCSMA standards for the raising and moving of structures. The building/structure will be raised on multiple hydraulic jacks and beams to allow the installation of a hydraulic Transporter. All jacking of the structure will be done using a Unified Hydraulic System to ensure minimal cracking, and eliminate distortion resulting in structural damage. The building will be moved to its new site where the excavation has been completed and ramped to allow rolling access into its final location. The structure will be lowered onto a pre-build foundation.

Customer Responsibilities:

- ❖ All building, land use, and sidewalk permits required by your local building authority for NB to perform the work.
- ❖ All building preparation including but not limited to: Hazardous material removal in workspace, service disconnections, unfastening building anchors, removal of porches/stairs, removal chimney/fireplace, removal of furnace/duct work/hot water heating pipes where steel beams are placed, clearing crawl space/basement, holes through walls for NB beams at required locations.
- ❖ All site preparation including but not limited to: Providing access for NB equipment, ensuring ground conditions will hold 4000 psf, removal of obstacles as required, preparing adequate roadways to NB satisfaction.
- ❖ All new construction including but not limited to: Building the new foundation/walls and/or required supports to a minimum 4 feet to facilitate the lowering of the building on pre-built foundation and removal of NB equipment to NB specifications.

Thank you for considering our proposal. Please call if you have any further questions.

Respectfully,

Allan Nickel
Owner / General Manager
Vancouver Island Division



BELTON BROTHERS. STRUCTURAL MOVERS 2006 LTD.

63-1751 Northgate Rd.
Cobble Hill, B.C. V0R1L6
Business Ph. # 250-748-7756 Fax # 250-929-7382
Cell Ph. # 250-710-2155
Email: cory_belton@hotmail.ca



CONTRACT PROPOSAL

GST 842132326RT000

January 9, 2018

Glen Johnson

2745 Shoal Rd. Pender Island, BC

(p) 250-580-5858 (e) gwj70@hotmail.com

Raise house at 2745 Shoal Rd, and roll sideways approximately 30 feet over customers excavated site . Once house has been rolled, raise house 6 feet on blocking and steel, for customers new foundation. Once new foundation is complete, Belton Brothers will lower house on new foundation.

Customer will be responsible for disconnection of hydro and sewer to accommodate this raise.

Any extra work done by Belton Bros above and beyond this contract proposal will be done on a cost plus basis of \$400/hour, plus travel time.

Any excavating, telephone, hydro or cablevision work needed to be done for the house relocation is the customer's responsibility. There will be a rental charge of \$50.00 per day for equipment after 30 days.

All of the above work to be completed in a good and workmanlike manner for the sum:

Price \$ 22,500.00

GST \$ 1125.00

Total \$ 23,625.00

Payment to be made as follows:

\$ 9,500.00 at contract signing

\$ 13,000.00 when house is raised

\$ 1125.00 Balance owing when house is lowered on new foundation or 30 days, whichever comes first. Any changes in the work and the price to be charged for it shall be made in writing. This proposal is made on the basis of current material and labor costs. A delay in acceptance of more than 30 days will require a review of the proposal and re-dating before the agreement becomes binding. Respectfully submitted;

Contractor _____

ACCEPTANCE

You are hereby authorized to furnish all materials and labor to complete the work mentioned in the above proposal, for which the Undersigned agrees to pay the amount mentioned in said proposal, and according to terms thereof.

Date _____ Signature _____

2745 Shoal Road, Lot 52, Section 9, Pender Island, Cowichan District, Plan 21198. PID: 001-578-481

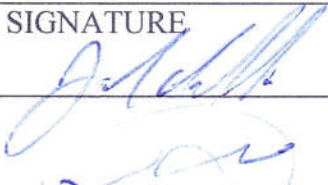
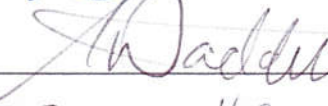
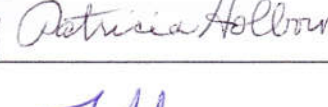
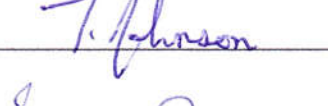
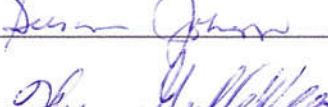
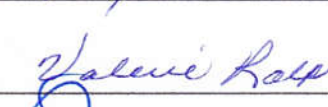
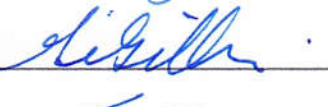
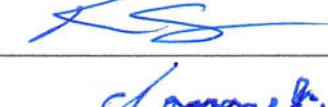
Neighbouring residents wish to provide feedback regarding an application for variance approval relative to two construction violations (front and side lot lines) at 2745 Shoal Road, North Pender Island.

The following criteria have been reviewed and we, as affected neighbours, provide comment on their impact to the community.

Criteria	Notes	Feedback
The rationale provided by applicant.	Applicant has stated he made a mistake. Rather than siting the house as originally permitted, a CHOICE was made by the owner to IGNORE SETBACK REQUIREMENTS and build too close to the side AND front lot lines.	Yes, this is a mistake that has not been corrected in 20 years. The derelict structure has been left, unfinished, to deteriorate and continue as an eye-sore in the neighbourhood.
Limiting the visual impact of development on adjacent properties	This building has been an unfinished state for 20 years.	Pender Island is a beautiful, rural community. Eye sore properties like this property diminish the quality of life for other residents and lower neighbourhood property values.
Establishing a consistent development pattern within a local area	Important for community development, aesthetics and rural lifestyle. Also essential for fairness to other builders and owners who are being required to adhere to building by-laws.	Approving variances of this nature has long term detrimental effects that include • Urban proximity in our rural community • Inappropriate siting of houses in relation to each other
Protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.	Lot sizes in Magic Lake Estates are designed to give an "island" community feel	Run-down and abandoned buildings deter from the unique Pender Island community feel. Houses that are inappropriately sited in relation to each other in a rural subdivision ruin the spacious visual quality and prevent neighbours their quiet enjoyment and privacy.
Maintaining a rural character	This structure is sited far too close to its neighbouring house to maintain a rural character. It is out of place and not consistent with other properties on Shoal Road.	Houses, such as this structure, sited less than 5 feet or (1.5) meters from property lines diminish the rural character of our community. Fencing, hedges etc cannot fix the problem in this instance.
Establishing certainty with respect to residential development by maintaining consistent siting regulations.	Certainty and fairness are important to everyone who has built and continues to construct homes and outbuildings on their properties	Approving this variance flies in the face of certainty of residential development or fairness to all owners and residents. Others incur

		substantial costs to comply with local zoning and by-law regulations. Approving this variance would be seen by neighbours or other potential builders as either utterly unfair or a carte blanche to do whatever they want and beg forgiveness later.
Potential impacts of granting the variance	Negative to the community and others who are in the process of building in the local area	1. Permanent location too close to neighbouring property 2. Potential for an addition to be made to this structure that would be completely monstrous with no recourse available to neighbouring residents. 3. Act as an encouragement for others to build outside the rules and destroy the rural character of the community 4. Approval provides no guarantee that the house would be finished properly or that the water issues relative to this lot would be addressed. 6. An approval may not require or guarantee the installation of appropriate fill and drainage systems to help stem surface and sub-terrain run-off from Buck Lake
Input from neighbours on foregoing and other concerns or comments	This house has been unfinished for 20 years, although it has been rented for periods of time. There are potential issues related to the septic system plus locally known water run-off that originates at Buck Lake.	1. Current location infraction is not minor in nature. 2. Approval encourages non-compliance by others in the future 3. House is a neighbourhood eye sore. 4. The house has been left vacant and unheated for at least 5 years. There is potential for mould and presents a prime location for rodent infestation. 5. Water problems with the lot and potential septic issues 6. Create unfair situation for those who are complying with building regulations 7. Only relocation or destruction will return the neighbourhood to a proper rural island condition.

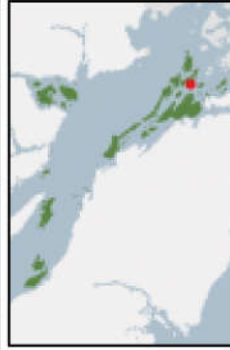
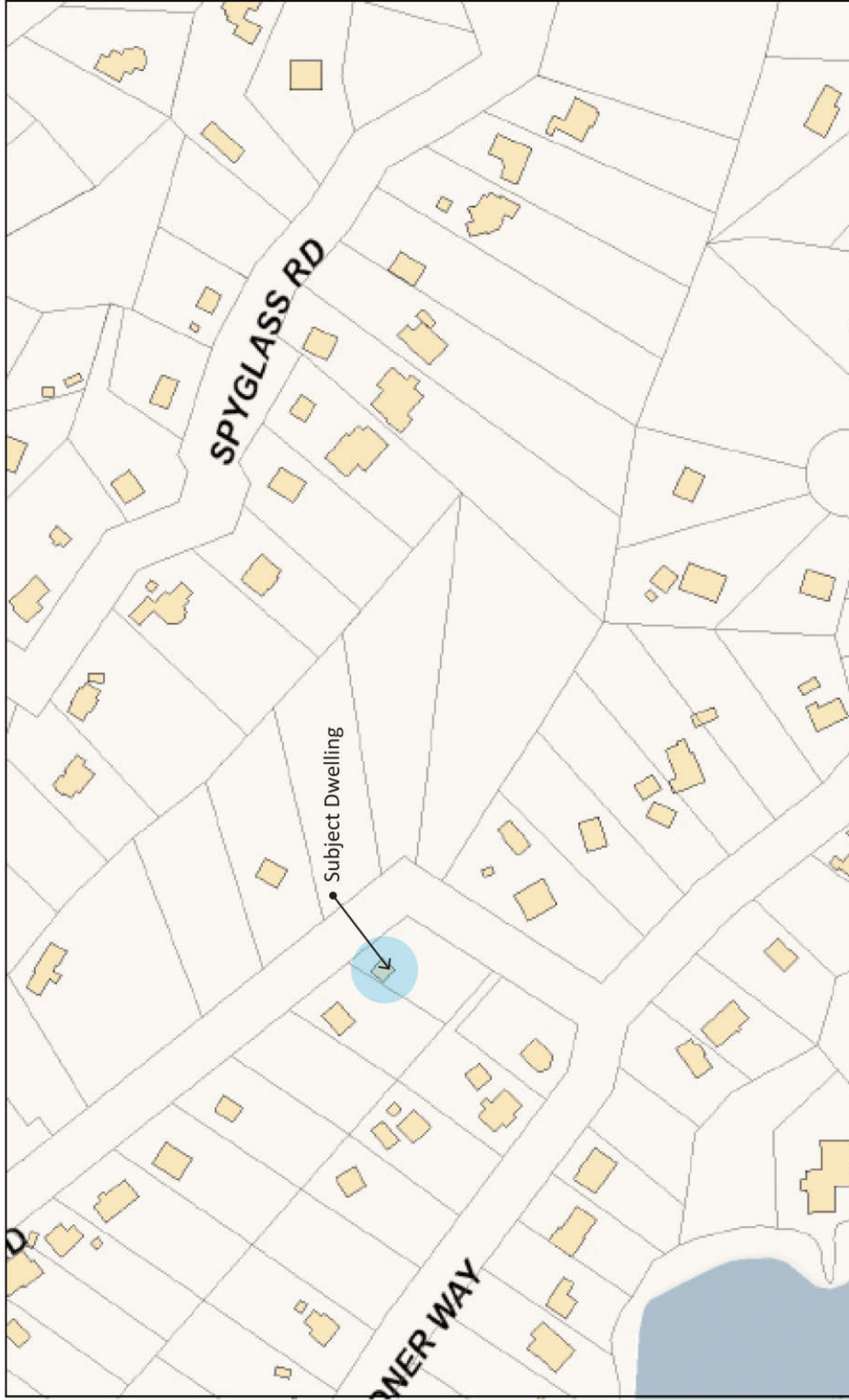
Neighbours who have signed this feedback DO NOT support approval for the Development Variance Permit for this property, and request that the Islands Trust and CRD require that it be moved to an appropriate location on the lot or destroyed.

NAME	ADDRESS	SIGNATURE	DATE
778 999 9520 JOEL DA SILVA	2627 SHOAL ROAD		NOV 5/2017
Karl Mathew 250 222 6243	1601 Shoal Rd		Nov 5/2017
MORENE TOMLINSON 250-419-2953	2643 SHOAL RD		Nov 5/2017
Nancy Westell 250-629-3863	1612 Schooner Way		✓
Al Waddell 250-629-3863	1612 Schooner Way		Nov 5 2017
Pat Holborn 604-345-0260	1620 Schooner Way		Nov. 5, 2017
Trent Johnson 250 665-4503	2747 Shoal Rd		Nov. 6, 2017
Susan Johnson 250.999.4580	2747 Shoal Rd		Nov. 6, 2017
Theresa Gullikson 250 629 3380	2750 Shoal Rd		Nov 6 2017
TARA FOLK 1602 Cherry Dr. ←	250-629-3246		"
PETER KALAM 250-629-3578	2629 Shoal Rd		Nov 6, 2017
Valerie Ralph 250-629-3578	2629 Shoal Rd.		Nov. 6, 2017
ART CURTIS 250.886.2631	2631 SHOAL RD.		NOV. 7, 2017
GARY GILLIS 250-629-0052.	2635 Shoal RD		Nov 7/2017
KATHALYN CHAPMAN 250 629-3629	2633 Shoal Rd		Nov 7/2017
C. Tonnellier 629-3491	2623 Shoal Rd		" "
L. Tonnellier 629-3491	2623 Shoal Rd.		" "
P. Boydell 629-9905	2636 Shoal Rd.		" "

[illegible]



Building Location NP-DVP-2017.4



DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. Islands Trust makes no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

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© Islands Trust

January 17, 2018

12,257



Islands Trust

PROPOSED

**NORTH PENDER LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
NP- DVP-2017.4**

To: Glen W. Johnson

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

Lot 52, Section 9, Pender Island, Cowichan District, Plan 21198
(PID: 001-578-481)

2. North Pender Island Land Use Bylaw 103, 1996 is varied as follows:

- a) Clause 8.1.5 (1) (a) which states that no building or structure may be located within 7.6 metres of any front or rear lot line is varied to permit the construction of a dwelling within 4.95 metres of a front lot line;
And,
- b) Clause 8.1.5 (1) (b) which states that no building or structure may be located within 3.0 metres of any interior side lot line is varied to permit the construction of a dwelling within 1.4 metres of an interior lot line.

The development shall be consistent with Schedules 'A', 'B' and 'C' 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 103,1996" and to obtain other approvals necessary for completion of the proposed development, including approval of the Capital Regional District and Ministry of Transportation and Infrastructure.

**AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS
##th DAY OF MONTH, YEAR.**

Deputy Secretary, Islands Trust

Date of Issuance

**IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ##th DAY OF MONTH, YEAR
, THIS PERMIT AUTOMATICALLY LAPSES.**

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-DVP-2017.4

SCHEDULE 'A'

WEY MAYENBURG

www.weysurveys.com

LAND SURVEYING INC.

#4-2227 James White Boulevard
Sidney, B.C. V8L 1Z5
Telephone (250) 656 - 5155

BC Land Surveyor's Building Location Certificate On:

*Lot 52, Section 9, Pender Island,
Cowichan District, Plan 21198.
(P.I.D. No. 001-578-481)*

Civic Address: 2745 Shoal Road

*This document was prepared for mortgage and municipal purposes
and is for the exclusive use of our client, Glen Johnson.*

*This document shows the relative location of the surveyed structures
and features with respect to the boundaries of the parcel described above.
This document shall not be used to define property lines or property corners.*

Certified Correct this 10th day of May, 2017.

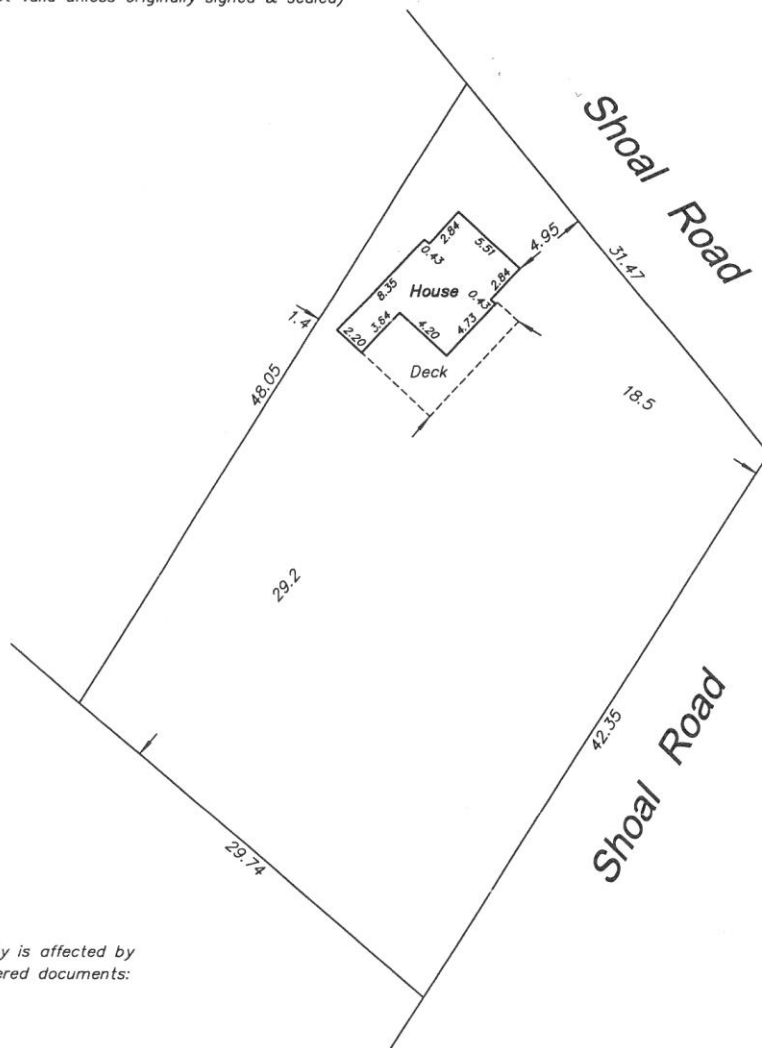


B.C.L.S. (Not valid unless originally signed & sealed)



Scale = 1:350

Distances shown are in metres.



*The subject property is affected by
the following registered documents:*

278318G, FF12103

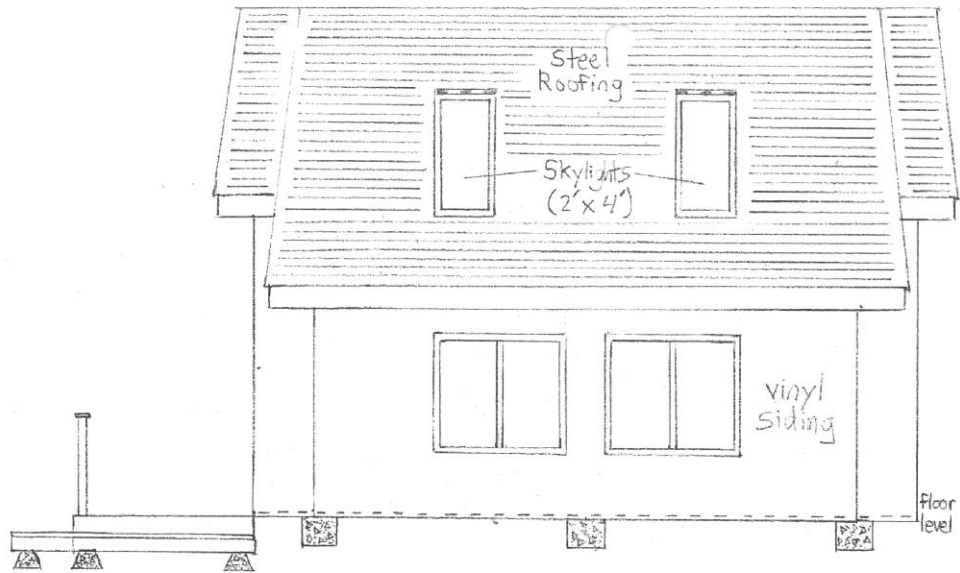
ALL RIGHTS RESERVED

© Copyright by Wey Mayenburg Land Surveying Inc.

File No.: 170147\Crt\GH

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-DVP-2017.4

SCHEDULE 'B'



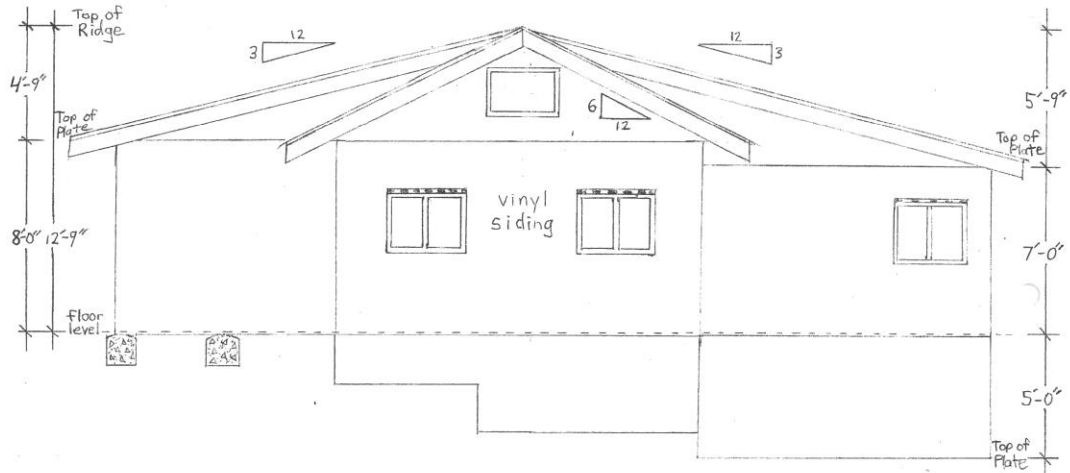
North (Front) Elevation



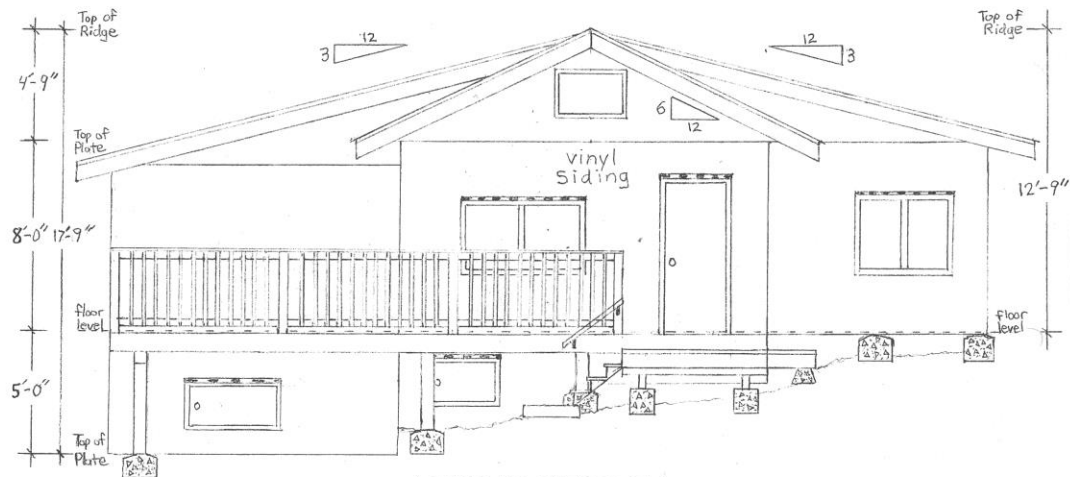
South (Rear) Elevation

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-DVP-2017.4

SCHEDULE 'B' (Cont'd)



West (Side) Elevation



East (Side) Elevation

**NOTICE
NP-DVP-2017.4
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**

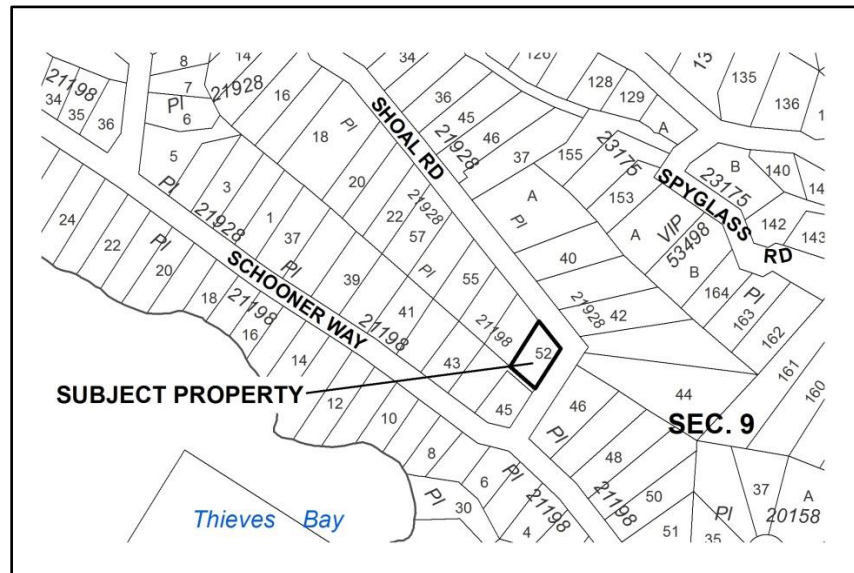
NOTICE is hereby given that the North Pender Island Local Trust Committee will be considering a resolution allowing for the issuance of a Development Variance Permit, pursuant to Section 499 of the *Local Government Act*. The proposed permit would vary the North Pender Island Land Use Bylaw No.103, 1996, by varying:

Clause 8.1.5 (1) (a) which states that no building or structure may be located within 7.6 metres of any front or rear lot line is varied to permit the **construction of a dwelling** within **4.95 metres** of a front lot line; And,

Clause 8.1.5 (1) (b) which states that no building or structure may be located within 3.0 metres of any interior side lot line is varied to permit the **construction of a dwelling** within **1.4 metres** of an interior side lot line.

The property is located at 2745 Shoal Road and is legally described Lot 52, Section 9, Pender Island, Cowichan District, Plan 21198. PID: 001-578-481

The general location of the subject properties 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 **October 26, 2017** and continuing up to and including **November 22, 2017**.

For the convenience of the public only, and not to satisfy Section 499 (2) (c) of the *Local Government Act*, additional copies of the Proposed Permit may be inspected at various Notice Boards on Pender Island.

Enquiries or comments should be directed to Phil Testemale, A/Planner 2 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 4:30 pm, **November 22, 2017**.

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 **10:00 a.m., November 23, 2017**, at the Pender Community Hall, 4418 Bedwell Harbour Road, 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.

From: Chris Watson <cwatson@crd.bc.ca>
Sent: Friday, February 02, 2018 2:50 PM
To: Justine Starke
Cc: Phil Testemale
Subject: RE: 2745 Shoal Road

Yes this is correct. Once the building permit is issued and not until, can I allow structural changes or inspections to take place.

Any work that is required under the BC Building code can be corrected if necessary.

Cheers and have a good weekend.



Making a difference...together

PLANNING AND PROTECTIVE SERVICES

Chris Watson, Building Inspector

T 250 360 3230 cwatson@crd.bc.ca

From: Justine Starke [<mailto:jstarke@islandstrust.bc.ca>]
Sent: Friday, February 02, 2018 1:35 PM
To: Chris Watson <cwatson@crd.bc.ca>
Cc: Phil Testemale <ptestemale@islandstrust.bc.ca>
Subject: 2745 Shoal Road

Hi Chris – Following up on our conversation yesterday - can you confirm that the process to determine the structural integrity of the portion of the structure that is currently encroaching into the setback at 2745 Shoal Road requires a building permit be in place first?

Thanks
justine

Justine Starke, MCIP, RPP
Island Planner, Local Planning Services
Islands Trust
200-1627 Fort St.
Victoria BC V8R 1H8
In Victoria 250-405-5189
Enquiry BC Toll-free call 1-800-663-7867
or from the lower mainland 604-660-2421

Websites: www.islandstrust.bc.ca | www.islandstrustfund.bc.ca
Preserving Island communities, culture and environment since 1974



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Islands Trust

BYLAW REFERRAL FORM

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

Island: Mayne Island Local Trust Area Bylaw No.: 171 Date: February 5, 2018

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

APPLICANTS NAME / ADDRESS:

PURPOSE OF BYLAW:

To amend Mayne Island OCP Bylaw No. 144, 2007 to in order to comply with the Fish Protection Act and the Riparian Areas Regulation by creating Riparian Area Development Permit Areas.

Professional reports and staff reports are available on the Mayne island webpage:

www.islandstrust.bc.ca/islands/mayne/projects/RAR

GENERAL LOCATION:

Mayne Island Local Trust Area

LEGAL DESCRIPTION:

SIZE OF PROPERTY AFFECTED:

ALR STATUS:

OFFICIAL COMMUNITY PLAN DESIGNATION:

OTHER INFORMATION:

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

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

Name: Gary Richardson

(Signature)

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

PLEASE TURN OVER

This referral has been sent to the following agencies:

Provincial Agencies

Ministry of Forest, Lands & Natural Resource Operations – Andrew Appleton
Ministry of Transportation & Infrastructure

Regional Agencies

Capital Regional District – Building Inspection

Adjacent Local Trust Committees and Municipalities

Galiano Island Local Trust Committee
North Pender Island Local Trust Committee
Saturna Island Local Trust Committee
South Pender Island Local Trust Committee
Salt Spring Island Local Trust Committee

First Nations

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

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

Mayne Island Local Trust Area

(Island)

171

(Bylaw Number)

(Signature)

(Name and Title)

(Date)

(Agency)

File No.: File Number(s)
(File Name or Cross Ref. No.)

DATE OF MEETING: February 22, 2018
TO: North Pender Island Local Trust Committee
FROM: Fiona XETXÁTTEN MacRaild, First Nations and Marine Issues
Local Planning Services
SUBJECT: First Nations Relationship Building

RECOMMENDATION

1. That the North Pender Island Local Trust Committee request staff to proceed with planning a First Nations-focused community workshop as outlined in the attached Project Charter, in coordination with Tsawout First Nation.

REPORT SUMMARY

The primary objective of the of a First Nations workshop is to increase local understanding and appreciation of First Nations history and traditional use of the island amongst island residents. If, during this community workshop, there is a strong desire among the island community to improve the Official Community Plan to better reflect First Nation's traditional use of the island and to set goals for the future, then the LTC can make that decision going forward after community feedback.

BACKGROUND

In November 2016, the LTC agreed to move forward with planning a First Nations-focused event, in coordination with the South Pender LTC, which would highlight the rich and culturally sophisticated history of the Pender Canal region. While staff began to plan this work, it came to the attention of the LTC and staff that a very culturally sensitive repatriation ceremony for human remains, long-held at UBC, was being organized between several other government agencies and many of the First Nations with asserted rights and title, and treaty rights on the Pender Islands. Understandably, the LTC agreed to stand down and let this important event happen in the summer of 2017 before planning again for an LTC-sponsored event for First Nations relationship building.

During the Summer and Fall of 2017, many island residents were involved in events and activities organized by the South Pender Historical Society and in partnership with the elders and leadership of Tsawout First Nation. Many of these activities – such as a SENĆOŦEN language workshop, a workshop on Indigenous knowledge of plants, a traditional salmon bake and a multi-week youth program between young adults from the Pender Islands and the young adults from the Saanich Tribes - had a meaningful impact on the island community members from both Pender Islands who participated, and it was recommended by island opinion leaders to staff that the LTC may want to wait to do an LTC-sponsored event until the effect of these activities had had a chance to sink in with those who participated. Respecting that, the NPILTC stood down again until a more opportune

time presented itself. Although much of these activities were initiated by residents of South Pender Island, many islanders from North Pender participated as well.

In November 2017, the South Pender Historical Society engaged the SPILTC to ask for a C2C event in the Spring of 2018 to coincide with a sign dedication ceremony with members from Tsawout First Nation. This presents an opportunity for the NPILTC to initiate an event that would support the overall public education on North Pender with regard to First Nations' deep history, colonial history and key aspects of our current societal shift to reconciliation and in so doing, support the public understanding and impetus behind the upcoming SILTC activities.

ANALYSIS

Policy/Regulatory

First Nations Engagement Principles Policy 6.1.i.:

This recommendation strongly supports the First Nations Engagement Principles Policy 6.1.i.

Islands Trust Policy Statement:

All First Nations have recently been invited to participate in discussions about the Policy Statement Amendment project (between Islands Trust and First Nations only) and have received a reminder email in February 2018. A First Nations workshop on North Pender Island may contribute to a raised awareness about this project and would further encourage participation.

Official Community Plan:

If, during this community workshop, there is a strong desire among the island community to improve the Official Community Plan to better reflect First Nation's traditional use of the island and to set goals for the future, then the LTC can make that decision going forward after community feedback at the workshop.

Issues and Opportunities

This particular workshop format was piloted in the Saturna Island community in December 2017 and was well received. Counsellor Toby Joseph from Tsawout First Nation was asked to open the workshop with a welcome drumming song. However, during the three hour workshop, Counsellor Joseph became very involved in the workshop, answering questions and clarifying facts. Afterwards, he suggested to staff that he would be more than pleased to participate in similar workshops as a co-presenter if there was interest.

As with other island communities in the Trust Area, staff and trustees must be respectfully neutral with regard to conflicting assertions of Aboriginal rights and title, and treaty rights on North Pender Island. Therefore, the workshop presentation (attached) focuses on the overall Indigenous history of the Gulf of Georgia and other historical and current issues that affect all First Nations without favouring any one Nation's political position.

Consultation

As a general rule of thumb (many exceptions to this are possible), Islands Trust LTCs start building relationships with the First Nation(s) that have the closest neighbouring reserve lands. In this case, that would be the reserve lands held by Tsawout and Tseycum First Nations. However, we would be transparent to all First Nations with interests in North Pender and extend an invitation to this workshop also.

Rationale for Recommendation

Throughout Canada, as local governments endeavour to build relationships and meaningful engagement with their local First Nations, many good projects that First Nations and the government agencies agree on are stopped or stalled due to public resistance. In many cases members of the public articulate that they are genuinely mystified as to what the impetus is behind the broader societal shift toward reconciliation. This is only remedied by an investment in a public education program based on facts that, for so long, have been ignored or minimized in Canadian culture. Helping a non-Indigenous community come to understand historical facts and current implications helps set the groundwork for future relationship building with First Nations that will have the support of the broader community.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Request further information

That the North Pender Island Local Trust Committee request that staff provide more in-depth details of the Project Charter before initiating the planning of a workshop

2. The LTC may receive the report for information

NEXT STEPS

Describe the next steps in the process, if applicable.

Submitted By:	Fiona XETXÁTTEN MacRaid, M.P.A. First Nations and Marine Issues	February 13, 2018
Concurrence:	Robert Kojima, Regional Planning Manager (South Region)	February 14, 2018

ATTACHMENTS

1. First Nations Workshop Project Charter v.1
2. First Nations workshop PowerPoint presentation

Purpose To facilitate a workshop on the deep history and First Nation's heritage of North Pender Island, and more generally the Gulf of Georgia.

Background The North Pender Island Local Trust Committee has made it a priority to enhance broader local understanding of the aboriginal history of the island and develop meaningful relationships with interested First Nations.

Objectives

- Host a workshop on the history of North Pender.
- Increase local understanding and appreciation of First Nations history and traditional use of the island..
- Create linkages between First Nations, individuals, and community groups.
- Identify opportunities for reconciliation.
- Make recommendations for improving the North Pender Island's Official Community Plan to better reflect First Nation's traditional use of the island and to set goals for the future.

In Scope

- One 3-hour workshop on First Nations deep history
- Travel costs for community invitees; including political representatives and staff.
- Venue costs and food provided.
- Follow up report—summary of workshop and recommendations for further OCP work.
- Counsellor Toby Joseph (Tsawout FN) will co-facilitate the workshop with staff (fee for service and travel reimbursement)

Out of Scope

- Formal government-to-government issues
- Specific implications for pending land-use decisions
- Draft OCP amendments

Work Plan Overview

Deliverable/Milestone	Date
Schedule event, invite participants, organize logistics.	February/March 2018
Plan event's content: (E.g.: presentations, round tables, group discussion). Includes arranging speakers and coordination of presentations.	February/March 2018
Host event: Facilitation and coordination.	March/April 2018
Report out—Lessons learned, OCP recommendations to LTC.	April 2018

Project Team

Fiona MacRaidl	Project Co-Manager
Justine Starke	Project Co-Manager
Lori Foster	Logistics coordinator
Robert Kojima	Supervisor

Budget: NPI LTC OCP/LUB 17/18 (\$5000)

Item	Cost
Venue (estimate)	\$100
Food	\$500
Travel (water taxi for FN facilitator)	\$200
Honorarium	\$400
Total (out of pocket):	\$1200

RPM Approval:

Robert Kojima

Date:

LTC Endorsement:

Date:

Part 1: DEEP HISTORY

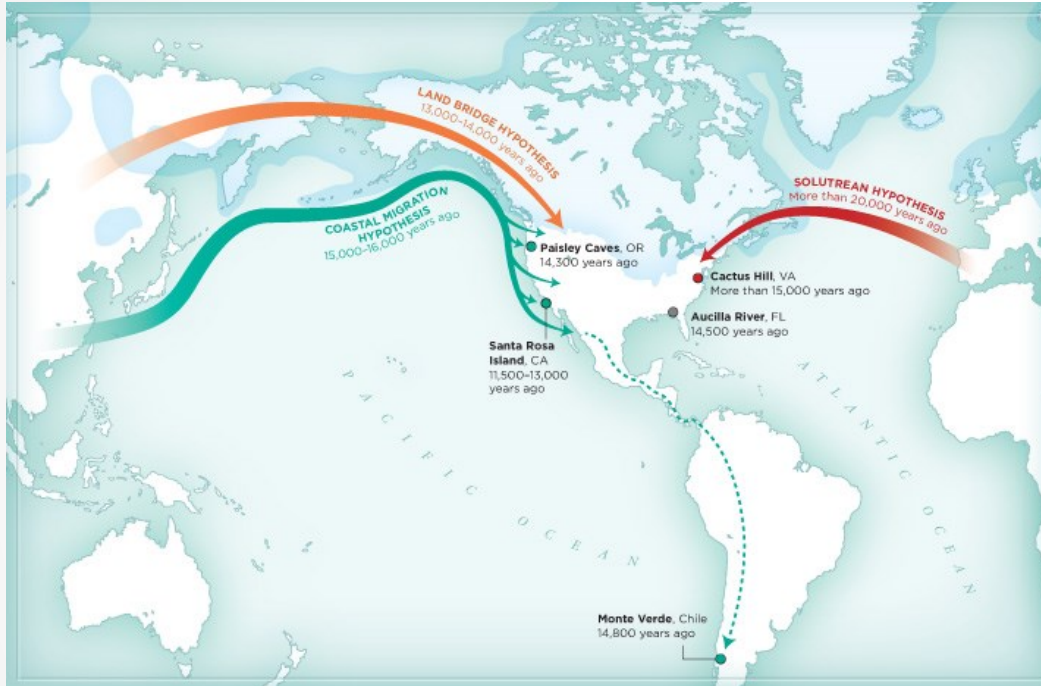
The Strait of Georgia Region



Before European contact...the most populated region north of Mexico.

The Kelp Highway

Nov. 2017 Science



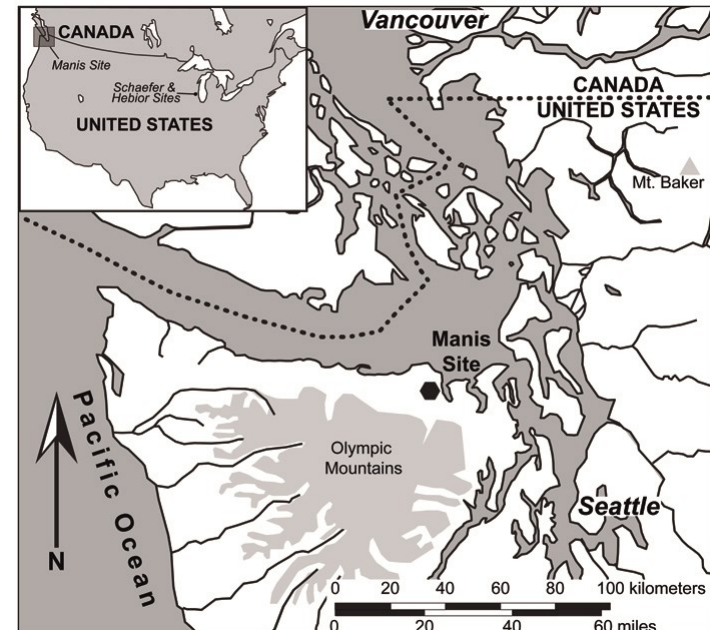
“Recent work along the Pacific coastlines of North and South America has revealed that these environments were settled early and continuously provided a rich diversity of subsistence options and technological resources for New World hunter-gatherers.”

14,000 Years Ago

2017: Triquet Village Site



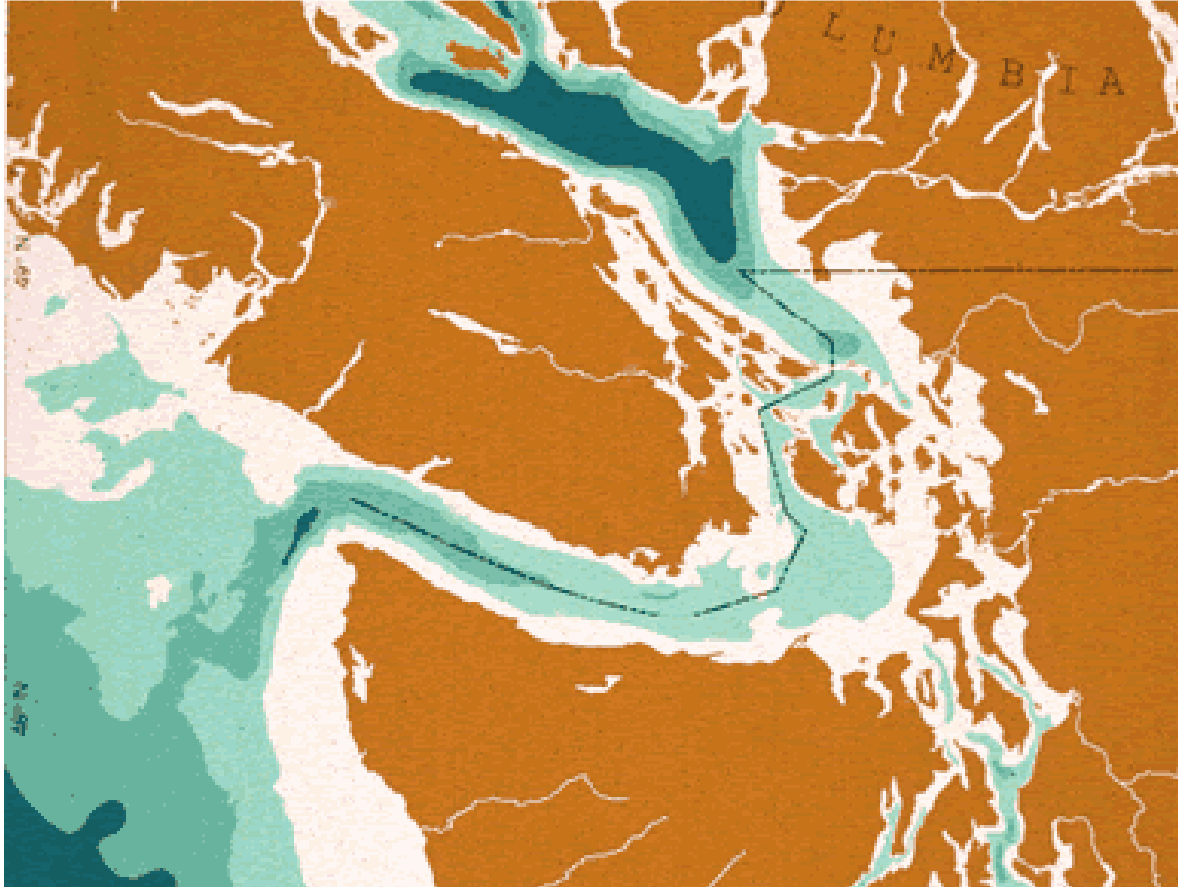
1977: Olympic Peninsula



Ice-Free Zones of the West Coast 14,000 – 10,000 Years Ago



10,000 Years Ago: The Ice Retreats: Strait of Georgia



14,000 years ago, a slow moving river of ice flowed through the Fraser Valley and formed the Strait of Juan de Fuca, the body of water that separates Vancouver Island from the Olympic Peninsula in Washington State.

Shift in Diet 8000 Years Ago

Sea Mammals:

14,000 – 8,000 Years Ago



Fin Fish and Mariculture:

8,000 Years Ago - 200 years ago



4,000 – 8,000 Years Ago: Evolution of Sophisticated Culture

2011: A 4000 Year Old Noble
Family of Sechelt



2016: A Currency of Beads

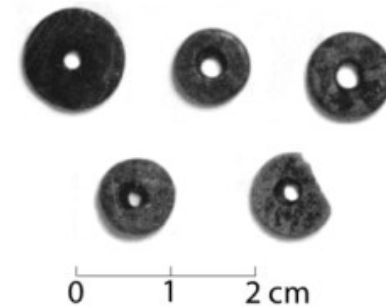


Figure V-34. Ground Stone Disk Beads - Steatite.

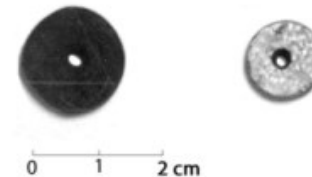
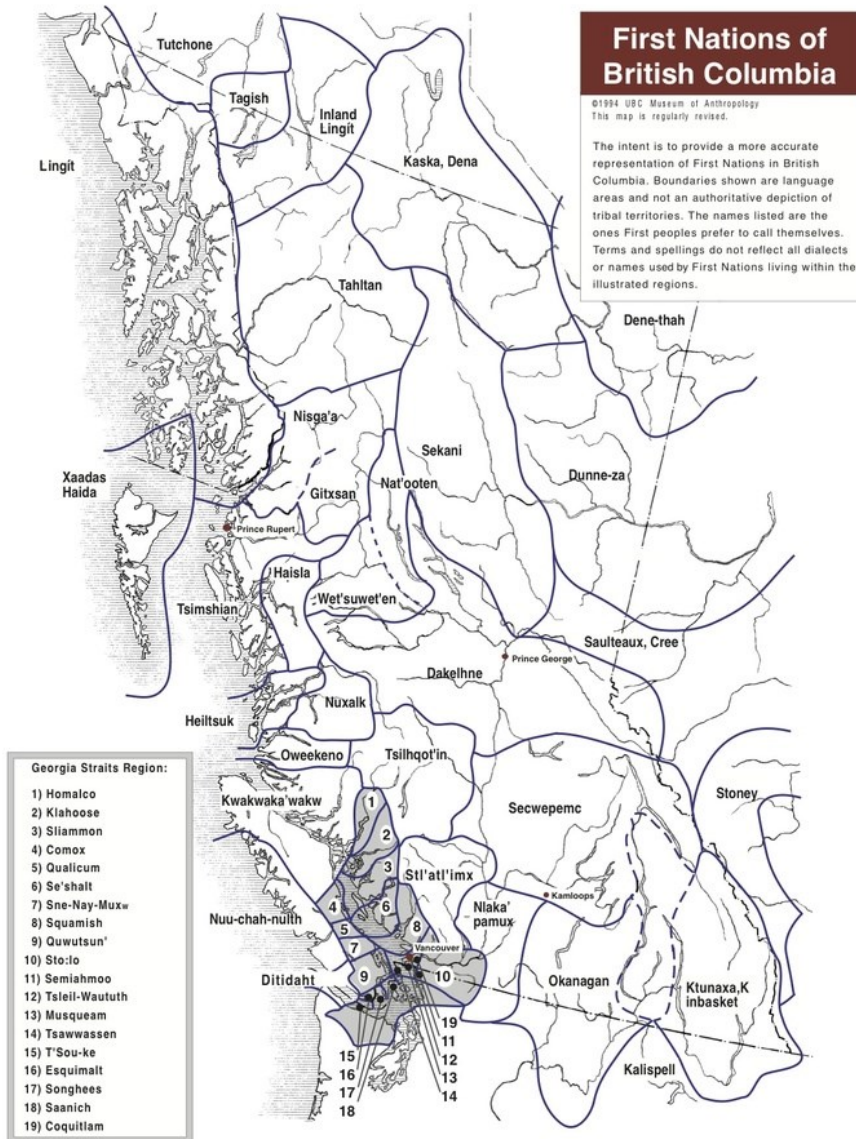


Figure V-35. Large Slate Bead (Left) and Pecten Bead (right).



“The Most Dense Indigenous Population North of Mexico”

- Richest biodiversity region
- Permanent settlements
- Complex/Concentrated linguistic diversity
- Land Use Governance
 - Inter-Nation protocols
 - Sharing
 - Reciprocity
 - Caring for community
 - Periodic warfare for expanding resources

Part 1: DEEP HISTORY

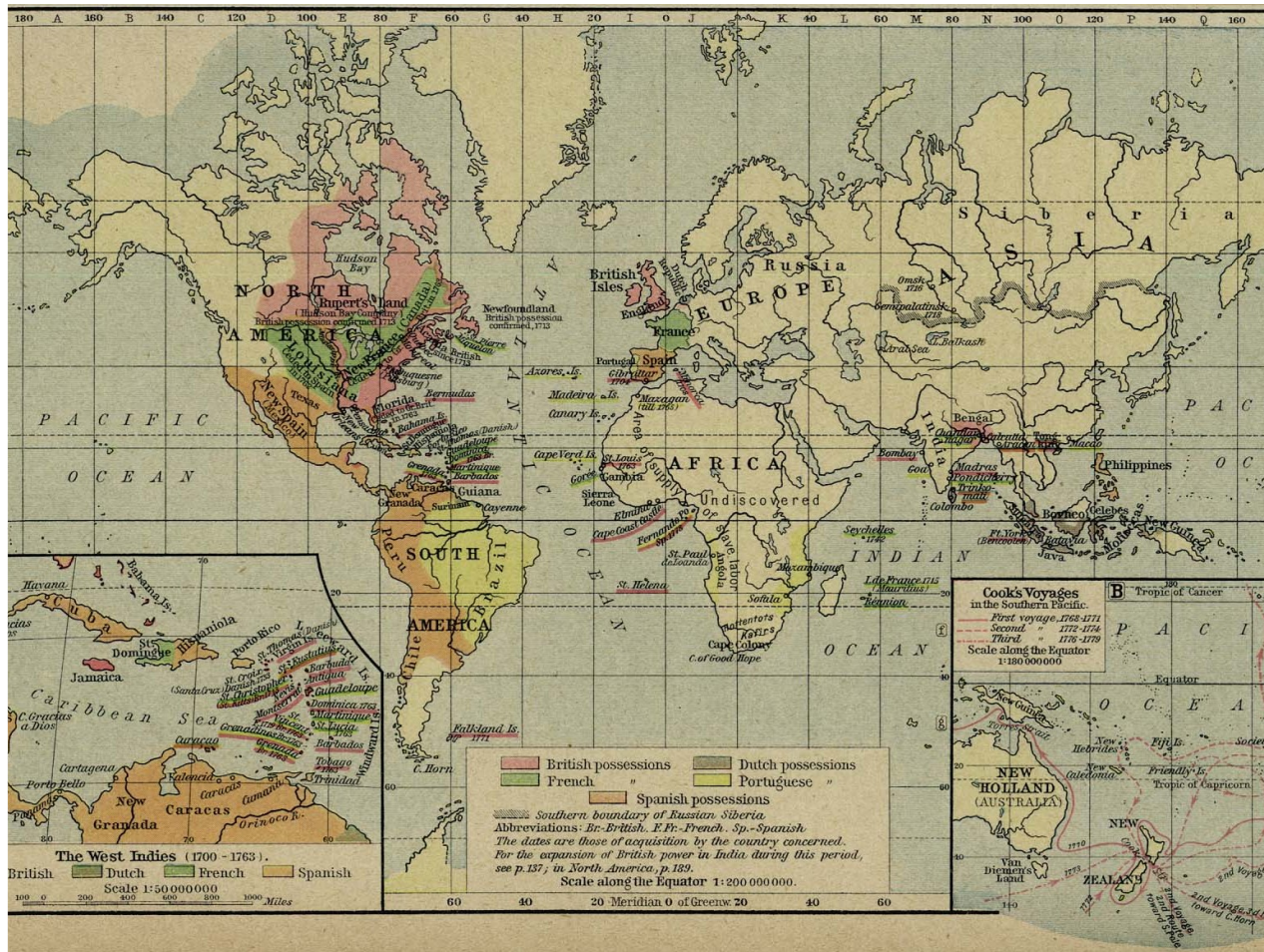
Discussion Questions



1. What would life have been like during the Ice Age (10-13,000 years ago) on the islands?
2. What else would've changed when the diet changed to fin fish (8,000 years ago)?
3. Is it possible that this rich and sophisticated culture of manufacturing, currencies, complex trade could have gone back further than 5000 years (evidence at Sechelt)?

Part 2: HISTORY OF EUROPEAN CONTACT

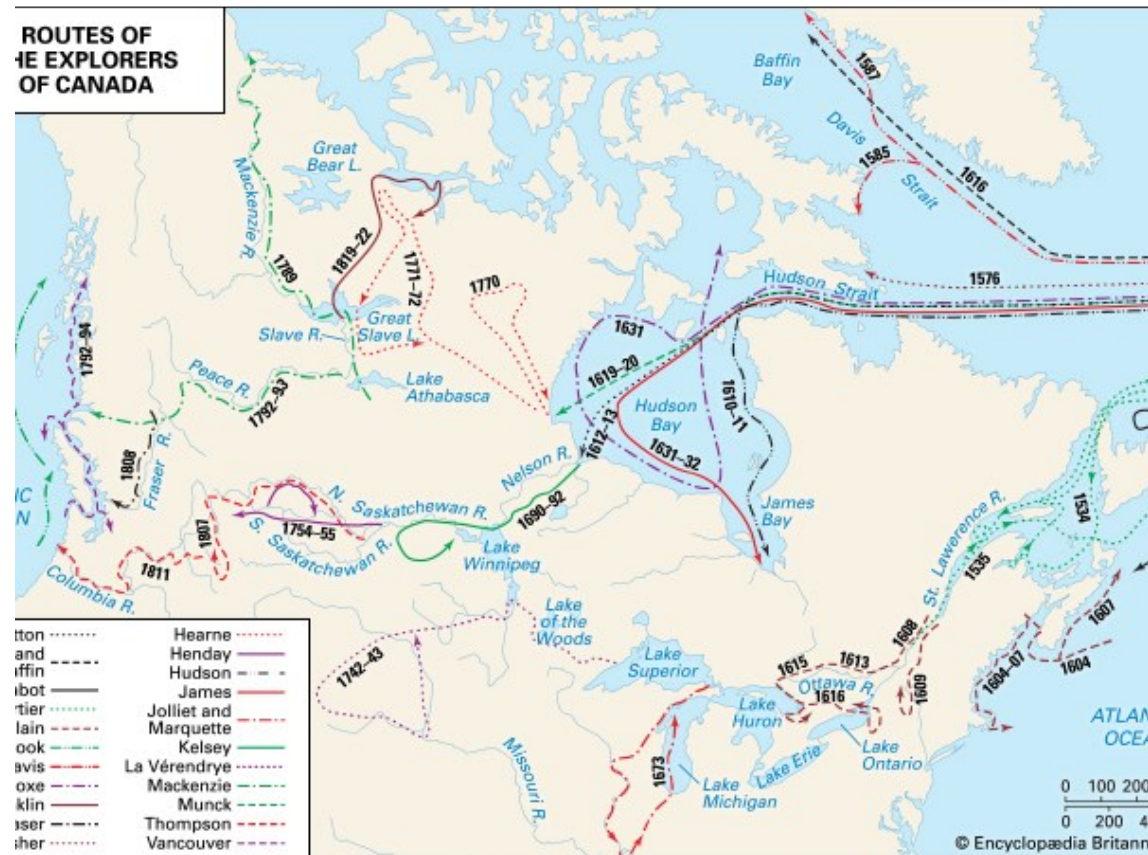
World Colonialism OF 1700



“Colonialism”: the extension of political control to new areas

“Colonist”: a person who has migrated to an area and established a permanent residence there to colonize the area

Diseases Came BEFORE the First Europeans



Indigenous traders first brought European diseases to the west coast.
1770: the first epidemics of the islands (only 247 years ago)

The Islands Were NOT Empty

“The Greatest Death Toll from Disease in the World’s History”

1994: Cole Harris

Voices of Disaster: Smallpox around the Strait of Georgia in 1782

Cole Harris, *University of British Columbia*

Abstract. This essay considers native and non-native evidence for smallpox around the Strait of Georgia and Puget Sound in the late eighteenth century. It concludes that smallpox devastated the Salish peoples of these regions, probably in the winter of 1781–82, reaching them via the lower Columbia from the plains where, in 1780–81, the disease was rampant. The implications of this conclusion and the reluctance of scholars to identify smallpox on the early Northwest Coast are also investigated.

Well, its a good thing to study these things back, you know. Like the way the people died off.
—Jimmy Peters, 1986¹

The old Indians grow quite pathetic sometimes when they touch upon this subject. They believe their race is doomed to die out and disappear. They point to the sites of their once populous villages, and then to the handful of people that constitute the tribe of today, and shake their heads and sigh.
—Charles Hill-Tout, 1904²

Demographic collapse, in short, led to widespread settlement discontinuity. To grasp the implications of such discontinuity, one must imagine what almost total depopulation would mean in Italy or Spain ca. 1500—silent villages, decaying cities, fields lying waste, orchards overgrown with brush.
—Karl W. Butzer, 1992³

It is now clear that Europeans carried diseases wherever they went in the Western Hemisphere and that among genetically similar peoples with

Ethnohistory 41:4 (fall 1994). Copyright © by the American Society for Ethnohistory. CCC 0014-1801/94/\$1.50.

1994: Robert Boyd

SMALLPOX IN THE PACIFIC NORTHWEST *The First Epidemics*

ROBERT BOYD

NINETEEN NINETY-TWO MARKED THE five hundredth anniversary of Columbus's discovery of the Americas. A major topic in the scholarly reassessment of the Columbian voyages has been their effects on the Native inhabitants of the Americas. We now know that, within a few generations of Columbus, several virulent diseases native to the Eastern Hemisphere were introduced to “virgin soil” American Indian populations. Most caused heavy mortalities, which cumulatively resulted in a hemispheric population decline of unprecedented magnitude.¹

The most deadly of these “new diseases” was smallpox. The first great American smallpox epidemic appeared in 1519 in Hispaniola, was carried with Cortez to Mexico, and from there spread throughout most of the continuously settled portion of the New World.² Although there are no historical or traditional records which indicate that this epidemic spread to the relative isolation of the Pacific Northwest, the presence of a contemporary archaeological discontinuity in a sampled segment of the middle Columbia Basin suggests that it might have.³

There is currently no other evidence of any kind which can be used to support the introduction of high-mortality exotic diseases to the Northwest prior to 1774, the beginning of direct contact between the region's Indians and Euroamericans. After that date the sequence of disease introduction is fairly well known, although few of these early epidemics have been described in the published literature.⁴

¹ See appendix, section I, for a review of recent research.

² Alfred Crosby, “Conquistadore y Pestilencia,” chapter 2 of *The Columbian Exchange: Biological and Cultural Consequences of 1492* (Westport, 1972).

³ Sarah Campbell, *Postcolumbian Culture History in the Northern Columbia Plateau, A.D. 1500-1900*. (Ph.D. dissertation, University of Washington, 1989).

⁴ See appendix, section II, for a review of recent research in the Northwest.

The Indigenous Record of “The Dragon”



A Century of Waves of Epidemics

Depopulation Waves

1. 1770s -1883 (95%)
2. 1800 – 1810
3. 1836 – 1838
4. 1862 – 1863 (65-90%)

“Virgin Soil” Demographics

- Smallpox
- Measles
- Influenza
- Typhoid



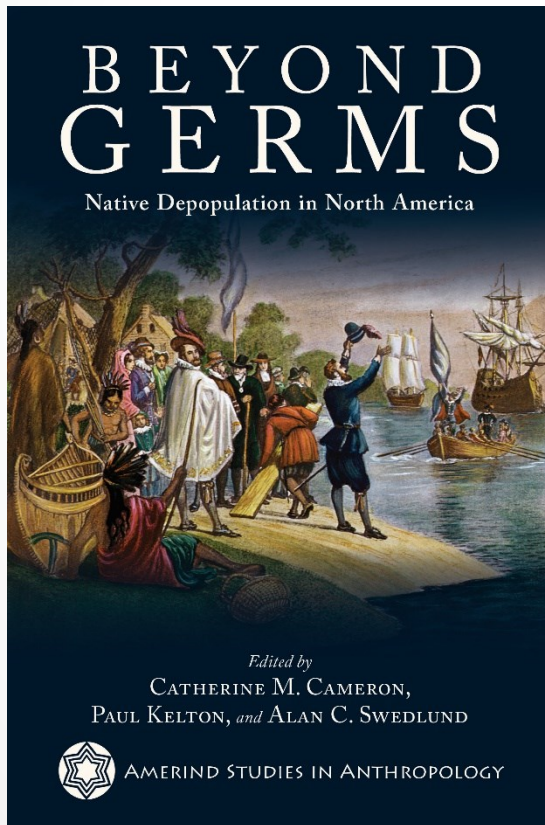
Came from All Directions...

- 1775 Spanish ship crew infects Haida/Tlingit
- Russian smallpox epidemic to Allutians
- Blackfoot epidemic from the south over the Rockies via horses
- Fort Victoria



Other Factors of the Century of Depopulation

2015: Beyond Germs



Other “European” Factors

- Overemphasis on diseases alone
- Inciting warfare
- Destroying livelihoods
- Land appropriation
- Erasing identities

The Final Emptying of the Gulf Islands and Islets



“They brought them in from the Islands, those that had survived...and they all died here. They are all buried there [Cordova Spit in front of Tsawout Reserve #2].”

(Tsawout Member 2017)

“Empty” Lands for Colonial Settlement

- A belief in terra nullius



- Joseph Trutch, 1864
 - Refused to acknowledge Aboriginal Title
 - Ended Treaty-Making
 - Reduced reserves mapped out pre-epidemic by 92 per cent
- Crown Grants
“proclaimed” and land sold as “fee simple”

Keeping Lands Empty

Indian Act 1876 - now



Reserves 1876-78 - now



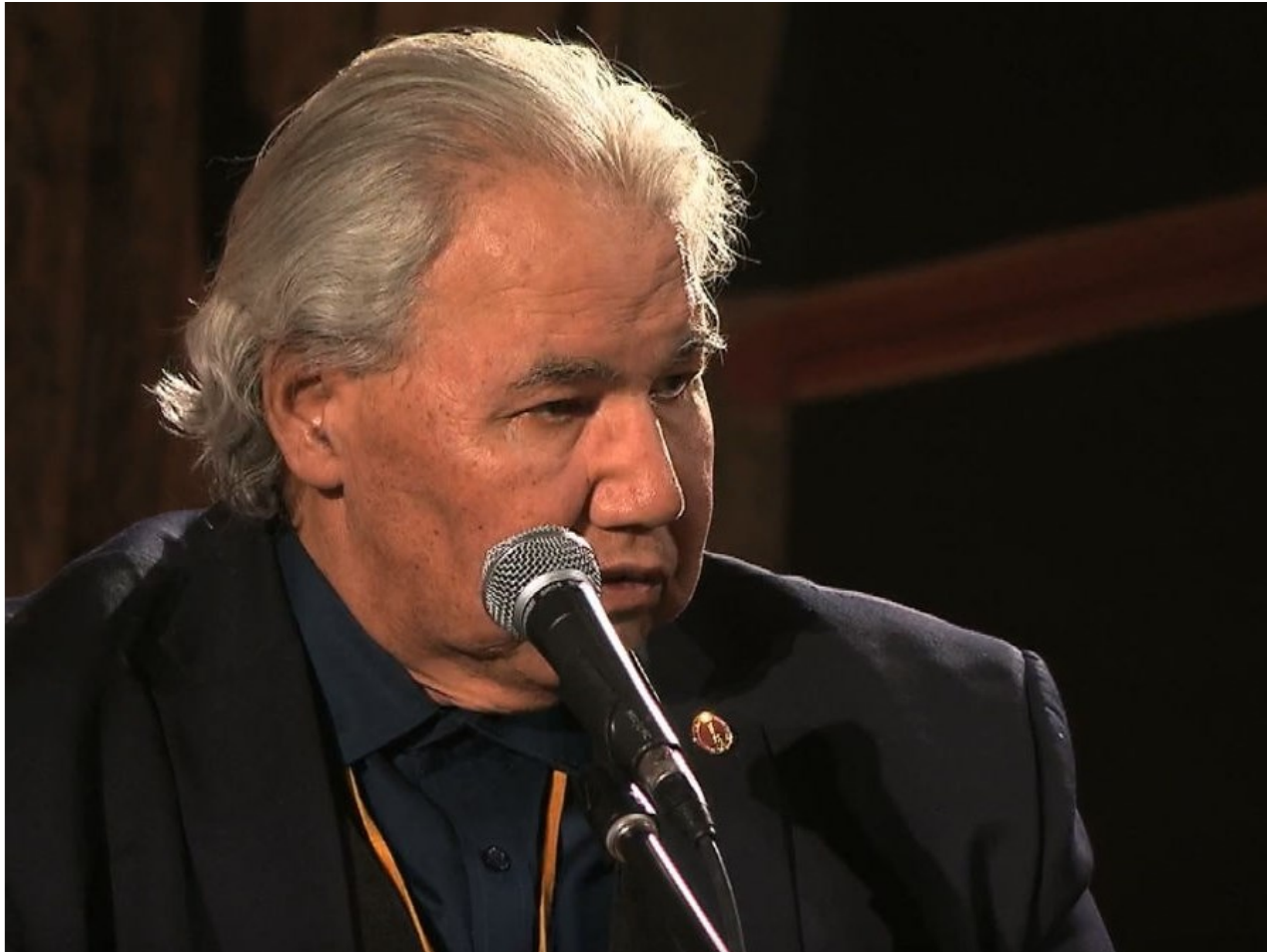
Part 2: History of European Contact

Discussion Questions



1. The elders who suffered so much – what do you think they tell their grandchildren?
2. Is there any part of the colonial history that is morally neutral?
3. What isn't morally neutral?
4. It may not have been our personal "fault" but do we have responsibility?
5. If ours is a legacy of privilege and lands, how do we acknowledge that?

Part 3: MAKING HISTORY



To those who ask why Indigenous people don't just "get over" the residential school experience, "My answer has always been: Why can't you always remember this?"

First We Ask, “Can You Tell Us?”

Saturna Island
November 2016



“More than 70 Islanders were in attendance to listen to information that was generously shared by our First Nations neighbours.”

Acknowledging First Nations History and Reconnection to the Islands



Moving Forward? But How?

Getting Educated

“Aboriginal Title”?

“Aboriginal Rights”?

“Treaty Rights?”

“Reserve lands”?

Listening, Not Defensive



Aboriginal Title



The inherent Aboriginal right to land or a territory. Always has been. Always will be.
sui generis: unique collective right to the use of and jurisdiction over a group's ancestral territories.

Aboriginal Rights



Inherent [modern!] rights which Aboriginal peoples have practiced and enjoyed since before European contact. ..land, resources, activities, self-government.

Treaty Rights (Pre-Confederate and Modern)



ROYAL PROCLAMATION 1763: BC and Canada, on our behalf...
Guaranteed hunting, fishing, lands, governance, payment for lands.

Reserve Lands



Tract of land set aside under the Indian Act and treaty agreements for the **exclusive** use of an Indian band.



The Dilemma of “Fee Simple” Lands

1. BOTH Aboriginal Title and Fee Simple lands are defined as the “right to exclusive use and occupation”
2. Both Rights Coexist on the same land
3. Only Aboriginal Title is “absolute” and Constitutionally protected

Part 3: Making History

Discussion Questions



1. To move forward together, do we really understand what First Nations need and want?
2. If the first steps of moving forward together means a sincere acknowledgement of history, how do we do that?
3. Are we only interesting in “feel-good” events, or are we ready to hear the more difficult realities of First Nations?
4. How do we contribute to the comeback of First Nations in our own community?

Top Priorities

North Pender Island

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

Projects

North Pender Island

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

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

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

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

Projects

North Pender Island

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



Islands Trust

Print Date: February 15, 2018

Applications

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2017.3	Datawave Communications Inc. Inc. No. BC0287893 (Driessen) Planner: Phil Testemale	18-Aug-2017	Single Family Dwelling
Planning Status			
Status Date: 15-Nov-2017 Applicant obtaining geotechnical assessment report			
Status Date: 17-Oct-2017 Request for further information (geotechnical assessment) sent to applicant			
Status Date: 13-Sep-2017 Waiting for survey information to process file			

File Number	Applicant Name	Date Received	Purpose
NP-DP-2018.1	Mark & Margaret Driscoll Planner: Phil Testemale	02-Feb-2018	Obtain a DP for addition to home.
Planning Status			
Status Date: 02-Feb-2018 opened file, electronic funds processed. RPM to assign planner			

Development Variance Permit

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

Applications

Status Date: 09-Jan-2018

Sent reminder to applicant requesting status

Status Date: 15-Nov-2017

Applicant consulting owner about how to proceed.

Status Date: 05-Oct-2017

Site visit conducted. Numerous illegal structures in setback confirmed. Applicant sent information on requirements to conform

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2017.4	GLEN W JOHNSON	13-Sep-2017	Seeks variance for existing unfinished SFD to obtain final occupancy

Planner: Phil Testemale

Planning Status

Status Date: 14-Feb-2018

Requested information received from BI. On LTC agenda (Feb 22) for consideration.

Status Date: 31-Jan-2018

LTC requesting letter from CRD on portion of building encroaching.

Status Date: 23-Jan-2018

Applicant exploring cost of alternatives for moving or altering the dwelling to conform. January 30, 2018 LTC agenda (tentative)for further consideration.

Rezoning

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

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

Planner: Phil Testemale

Planning Status

Status Date: 14-Feb-2018

Proposals made to applicant about alternatives - awaiting response.

Applications

Status Date: 09-Jan-2018

Consulting with applicant about uses and rezoning boundary as outcome from PH.

Status Date: 18-Oct-2017

Notification published/sent out for Oct 26 CIM and PH. Post Public Hearing report with recommendations on LTC agenda

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.2	PORT BROWNING MARINA RESORT LTD INC.NO. BC1037734	09-May-2016	4605 OAK RD Rezzone the water lot adjacent to the current Marina
Planner: Phil Testemale			

Planning Status

Status Date: 14-Feb-2018

Covenants on February 22, 2018 agenda for acceptance and signing authority. Bylaw 206 (marina)final approval pending register of covenants. Bylaw 207 and 208 awaiting Ministerial signature.

Status Date: 09-Jan-2018

Covenants drafted and revised. Applicants working on access agreements for Pool and Sailing Assn.

Status Date: 19-Jul-2017

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

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

Planner: Justine Starke

Planning Status

Status Date: 19-Jul-2017

Bylaws approved by EC. 209 to Minister for Approval

Applications

Status Date: 15-Jun-2017

Bylaws 206 through 210 to July 19 EC for approval.

Status Date: 20-Apr-2017

Report to LTC for consideration of second reading.

File Number	Applicant Name	Date Received	Purpose
NP-RZ-2016.4	PENDER ISLAND COMMUNITY SERVICE SOCIETY PICSS c/o RAE Planner: Phil Testemale	27-Oct-2016	4605 BEDWELL HARBOUR RD - OCP AND LUB Amendment from Rural to Community Service Zoning

Planning Status

Status Date: 23-Nov-2017

Bylaws receive further reading, forwarded to EC and Minister

Status Date: 15-Nov-2017

CIM and Public Hearing Scheduled for November 23 LTC

Status Date: 02-Oct-2017

Bylaws 211 and 212 drafted - First Reading given at September 21 LTC. Direction to schedule PH and refer bylaws.

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

Planning Status

Status Date: 14-Feb-2018

Bylaw 213 adopted on January 30, 2018. File returned to PTA to close.

Status Date: 09-Jan-2018

On January 25, 2018 agenda for Final Approval

Applications

Status Date: 23-Nov-2017

Bylaws receive further reading and forwarded to EC for approval

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2012.4	Edgewood Estates c/o Graham Ross	29-Nov-2012	2218 CLAM BAY RD To create 11 lots including remainder
Planner: Phil Testemale			

Planning Status

Status Date: 09-Jan-2018

Awaiting information on driveway status

Status Date: 22-Jun-2017

Update meeting with applicant - todays date

Status Date: 21-Mar-2017

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

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

Planning Status

Status Date: 09-Jan-2018

Awaiting Ministerial signature

Status Date: 19-Jul-2017

Bylaws approved by EC

Status Date: 19-Jul-2017

Bylaws approved by EC. 207 to Minister for Approval.

File Number	Applicant Name	Date Received	Purpose
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Applications

NP-SUB-2017.1 DAVID G 16-Mar-2017 3210 ARMADALE RD - proposed subdivision to create 2 residential parcels

RICHARDSON EDNA

M HEMSWORTH

Planner: Phil Testemale

Planning Status

Status Date: 14-Feb-2018

DVP approved (January 30, 2018). 10 percent waiver on February 22, 2018 agenda. Proof of potable water, septic and drainage required.

Status Date: 09-Jan-2018

PLA received. DVP on Jan 25, 2018 LTC for consideration.

Status Date: 13-Sep-2017

Waiting for PLA. Required DVP Application has been submitted.

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2017.3	Jim Petrie	19-Dec-2017	proposed 2 lot subdivision

Planner: Phil Testemale

Planning Status

Status Date: 02-Feb-2018

Referral response sent to MoTI.

Status Date: 16-Jan-2018

fees received, LTC notified, file passed to planner.

Status Date: 22-Dec-2017

file received from MoTI, fee request sent to applicant.

Temporary and Industrial Use Permit

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

Planner: Phil Testemale

Planning Status

Applications

Status Date: 14-Feb-2018

Draft permit and notice prepared. Mail out and newspaper ad for March 22, 2018 LTC Regular Meeting.

Status Date: 23-Jan-2018

Applicant out of country for Jan meeting. Applicant's son has requested be at meeting. Notice to be sent posted in paper for March 22 LTC

Status Date: 18-Oct-2017

Site visit conducted October 5. Further information requested. Notice (tentative) to be sent for November 23 LTC

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2017.5	Mark Kroeker	05-Dec-2017	TUP for STVR

Planner: Jason Youmans

Planning Status

Status Date: 24-Jan-2018

Site Visit

Status Date: 23-Jan-2018

Anticipate February 22 LTC

Status Date: 22-Jan-2018

Draft permit to applicant for review

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2018.1	Mary June Pettyfer c/o Robin Pettyfer	25-Jan-2018	TUP for STVR

Planner: Jason Youmans

Planning Status

Status Date: 26-Jan-2018

notified LTC, planner and bylaw of application.

Status Date: 25-Jan-2018

opened file, processed fee, awaiting planner assignment from RPM.

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

650 North Pender	Invoices posted to Month ending December 2017	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-650	LTC "Trustee Expenses"	1,500.00	31.80	1,468.20
LTC Local				
65200-650	LTC - Local Exp - LTC Meeting Expenses	4,000.00	3,054.11	945.89
65210-650	LTC - Local Exp - APC Meeting Expenses	600.00	193.35	406.65
65220-650	LTC - Local Exp - Communications	500.00	0.00	500.00
65230-650	LTC - Local Exp - Special Projects	500.00	0.00	500.00
TOTAL LTC Local Expense		<u>5,600.00</u>	<u>3,247.46</u>	<u>2,352.54</u>
Projects				
73001-650-2006	North Pender OCP/LUB	5,000.00	0.00	5,000.00
73001-650-4054	North Pender Waste Management Review	7,000.00	6,415.12	584.88
73001-650-4086	North Pender Secondary Suites Review	5,000.00	345.89	4,654.11
73001-650-4087	North Pender Housing Needs Assessment	2,000.00	0.00	2,000.00
TOTAL Project Expenses		<u>19,000.00</u>	<u>6,761.01</u>	<u>12,238.99</u>

North Pender Island Local Trust Committee

POLICIES AND STANDING RESOLUTIONS

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



Trust Fund Board Report to Local Trust Committees and Bowen Island Municipality January 2018



Election of the Trust Fund Board Chair

Trustee Tony Law was nominated and elected by acclamation as the Trust Fund Board (TFB) Chair for 2018.

Re-appointment of Robin Williams

The Minister has approved the re-appointment of Robin Williams to the TFB for two years. Trustee Williams will continue to represent the TFB on the Financial Planning Committee.

New 'Salish View' Conservation Proposal, Lasqueti Island

The TFB received and accepted a conservation proposal submitted by the Lasqueti Island Nature Conservancy, (LINC) regarding the acquisition of the property known as 'Salish View'. The TFB agreed to contribute \$32,000 from the Lasqueti Island Acquisition Fund to purchase Salish View, on the condition that the primary donors to this Fund support the use of the funds for this project. Staff will be working with LINC on fundraising and communications for the campaign, and if the campaign is successful, the land will be protected by the TFB as a nature reserve, with a covenant held by LINC.

Regional Conservation Plan (RCP)

The TFB approved the final 2018-2027 Regional Conservation Plan (RCP). The Board is referring the RCP to Trust Council for endorsement at the March Trust Council meeting. The TFB also reviewed a three-year work plan that builds on the approved RCP. The RCP will be used by the TFB to evaluate conservation proposals, to direct communications and fundraising efforts and to guide property management work. The three-year work plans will be used by staff and board members to guide their work and measure progress towards achieving the larger goals of the ten-year RCP. The final RCP will be posted on the Islands Trust Fund (ITF) website after the March Trust Council meeting and a news release will be issued.

Fairyslipper Forest campaign

Fairyslipper Forest is now protected as a TFB nature reserve. A board-to-board celebration event will be held in Cowichan Valley on February 24, 2018 to celebrate the successful completion and protection of Fairyslipper Forest Nature Reserve on Thetis Island. Public celebration events will be held on Thetis Island on April 21-22, 2018.

Report on Islands Trust Meeting with the Minister

The TFB discussed possible follow-up actions emerging from the recent Islands Trust meeting with the Minister of Municipal Affairs and Housing regarding the requested change to the Islands Trust Act to change the name of the Islands Trust Fund.

Agricultural Land Commission (ALC) Review

Trustee Tony Law attended the a regional stakeholder meeting held by the Minister of Agriculture's Advisory Committee on the Revitalization of the Agricultural Land Reserve and Agricultural Land Commission on February 6, 2018 in Nanaimo.

Summary of Current Island-by-Island Activities

Denman

Staff attended an open house on January 27, for public consultation on the revised management plan for Morrison Marsh Nature Reserve, to be completed by April 2018. Invasive species removal and trail clearing, sign installation, tree caging for forest restoration continues at all three TFB nature reserves.

Gabriola

Construction is almost complete on the boardwalk around the large western redcedar tree. Notice of the work went into the local paper and social media, and the RCMP was notified to deter vandalism. Construction of boardwalk over a wet area on one section of the existing trail will begin in February.

Galiano

Invasive species removal and trail clearing is in progress on the Laughlin Lake and Vanilla Leaf Nature Reserves. The Board received and approved a request from a

Please feel free to contact members of the Trust Fund Board or Islands Trust Fund staff for more details.

Tony Law, Chair tlaw@islandstrust.bc.ca
Islands Trust Fund itfmail@islandstrust.bc.ca

Master's student to perform research on pollinators and microclimates on Retreat Island Covenant provided that conditions for ecological integrity and stakeholder approval are met.

Lasqueti

Riparian restoration and nesting box maintenance is in progress at the John Osland Nature Reserve.

North Pender

Public consultation, including a questionnaire and open house scheduled for February 17, 2018, are underway for a revised management plan for the Medicine Beach Nature Sanctuary, to be completed by April 2018.

Please feel free to contact members of the Trust Fund Board or Islands Trust Fund staff for more details.

Tony Law, Chair tlaw@islandstrust.bc.ca
Islands Trust Fund itfmail@islandstrust.bc.ca



MEMORANDUM

File No.:

(File Name or Cross Ref. No.)

DATE OF MEETING: February 22, 2018
TO: North Pender Island Local Trust Committee
FROM: David Marlor, Director of Local Planning Services
Local Planning Services
COPY:
SUBJECT: Farm Industry Review Board and Aquaculture

PURPOSE

At its business meeting on January 17, 2018, the Executive Committee passed the following resolution:

that the Islands Trust Executive Committee requests that the information about the BC Farm Industry Review Board be distributed to the Local Trust Committees and enquiries are to be directed to the Regional Planning Manager.

The attached news release advises under the *Fish and Seafood Act* that came into force on January 1, 2017 that the BC Farm Industry Review Board had jurisdiction to hear fin, shellfish and aquatic plants aquaculture-related nuisance complaints under the Farm Practices Protection (Right to Farm) Act.

NEXT STEPS

None

Submitted By:	David Marlor, Director of Local Planning Services	February 2, 2018
Concurrence:	[Managing Staff Name, Credentials Title]	Select Date.

ATTACHMENTS

Reorder/add/delete/modify attachments as needed:

1. Attachment 1 – March 2017 News Release – Aquaculture and the Farm Practices Protection (Right to Farm) Act.



AQUACULTURE AND THE *FARM PRACTICES PROTECTION (RIGHT TO FARM) ACT*

As of January 1, 2017 the BC Farm Industry Review Board (BCFIRB) has jurisdiction to hear fin, shellfish and aquatic plants aquaculture-related nuisance complaints under the *Farm Practices Protection (Right to Farm) Act (FPPA)*

Agriculture and aquaculture are important BC industries. Under the *Farm Practices Protection (Right to Farm) Act (FPPA)*, farmers using “normal farm practices” are protected from certain bylaw enforcement, court injunctions and lawsuits related to nuisance complaints. The *FPPA* balances community interests by both protecting farmers from disturbance complaints, and by giving neighbours of a specific farm the right to formal conflict resolution through BCFIRB. Both non-farming and farming neighbours have the right to file a complaint.

While normal farm practices are protected under legislation, BCFIRB encourages farmers and their neighbours to work together to resolve disputes in the first instance.

Although there are many options for resolving disputes between farmers and neighbours, in some situations, enforcement regarding use of a farm practice which is causing a disturbance may be called for.

Expanded Jurisdiction

The *Fish and Seafood Act* came into force by regulation on January 1, 2017. Concurrently consequential amendments to the *FPPA* came into force. These amendments bring fin and shellfish aquaculture back into the scope of nuisance complaints heard by BCFIRB under the *FPPA*. The types of aquaculture covered by the amendments are broad and include marine finfish, shellfish and freshwater (or land-based) operations as well as aquatic plants.

For more information contact

Case Manager
250-356-8945

British Columbia
Farm Industry Review Board

Mailing Address:
PO Box 9129 Stn Prov Govt
Victoria BC V8W 9B5
Telephone: 250 356-8945
Facsimile: 250 356-5131

Location:
1st Floor, 780 Blanshard Street
Victoria BC V8W 2H1
Email: firb@gov.bc.ca
Website: www.gov.bc.ca/BCFarmIndustryReviewBoard