

AGENDA

SALT SPRING ISLAND ADVISORY PLANNING COMMISSION

Date: Thursday, November 25, 2021
Time: 1:00 PM
Location: Salt Spring Island Baptist Church - Lower Hall, 520 Lower Ganges Road

1. AGENDA

1.1 Approval of Agenda

2. MINUTES OF PREVIOUS MEETINGS

Please propose amendments to the draft minutes as worded resolutions in writing to be presented at the meeting.

2.1 Draft Minutes of the October 21, 2021 APC Meeting – *For Adoption* Page 2

3. BUSINESS ITEMS

3.1 Draft Bylaw No. 527 – Fees Bylaw Page 4
Staff Memorandum

3.2 Proposed Bylaw No. 525 – 1351 Mountain Road Page 32
Staff Report

4. OTHER BUSINESS

5. ADJOURNMENT



Salt Spring Island Advisory Planning Commission

Minutes of a Regular Meeting

Date of Meeting: Thursday, October 21, 2021

Location: Baptist Church, Lower Level Meeting Room
520 Lower Ganges Road, Salt Spring Island

Members Present: Jeff Thompson, Chair
Mairi Welman, Vice Chair
Jean Brouard, Commissioner
Nancy Krieg, Commissioner
Leigh Large, Commissioner
Stanley Shapiro, Commissioner

Regrets: Francine Carlin, Commissioner
Ron Cooke, Commissioner
Neil Morie, Commissioner

Staff Present: Geordie Gordon, Planner 2
Sarah Shugar, Recorder

Media and Others Present: Peter Grove, Local Trustee
Representative of an Applicant Kisae Peterson

These minutes follow the order of the agenda although the sequence may have varied.

Chair Thompson called the meeting to order at 1:00 p.m.

1. APPROVAL OF AGENDA

By general consent the agenda was adopted.

2. MINUTES OF PREVIOUS MEETING

2.1 Draft Minutes of the September 16, 2021 APC Meeting

By general consent, the minutes of the September 16, 2021 Salt Spring Island Advisory Planning Commission meeting were adopted.

3. BUSINESS ITEMS

3.1 SS-RZ-2017.2 - Fernando & Tammy Dos Santos - 221 Drake Road, SSI

Planner Gordon presented a memorandum dated September 2, 2021 regarding a rezoning application to permit 30 affordable housing units.

Representative of the Applicant Kisa Peterson spoke to the application.

In discussion the following comments and questions were noted:

- There was a question regarding the water system. Planner Gordon reported there is an approved provincial water license for a withdrawal of up to 48,000 cubic metres per day. The representative of the applicant reported there are two wells on the property and the applicant is in discussions with North Salt Spring Waterworks District (NSSWD) regarding whether NSSWD could own and operate the water system.
- A Commissioner spoke to the need for affordable housing.
- A Commissioner acknowledged that the applicant has been working on the affordable housing project since 2017 and has persevered through many hurdles.
- There was a question regarding whether there is a plan to have a dual potable and non-potable water system. The representative of the applicant reported the well has sufficient water for potable water requirements for all 30 units. The units are small 1-2 bedroom units. The intention is to have a rainwater catchment for irrigation purposes. NSSWD has agreed to provide water for fire suppression. The applicant has applied for a Canada Mortgage and Housing Commission (CMHC) grant to reduce barriers in housing development and if successful, the grant would be used to work with NSSWD on a water system management plan.
- There was a question regarding whether the housing units would have water meters. The representative of the applicant reported there is an option to install water meters for each unit although the goal is to keep capital costs as low as possible as all costs would impact the affordability of the units.
- There was a question regarding whether the 30 densities are a result of a density transfer. Planner Gordon reported the densities are not from a density transfer and would be new densities created in the proposed Bylaw.

It was MOVED and SECONDED,

That the Salt Spring Island Advisory Planning Commission recommend that the Salt Spring Island Local Trust Committee proceed with proposed Bylaw No. 505 (221 Drake Road).

CARRIED

4. OTHER BUSINESS – None

5. ADJOURNMENT

By general consent the meeting adjourned at 1:20 p.m.

Jeff Thompson, Chair

CERTIFIED CORRECT:

Sarah Shugar, Recorder

MEMORANDUM

File No.: 3900-03: LPS Admin Bylaw
(SS-BL-527)

DATE OF MEETING: November 25, 2021

TO: Salt Spring Island Advisory Planning Commissions (APC, AAPC, Ganges Village Task Force and Housing Action Program Task Force)

FROM: Stefan Cermak, Regional Planning Manager
Salt Spring Island Team

SUBJECT: Referral of Draft Fees Bylaw – Consideration of Community Benefit

PURPOSE

At their November 9, 2021 meeting, the Salt Spring Island Local Trust Committee (SS LTC) considered draft Bylaw No. 527 which is an amendment to the Salt Spring Islands Local Trust Committee fees bylaw (Bylaw No. 428). After refining the bylaw, the SS LTC requested staff to refer Bylaw 527 to their four advisory planning commissions (Advisory Planning Commission, Agricultural Advisory Planning Commission, Ganges Village Planning Task Force, and Housing Action Program Task Force). Specifically, the SS LTC requested input regarding community benefits. The draft resolution is as follows:

SS-2021-210

It was MOVED and SECONDED

That the Salt Spring Island Local Trust Committee request the staff report regarding New Fees Bylaw as per Trust Council Policy 5.6.1. be referred to the Advisory Planning Commissions and Task Forces and request specific input be considered regarding community benefits.

CARRIED

The amended bylaw No. 527 is attached in Appendix 1 (note this is a “red-lined” version showing the most recent approved changes).

BACKGROUND

At its regular business meeting in June 2021, Trust Council adopted a new Application Processing Services Policy (5.6.1) that includes a model fee bylaw. Trust Council requested all local trust committees to consider adoption of a new application processing fees bylaw based on the model fees bylaw attached to the newly adopted policy. At their October 5, 2021 meeting, the SS LTC received the request and subsequently requested staff to draft a new fees bylaw based on the model fees bylaw attached to the Trust Council Policy 5.6.1. (Appendix 2.)

As noted above, at its November 9, 2021, the SS LTC received draft Bylaw No. 527 (Appendix 3 with staff report). The SS LTC made some amendments and referred it to the Advisory Planning Commissions for comment on community benefits.

Key points:

- Bylaw No. 527 is, and must be, in harmony with Policy 5.6.1 (see Appendix 2 for policy).
- Bylaw No. 527 – includes the following regarding “Community Benefit”:
 - “Community Benefit” refers to an application that results in provision of an amenity that is of value to the community, and identified in the Official Community Plan as a community amenity (i.e. Section H.3 of Bylaw No. 434).”
 - “Community Benefits” is in relation to temporary use permits for a use under a specified size that provides a community benefit. Specifically, Temporary Use Permit for residential uses or commercial uses under 95 square metres that provide community benefit.
 - The fee for a TUP that provides a community benefit is reduced from \$2,150 to \$1,000 and from \$700 to \$350 for a renewal.
- The SS LTC may define community benefit based on its official community plan (OCP) definition of community benefit. There is no specific definition for community amenity in the OCP. Instead, a brief review of the OCP identifies the following items listed as community amenities:

OCP Reference	Community Amenity
A.5.2.3	The protection of Environmentally Sensitive Areas or High Biodiversity..
A.6.2.10	Energy efficient building design features exceeding the BC Building Code..
A.8.2.6	The restoration and heritage designation of buildings...
A.8.2.16	The permanent formal protection of an archaeological site or other site of significance to First Nations peoples...
B.2.2.2.5	Land for affordable housing...
B.4.4.2.6	...Land provided...to relocate the Ganges Firehall site...
B.4.5.2.3	Land and facilities for community cultural purposes...
B.6.2.2.12	...community owned farmland or land for community farm product processing or storage facilities...
B.7.2.2.6	Public park and recreation lands or recreational facilities (or money to purchase them)...
C.2.2.2.6	The construction of walking and bicycle pathways for transportation or recreation ...
The above are also referenced in Appendix 3 (Section H) with the addition of a community woodlot:	
H.3.2.1	a the dedication of intact Environmentally Sensitive Areas to a public or private conservation body, or protection through conservation covenant.

	<p>b. land for, or construction of, affordable or special needs housing.</p> <p>c. the dedication of public park and recreation lands, or of funds to be held in trust for their purchase, to the Capital Regional District.</p> <p>d. land that is acceptable to the Salt Spring Fire District for the location of a fire station, if provided to the District at no charge and it results in public ownership of the Ganges Firehall site.</p> <p>e. land for community-owned farmland or land for community agricultural processing or storage facilities provided to the Salt Spring Farmers' Institute or a community farmland trust organization.</p> <p>f. the provision and construction of bicycle lanes, pedestrian and bicycle pathways or trails that add to or support links in the island trail network.</p> <p>g. the dedication of alignment and construction of a Ganges Alternate Route.</p> <p>h. protection, restoration and designation of heritage property.</p> <p>i. suitable, productive forest land donated to a community organization for the operation of a community owned and managed woodlot.</p> <p>j. implementation of energy efficient building design criteria that exceeds that required by the B.C. Building Code or other regulations.</p> <p>k. land or facilities for community cultural or recreational purposes.</p> <p>l. the permanent formal protection of an archaeological site or other site of significance to First Nations peoples.</p>
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- The Fees Bylaw is an administrative bylaw, not a project, thus there are no resources for engagement or further staff time for analysis (this occurred during development of the Trust Council policy and model fees bylaw).
- This is not an opportunity to amend the OCP. However, it may be an opportunity to recommend OCP amendments for the future – in other words, respective advisory planning commissions may recommend that the Salt Spring Island Local Trust Committee add [list items] as community amenities within the Official Community Plan.

NEXT STEPS

The respective Advisory Planning Commissions may make recommendations to the SS LTC regarding community benefits. The SS LTC will consider the recommendation. The SS LTC may the give three reading to an administrative bylaw in one meeting. The SS LTC must then refer it to the Executive Committee for their approval and then give final reading for adoption of the bylaw. The trust wide goal is to have each local trust committee adopt a new fees bylaw by March 2022 – before the start of the next fiscal period. Therefore, the SS LTC should consider first three readings no later than January 2022.

ATTACHMENTS

1. Bylaw No. 527 (as amended Nov. 9, 2021)
2. Request For Decision for the meeting of October 5, 2021
3. Staff Report dated November 9, 2021

SALT SPRING ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 527

A bylaw to prescribe fees for amending bylaws, issuing permits, examining applications for subdivision, and examining other referrals and applications.

WHEREAS Section 462 of the *Local Government Act* provides that a local government may, by bylaw, impose fees related to applications and inspections; Section 41 of the *Liquor Control and Licensing Act* and Section 35 of the *Cannabis Control and Licensing Act* provides that a local government may, by bylaw, impose fees for referral of a license under that Act;

NOW THEREFORE the Salt Spring Island Local Trust Committee, being the Local Trust Committee having jurisdiction in respect of the Salt Spring Island Local Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act*, enacts as follows:

Citation

1.1 This bylaw may be cited as the "Salt Spring Island Local Trust Committee Fees Bylaw, No. 527".

Interpretation

2.1 In this bylaw:

"Applicant" means:

- 2.1.1 the person authorized under the Salt Spring Island Local Trust Committee Development Procedures Bylaw No. 304, 1993 to make an application in respect of a bylaw or permit under the *Islands Trust Act* or Part 14 or Part 15 of the *Local Government Act*;
- 2.1.2 an applicant for a license under the *Liquor Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.3 an applicant for a license under the *Cannabis Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.4 an applicant for subdivision review under the *Land Title Act* or the *Strata Property Act*;
- 2.1.5 an applicant for the conversion of a previously occupied building to strata lots under the *Strata Property Act*;
- 2.1.6 an applicant for a soil deposit permit or soil removal permit issued pursuant to a bylaw enacted under Part 14 of the *Local Government Act*; or
- 2.1.7 an applicant to a board of variance established under Part 14 of the *Local Government Act*.

“Application Processing Fee” means the initial amount payable to the Islands Trust in respect of any application under this bylaw.

“Community Benefit” refers to an application that results in provision of an amenity that is of value to the community, and identified in the Official Community Plan as a community amenity (i.e. Section H.3 of Bylaw No. 434).

“General Service Cost” includes average hourly cost of each staff position involved in processing the applications multiplied by the average number of hours taken to complete processing of that type of application, and includes administrative overhead costs..

“Estimated Direct Costs” for bylaw amendments listed in Table 1 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including:

1. newspaper advertising for one community meeting,
2. notifications, postal and delivery costs of statutory notifications for one public hearing,
3. rental of premises for one community meeting meetings and/or one public hearing,
4. contract minute-taker costs recording or preparation of minutes of one community meeting and/or one public hearing and,
5. staff travel expenses for one site visit, one community meeting and one public hearing.

“Estimated Direct Costs” for temporary use permits listed in Table 2 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including

1. one newspaper advertisement, notifications, postal and delivery costs of statutory notifications for one community meeting,
2. rental of premises for one community meeting,
3. contract minute-taker costs recording or preparation of minutes of one community meeting, and
4. staff travel expenses for one site visit, one community meeting.

“Islands Trust” means the Director of Local Planning Services or their authorized representative.

Application Fees

- 3.1 Prior to the processing of an application listed in Column 1 of Table 1, Table 2, Table 3 or Table 4, the applicant must deliver to Islands Trust the corresponding application processing fee in the amount shown in Column 2 subject to section 4. The application fee includes general service costs and estimated direct costs.

TABLE 1 – Bylaw Amendments (OCP and Zoning Bylaw)	
Column 1: Type of Application	Column 2: Fee
1. Major (e.g. change to density or OCP)	\$7,800
2. Minor (e.g. regulation change without changing density or OCP amendment)	\$4,600

TABLE 2 – Permits	
Column 1: Development Permit in Respect of:	Column 2: Fee
1. Protection of Natural Environment, Ecosystems and Biological Diversity	\$1,000 <u>\$1,200</u>
2. Protection of Development from Hazardous Conditions	\$1,000 <u>\$1,200</u>
3. Protection of Farming	\$1,000 <u>\$1,200</u>
4. Objectives for Form and Character	\$1,700
5. Objectives to Promote Energy Conservation	\$1,000 <u>\$1,200</u>
6. Objectives to Promote Water Conservation	\$1,000 <u>\$1,200</u>
7. Objectives to Promote the Reduction of Greenhouse Gas Emissions	\$1,000 <u>\$1,200</u>
8. Development Permit Amendment	\$1,000
Type of Development Variance Permit	
9. Development variance permit (commercial, industrial or institutional development)	\$1900
10. Development variance permit (residential development)	\$1900
Type of Temporary Use Permit	
11. Temporary Use Permit (residential/commercial/industrial)	\$2150
12. Temporary Use Permit for residential uses or commercial uses under 95 square metres that provide community benefit.	\$1000
13. Temporary Use Permit Renewal	\$700
14. Temporary Use Permit Renewal (Community Benefit)	\$350
Other Permits	
15. Siting and Use Permit	\$250
16: <u>15.</u> Heritage Alteration Permit	\$1,700
Combination Applications	
17: <u>16.</u> Development Permit in respect of a protection area or water and energy conservation in combination with a companion application for a Development Variance Permit	\$2,500
18: <u>17.</u> Development Permit in respect of form and character in combination with a companion application for a Development Variance Permit	\$3,000

TABLE 3 – Subdivision Referrals	
Column 1	Column 2: Fee
1. Application for Subdivision Review – base fee	\$1,000 \$1,200
2. Application for Subdivision Review – per additional lot created	\$100
3. Application for Subdivision Review – parcel line adjustments only, creating no additional parcels	\$500

TABLE 4 – Other Applications	
Column 1: Type of Application	Column 2: Fee
1. Board of Variance	\$2,200
2. Land Use Contract amendment	\$2,000
3. Liquor & Cannabis Regulation Branch – Retail License Application and Process and referrals requiring local government consultation	\$1,500
4. Liquor & Cannabis Regulation Branch – Temporary License Change	\$500
5. Strata Conversions	\$1,500

Note: Agricultural Land Commission (ALC) Application Fees are determined by the ALC.

4. Fee for After-the-Fact Application

- 4.1 An application for a permit or bylaw amendment to authorize work or an activity already undertaken, or in operation as of the date the application is made, the rated in 3.1 will be subject to a 20% surcharge.

5. Collection and Refund of Application Processing Fee Amounts

- 5.1 The total application processing fee must be received before the processing of the application can begin.
- 5.2 An applicant may withdraw their application at any time through written notice to the Planning Assistant and/or the Planner responsible for processing the application.
- 5.3 If an applicant withdraws an application before staff undertakes any planning work on the application, the Islands Trust must refund to the applicant the Application Fee, less \$100.
- 5.4 For an application in Table 1, or a Temporary Use Permit in Table 2, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned by the regional planning manager to the planner; 50% refund if the first staff report has been submitted to the LTC; 25% refund once public notice of a public hearing or permit has been sent out, no refund will be provided after a Public Hearing or after consideration of the Permit by the local trust committee.

- 5.5 For applications in Table 2 (except for Temporary use Permit applications), Table 3 and Table 4, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned to the planner; no refund will be provided if the first staff report has been submitted to the LTC, Board of Variance, or formal referral response submitted to the relevant agency.

6. Extraordinary Service Costs (ESC)

- 6.1 Extraordinary Services Costs will be paid by the Applicant through a cost recovery agreement, entered into with Islands Trust, in addition to the application processing fee.
- 6.2 Where legal work is required for the preparation of covenants, registration of covenant at Land Title Offices, registration of notice of a permit or housing agreement at the Land Title Office or for other purposes related to the application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.3 Where site visits involving First Nations are required for the processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.4 Where there may be need for additional community information meeting or public hearing not covered by the application processing fee, staff will provide the Applicant with an estimate of costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.5 Where other additional costs beyond the general service costs and estimated direct costs not specified above are required for processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.6 If the amount paid by Islands Trust in respect of Extraordinary Service Costs is less than the deposit provided to the Islands Trust, the Islands Trust shall provide the Applicant with the amount and the applicant shall pay the amount upon receipt. The local trust committee may withhold the consideration of issuance of any permit or hold the consideration of adoption of any bylaw in abeyance until the amount has been paid.
- 6.7 Islands Trust must refund the unused portion of any Extraordinary Service Costs deposit to the applicant if it is unused for any reason.

7. Annual Fee Increases

- 7.1 Fees in section 3.1 increase by 2% on April 1st of each year following the date of adoption of the bylaw.
- 7.2 The Salt Spring Island Local Trust Committee will maintain a record of annual 2% increases and make that record available for public inspection.

8. Application Fee Sponsorship

- 8.1 Pursuant to Islands Trust Policy 4.1.13, Guidelines for Executive Committee Sponsored or Local Trust Committee Initiated Development Applications, an applicant may apply to the Executive Committee of Islands Trust for development application fee sponsorship.

9. Severability

- 9.1 In the event a portion of this bylaw is set aside by a court of competent jurisdiction, the invalid portion shall be severed and the remainder of the bylaw remains in force and in effect.

10. Repeal

- 10.1 "Salt Spring Island Local Trust Committee Fees Bylaw No. **428**" is repealed upon adoption of this bylaw.
- 10.2 Any application for which a fee has been fully paid at the time this bylaw comes into force shall be processed to completion in accordance with the fee provisions of the repealed bylaw.

READ A FIRST TIME THIS _____ DAY OF _____, 20__

READ A SECOND TIME THIS _____ DAY OF _____, 20__

READ A THIRD TIME THIS _____ DAY OF _____, 20__

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
_____ DAY OF _____, 20__

ADOPTED THIS _____ DAY OF _____, 20__

CHAIR

SECRETARY



REQUEST FOR DECISION

To: Local Trust Committees **For the Meeting of:** October 5, 2021

From: David Marlor, Director, Local Planning Services **Date Prepared:** September 15, 2021

SUBJECT: New Fee bylaws

RECOMMENDATION:

That the Salt Spring Island 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.”

DIRECTOR COMMENTS:

The recommendation will allow staff to draft a fee bylaw specific to each local trust committee’s needs based on the model fee bylaw adopted by Trust Council.

1 PURPOSE: To update all local trust committee fee bylaws to be consistent with the new Application Processing Services policy.

2 BACKGROUND:

At its regular business meeting in June 2021, Trust Council adopted a new Application Processing Services Policy that includes a model Fee Bylaw. Trust Council also passed the following resolution:

That Trust Council request all local trust committees to consider adoption of a new application processing fees bylaw based on the model fees bylaw attached to Policy 5.6.1 “Application Processing Services”.

The Trust Council application processing services policy has been amended to:

1. clarify more specifically the activities covered by the application fee to remove ambiguity;
2. remove the need for planners to determine the work required at the start of the process, which has been identified as practically impossible to implement;
3. establish an objective of 80 per cent of the average processing cost for cost recovery;
4. add more clarity around when cost recovery agreements are required, and what are considered extraordinary cost charges; and
5. add a model fees bylaw to the policy as an attachment.

A new model fees bylaw has been developed that:

1. has updated fees that better reflect the actual average cost of processing the various types of applications, designed to include the staff costs and the fixed costs, such as meeting expenses and advertising;
2. adds consideration for recovery of costs associated with First Nation site visits if required;
3. adds more robust fee refund policy to improve fairness;
4. adds an annual automatic increase of fees of two percent to reflect the estimated actual cost increases due to inflation and collective agreement increases for staff;
5. retains ability of local trust committees to reduce fees by up to 20 percent, intended to allow flexibility recognizing local factors affecting cost of application processing;
6. adds flexibility to allow for reduced temporary use permits fees for community benefits as defined by the local trust committee in its official community plan; and
7. adds a 20 per cent higher fee for applications where development began without a permit or permission to reflect the higher cost of processing such an application.

Each local trust committee has been asked by Trust Council to update its fee bylaw to be consistent with the model fee bylaw approved by Trust Council. If a local trust committee wishes to adjust fees in accordance with items 5 and 6 above, the local trust committee should include this request in the resolution to develop a draft fee bylaw. While a local trust committee is under no legislative obligation to amend its fees bylaw, Trust Council has developed the model fee bylaw to assist in assuring the fees charged better reflect the cost of processing applications using shared resources throughout the Islands Trust Area.

Please note that fees charged are to recover the average cost of processing that type of application. Fees cannot be used to be punitive, or to raises funds above the average cost of processing an application. Local trust committees cannot charge fees for building permit referrals or Crown land referrals as there is no authority provided to do so.

Local trust committees are authorized to charge fees for different types of applications as follows:

- **Section 462 of the *Local Government Act*** provides that a local government may, by bylaw, impose fees related to applications and inspections to recover the average costs of processing official community plan amendments, land use bylaw amendments, subdivisions bylaw amendments, heritage conservation bylaw amendments, issuance of a development permit, development variance permit, temporary use permit, heritage alteration permit, land use contract amendments, heritage revitalisation agreement amendments, board of variance orders, and inspection of works and services related to applications and permits, and subdivision applications;
- **Section 31(2)(b) of the *Islands Trust Act*** provides that a local trust committee may impose fees to recover the cost of processing siting and use permits;
- **Section 41 of the *Liquor Control and Licensing Act*** provides that a local government may, by bylaw, impose fees to recover the cost of processing liquor and liquor licensing referrals; and
- **Section 35 of the *Cannabis Control and Licensing Act*** provides that a local government may, by bylaw, impose fees to recover the cost of processing a referral for a license under that Act.

Section 462 of the *Local Government Act* also states that local governments must not impose a fee, charge a tax or require works or services to be provided unless authorized by this Act or any other Act. For this reason, fees are not charged for processing of building permit and Crown land referrals, as there is no authorization in any Act for local trust committees to recover these costs.

Fee bylaws are administrative bylaws. There is no requirement for public input. The local trust committee may consider first, second and third readings all at one meeting. The Executive Committee must approve the bylaw before the local trust committee can consider adoption.

Ideally, all local trust committees will have considered updating their bylaws by March 2022 so that the assumptions on revenue can be included in the next fiscal year budget process.

3 IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:

Staff will draft a fee bylaw based on the model fee bylaw and bring back to a future local trust committee meeting for consideration.

FINANCIAL:

No financial implication from the recommendation.

POLICY:

Updating the Fee bylaw will be consistent with Trust Council Policy 5.6.1 Application Processing Services.

IMPLEMENTATION/COMMUNICATIONS:

Local planning staff assigned to the local trust committee will draft fee bylaw for local trust committee consideration.

FIRST NATIONS:

No First Nations implications from the recommendations.

OTHER:

No other implications from the recommendations.

4 RELEVANT POLICY(S):

Trust Council Policy 5.6.1 Application Servicing Process

5 ATTACHMENT(S):

Trust Council Policy 5.6.1 Application Processing Services

RESPONSE OPTIONS

Recommendation:

That the Salt Spring Island 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."

Alternative:

That the Salt Spring Island 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" with the following modifications: [list modifications].

Prepared By: David Marlor, Director, Local Planning Services

Reviewed By/Date: Julia Mobbs, Director, Administrative Services/Aug 2021



Policy:	5.6.1
Approved By:	Trust Council
Approval Date:	June 9, 2021 Repeals policies 5.6.1, 5.6.2 and 5.6.3
Amendment Dates:	
Policy Holder:	Director of Local Planning Services

APPLICATION PROCESSING SERVICES POLICY

Purpose

This policy is intended:

- to identify the services provided by Islands Trust and the different levels of costs associated with these services;
- to provide direction for the preparation of Fees Bylaws and Schedules by Local Trust Committees (LTCs);
- to provide the principles by which cost recovery for extraordinary services beyond the standard fee can be negotiated and agreed to by an applicant and a LTC;
- to recover from applicants 100 per cent of the average cost of processing the development applications, while permitting consideration of lower cost recovery for environmental protection and community benefit.

A. Definitions

1. Application Processing Services include:

- 1.1 Bylaw Amendments to an official community plan, zoning bylaw, subdivision bylaw or other land use bylaws;
- 1.2 Development Application Requests for:
 - 1.2.1 Development Permits,
 - 1.2.2 Development Variance Permits,
 - 1.2.3 Temporary Use Permits,
 - 1.2.4 Soil Removal and Deposit Permits,
 - 1.2.5 Heritage Alteration Permits,
 - 1.2.6 Board of Variance Orders,
 - 1.2.7 Liquor Licensing Permits,
 - 1.2.8 Cannabis Licensing Permits,
 - 1.2.9 Siting & Use Permits,
 - 1.2.10 Land Use Contracts;
- 1.3 Agency Referral Responses and Comments on applications referred from other agencies.

2. Service Levels include:

- 2.1 Information Service that involves providing information to applicants and the general public at no cost, as a public service, and funded by property taxation revenues.
- 2.2 Standard Application Processing Service that involves providing a specific service to applicants as a direct response to an application, whether directly to Islands Trust or through a referral from another agency, and primarily funded by established fees paid by an applicant.
- 2.3 Extraordinary Processing Service is a service provided to the applicant that is beyond the standard processing service, with funding provided by the applicant as a deposit with the application fee or through a cost recovery agreement.
- 3. Costs:
 - 3.1 General Service Costs includes average hourly cost of each staff position involved in processing the applications multiplied by the average number of hours taken to complete processing of that type of application, and includes administrative overhead costs.
 - 3.2 Estimated Direct Costs include advertisements, delivery of notices, hall rentals, minute taking at public hearings and community information meetings, and staff travel to attend public hearings and community information meetings.
 - 3.3 Extraordinary Processing Costs include costs beyond the standard processing service such as additional community information meetings, review of technical reports provided by specialists hired by the applicant, and specific legal services such as the preparation and registration of legal documents and the acquisition of legal advice.
- 4. Community Benefit:
 - 4.1 Community benefit is the provision of an amenity that is of value to the community, and identified in the Official Community Plan as a community benefit or amenity.

B. Policy

1. Standard Application Processing Services

Applicants are responsible for paying different rates based on the level of service. The details involved in each level of a standard application processing service are identified below.

1.1 Information Service – No Fee Required

Information services are considered a public service and include:

- 1.1.1 ***providing information*** on application process requirements including a meeting with staff;
- 1.1.2 ***providing assistance*** to complete an application;
- 1.1.3 ***determination*** of applicable fees;

1.1.4 **identification** of readily identifiable issues to be addressed.

1.2 Application and Processing Service – Included in Application Fee

For rezoning applications, temporary use permit applications, development variances, development permits, liquor and cannabis retail license applications, and strata conversion applications, the application fee covers the following services:

- 1.2.1 comprehensive staff assessment including site visit where required;
- 1.2.2 staff reports;
- 1.2.3 discussion between planners and applicant throughout process;
- 1.2.4 review of archaeological data;
- 1.2.5 staff referral to other agencies, advisory planning commissions, and analysis of their comments;
- 1.2.6 bylaw or resolution drafting, including review for compatibility with Trust Object and policies and the relevant Official Community Plan;
- 1.2.7 staff report with recommendation for Local Trust Committee (LTC) approval consideration;
- 1.2.8 processing bylaws through Executive Committee for approval consideration, if necessary;
- 1.2.9 forwarding to Minister of Municipal Affairs and Housing for approval consideration, if necessary;
- 1.2.10 adoption of all bylaws or issuing of permits as required.

1.3 Public Hearing – Included in Application Fee

Services related to a Public Hearing that will be provided to an applicant who has paid an application fee include:

- 1.3.1 conducting one public hearing with staff present (includes staff time, staff travel costs and estimated direct costs such as meeting place rental, newspaper notice of public hearing, minute taker fee, and delivery of notices when needed).

1.4 Community Information Meeting – Included in Application Fee

Services related to a Community Information Meeting that will be provided to an applicant who has paid an application fee include:

- 1.4.1 conducting one community information meeting with staff present (includes staff time, staff travel costs, and estimated direct costs such as meeting place rental and delivery of notices when needed).

2. Extraordinary Processing Services – additional fees required

Extraordinary Processing Services are services provided to the applicant that are beyond the standard processing services identified in 1.1- 1.4. Applicants are responsible for paying additional fees for extraordinary processing services.

2.1 Role of LTC in Determining Necessity for Extraordinary Services

- 2.1.1 Local trust committees (LTCs) can determine the necessary requirements for processing applications. These requirements may necessitate extraordinary processing services, where the actual or estimated processing service level costs are in excess of the costs of a standard application fee for a similar process because:
 - 2.1.1.1 of additional requirements such as additional public consultation, complex covenant requirements or extensive staff time; or,
 - 2.1.1.2 the processing requirements include services obtained from professions outside Islands Trust such as special technical assistance and/or specific legal services; or,
 - 2.1.1.3 the processing requirements include First Nations site visit(s).
- 2.1.2 The Regional Planning Manager is responsible for assisting LTCs in identifying and costing extraordinary processing service requirements and advising the LTCs of the options available to handle these requirements.
- 2.1.3 The Regional Planning Manager is responsible for ensuring that complex service requirements include terms of reference which outline detailed criteria and parameters for the extraordinary services that are required.

2.2 Provision of Extraordinary Processing Services

- 2.2.1 Extraordinary processing services can be provided by Islands Trust via a cost recovery agreement, with costs to be paid by the applicant, in addition to the applicable standard fee.
- 2.2.2 A resolution of the LTC following the recommendation of the Regional Planning Manager is required to proceed.
- 2.2.3 When extraordinary processing service requirements have been identified, the applicant should be advised by staff that the application cannot be processed until additional funds are provided by the applicant and a cost recovery agreement with the Islands Trust is signed and a security deposit has been received.

3. Extraordinary Services Cost Recovery Agreements

3.1 Extraordinary Services Cost Recovery – Principles

- 3.1.1 Cost Recovery Agreements reflect a service level which includes the extraordinary services needed to undertake the approval process for a complex application.
- 3.1.2 Cost Recovery Agreements will endeavour to recover all costs of processing that exceed the standard costs of processing services.
- 3.1.3 The existence of a Cost Recovery Agreement will not fetter a LTC's discretion with respect to an application before the committee.
- 3.1.4 Authority for negotiating Cost Recovery Agreements is provided within the respective LTC Fees Bylaws.
- 3.1.5 Cost Recovery Agreements will proceed only by resolution of the LTC after consultation with the Regional Planning Manager, except in situations where an applicant is seeking to discuss an issue directly with Islands Trust legal advisors, in which case the Director of Local Planning Services may approve the Cost Recovery Agreement.
- 3.1.6 The Cost Recovery Agreement letter will be submitted, together with the recommendation of the Regional Planning Manager and the LTC resolution, for approval by the Director of Local Planning Services (or designate) prior to final agreement with the applicant.

3.2 Services Requiring Extraordinary Services Cost Recovery Agreement

The services identified below are considered to be beyond the scope of standard processing services. These services require payment, in addition to standard application fees established in the Fees Bylaw, of additional fees based on a cost recovery agreement between the Islands Trust and an applicant:

- 3.2.1 staff time required for covenant development;
- 3.2.2 staff time to attend more public consultation meetings than that already covered by the standard application fee, including community information meetings, advisory planning commission meetings, and public hearings;
- 3.2.3 technical assessments or studies as required by the local trust committee;
- 3.2.4 retaining special technical assistance required by the local trust committee;
- 3.2.5 additional legal counsel services required for the application not covered under the estimated direct costs of the Fees Bylaw;
- 3.2.6 process agreement negotiation;
- 3.2.7 First Nations site visits;
- 3.2.8 other resources and/or services required by the local trust committee to process the application not covered by the Fees Bylaw.

4. Funding Basis and Fee Adjustments

- 4.1 Application processing services are funded primarily through fees, as per a LTC's Fees Bylaw. Local trust committees should adopt a Fees Bylaw consistent with the model Fees Bylaw in Attachment 1.
- 4.2 Standard fees in Fees Bylaws are to be based on average processing costs, as per Section 462 of the *Local Government Act*, Section 31(2)(b) of the *Islands Trust Act*, Section 41 of the *Liquor Control and Licensing Act*, and Section 35 of the *Cannabis Control and Licensing Act*. Standard fees are calculated as the product of staff labour costs multiplied by processing time (including Planner and administrative support). Standard application fees include estimated direct costs.
- 4.3 A local trust committee may enact variances of up to 20% below what is indicated in the Trust Council's Model Fees Bylaw when adopting a LTC Fees Bylaw. The following criteria must be considered when evaluating a fee variance:
 - 4.3.1 the level of community/environmental benefit offered by the type of application;
 - 4.3.2 variances in direct costs (e.g. hall rental); and,
 - 4.3.3 an amendment to an approved application occurring within 6 months of the approval date.
- 4.4 Variance to a Fees Bylaw must be adopted by bylaw amendment. All LTC Fees Bylaws and Fees Bylaw amendments must be approved by the Executive Committee before adoption by a LTC.
- 4.5 Where the model fees bylaw permits reduced fees for temporary use permits that have a community benefit and are small scale, the local trust committee fees bylaw must specify the actual community benefit to which the fee applies, and should be supported by policies in the official community plan on what are considered amenities to the community.
- 4.6 Applications for development that begin without a permit or bylaw authorisation are subject to a 20 per cent surcharge to recover the additional cost in processing these types of applications.

5. Application Fee Sponsorship

- 5.1 If eligible, as identified in [Trust Council Policy 4.1.13 Guidelines for Executive Committee Sponsored or Local Trust Committee Initiated Development Applications](#), the applicant may apply for development application fee sponsorship.

6. Development Approval Information

- 6.1 The Development Approval Information (DAI) Bylaw provides a mechanism to ensure that the LTC receives appropriate reports and documentation (such as reports from engineers, biologists, hydrogeologists, and geotechnical specialists) from applicants to support rezoning, temporary use permit, and development permit applications.
- 6.2 DAI bylaws reduce operational costs by ensuring that applications are complete and the information provided is appropriate.
- 6.3 Local trust committees should adopt a development approval information bylaw.
- 6.4 The Regional Planning Committee should develop a model Development Approval Information bylaw for addition as Attachment 2 to this policy.

C. Legislated References

Local Government Act, S.462

Local Government Act, S.486

Liquor Control and Licensing Act, S.41

Cannabis Control and Licensing Act, S.35

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

- 1. Model Fees Bylaw

[INSERT LTC NAME] LOCAL TRUST COMMITTEE

BYLAW NO. [XX]

A bylaw to prescribe fees for amending bylaws, issuing permits, examining applications for subdivision, and examining other referrals and applications. Model fees reflect the cost recovery for application processing.

WHEREAS Section 462 of the *Local Government Act* provides that a local government may, by bylaw, impose fees related to applications and inspections; Section 41 of the *Liquor Control and Licensing Act* and Section 35 of the *Cannabis Control and Licensing Act* provides that a local government may, by bylaw, impose fees for referral of a license under that Act, **[DENMAN AND HORNBY ONLY and Section 31(2)(b) of the Islands Trust Act provides that a local trust committee may impose a fees to recover the cost of processing siting and use permits]** ;

NOW THEREFORE the **[Insert LTC Name]** Local Trust Committee, being the Local Trust Committee having jurisdiction in respect of the **[Insert LTC Name]** Local Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act*, enacts as follows:

Citation

1.1 This bylaw may be cited as the "[Insert LTC Name] Local Trust Committee Fees Bylaw, No. [XX]".

Interpretation

2.1 In this bylaw:

"Applicant" means:

2.1.1 the person authorized under the _____ Island Local Trust Committee Procedures Bylaw No. ____, _____ to make an application in respect of a bylaw or permit under the *Islands Trust Act* or Part 14 or Part 15 of the *Local Government Act*;

2.1.2 an applicant for a license under the *Liquor Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;

- 2.1.3 an applicant for a license under the *Cannabis Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.4 an applicant for subdivision review under the *Land Title Act* or the *Strata Property Act*;
- 2.1.5 an applicant for the conversion of a previously occupied building to strata lots under the *Strata Property Act*;
- 2.1.6 an applicant for a soil deposit permit or soil removal permit issued pursuant to a bylaw enacted under Part 14 of the *Local Government Act*; or
- 2.1.7 an applicant to a board of variance established under Part 14 of the *Local Government Act*.

“Application Processing Fee” means the initial amount payable to the Islands Trust in respect of any application under this bylaw.

“Community Benefit” refers to an application that results in provision of an amenity that is of value to the community, and identified in the Official Community Plan as a community benefit.

[NOTE: This is in relation to temporary use permits for a use under a specified size that provides a community benefit. The local trust committee would define community benefit here based on its official community plan definition of community benefit]

“General Service Cost” includes average hourly cost of each staff position involved in processing the applications multiplied by the average number of hours taken to complete processing of that type of application, and includes administrative overhead costs..

“Estimated Direct Costs” for bylaw amendments listed in Table 1 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including:

1. newspaper advertising for one community meeting,
2. notifications, postal and delivery costs of statutory notifications for one public hearing,
3. rental of premises for one community meeting meetings and/or one public hearing,
4. contract minute-taker costs recording or preparation of minutes of one community meeting and/or one public hearing and,
5. staff travel expenses for one site visit, one community meeting and one public hearing.

“Estimated Direct Costs” for temporary use permits listed in Table 2 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including

1. one newspaper advertisement, notifications, postal and delivery costs of statutory notifications for one community meeting,
2. rental of premises for one community meeting,
3. contract minute-taker costs recording or preparation of minutes of one community meeting, and
4. staff travel expenses for one site visit, one community meeting.

“Islands Trust” means the Director of Local Planning Services or their authorized representative.

Application Fees

3.1 Prior to the processing of an application listed in Column 1 of Table 1, Table 2, Table 3 or Table 4, the applicant must deliver to Islands Trust the corresponding application processing fee in the amount shown in Column 2 subject to section 4. The application fee includes general service costs and estimated direct costs.

TABLE 1 – Bylaw Amendments (OCP and Zoning Bylaw)	
Column 1: Type of Application	Column 2: Fee
1. Major (e.g. change to density or land use designation)	\$7,800
2. Minor (e.g. policy change without changing density or land use designation not requiring an OCP amendment)	\$4,600

TABLE 2 – Permits	
Column 1: Development Permit in Respect of:	Column 2: Fee
1. Protection of Natural Environment, Ecosystems and Biological Diversity	\$1,000
2. Protection of Development from Hazardous Conditions	\$1,000
3. Protection of Farming	\$1,000
4. Objectives for Form and Character	\$1,700
5. Objectives to Promote Energy Conservation	\$1,000
6. Objectives to Promote Water Conservation	\$1,000
7. Objectives to Promote the Reduction of Greenhouse Gas Emissions	\$1,000
8. Development Permit Amendment	\$1,000

Type of Development Variance Permit	
9. Development variance permit (commercial, industrial or institutional development)	\$1900
10. Development variance permit (residential development)	\$1900
Type of Temporary Use Permit	
11. Temporary Use Permit (residential/commercial/industrial)	\$2150
12. Temporary Use Permit for residential uses and commercial uses under 95 square metres that provide community benefit..	\$1000
13. Temporary Use Permit Renewal	\$700
14. Temporary Use Permit Renewal (Community Benefit)	\$350
Other Permits	
15. Siting and Use Permit	\$250
16. Heritage Alteration Permit	\$1,700
Combination Applications	
17. Development Permit in respect of a protection area or water and energy conservation in combination with a companion application for a Development Variance Permit	\$2,500
18. Development Permit in respect of form and character in combination with a companion application for a Development Variance Permit	\$3,000

TABLE 3 – Subdivision Referrals	
Column 1	Column 2: Fee
1. Application for Subdivision Review – base fee	\$1,000
2. Application for Subdivision Review – per additional lot created	\$100
3. Application for Subdivision Review – parcel line adjustments only, creating no additional parcels	\$500

TABLE 4 – Other Applications	
Column 1: Type of Application	Column 2: Fee
1. Board of Variance	\$2,200
2. Land Use Contract amendment	\$2,000
3. Liquor & Cannabis Regulation Branch – Retail License Application and Process	\$1,500
4. Liquor & Cannabis Regulation Branch – Temporary License Change	\$500
5. Strata Conversions	\$1,500

4. Fee for After-the-Fact Application

- 4.1 An application for a permit or bylaw amendment to authorize work or an activity already undertaken, or in operation as of the date the application is made, the rated in 3.1 will be subject to a 20% surcharge.

5. Collection and Refund of Application Processing Fee Amounts

- 5.1 The total application processing fee must be received before the processing of the application can begin.
- 5.2 An applicant may withdraw their application at any time through written notice to the Planning Assistant and/or the Planner responsible for processing the application.
- 5.3 If an applicant withdraws an application before staff undertakes any planning work on the application, the Islands Trust must refund to the applicant the Application Fee, less \$100.
- 5.4 For an application in Table 1, or a Temporary Use Permit in Table 2, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned by the regional planning manager to the planner; 50% refund if the first staff report has been submitted to the LTC; 25% refund once public notice of a public hearing or permit has been sent out, no refund will be provided after a Public Hearing or after consideration of the Permit by the local trust committee.
- 5.5 For applications in Table 2 (except for Temporary use Permit applications), Table 3 and Table 4, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned to the planner; no refund will be provided if the first staff report has been submitted to the LTC.

6. Extraordinary Service Costs (ESC)

- 6.1 Extraordinary Services Costs will be paid by the Applicant through a cost recovery agreement, entered into with Islands Trust, in addition to the application processing fee.

- 6.2 Where legal work is required for the preparation of covenants, registration of covenant at Land Title Offices, registration of notice of a permit or housing agreement at the Land Title Office or for other purposes related to the application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.3 Where site visits involving First Nations are required for the processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.4 Where there may be need for additional community information meeting or public hearing not covered by the application processing fee, staff will provide the Applicant with an estimate of costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.5 Where other additional costs beyond the general service costs and estimated direct costs not specified above are required for processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.6 If the amount paid by Islands Trust in respect of Extraordinary Service Costs is less than the deposit provided to the Islands Trust, the Islands Trust shall provide the Applicant with the amount and the applicant shall pay the amount upon receipt. The local trust committee may withhold the consideration of issuance of any permit or hold the consideration of adoption of any bylaw in abeyance until the amount has been paid.
- 6.7 Islands Trust must refund the unused portion of any Extraordinary Service Costs deposit to the applicant if it is unused for any reason.

7. Annual Fee Increases

- 7.1 Fees in section 3.1 increase by 2% on April 1st of each year following the date of adoption of the bylaw.
- 7.2 The (Insert LTC Name) will maintain a record of annual 2% increases and make that record available for public inspection.

8. Application Fee Sponsorship

- 8.1 Pursuant to Islands Trust Policy 4.1.13, Guidelines for Executive Committee Sponsored or Local Trust Committee Initiated Development Applications, an applicant may apply to the Executive Committee of Islands Trust for development application fee sponsorship.

9. Severability

- 9.1 In the event a portion of this bylaw is set aside by a court of competent jurisdiction, the invalid portion shall be severed and the remainder of the bylaw remains in force and in effect.

10. Repeal

- 10.1 “[Insert LTC Name] Local Trust Committee Fees Bylaw No. [XX]” is repealed upon adoption of this bylaw.
- 10.2 Any application for which a fee has been fully paid at the time this bylaw comes into force shall be processed to completion in accordance with the fee provisions of the repealed bylaw.

READ A FIRST TIME this st day of , 20

READ A SECOND TIME this st day of , 20



Islands Trust

STAFF REPORT

File No.: 3900-03: LPS Admin Bylaw
(SSI Fees Bylaw)

DATE OF MEETING: November 9, 2021
 TO: Salt Spring Island Local Trust Committee
 FROM: Stefan Cermak, Regional Planning Manager
 Salt Spring Island Team
 COPY: David Marlor, Director of Local Planning Services
 SUBJECT: New Fee Bylaw as per Trust Council Policy 5.6.1

RECOMMENDATION

1. That the Salt Spring Island Local Trust Committee Bylaw No. 527, cited as “Salt Spring Island Local Trust Committee Fees Bylaw, 2021”, be given first, second, and third reading.
2. That the Salt Spring Island Local Committee Bylaw No. 527, cited as “Salt Spring Island Local Trust Committee Fees Bylaw, 2021”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

REPORT SUMMARY

The purpose of this report is for the Salt Spring Island Local Trust Committee (SS LTC) to consider adoption of Bylaw No. 527 which would replace Bylaw No. 428 (SSI LTC Fees Bylaw) to include:

- An expanded Interpretation section.
- Fee changes for the various applications.
- Fees for applications received though work or activity is already undertaken or in operation.
- Clarification of collection of fees and refunds.
- A new section to address Extraordinary Service Costs (ESC)
- A new section to address Annual Fee Increases.

BACKGROUND

At the October 5, 2021 Salt Spring Island Local Trust Committee regular business meeting, the SS LTC passed the following resolution:

SS-2021-197

It was MOVED and SECONDED,

That the Salt Spring Island 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

Rationale for Recommendation

At its regular business meeting in June 2021, Trust Council adopted a new Application Processing Services Policy that includes a model Fee Bylaw. At the same meeting, Trust Council requested all local trust committees to adopt the new fees bylaw. On October 5, 2021, the SS LTC requested staff to draft a new Fee Bylaw based on the model fee bylaw. Draft Bylaw No. 527 is attached.

Submitted By:	Stefan Cermak Regional Planning Manager	October 27, 2021
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ATTACHMENTS

1. Draft Bylaw No. 527 (see Appendix 1 of memo to APCs)



DATE OF MEETING: November 25, 2021
TO: Salt Spring Island Advisory Planning Commission
FROM: Kristine Mayes, Planner 1, Salt Spring Island Team
SUBJECT: Referral: Proposed Bylaw No. 525

PURPOSE

The Salt Spring Island Local Trust Committee (SS LTC) has referred proposed Bylaw No. 525 (cited as "Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2021") to the Advisory Planning Commission (APC).

BACKGROUND

At the SS LTC meeting of November 10, 2021, the SS LTC passed the following resolution:

SS-2021-225

It was **MOVED** and **SECONDED**,

That the Salt Spring Island Local Trust Committee request staff refer Proposed Bylaw No. 525 to agencies, organizations and First Nations, as identified in this staff report dated October 28, 2021 (SS-RZ-2020.1, 1351 Mountain Road).

CARRIED

The community need memorandum, preliminary staff report including site context, photos, correspondence, and other information can be found on the Salt Spring Island Current Applications webpage: <https://islandstrust.bc.ca/island-planning/salt-spring/current-applications>

NEXT STEPS

Once the APC has deliberated on the proposed bylaws, the following draft resolutions have been provided for consideration:

1. If the APC wishes to recommend proceeding with the bylaw:

That the Salt Spring Island Advisory Planning Commission recommend to the Salt Spring Island Local Trust Committee that proposed Bylaw No. 525 proceed for the following reasons:

- *[list reasons]...*

2. If the APC wishes to recommend proceeding with the bylaw subject to conditions:

That the Salt Spring Island Advisory Planning Commission recommend to the Salt Spring Island Local Trust Committee that proposed Bylaw No. 525 proceed, subject to the following recommendations:

- *[list recommendations]...*

3. If the APC wishes to recommend not proceeding with the bylaw:

That the Salt Spring Island Advisory Planning Commission recommend to the Salt Spring Island Local Trust Committee that proposed Bylaw No. 525 not proceed for the following reasons:

- *[list reasons]...*

Submitted By:	Kristine Mayes, Planner 1	November 16, 2021
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ATTACHMENTS

1. Staff Report from the November 10, 2021 Meeting Agenda Package



File No.: SS-RZ-2020.1

X-ref: SS-DP-2020.8 & SS-BE-2019.71

DATE OF MEETING: November 9, 2021
TO: Salt Spring Island Local Trust Committee
FROM: Kristine Mayes, Planner 1, Salt Spring Island Team
COPY: Stefan Cermak, Regional Planning Manager, Salt Spring Island Team
SUBJECT: Rezoning (Bylaw Amendment) from Rural (R) to Rural (R) Variant
Applicant: D. & L. MacAlpine
Location: 1351 Mountain Road, Salt Spring Island, BC (PID: 004-053-761)

RECOMMENDATION

1. That Salt Spring Island Local Trust Committee Bylaw No. 525, cited as “Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2021”, be read a first time (SS-RZ-2020.1, 1351 Mountain Road).
2. That the Salt Spring Island Local Trust Committee request staff refer Proposed Bylaw No. 525 to agencies, organizations and First Nations, as identified in this staff report dated October 28, 2021 (SS-RZ-2020.1, 1351 Mountain Road).

REPORT SUMMARY

This staff report proposes amendments to the [Salt Spring Island Land Use Bylaw No. 355](#) to make lawful an oversized boathouse and to establish a 15-metre setback from the natural boundary of the sea. Staff recommend the Salt Spring Island Local Trust Committee (SS LTC) consider first reading of the draft bylaw (Appendix No. 1), and request staff to refer the bylaw to agencies and First Nations.

BACKGROUND

This report follows a preliminary staff report to the June 29, 2021 meeting of the SS LTC where the following resolutions were passed (the preliminary staff report including site context, photos, and correspondence can be found on the [Salt Spring Island Current Applications webpage](#)):

SS-2021-136

It was **MOVED** and **SECONDED**,

That the Salt Spring Island Local Trust Committee direct staff to draft a Rural zone variant for Lot 5, of Sections 33 and 37, South Salt Spring Island, Cowichan District, Plan 1812 (SS-RZ-2020.1, 1351 Mountain Road) that:

- a. makes lawful an existing 60 square metre boathouse;
- b. makes the setback for buildings and structures to the natural boundary of the sea 15 metres.

CARRIED

ANALYSIS

Policy/Regulatory

The LTC is unfettered in its consideration of a rezoning and may choose to request more information, proceed more incrementally, or defer the application.

Islands Trust Policy Statement:

An assessment of the proposed application relative to the Islands Trust Policy Statement will be undertaken following first reading of a draft bylaw.

Issues and Opportunities

Subdivision Potential – Implications of Rezoning

The subject property is 27.18-hectares in size. The minimum average lot size at time of subdivision is 2-hectares - without considering areas that are excluded from such calculations, the subject property could potentially be subdivided into 13 separate lots. The unintended consequence of permitting a boathouse not exceeding 60 square metres on the subject property is that each lot created by subdivision would be permitted a separate 60 square metre boathouse. As such, the zone variant was drafted as to permit a maximum of one boathouse not exceeding 60 square metres in all lands zoned Rural variant p – R(p) – to make lawful the existing boathouse and ensuring any subsequent boathouses on new lots cannot exceed 35 square metres.

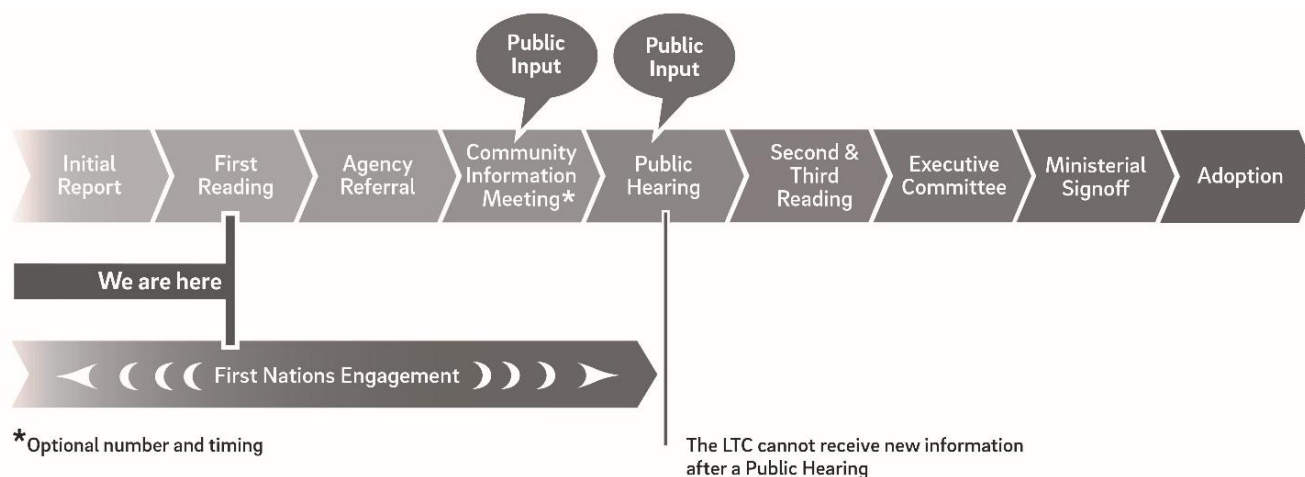
Consultation

At time of this report, no referrals have been conducted. Referrals of rezoning bylaws to agencies, organizations and First Nations typically occur at time of first reading. The SS LTC may consider if it wishes to undertake additional consultation beyond the below groups identified in this report and direct staff accordingly.

Public Agencies	Local Trust Committees	First Nations*
<ul style="list-style-type: none"> Fisheries & Oceans, Canada - Pacific Region Indian & Northern Affairs Canada Front Counter British Columbia Ministry of Environment and Climate Change Strategy (BC Parks and Conservation Officer Service Division) Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Crown Land Authorizations Ministry of Municipal Affairs Ministry of Transportation and Infrastructure Vancouver Island Health Authority Salt Spring Island Fire Protection District BC Assessment Authority CRD - SSI Parks and Recreation CRD - SSI Building Inspection CRD - Environmental Eng. Division CRD - Parks & Community Services Islands Trust Conservancy 	<ul style="list-style-type: none"> North Pender Island Local Trust Committee Galiano Island Local Trust Committee Thetis Island Local Trust Committee Mayne Island Local Trust Committee Cowichan Valley Regional District 	<ul style="list-style-type: none"> 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)
	Community Agencies/Groups <ul style="list-style-type: none"> Salt Spring Island Advisory Planning Commission 	<i>*And others as determined by SIPA & Ministry of Municipal Affairs</i>

Statutory notification of the proposed rezoning will be made in accordance with [Section 466](#) of the *Local Government Act* and the [Salt Spring Island Development Procedures Bylaw No. 304](#) at time of public hearing.

Timeline



Agencies

No referrals have been conducted to date. Staff have provided a list of agencies, organizations and First Nations for referral in the Consultation section of this staff report. In accordance with Section B.2 of the [Islands Trust Local Trust Committee Bylaws Checklist Policy 5.7.1](#), staff will forward the bylaw to referral agencies after the bylaw has received first reading.

First Nations

Staff referred this application to the Islands Trust Senior Intergovernmental Policy Advisor (SIPA) who noted concerns regarding the siting of the proposed future development in proximity to a mapped archaeological site as well as the difficulty in ensuring the preservation of cultural heritage due to the remoteness of the location. During consideration of the preliminary staff report, the applicant has amended their application to only make lawful the existing oversized boathouse. In accordance with the recommendations of the SIPA and Archaeological Overview Assessment (AOA), the SS LTC requested staff draft a bylaw that encompasses a setback of 15-metres to the natural boundary of the sea for buildings and structures. A list of First Nations to be engaged during the referral has been developed in consultation with the SIPA.

Rationale for Recommendation

In respect to the two recommendations noted above, staff note the following:

1. *That Salt Spring Island Local Trust Committee Bylaw No. 525, cited as "Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2021", be read a first time.*

The applicant is seeking to make lawful an oversized boathouse on the subject property. During the SS LTC's deliberation of the preliminary staff report, staff recommended the inclusion of a 15-metre setback to the natural boundary of the sea in consideration of the recommendations of the AOA and SIPA. [Salt Spring Island Official Community Plan No. 434](#) (OCP) policies and objectives (Appendix No. 2) are generally supportive of this amendment. In consideration of the foregoing, staff recommend first reading of the draft [Salt Spring Island Land Use Bylaw No. 355](#) (LUB) amendment.

2. *That the Salt Spring Island Local Trust Committee request staff refer Proposed Bylaw No. 525 to agencies, organizations and First Nations, as identified in this staff report dated October 28, 2021.*

Subsequent to first reading, staff recommend referral of the draft LUB amendment to various agencies, organizations and first nations including the Advisory Planning Commission. Once the referral period has concluded staff will have the opportunity to collate the responses for consideration by the SS LTC.

ALTERNATIVES

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

1. Amend the Draft Bylaw No. 525

The SS LTC may wish to amend the draft LUB. If selecting this alternative, the SS LTC should describe the specific amendment. Recommended wording for resolution:

That Salt Spring Island Local Trust Committee amend Bylaw No. 525, cited as "Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2021", by [list amendments...] (SS-RZ-2020.1, 1351 Mountain Road).

That Salt Spring Island Local Trust Committee Bylaw No. 525, cited as "Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2021", be read a first time, as amended (SS-RZ-2020.1, 1351 Mountain Road).

2. Request further information

The SS LTC may request further information prior to making a decision. Staff advise that the implications of this alternative are increased processing time and potentially increased costs to the applicant. If selecting this alternative, the SS LTC should describe the specific information needed and the rationale for this request. Recommended wording for resolution:

That the Salt Spring Island Local Trust Committee request that the applicant submit to the Islands Trust a [specify type of report], completed by a Professional [specify professional] which identifies the specific [identify concerns] (SS-RZ-2020.1, 1351 Mountain Road).

3. Proceed no further

The SS LTC may decide to proceed no further with the application. Staff advise that the implication of this alternative is that the file would be closed and Bylaw Compliance and Enforcement will be informed of the outcome. If this alternative is selected, the SS LTC should state the reasons for denial. Recommended wording for resolution:

That the Salt Spring Island Local Trust Committee deny application SS-RZ-2020.1 (1351 Mountain Road) for the following reasons: [list reasons...].

NEXT STEPS

If the recommended resolutions are accepted, the draft bylaws will be given first reading and sent to agencies, organizations and First Nations. The application will return to the SS LTC for their consideration once the referral period has concluded.

Submitted By:	Kristine Mayes, Planner 1	October 28, 2021
Concurrence:	Stefan Cermak, Regional Planning Manager	October 28, 2021

APPENDICES

1. Draft Bylaw No. 525
2. OCP Policies

DRAFT

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 3, Sections 3 and 4, Range 4 East, North Salt Spring Island, Cowichan District, Plan VIP54776 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 DAY OF 20_____

READ A SECOND TIME THIS DAY OF 20_____

PUBLIC HEARING HELD THIS DAY OF 20_____

READ A THIRD TIME THIS DAY OF 20_____

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

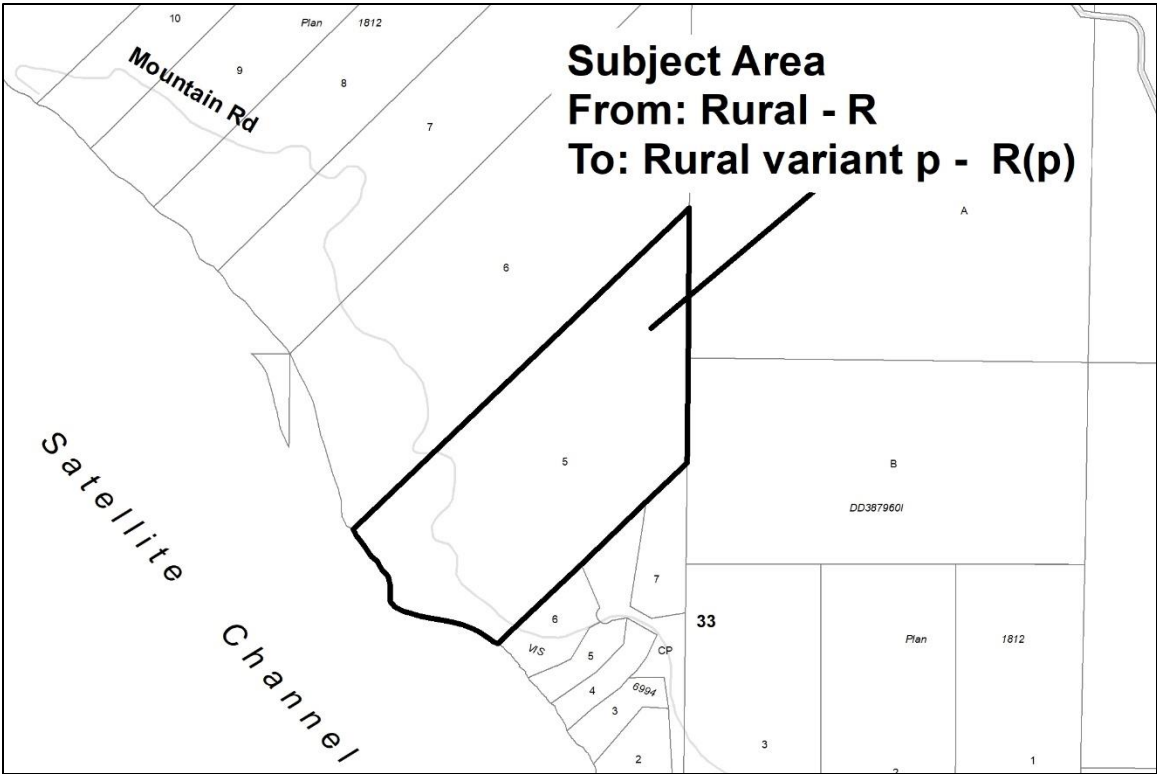
_____ DAY OF 20_____

ADOPTED THIS DAY OF 20_____

Chair

Secretary

Plan No. 1



ATTACHMENT NO. 2 – OCP POLICIES

ISLANDS TRUST POLICY STATEMENT

To be reviewed following First Reading.

SALT SPRING ISLAND OFFICIAL COMMUNITY PLAN No. 434

OCP Objective/Policy	Complies	Planner Comments
Objective A.4.1.5 - To identify and protect important components of our island's heritage, including archaeological and First Nations cultural sites, whether they are reminders of past or present lifestyles.	yes	The applicant has submitted an Archaeological Overview Assessment dated August 19, 2019 by Madrone Environmental Services Ltd. which identifies archaeological site DeRv-4 and outlines the responsibility of the applicant if any works are proposed within its revised boundaries.
Objective A.4.3.4 - To accommodate and direct appropriate development so that its location, appearance and impact are in harmony with the natural environment, community resources, character and existing land uses. To ensure that clustered settlements are well designed so that they become and remain acceptable and compatible with existing development.	yes	
Objective A.5.1.3 - To identify and encourage protection of those parts of the island that are especially sensitive to development, including those Environmentally Sensitive Areas shown on Maps 9 through 12.	yes	The subject property is identified within the following OCP maps: <ul style="list-style-type: none"> • Map 9b - Areas of High Biodiversity (second growth forest) • Map 10 - Environmentally Sensitive Habitat (clam beds) The amended application seeks to make lawful an existing boathouse – no development is proposed.
Objective A.6.1.1 - To consider the impacts of climate change as a central factor in land use decision-making.	maybe	The remote location of the subject property and its accessibility by vehicle or boat would potentially increase fossil fuel consumption.
Objective A.7.1 - To identify and guide development away from areas known to have natural hazards, such as unstable slopes, highly erodible soils, wildfire, or the potential for flooding.	yes	The applicant has submitted a Geotechnical Assessment Report dated July 5, 2019 conducted by Ryzuk Geotechnical.
Objective A.7.1.3 - To support efforts to educate residents and to coordinate emergency preparedness	yes	The applicant noted in their application that the subject property has been designated an evacuation station for nearby residents. It should be noted that there is no established formalization of this designation.
Objective A.7.2.4 - The Local Trust Committee should not approve applications for rezoning that would increase development in areas with natural hazards.	yes	The applicant has submitted a Geotechnical Assessment Report dated July 5, 2019 conducted by Ryzuk Geotechnical.
Objective A.8.1.1 - To encourage protection of the island's archaeological sites and other sites of significance to First Nations peoples, <i>Background Note: Archaeological sites are protected through designation as Provincial heritage sites or through automatic protection by virtue of being of particular historic or archaeological value. Protected archaeological sites may not be destroyed, excavated, or altered without a permit issued by the Minister (or designate) responsible for the Heritage Conservation Act. The Act is binding on government and, in matters of heritage conservation, it takes precedence over other legislation.</i>	yes	The applicant has submitted an Archaeological Overview Assessment dated August 19, 2019 by Madrone Environmental Services Ltd., which identifies archaeological site DeRv-4 and outlines the responsibility of the applicant if any works are proposed within its revised boundaries.

Policy A.8.2.9 - When it considers rezoning applications that concern land with a known heritage feature, archaeological site, or other First Nations cultural site, the Local Trust Committee should ensure that the heritage features would not be damaged as the result of a zoning change.	yes	The applicant has submitted an Archaeological Overview Assessment dated August 19, 2019 by Madrone Environmental Services Ltd. which identifies archaeological site DeRv-4 and outlines the responsibility of the applicant if any works are proposed within its revised boundaries. The boathouse is an existing structure.
Policy A.8.2.12 - All development applications shall be reviewed for the presence of known and recorded archaeological sites, and for having significant potential to contain unrecorded archaeological sites in cases where archaeological potential mapping is available. Applicants will be notified if the application is within a known, protected archaeological site, or an area with significant potential to contain an unrecorded, protected archaeological site in cases where archaeological potential mapping is available. Notification may include direction to engage a professional consulting archaeologist to determine if an archaeological impact assessment is necessary to manage development related impacts. Applicants should modify or revise proposed development plans to avoid archaeological site impacts as the best means of preserving archaeological resources. Alteration of a protected archaeological site requires a Provincial Heritage Alteration Permit prior to land altering activities. The Local Trust Committee will avoid making zoning changes that would result in significant disturbance to an archaeological site. Should there be unavoidable conflicts with significant archaeological sites or trails, rezoning should not proceed unless measures are required to manage the impacts.	yes	The applicant has submitted an Archaeological Overview Assessment dated August 19, 2019 by Madrone Environmental Services Ltd. which identifies archaeological site DeRv-4 and outlines the responsibility of the applicant if any works are proposed within its revised boundaries. The boathouse is an existing structure.
Objective B.2.3.1 - To encourage future development to locate away from environmentally sensitive areas, agricultural and forestry lands, community water supply watersheds, lands with the potential for surface erosion or slope instability, public lands, tidal waterfront, areas with outstanding natural beauty and views, or archaeological and historic sites. To ensure buffers are retained on settlement lands where they adjoin agricultural lands.	yes	The applicant has submitted a Geotechnical Assessment Report dated July 5, 2019 conducted by Ryzuk Geotechnical.
Policy B.8.2.2.2 - Zones within the Uplands Designation will continue to allow the low and very low density residential development and the other land uses that are allowed by existing zoning	yes	
Policy B.8.2.2.5 - The minimum size of lots and the minimum average size of lots that can be created by subdivision in this Designation will remain the same as indicated by current bylaws. The minimum average size of lots should not be less than 8 ha except in areas zoned Rural, where the minimum average size of lots should not be less than 2 ha.	yes	

<p>Policy B.9.6.2.4 - The Local Trust Committee could consider applications to rezone foreshore in this Designation for other uses than those allowed by existing zoning. The Committee should first establish some criteria for evaluating such applications to ensure impacts on the natural environment, other foreshore users, First Nations interests and adjacent property owners are addressed and minimized.</p>	<p>yes</p>	<p>The applicant has submitted an Archaeological Overview Assessment dated August 19, 2019 by Madrone Environmental Services Ltd. which identifies archaeological site DeRv-4 and outlines the responsibility of the applicant if any works are proposed within its revised boundaries.</p>
<p>Policy B.9.6.2.5 - In responding to referrals of applications to use the foreshore in this area, Islands Trust staff should request that the protection of especially sensitive areas be given consideration. In particular, referral responses should not support major new structures:</p> <ol style="list-style-type: none"> in areas where the adjacent foreshore is known to be unstable. in areas frequently used by the public for recreation. in areas known to have a high potential for aquaculture or recreational shellfish harvesting; in areas known to have a high value as fish or wildlife habitat. next to associated islands and islets around Salt Spring Island. in areas known to have heavy marine traffic or marine safety concerns. in areas known to have a First Nations archaeological heritage site or believed to have a high potential for such a site. 	<p>yes</p>	<p>The boathouse is located within 0-10m from the natural boundary of the sea. The application only seeks to make lawful a building that has existed on the subject property for close to 3 decades.</p> <p>This objective is encompassed in the 2 Development Permit Areas (DPAs) on the subject property – DPA 3 (Shoreline) & DPA 6 (Unstable Slopes and Soil Erosion Hazards).</p> <p>The shoreline does contain unstable adjacent foreshore as noted in the supplied Geotechnical Report (a); clam beds (b) and an archeological site (f)</p> <p>The subject property is identified within the following OCP maps:</p> <ul style="list-style-type: none"> Map 9b - Areas of High Biodiversity (second growth forest) Map 10 - Environmentally Sensitive Habitat (clam beds)