



North Pender Island Local Trust Committee Regular Meeting Agenda

Date: December 4, 2021
Time: 11:00 am
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

			Pages
1.	CALL TO ORDER	11:00 AM - 11:00 AM	
2.	APPROVAL OF AGENDA	11:00 AM - 11:05 AM	
3.	TRUSTEE REPORT	11:05 AM - 11:15 AM	
4.	CHAIR'S REPORT	11:15 AM - 11:20 AM	
5.	TOWN HALL AND QUESTIONS	11:20 AM - 11:35 AM	
6.	COMMUNITY INFORMATION MEETING		
	None		
7.	PUBLIC HEARING		
	None		
8.	MINUTES	11:35 AM - 11:45 AM	
8.1.	Local Trust Committee Special Meeting Minutes Dated October 22, 2021 (for Adoption)		4 - 7
8.2.	Local Trust Committee Minutes Dated October 28, 2021 (for Adoption)		8 - 18
8.3.	Section 26 Resolutions-without-meeting Report - None		
8.4.	Advisory Planning Commission Minutes - None		
9.	BUSINESS ARISING FROM THE MINUTES		
9.1.	Follow-up Action List Dated Nov 2021		19 - 22
10.	DELEGATIONS		

11. CORRESPONDENCE

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

12. APPLICATIONS AND REFERRALS

11:45 AM - 12:45 PM

- | | | |
|-------|--|----------|
| 12.1. | NP-DVP-2021.5 (Billingsley) - Staff Report (attached) | 23 - 44 |
| 12.2. | NP-TUP-2021.7 (Harwood) – Preliminary Staff Report (attached) | 45 - 68 |
| 12.3. | NP-DP-2021.7 (Brodie) – Staff Report (attached) | 69 - 96 |
| 12.4. | Salt Spring Island Local Trust Committee Referral for Proposed Bylaw No. 525 (for response) (attached) | 97 - 103 |

13. BREAK

12:45 PM - 1:00 PM

14. LOCAL TRUST COMMITTEE PROJECTS

1:00 PM - 2:00 PM

- | | | |
|-------|---|-----------|
| 14.1. | Land Use Bylaw Review Project - Staff Report (attached) | 104 - 124 |
|-------|---|-----------|

15. REPORTS

2:00 PM - 2:10 PM

- | | | |
|---------|--|-----------|
| 15.1. | Work Program Report (attached) | |
| 15.1.1. | <u>Top Priorities Report Dated Nov 2021</u> | 125 - 125 |
| 15.1.2. | <u>Projects List Report Dated Nov 2021</u> | 126 - 126 |
| 15.2. | Applications Report Dated Nov 2021 (attached) | 127 - 132 |
| 15.3. | Trustee and Local Expense Report Dated Oct 2021 (attached) | 133 - 133 |
| 15.4. | Adopted Policies and Standing Resolutions (attached) | 134 - 138 |
| 15.5. | Local Trust Committee Webpage | |
| 15.6. | Islands Trust Conservancy Report - None | |
| 15.6.1. | <u>Nighthawk Hill NAPTEP addition Application (North Pender) - Briefing (attached)</u> | 139 - 141 |

16. NEW BUSINESS

17. UPCOMING MEETINGS

- | | |
|-------|--|
| 17.1. | Next Regular Meeting Scheduled for January 27, 2022 at the Anglican Parish Hall, Pender Island |
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18. TOWN HALL

2:10 PM - 2:25 PM

19. CLOSED MEETING

None

20. ADJOURNMENT

2:25 PM - 2:25 PM



DRAFT

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

North Pender Island Local Trust Committee

Minutes of Special Meeting

Date: October 22, 2021
Location: Electronic Meeting (Zoom Webinar)

Members Present: _____ Laura Patrick, Chair
_____ Benjamin McConchie, Local Trustee
_____ Deb Morrison, Local Trustee

Staff Present: _____ Robert Kojima, Regional Planning Manager
_____ Shannon Brayford, Recorder
_____ Robert Barlow, Legislative Services Clerk, Web Host
_____ Robin Ellchuk, Planning Team Assistant, Web Host

Public: There were approximately eleven (11) attendees in the Zoom webinar.

1. CALL TO ORDER

Chair Patrick called the meeting to order at 1:30 pm. She acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

By general consent the agenda was approved as presented.

3. BUSINESS ITEMS

3.1 Land Use Bylaw Review Project - Staff Report (attached)

Maximum Floor Area

Regional Planning Manager (RPM) Kojima provided an overview of the staff report and highlighted key points and staff's requests for direction related to maximum floor area.

The Local Trust Committee held a discussion regarding maximum floor area, including the following points:

- Rationale for amending the current regulations
- Opportunities for consistency with South Pender Island and discussion of holding a shared community information meeting.
- Impact of regulations on property owners and potential changes to application processes.
- Timing options for receiving legal clarification for non-conforming status.

- Benefits and challenges of using site specific zoning to deal with homes that may exceed the maximum floor area.

NP-2021-082

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee invite the South Pender Island Local Trust Committee Trustees to the December Special Meeting on Land Use Bylaw.

CARRIED

Agricultural Amendments

RPM Kojima provided an overview of the staff report and highlighted key points including the referral response received from the North Pender Agricultural Advisory Planning Commission (AAPC) and the recent Agricultural Land Reserve (ALR) regulation amendments.

The Local Trust Committee held a discussion regarding agricultural amendments, including the following points:

- Importance of supporting sustainable and local food resources
- Legal definition of “farm worker”
- Impacts of the Agricultural Land Commission (ALC) amendments and reactions to the amendments locally and in other Trust areas
- AAPC’s recommendations for improving access to farm worker and other housing on agricultural land.
- Potential use for Temporary Use Permits for farm worker accommodations.

It was noted that Trustee McConchie will be meeting with members of the AAPC and will report back to the LTC on the results of that meeting at the next LTC regular business meeting

Commercial Accommodations

RPM Kojima provided an overview of the staff report and noted that each property in question is addressed individually. He requested direction from the LTC regarding whether the zoning should be changed to reduce the development potential of specific properties.

The Local Trust Committee held a discussion regarding potential zoning amendments for the four properties in question:

- Potential to allow future rezoning to increase the density should a ground water management plan be put in place.
- Benefits and challenges to using Development Permit Areas to regulate development and protect ground water resources
- Benefits and challenges to using 219 Covenants to regulate development and protect ground water resources
- Impact of commercial accommodations on rural character due to traffic and other considerations.

NP-2021-083

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to contact the owners of 1329 MacKinnon Road and 1349 MacKinnon Road to discuss the option of entering into a 219 Covenant.

CARRIED

A discussion was held regarding the zoning on the Commercial Two zoned land behind the Driftwood Commercial Centre. The benefits and challenges of rezoning the property for residential rentals was discussed, including questions of maximum floor area and concerns of ground water. There was general consensus that should the property be rezoned, the total floor area not be increased, but the number of units and floor area per unit would be amended to accommodate larger units suitable for fulltime residence.

NP-2021-084

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to amend the draft Land Use Bylaw to change the zoning behind the Driftwood from C2 to rental residential.

CARRIED

In Stream Dock Applications

RPM Kojima provided an overview of the current issue and the status of the provincial moratorium.

A discussion was held regarding the benefits and drawbacks of considering the in-stream dock applications in advance of the moratorium being lifted

NP-2021-085

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to amend the zoning in the draft Land Use Bylaw of the foreshore to Water 3 for the eleven in-stream private moorage applications.

CARRIED

Note: A break was held from 3:16 -3:21 pm.

A discussion was held regarding next steps and the timeline for community information meetings. It was noted that community information meetings will be held in the new year and that the LTC would also like a mailed communication to be sent to the community prior to the meetings.

NP-2021-086

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to schedule a Special Meeting in December 2021 to present the draft bylaws for the Land Use Bylaw Review Project to the Local Trust Committee for review and comment.

CARRIED

3.2 Soil Bylaw Project – Staff Report

RPM Kojima provided an overview of the staff report and noted the proposed next steps in the project.

By general consensus, the LTC received the staff report for information.

4. ADJOURNMENT

By general consent the meeting was adjourned at 3:37 pm.

Laura Patrick, Chair

Certified Correct:

Shannon Brayford, Recorder



DRAFT

North Pender Island Local Trust Committee Minutes of Regular Meeting

Date: October 28, 2021
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

Members Present: _____ Laura Patrick, Chair
_____ Benjamin McConchie, Local Trustee
_____ Deb Morrison, Local Trustee (electronically)

Staff Present: _____ Robert Kojima, Regional Planning Manager
_____ Phil Testemale, Planner 2
_____ Shannon Brayford, Recorder

Public Present: There were approximately seven (7) members of the public.

1. CALL TO ORDER

Chair Patrick called the meeting to order at 9:49 am. She acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

The following additions were recommended under New Business:

- Local Trust Committee (LTC) advocating to the Capital Regional District (CRD) for improvements to the Magic Lake area.
- Quarterly meetings with the Agricultural Advisory Planning Commission (AAPC).
- Bylaw enforcement of trailers and temporary housing.

By general consent, the agenda was adopted as amended.

3. TRUSTEE REPORT

Trustee Morrison reported that she was attending meeting electronically from Scotland as she is also attending the United Nations Climate Change Conference.

Trustee Morrison further reported that she has appreciated community feedback on the Land Use Bylaw (LUB) review. She encouraged the community to consider the Trust Policy Statement and give comment through the Trust Council's Islands 2050 project.

Trustee McConchie provided an overview of recent activities including:

- LUB review and policy statement discussions with community.
- Collaboration with South Pender Island Local Trust Committee on common goals related to the LUB.
- Meeting with the Agricultural Advisory Planning Commission (AAPC) and discussion of housing on agricultural land and farm worker housing.
- Collaboration with an invasive species management group to help manage the invasion of daphne in local park spaces.

Trustee McConchie also encouraged the public to engage with Trust Council regarding the Trust Policy Statement.

4. CHAIR'S REPORT

Chair Patrick reported that Trust Council met in September and that one outcome of the meeting was an approval for consultant support for the Trust Policy public engagement process.

She further reported that the next Trust Council starts November 30, 2021 and that budget planning will be a key focus at the meeting. She encouraged public participation and provided directions to the website for further information.

5. TOWN HALL AND QUESTIONS

Donn Korbin addressed Bill 26 which will amend the Islands Trust Act. He requested information on the Bill, including the rationale for the request for the amendments and the route by which public to access additional information.

Donn Korbin addressed Trust Policy Statement Bylaw No. 183 and requested a definition for the reference to “aboriginal ways of knowing”.

Michael Sketch addressed Trust Policy Statement Bylaw No. 183. He provided criticism of the current draft, offered recommendations for improvement, and encouraged the LTC not to support the policy until improvements had been made.

6. COMMUNITY INFORMATION MEETING

None

7. PUBLIC HEARING

None

8. MINUTES

8.1 Local Trust Committee Regular Minutes Dated July 29, 2021 (for Adoption)

It was recommended that the minutes be amended as follows:

Under Call to Order, to add, "Trustee McConchie requested a minute of silence in recognition of the discovery of the graves at the Kamloops Residential School."

By general consent the minutes were adopted as amended.

8.2 Local Trust Committee Special Meeting Minutes Dated September 7, 2021

By general consent the minutes were adopted as amended.

8.3 Section 26 Resolutions-without-meeting Report Dated Oct 2021

Received for information

8.4 Agricultural Advisory Planning Commission Minutes Dated September 23 and September 27, 2021 (for Receipt)

Received for information

9. BUSINESS ARISING FROM THE MINUTES

9.1 Follow-up Action List Dated Oct 2021

The LTC requested and received information on the current status on the following projects:

- Personal helicopter use in the Trust Area.
- Letter to the CRD requesting collaboration to improve inter-agency communication.

10. DELEGATIONS

None

11. CORRESPONDENCE

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

12. APPLICATIONS AND REFERRALS

12.1 NP-DP-2021.5 (Resuello) – Staff Report

Planner Testemale provided an overview of the application including the intended work, the rationale for the application, results of professional studies, and staff recommendations.

The LTC discussed the application and staff report, including the following points:

- Clarification of protection regulations for the riparian area, including the designated protected area compared with the extended 30-meter management zone.
- Opportunities for improvements within the protection and enhancement area, including the planting of native shade species.
- History of the Development Permit Area (DPA) and benefits of the regulations.

NP-2021-082

It was Moved and Seconded

That the North Pender Island Local Trust Committee amend NP-DP-2021.5 (Resuello) to include a condition for planting of native species for shade of waterfront under the guidance of a monitoring Qualified Environmental Professional.

CARRIED

NP-2021-083

It was Moved and Seconded

That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2021.5 (Resuello) as amended.

CARRIED

12.2 NP-DP-2021.1 (Charest) – Staff Report

Planner Testemale provided an overview of the application including the details of the easement, the rationale for the request, the proposed methods for the work, and the plans for rehabilitation. He outlined the professional recommendations received and the manner by which those recommendations were incorporated.

Chair Patrick acknowledged the applicant and invited him to answer questions from the LTC.

The LTC discussed the application and staff report, including the following points:

- Alternatives should the application be denied.
- Importance of protecting tree roots in shallow soil.
- Alternative work plans that would protect the tree roots.

NP-2021-084

It was Moved and Seconded

That the North Pender Island Local Trust Committee amend NP-DP-2021.1 (Charest) to amend clause 2f by replacing “should” with “shall”.

CARRIED

NP-2021-085

It was Moved and Seconded

That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2021.1 (Charest) as amended.

CARRIED

12.3 NP-DVP-2021.3 (Driessen) - Staff Report

Planner Testemale provided an overview of the application including the details of the application, the details of the limited common property, and the rationale for the application.

The LTC discussed the application and staff report.

A discussion was held regarding the relationship between the LTC and the Sidney Island Strata Council. Opportunities for collaboration were explored.

NP-2021-086

It was Moved and Seconded

That the North Pender Island Local Trust Committee direct staff to draft a standing resolution regarding application referrals from the North Pender Island Local Trust Committee to Sidney Island

CARRIED

2021-087

It was Moved and Seconded

That the North Pender Island Local Trust Committee approve issuance of Development Variance Permit application NP-DVP-2021.3 (Driessen).

CARRIED

12.4 NP-TUP-2021.8 (Murdoch) - Staff Report

Planner Testemale provided an overview of the application including the requested temporary uses that are being requested. He outlined the history of the application and opportunities for mitigating concerns related to the use.

Chair Patrick acknowledged the applicant who provided an overview of the request. She addressed concerns related to volume of aggregate being stored and provided an overview of how the land is used.

The LTC requested and received information on the following points:

- Opportunities to limit gravel stored to that which is used on the applicant's property only.
- Neighbour concerns of traffic on Bedwell Harbour Road.

- Neighbour concerns of flooding on their own property and mitigation currently in place.

A discussion was held regarding the use of Temporary Use Permits (TUPs) for industrial uses in general and specifically for this property.

NP-2021-088

It was Moved and Seconded

That the North Pender Island Local Trust Committee amend section 2b of NP-TUP-2021.8 (Murdoch) to add “required for the maintenance and construction of the Driftwood Centre only”.

CARRIED

NP-2021-089

It was Moved and Seconded

That the North Pender Island Local Trust Committee approve the Temporary Use Permit NP-TUP-2021.8 for a period of three (3) years as amended.

CARRIED

12.5 NP-DP-2021.6 (Amenyogbe) - Staff Report

Planner Testemale provided an overview of the application and associated staff report. He outlined the recommendations included in the biologist report and noted their inclusion in the permit.

Chair Patrick acknowledged the biologist and author of the report. A discussion was held regarding the recommendations in the report and the environmental benefits if the recommendations were followed.

NP-2021-090

It was Moved and Seconded

That the North Pender Island Local Trust Committee approve issuance of proposed Development Permit NP-DP-2021.6 (Amenyogbe).

CARRIED

12.6 Trust Council Policy Statement Bylaw No. 183 Referral

A discussion was held by the LTC including the current progress of the project and opportunities for community consultation.

By general consent, the LTC did not respond to the referral.

12.7 Salt Spring Island Local Trust Committee Referral for Proposed Bylaws No. 504 and 505

Chair Patrick provided an overview of the referral and the project being proposed.

A discussion of Salt Spring's strategies for increasing affordable housing and the overall benefits/challenges of prompting affordable housing was held.

Trustee Morrison requested that her concern for added density, as opposed to density transfer, in the Trust Area be recorded.

NP-2021-091

It was Moved and Seconded

That the North Pender Island Local Trust Committee respond to Salt Spring Island Local Trust Committee Referral for Proposed Bylaws No. 504 and 505 with interests unaffected.

CARRIED

12.8 Salt Spring Island Local Trust Committee Referral for Proposed Bylaws No. 523 and 524 (for response) (attached)

NP-2021-092

It was Moved and Seconded

That the North Pender Island Local Trust Committee respond to Salt Spring Island Local Trust Committee Referral for Proposed Bylaws No. 523 and 524 with interests unaffected.

CARRIED

13. LOCAL TRUST COMMITTEE PROJECTS

14. REPORTS

14.1 Work Program Report

14.1.1 Top Priorities Report Dated Oct 2021

The LTC requested and received an update on the groundwater mapping project.

14.1.2 Projects List Report Dated Oct 2021

14.2 Applications Report Dated Oct 2021

The LTC requested an update regarding James Island. It was reported that updates would be forwarded to the LTC once received.

The LTC requested and received an update regarding the concrete plant application.

NP-2021-093

It was Moved and Seconded

That the North Pender Island Local Trust Committee request an update from Bylaw Enforcement for the concrete plant Temporary Use Permit at the next North Pender Island Local Trust Committee Meeting.

CARRIED

The LTC requested and received an update on the application for windjammer self storage.

14.3 Trustee and Local Expense Report Dated August 2021

Received for information

14.4 Adopted Policies and Standing Resolutions

Received for information

14.5 Local Trust Committee Webpage

No comments heard.

14.6 Islands Trust Conservancy Report Dated August 2021

Received for information

15. NEW BUSINESS

15.1 New Fee Bylaw - Request for Decision

A discussion was held regarding the proposed bylaw including the following points:

- Rationale for the new fee bylaw in order to recover actual application costs
- Regulations that govern the setting of the new fees.

NP-2021-094

It was Moved and Seconded

That the North Pender Local Trust Committee request staff to draft a new Fee Bylaw based on the model fee bylaw attached to Trust Council Policy "5.6.1 Application Processing Services."

CARRIED

15.2 Advocating to Capital Regional District

Trustee McConchie noted that there are opportunities for remediation of Magic Lake and that the Capital Regional District (CRD) and associated commissions should be encouraged to do so.

NP-2021-094

It was Moved and Seconded

That the North Pender Island Local Trust Committee direct staff to write to the Capital Regional District Electoral Area Director and Magic Lake Water and Sewer Management Commission to advocate for invasive species management, environmental management, and water quality improvements for Magic Lake.

CARRIED

15.2 Quarterly Meetings with Agricultural Advisory Planning Commission

A discussion was held regarding the request of the Agricultural Advisory Planning Commission (AAPC) that the LTC meet with them quarterly. The following points were discussed:

- A similar policy and its benefits on Salt Spring Island.
- Specific benefits of the work coming from the AAPC.
- Challenges of scheduling the meetings and most appropriate structure.

NP-2021-095

It was Moved and Seconded,

That the North Pender Island Local Trust Committee meet quarterly with the North Pender Island Agricultural Advisory Planning Commission

CARRIED

By general consent, it was agreed that the meetings shall be scheduled as AAPC meetings to which the LTC is invited.

15.3 Bylaw Enforcement of Trailers and Temporary Housing

A discussion was held regarding the use of trailers as temporary housing and the challenges faced by those who are residing in temporary residences that are now under bylaw action.

The following points were discussed:

- Solution adopted on Salt Spring Island.
- Risks of allowing trailer and other temporary housing.
- Options for development of a plan for this LTC.

NP-2021-096

It was Moved and Seconded,

That the North Pender Island Local Trust Committee create a moratorium on bylaw enforcement related to housing and request that the Bylaw Enforcement Manager create a report about the extent of the problem.

CARRIED

16. UPCOMING MEETINGS

16.1 Draft 2022 LTC Meeting Schedule

A discussion of the proposed meeting schedule was held. It was noted that the proposed schedule does not accommodate participants who are working during the week and the LTC indicated their desire to hold some meetings at more convenient times.

NP-2021-096

It was Moved and Seconded,

That the North Pender Island Local Trust Committee approve 2022 the Local Trust Committee Meeting schedule as presented

CARRIED

16.2 Next Regular Meeting Scheduled for November 25, 2021 at the Anglican Parish Hall, Pender Island

A discussion was held regarding the November 25, 2021 meeting and potential for rescheduling.

NP-2021-097

It was Moved and Seconded,

That the North Pender Island Local Trust Committee reschedule the November 25, 2021 regular business meeting to December 4, 2021 at 11:00 am.

CARRIED

16.3 Special Meeting Dates

A discussion was held regarding the scheduling of Community Information Meetings in January and February 2022. It was noted that the Community Hall would be a more appropriate setting, if available, due to capacity.

NP-2021-098

It was Moved and Seconded,

That the North Pender Island Local Trust Committee schedule a Community Information Meeting regarding the Land Use Bylaw Review on February 5, 2021 at 11:00 am.

CARRIED

17. TOWN HALL

Anne Burdett addressed NP-TUP-2021.8 (Murdoch) and the neighbouring concerns of water run off. She provided an overview of the concerns and noted a potential solution would be diverting the culvert into the storm drain.

Anne Burdett requested that the LTC create an instructional video to help community members navigate the new website.

Trustee McConchie requested that staff look into solutions to reduce large file sizes online. He noted that this would help community members who are unable to watch meeting videos or download meeting agenda packages due to poor internet connectivity on the island.

Michael Sketch addressed the concept of “indigenous ways of knowing” and encouraged the LTC to consider how this applies to the duty of care for the environment within the Trust Policy Statement.

18. CLOSED MEETING

None

19. ADJOURNMENT

By general consent the meeting was adjourned at 1:24 pm.

Laura Patrick, Chair

Certified Correct:

Shannon Brayford, Recorder

Follow Up Action Report

North Pender Island

28-Jan-2021

Activity	Responsibility	Dates	Status
1 NP LTC requests direction from Director Clare Frater on how to advocate for best practices related to dock maintenance and ocean health.	Clare Frater	Target: 26-Feb-2021	In Progress

27-May-2021

Activity	Responsibility	Dates	Status
1 NP LTC to advocate to prohibit helicopter use in the Islands Trust area - Trust Area Services to follow up	Clare Frater Mike Richards	Target: 30-Jul-2021	In Progress

22-Oct-2021

Activity	Responsibility	Dates	Status
1 Invite SPILTC to attend the special meeting to compare residential floor area regulations	Kim Stockdill	Target: 12-Nov-2021	Completed



Follow Up Action Report

North Pender Island

22-Oct-2021

Activity	Responsibility	Dates	Status
2 C2 zoning: 1. amend zoning on 1325 MacKinnon 2. Invite owners of 1329, 1333, and 1349 MacKinnon to contact staff to discuss option of s.219 covenant that would require water conservation measures 3. Driftwood Centre C2: revise zoning to rental residential zoning, with maximum floor of 1000sq ft but no increase in aggregate floor area, cisterns for water storage 4. report back to LTC with information from Senior Freshwater Specialist on C2 lots	Kim Stockdill	Target: 05-Nov-2021	Completed
3 In-stream dock applications: revise zoning to W3	Kim Stockdill	Target: 05-Nov-2021	Completed
4 Schedule a special meeting for December to: - discuss floor area with SPLTC - consider feedback from AAPC - consider information on groundwater impacts of C2 properties - schedule CIMs in Jan/Feb	Kim Stockdill Robin Ellchuk	Target: 05-Nov-2021	Completed
5 1. identify potential CIM dates (2) in late January, February (DONE) 2. contact trustees for availability (DONE). 3. prepare notice for Pender Post (DONE) and a mail-out (send out late December).	Kim Stockdill Robin Ellchuk	Target: 19-Nov-2021	In Progress

Follow Up Action Report

North Pender Island

28-Oct-2021

Activity	Responsibility	Dates	Status
1 8.1 Minutes of July 29th adopted as amended, Minutes of September 7th adopted as presented	Robin Ellchuk	Target: 05-Nov-2021	Completed
2 12.1 NP-DP-2021.5 (Resuello) - approved as amended	Jas Chonk Phil Testemale	Target: 05-Nov-2021	Completed
3 12.2 NP-DP-2021.1 (Charest) Approved as amended	Jas Chonk Phil Testemale	Target: 05-Nov-2021	Completed
4 12.3 NP-DVP-2021.3 (Driessen) approved	Jas Chonk Phil Testemale	Target: 05-Nov-2021	Completed
5 12.4 NP-TUP-2021.8 (Murdoch) approved as amended	Jas Chonk Kim Stockdill Phil Testemale	Target: 05-Nov-2021	Completed
6 NP-DP-2021.6 (Amenyogbe) - approved	Jas Chonk Kim Stockdill	Target: 05-Nov-2021	Completed
7 Report back with options for a standing resolution for referring Sidney Island applications to Strata	Robert Kojima	Target: 19-Nov-2021	In Progress
8 12.7 SSI Bylaw 504, 505 - interests unaffected	Jas Chonk	Target: 05-Nov-2021	Completed

Follow Up Action Report

North Pender Island

28-Oct-2021

Activity	Responsibility	Dates	Status
9 12.8 SSILTC Bylaws 523, 524 - interests unaffected	Jas Chonk	Target: 05-Nov-2021	Completed
10 Bylaw enforcement manager requested to report on: 1. enforcement on TUP conditions for concrete plant 2. NPILTC placing a moratorium on enforcement of temporary housing , and requested to provide options for on a policy on temporary housing enforcement	Warren Dingman	Target: 26-Nov-2021	In Progress
11 15.1 Staff to draft a fees bylaw based n model fee bylaw	Jas Chonk Robert Kojima	Target: 10-Dec-2021	In Progress
12 15.2 Staff to draft a letter to CRD Magic Lake Sewer and Water Committee and to electoral area director requesting a plan for water quality improvement on Magic Lake (for Chairs signature)	Kim Stockdill	Target: 26-Nov-2021	In Progress
13 Annual meeting schedule adopted as presented, with meetings to start at 10 am	Jas Chonk Kim Stockdill Robin Ellchuk	Target: 05-Nov-2021	Completed
14 November 25th meeting to be cancelled, special meeting scheduled for Dec 4th, Community information meeting scheduled for Feb 5th	Jas Chonk Kim Stockdill Robin Ellchuk	Target: 05-Nov-2021	Completed

DATE OF MEETING: December 4, 2021
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale
Southern Team
COPY: Kim Stockdill, Island Planner
SUBJECT: Development Variance Permit
Applicant: James Billingsley
Location: 4614 Razor Point Road

RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of Development Variance Permit application NP-DVP-2021.5 (Billingsley)

REPORT SUMMARY

The purpose of the report is to consider a Development Variance Permit. The variances are for the height of an **accessory building** that is to be converted from a dwelling.

RATIONALE FOR VARIANCE

Granting the variance will:

- Facilitate the conversion of a dwelling to an accessory building.
- Avoid demolition or significant alteration to that historic building.
- Allow for the construction of a new dwelling on the property.

BACKGROUND

The application is to vary subsection 3.4.4 of the 'General Regulations' in the North Pender Island Land Use Bylaw No. 119, 2018 (LUB) which states:

An accessory building or structure may not exceed 4.6 metres in height and one storey...

The application will facilitate the conversion to an accessory building of an 85.5 m² (920 ft²) dwelling with an attached open carport, that was constructed in 1974 (Attachment 2). This would be a condition of a building permit application for a new dwelling on the property (NP-BP-2021. 46). To comply with the LUB as an accessory building the following is required:

- the maximum height must be varied from a maximum of 4.6 m to 5.46m (Figure 2.6);

- the basement area will be reduced to under 1.5 metres (4.9 ft.), either by filling or structurally lowering the ceiling height;
- All food preparation facilities (kitchen) are to be removed, and,
- The small deck and stairs on the south part of the building will be removed, as they do not conform to the required 15 m setback from the natural boundary of the sea (NBS). These were constructed more recently than the building itself which has legal non-conforming siting status as it predates the 1978 bylaw amendment that introduced the NBS setback.

Structurally altering the roof to conform to the height restriction is not feasible or practical, and would significantly alter the building's character. As the property is over 1.2 ha, the owners have the option to convert the subject building to a cottage by reducing the size to 56 m². This was explored but determined to not be feasible or preferable as the owners appreciate the character of the building and its location on the site of the original Brackett family homestead, and they do not wish to demolish or substantively alter the building. Notwithstanding, a height variance for a cottage would still be required. Pending the outcome of the LUB Review project, the owners could apply in the future for a further variance to the maximum size of a cottage (56 m²), and convert the building back to a dwelling if successful.

The property is 1.56 ha (3.85 ac) in size and is divided by Razor Point Road. The main portion to the southwest of the road is mainly open and flat with forested fringe along the road and part of the steeper bank adjacent to the foreshore. The area to the northeast of the road is steeper and forested with no buildings or structures. In addition to the subject building, there is a large workshop, a greenhouse and the proposed location for the new dwelling, all shown in Figure 2.

The alternatives for the applicants if the variance is not granted are to apply to the Board of Variance or comply with bylaw regulations remove the building or alter to conform.

A copy of the Notice and proposed permit NP-DVP-2021.5(Billingsley) are Attachments 4 & 5.

Staff have not visited the subject property for this application. Photographs were provided by the applicant (Attachment 2. 8).

Figure One - Subject Property

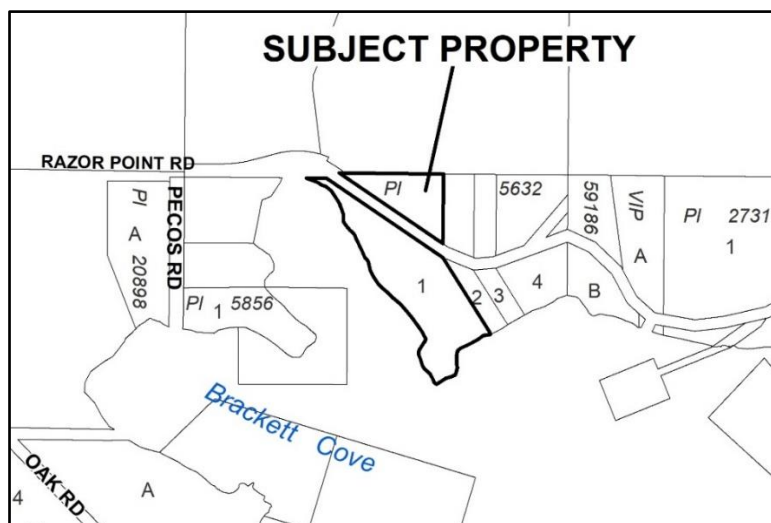
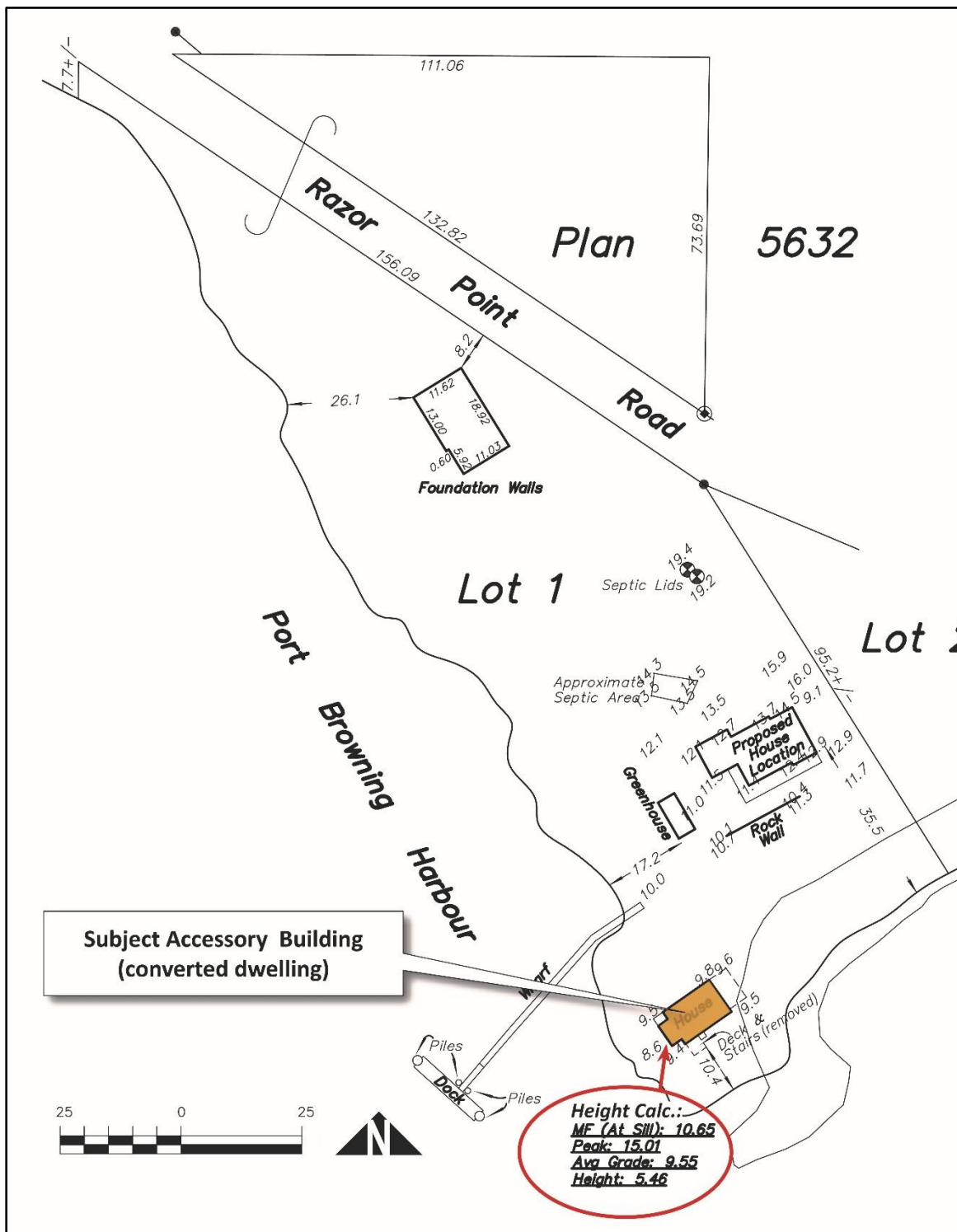


Figure Two - Site Plan



ANALYSIS

Policy/Regulatory

Official Community Plan:

The property is designated as **RR - Rural Residential** in the North Pender Island Land Use Official Community Plan (OCP) No. 171, 2007.

There are no **Development Permit Areas (DPA)** designated on the subject property (Attachment 2.2). The adjacent water areas to the west and south are designated in **DPA 6 – Intertidal**, but there is no applicability with this application.

Land Use Bylaw:

The property is zoned as **Rural Residential (RR)** in the North Pender Island Land Use Bylaw No. 103, 1996.

The existing residential use complies with use and density provisions of the zone on the property.

Issues and Opportunities

Impact on Neighbouring Properties and Natural Environment

The impacts on the neighbouring properties are minimal given the building was constructed in 1973/1974 and there is no construction or alteration proposed other than the removal of the small deck and stairs and the kitchen and cooking facilities. Additionally, the size of the required height variance is minor. The closest dwelling to the subject building is approximately 70 metres distant and there is no interruption to its view corridor by this building (Attachment 2.1).

The siting of the building on the property makes it prominent from the surrounding waters of Port Browning. However, the scale and character of the building are consistent with the intent of the height regulation (next section).

Maintaining the existing building will benefit the natural environment as GHG emissions that would occur with demolition and new construction would be mitigated with approval. Additionally, although the building is within the setback from the sea, it is at approximately 9.0 m elevation above a rock shoreline, which in combination will afford protection from many climate change impacts such as sea level rise and storm surges.

The Intent of the Regulation being Varied

The overall purpose of the height regulation is to minimize impacts on adjacent properties 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 height and 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.

Consultation

DVP Notices were circulated to surrounding property owners and residents. The notification period will end at 4:30 p.m. on November 24, 2021.

Staff have received no submissions by the end of the notification period. Any submissions received prior to the LTC meeting will be forwarded to Trustees and reported at the meeting.

First Nations

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. There is a known archaeological site on the subject property. Part of the consideration for this application is that the demolition and reconstruction of the subject building would be more impactful than to maintain the building as is.

As reviewed, the DVP application is consistent with respect to LTC Standing Resolutions on reconciliation. The applicants are aware of the site, however, staff will also forward the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on Heritage Act directly to the applicants.

Recommendation

Staff is recommending that the recommendations on page 1 be supported for the following reasons:

- The rationale for the variance is reasonable.
- The impacts on neighbouring properties are minimal.
- The proposed variance does not challenge the intent of the regulation.
- Neighbours have been notified and, to date, no submissions been received at the time of writing.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should 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. If this alternative is selected, the LTC should state the reasons for denial.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny Development Variance Permit application NP-DVP-2021.5 (Billingsley)

Submitted By:	Phil Testemale, Planner 2	November 24, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	November 24, 2021

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. Letter from applicant
4. Notice
5. Draft NP-DVP-2021.5 (Billingsley)

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 1, Section11, Pender Island, Cowichan District, Plan 5632
PID	001-173-120
Civic Address	4614 Razor Point Road
Property Size	1.56 ha (3.85 ac)

LAND USE

Current Land Use	Rural Residential
Surrounding Land Use	Rural Residential, Agricultural and Marina

HISTORICAL ACTIVITY

File No.	Purpose
NP-BP-2021.46	New Dwelling

POLICY/REGULATORY

Official Community Plan Designations	The property is designated as RR - Rural Residential in the North Pender Island Official Community Plan No. 171, 2007 (OCP). No Development Permit Areas designated in the OCP on the subject property, DPA 6 Intertidal is designated over the water area to the west and south east of the property.
Land Use Bylaw	The property is in the Rural Residential (RR) Zone in the LUB. The residential uses comply with use and density provisions for the zone on the property.
Other Regulations	N/A
Covenants	N/A
Bylaw Enforcement	N/A

SITE INFLUENCES

Islands Trust Conservancy	This application has no considerations for the Islands Trust Conservancy.
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	None listed on TAPIS Mapping
Sensitive Ecosystems	Attachment 2.4
Hazard Areas	Areas of Low and Moderate Slope Hazard (Attachment 2.3)
Archaeological Sites	Archaeological sites and potential mapping on RAAD has been reviewed by staff. See 'First Nations' section of main report. The owners and applicant should be aware that all archaeological material 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	Maintaining the existing building will benefit the natural environment as GHG emissions that would occur with demolition and new construction would be mitigated with approval. Additionally, although the building is within the setback from the sea, it is at approximately 9.0 m elevation above a rock shoreline, which in combination will afford protection from many climate change impacts such as sea level rise and storm surges.
Shoreline Classification	Rock Shoreline - Low Rock/Boulder
Shoreline Data in TAPIS	Eelgrass beds directly to west offshore. Minimal impact s given upland build and nature of development.\n[Review other shoreline related data sources in TAPIS including (but not necessarily limited to) Eel grass mapping, forage fish habitat, and shoreline modifications where mapped]

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

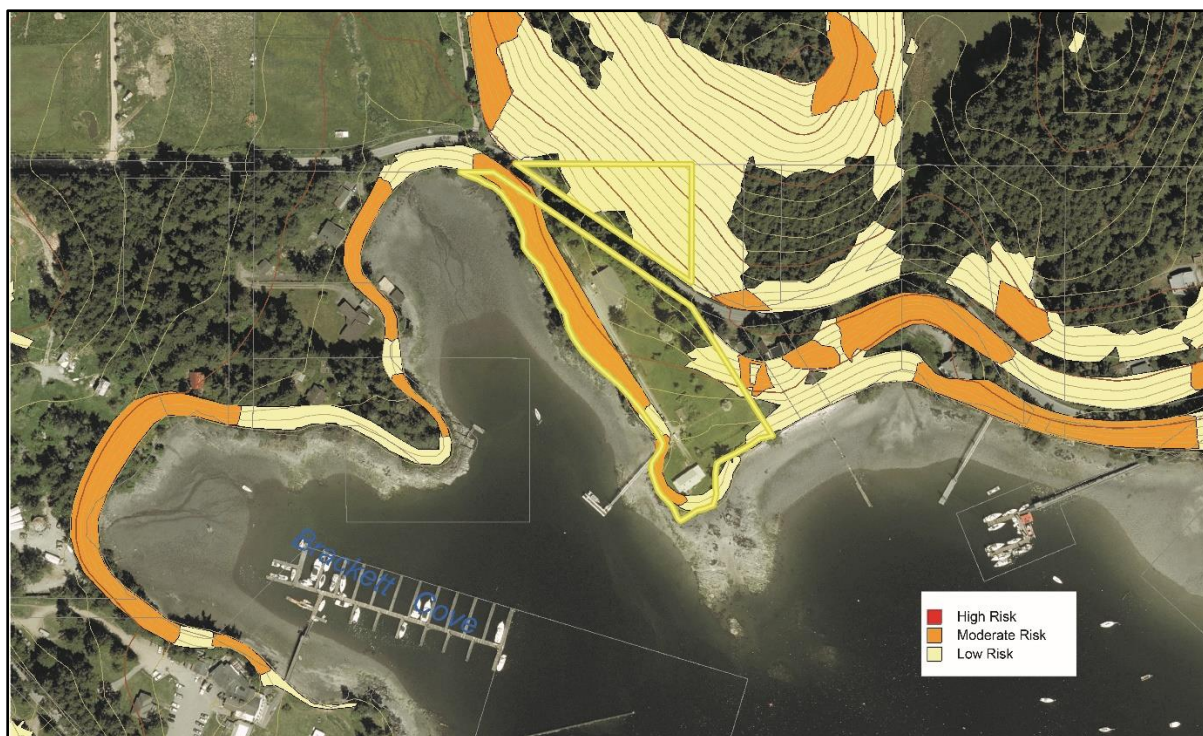
2.1 ORTHOPHOTO WITH ZONING



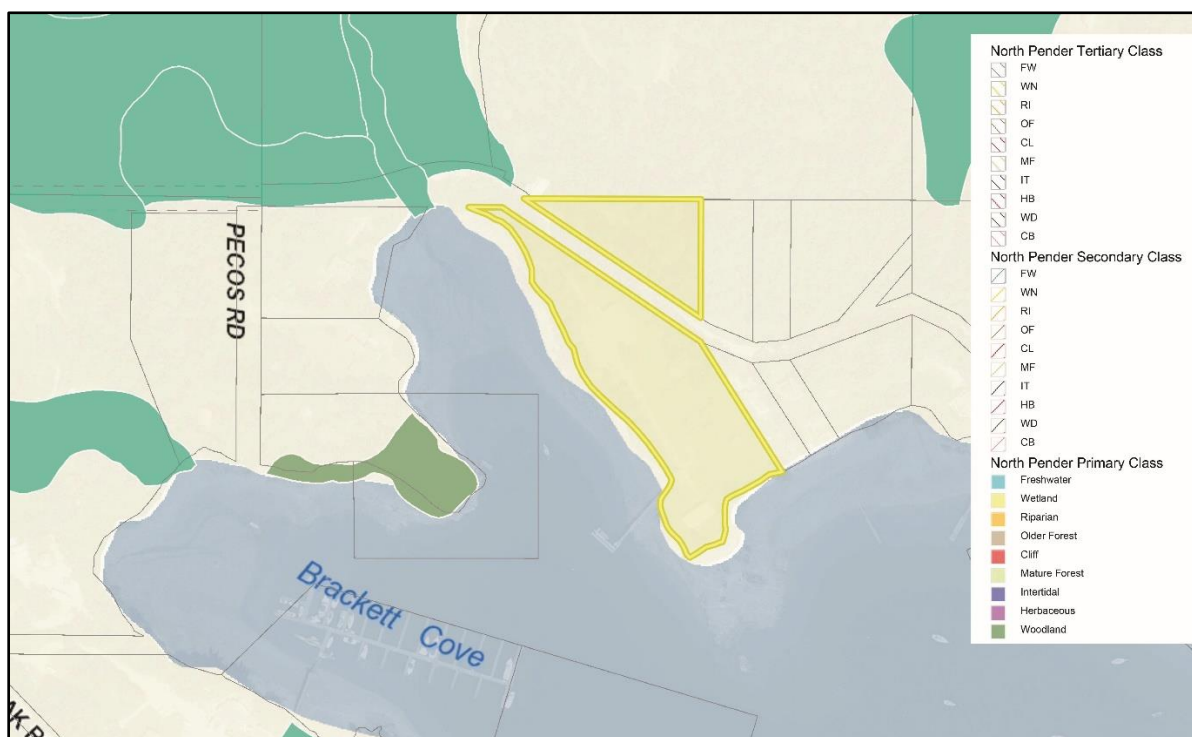
2.2 DEVELOPMENT PERMIT AREAS



2.3 2M CONTOURS AND STEEP SLOPE HAZARD MAPPING



2.4 SENSITIVE ECOSYSTEM MAPPING

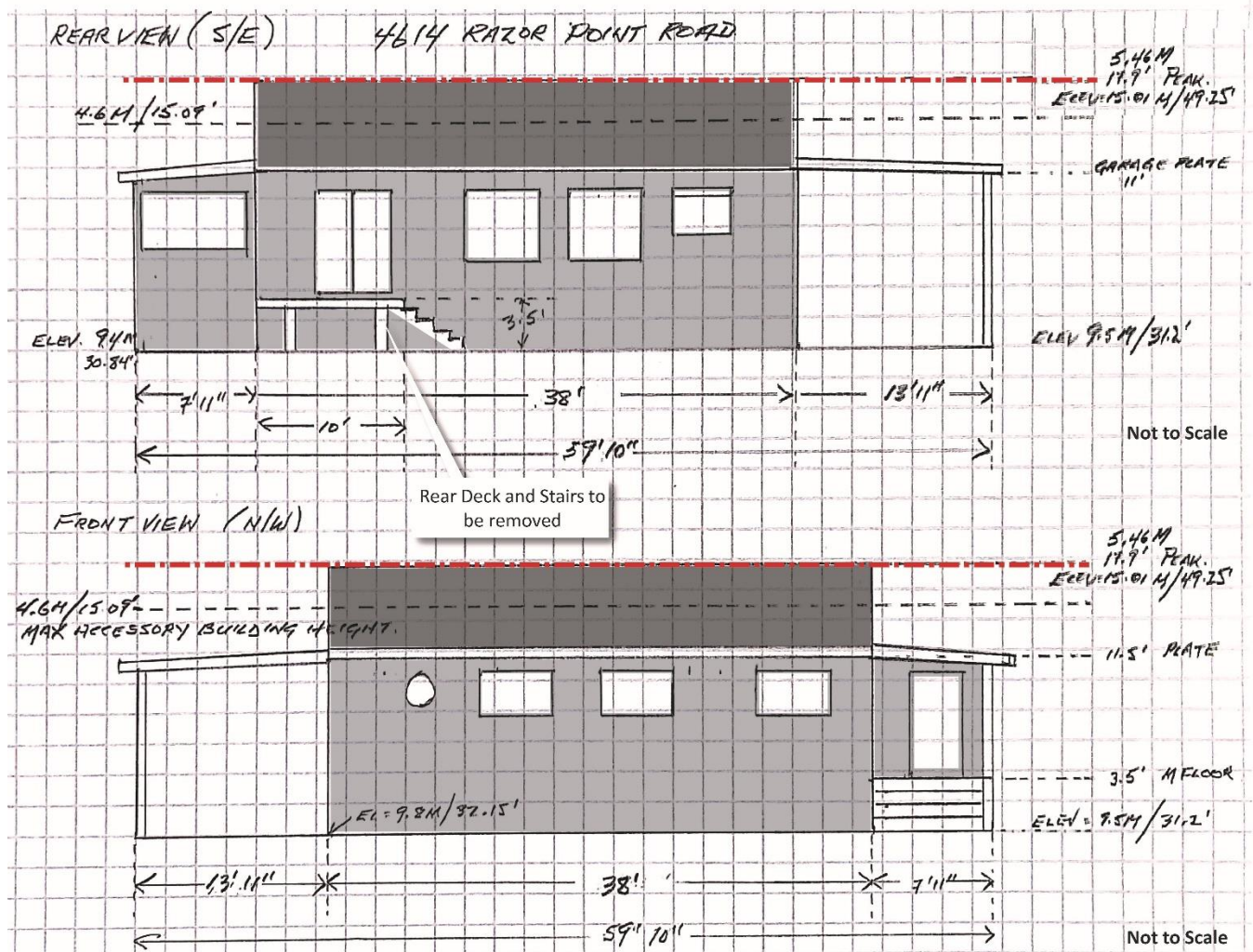


2.5 MARINE SENSITIVE ECOSYSTEM AND SHORELINE TYPES



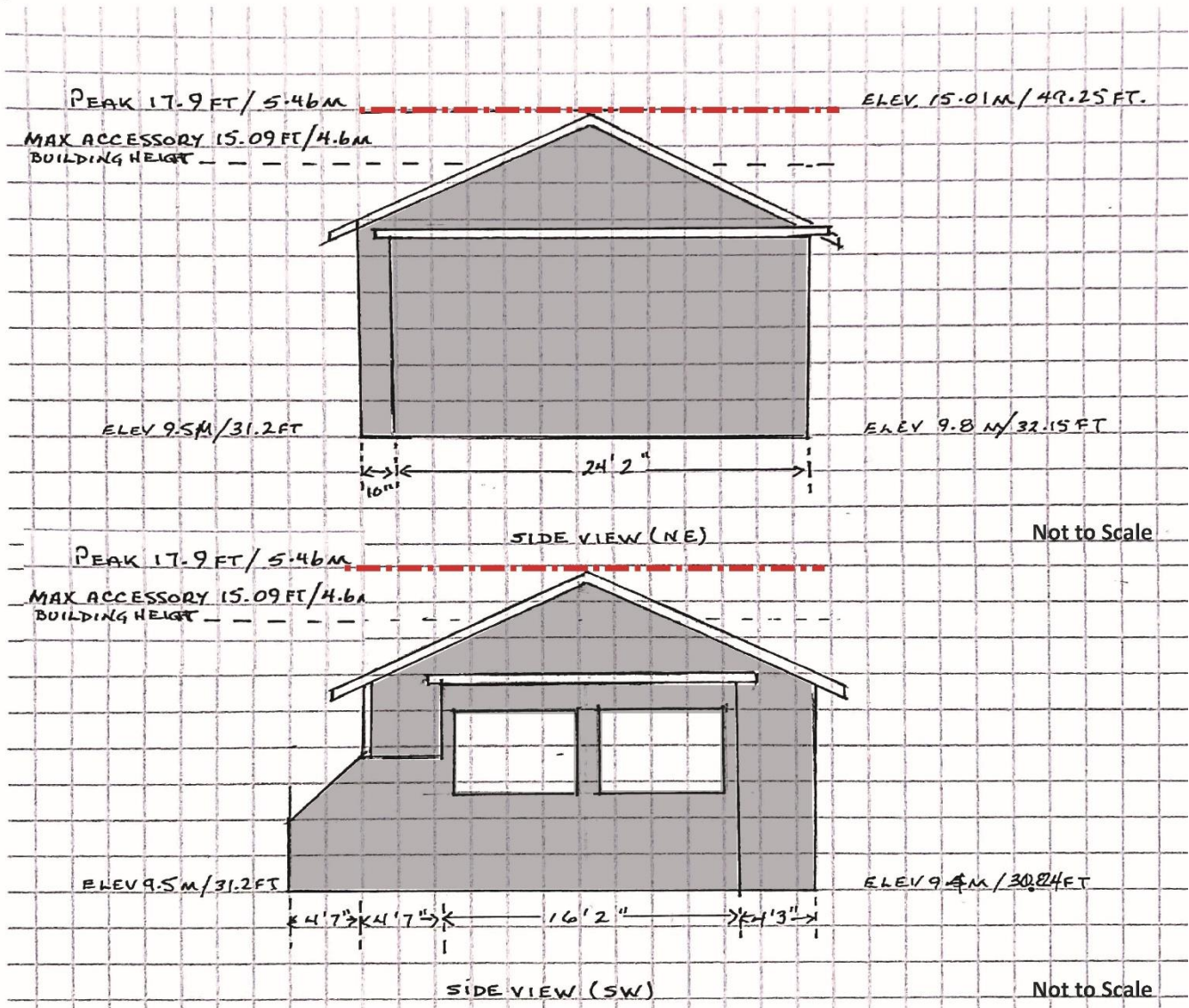
2.6 ELEVATIONS

Subsection 3.4.4 is varied to permit an accessory building that is 5.46 metres in height

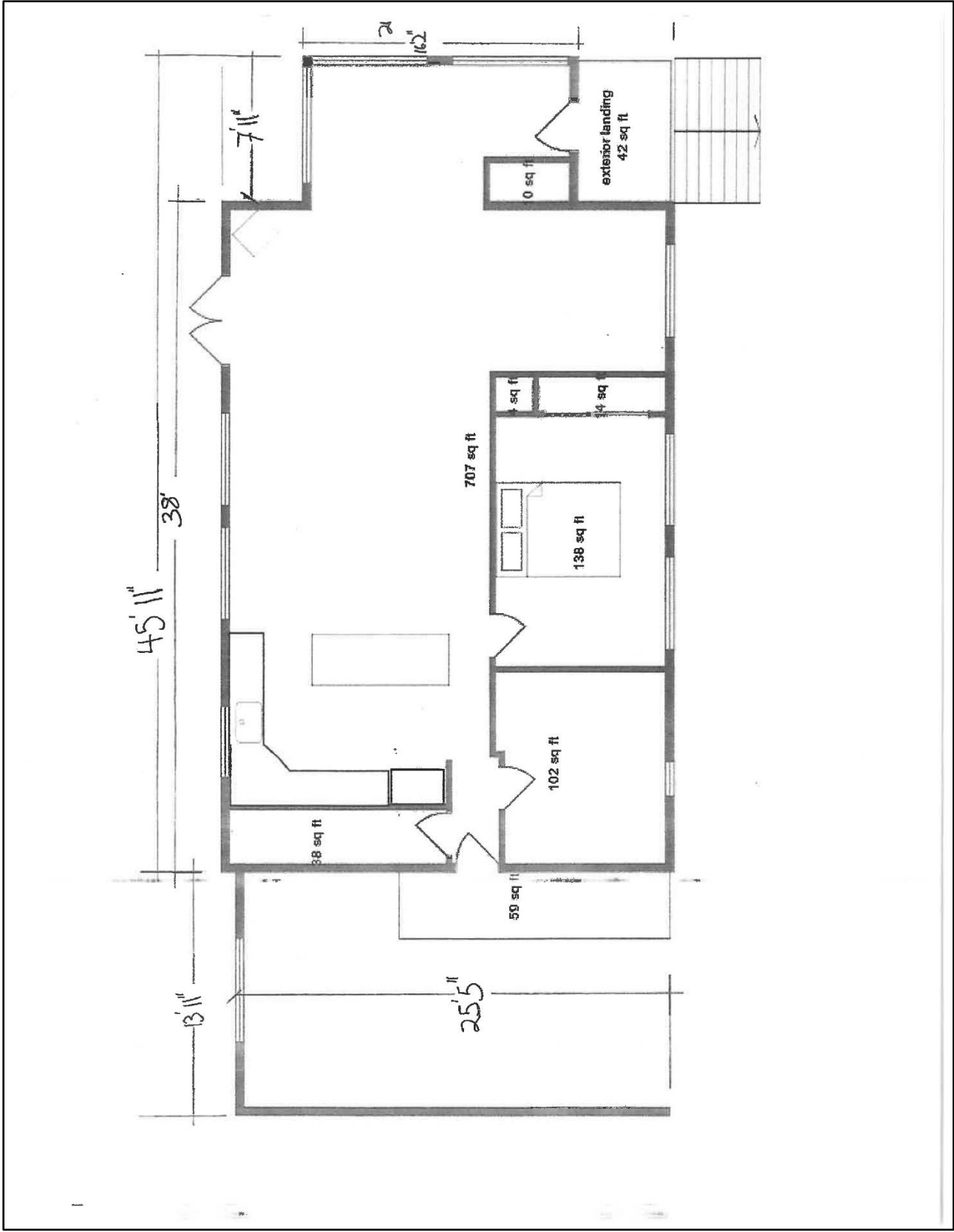


2.6 ELEVATIONS (CONT'D)

Subsection 3.4.4 is varied to permit an accessory building that is 5.46 metres in height



2.7 FLOOR PLAN



2.8 PHOTOGRAPHS

VIEW FROM SOUTH



VIEW FROM WATER (SOUTHWEST)



2.8 PHOTOGRAPHS (CONT'D)

VIEW FROM NORTH



4614 Razor Point Road

Development Variance Permit Application

Purpose of Application:

Plans for a new single family home were submitted to the Trust and reviewed by Stephen Baugh under BP Review – NP – BP - 2021.46 Razor Point Road in August 2021. Mr Baugh has indicated that while the plans for the new home are acceptable, we first have to decide how to handle the existing 1974 cottage located on the water front point of the property.

The options as we understand them are either to demolish the cottage (which would be a shame) or to find a way to reclassify the cottage as an accessory building.

As we understand it, the subject cottage was the site of the original Brackett homestead and the cottage site has been improved with various Brackett houses since 1900. We have pictures of various residential structures on this exact site. Unfortunately, none of these are the structure which currently exists which according to the BC Assessment Authority was completed in 1974 in time for the 1974 assessment. At various times over the ensuing years since 1900, the property, including the cottage building site, has been improved with as many as eight residential cottages plus various other structures, all of which have now been demolished with the exception of subject cottage on the point.

The property is currently improved with the subject 920 square foot cottage which we believe was built in 1973/1974 and a separate garage and workshop (located just off Razor Point Road at the other end of the property) which was permitted and built in 2011. We believe the cottage is a legal non conforming use as the majority of it is located within the 15 meter set back from high water. The carport attached to the cottage is also within [REDACTED] According to the most recent survey (just completed) the cottage is not in this zone.

As discussed with Mr Baugh in order to reclassify the cottage as an accessory building we would have to remove the kitchen and bedroom and lower the basement ceiling to less than 5 feet. All of this we are willing to pursue, however, the cottage has a height of 5.46 meters (17.91 feet) and accessory buildings are limited to 4.6 meters (15.09 feet.) **Therefore, we would need a variance to allow the current height which is 2.82 feet over the current maximum height for accessory buildings.**

In addition, because we have no building permit, historical dated pictures or other evidence of the date of construction (other than the obvious, which is that a house that goes on the tax rolls in 1974 must have been under construction before May 1974 when the Trust was formed) **we request a variance to confirm that the cottage is a legal non conforming use as to setbacks.**

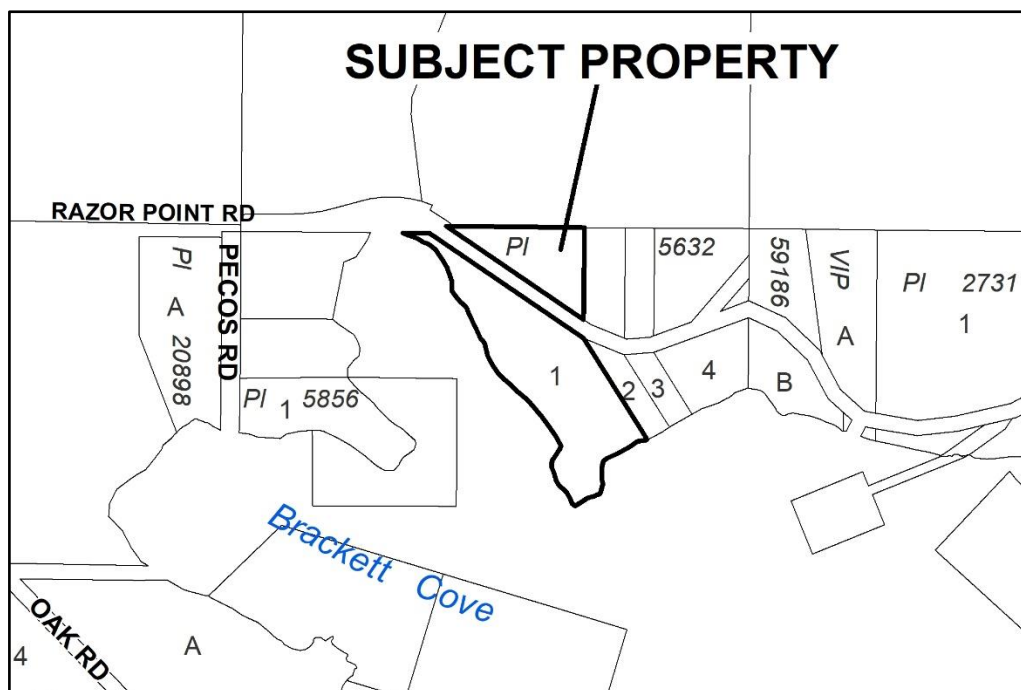
NOTICE
NP-DVP-2021.5
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

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

- A variance to increase the maximum height for an **accessory building** (to be converted from a dwelling), as shown on the attached, proposed permit.

The property is located at **4614 Razor Point Road** and is legally described as Lot 1, Section 11, North Pender Island, Cowichan District, Plan 5632 (PID: 001-173-120).

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



A copy of the proposed permit may be inspected at the Islands Trust Office, 200 - 1627 Fort Street, Victoria, B.C. V8R 1H8 between the hours of 8:30 a.m. to 4:30 p.m. Monday to Friday inclusive, excluding statutory holidays, commencing **November 12, 2021** and continuing up to and including **November 24, 2021**.

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 North Pender Island.

Enquiries or comments should be directed to Phil Testemale, 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; by fax at (250) 405-5155; or by email to southinfo@islandstrust.bc.ca before **4:30 p.m., November 24, 2021**.

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 **11:00 a.m., December 4, 2021**.

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



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
NP-DVP-2021.5**

To: Patricia Billingsley

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

Lot 1, Section 11, Pender Island, Cowichan District, Plan 5632
(PID: 001-173-120)

2. North Pender Island Land Use Bylaw 103, 1996 is varied to allow for an existing **accessory building** (converted from a dwelling) as follows:

- a) Subsection 3.4.4 which states that an accessory building or structure may not exceed 4.6 metres in height and one storey is varied to permit an **accessory building** that is **5.46 metres** in height.

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 No. 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, 2021.

Deputy Secretary, Islands Trust

Date of Issuance

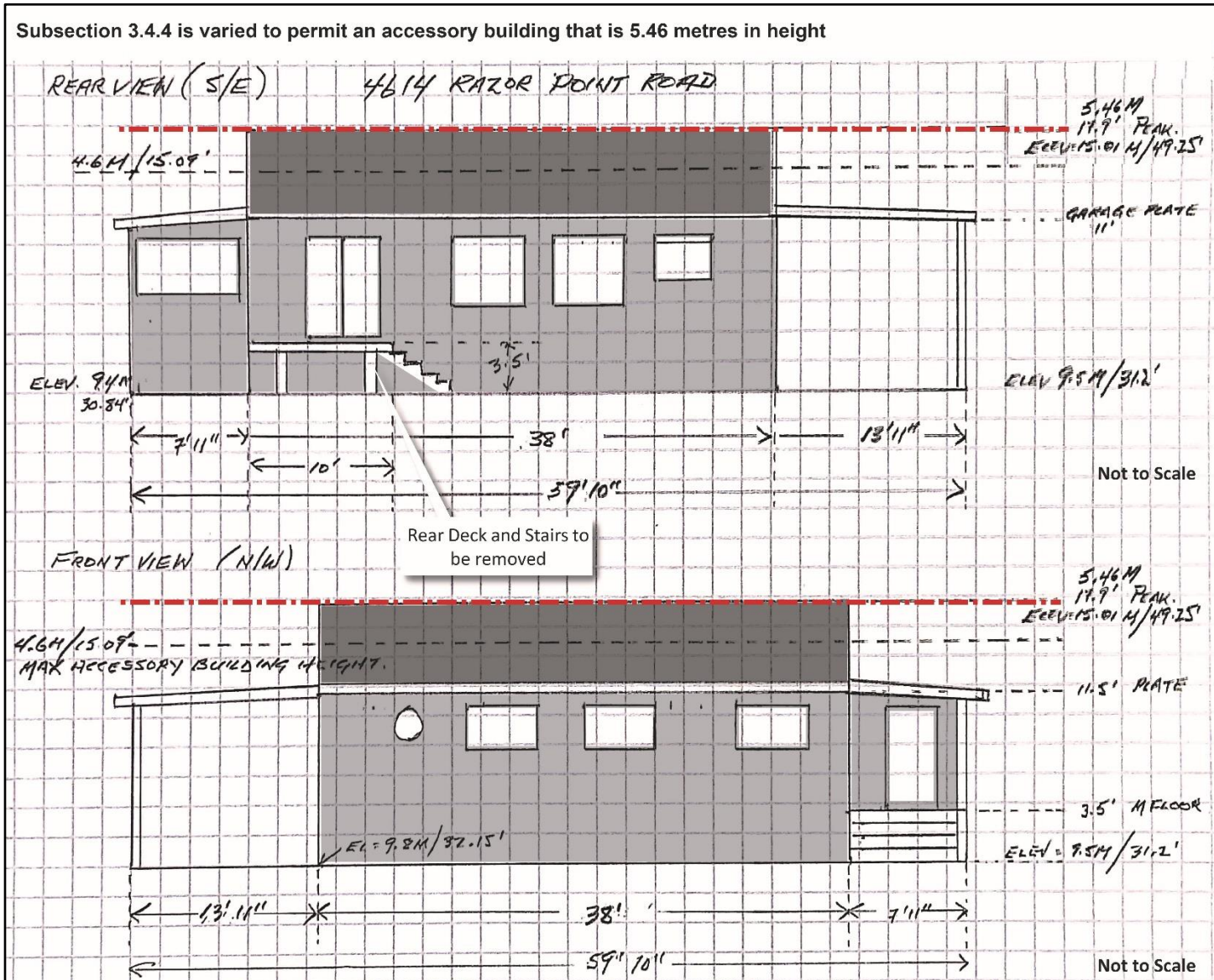
IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ___TH DAY OF MONTH, 2023, THIS PERMIT AUTOMATICALLY LAPSES.

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

NP-DVP-2021.5

SCHEDULE 'B'

Elevations 1 of 2



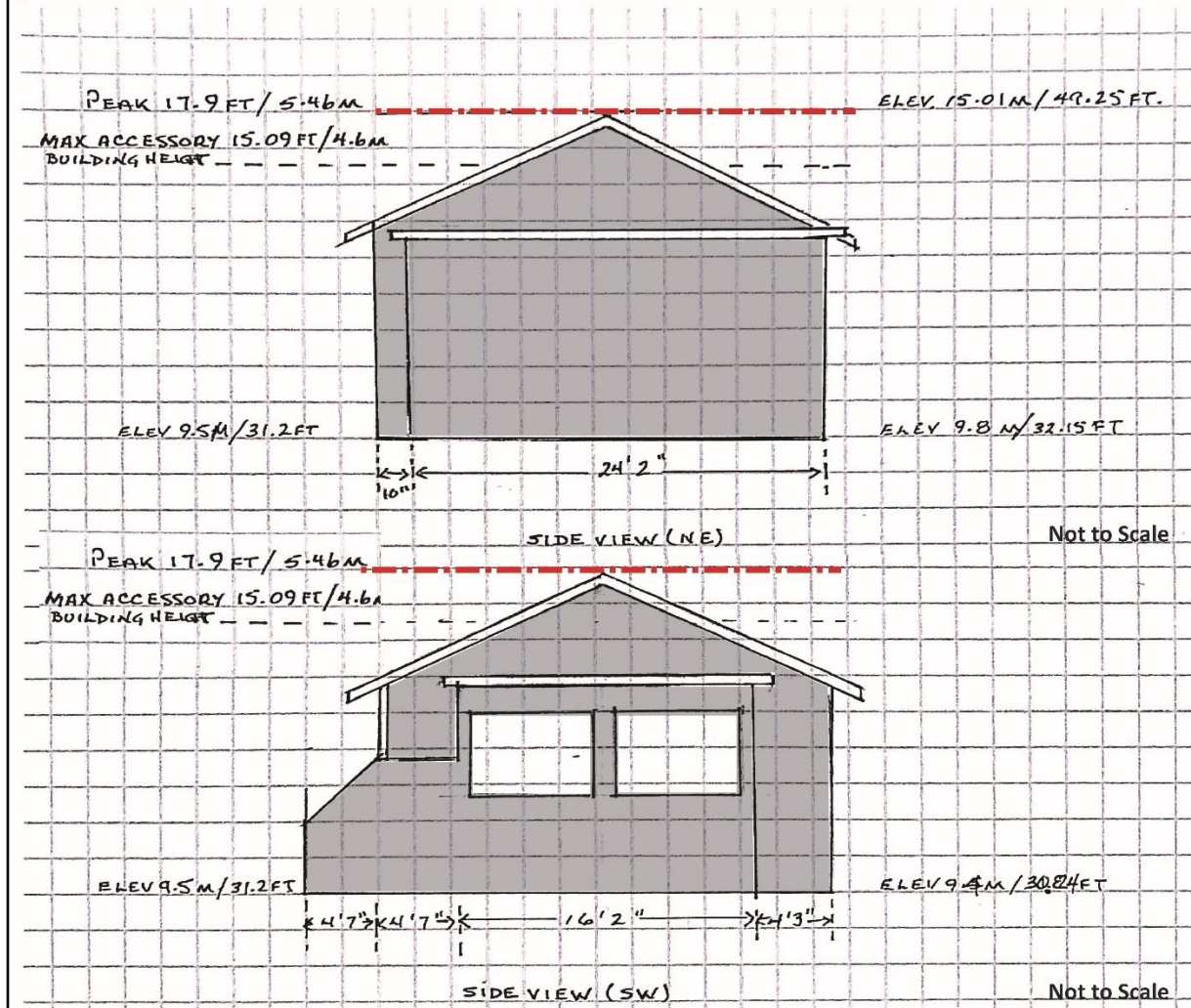
NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

NP-DVP-2021.5

SCHEDULE 'C'

Elevations 2 of 2

Subsection 3.4.4 is varied to permit an accessory building that is 5.46 metres in height



File No.: NP-TUP-2021.7 (Harwood)
NP-BE-2020.34

DATE OF MEETING: December 4, 2021
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale, Planner 2
Southern Team
COPY: Kim Stockdill, Island Planner
Warren Dingman, Manager of Compliance and Enforcement
SUBJECT: Preliminary Report Temporary Use Permit for STVR
Applicant: Jeremy Harwood
Location: 3601 Sailor Easement

RECOMMENDATION

1. That the North Pender Island Local Trust Committee amend the draft Temporary Use Permit NP-TUP-2021.7 (Harwood) as shown as Attachment 5 to this staff report by the addition of the following:
 - i. A new condition stating that access to the TUP Area from Ketch Road is to be controlled by a lockable gate as shown on Schedule 'A', and is to be closed and locked by the holder of this permit during hours where access is not permitted; and
 - ii. the period be limited to two (2) years.
2. That the North Pender Island Local Trust Committee direct staff to proceed with Temporary Use Permit application MA-2021.7 (Harwood) by undertaking statutory notification.

REPORT SUMMARY

The purpose of the report is to provide a preliminary assessment for a Temporary Use Permit (TUP) for a self-storage operation on the subject property. This includes background information, analysis, and a proposed draft TUP.

BACKGROUND

Rather than proceeding with notification prior to reporting to the LTC, a preliminary report is being presented with a subsequent report to follow notification. This allows the LTC the opportunity to make a preliminary decision to proceed or not. In addition, this provides an opportunity to revise the draft permit prior to notification.

The use is located at 3601 Sailor Easement and is accessed from Ketch Road. The application is the result of a Bylaw Enforcement file (NP-BE-2020.34) initiated by a stop-work order placed by CRD Building Inspection Department and referred to Island Trust. According to the applicant, the business has been operating for

The specific application is for a maximum of four (4) shipping containers with a total combined floor area of 88 m² (950 ft²), divided into a total of twelve (12) individual rental units, and the exterior storage of a combined maximum of three (3) recreational vehicles, trailers and boats (Figure 2).

The subject property is 0.4 ha (1.0 ac) in size and long and narrow in configuration. The upper portion of the property has a 65 m² (844 ft²) dwelling fronting Sailor Easement on a small, relatively flat area. From there, the property slopes steeply toward the north and then flattens for the approximate remaining 1/3 of the property to Ketch Road (Attachment 2.3). The property is well forested with cleared areas for the dwelling and the subject use areas and gravel driveway (Attachment 2.1 and 2.7). The combined area of the dwelling and all storage containers is 154.2 m² (1804 ft² - Attachment 2.6).

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

A copy of a draft TUP is Attachments 4.

Figure 1 – Subject Property

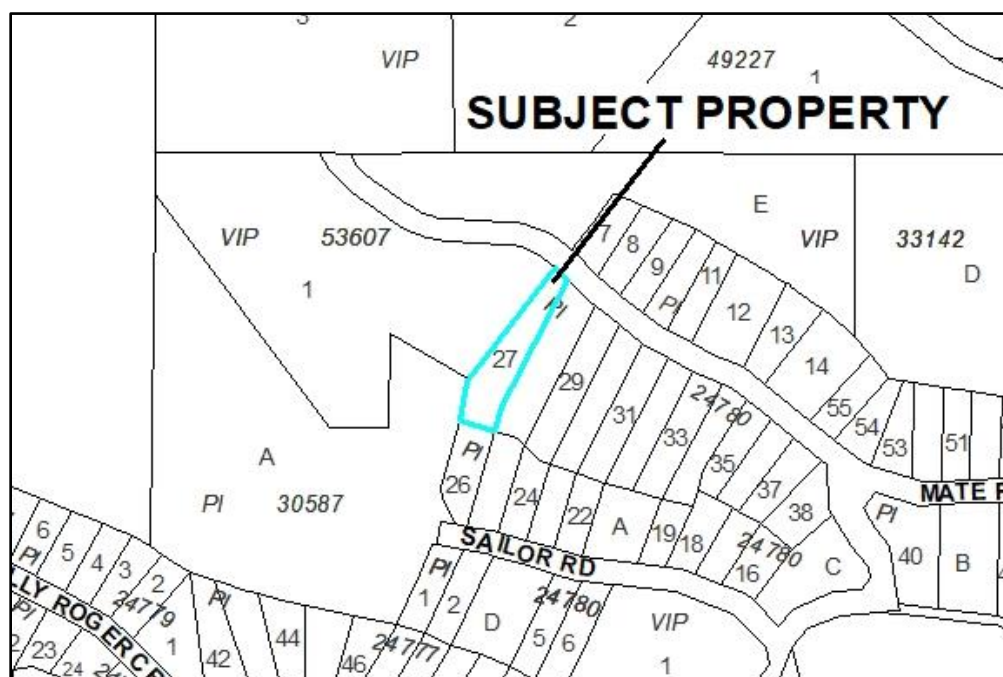
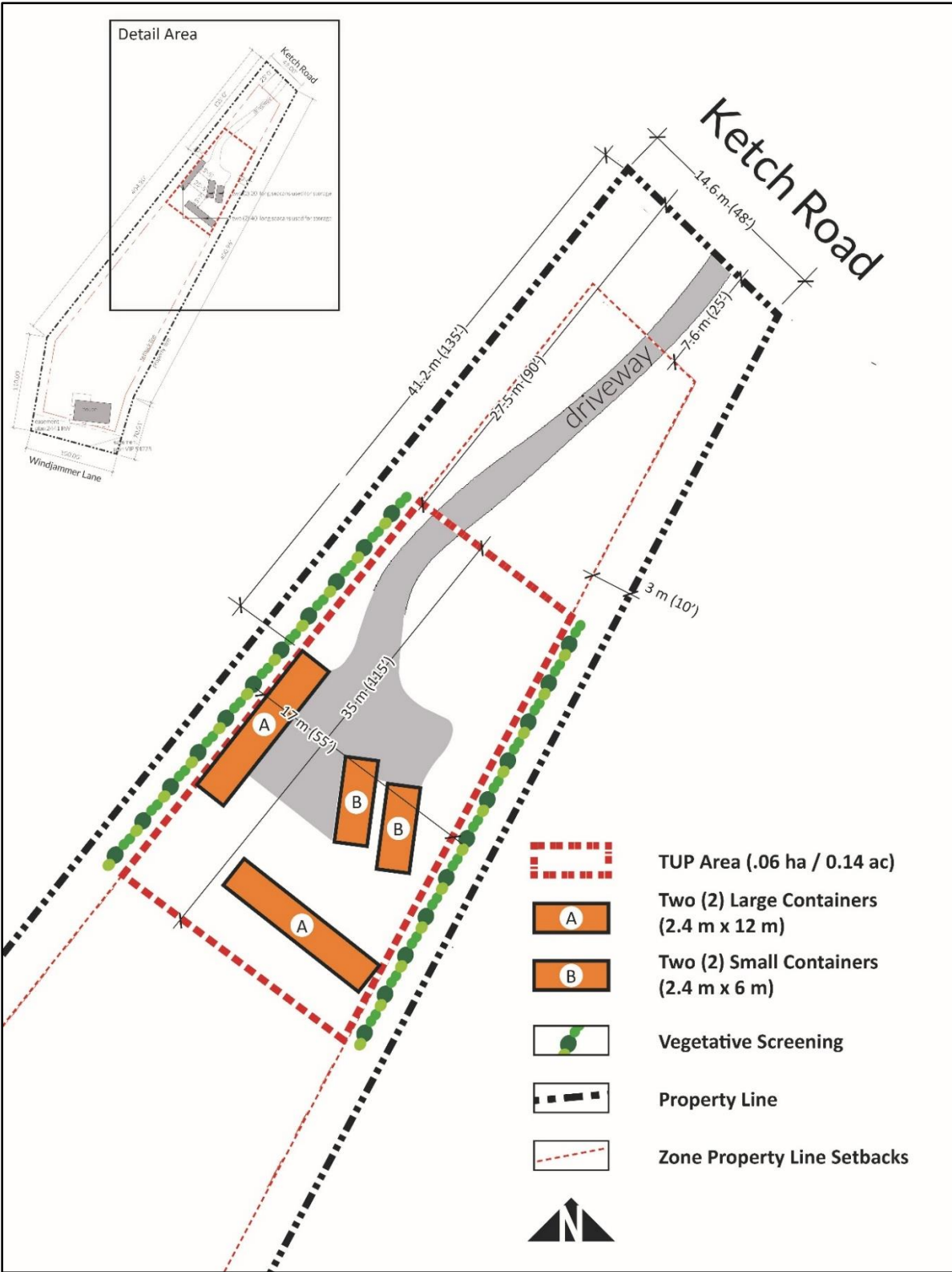


Figure 2 – Site Plan



ANALYSIS

Policy/Regulatory:

Islands Trust Policy Statement:

- 5.2.3 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
- 5.2.5 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
- 5.7.2 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.

Official Community Plan:

The property is designated as **RR (Rural Residential)** in the North Pender Island Official Community Plan No. 171, 2007 (OCP).

Policies for general TUP applications are contained in the OCP and are as follows:

- 6.1 *The North Pender Island Trust Committee may issue Temporary Commercial and Industrial Use Permits for any area covered by this plan.*
- 6.2 *The Local Trust Committee may consider requiring development information for Temporary Commercial and Industrial Use Permit applications through adoption of a development approval information bylaw.*
- 6.3 *The Local Trust Committee should consider the climate change impacts of any significant change in use in reviewing temporary use permit applications.*

There are no **Development Permit Areas (DPAs)** on the subject property.

Land Use Bylaw:

The property is zoned as **Rural Residential (RR)** in the North Pender Island Land Use Bylaw (LUB) No. 103, 1996 (LUB). The TUP would allow the specific use on property and bring it into compliance with the LUB.

Issues and Opportunities

Temporary Use Permits –General

A temporary use permit is a mechanism that permits a short term use, either a use that is intended to be ephemeral, or alternately may also be used to determine its suitability in a particular location. A TUP may precede a rezoning application to allow what is, in essence, a “trial run” that can be monitored for impacts and ultimately inform a rezoning decision. A TUP has advantages in that the permit can impose any number of conditions and restrictions on use in order to mitigate potential or real impacts. Further, the LTC can monitor the suitability of the use, breaches of conditions can be enforced, and the LTC maintains the option to cease the use upon application for renewal if the impacts prove to be deleterious.

Applicant's Rationale

As above, the rationale for the proposed temporary use is to comply with land use regulation and to continue the business in its current location.

Impact on Neighboring Properties and Neighbourhood

The potential impacts on direct neighbours and the local neighbourhood include noise and nuisance, visual impact of shipping containers, change of neighbourhood character, traffic and others. The applicant reports that he has spoken with all but one of his immediate neighbours, and that the business averages less than one visit per day based on his observations with a game camera.

Based on a site visit and a preliminary analysis, the impacts to neighbours and the area would be visual, particularly given the form and character of the structures, increased traffic in a residential area, and potentially noise and nuisance from unregulated access. The dwelling on the neighbouring property to the east is directly adjacent to the use area (Attachment 2.1 and 2.7). Potential impacts to other neighbouring properties are less, as the use area is setback from Ketch Road with a well treed area between, and the property to the west is a larger Rural parcel with a dwelling 40 metres distant.

Consideration should be given to the fact that the use has been located on a portion of the property that is distant, isolated (by topography) and visually screened from the owner's dwelling (located above on Sailor Easement). Therefore they are required to drive to access the use area, and are not presented with any of the impacts from the use that neighbours below on Ketch Road must manage.

If the application proceeds, all neighbours within 100 metres of the property will be notified, and that process should help to gauge of the acceptability of the proposal in the local community and with neighbours and provide input to help guide the LTC's decision making process for the proposed use.

Land Use Context and Precedent

The use is light industrial and typically is not suitable given the location and neighbourhood context. As with most of Magic Lake Estates, the surrounding neighbourhood is Rural Residential, and the expectation is that development and uses will be consistent with those permitted in all zones, the specific zone, and within the limits of home-based business regulations in the LUB. Although the size of the use is relatively small in scale and unlikely to generate a lot of traffic, it is one that should be located where the appropriate zoning or OCP designations are in place. Additionally, the continued use places the business at an economic advantage over other similar businesses that are located on appropriately zoned lands or with approved permits with the associated increased costs.

Consideration should be given to the potential precedent in allowing the use given the aforementioned impacts and non-compatibility of use, and when the business was established without required land use approvals.

Land Use Bylaw Review

Based on the foregoing, staff's opinion is that the use should not be supported in its current location in the long term. However, in consideration of the current Land Use Bylaw Review Project, and particularly the proposed changes to create a general industrial zone and apply that zone to more island properties, it would be reasonable to proceed with the application with a two (2) year limit. In that time window, the LUB amendments

should be complete and the applicant would have sufficient time and location options for relocating the use to a more suitable site with appropriate general industrial zoning.

TUP Conditions

The TUP is based on existing OCP policies and the conditions have the objective to ensure that the use does not have an unreasonable impact on the local area and natural environment, and, in the event it does, provide the ability to enforce compliance of the TUP. The TUP area, and the number and size of containers and recreational vehicles for storage, are consistent with the existing use and could not accommodate any future increase without further application. Conditions for screening are consistent with LUB requirements for similar uses.

The applicant has agreed to all conditions, however requested that a locked gate not be included stating that it would be difficult to comply with and that opening and locking a gate daily would be particularly difficult. Staff is recommending that condition be added given reasons stated above.

The LTC may opt to amend the draft TUP to remove or insert further conditions prior to staff undertaking the statutory notification, including the length of time the permit would be valid. If the application proceeds, and when it is brought back to the LTC for consideration, other conditions may be added, but at that point conditions could not be removed without re-notification to neighbours.

Bylaw Enforcement

The file was opened in November of 2020 based on a referral from the CRD. To date, no tickets have been issued.

Pursuant to Section b. of the North Pender Island Local Trust Committee (LTC) Standing Resolution 2020-10, the applicants have provided a written request to request that the LTC direct Bylaw Compliance and Enforcement Staff to cease bylaw enforcement actions or the duration that the application is in process (Attachment 4).

Consultation

If the application proceeds, TUP Notices will be circulated to surrounding property owners and residents and published in the *Driftwood* newspaper.

First Nations

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the TUP application is consistent with respect to LTC Standing Resolutions on reconciliation. Staff will also forward the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on Heritage Act directly to the applicants.

Rationale for recommendation

In summary, the recommendations on page 1 are supported as:

- The permit as drafted, and, with the amendment and two (2) year timeframe, will allow sufficient time for the relocation of the business and ensure that the use does not have an unreasonable impact on the local area, and, in the event it does, there is the ability to enforce compliance with the TUP; and,
- Proceeding will facilitate statutory notification in order to obtain neighbour input for the proposed use that can inform the LTC's consideration of the application at a subsequent LTC meeting.

ALTERNATIVES

1. Cease Enforcement

The LTC may opt to cease enforcement for the duration of that the application is in process.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee direct Bylaw Compliance and Enforcement to cease bylaw enforcement actions, including the issuing of notices, for the prohibited uses that are the subject of application NP-TUP-2021.7 (Harwood) located at 3601 Sailor Easement, for the duration that the application is in process.

2. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should 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 _____.

3. Add or remove conditions

The LTC may wish to amend the TUP by adding conditions (or removing or revising conditions) and directing staff to proceed. If selecting this alternative the LTC should specify the additional conditions.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request that the proposed Temporary Use Permit NP-2021.7 (Harwood) be amended by the addition (removing) of the following conditions: _____

4. Deny the application

The LTC may deny the application and proceed no further.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny Temporary Use Permit application NP-TUP-2021.7 (Harwood).

NEXT STEPS

- If the LTC decides to proceed with the application, staff will undertake notification and report back at the January 27, 2022 Regular Meeting.

Submitted By:	Phil Testemale, Planner 2	November 25, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	November 26, 2021

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. Sample Rental Contract
4. Request to Cease Enforcement
5. Draft NP-TUP-2021.7

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 27, Section 10, Pender Island, Cowichan District, Plan 24780
PID	002-821-036
Civic Address	3601 Sailor Easement (Ketch Road)

LAND USE

Current Land Use	Rural Residential
Surrounding Land Use	Rural Residential and Rural

HISTORICAL ACTIVITY

File No.	Purpose
NP-BE-2020.34	Land Use – application subject

POLICY/REGULATORY

Official Community Plan Designations	The property is designated as RR (Rural Residential) in the North Pender Island Official Community Plan No. 171, 2007 (OCP). There are no Development Permit Areas (DPAs) on the subject property.
Land Use Bylaw	The property is zoned as Rural Residential (RR) in the North Pender Island Land Use Bylaw (LUB) No. 103, 1996 (LUB).
Other Regulations	N/A
Covenants	None on property. Adjacent to the southwest is the 'Flycatcher Forest' held by the Pender Island Conservancy. The use is approximately 50 metres distant and downhill from that property (Attachment 2.5).
Bylaw Enforcement	Active enforcement (NP-BE-2020.34) for the subject use.

SITE INFLUENCES

Islands Trust Conservancy	This application has no considerations for the Islands Trust Conservancy.
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	None listed on TAPIS Mapping
Sensitive Ecosystems	Attachment 2.4
Hazard Areas	Areas of Low and Moderate Steep Slope Hazard (Attachment 2.3)
Archaeological Sites	There are no archaeological sites or areas of high archaeological potential noted within the property or within 100 metres on the provincial RAAD mapping. 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	No new development proposed. Elevation and proximity lessen any potential impacts from anticipated or possible climate change induced hazards.

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

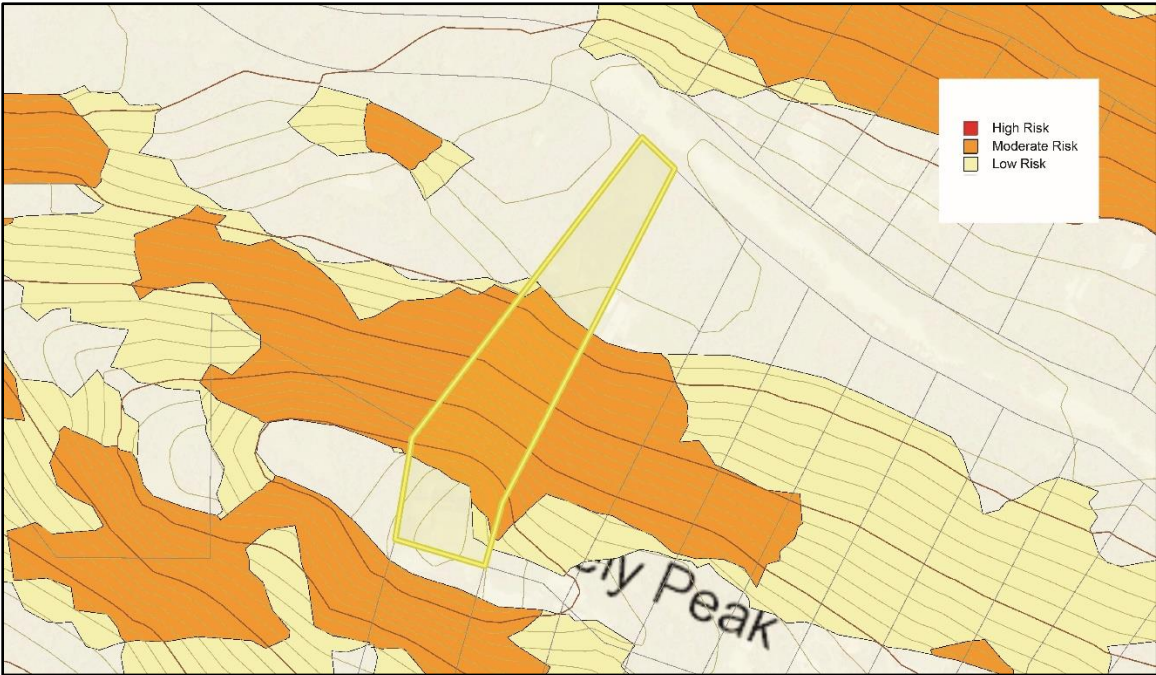
2.1 ORTHOPHOTO WITH ZONING



2.2 DEVELOPMENT PERMIT AREAS



2.3 STEEP SLOPE AND 2M CONTOURS



2.4 SENSITIVE ECOSYSTEM MAPPING



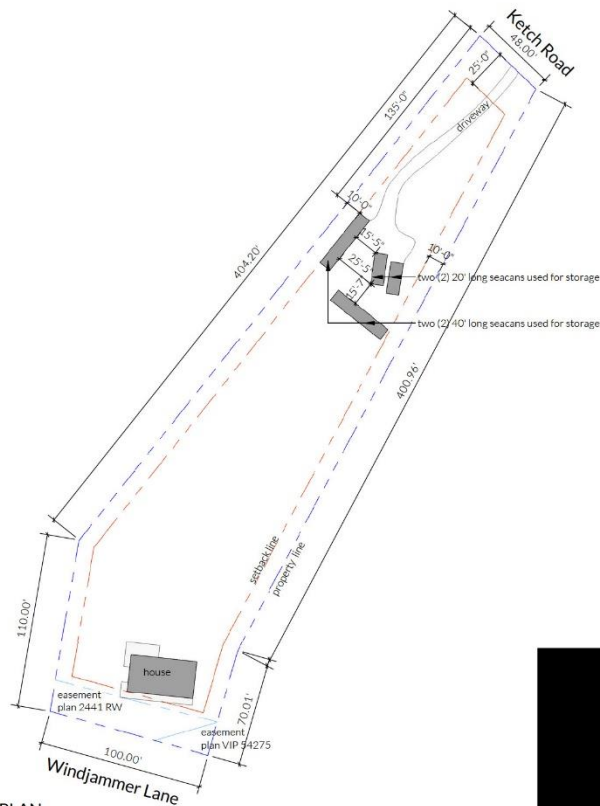
2.5 PROTECTED LAND



2.6 SITE PLAN

ZONING SUMMARY	
ADDRESS (CIVIC)	3601 Sailor Easement Road
ADDRESS (LEGAL)	Lot 27 Plan VIP24780 Section 10 Land District 16 Portion PENDER ISLAND
PID	002-821-036
JURISDICTION	North Pender Island Local Trust Committee
BASIS	North Pender Island Local Trust Committee Land Use Bylaw No. 103, 1996
ZONE	RR
PROPERTY DIMENSIONS	approx 30m x 150m or 100' x 475'
PROPERTY AREA	0.40ha (.99 acres) from bcassessment.ca = 4006.36m ² or 43124.45F
LOT COVERAGE	
existing	house 65m ² or 844SF from bcassessment.ca
proposed	two (2) 20' seacans each is 14.86m ² or 160SF
	two (2) 40' seacans each is 29.72m ² or 320SF
total	house plus four (4) seacans 154.19m ² or 1804SF
	154.19m ² / 4006.36m ² = 3.85%
proposed 3.85%	
permitted 25%	
PERMITTED USES	
one dwelling	
accessory home business (max. 65m ² floor area excludes STVRs)	
accessory rabbit and poultry raising	
one secondary suite	
SETBACKS	
front	7.6m (approx. 25')
rear	7.6m (approx. 25')
side (interior) 3m (approx. 10')	
MAXIMUM HEIGHT	
buildings	9.7m (approx. 32')
structures	9.7m (approx. 32')
CALCULATION OF HEIGHT	
"height" means the vertical distance between the highest point of a building or structure and the average natural grade, being the average undisturbed elevation of the ground at the perimeter of the building or structure calculated by averaging the elevations at the midpoints of all the exterior walls.	
SECONDARY SUITES	
maximum 1 per lot	
max. 70m ² (768 ft ²) floor area	
max. 40% of the floor area of the principal dwelling must be entirely within the principal dwelling building	
must have an entrance separate from the principal dwelling unit's entrance	
may not be used as a short term vacation rental (STVR)	
may not be used as a bed and breakfast	
must not be subdivided from the principal dwelling unit under the Land Title Act or the Strata Property Act	
PARKING	
2 spaces required per dwelling unit	
1 additional space required for a secondary suite	
1 additional space per room for in bed and breakfasts	
2 additional spaces required for home businesses of the sort where clients/customers come to the property	
FENCES	
permitted in any zone	
max. 3m (approx 10ft) high within the required setback area	

1 SITE PLAN
SCALE: 1" = 50'-0"



MacLEAN ARCHITECTURE inc
2105 HWY 104, Suite 100
Vancouver, BC V6L 2H1
info@macleanarchitecture.com 604-999-4381

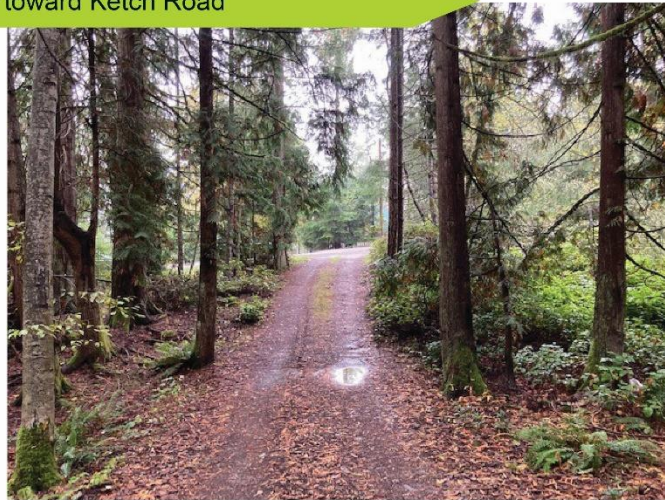
FOR PERMIT
101
LAH
ECT 2105
HWY 104
JAMMER
Sailor Easement Rd
Pender Island, BC

2.7 PHOTOGRAPHS

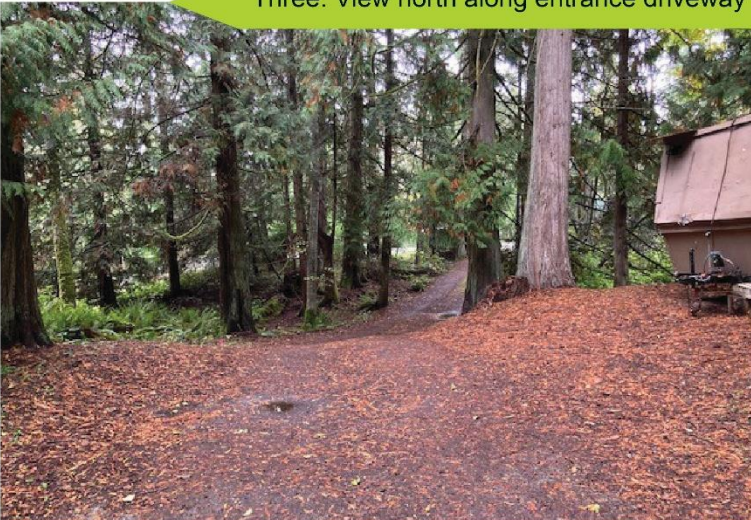
One: Entrance from Ketch Road



Two: View north along entrance driveway toward Ketch Road



Three: View north along entrance driveway

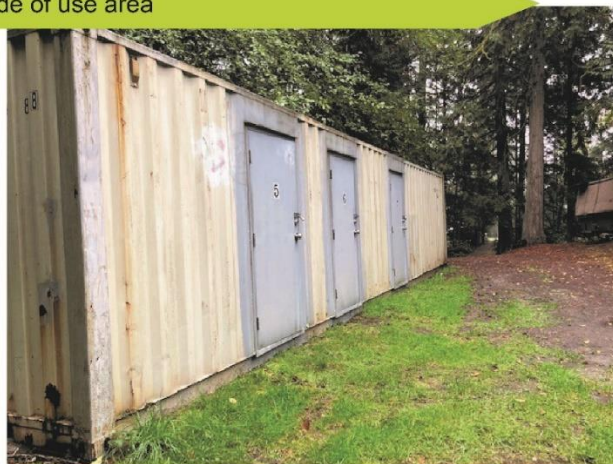


2.7 PHOTOGRAPHS (CONT'D)

Four: Small Containers (foreground) Neighbour Dwelling behind



Five: Large container on west side of use area



Six: Large container on south side of use area

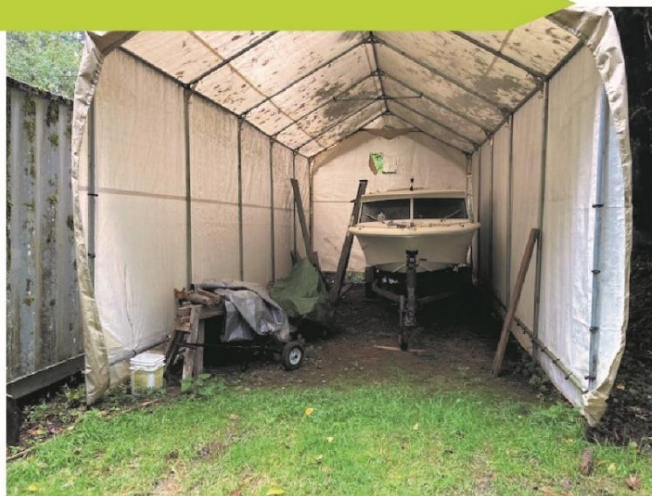


2.7 PHOTOGRAPHS (CONT'D)

Seven: View south of small containers.



Eight: Shelter (personal use)



WINDJAMMER SELF STORAGE RENTAL AGREEMENT.

Name

Date

Address

Phone Number

Alt Phone Number

E-MAIL Address

_____-_____-_____

_____-_____-_____

I, the undersigned, agree to pay \$_____ per month on the _____ of each month for the rental of unit number/s. _____ at **Windjammer Self Storage** at 3601 Sailor Easement, Pender Island, BC.

1. Windjammer Self Storage accepts no responsibility for any loss or damage to the customer's property or goods stored in our facility.

2. One month's notice is required for termination of this rental agreement.

3. After notification of overdue rent, the assigned unit will be locked until full payment is received.

4. The customer is responsible for supplying and maintaining their own lock on their assigned storage unit.

5. The customer is solely responsible for insurance for the contents of their assigned unit.

6. Business and access hours are daylight hours 7 days a week.

7. The following are not to be stored in the units; ALL flammable materials, including gas powered equipment unless the tanks are empty.

8. It is the customer's responsibility to regularly check their assigned unit's contents and report any problems whatsoever, with special attention to any moisture issues.

Signature

Windjammer Self Storage

Jeremy Harwood

3601 Sailor Easement,

Pender Island, BC, V0N 2M2

250-629-0019

250-857-4601

E-mail jdharwood@shaw.ca

WINDJAMMER STORAGE PAYMENT SCHEDULE

202_

JAN_____

FEB_____

MAR_____

APL_____

MAY_____

JUN_____

JUL_____

AUG_____

SEP_____

OCT_____

NOV_____

DEC_____

202_

JAN_____

FEB_____

MAR_____

APL_____

MAY_____

JUN_____

JUL_____

AUG_____

SEP_____

OCT_____

NOV_____

DEC_____

From: "Phil Testemale" <ptestemale@islandstrust.bc.ca>
To: "JEREMY HARWOOD" <[REDACTED]>
Sent: Thursday, November 18, 2021 6:51:56 PM
Subject: RE: NP-TUP-2021.7 (Harwood) -

Please complete and return the following to me:

Dear North Pender Island Local Trust Committee,

I am writing pursuant to Section b. of the North Pender Island Local Trust Committee (LTC) Standing Resolution 2020-10 to request that the LTC direct Bylaw Compliance and Enforcement Staff to cease bylaw enforcement actions, including the issuing of notices, for the prohibited uses that are the subject of application NP-TUP-2021. 7 (Harwood) located at 3601 Sailor Easement, for the duration that the application is in process. The uses provide the following community need: Public self-storage of various types of personal goods for 12 families. Typically, the facility averages less than one visit per day based on my observations with a game camera.

Thank you for your consideration in this matter.

Jeremy Harwood.



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
TEMPORARY USE PERMIT
NP-TUP-2021.7**

To: Jeremy and Donna Harwood

1. This Temporary Use Permit applies to the land described below:

That portion of:

Lot 27, Section 10, Pender Island, Cowichan District, Plan 24780
PID: 002-821-036

indicated as 'TUP Area' on Schedule 'A', attached to and forming part of this permit.

2. This permit is issued for the purpose of allowing the following uses in the subject area:

- a) The operation of a self-storage business.
- b) The siting of a maximum of four (4) shipping containers not to exceed a total combined floor area of 88 m² (950 ft²), divided into a total of twelve (12) individual rental units.
- c) The exterior storage of a maximum combined number of three (3) recreational vehicles, trailers and boats.

The uses and siting shall be consistent with Schedule 'A' which are attached to and form part of this permit.

3. The uses may be carried on subject to the following conditions:

- a) The storage of the following items are strictly prohibited:
 - i. Hazardous, explosive, combustible or toxic materials, including fuels and household hazardous waste, as defined by Capital Regional District Environmental Services;
 - ii. weapons of any type;
 - iii. radioactive materials or equipment; and,
 - iv. perishable food.
- b) The rental contract between the permit holder and all current and new renters shall be amended to include the prohibitions listed as 3. a) (above), and the limitations on hours of access (below).
- c) the prohibitions listed as 3. a) (above), and the limitations on hours of access (below) shall be clearly posted on exterior of each storage unit, and the limitations on hours of access at the locked gate.

- d) There shall be no other home based business, commercial or industrial uses or storage of other materials permitted on the property other than those indicated by Section 2. of this permit (above).
- e) The TUP Area is limited to a maximum area of 0.06 ha (0.14 ac), and shall be in the configuration indicated on Schedule 'A' of this permit.
- f) All buildings and structures (shipping containers), recreational vehicles, trailers and boats permitted by Section 2. of this permit (above) shall conform to the Rural Residential (RR) zone setback provisions within the North Pender Island Land Use Bylaw (LUB), and be sited completely with the TUP Area as indicated on Schedule 'A' of this permit.
- g) Notwithstanding condition 3. f) (above), the landscape screening required by condition 3. k) (below) is not required to meet the Rural Residential (RR) zone setback provisions.
- h) No signage advertising the TUP business is permitted on the subject property, or within the adjacent road right-of-way.
- i) The hours of operation for customer access shall be limited to between the hours of 8 a.m. to 7 p.m., Monday to Friday, and 10 a.m. to 5 p.m. on Saturdays.
- j) New landscape screening consistent with Subsection 3.13.1 of the LUB shall be planted along the east and west boundaries of the TUP Area western as indicated on Schedule 'A' and specified as follows:
 - i. Existing native vegetation that provides a complete and permanent visual screen between the uses being separated, to a width of at least 1.5 metres on lots less than 0.4 ha in area and to a width of at least 3 metres on lots equal to or greater than 0.4 ha in area; or
 - ii. A row of drought tolerant native evergreen plants that will attain a sufficient height of 2 metres and density to screen the use or structure, planted and maintained continuously so as to provide a complete and permanent visual screen between the TUP Area being screened and the adjacent lots.
- k) The landscape screening plantings should be maintained by the permit holder including necessary irrigation until the saplings reach a height of 1.5 metres to ensure survival. Unhealthy, dying or dead stock should be replaced at the permit holder's expense in the next regular planting season.
- l) All existing vegetation, including mature trees and shrubs within the TUP Area, and within the area between the TUP Area and Ketch Road, is to be retained.
- m) The storage of all motorized recreational vehicles permitted by 2. c) above shall include a suspended drip system (consisting of grommeted canvas squares suspended beneath the engines and lined with absorbent pads).
- n) All uses and all containers, recreational vehicles, trailers and boats permitted by section 2. above shall cease and be removed from the property, by the date of the expiry of this permit.
- o) The holder of this Permit, will be held accountable for any violation of the conditions of this Permit.
- p) 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

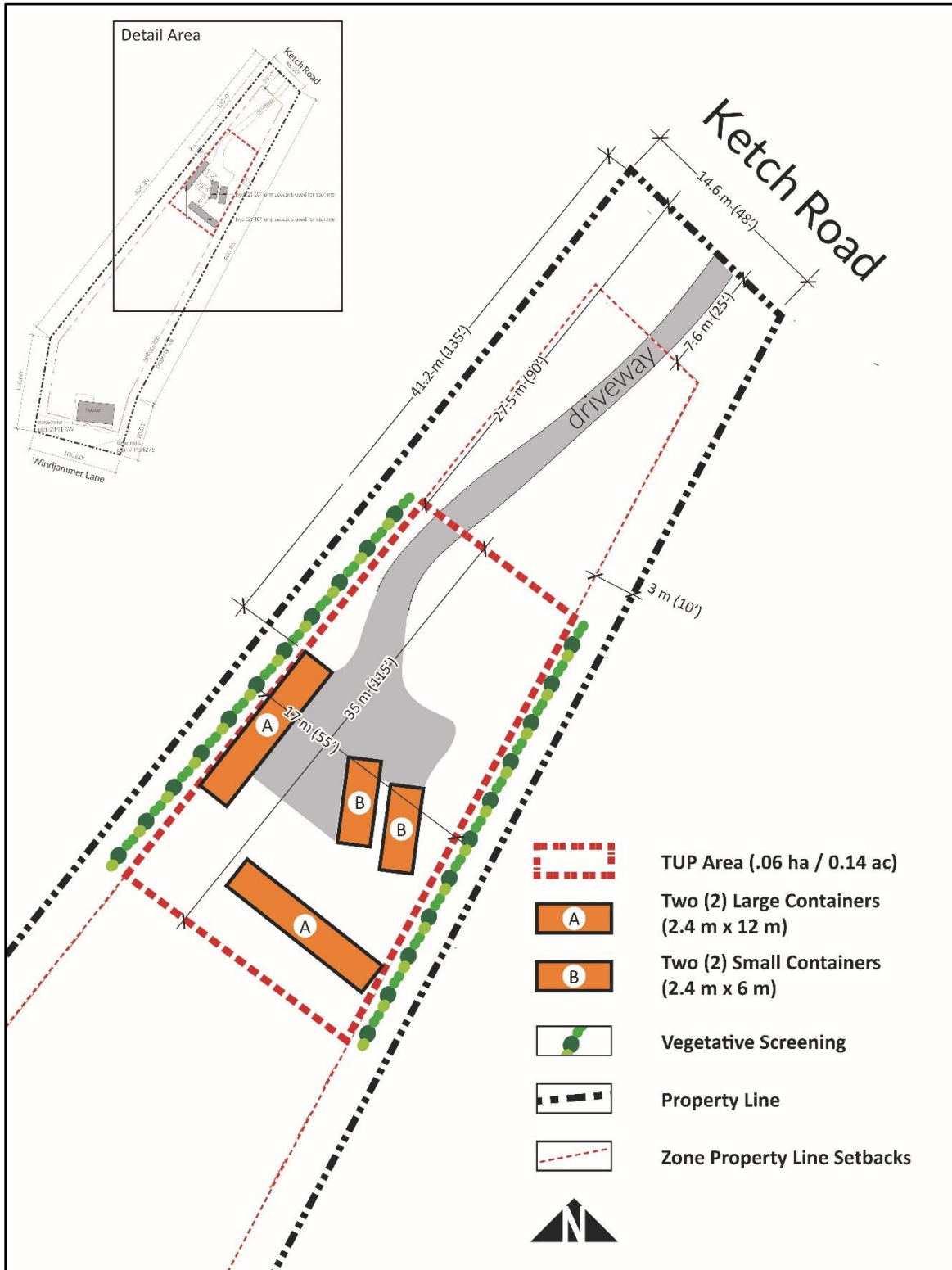
4. This permit is valid for three years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust.
5. This permit is not a building permit and does not remove any obligation on the part of the permittee 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
#TH DAY OF MONTH, 202#.**

Deputy Secretary, Islands Trust

Date of Issuance

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
NP-TUP-2021.7
SCHEDULE 'A'





File No.: NP-DP-2021.7 (Brodie)

NP-BP-2021.20

DATE OF MEETING: December 4, 2021
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale, Planner 2
Southern Team
COPY: Kim Stockdill, Island Planner
SUBJECT: Development Permit Application
Applicant: Arlynn Brodie
Location: 433 Arbutus Spur, Sidney Island

RECOMMENDATION

1. **That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2021.7 (Brodie)**

REPORT SUMMARY

The purpose of this report is to consider a Development Permit (DP) application.

The application is to permit development and land alteration within the **Sidney Island Geotechnical Development Permit Area (DPA)** on the property. Specifically, it will move the boundary of the geotechnical hazard area seaward (westward) based on a submitted geotechnical hazard assessment of the site. That will permit the construction of a dwelling partially within the DPA.

The specific objectives of the designation of the DPA are threefold:

1. *To protect the shoreline banks from development activities which exacerbate the natural erosion process;*
2. *To limit development in hazardous areas susceptible to erosion; and*
3. *To preserve the integrity of coastal processes and reduce cumulative impacts to the coastal shoreline.*

In summary, the above recommendation is supported as the application is based on a professional geotechnical assessment which meets all of the relevant objectives and guidelines for the DPA; and, all recommendations of that assessment have been incorporated into the proposed DP.

BACKGROUND

The application is the result of a revised Preliminary Building Permit Review (NP-BP-2021.20) in the spring of this year. Subsequent to a Building Permit being issued, the proposed siting for the dwelling was moved, which required the current application be made. The applicants are requesting that the dwelling be sited a maximum of 5 metres further west on the property within the DPA Area B (Figure 2). The proposed site was selected as it is a mostly cleared area that will involve minimal tree removal. It will provide better views, and avoid damaging the root system of an old-growth fir under the advisement of an arborist (Mike Prior). At the time of writing, the applicants have not been able to obtain a written report from the arborist, but if received prior to the LTC meeting, it will be forwarded to Trustees and reported at the meeting. The applicant's cover letter is Attachment 3.

The property is vacant and the majority of land is level from the eastern boundary adjacent to Arbutus Spur to the crest of the slope in the west from where it slopes steeply toward the toe of the slope and foreshore area below (Attachment 2.3). The property is well forested with some cleared areas with the location of all mature trees in the vicinity of proposed development marked on Figure 2. The development plan also includes a new garage which is to be sited outside of the DPA.

As required, a geological hazard assessment was submitted to the Islands Trust. "Geotechnical Assessment, 433 Arbutus Spur (Strata Lot 81) - Sidney Island" (Ryzuk Geotechnical, November 16, 2021 (Rev) – 'Geotechnical Report') is Attachment 4 and it includes a guidelines checklist. In summary, the report and its recommendations complies with the DPA Guidelines.

The application was referred to Islands Trust Conservancy (ITC) staff as an ITC covenant is in place on an adjacent parcel.

Both the Geotechnical Assessment and ITC referral are discussed further in 'Issues and Opportunities' below.

Owing to the location and Provincial Health Orders, staff have not visited the subject property.

The proposed Development Permit is Attachment 5.

ANALYSIS

Policy/Regulatory

Islands Trust Policy Statement:

Applicable ITPS statements:

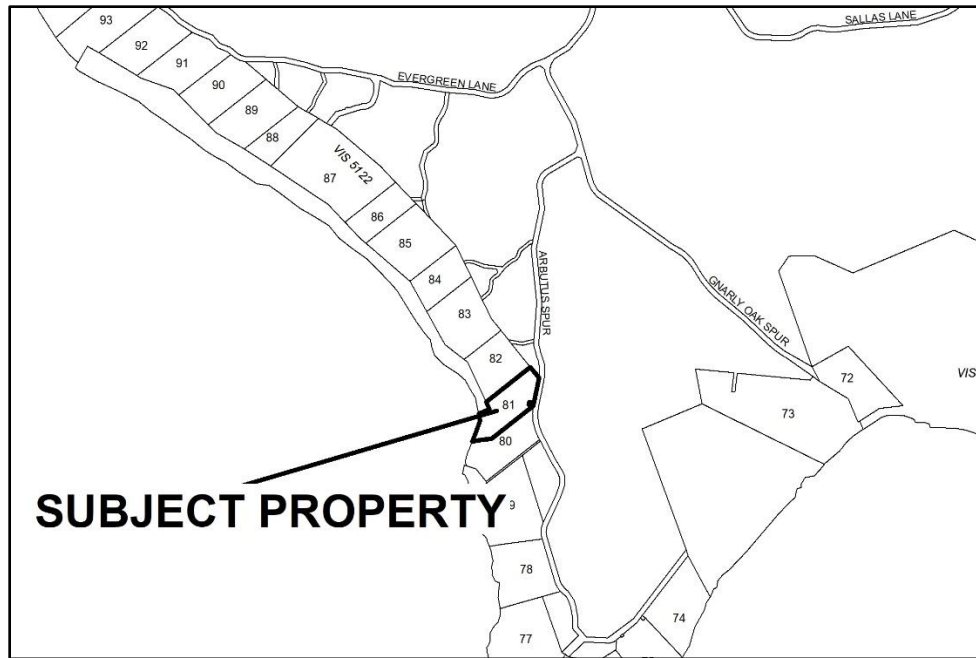
3.4.4 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas

3.4.5 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes

5.2.6 Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.

The proposal is supported by the above ITPS policies.

Figure 1 – Subject Property



Official Community Plan:

The property is designation **Residential - R** in the North Pender Associated Islands Official Community Plan No. 147, 2002.

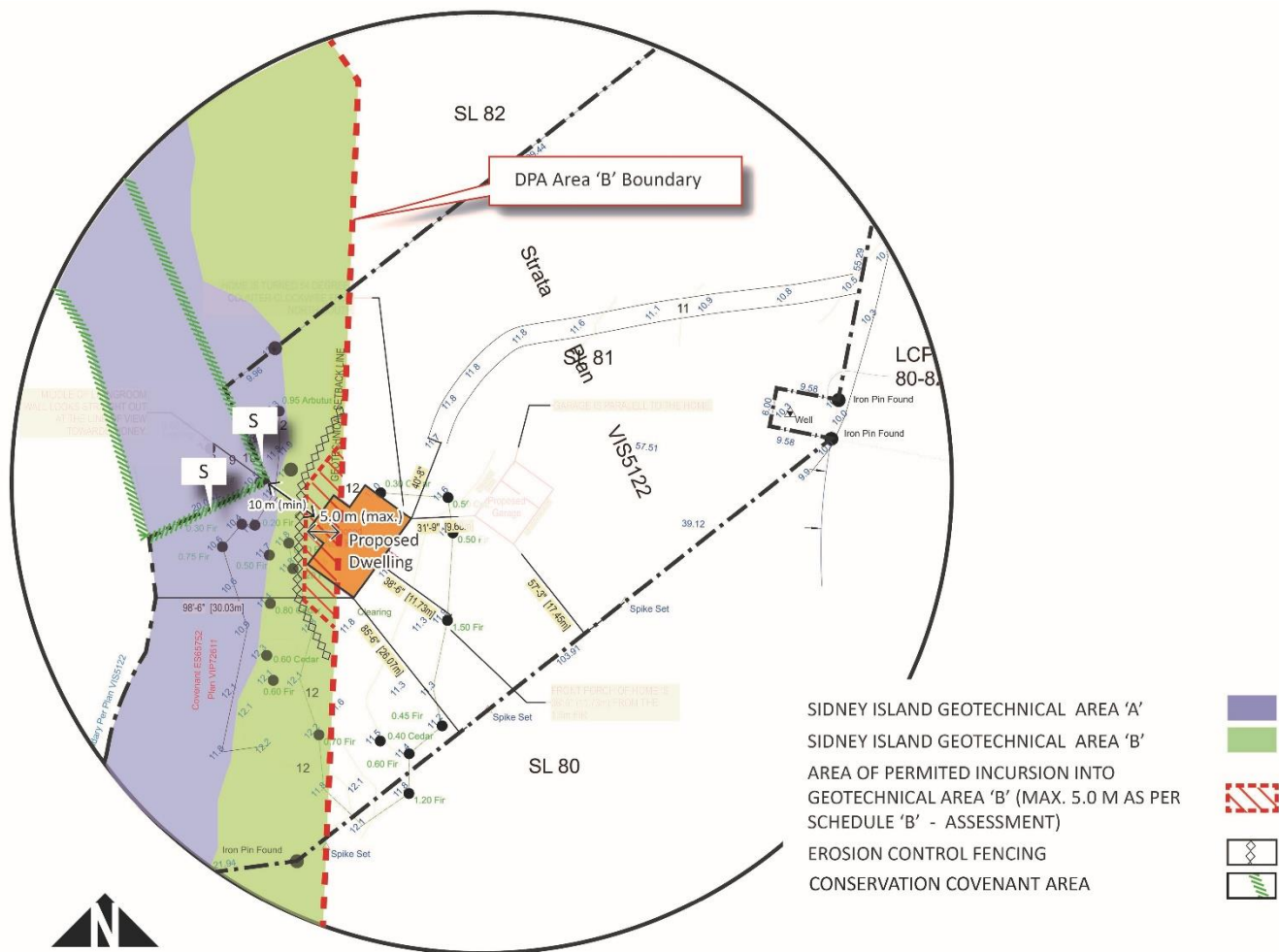
The Sidney Island Geotechnical Development Permit Area (**Geotechnical DPA**) and the Sidney Island Shoreline Development Permit Area (**Shoreline DPA**) are designated on the subject property (see Attachment 2.2). The Shoreline DPA does not apply to this application.

Land Use Bylaw:

The property is zoned as **Sidney Island Comprehensive Development Zone 2 (CD2)** in the North Pender Associated Islands Land Use Bylaw No. 148, 2003 (LUB - see Attachment 2.1)

The proposed siting of a dwelling complies with the LUB, noting that there is a minimum setback of 10 metres to any property boundary.

Figure 2 – Site Plan



Issues and Opportunities

Sidney Island Geotechnical DP- General

The Geotechnical DPA is designated for the protection of development from hazardous conditions. The DPA coincides with a covenant (ES65752) which was registered at the time of subdivision of the island based on “*Report of Geotechnical Investigation for Sidney Island Residential Subdivision*” by Bruce McLeod of Levelton Engineering:

The report identifies that the soil/sandbanks forming the westerly and north-easterly shorelines, which are not protected by bedrock, as being steeper than the long term stable slope angle due to on-going toe erosion. The on-going toe erosion and slope flattening processes are resulting in a landward regression of the crest of the slope. The report summarizes that building sites should be located beyond the recommended setbacks, and that disturbance to the shoreline banks by storm water drainage, land alterations, vegetation disturbance, or other means should be avoided. (OCP, p 42).

The DPA has two components, the shoreline banks ('Area A') and relatively level upland areas (Area 'B') above and beyond the crest of the shoreline banks (see Figure 2). The boundary between the two areas is located 2 metres from the crest of the bank, which is where a 10 degree or more slope continues to the base of the banks. Importantly, the impacts from disturbance to vegetation and land alteration would have different effects in the two areas. Accordingly, Exemptions and Guidelines for considering issuance of a DP are different for the two areas.

The submitted Geotechnical Report analyzes the Levelton report (above), the geological conditions (makeup and slope) of the subject property, and the proposed development, including tree removal. The report concludes with the professional opinion that:

"...we consider that the proposed patio¹ and house can be constructed up to 5 m west of the current covenant line, without being at risk of seismic or erosion based geohazards." (p. 2).

Sidney Island Geotechnical DP- Guidelines

On page 4 of the Geotechnical Report a checklist that assesses and certifies compliance for each of the applicable DP Guidelines for the proposed development is included. That provides recommendations for tree removal, specifically the requirement for oversight by a certified Arborist and for stump retention, as well as for minimizing disruption of existing vegetation, and storm drainage management. All recommendations have been incorporated as conditions of the proposed DP.

Based on the foregoing and attached, it is staff's opinion that the application has met all of the applicable Guidelines for the DPA.

Consultation

There is no public or agency consultation regularly associated with a Development Permit application. In addition, there is no statutory notification required. However, as the subject property is adjacent to common property with an ITC Conservation Covenant (to the northwest - Figure 2), the application was referred to Islands Trust Conservancy staff for comments under Policy 3.3.ii. The response requested that the covenant area be identified on the ground and additional construction management conditions be included. Those have been included in as conditions (2. j)) and on Schedule 'A' of the draft DP.

First Nations

With respect to the potential for archaeological material to be found on the property during the proposed development, Islands Trust reviews all applications/permits using Remote Access to Archaeological Data (RAAD) mapping to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places, and that the application is consistent with respect to LTC Standing Resolutions on reconciliation. Staff have provided the Islands Trust Chance Find Protocol and the Provincial Archaeological Branch guidelines on *Heritage Act* compliance directly to the applicants. By copy of this report, and given the presence of mapped areas of high potential for archaeological material on the property, prior to initiating any construction the

¹ The patio is no longer part of the development proposal

Islands Trust encourages the owners to contact the Archaeological Branch directly for further information and guidance.

Rationale for Recommendation

The recommendation in support of approving issuance of the DP is based on the analysis of relevant policies and regulations, and, in particular DPA guidelines. In summary:

- the application is based on a professional geotechnical assessment and addendum which meets all of the relevant objectives and guidelines for the DPA; and
- all recommendations of that assessment have been incorporated into the proposed DPA.

ALTERNATIVES

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

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should 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. If this alternative is selected, the LTC SHOULD state the reasons for denial.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DP-2021.7 (Brodie) for the following reasons _____.

NEXT STEPS

Submitted By:	Phil Testemale, Planner 2	November 24, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	November 25, 2021

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. Applicant cover letter
4. Geotechnical Assessment - Ryzuk Geotechnical (2021, revised November 16, 2021)
5. Proposed Development Permit NP-DP-2021.7 (Brodie)

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	STRATA LOT 81 SECTION 2 SIDNEY ISLAND RANGE 1W NORTH SAANICH DISTRICT, STRATA PLAN VIS5122
PID	026-298-074
Civic Address	433 Arbutus Spur, Sidney Island
Property Size	0.85 ha (2.1 ac)

LAND USE

Current Land Use	Vacant
Surrounding Land Use	Residential, Conservation (Common Property) and Forestry 1 (Common Property)

HISTORICAL ACTIVITY

File No.	Purpose
NP-BP-2021.20	New dwelling (subject)

POLICY/REGULATORY

Official Community Plan Designations	Designated as Residential – R in the North Pender Associated Islands Official Community Plan No. 147, 2002 The following Development Permit Area (DPA)s are designated on the property (see Attachment 2.2): • Sidney Island Geotechnical and • Sidney Island Shoreline
Land Use Bylaw	Zoned as Sidney Island Comprehensive Development (CD2) in the North Pender Associated Islands Land Use Bylaw No.148, 2003
Other Regulations	The property is part of the Strata Plan VIS5122. Sallas Strata Council reviews all building proposals for conformity with statutory building scheme on title.
Covenants	With the exception of the geotechnical covenant that the DPA mirrors, no other covenants on the property are relevant to the application. See: comments in 'Islands Trust Conservancy' below.
Bylaw Enforcement	N/A

SITE INFLUENCES

Islands Trust Conservancy	Consistent with policy 3.3.ii: as there is an ITC Covenant on adjacent property, staff have referred the application to the ITC for information (see main report 'Consultation').
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	None listed.

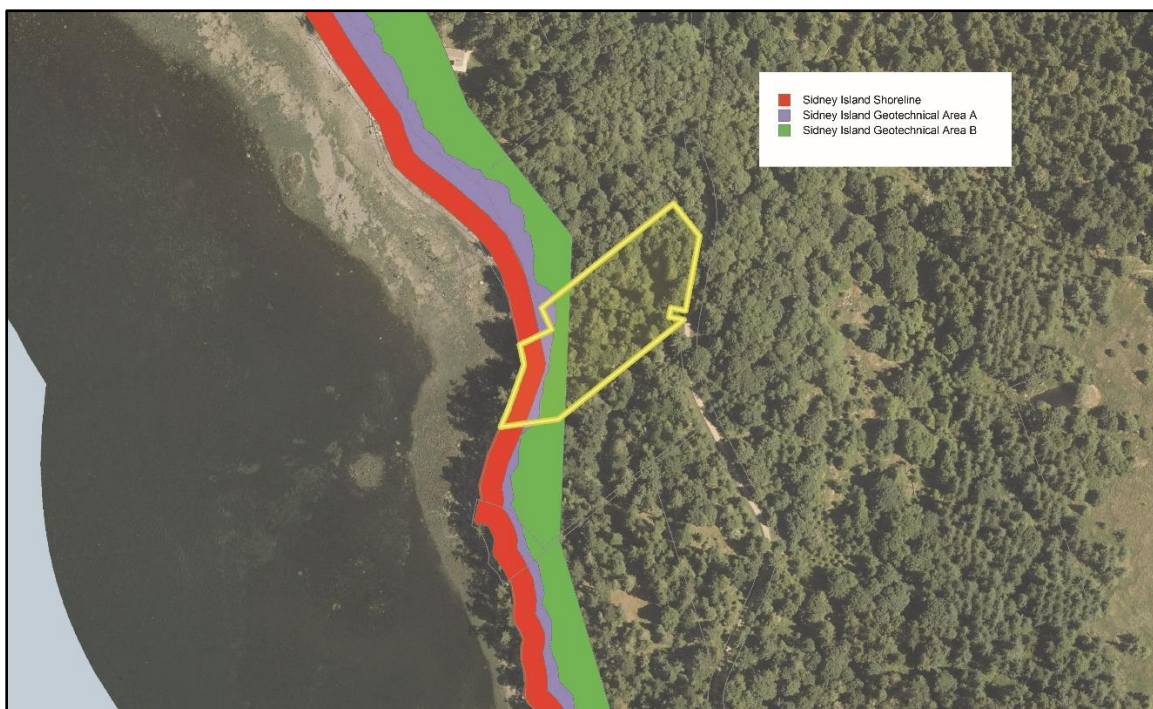
Sensitive Ecosystems	Attachment 2.5
Hazard Areas	As above, the Sidney Island Geotechnical DPA is designated for the protection of development from hazardous conditions. See also Attachment 2.3. Geotechnical assessment notes bedrock at base of slope has limited the foreshore slope regression rate which is more significant to the north.
Archaeological Sites	Remote Access to Archaeological Data (RAAD) information indicates that there are no archaeological sites, or areas of high archaeological potential noted within the property or within 100 metres. 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	No increase in allowable density with application. Geotechnical DPA in place to protect impacts on proposed development from anticipated climate change induced hazards, particularly foreshore slope regression.
Shoreline Classification	Sediment Shoreline - Bluff
Shoreline Data in TAPIS	Eelgrass and forage fish habitat, shown as Attachment 2.6. not impacted by proposal.

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

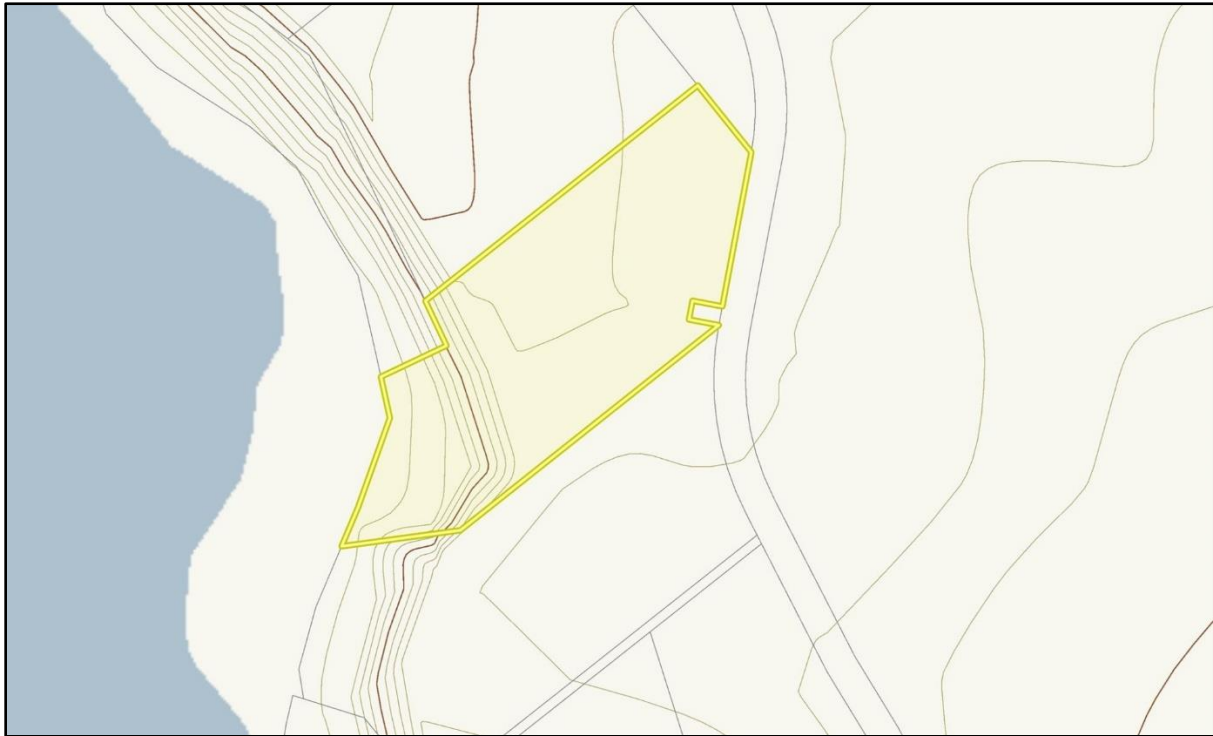
2.1 ORTHOPHOTO WITH ZONING



2.2 DEVELOPMENT PERMIT AREAS



2.3 2M CONTOURS



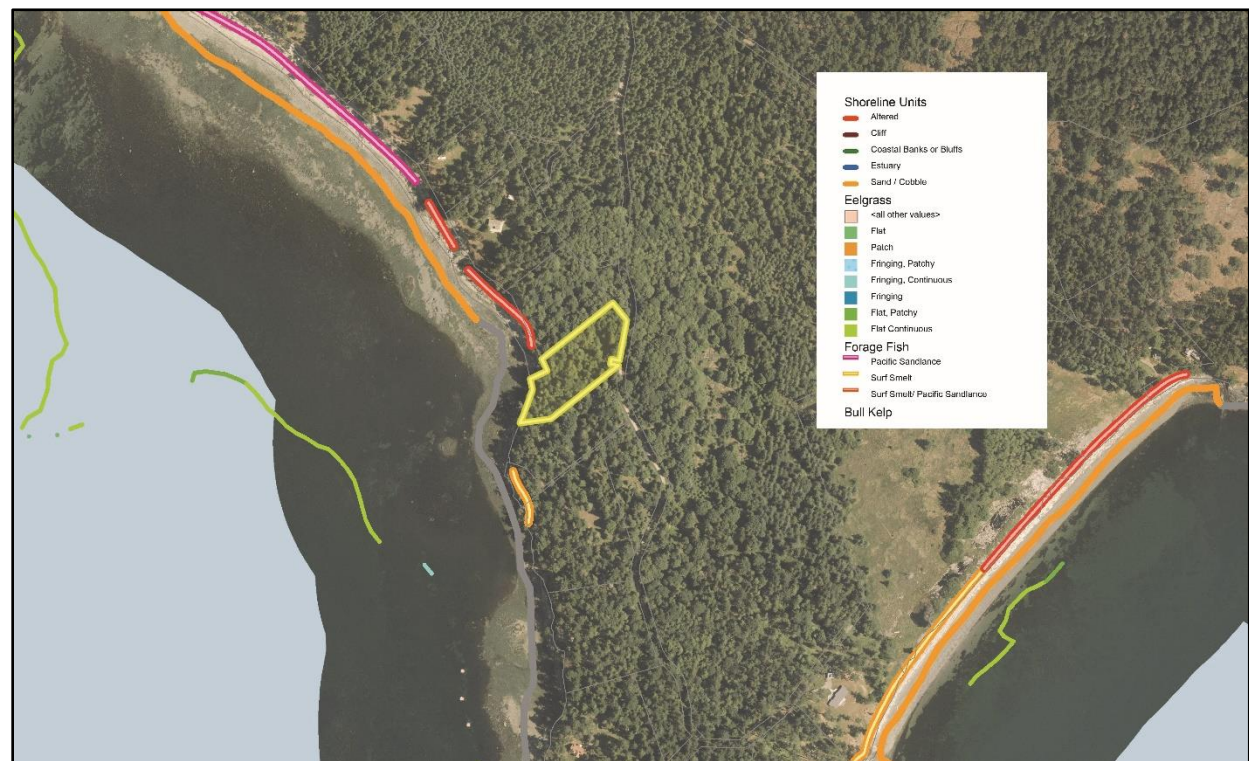
2.4 CONSERVATION COVENANTS



2.5 SENSITIVE ECOSYSTEM MAPPING

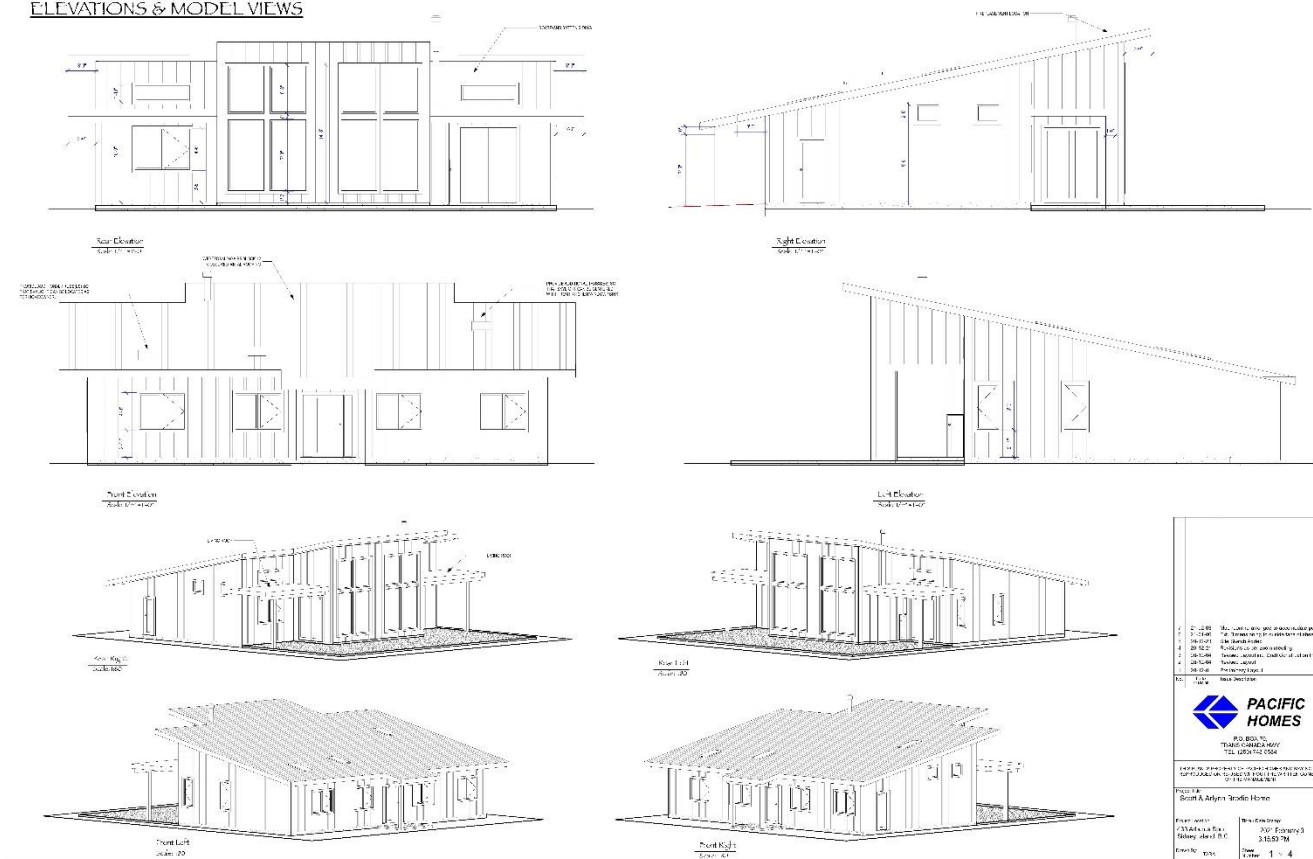


2.6 MARINE SENSITIVE ECOSYSTEM AND SHORELINE TYPES



2.7 DWELLING PLANS

ELEVATIONS & MODEL VIEWS



Purpose of Application

The Development Permit is being requested to build a home on Sidney Island. The natural habitat of lot 81 is wooded and tree removal is desirable only to allow for home construction. The lot has a space of clearing due to the presence of a skidder path from years gone by. This is the ideal placement for the home because it is mostly a cleared area. There is one old growth tree (300+ years) that remains to the back of the mostly cleared space that would be encroached upon if excavation was done for the home without moving the home 5 metres forward. There is a risk of damaging the root structure of this tree. The arborist has been onsite and provided his guidance. A geotechnical engineer completed his analysis and his report is attached. The Site Plan is also attached showing the proposed placement of the home and garage.

Thank-you for your consideration.

Arlynn Brodie



RYZUK GEOTECHNICAL
Engineering & Materials Testing

6-40 Cadillac Ave, Victoria, BC, V8Z 1T2 Tel: 250-475-3131 E-mail: mail@ryzuk.com www.ryzuk.com

November 16, 2021
File No: 10443-1

Arlynn Brodie

Attn: Arlynn (By E-mail: [REDACTED])

Re: Geotechnical Assessment
433 Arbutus Burr (Strata Lot 81) – Sidney Island, BC

As requested, we have revised our previous letter dated April 13, 2021, to clarify the location of the existing geotechnical covenant line and proposed offset discussed herein. Previously we attended the referenced site to assess the existing site conditions and potential geohazards related to the development of a single family residence. The assessment included a review of the Sidney Island Geotechnical Development Permit Area map, the Sidney Island Residential Subdivision geotechnical report prepared by Levelton Engineering Ltd., the architectural and survey plans provided to us, as well as our file information from previous projects in the area. Our associated observations, comments, and recommendations pertaining to potential geohazards on site are contained herein. The work has been undertaken in accordance with, and is subject to, the attached Terms of Engagement.

The site is irregularly shaped, with dimensions of approximately 63 m wide by 140 m long, and is bounded by Sidney Channel to the southwest, similar strata lots to the northwest and southeast, and common property/Arbutus Spur to the northeast. There is currently a geotechnical covenant line on the property, which is located approximately 30 – 40 m northeast of the southwest property line, that restricts building construction southwest of the line, denoted as Development Permit Area (DPA) 'B' per North Pender Associated Islands Official Community Plan, Bylaw No. 147. From our review of the drawings and our discussions, we understand that the proposed single family residence will be constructed northeast of this covenant line, but a concrete patio will be constructed extending up to 5 m west of the covenant line.

The site slopes steeply at the southwestern end, but is relatively flat in all remaining areas. The topography of the southwest end of the site slopes up at 80 degrees from the natural boundary at Sidney Channel for the lower 3 – 4 m of the slope, flattening to approximately 45 degrees to an elevation of approximately 12 m, becoming near vertical near the crest of the slope, and then sloping up from the crest at approximately 30 degrees, with locally steeper and flatter areas. To the northeast of the foreshore slope the site slopes down very gently from southwest to northeast, and from northwest to southeast.

The site is largely undeveloped and vegetated with low-lying brush and medium to large trees, except for the driveway (at the northeast end of the lot), and proposed building area near the center of the site. Trees had been removed in these areas, and the ground has been graded relatively flat.

Soil stratigraphy observed on the site and foreshore slope were generally as follows:

- 0.3 m thick surficial topsoil layer,
- 0 – 2 m of compact to dense brown/grey sand with silty and trace gravel and clay,
- 6 – 10 m of stiff to very stiff grey silty clay with sand and trace gravel, interbedded with more gravelly layers,
- 0.5 – 1 m of very dense brown/grey gravel with sand and cobbles, and
- 3 – 4 m of hard igneous bedrock, lightly to moderately fractured.

Some evidence of erosion was apparent within the soil portions of the slope, but erosion was less apparent at the base of the slope in the bedrock. Signs of erosion on the soil slope included fresh scarps near the crest leaving portions overhanging, a lack of vegetation on the steeper slope areas (particularly on the northern end of the slope), some loose eroded material on the slope face, a few small, toppled trees, and rivulets from rainfall/surface water. In addition to this, several trees directly above the crest of the slope, in the 20 – 30 degree sloping section, were observed to be “pistol butted” at the base, indicated past movement and creep of the slope towards the foreshore area. Long term groundwater monitoring was not undertaken at the site; however, because of the silt and clay present in the native site soils, we expect that perched water table conditions may be experienced during periods of heavy and/or prolonged rainfall.

The Levelton report noted previously suggests that the foreshore slope adjacent to the site did not experience any regression between 1976 and 2000. This is likely due to the bedrock at the base of the slope, which is much more resistant to erosion than the native soil slopes on similar waterfront lots to the north. North of this lot, the report suggests that the foreshore slope may be receding at a rate as high as 0.38 m per year.

To quantify the amount of seismically induced slope regression that may be experienced, we have conducted a slope stability analysis of the foreshore slope using RocScience Slide 2018 software (version 8.016) and limit equilibrium methodology. A design seismic event with a 2% probability of exceedance in 50 years was used for the analysis, and results indicate that regression encountered during the design seismic event would extend 20 m from the toe of the slope. This analysis considered safety factors of 1.5 and 1.1 under static and seismic conditions, respectively, in accordance with Engineers and Geoscientists of British Columbia Guidelines for Legislated Landslide Assessments for Proposed Residential Developments in BC.

Based on the above, we conclude that the site will not be at risk of erosional slope regression during the design life of the proposed single family residence, and that the seismically induced slope regression will be in the order of 25 m (measured from the toe of the slope). As such, we consider that the proposed patio and house can be constructed up to 5 m west of the current covenant line, without being at risk of seismic or erosion based geohazards. This offset will need to be laid out by a surveyor prior to construction.

To help prevent further increase in the rate of erosion at the toe of the slope, any surface water flow should be directed away from the slope crest, and discharged on the northeast portion of the lot. As well, no stormwater is to be discharged on the foreshore slope. It is recommended that footings be installed a minimum of 0.45 m below the ground surface for frost protection. Provided that the proposed foundations

November 16, 2021

bear on undisturbed native compact to dense brown sand, bearing resistances of 150 kPa (SLS) and 225 kPa (ULS) can be expected.

Based on the above, we consider that the current building site northeast of the covenant line is set back sufficiently from the slope to mitigate the geohazard risks from seismically induced slope regression resulting from a design seismic event with a 2% probability of exceedance in 50 years. As such, we consider the site safe for the use intended, that being single family residential use, in accordance with Section 56 of the Community Charter. Note that if the building setback from the slope crest is reduced from what is noted above, further review and analysis is required.

We hope the preceding is suitable for your purposes at present, however if you have any questions with respect to the above, please contact us.

Sincerely,
Ryzuk Geotechnical

Shane Haxton, P.Eng
Intermediate Engineer

Attachment - Terms of Engagement

SIDNEY ISLAND GEOTECHNICAL DEVELOPMENT PERMIT AREA

Checklist to be completed by Professional Geotechnical Engineer

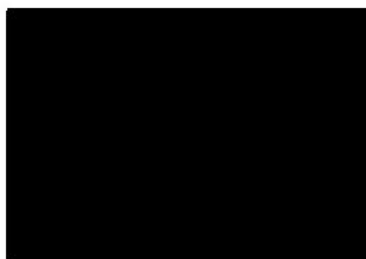
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
1. A development permit should not allow any land alteration or other development activities to take place within any area identified by a geological hazard assessment as subject to a landslide or other geotechnical hazard with a probability in excess of 2% in 50 years.	X			The proposed development / land alteration, including, but not limited to, the construction of a residence and patio no more than 5 m southwest of the current covenant line will be outside of the area within Lot 81 subject to a landslide or other geotechnical hazard with a probability of excess of 2 % in 50 years.
2. All applications should include a geological hazard assessment from a qualified professional licensed in the Province of BC with experience in geotechnical engineering stating that the proposed land alteration or other development will not result in slope instability or other geological failure hazard with a probability in excess of 2% in 50 years. Where the geological hazard assessment report describes an area a suitable for development provided that specific measures are taken, the development permit should only allow the development to occur in compliance with the measures described in the report.	X			The proposed development / land alteration (as outlined in our Geotechnical Assessment Report of April 13, 2021), in our professional opinion, will not result in slope instability or other geological failure hazard with a probability of excess of 2 % in 50 years.
3. Any area proposed to be cleared and disturbed for development should be minimized and landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional. Where a permit authorizes the cutting of trees, re-planting and maintenance of disturbed areas should be considered for inclusion as a condition of the permit. The introduction of non-native species should be avoided and the permit may require a landscaping plan and a security, in the form of an irrevocable letter of credit, for 125% the cost of re-planting as determined by a professional landscaper	X			We are not aware of any tree removal proposed at the site currently, other than that associated with construction of the new residence. For any tree removal done within Area 'B', we recommend that it is carried out by a qualified arborist, that ground disturbance is limited during removal, and that the stumps and roots outside of the proposed residence footprint are left in place.
4. All on-site drainage should be directed away from the shoreline or crest of slope	X			We understand that all onsite drainage will be directed away from both the shoreline and the crest of the slope.
5. Any land alteration or development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.	X			We do not anticipate any significant run off into Sidney Channel and release of sediment towards the shore resulting from the proposed development / land alteration. However, recommend that the proposed development / land alteration be carried out with minimal ground disturbance.

6. When structures for bank stabilization measures are proposed, it should be demonstrated that the 'softest' possible measures have been applied before increasingly 'harder' measures are required. Monitoring and regular reporting to the Islands Trust by a registered professional engineer or geoscientist at the applicant's expense may be required during construction and land development phases, as specified in a development permit.			X	
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
7. Any proposed bank stabilization should be limited to that minimally necessary to prevent damage to existing structures, uses or features. Applications involving stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed stabilization measures including: a. The need for the proposed bank stabilization to protect existing structures, uses or features, including alternative measures available that would be feasible or sufficient. b. An evaluation of on-site drainage and confirmation that the erosion is not caused or exacerbated by upland conditions such as drainage control or loss of vegetation. c. How the stabilization measure would protect existing structures, uses or features. d. If any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed stabilization, including at sites on other properties or foreshore locations. e. Potential impacts to the natural shoreline processes resulting from the proposed stabilization. f. Whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the stabilization. g. Recommendations for conditions that should be incorporated into the development permit in order to achieve the objectives of this Development Permit Area.			X	
8. The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the eroding sandbanks.			X	

Signature of Professional Geotechnical Engineer:



Seal of Professional Geotechnical Engineer:





**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT
NP-DP-2021.7**

To: Ernest and Arlynn Brodie

1. This Development Permit (the "Permit") applies the land described below and all buildings, structures and other developments therein:

Strata Lot 81, Section 2, Sidney Island, Range 1W, North Saanich District, Strata Plan
VIS5122 (PID: 026-298-074)

2. This Development Permit NP-DP-2021.7 authorizes construction of a building (**dwelling**) and associated land alteration of land as shown on **Schedule 'A'** and within Sidney Island Geotechnical Permit Area (DPA) as designated in the North Pender Associated Islands OCP Bylaw No. 147, 2002 ('OCP'), subject to the following requirements and conditions:

Permitted Siting, Tree Removal and Land Alteration

- a) The proposed dwelling shall be sited with a maximum offset ('Area of Incursion') of 5.0 m west of the 'Area 'B' Boundary' as shown on **Schedule 'A'**, attached to and forming a part of this permit.
- b) The siting of the dwelling shall be established on site by a British Columbia Land Surveyor (BCLS) prior to the commencing of any construction including excavation, and verified by a legal survey at the foundation inspection of the Building Permit process.
- c) Any tree removal within the DPA other than required for the construction of the dwelling shall be undertaken under the supervision of a qualified professional Arborist, and shall minimize ground disturbance, with all trunks and root plates are to be retained for soil stability.

Geological Hazzard Assessment Report

- d) Construction of, alteration to or addition of the dwelling and any associated alteration of land shall comply with the recommendations of the report entitled "Geotechnical Assessment, 433 Arbutus Spur (Strata Lot 81) - Sidney Island, BC" (Shane Haxton, P.Eng., Ryzuk Geotechnical, April 13, 2021), attached to and forming part of this permit as **Schedule 'B'**.

Construction and Storm Water Management

- f) Overall, permitted development, including the excavation and construction, including associated infrastructure, for the proposed dwelling, shall be undertaken with minimal ground disturbance.
- g) Any surface water flow shall be directed away (eastward) from the slope crest and discharged on the east portion of the property.

- h) During construction, and when construction is completed, all storm water drainage and rain water collection from the dwelling or any other building or structure on the property shall be directed east and into an adequate rock-pit or infiltration pit located a minimum of 25 metres from the Area 'B' Boundary as shown on **Schedule 'A'**.
 - i) All necessary measures are to be taken to protect the shoreline area from sedimentation, specifically:
 - i. Construction and landscaping should be undertaken during dry weather and not during periods of prolonged rainfall;
 - ii. Prior to commencing construction, and for the duration of construction, temporary fencing shall be erected along or adjacent to the Area 'B' DPA Boundary and the Area of Permitted Incursion as shown on **Schedule 'A'**, for the entire north-south width of the property;
 - iii. Prior to commencing construction, and for the duration of construction, silt fencing shall be installed as shown on **Schedule 'A'** extending for a minimum distance of 10 metres north to 10 metres south of any excavation or clearing, all in accordance with the specification 'Erosion and Sedimentation Control Measures' attached to and forming part of this permit as **Schedule 'C'**; and,
 - iv. Any soils exposed or deposited for a period of greater than two (2) weeks shall be covered and maintained by means of tarps in good repair and/or hydromulch (without seeds).
 - j) All necessary measures are to be taken to protect the Conservation Covenant Area from incursion or damage, specifically:
 - i. Prior to commencing construction, and for the duration of construction, additional temporary fencing shall be erected along the shared boundary of the Conservation Covenant Area as shown on Schedule 'A', and a minimum of two waterproof signs 28 cm x 41 cm (11" x 16") in size stating the following in bold text: **'PROTECTED CONSERVATION AREA - NO ENTRY'**.
 - ii. There shall be no incursion into the Conservation Covenant Area by persons, machinery or equipment, nor any storage or placement of any construction materials or waste.
3. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.
 4. The area described herein shall be developed substantively in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.
 5. This permit does not relieve the applicant from complying with the provisions of the North Pender Associated Islands Land Use Bylaw No. 147, 2002 nor from acquiring required approvals from other agencies including, but not limited to, the Capital Regional District and the Ministry of Transportation and Infrastructure.

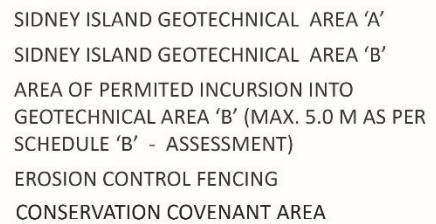
AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, THIS
##TH DAY OF MONTH, 202#

Deputy Secretary, Islands Trust

Date Issued

IF THE DEVELOPMENT HEREIN IS NOT COMMENCED BY THE ##TH DAY OF MONTH, 202# THIS PERMIT
AUTOMATICALLY LAPSES.

Site Plan



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT 2021.7
Schedule 'B'
Geological Assessment Report**



RYZUK GEOTECHNICAL
Engineering & Materials Testing

6-40 Cadillac Ave, Victoria, BC, V8Z 1T2 Tel: 250-475-3131 E-mail: mail@ryzuk.com www.ryzuk.com

April 13, 2021
File No: 10443-1

Arlynn Brodie

Attn: Arlynn

Re: Geotechnical Assessment
433 Arbutus Burr (Strata Lot 81) – Sidney Island, BC

As requested, we attended the referenced site to assess the existing site conditions and potential geohazards related to the development of a single family residence. The assessment included a review of the Sidney Island Geotechnical Development Permit Area map, the Sidney Island Residential Subdivision geotechnical report prepared by Levelton Engineering Ltd., the architectural and survey plans provided to us, as well as our file information from previous projects in the area. Our associated observations, comments, and recommendations pertaining to potential geohazards on site are contained herein. The work has been undertaken in accordance with, and is subject to, the attached Terms of Engagement.

The site is irregularly shaped, with dimensions of approximately 63 m wide by 140 m long, and is bounded by Sidney Channel to the southwest, similar strata lots to the northwest and southeast, and common property/Arbutus Spur to the northeast. There is currently a geotechnical covenant line on the property, which is located approximately 30 – 40 m northeast of the southwest property line, that restricts building construction southwest of the line, denoted as Development Permit Area (DPA) 'B' per North Pender Associated Islands Official Community Plan, Bylaw No. 147. From our review of the drawings and our discussions, we understand that the proposed single family residence will be constructed northeast of this covenant line, but a concrete patio will be constructed extending up to 5 m southwest of the covenant line.

The site slopes steeply at the southwestern end, but is relatively flat in all remaining areas. The topography of the southwest end of the site slopes up at 80 degrees from the natural boundary at Sidney Channel for the lower 3 – 4 m of the slope, flattening to approximately 45 degrees to an elevation of approximately 12 m, becoming near vertical near the crest of the slope, and then sloping up from the crest at approximately 30 degrees, with locally steeper and flatter areas. To the northeast of the foreshore slope the site slopes down very gently from southwest to northeast, and from northwest to southeast.

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Ryzuk Geotechnical

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Soil stratigraphy observed on the site and foreshore slope were generally as follows:

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April 13, 2021

Based on the above, we consider that the current building site northeast of the covenant line is set back sufficiently from the slope to mitigate the geohazard risks from seismically induced slope regression resulting from a design seismic event with a 2% probability of exceedance in 50 years. As such, we consider the site safe for the use intended, that being single family residential use, in accordance with Section 56 of the Community Charter. Note that if the building setback from the slope crest is reduced from what is noted above, further review and analysis is required.

We hope the preceding is suitable for your purposes at present, however if you have any questions with respect to the above, please contact us.

Sincerely,
Ryzuk Geotechnical

Shane Haxton, P.Eng.
Intermediate Engineer

Attachment - Terms of Engagement

SIDNEY ISLAND GEOTECHNICAL DEVELOPMENT PERMIT AREA

Checklist to be completed by Professional Geotechnical Engineer

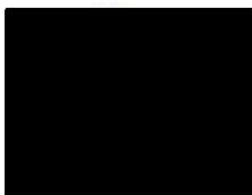
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	Yes	No	N/A	
1. A development permit should not allow any land alteration or other development activities to take place within any area identified by a geological hazard assessment as subject to a landslide or other geotechnical hazard with a probability in excess of 2% in 50 years.	X			The proposed development / land alteration, including, but not limited to, the construction of a residence and patio no more than 5 m southwest of the current covenant line will be outside of the area within Lot 81 subject to a landslide or other geotechnical hazard with a probability of excess of 2 % in 50 years.
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3. Any area proposed to be cleared and disturbed for development should be minimized and landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional. Where a permit authorizes the cutting of trees, re-planting and maintenance of disturbed areas should be considered for inclusion as a condition of the permit. The introduction of non-native species should be avoided and the permit may require a landscaping plan and a security, in the form of an irrevocable letter of credit, for 125% the cost of re-planting as determined by a professional landscaper	X			We are not aware of any tree removal proposed at the site currently, other than that associated with construction of the new residence. For any tree removal done within Area 'B', we recommend that it is carried out by a qualified arborist, that ground disturbance is limited during removal, and that the stumps and roots outside of the proposed residence footprint are left in place.
4. All on-site drainage should be directed away from the shoreline or crest of slope	X			We understand that all onsite drainage will be directed away from both the shoreline and the crest of the slope.
5. Any land alteration or development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.	X			We do not anticipate any significant run off into Sidney Channel and release of sediment towards the shore resulting from the proposed development / land alteration. However, recommend that the proposed development / land alteration be carried out with minimal ground disturbance.

6. When structures for bank stabilization measures are proposed, it should be demonstrated that the 'softest' possible measures have been applied before increasingly 'harder' measures are required. Monitoring and regular reporting to the Islands Trust by a registered professional engineer or geoscientist at the applicant's expense may be required during construction and land development phases, as specified in a development permit.			X	
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
7. Any proposed bank stabilization should be limited to that minimally necessary to prevent damage to existing structures, uses or features. Applications involving stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed stabilization measures including: a. The need for the proposed bank stabilization to protect existing structures, uses or features, including alternative measures available that would be feasible or sufficient. b. An evaluation of on-site drainage and confirmation that the erosion is not caused or exacerbated by upland conditions such as drainage control or loss of vegetation. c. How the stabilization measure would protect existing structures, uses or features. d. If any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed stabilization, including at sites on other properties or foreshore locations. e. Potential impacts to the natural shoreline processes resulting from the proposed stabilization. f. Whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the stabilization. g. Recommendations for conditions that should be incorporated into the development permit in order to achieve the objectives of this Development Permit Area.			X	
8. The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the eroding sandbanks.			X	

Signature of Professional Geotechnical Engineer:



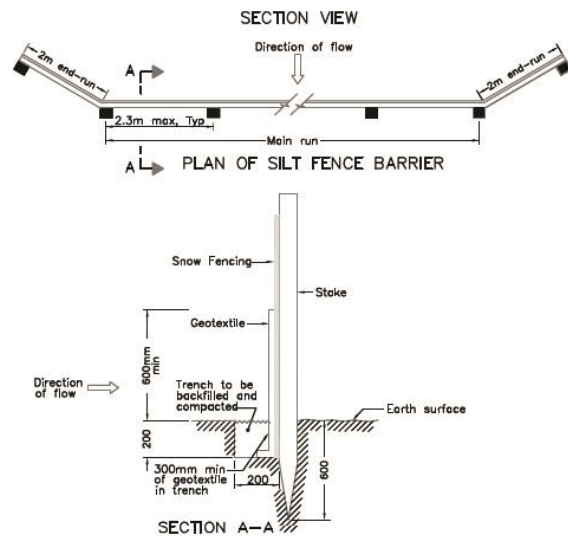
Seal of Professional Geotechnical Engineer:



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT 2021.7
Schedule 'C'
Erosion and Sedimentation Control Measures**

EROSION AND SEDIMENTATION

- 1) PRE-STAKED SILT FENCE TO BE INSTALLED AS SHOWN PRIOR TO CONSTRUCTION AS DIRECTED BY THE ENGINEER.
- 2) TOPSOIL STRIPPED FOR REUSE TO BE STOCKPILED AWAY FROM WATER COURSES, DRAINAGE PATHS AND PROPERTY AND SHALL BE COVERED AND / OR SEEDED TO REDUCE EROSION.
- 3) ALL DISTURBED AREAS TO BE RESTORED AND LANDSCAPED AS SOON AS POSSIBLE FOLLOWING CONSTRUCTION.
- 4) ALL EROSION AND SEDIMENT CONTROL MEASURES TO BE INSPECTED AND MAINTAINED ON A REGULAR BASIS THROUGHOUT THE COURSE OF CONSTRUCTION BY THE CONTRACTOR. THE QUALIFIED ENVIRONMENTAL MONITOR (QEM) JOHN GRODS SHALL HALT PROGRESS OF ANY AND ALL WORK AND SHALL DIRECT CONTRACTOR TO REPAIR / ALTER CONSTRUCTION MITIGATION MEASURES IF THEY ARE NOT PERFORMING ADEQUATELY.



NOTE:

All dimensions are in millimetres or metres unless otherwise shown.

SILT FENCE WITH SNOW FENCE DETAIL

NTS

From: Daniela Murphy
Sent: Wednesday, November 17, 2021 11:11 AM
To: Becky McErlean; Jas Chonk; Mike Tippet; dlundy@saltspringfire.com; chris.laughlin@viha.ca; Karla Campbell; saltspring@rcmp-grc.gc.ca; Christine Condron; amanda.vanderkloof@bcas.ca; Edward.Panis@dfo-mpo.gc.ca; McIntyre, Cathie BCA:EX; Nichols, Kris MUNI:EX; Jennifer.I.moran@gov.bc.ca; FrontCounter BC FLNR:EX; diana.cooper@gov.bc.ca; Janelle.staite@gov.bc.ca
Cc: Kristine Mayes; Rob Pingle; jarnet@crd.bc.ca
Subject: Referral of Salt Spring Island Local Trust Committee Proposed Bylaw No. 525 - 1351 Mountain Road, SSI
Attachments: SS-BL-525_Referral Form.pdf

Dear Referral Coordinator,

The Salt Spring Island Local Trust Committee (SS LTC) has asked that its proposed bylaw: Bylaw No. 525 cited as "Salt Spring Island Official Community Plan 2008, Amendment No. 2, 2021" be referred to you for comment.

The proposed bylaw would rezone the subject property from Rural (R) to Rural variant p (R(p) to permit a maximum of one boathouse not exceeding 60 square metres in all lands zoned R(p) and establish a 15-metre setback from the natural boundary of the sea.

The staff report and information relating to the application can be found on our website, <https://islandstrust.bc.ca/island-planning/salt-spring/current-applications/> under application SS-RZ-2020.1.

A reply is respectfully requested by **Wednesday, December 22, 2021**. We understand that there are numerous demands on your time, however, we genuinely welcome any comments or questions you may have.

Should you have any questions, or require further information, please contact Planner Kristine Mayes at kmayes@islandstrust.bc.ca or 250-537-9144.

Please direct referral responses to ssiinfo@islandstrust.bc.ca

Or by mail to: Islands Trust, 1 – 500 Lower Ganges Road, Salt Spring Island, BC V8K 2N8

Thank you for your time and attention to this matter.

Yours truly,

Daniela Murphy

Daniela Murphy

Legislative Clerk/Deputy Secretary

Islands Trust

1-500 Lower Ganges Road | Salt Spring Island BC V8K 2N8

T 250-538-5606 | islandstrust.bc.ca

You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421



Islands Trust

BYLAW REFERRAL FORM

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

Island: Salt Spring Island Trust Area **Bylaw No.:** 525 **Date:** November 16, 2021

You are requested to comment on the attached Bylaws 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. For your information a Public Hearing to consider the Bylaws will be held at a later date.

APPLICANTS NAME / ADDRESS:

Douglas MacAlpine / 2980 Cowichan Valley Highway, Duncan, BC V9L 6A2

PURPOSE OF BYLAW:

To permit a maximum of one boathouse not exceeding 60 square metres in all lands zoned R(p) and establish a 15-metre setback from the natural boundary of the sea.

GENERAL LOCATION:

1351 Mountain Road, Salt Spring Island, BC

LEGAL DESCRIPTION:

LOT 5, OF SECTIONS 33 AND 37, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 1812

SIZE OF PROPERTY AFFECTED:

24.69-ha / 61-acres

ALR STATUS:

Non-ALR

OFFICIAL COMMUNITY PLAN DESIGNATION:

Uplands

OTHER INFORMATION:

To review the staff report or for more information on application SS-RZ-2020.1, go to: <http://www.islandstrust.bc.ca/islands/local-trust-areas/salt-spring/current-applications/current-application-documents/>

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

(Signature)

Name: Kristine Mayes

Title: Planner 1

This referral has been sent to the following agencies:

Federal Agencies

Fisheries & Oceans, Canada - Pacific Region

First Nations

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

Hul'qumi'num Treaty Group (for information only)
Te'Mexw Treaty Association (for information only)

Regional Agencies

CRD – All Referrals & K. Campbell (SSI Senior Manager)
CRD – SSI Parks and Recreation
CRD – SSI Building Inspection
CRD – Environmental Eng. Division
CRD – Parks & Community Services
Vancouver Island Health Authority
SSI Advisory Planning Commission

Non-Agency Referrals

BC Ambulance Service
RCMP
SSI Fire-Rescue

Adjacent Local Trust Committees and Municipalities

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

Provincial Agencies

BC Assessment Authority

Ministry of Municipal Affairs

Ministry of Transportation & Infrastructure

Ministry of Forest Lands, Natural Resource Operations and Rural

Development (Archaeology)

Ministry of Environment and Climate Change Strategy (BC Parks and
Conservation Officer Service Division)

Front Counter BC

BYLAW REFERRAL FORM
RESPONSE SUMMARY

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

Salt Spring Island Trust Area
(Island)

(Signature)

(Date)

525
(Bylaw Number)

(Title)

(Agency)

PROPOSED

SALT SPRING ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 525

A BYLAW TO AMEND SALT SPRING ISLAND LAND USE BYLAW NO. 355, 1999

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

1. Citation

This bylaw may be cited for all purposes as “Salt Spring Island Land Use Bylaw, 1999, Amendment No. 2, 2021”.

2. Salt Spring Island Local Trust Committee Bylaw No. 355, cited as “Salt Spring Island Land Use Bylaw, 1999,” is amended as follows:

2.1 By inserting in Subsection 9.2.4 – Exceptions in Particular Locations – the following new Rural Zone Variation (p) – R(9) after Zone Variation R(o):

“Zone Variation – R(p)

(22) Despite Section 1.1 – Definition of “Boathouse” – a maximum of one *boathouse* not exceeding 60 square metres shall be located within all lands zoned R(p).

(23) Despite Subsection 4.4.2, the setback from the *natural boundary* of the sea is 15 metres.

And by making consequential numbering alterations to effect this change.

2.2 By changing the zoning classification of Lot 5, of Sections 33 and 37, South Salt Spring Island, Cowichan District, Plan 1812 from Rural – (R) to Rural Zone Variation (p) – R(p), as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “A” of Bylaw No. 355 as are required to effect this change.

READ A FIRST TIME THIS 9TH DAY OF NOVEMBER 2021

READ A SECOND TIME THIS _____ DAY OF _____ 20____

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20____

READ A THIRD TIME THIS _____ DAY OF _____ 20____

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

_____ DAY OF _____ 20____

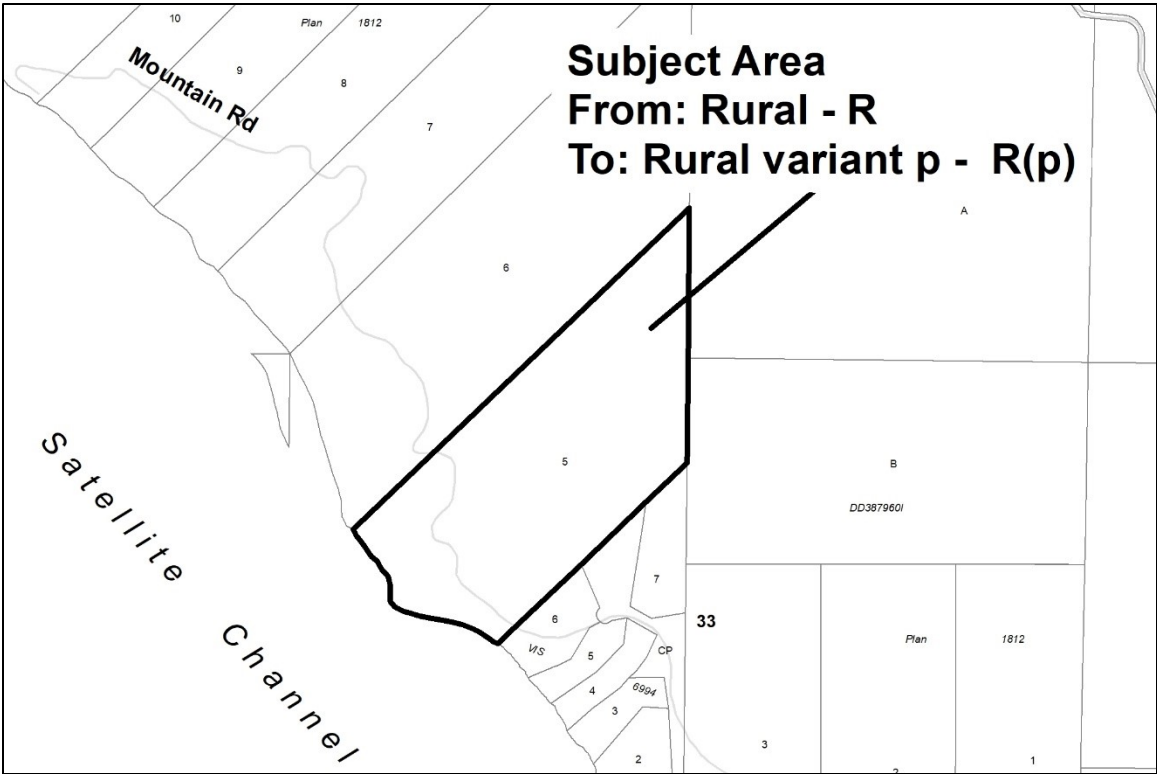
ADOPTED THIS _____ DAY OF _____ 20____

Chair

Secretary

PROPOSED

Plan No. 1



DATE OF MEETING: December 4, 2021
TO: North Pender Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: LUB Review Project

RECOMMENDATION

For the North Pender Island Local Trust Committee (LTC) to receive the draft bylaws and provide direction to make any revisions.

REPORT SUMMARY

The purpose of this report is to introduce further amendments to the draft bylaw document and to outline next steps for the project.

BACKGROUND

The project was identified by the LTC in late 2019 and the project charter was endorsed in January 2020 (attached). The objective of the project is to implement Official Community Plan (OCP) policies through amendments to the North Pender Land Use Bylaw (LUB). The project encompasses the following topic areas: residential floor area review, tourist Commercial regulation review, marine shoreline regulations review, agricultural regulations amendments, industrial regulation review, and minor and technical amendments.

Background information regarding the project, staff reports, Discussion Papers, PowerPoint presentations, correspondence, and the Project Charter can be found on the North Pender Project webpage:

<https://islandstrust.bc.ca/island-planning/north-pender/projects/>.

At the October 22, 2021 LTC Special Meeting, the LTC passed the following resolutions:

NP-2021-082

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee invite the South Pender Island Local Trust Committee Trustees to the December Special Meeting on Land Use Bylaw.

CARRIED

NP-2021-083

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to contact the owners of 1329 MacKinnon Road and 1349 MacKinnon Road to discuss the option of entering into a 219 Covenant.

CARRIED

NP-2021-084

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to amend the draft Land Use Bylaw to change the zoning behind the Driftwood from C2 to rental residential.

CARRIED

NP-2021-085

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to amend the zoning in the draft Land Use Bylaw of the foreshore to Water 3 for the eleven in-stream private moorage applications.

CARRIED

NP-2021-086

It was MOVED and SECONDED

That the North Pender Island Local Trust Committee request staff to schedule a Special Meeting in December 2021 to present the draft bylaws for the Land Use Bylaw Review Project to the Local Trust Committee for review and comment.

CARRIED

At the October 28, 2021 regular LTC meeting, the LTC passed the following resolution:

NP-2021-098

It was Moved and Seconded,

That the North Pender Island Local Trust Committee schedule a Community Information Meeting regarding the Land Use Bylaw Review on February 5, 2021 at 11:00 am.

CARRIED

Staff have incorporated the items outlined in the NP LTC resolution chart (attachment no. 3) in a blacklined version of the draft bylaw. Due to the size of the draft bylaw, it will not be attached to the staff report but can be found on the [Project's webpage](#) under "LUB Review Project – 8. Draft Bylaws": Blackline Draft Bylaw. The blackline version of the draft bylaw will be updated on the website prior to each subsequent LTC meeting (if changes have been made).

A draft OCP amendment Bylaw No. 223 is attached. Draft Bylaw No. 223 would support and enable the draft amendments to the LUB by including:

- A new residential policy that sets out incentives for building designs when the LTC is reviewing Development Variance Permit applications to vary the maximum floor area of residential dwelling units.
- A new residential policy that states agriculture is a principal use on Rural Residential lands that are not connected to a water system, with the exception to those lots connected to the Razor Point Water System.
- A new coastal area policy that provides criteria for assessing private dock rezoning applications.
- Changes to OCP designations (map amendment).

ANLYSIS

Maximum Floor Area

OCP Policy

Staff have included a list of incentives for property owners to include in their building designs when applying for a Development Variance Permit to increase the maximum floor area of a dwelling unit. Draft OCP Bylaw No. 223 includes the following policy:

“2.11 If the Local Trust Committee considers Development Variance Permit applications to vary the maximum floor area of residential dwellings, the following should be incorporated into the building proposal where feasible:

- a) The design and construction of a dwelling should incorporate energy efficient features.*
- b) Installation of a rainwater collection and storage system with a minimum cistern storage capacity of 18,000 litres.*
- c) Buildings and other structures should utilize existing topography and vegetation to be sited in a manner that is relatively unobtrusive and blends into the surrounding landscape.*
- d) Limit site coverage of impermeable surfaces.*
- e) New buildings should be sited in a manner that results in minimal disturbance to existing vegetation and unnecessary removal of trees should be avoided.*
- f) Avoid locating development in areas containing important, rare or fragile sensitive ecosystems or habitat where reasonable alternative sites exist.*
- g) Maximize undisturbed areas and consider measures for protect sensitive ecosystems.*
- h) Use of drought resistant and native plants in landscaping should be encouraged. The planting or introduction of non-native plants should be avoided.”*

The LTC should give direction to staff if there are additional incentives that should be added to the list above.

South Pender LTC

At the October 22nd, 2021 special meeting, the LTC passed a resolution to invite the South Pender Island LTC to the December 4th meeting to discuss the LUB Review project. The South Pender LTC is also reviewing their LUB in relation to amending residential maximum floor area regulations. The current maximum floor area regulations for South Pender are shown in Figure 1 below.

Figure 1 - Excerpt from Current South Pender LUB – Rural Residential Zones

Siting and Size			<u>RR1</u>	<u>RR2</u>	<u>RR3</u>
(5)	Maximum Floor Area per lot:		✓	✓	✓
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:			
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	353 m ² (3800ft ²)			
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	418 m ² (4500ft ²)			
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	520 m ² (5600ft ²)			
1.6 ha to 3.9 ha (4 to 10 acres)	836 m ² (9000 ft ²)	543 m ² (5845ft ²)			
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	560 m ² (6030ft ²)			

The South Pender LTC has given direction to staff to include two different maximum floor area regulations: retain the current regulations for dwellings constructed prior to the LUB amendment bylaw, and a second set of more restrictive maximum floor area regulations for dwelling units constructed after the LUB amendment. The more restrictive regulations are seen in Figure 2.

Figure 2 – Excerpt from draft SP LTC Bylaw No. 122 – Maximum Floor Area Regulations for New Construction

Maximum Floor Area per lot:			✓	✓	✓
Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:			
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)			
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)			
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)			
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)			
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)			

One benefit of this approach is it does not create legal non-conforming situations for existing legal dwelling units. At this time, the South Pender LUB amendment bylaw is in draft form and has not been given first reading.

South Pender's approach to address legal non-conforming status by having two sets of regulations would not be applicable for North Pender as the North Pender LUB does not currently regulate maximum floor area (there is no base line regulation). Instead the North Pender draft LUB amendment would include a provision that allows existing dwelling units to be altered or rebuilt to the exact same floor area. The LUB provision reads:

"Despite Article XX [this refers to the new maximum floor area limits], on a lot that contains a legal dwelling constructed prior to the adoption of this bylaw, a replacement dwelling may constructed, or the existing dwelling re-constructed or altered, provided the floor area of the replacement, re-constructed or altered dwelling does not exceed the floor area of the dwelling on the lot at the time of the adoption of this bylaw."

Commercial Tourist Accommodation (C2 Zoning)

C2 Zoned MacKinnon Road Properties

The Senior Freshwater Specialist has confirmed that the Groundwater Sustainability Science Program deliverables will be available to view on the Islands Trust website starting December 1, 2021; specifically the Islands Trust Area Groundwater Availability Assessment Project. Figure 3 below shows the vulnerability classification of Groundwater Region NP03 (where the MacKinnon Road properties are located) is classified as Class II: Critical Assessment. Class II: Critical Assessment classification is signalling to the LTC to proceed with caution, since the region will need further analysis to Determine vulnerability.

Figure 3 – North Pender Vulnerability Classification.

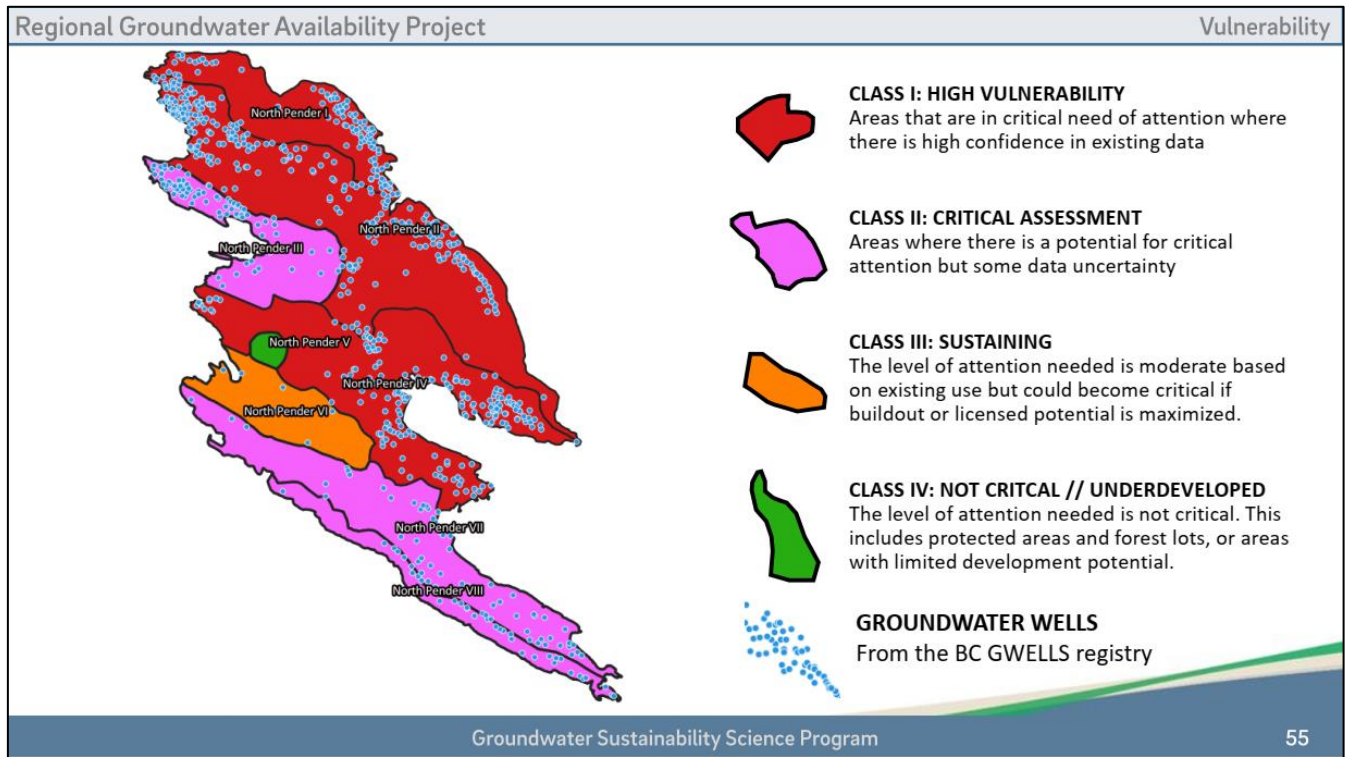


Figure 4 – Groundwater Demand vs Recharge

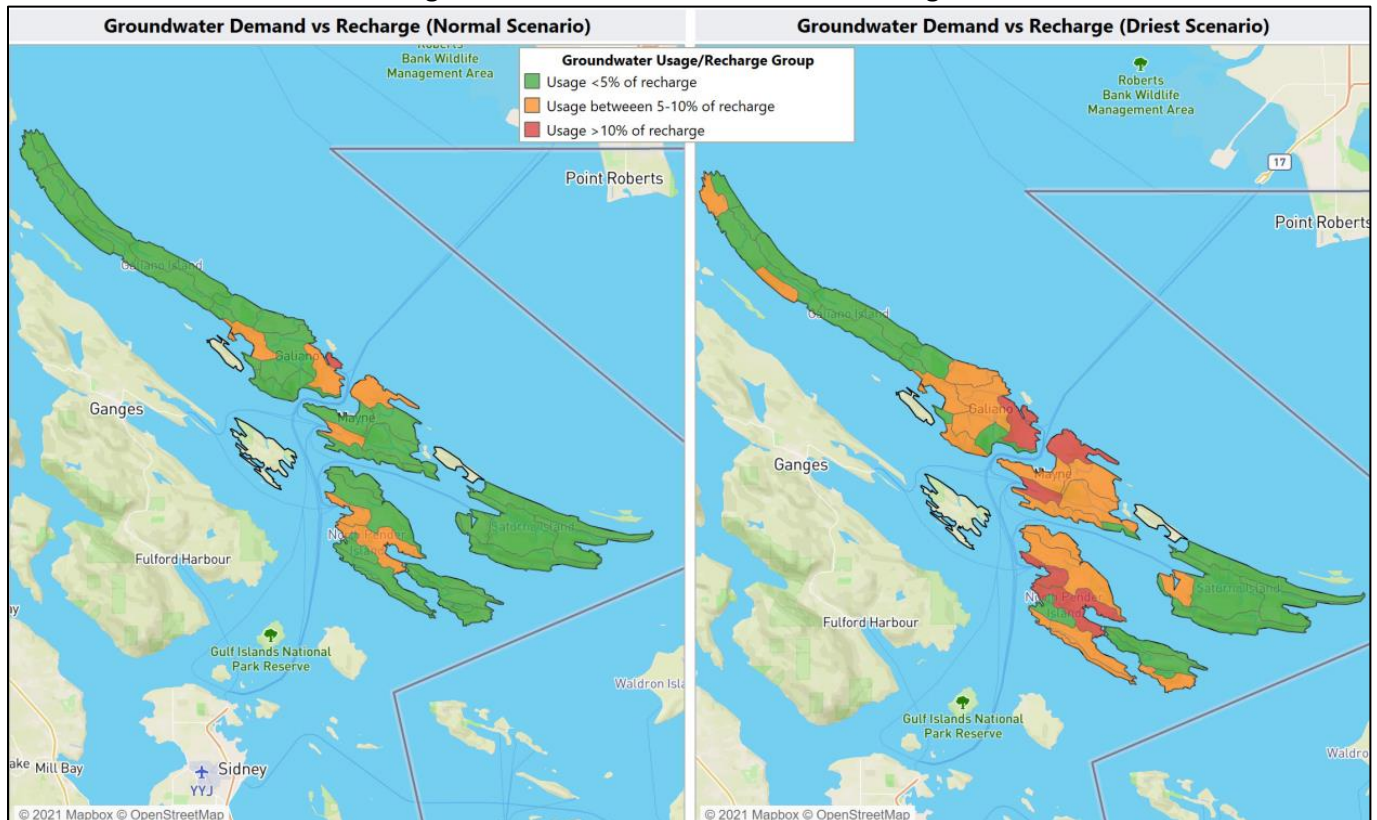


Figure 4¹ shows the groundwater demand and recharge of the groundwater regions in a normal scenario and a dry scenario. Based on this figure, Groundwater Region NP03 is indicated as having a usage between 5-10% of recharge in normal scenarios (orange area), and a usage of greater than 10% of recharge in driest scenarios (red area). Percentage of recharge use does not equate to percentage of remaining available groundwater for human consumption. To put these numbers into perspective, the report states that: *“groundwater regions for which the use is less than 5% of the recharge are highlighted in green, percentages between 5 to 10% are highlighted in orange and groundwater regions with groundwater use exceeding 10% of the recharge are highlighted in red. The former regions are likely already under stressed conditions”*. In addition the *“use in some areas on Mayne Island, North Pender Island and Galiano Island reaches greater than 10% of groundwater recharge. This likely creates stress on environmental needs and may result in water conflicts. If the Southern Gulf Islands experience drought condition such as in 1985, the groundwater recharge could be reduced by up to 50%.”*²

At the October 22, 2021 the LTC discussed options to regulate development while protecting groundwater resources for the Commercial 2 (C2) zoned parcels along MacKinnon Road. Direction was given to staff to contact the owners of 1329 and 1349 MacKinnon Road to discuss the willingness of the property owners to register a Section 219 covenant on the subject properties. The intent would be to retain the existing density (26 and 10 Guest Accommodation Units) but register a S. 219 that limits development. The purpose of the covenant would restrict any new development, beyond the densities currently built on the property, and any further construction of commercial guest units would be reliant on the property owner/operator providing a groundwater management plan and implementing the measures recommended in the plan. In addition, commercial operations are also required to apply to the Province for a groundwater licence by March 1, 2022.

Staff have a scheduled meeting with the owner of 1329 MacKinnon Road, and will report to the LTC at the December 4th meeting. Staff have tried to contact the owner of 1349 MacKinnon Road, but have not been able to connect prior to the meeting. Both property owners are also aware of the December 4th meeting and staff have encouraged their attendance.

Figure 5 – MacKinnon Rd C2 zoned properties

Property	Zoning	Property Information	Comments
1325 MacKinnon Rd	C2(e) – permits 9 CGAUs.	-1 dwelling unit and 1 trailer 0.56 ha (1.4 acres) with the intent to eventually have one dwelling unit and 3 CGAUs on the property.	Draft LUB amendment reduces density to 3 CGAUs.
1329 MacKinnon Rd – The Tides	C2(d) – permits 26 CGAUs.	-Currently 6 CGAUs on the property with the intent to expand the commercial accommodation business. -Property was recently purchased in Fall 2020. -Property owners stated they will write a letter to the LTC expressing their opinion regarding the permitted density. -1.2 ha	The property owner has indicated a desire to retain the current density as permitted in the zone (26 CGAUs).

¹ GW Solutions (2021). *Islands Trust Area Groundwater Availability Assessment*.

² GW Solutions (2021). *Islands Trust Area Groundwater Availability Assessment*.

1333 MacKinnon Rd	C2(b) – permits 10 CGAUs.	-1 Dwelling Unit -0.57 ha (1.4 acres) -Property for sale	Property is currently for sale.
1349 MacKinnon Rd – Otter Shores	C2(c) – permits 10 CGAUs	-5 CGAUs currently on property. -Property owner plans to construct 4 more CGAUs (fourplex building) -Property owners recently purchased property -Property owners stated they will write a letter to the LTC expressing their opinion regarding the permitted density. -0.75 ha	Property owner has indicated a desire to retain the current density as permitted in the zone (10 CGAUs).

Driftwood Centre

At the October 22, 2021 special meeting, the LTC gave direction to staff to change the zoning from Commercial 2 (C2) to rental residential for the Driftwood property. Local governments now have the ability to rezone land for multi-family residential rental use. The *Local Government Act (LGA)* states the following:

“Residential rental tenure

481.1 (1) A zoning bylaw may limit the form of tenure to residential rental tenure within a zone or part of a zone for a location in relation to which multi-family residential use is permitted.

(2) A limit under subsection (1) may limit the form of tenure to residential rental tenure in relation to a specified number, portion or percentage of housing units in a building.”

The purpose of Section 481.1 of the LGA is not to control rent, nor set parameters of the tenant, but rather provides an opportunity for local governments to increase market rental supply by rezoning specifically for residential rental tenure.

The draft LUB amendment bylaw would rezone a portion of the Driftwood property to a new Rental Housing (RH) zone. Highlights of this new zone:

- Minimum lot size for subdivision will be 1.2 ha which could potentially allow this portion of the subject property to be subdivided off.
- Maximum number of residential rental dwelling units is 16 (current zoning permits 27 guest units with a maximum floor area of 56m²).
- Maximum floor area for residential rental dwelling units is 93 m² (1000 ft²).
- Rental zoning must be multi-family (two or more connected units) as per LGA Section 481.1.

If the LTC proceeds with rezoning the C2 zoned portion of the Driftwood Centre property to rental housing, staff will amend the draft OCP amendment bylaw to include a rental housing policy and re-designation.

LUB & OCP Map Amendments

The map amendments for both the LUB and OCP bylaws can be found on the Project webpage. Attached to this staff report is a list of all map amendments for the LTC’s review (Attachment No. 2).

CIM/Open House – February 5, 2022

A special meeting has been scheduled for Saturday, February 5, 2022 to provide an opportunity for community members to review the draft bylaws, ask questions, and provide comments. The format for this meeting is proposed to start with an open house showcasing the map amendments and portions of the new LUB on poster boards. This would allow community members, the LTC, and staff to move freely around the room to discuss the draft amendments in an informal setting. After the open house, the LTC would move into a formal CIM to answer questions from the community and collect feedback. The notice of the special meeting for February 5th will be placed in the December and January editions of the Pender Post. In addition, staff will be mailing out the notice in late December.

Rationale for Recommendation

The LTC may provide staff with direction on the above topics, if there are further revisions, staff will continue with drafting the bylaws, and will prepare for the CIM and Open House on February 5, 2022.

ALTERNATIVES

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should 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 staff to provide further information on...

2. Schedule additional Special Meetings

The LTC may wish to hold additional Special Meetings in order to gather further information on one or more of the topic areas. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request staff to schedule a Special Meeting to discuss [insert topic area].

3. Referral to the Advisory Planning Commission

The LTC may opt to refer an item or topic to the Advisory Planning Commission for comment. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request staff to refer XXX to the North Pender Island Advisory Planning Commission for comment.

4. Proceed no further

The LTC may choose to proceed no further with the project.

NEXT STEPS

Staff to continue with bylaw drafting and prepare for the Special Meeting in February 2022.

Submitted By:	Kim Stockdill, Island Planner	November 25, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	November 26, 2021

ATTACHMENTS

1. Draft OCP Amendment Bylaw No. 223
2. List of LUB and OCP map amendments
3. NP LTC Resolutions Chart

DRAFT

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 223

A BYLAW TO AMEND NORTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 171, 2007

The North Pender Island Local Trust Committee in open meeting assembled enacts as follows:

1. CITATION

This Bylaw may be cited for all purposes as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2021”.

2. SCHEDULES

North Pender Island Official Community Plan No. 171, 2007 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

3. SEVERABILITY

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

READ A FIRST TIME THIS	_____	DAY OF	_____	20____
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20____
READ A SECOND TIME THIS	_____	DAY OF	_____	20____
READ A THIRD TIME THIS	_____	DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20____
APPROVED BY THE MINISTER MUNICIPAL AFFAIRS THIS	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

Chair

Secretary

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 223**

SCHEDULE 1

The North Pender Island Official Community Plan No. 171, 2007, is amended as follows:

1. By adding the following new policy to Section 2.1 Residential Land Uses:

“2.11 If the Local Trust Committee considers Development Variance Permit applications to vary the maximum floor area of residential dwellings, the following should be incorporated into the building proposal where feasible:

 - a) The design and construction of a dwelling should incorporate energy efficient features.
 - b) Installation of a rainwater collection and storage system with a minimum cistern storage capacity of 18,000 litres.
 - c) Buildings and other structures should utilize existing topography and vegetation to be sited in a manner that is relatively unobtrusive and blends into the surrounding landscape.
 - d) Limit site coverage of impermeable surfaces.
 - e) New buildings should be sited in a manner that results in minimal disturbance to existing vegetation and unnecessary removal of trees should be avoided.
 - f) Avoid locating development in areas containing important, rare or fragile sensitive ecosystems or habitat where reasonable alternative sites exist.
 - g) Maximize undisturbed areas and consider measures for protect sensitive ecosystems.
 - h) Use of drought resistant and native plants in landscaping should be encouraged. The planting or introduction of non-native plants should be avoided.”

2. By deleting Rural Residential Policy 2.1.1.1 and replacing it with:

“2.1.1.1 The principal use shall be residential. Agriculture is also a principal use on those Rural Residential lots not connected to a water system with the exception of those lots connected to the Razor Point Water System. Accessory uses shall not detract from the rural character of the island.”

3. (Placeholder for Rental Housing policy).

4. By adding the following new policy to Section 4.2 Coastal Area Policies:

“4.2.11 Existing private moorage for docks permitted on a site-specific basis in those areas designated as Marine (M) on Schedule “B”. New applications for private moorage for docks may be considered by site-specific rezoning subject to:

 - a) the proposal demonstrating minimal impacts on the marine environment, including eelgrass, bull kelp, forage fish, or other important habitat;
 - b) the proposal demonstrating minimal impacts on upland sensitive ecosystems or habitat;
 - c) the proposal demonstrating no impacts on archaeological or cultural sites or resources;
 - d) structures being appropriately sited and of a scale to minimize visual impacts;
 - e) structures incorporating current best practices for dock construction;

- f) consideration being given to providing for shared or common moorage; and
- g) consideration being given to the cumulative impacts of private moorage.”

5. Schedule “B” – LAND USE MAP is amended as shown on Plan No. 1 attached to and forming part of this bylaw.

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 223**

PLAN NO.1

(placeholder)

List of NP LUB & OCP Mapping Amendments
(items in red include OCP map amendments)

	Property	Current Zone or Designation	Proposed Zone or Designation	Comments
1	Rezone all Water 1 (W1) areas to Water 3 (W3) except for those areas with an existing dock. Areas around existing private dock will retain W1 zone.	W1	C (W3)	-Rezone to W3 for all areas without a private dock.
2	Rezone all properties in the Magic Lake Water District	RR	Rural Residential 1 (RR1)	
3	Rezone all other RR properties not connected to the water districts noted above.	RR	Rural Residential 2 (RR2)	-RR zoned properties in the Razor Point Water District to be rezoned to RR2.
4	Rezone all Trincomali Water District properties zoned RR(b) to RR1(a)	RR(b)	RR1(a)	
5	PID 006-646-981 (1311 MacKinnon Rd)	RR(a)	RR2(a)	
6	PID 028-093-739 (1349 MacKinnon Rd)	C2(d)	C2(c)	-Rezone portion of property so that the entire property is zoned C2(c)
7	PID 024-289-582 (Baile Nature Reserve)	Zoning: R OCP: R	Zoning: ECO OCP: CO	-Involves OCP map amendments.
8	PID 000-585-092 & PID 025-220-420 (Old Port Washington Store)	Zoning: C1(a) OCP: C	Zoning: RR2 OCP: RR	-Involves OCP map amendments.
9	PID 025-710-311 & 001-120-263 (BC Ferries)	Zoning: RR	Zoning: CS(r)	
10	A portion of PID 009-674-241 (Disc golf park)	CP1	CP2	-Rezone the large western section of subject property
11	A portion of PID 002-885-182 (Medicine Beach Garbage Drop-off)	C1(e)	C1(a)	Rezone all portions of C1(e) to C1(a)
12	The southern portion of PID 005-773-954 (property east of Home Hardware) that is below 84 metres in elevation (approximately).	OCP: R	OCP: I	-Amend the OCP designation from Rural to Industrial.
13	Add new zone General Industrial (I) and delete the Light Industrial (I1) and Industrial (I2) zones.			The legend on the LUB map should delete (I1) and (I2) and add 'General Industrial (I)'.
14	Portion of PID 008-259-364 (Home Hardware - Parcel C, DD68964I, Section 18, except that part thereof lying south of the	I1(a)	I(a)	Change zoning for portion of property zoned I1(a) to I(a)

	main highway from Hope Bay to Port Washington)			
15	Portion of PID 003-689-417 (4606 Razor Point Rd)	I1(b)	I(b)	Change zoning for portion of property zoned I1(b) to I(b)
16	Portion of PID 005-837-804 & 005-837-782 (Mainroad properties)	I2(a)	I(c)	Change zoning for portion of properties zoned I2(a) to I(c)
17	Portion of PID 005-837-651 (3330 Port Wash)	R	I	Change zoning of southern portion of lot located within the Industrial OCP designation from Rural zoning to the General Industrial (I) zone.
18	Portion of PID 005-837-693 (3334 Port Wash Rd)	R	I	Change zoning of southern portion of lot located within the Industrial OCP designation from Rural zoning to the General Industrial (I) zone.
19	Portion of PID 009-683-917 (3418 South Otter Bay Rd - Portion of former Cement plant)	Zoning: I2(b) OCP: I	Zoning: CS(q) OCP: CS	Change zoning for portion of property currently zoned I2(b) to CS(q) and change OCP designation from Industrial (I) to Community Service (CS).
20	Portion of PID 009-683-917 (3418 South Otter Bay Rd – Portion by recycling depot)	I2(c)	I(d)	Change zoning for portion of property currently zoned I2(c) to I(d).
21	Add new Rental Housing (RH) Zone			The legend on the LUB map should add the new zone 'Rental Housing (RH)'.
22	Portion of PID 018-948-413 (Driftwood property)	Zoning: C2(f) OCP: TC	Zoning: RH OCP: CS	Change zoning for portion of property currently zoned C2(f) to RH and change OCP designation from Industrial (I) to Community Service (CS).

LTC Resolutions/Direction to Staff - NP LUB Amendment Project

Date	Topic	Resolution or Informal Direction	Motion/Direction	Staff Comments
January 28, 2021	Marine & Shoreline	Direction	LTC supports removing docks as a permitted use and to grandfather existing docks by zoning tenures.	-Staff will recommend LTC makes this a resolution at the next LTC meeting.
March 18/21	Max Floor Area	Resolution	NP-2021-030 It was Moved and Seconded, that the North Pender Islands Local Trust Committee direct staff to create a report reflecting the discussion on floor area review on March 18, 2021.	-comments regarding floor area definition (to internal side of external walls), lot coverage and impermeable surfaces, and South Pender maximum floor area.
March 18/21	Agriculture Regulations	Resolution	-Invite SAAPC to April 29 th NP LTC meeting to discussion the SAAPC recommendations.	-Give SAAPC a specific time of discussion (10am?) -Highlight question regarding RR zoning and potential Ag regs.
March 18/21	Industrial Regulations	Direction	LTC supports the removal of Industrial designations and and industrial zoning from steep slope areas, specifically Port Washington area and steep slope adjacent to recycling centre.	Chart 7 -Organize with mapping
		Direction	LTC supports amending OCP designation for 005-773-954 to Industrial (lot east of home hardware), level portion only	Chart 9 -Map amendment
		Direction	Amend the OCP and Zoning for portions of 3418 Otter Bay Rd currently zoned I2(b) and I2(c). New OCP designation – Community Service. New zoning for I2(b) would be Community Service that permits waste transfer and new LUB zoning for I2(c) would permit waste transfer, composting and recycling.	
		Resolution	NP-2021-032 It was moved and seconded, That, regarding the <i>North Pender Island Local Trust Committee Official Community Plan Implementation Options</i> dated March 18. 2021, item 10, the North Pender Island Local Trust Committee direct staff to draft a bylaw to combine the two industrial	Chart 10

			zones into a single general industrial zone.	
		Direction	Review and update the industrial permitted uses and to allow basic, light industrial uses (including contractor yards and storage).	Chart 11
		Direction	Amend subdivision lot sizes to permit industrial zoned lands to be subdivided from split-zoned or hooked lots.	Chart 13
		Decision on hold	Rezone 3338 Port Washington (Home Hardware) to commercial	Chart 14
		Direction	Keep site specific zoning for boat storage on Hamilton Road	Chart 15
		Resolution	NP-2021-033 It was moved and seconded, That, regarding the <i>North Pender Island Local Trust Committee Official Community Plan Implementation Options</i> dated March 18, 2021, item 16, the North Pender Island Local Trust Committee direct staff to apply general industrial zoning.	Chart 16 - Rezone 3323 Port Washington (Mainroad) to the general industrial zone.
		Direction	Rezone 3334Port Washington (TUP) to the general industrial zone.	Chart 17
April 29, 2021	AG	Resolution	NP-2021-042 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to include the recommendations found in Attachment No. 1 to the draft bylaw, including the amendments to items 1, 2, and 21 and that the amendments be referred to the North Pender Agricultural Advisory Planning Commission for comment.	-Focus on scale of agriculture in terms of new RR zone (RR2) -RR2 to be all areas outside of Magic Lake and Trincomali water districts.
	AG	Resolution	It was Moved and Seconded, that the North Pender Island Local Trust Committee request that the North Pender Agricultural Advisory Planning Commission review the staff report on the agricultural review, dated April 29, 2021, and provide written feedback	
May 12,2021	C2 zone	Resolution	Staff to contact four MacKinnon Rd owners/operators and notify them the LTC is considering reducing the permitted Commercial Guest Accommodation units for each property, and is considering rezoning the	-Staff to provide comments from each property owner in next staff report.

			properties to Rural Residential. The LTC is also requesting comments from the owners regarding removal of certain accessory uses. NP-2021-050 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to write a letter to the property owners of C2B, C2C, C2D, C2E advising them of the Local Trust Committee's intent to either reduce the number of tourism units or rezone to Rural Residential. By general consent, the LTC requested that staff include the removal of additional uses in the letter to the property owners of C2B, C2C, C2D, and C2E.	-Bring back recommendation to ask staff to draft bylaw based on recommendations in the table (for C2 topic).
		Resolution	NP-2021-051 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to have the remaining Commercial Tourism zoned properties remain at the current number of units as established on the property	Reduce the number of permitted Commercial Guest Accommodation Units to the existing density on each property.
		Direction	Add provision that requires employee accommodation for higher density developments.	
		Direction	Staff to provide options for requiring onsite operators 24/7.	
	Minor Amendments	Direction	By general consent, the LTC requested that staff propose amendments to the campground regulations that would limit or prohibit generator use	Add generator use (restriction of) to campground regulations.
May 12, 2021	Marine/ Shoreline	Resolution	NP-2021-053 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to draft bylaw amendments based on recommendations for Shoreline and Marine Regulation options as outlined in Table 1 attached to the Staff Report dated May 12, 2021.	Draft bylaws based on recommendations found in Table 1 attached to May 12, 2021 staff report.
		Resolution	NP-2021-052 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff that stairs would not be exempt from the setback of the natural boundary of the sea.	Stairs not to be exempt from the setback to the natural boundary of the sea.

May 12, 2021	Minor Amendments	Direction	Remove 'fencing' from option for Landscape Screening. Screening should be planning/vegetation only.	-“a” in Table of Minor & Tech Amendments
		Direction	Add regulation to require cisterns for all new buildings in every zone, and that cisterns have external connection for fire protection.	-“f” in Table of Minor & Tech Amendments.
		Direction	Add regulation to allow one accessory building/structure with a maximum floor area of 10m ² .	-“l” in Table of Minor & Tech Amendments
		Direction	Add regulations for shipping containers. Consideration to only allow shipping containers on a certain lot size, and require vegetated screening.	-“m” in Table of Minor & Tech Amendments
		Resolution	NP-2021-054 It was Moved and Seconded, that the North Pender Island Local Trust Committee give direction to staff to draft bylaw amendments based on recommendations for Minor and Technical Amendment options as outlined in Table 2 attached to the Staff Report dated May 12, 2021.	Add minor/technical amendments to draft bylaw.
May 27, 2021	Minor Amendments	Resolution	NP-2021-068 It was Moved and Seconded, that the North Pender Island Local Trust Committee add a prohibition on recreational helicopters as a part of the Land Use Bylaw Review.	-This item has been added to the technical amendment list.
June 24, 2021	Max Floor Area	Resolution	NP-2021-073 It was Moved and Seconded, that the North Pender Island Local Trust Committee direct to staff to draft bylaw amendments for establishing a gradual scale maximum floor area, as outlined in Table 2 Example B, for properties zoned Rural Residential, Rural, Rural Comprehensive 1 and Rural Comprehensive 2 and to amend the definitions of lot coverage and floor area in the North Pender Land Use Bylaw as outlined in the Staff Report dated June 24, 2021 with the amendment to reduce each of the floor areas by 500 square feet.	-include options to regulation total maximum floor area for all buildings and structures.
		Resolution	NP-2021-074 It was Moved and Seconded,	

			that the North Pender Island Local Trust Committee direct staff to provide a list of incentives in the Official Community Plan for addressing house size variance.	
July 29, 2021	Agriculture	Resolution	NP-2021-081 It was Moved and Seconded that the North Pender Island Local Trust Committee request that staff refer farm worker accommodation and the new Agricultural Land Commission residential rules to the North Pender Island Agricultural Advisory Planning Commission.	
	C2 Zoning	Direction	-Defer decision on MacKinnon Road properties until after Groundwater Project presentation in September 2021 -Requirement for alternative methods/sources of groundwater other than from a well for existing uses and new density. -Water storage for fire also a requirement for existing uses and new density. -Add provision that requires employee housing where tourist accommodation units exceeds 20 units.	
	Marine/Shoreline	Direction	-Active private moorage applications with the province should receive conditional zoning (permitting the private dock) only if the application with the province is approved.	
	Community Engagement	Resolution	NP-2021-081 It was Moved and Seconded that the North Pender Island Local Trust Committee request staff to schedule two Special Meetings in the Fall 2021 to present the draft bylaws for the Land Use Bylaw Review Project.	
Oct 22, 2021	Max Floor Area	Resolution	NP-2021-082 It was MOVED and SECONDED That the North Pender Island Local Trust Committee invite the South Pender Island Local Trust Committee Trustees to the December Special Meeting on Land Use Bylaw.	-South Pender Trustees invited to join the December 4, 2021 LTC meeting.

	C2 Zoning	Resolution	NP-2021-083 It was MOVED and SECONDED That the North Pender Island Local Trust Committee request staff to contact the owners of 1329 MacKinnon Road and 1349 MacKinnon Road to discuss the option of entering into a 219 Covenant.	-Property owners emailed.
	C2 Zoning	Resolution	NP-2021-084 It was MOVED and SECONDED That the North Pender Island Local Trust Committee request staff to amend the draft Land Use Bylaw to change the zoning behind the Driftwood from C2 to rental residential.	
	Marine/Shoreline	Resolution	NP-2021-085 It was MOVED and SECONDED That the North Pender Island Local Trust Committee request staff to amend the zoning in the draft Land Use Bylaw of the foreshore to Water 3 for the eleven in-stream private moorage applications.	
	Meeting Scheduling	Resolution	NP-2021-086 It was MOVED and SECONDED That the North Pender Island Local Trust Committee request staff to schedule a Special Meeting in December 2021 to present the draft bylaws for the Land Use Bylaw Review Project to the Local Trust Committee for review and comment.	
Oct 28, 2021	Community Engagement	Resolution	NP-2021-098 It was Moved and Seconded, That the North Pender Island Local Trust Committee schedule a Community Information Meeting regarding the Land Use Bylaw Review on February 5, 2021 at 11:00 am.	-Meeting scheduled for Saturday, February 5, 2022



Top Priorities Report

North Pender Island

1. *STVR Review Project*

Bylaw No. 222 was given First Reading, referrals have been sent, and Public Hearing and Community Information Meeting held on February 25, 2021.

Responsible

Kim Stockdill

Dates

Rec'd: 05-Sep-2019
Target: 01-Jul-2021

2. *Groundwater Sustainability Project*

Phase 1 and 2: Groundwater Sustainability Mapping Project (2019-2020) - Completing in spring 2021

Responsible

Narrisa Chadwick
William Shulba

Dates

Rec'd: 29-Nov-2018
Target: 30-Sep-2022

Phase 3: Groundwater Mapping Implementation -
- Project Charter - January 2021

3. *LUB Review Project*

Project is in the community consultation phase. Recommendations for a draft bylaw will be considered by the LTC in late 2021.

Responsible

Kim Stockdill

Dates

Rec'd: 07-Nov-2019
Target: 01-Jan-2022

4. *Soil bylaw*

To consider a soil deposit and removal bylaw

Responsible

Dates

Rec'd: 25-Mar-2021
Target: 31-Mar-2022

Projects Report

North Pender Island

1. *Coastal Douglas Fir Ecosystem*

Responsible

Date Received

Consider implementation of toolkit and mapping
- LPC to develop model bylaw in 2021-22

01-Feb-2019

2. *Soil Removal and Deposit Bylaw*

Responsible

Date Received

To investigate adopting a soil removal and deposit bylaw

02-Jul-2020



Applications

Board of Variance

File Number	Applicant Name	Date Received	Purpose
NP-BOV-2021.2	Grant, Chelsea	11-Nov-2021	This is a proposal, submitted by Chelsea Grant, Architect, on behalf of the owners, Charles and Jane Keay, for the foreshore revetment strategy at 2603 Galleon Way, on North Pender Island, for review and consideration by the Board of Variance.

Planner: Phil Testemale

Planning Status

Status Date: 26-Nov-2021

Scheduling Hearing for early January.

Status Date: 24-Nov-2021

Requested creation of mailing list and subject property map from GIS Helpdesk.

Status Date: 24-Nov-2021

File assigned to Phil.

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2018.5	PICSS c/o HARDAL MANAGEMENT INC	23-May-2018	Application for development permit for a building in a form and character DPA

Planner: Phil Testemale

Planning Status

Status Date: 17-May-2021

Associated Subdivision (2017.3) is nearing completion. Applicants will be initiating work on form and character DP

Status Date: 13-May-2020

Nu to Yu - File on hold awaiting building and landscaping plans from applicant. x- ref to NP-RZ-2016.4 and NP-SUB-2017.3

Status Date: 06-Jun-2018

Issued receipt for cheque, pink copy to Finance and original scanned with cheque for e-files; emailed scanned receipt and cheque to Applicant, mailed original; added hard copy to application folder.



Applications

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2021.7	Brodie, Arlynn	05-Oct-2021	433 ARBUTUS SPUR - Application for a DP for development in a sensitive ecosystem DPA.

Planner: Phil Testemale

Planning Status

Status Date: 03-Nov-2021

December 4, 2021 Agenda for consideration.

Status Date: 14-Oct-2021

fees received, mapping request sent, assigned to Phil, LTC emailed, payment receipt and chance find letter sent to applicant - DL

Status Date: 13-Oct-2021

fee request email sent - DL

File Number	Applicant Name	Date Received	Purpose
NP-DP-2021.8	Clarke, Denver	02-Nov-2021	Applicant is applying for a development permit, in order to plant native species trees in the Woodland DPA at 2634 Lighthouse Lane, North Pender Land.

Planner: Phil Testemale

Planning Status

Status Date: 26-Nov-2021

January 27, 2022 agenda for consideration

Status Date: 22-Nov-2021

File assigned to Phil Testemale.

Status Date: 09-Nov-2021

E-transfer for application fee in the amount of \$200.00 received. Receipt sent to Denver Clarke by Accounts Receivable.



Applications

Development Variance Permit

File Number	Applicant Name	Date Received	Purpose
NP-DVP-2021.5	James Billingsley	07-Oct-2021	Planner assigned by RK on October 26, 2021. Sent email to applicant and owner advising them of their planner's name.

Planner: Phil Testemale

Planning Status

Status Date: 26-Nov-2021

December 4 agenda for consideration

Status Date: 08-Nov-2021

Notice and DVP drafted - to DS for circulation

Status Date: 08-Nov-2021

December 4, 2021 LTC agenda for consideration.

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2008.9	Jl Properties Inc	21-Oct-2008	James Island - To create 83 lots

Planner: Phil Testemale

Planning Status

Status Date: 21-Apr-2021

Correspondence from applicant's legal counsel on April 29, 2021 LTC agenda

Status Date: 17-Mar-2021

In camera meeting scheduled for March 26, 2021

Status Date: 18-Feb-2021

Feb 25, 2021 agenda for acceptance of covenants. Cash-in-lieu pending review and CRD Board approval



Applications

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: referral of a bare land strata subdivision application for 11 lots, including remainder

Planner: Kim Stockdill

Planning Status

Status Date: 04-May-2021

PLR request received. Extension for one year granted by MOTI.

Status Date: 08-Mar-2021

PLA extension request received. Replied with no objections.

Status Date: 02-Jul-2020

Access road construction plans submitted for information.

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2017.3	Jim Petrie	19-Dec-2017	Referral of a subdivision application for 2 lots

Planner: Phil Testemale

Planning Status

Status Date: 20-May-2021

Awaiting easements (water) and final subdivision plan to compete.

Status Date: 09-Sep-2020

Revised Drainage report -complies with sub regs. E-mail to applicant and cc'd to MoTI

Status Date: 05-Aug-2020

Drainage report submitted and reviewed. Request certification ref. sub regs (4.6.9)



Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2020.1	BRADFORD & MILLIKEN	05-Mar-2020	1610 Schooner Way - A subdivision referral for two lot boundary adjustment. MoTI file #: 2020-00549

Planner: Phil Testemale

Planning Status

Status Date: 02-Apr-2021

PLR from MoTI rec'd. Applicants reviewing options.

Status Date: 17-Mar-2021

Combined DVP/DP required.

Status Date: 05-Feb-2021

Review Response sent to MoTI.

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2020.2	Wey Mayenburg Land Surveying Inc.	31-Aug-2020	4242, 4246, 4250 Armadale Road - Referral of a subdivision application for proposed two lots.

Planner: Phil Testemale

Planning Status

Status Date: 18-Mar-2021

VIHA Letter rec'd - Condition 6 MoTI requiring verification of septic fields

Status Date: 17-Mar-2021

DVP req'd

Status Date: 09-Mar-2021

PLR rec'd



Applications

Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2021.7	Jeremy Harwood/Windjammer Self Storage	15-Jun-2021	3601 SAILOR EASEMENT RD - Application for a temporary use permit for a commercial storage facility.

Planner: Phil Testemale

Planning Status**Status Date:** 26-Nov-2021

Preliminary report for December 4, 2021 LTC

Status Date: 26-Oct-2021

e-mail requesting letter to LTC to cease enforcement (standing resolution)

Status Date: 15-Oct-2021

Site Visit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2021.9	Persello, Darryl	03-Nov-2021	Received email from applicant, who would like to renew Temporary Use Permit for another 3-year-term.

Planner: Phil Testemale

Planning Status**Status Date:** 26-Nov-2021

January 27, 2022 agenda for consideration

Status Date: 10-Nov-2021

Requested mailing list and Subject Property map from GIS Helpdesk.

Status Date: 10-Nov-2021

Robert Kojima assigned the file to Phil Testemale.

Islands Trust
LTC EXP SUMMARY REPORT F2022
Invoices posted to Month ending October 2021

650 North Pender	Invoices posted to Month ending October 2021	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-650	LTC "Trustee Expenses"	510.00	0.00	510.00
LTC Local				
65200-650	LTC - Local Exp - LTC Meeting Expenses	3,470.00	1,459.30	2,010.70
65210-650	LTC - Local Exp - APC Meeting Expenses	444.00	0.00	444.00
65220-650	LTC - Local Exp - Communications	250.00	0.00	250.00
65230-650	LTC - Local Exp - Special Projects	294.00	0.00	294.00
TOTAL LTC Local Expense		<u>4,458.00</u>	<u>1,459.30</u>	<u>2,998.70</u>
Projects				
73001-650-2006	North Pender OCP/LUB	5,000.00	624.15	4,375.85
73001-650-4115	North Pender Groundwater Strategy Implementation	2,500.00	79.95	2,420.05
73001-650-4116	North Pender Soil Bylaw	4,000.00	0.00	4,000.00
TOTAL Project Expenses		<u>11,500.00</u>	<u>704.10</u>	<u>10,795.90</u>

Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2020-026 (Standing) that the North Pender Local Trust Committee direct bylaw enforcement to not enforce on restaurants or liquor primary establishments setting up temporary structures within their respective lots contrary to parking regulations and existing development permits while Covid-19 restrictions limiting seating capacity and occupancy are in place and subject establishments receiving required provincial approvals such as from the Liquor and Cannabis Regulation Branch and establishments following relevant provincial protocols.	Carried	21-May-2020
2020-012 (Standing) That the North Pender Island Local Trust Committee has no objection to Liquor and Cannabis Regulation Branch issuance of Temporary Expanded Service Area Authorizations for liquor primary and manufacturer licensees within the North Pender Island Local Trust Area.	Carried	19-Jun-2020
2020-011 (Standing) That given the COVID-19 pandemic and the declaration of a state of emergency throughout the Province of British Columbia, the North Pender Island Local Trust Committee directs that bylaw enforcement action be deferred in the following circumstances: 1. A commercial use operating in a residential zones, provided that the use: a. was lawfully operating within the local trust area prior to the declaration of the state of emergency; b. has been forced to vacate lawfully zoned premises as the result of COVID-19 related orders, guidance or effects; c. is currently operating from premises where the principal residence of the owner or operator of the commercial use is located; d. is complying with the home business regulations (Section 3.5) of the Land Use Bylaw other than: i. being a prohibited use under subsection 3.5.3 and; ii. may be conducted outside of a permitted building (subsection 3.5.1), provided it is not operated within a setback area; and e. is complying with health or provincial requirements. 2. Upon the lifting of the state of emergency, deferred enforcement action may be commenced, but owners or operators should be provided with a reasonable time to comply.	Carried	04-Jun-2020



Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2020-010 (Standing)	Carried	30-Jan-2020
that the North Pender Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications: a. Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and staff are directed to continue with enforcement until the use is ceased. b. The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, cease. c. Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee, bylaw enforcement actions, including the issuing of notices will continue d. In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.		
2019-119 (Standing)	Carried	28-Nov-2019
that the North Pender Island Local Trust Committee place a moratorium on new Short Term Vacation Rental Temporary Use Permits for a limited time while the Local Trust Committee completes the Short Term Vacation Rental Review.		
2019-074 (Standing)	Carried	04-Jul-2019
that the North Pender Island Local Trust Committee adopt the model cell tower strategy for future review and consideration of proposals.		



Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2019-072 (Standing) that the North Pender Island Local Trust Committee adopt the following standing resolution with respect to First Nations in the Local Trust Area: Whereas the Local Trust Committee seeks to engage in Reconciliation with local First Nations, governments and the island community by honouring the Truth and Reconciliation Commission (TRC) Calls to Action, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples, and Islands Trust First Nations Engagement Principles, the Local Trust Committee endeavours to: a) Annually, write a letter to First Nations, (re)introducing trustees and staff and provide a schedule of known Local Trust Committee meetings for the upcoming year, as well as, provide an update of current projects and advocacy activities; b) For various Local Trust Committee meetings, invite elders from local First Nations to attend and provide a traditional welcome to the territory; c) Work with First Nation governments on cooperative initiatives, including and not limited to, language, place names, territorial acknowledgements, and community education on Coast Salish and local First Nations' cultural heritage and history; d) Work with First Nation governments on engagement principles for inclusive land use, marine use, and climate change planning; advocacy, protection and stewardship; and knowledge and information sharing protocols; e) Establish and maintain government-to-government dialogue with First Nations, now and into the future, based on respect and recognition of Aboriginal rights and title, treaty rights, and First Nations' traditional territories within the Islands Trust Area.	Carried	04-Jul-2019
2019-061 (Standing) that the North Pender Local Trust Community refer Short Term Vacation Rental Temporary Use Permits in the Magic Lake sewer catchment to the Magic Lake Sewer and Water Committee to confirm infrastructure capacity.	Carried	30-May-2019
2019-030 (Standing) that the North Pender Island Local Trust Committee request that prior to expiration of Advisory Planning Commission members terms of office, staff write to commissioners asking if they wish to be reappointed and also advertise for expressions of interest for new commissioners.	Carried	28-Feb-2019



Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2019-016 (Standing) that the North Pender Island Local Trust Committee directs 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.	Carried	31-Jan-2019
2018-070 (Standing) that the North Pender Island Local Trust Committee adopt the following standing resolution with respect to the processing of non-medical cannabis retail license applications: - Proposed or amended licenses for non-medical cannabis retail establishments require an application to the Local Trust Committee. - The application process shall comprise a public consultation component, which includes at least one notification to neighbours, one public meeting, posting of public notices and one advertisement in a local periodical. - The public consultation process shall be determined by the local trust committee after initial review of the proposal. - However, as a minimum, the Local Trust Committee will mail or otherwise deliver a notice to all owners and residents of properties within a 500 metre radius of the subject property, where the establishment is proposed at least 10 days before adoption of a resolution providing comment on the application. The required notice shall include the following information: o Name of the applicant and a description of the proposal in general terms. o The location of the proposed establishment and the subject site. o The place, date and time when, both a build meeting will be held and a resolution of the Local Trust Committee is considered. o The name and contact information of the Islands Trust planning staff member who can provide copies of the proposed or amended license application. o How public comments may be submitted to the local trust committee.	Carried	06-Sep-2018
2011-050 (Standing) 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.	Carried	28-Apr-2011
2007-146 (Standing) 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.	Carried	30-Aug-2007

Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2006-080 (Standing) 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.	Carried	25-May-2006
2005-005 (Standing) The LTC will appoint Advisory Planning Commission members as representative of various local areas on North Pender and/or representative of various community organizations	Carried	27-Jan-2005



MEMORANDUM

File No.: NP-NAP-2011.3

DATE OF MEETING: December 4, 2021
TO: North Pender Island Local Trust Committee
FROM: Kathryn Martell, Ecosystem Protection Specialist
SUBJECT: NAPTEP Information Item

PURPOSE

The Islands Trust Conservancy has received a Natural Area Protection Tax Exemption Program (NAPTEP) application from Andreas Nowak and Mary Reher, to expand an existing conservation covenant on North Pender Island, registered in 2012, by approximately 1 ha. As per NAPTEP policy, the North Pender Island Local Trust Committee is being advised of this application as an information item.

BACKGROUND INFORMATION

Islands Trust Conservancy (ITC) received a [Natural Area Protection Tax Exemption Program \(NAPTEP\)](#) application from Andreas Nowak and Mary Reher, to expand an existing conservation covenant on North Pender Island, registered in 2012, by approximately 1 ha, to protect a small forested wetland area and a seasonal creek.

The existing NAPTEP covenant, registered in 2012, protects 0.9 ha of a steep ridge with Douglas-fir / Arbutus woodland and moss and lichen covered outcrops. The covenant is co-held by the Pender Islands Conservancy Association (PICA). The additional proposed covenant area contains a seasonal wetland in mixed young forest, including the headwaters of a small seasonal creek, and would protect the transition zone from dry ridgetop to seasonally flooded young forest.

The ITC Board approved the Conservation Proposal at their November 23, 2021 meeting. PICA has also agreed to this covenant expansion. The application will be presented to Trust Council at its November / December 2021 meeting to determine whether or not to modify the existing NAPTEP covenant and Natural Area Exemption Certificate. Approval will be subject to a conservation covenant being registered on the land title and a baseline report that is satisfactory to the Islands Trust Conservancy Board.

The Islands Trust Conservancy Board currently holds 10 NAPTEP covenants in the North Pender Island Local Trust Area (9 on North Pender, and 1 on Little D'Arcy Island).

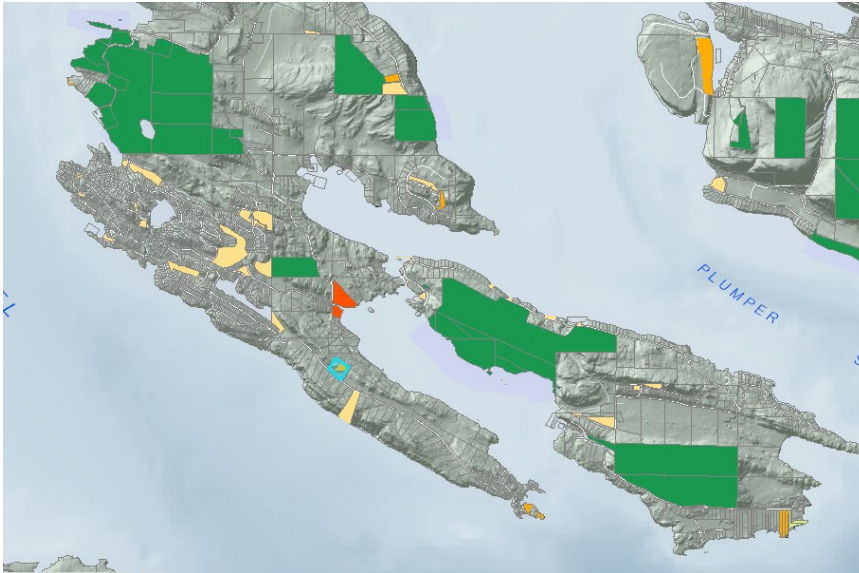
Property Information

PID: 001-081-110

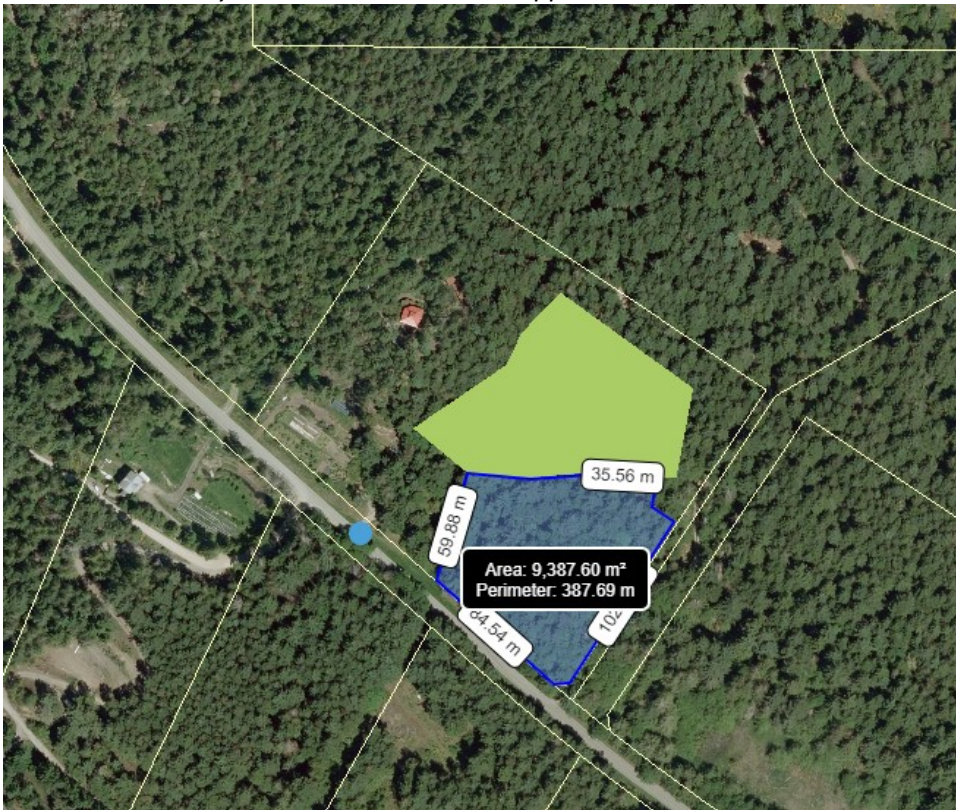
Legal description: Lot 38, Section 7, Pender Island, Cowichan District, Plan 32261, Except Part in Plan 35333

Property size: 3.97 ha. Current protected area: 0.9 ha, proposed additional protected area ~ 1 ha (exact boundaries not yet determined)

Location of property (blue outline) on North Pender Island, showing landscape context of nearby Protected Areas. Shown are: Federal Park (dark green), Federal Marine Park (violet), Community Park (light orange), ITC Nature Reserve (red), ITC Covenant (orange).



Proposed covenant addition (approximate location). Existing NAPTEP covenant area shown in light green. New covenant boundary and measurements are approximate.



NAPTEP Natural Values & Amenities

The natural values of the proposed covenant area, according to the NAPTEP Regulations, are listed below.

Values were determined by evaluating the application submitted by the property owner, a site visit conducted August 5, 2021, and Islands Trust and other mapping resources.

1 Areas that are relatively undisturbed by human activity¹ and are good examples of one or more of the ecosystems described in the Schedule to the regulation (NAPTEP Regulation Section 2(a)):

- *Wetland ecosystem*

2 Areas that are relatively undisturbed by human activity and are key habitat for rare native plant species or plant communities (NAPTEP Regulation Section 2(b))

- The property contains young forest, with several “pocket wetlands” and seasonally flooded areas, sloping up to connect with the dry Douglas-fir / Arbutus ridge. The variety of habitat types, including wetlands of diverse types, increases the conservation value of this property.
- BC’s Conservation Data Centre shows almost all of the proposed covenant area as a polygon of a mixture of 2 at-risk ecological communities:
 - a. Douglas-fir – Dull Oregon-grape (Red-listed)
 - b. Grand fir – Dull Oregon-grape (Red-listed)

Other

- The Islands Trust Policy 2.1.10 [*Administration of Natural Area Protection Tax Exemption Program*](#) includes procedures for when a landowner wishes to enlarge an area protected through NAPTEP. This policy also provides that a modification to an existing NAPTEP covenant and natural area exemption certificate to enlarge the protected area will be approved only if it increases the conservation value of the covenant, as determined by the ITC Board.
- In negotiating and drafting the conservation covenant, staff will follow guiding principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation (TRC) Calls to Action. Staff has done a desktop review of RAAD data as per guiding principles of the Archaeological Branch. The application has not been referred to First Nations.

NEXT STEPS

- Trust Council review of application, November / December 2021
- ITC will consult with the applicant and the covenant co-holder, PICA, to negotiate the conservation covenant.

Submitted By:	Kathryn Martell, R.P.Bio Ecosystem Protection Specialist	November 26, 2021
Concurrence:	Kate Emmings, Manager, Islands Trust Conservancy	

ATTACHMENTS

n/a

¹ Islands Trust Conservancy notes that the area in question has a rich history of human activity pre and post contact and that the area in question is an area of Indigenous cultural heritage, activity, and use.