



**SALT SPRING ISLAND  
LOCAL TRUST COMMITTEE  
AGENDA**

**REGULAR BUSINESS MEETING  
Thursday, February 2, 2012 – 9:30 am  
Lion's Club, Hart Bradley Hall - 103 Bonnet Avenue**

**LATE ITEMS**

**AMENDMENTS/ADDITIONS  
TO ITEMS:**

- 9.2                    SS-DVP-2011.5 – Jordan Cook & Assoc. – Variances to LUB 355  
                              – *Supplemental Staff Report*
- 13.3                    L. Adams – Supplementary Correspondence - Email dated  
                              Jan 31, 2012 – Response to N. Schlenker concerning LTC  
                              2011 Contracts – *Received for Information*
- 13.9                    Dr. Varzeliotis – Supplementary Correspondence - Email  
                              dated Jan 30, 2012 – Riparian Area Regulation Mapping  
                              Bids – *Received for Information*



# STAFF REPORT

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**LATE ITEM** February 2, 2012

**File No.:** SS-DVP-2011.5

**To:** Salt Spring Island Local Trust Committee  
For Local Trust Committee meeting of February 2, 2012

**From:** Chris Hall & Bev Suderman  
Island Planning Services Consortium

**cc:** Richard Cook, Jorden Cook Associates  
Ray Heung, Tristar Properties

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**Re: Application for a Development Variance Permit (SS-DVP-2011.5)**

**Location:** Lot A, Sections 4 and 5, Range 2 East, North Salt Spring Island, Cowichan District Plan, EPP 13068; PID 028-671-171

**Owner:** Brinkworthy Properties Ltd.

**Applicant:** Jorden Cook Associates, Richard Cook

**Civic address:** 135 Brinkworthy Road

Attached please find a new plan for the proposed Brinkworthy Development Variance Permit application. The plan has been revised due to a typographical error resulting from the conversion of municipal address data to the proposed strata subdivision lot numbers. To correct these errors, a revised DVP plan is being brought forward to the LTC.

## RECOMMENDATION:

**THAT** the Salt Spring Island Local Trust Committee **APPROVES** issuance of the Development Variance Permit application SS-DVP-2011.5 for Brinkworthy Properties Ltd., at 135 Brinkworthy Road, in accordance with attached revised Plan No. 1, dated January 25, 2012, which corrects map reference numbers for Lots 13 and 14.

# SALT SPRING ISLAND LOCAL TRUST COMMITTEE DEVELOPMENT VARIANCE PERMIT SS-DVP-2011.5

## PLAN NO. 1

(Note: A large-scale plan is available for viewing at the Islands Trust office,  
and will be issued with the authorized permit)

### Plan No. 1 Brinkworthy Place Development Variance Permit

Map Reference <sup>1</sup>	Lot No.	Front Yard Setback (m)	Variance (m)
[A]	105	1.1	1.4
[B]	007	1.7	0.8
[C]	101	1.2	1.3
[D]	107	0.6	1.9
[E]	108	1.0	1.5
[F]	098	1.2	1.3
[G]	086	1.8	0.7
[H]	124	2.0	0.5

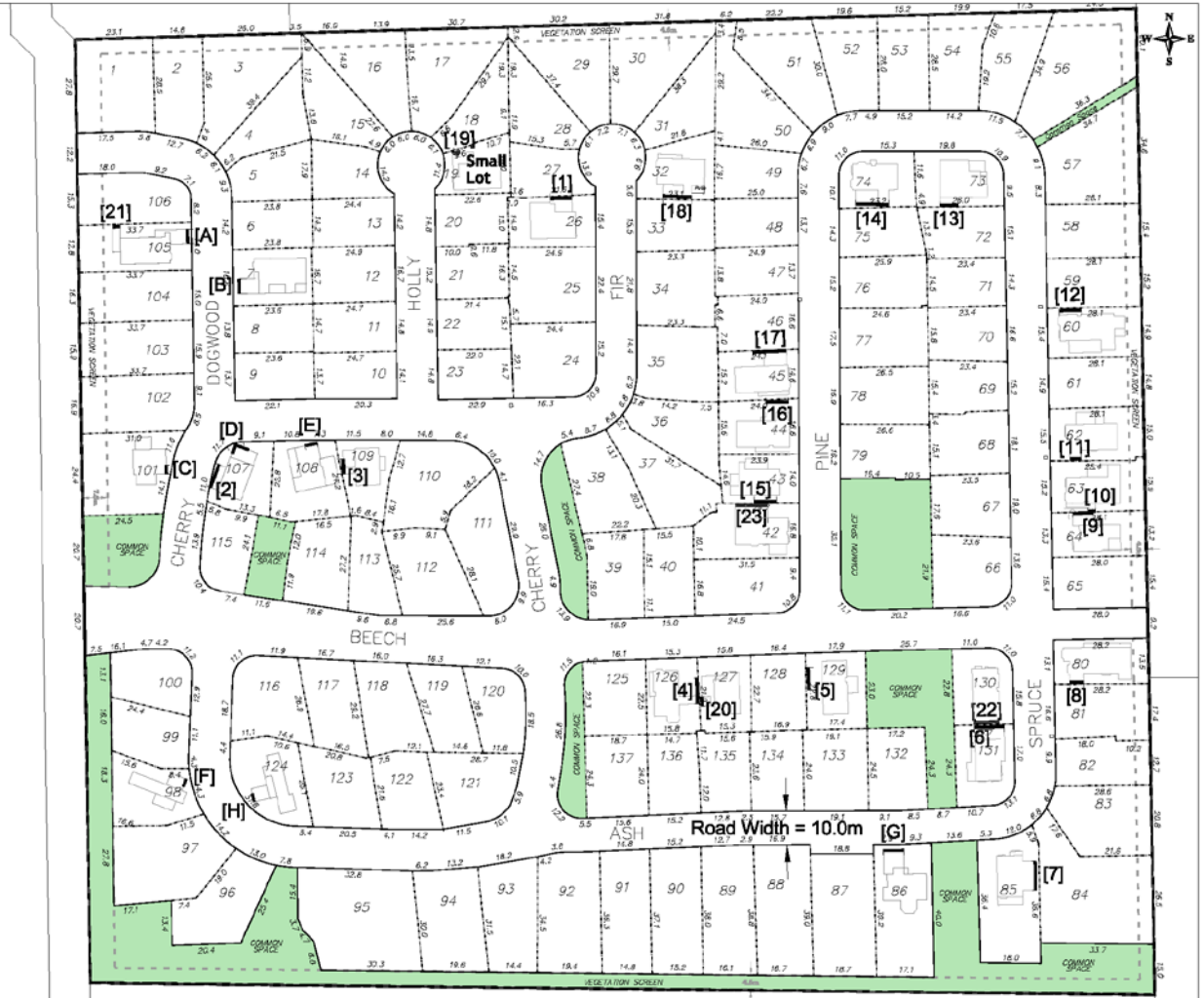
Map Reference <sup>1</sup>	Lot No.	Side Yard Setback (m)	Variance (m)
[01]	026	0.6	0.6
[02]	107	0.3	0.9
[03]	109	0.4	0.8
[04]	126	0.3	0.9
[05]	129	0.7	0.5
[06]	131	0.7	0.5
[07]	085	0.9	0.3
[08]	080	0.7	0.5
[09]	064	0.3	0.9
[10]	063	0.2	1.0
[11]	062	0.6	0.6
[12]	060	0.8	0.4
[13]	073	0.4	0.8
[14]	074	0.8	0.4
[15]	043	0.5	0.7
[16]	044	0.6	0.6
[17]	045	0.4	0.8
[18]	032	0.9	0.3
[19]	019	0.6	0.6
[20]	127	0.8	0.4
[21]	105	0.7	0.5
[22]	130	0.7	0.5
[23]	42	0.5	0.7

Note 1: See Key Plan for approximate location.

Revised Jan 25 2012



Reference: Preliminary Streets Subdivision Plan BRINKSTRATA-PLA.dwg



**From:** [Claire Olivier](#)  
**To:** [Claire Olivier](#)  
**Subject:** FW: for late agenda package  
**Date:** February-01-12 9:09:11 AM

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Late Item 13.3  
Supplemental

**From:** Linda Adams  
**Sent:** January-31-12 4:22 PM  
**To:** Norbert Schlenker  
**Cc:** Leah Hartley; Salt Spring Island Local Trust Committee  
**Subject:** RE: SSI LTC's contracts of last year

Hello, Norbert.

Thank you for your email.

As I understand you have on-going concerns about the actions of the Salt Spring Island Local Trust Committee that I am not able to address to your satisfaction, I would suggest a couple of options:

First, you may wish to consider making a formal complaint about administrative fairness to the Islands Trust Executive Committee. When it receives such complaints, the Executive Committee carefully reviews the complaint in light of relevant legislation and Islands Trust policies and may seek legal advice if necessary. While the Executive Committee does not have the authority to overturn local trust committee decisions, it can and does make recommendations to local trust committees and staff, if it believes this is appropriate in order to address those complaints or improve operations. If you wish to make a formal complaint, you can do so by writing directly to the Islands Trust Executive Committee, care of Marie Smith at [msmith@islandstrust.bc.ca](mailto:msmith@islandstrust.bc.ca). There is further information about the handling of administrative fairness complaints on our website at <http://www.islandstrust.bc.ca/tc/pdf/tcpol7-1-iimar092001.pdf>

Second, if you would like an independent third-party review of your concerns, you could consider making a formal complaint to the Office of the Ombudsperson. Further information about how to make a complaint to the Ombudsperson's Office is available here: <http://www.ombudsman.bc.ca/how-to-make-a-complaint>

I trust that one of these options may be of interest to you.

Regards,

Linda Adams  
Chief Administrative Officer  
Islands Trust  
200 – 1627 Fort Street  
Victoria BC V8R 1H8  
Ph 250.405.5160  
[www.islandstrust.bc.ca](http://www.islandstrust.bc.ca)

*Preserving **Island** communities, culture and environment*



Please consider the environment before printing this email

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**From:** Norbert Schlenker [\[mailto:norbert@libra-investments.com\]](mailto:norbert@libra-investments.com)  
**Sent:** January-26-12 2:04 PM  
**To:** Linda Adams  
**Cc:** Leah Hartley; Salt Spring Island Local Trust Committee  
**Subject:** Re: SSI LTC's contracts of last year

Linda,

Thank you for the very comprehensive exposition. It makes it clear that the Trust, as an organization, is incapable of making its own judgment about what its rules mean and who must follow them under what circumstances. Expediency appears to be the only real rule. I haven't a doubt in the world that you personally and you as representative of the Trust know that the way in which these three resolutions were passed smells to high heaven. Your public stance that this is of no moment to you or the organization you speak for is a message I hear loud and clear.

Though I am undoubtedly wasting my time, I will draw your attention one last time to the actual circumstances of these votes. Without adding any of the three items to the agenda, without publishing (even now, four months later) even a hint of what these monies would be paid for, and without disclosing their dual roles, the Salt Spring Trustees dedicated public funds for the use of private societies which they had themselves formed and on which they continued to serve as directors. Look for yourself at the video Jill Treewater posted of the September LTC meeting at [http://imaginesaltspring.com/video/septLTC/septLTC\\_water\\_funding.html](http://imaginesaltspring.com/video/septLTC/septLTC_water_funding.html). Sheila Malcolmson is clearly uncomfortable with what is happening. Meanwhile George Ehring, the **chair** of the society which receives funding, says two words during the entire process: "second" and "aye". Christine Torgrimson refers throughout to the society, of which she is a founding and continuing director, in the third person. It's over in minutes. \$4000 of public money sent to the society George chairs and he says two words. In October, with similar i.e. no oversight (video at [http://imaginesaltspring.com/video/2011Oct\\_LTC/Oct2011\\_LTC.html](http://imaginesaltspring.com/video/2011Oct_LTC/Oct2011_LTC.html)) another \$8000 is sent to two private organizations of which they are founders and, as far as can be determined, still directors.

I attended a part of the November LTC meeting, at which the subject of whether to spend \$2000 to start RAR mapping was discussed. That discussion lasted 20 minutes, much of it George Ehring arguing how wrong it would be to spend \$2000 of public money on an ill-specified task. It's clear that he's very concerned about wasting public funds. Contrast this with what you can see on the videos as he agreed to spend \$12000 to buttress the balance sheets of societies to which he had an undisclosed fiduciary obligation, and where his total contribution to the discussion in open meeting is six words.

What you're telling me is that the Trust can't itself infer that these resolutions were cooked up prior to the LTC meetings, at board meetings of the societies which both Trustees attended as directors, and thus in violation of open meeting law. What you're telling me is that the Trust doesn't mind if a Trustee hides their association with a third party during a discussion and a vote, even though the Trust strenuously recommends that such things be at least disclosed if not avoided entirely. It's not that the Trust cannot see these things for itself. The Trust has

decided it will not. The Trust will pretend that what any reasonable person would infer happened didn't happen, and that it doesn't have to make its own choice in the matter.

I see you carboned the (new) LTC on your email, so I've left them in the distribution list. I'll hope that they're not as wilfully blind as the Trust itself. Perhaps they will have the courage to revisit the issue by rescinding the resolutions and inviting re-application under the revised procedures you're putting into place now. There is no doubt that the LTC has the legal authority to rescind SSI-166-11, SSI-201-11, and SSI-202-11 and revoke the directions to staff. I humbly suggest, to ensure symmetry, that one of the Trustees add rescission as a late agenda item to next month's meeting. No notice or documentation should be required, per your email below.

Norbert

On 12-01-25 02:56 PM, Linda Adams wrote:

Dear Norbert.

Thanks for your email.

I understand you are questioning why Islands Trust staff would implement resolutions of the Salt Spring Island Local Trust Committee from last fall that allocate funds within its Local Expense Fund for specific goods and services to be provided by community groups. Specifically, you have raised concerns regarding meeting procedures and regarding trustee membership in those community groups.

In general, staff are obliged to carry out the resolutions of elected bodies. For staff to not carry out a resolution of a local trust committee, there would need to be a very solid and defensible rationale, such as a court ruling that a resolution was invalid or legal advice that indicated a resolution was not lawful. I believe you are suggesting that there are such rationales, either flowing from Mr. Justice MacKenzie's Reasons for Judgment, or because you believe the SSILTC contravened Islands Trust policy related to conflict of interest. I've addressed each of these topics below.

I don't believe there is anything in Mr. Justice MacKenzie's Reasons for Judgment that would render the SSILTC's resolutions invalid and he did not make any such ruling. While he suggests that an argument about procedural irregularity 'might' have led to a finding that 'could' result in the September 1 resolution being set aside, he makes no such finding and identifies no specific procedural irregularities. This topic was never argued before the court, and so Mr. Justice MacKenzie heard no arguments on behalf of the trustees or the SSILTC. He had an incomplete picture of the September 1 SSILTC meeting, based on affidavits and a single video clip. Had the topic been argued in court, then specific statutory or other procedural concerns would have had to have been identified. At this point, I am not aware of any that were unfulfilled. Again, if the topic had been raised in court, our counsel might have brought additional evidence and argued, for example, that the resolutions did comply with all requirements of the Local Government Act, the Community Charter, the Islands Trust Act and the SSILTC's Meeting Procedure Bylaw. If it had been raised as a potential issue, he may have argued that the issue of 'Local Expenses and Budget' was in fact on the SSILTC's September 1 agenda. Even if this topic was not on the agenda and had been added by the SSILTC during the meeting, this is a common procedure in local government and there is nothing illegal in it, to the best of my knowledge. Additions of new business are consistent with Roberts Rules of Order as referenced by the SSILTC's Meeting Procedure Bylaw. As far as I am aware, all of relevant statutory provisions were fulfilled in regards to open meetings, notice of agenda items and minute-taking in relation to the SSILTC's meetings. The Reasons for Judgment do not identify any statutory provisions that were not fulfilled.

While staff generally advise against late additions to an agenda, and recommend that some written analysis be provided in advance of complex decisions, it is not uncommon for local government bodies to add discussion items during their meeting, or to make decisions in the absence of written reference materials, particularly if they believe a decision is time-

sensitive. While this may not be an ideal situation in terms of informed decision-making, I am not aware that it violates any statutory requirements. On that basis, I don't believe staff would be justified in refusing to carry out what appear to be valid resolutions of the SSILTC. Having carefully considered the matter and having received legal advice, we believe the resolutions to be valid. If you have other information, I would certainly be willing to consider it.

Please note we are currently looking at procedural changes in regards to the allocation of the expense funds used by local trust committees that are aimed at making the process operate more smoothly. Suggestions you have in this regard would be welcome.

In regards to your concerns about conflict of interest, this matter was thoroughly argued in court and no conflict of interest was identified, particularly since there is an exclusion from conflict of interest where an elected official's interests are in common with those of the community. Mr. Justice MacKenzie had an opportunity to declare that one or more resolutions of the SSILTC were invalid due to a conflict of interest and he did not do so. I don't believe staff could now decide not to carry out the resolutions on that basis.

I would also like to clarify that there is no Islands Trust policy or 'rule' that prohibits local trustees from taking a leadership role in community groups and it is not illegal for them to do this. Nevertheless, it is true that local government staff and legal advisors frequently RECOMMEND that elected officials resign from leadership positions in community groups that may interact with them frequently. I make this recommendation regularly during the trustee orientation sessions we hold after each election. The primary reason for this recommendation is that such an arrangement can be very inconvenient and disruptive, in that a trustee might need to frequently consider whether they have a conflict of interest, obtain legal advice about the topic, and/or they may need to regularly remove themselves from the very decisions that they have been elected to make. As noted during the 'Staying out of Trouble' presentation to trustees in December 2011, having a conflict of interest is not illegal, but they must be handled correctly when they exist. Staff regularly recommend that, having obtained elected office, trustees resign from other leadership roles in their community so they can avoid the potential for conflict of interest, can devote their energies to their elected role and demonstrate their attention to the broad public interest. In addition, there are clearly issues related to public perception and concerns about conflict of interest, even where there is no legal case for it. This is a complex area, as mentioned to Mr. Lemieux, and there are various circumstances that alter general advice and recommendations.

Please note that our normal practice after an election is to provide trustees with a second legal session about conflict of interest and a session with our lawyers is planned for March to provide trustees with further information. Trustees also have access to individual legal advice to assist them in proper conduct if they believe they may have a conflict of interest.

You also asked for an update regarding the SSILTC's resolutions for allocations of funds. At this point, staff have invited proposals for contract work from each of the three community groups that were identified as being able to provide goods or services related to the SSILTC's allocations of funds. They are working to finalize the related contracts and to identify the deliverables that must be received, within the funding limits set by the SSILTC. Once that process is complete, I expect that staff would sign those contracts. If and when the deliverables are received in accordance with the contracts, payment would be authorized by staff. If for some reason, any contract could not be completed in accordance with the SSILTC's resolutions, staff would advise the SSILTC and seek further direction.

I trust this clarifies these aspects for you. Please let me know if you have further concerns.

Linda Adams  
Chief Administrative Officer  
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**From:** [Claire Olivier](#)  
**To:** [Claire Olivier](#)  
**Subject:** Dr. Varzeliotis - January 30, 2012 Correspondence  
**Date:** January-30-12 10:54:24 AM

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Late Item 13.9  
Supplemental

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**From:** Tom V  
**Sent:** January-30-12 9:30 AM  
**To:** Stefan Cermak  
**Cc:** Leah Hartley  
**Subject:** Re: Response to letter dated January 22, 2012

Dear Mr. Cermak.

I am in receipt of your email of "26/01/2012 05:22 PM" by which you convey a copy of the tendering "policy" of the I. Trust and your "response" to my email of January 22. The former is "in bad time", the latter is another incidence of the by now familiar Trust's "barking up the wrong tree".

On the former I say: Normally, bidding for a service is independent of professional qualifications. It is as a taxidermist, a taxi driver or a snake charmer may start and operate a pharmacy, providing that they partner with, or hire, a professional pharmacist to do the dispensing. This said, I do not dispute your facility to choose how to make this purchase of RARography, but I suggest the Trust ought to have informed me accordingly, in response to my letter of August 18, 2011. Worse than that really, at our meeting on October 20, 2011 you told me that the call for RAR mapping bids would be published on the Trust website. It did not happen but you make no mention of it in your subject "response" letter.

On the latter leg of your bifurcated, or trifurcated, "response" you inform that somehow, only "Vancouver Island University" ("VIU") hatched Qualified Environmental Professionals ("QEP") can bid to do RAR mapping. This is generally wrong, and has additional large dimensions of impropriety due to apparent conflict of interest. That is to say, this RAR mapping may stretch wide the boundaries of the market for QEP services and this makes it a determinant of their prosperity. Therefore, it is not theirs to set the parameters of their powers and/or the extent of their domain. The inherent suspicions of willow-pliable objectivity are accentuated by the VIU QEP having managed to establish that RAR mapping is their exclusive domain and having made the Trust compliant, as you declare in your letter. It is like getting wolves to shepherd the lambs or priests to draw the line of separation between Church and State.

Of material interest is your trifurcated medium by which you dispatched the message instead of by the simple and normal method of clicking "Reply" on the email toolbar. This approach disengaged my letter from your reply, obscured the *barking up the wrong tree* and resulted in misleading the people on the RAR, all to the detriment of protecting and preserving our democratic system of governance.

I would have, and I do, interpret your refusal of a straight answer as suggested by Socrates, namely that silence was your best option and would had left it at that, at least for the time being. But in this instance, it is crucial for the society to know what maps the Trust is commissioning. It is crucial because the RAR is important to all of us, and because we have seen the Trust locking that information in their ironclad closet.. And because we have seen the Trust wasting our money on a PProfessional to help them do upon us map-less the RAR and we have seen them "doctoring" MAP 21 to deceive us. And, of course, because *an ounce of prevention is worth a kilogram* of holding-Trust-people-accountable after the fact, after they have created a *fait accompli* mess.

Indeed, the interest in bidding for the RAR mapping I expressed on August 18, 2012, was a desperate attempt to get the Trust to divulge what they were, and are, jealously hiding from the public eye. Half a

year latter we are still kept in ignorance by the Trust. Well, we are entitled to know what you are buying with our money and will try to learn about it, in case we need *nip it at the bud*.

**I will now pose again the simple and plain request for a copy of your "call for bids" document c/w the description of the goods and services the "contractor" is to provide.**

Please email me or fax me the document(s), because the matter is urgent.

Sincerely,

Tom Varzeliotis.

Copies to SSI LTC ; and

Leah Hartley

----- Original Message -----

**From:** [Stefan Cermak](#)

**To:** [Tom V](#)

**Cc:** [Salt Spring Island Local Trust Committee](#) ; [Leah Hartley](#)

**Sent:** Thursday, January 26, 2012 5:22 PM

**Subject:** Response to letter dated January 22, 2012

Dear Dr. Tom Varzeliotis,

Please find a response to your letter dated January 22, 2012 and a copy of the Islands Trust Purchasing Policy (as referenced in the letter) attached.

Best Regards,

Stefan Cermak

Planner 2, Salt Spring Island Team

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