

March 21, 2011

File No.: HO-OCP-2009.2

To: Hornby Island Local Trust Committee
For meeting of March 23, 2011

From: Brodie Porter
Island Planner
Northern Team

CC: Chris Jackson, Regional Planning Manager, Northern Team
Sonja Zupanec, Island Planner

Re: Short Term Vacation Rentals

THE PROPOSAL:

The Hornby Island Local Trust Committee at their February 18, 2011 resolved that staff prepare draft bylaws and/or policy that a) interprets that residential land use includes a level of Short Term Vacation Rental use that is limited by word of mouth and use of social networking sites such as Facebook, is primarily limited to friends and relatives and generally occurs during the summer months, and bylaw enforcement policy is used to enforce the parameters and b) that allows vacation home rentals through a Temporary Use Permit or a rezoning process for those who wish to have Short Term Vacation Rentals that exceed those otherwise permitted, and that staff be requested to provide suggestions of how the Temporary Use Permit can be streamlined and less expensive.

The Local Trust Committee also requested that staff schedule a Community Information Meeting to present draft bylaws for community comment and discussion.

This report addresses those requests.

STAFF COMMENTS:

The Issue

Vacation home rentals or short term vacation rentals (STVRs) have been a feature of privately owned recreational¹ housing and residential housing for a long time on Hornby Island. Owners would often rent their dwellings for short periods of time as a means of covering costs of owning a second recreational home or as a means of supplementing income. In the past, prior to availability of the internet, rental would generally be by word

¹ Recreation housing refers to a dwelling that is not the principal residence of the owner and is generally used seasonally.

of mouth or by small scale advertising such as classified ads in a newspaper. More recently owners have had available to them through the internet a broader and more informative means of conveying the availability of their homes for STVR use. As a consequence there is now a broader spectrum of STVR activities occurring including the following:

- a. Traditional word of mouth arrangements to friends and relatives
- b. Owner advertising in internet venues that may be considered equivalent to the classified ad.
- c. Owner advertising of a more proactive nature – a separate webpage or use of third party web based advertising
- d. Contracted arrangements with third parties regarding all arrangements in renting the STVR
- e. STVR use as a business where there is no residential occupancy by the owner. This may be a corporate or personal ownership of a property and marketing is either handled by the owner or a third party.

Generally the owner continues to use the dwelling for personal use for some part of the year in options “a” thru “d” and option “e” represents a fulltime commercial utilization of the residence.

The issue is that without some level of management or regulation of STVR activity there is no ability to plan for community needs for residential, commercial, community service and other requirements. The purpose of this report is to advance proposals for community discussion that might allow for some management of the various land uses and insure that the principles and broad community objectives of the Hornby Island Community as expressed in the Hornby Island Official Community Plan are upheld while giving recognition to STVR use.

Legislation and Trust Policy

Local governments in British Columbia and local trust committees within the Islands Trust are responsible for development of planning policies through the adoption of official community plans and for the development of land use regulations through the adoption of zoning or land use regulations. These obligations are outlined in the *Local Government Act*.

Specifically an official community plan (OCP) must, amongst other requirements, address the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years; and the approximate location, amount and type of present and proposed commercial land uses.

Local trust committees, must by implication of such legislation, manage such residential and commercial land use and be able to determine how much residential or commercial

land use is available. The challenge with the STVR issue without local trust committee management is that there is uncertainty as to how much land will be used for STVR use, or the extent of STVR use on any one property versus how much land is available for residential purposes.

In addition as reported in a previous staff report dated February 9, 2011, a local trust committee must pursuant to s. 15(4) of the *Islands Trust Act*, insure that any bylaw that is advanced is not contrary or at variance with the trust policy statement. Four key policies were identified in that report which are restated here for reference:

- 4.4.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure:
 - neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater,
 - water quality is maintained, and
 - existing, anticipated and seasonal demands for water are considered and allowed for

- 5.2.3 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.

- 5.2.4 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.

- 5.7.2 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.

- 5.8.6 Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

While the Trust Policy Statement is a statement of policy to carry out the object of the Islands Trust it does, in combination with *Local Government Act* requirements, provide the basis upon which residential, commercial and other land uses must be managed. This provincial legislation provides the basis upon which the Hornby Island Local trust Committee must address planning for residential and commercial land use requirements.

Short Term Vacation Rental Use as part of a Residential Land Use

A residence is a place where one actually lives or has one's home. This can be accomplished by ownership or rental for a sufficient period so as to establish the life or homeplace. In contrast a vacation rental is by nature a temporary occupancy of a shorter term where life or homeplace are not established in any permanent manner. A vacation rental use is therefore not a residential land use. When a dwelling is occupied for purposes of temporary vacation rental, the residential land use is discontinued on the property so as to allow the vacation rental. Provincial legislation requires that the Local Trust Committee develop some management of such land use allocation so as to insure that residential and commercial land use are managed and planned for within the community.

In order to address these provincially legislated obligations the Hornby Island Local Trust Committee has approached the concept of an STVR as part of a residential land use through the development of enforcement policy. The implication of such enforcement policy is not to authorize a vacation rental as part of a residential land use (as such authorization cannot be granted by such enforcement policy) but rather by the management of finite enforcement resources in a transparent manner that gives recognition as to when enforcement actions may be initiated regarding the use of a residence as a vacation rental.

The Local Trust Committee at the February 18, 2011 LTC meeting adopted the following enforcement policy as it relates to short term vacation rentals:

1. That given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities Short Term Vacation Rentals that have one or more of the following characteristics will be subject to enforcement:
 1. They are advertised on the internet (except social networking sites such as Facebook), newspapers or other media;
 2. They are not managed by the property owner or long term renter;
 3. More than one dwelling on a lot is simultaneously made available for Short Term Vacation Rental by the same owner or resident;
 4. While the property is rented persons are permitted to stay in tents, trailers, recreation vehicles, or accessory buildings;
 5. There are issues related to health and safety;
 6. There is a written complaint by an owner or resident of nearby properties about bona fide, serious nuisance issues such as noise or parking congestion related to the Short Term Vacation Rental;

7. The operator of the Short Term Vacation Rental uses more than one property on Hornby Island as a Short Term Vacation Rental
2. That nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the Hornby Island Local Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time.
3. This enforcement policy will come into affect on February 15, 2012 and until that time no enforcement against Short Term Vacation Rentals will take place except for reasons listed in Sections 1.5 and 1.6.

This enforcement policy provides a basis to distinguish between forms of land use that is in many locations characteristic of use associated with residential activity in comparison to a use that may be considered of a more commercial characteristic. The enforcement policy establishes some definition of boundaries of activities that some may perceive as reminiscent of historical traditions of short term rental to friends and relatives through word of mouth communications rather than a more overt advertisement and management that is more comparable to established commercial accommodations such as resorts and hotels. The enforcement policy does not authorize or sanction vacation rental use of a residential property, but the existence of the policy helps inform interested persons as to what might be considered as activity that would not be enforced upon. In order to consider short term vacation use that exhibits more commercial characteristics, land use policy must be used to define means that might enable such uses and provide the necessary protection to allow such use.

Short Term Vacation Rental (STVR) Use as a Permitted Land Use

Based upon representation from some property owners on Hornby Island, there is recognition that there is an established use of land for short term vacation rental use. While such use has never been authorized by zoning regulation, there is a stated desire that there be some means to allow such STVR use on the island. Key issues that have arisen in these representations and in recognition of the responsibilities of the Local Trust Committee as expressed by provincial legislation are:

1. STVR use is established in many locations and has a long tradition on Hornby Island.
2. STVR use contributes to the Island economy and society.
3. STVR use enables some residents to produce an income that enables them to live on Hornby Island.
4. STVR use enables visitors to experience the unique amenities and environment of the Islands Trust area in reflection of the object of the Islands Trust which states:

"The object of the Trust is to preserve and protect the Trust Area and its unique amenities and environment for the benefit of the residents of the Trust Area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia."

5. STVR use may exhibit similar characteristics to residential use, but the difference is that the occupiers of the STVR, because of their shorter term occupancy, offer a different social and cultural impact upon the island. Public services are used in a different manner (e.g. school services are not required) and there is limited ability of the occupiers to become involved in volunteer community activities.
6. The Local Trust Committee must regulate the allocation of residential and commercial land use in response to provincial requirements and on the basis of good planning principles. Uncertainty as to land use management can lead to scenarios that are not envisioned by the community. There is a potential in any community, through lack of regulation, that the values that attract visitors to an island start to diminish as the number of visitors start to increase. Examples of such overuse are found in many resort communities and other agencies (e.g. BC Parks, Parks Canada) are starting to manage park entry as a means to preserve the values that attract visitors in the first place.
7. A value of regulation is that it allows an STVR operator some certainty as to how they can operate their business so that business plans can be developed and investment in the enterprise can be initiated with some degree of certainty.
8. Neighbours have an opportunity to comment on an STVR proposal and have some influence on issues that may not be otherwise recognized in the establishment of an STVR.
9. STVR proponents would like a timely, responsive and inexpensive regulatory system, if one is to be established, to address consideration of approval of STVRs.

Given recognition that some regulatory certainty regarding STVRs must be established, there are two options available under legislation to allow their use – Temporary Use Permits and rezoning. The bulk of the remainder of this report focuses on a process to address STVRs through the use of Temporary Use Permits while the rezoning process is addressed in the discussion regarding proposed amendments to the Official Community Plan.

Temporary Use Permits (TUP)

A TUP is issued by resolution of a local trust committee to allow for a use not permitted by the zoning bylaw. TUP areas must be designated in the Official Community Plan (OCP) or the Land Use Bylaw (LUB) and the bylaw may specify general conditions regarding the issue of the TUP. Such conditions are optional and the conditions imposed upon the issue of the TUP need not be in accordance with those stated in the OCP or LUB. A notification process to neighbours is required in consideration of a TUP and the TUP can authorize the use permitted to the earlier of the time period specified in the TUP and three years from the date of issuance. A notice is registered on title to the land stating that the land is subject to a TUP.

A TUP may be renewed once upon application by the owner, and such application must be considered before the expiration of the original TUP. The TUP can be renewed for an additional three years and upon such renewal the Local Trust Committee can impose additional conditions.

A new TUP for the same use (or a different use) can be applied for after the original TUP and any renewal has expired and such TUP can be repeatedly reconsidered.

i. Application Fees

The LTC requested that this staff report address how a TUP application process can be less expensive. The current Fees Bylaw 132 specifies an application fee of \$1100 for a TUP, a reduced application fee of \$440 for a TUP for a non-profit and a home based business < 3 months per annum, and a TUP renewal fee of \$165. The term "home based business" is not defined in the Fees Bylaw or in the OCP or LUB and can be interpreted in a broad sense to include such proposals as an STVR use on a property zoned for residential use. There is consequently a reduced application fee in place. Some clarity of wording in the fees bylaw may be appropriate to consider though.

Provincial legislation requires that application fees be set in response to the average cost of processing such an application.

It is anticipated that a new TUP application for an STVR use on a property where such an application has not been previously submitted may involve some higher costs due to the initial community consultation process and administrative costs of preparing a new permit. It is suggested that subsequent application costs will be lower as the neighbourhood and community issues are addressed or resolved in the TUP. In order to provide improved clarity of interpretation of such a provision the Local Trust Committee could consider an amendment to Fees Bylaw 132 that provides an application fee of \$440 for a non-profit and for Short term Vacation Rental Use < 3 months per annum or for Short Term Vacation Rental Use > 3 months if applications are submitted in October of each year for consideration by the Local Trust Committee. There are expected economies of scale associated with addressing a group of similar applications at the same time that are expected to equate to the average cost specified in the current fees bylaw for STVRs that are operating for less than 3 months per year. The lower fee would also represent an average cost if subsequent applications were submitted for the same property. A draft Fees bylaw amendment is attached to illustrate the proposed amendments.

If an applicant proposed an STVR for use for more than 3 months per year and did not apply in October of any year, then the full application fee of \$1100 would be charged as there are no economies of scale associated with processing the application.

ii. Application Process

The process for consideration of a TUP application includes receipt of an application from the owner of a property; the preparation of a draft TUP and staff report by planning staff; and the notification of owners and tenants of that part of

the area of the land that is subject of the application and to any owners and tenants within 100 metres of that part of the land that is subject to the application. by mail or otherwise delivered at least 10 days before adoption of a resolution to issue the TUP. The LTC will then meet and resolve whether to issue the TUP. The LTC can consider representations that it chooses to receive in relation to the application, whether in writing or by verbal presentation at an LTC meeting.

There are three proposed options available for application for a TUP:

1. Application for a TUP for an STVR where the STVR use will be for a period of less than three months per annum. This application may be submitted at any time and will be processed as resources allow in a manner similar to existing TUP applications.
2. Application for a TUP for an STVR without restriction on time frame of use per year, unless the applicant chooses to propose a restricted timeline, provided the application is submitted during the month of October of any year. In this situation the LTC would be asked to focus sufficient staff resources to process such TUP applications in a timely manner so as to insure that a decision regarding the TUP is available to the applicant by January 31 of the following year. The LTC may wish to consider incorporating added LTC meetings, if necessary, to accommodate consideration of such applications.
It is important to note that an LTC cannot fetter a future LTC to accommodate the allocation of such staff or meeting resources. Note that the adopted enforcement policy allows until February 15 2012 for these procedures to be refined. Secondly Islands Trust Enforcement Policy generally does not allocate enforcement resources if an applicant is actively involved in an application process to resolve a situation. Receipt of a TUP application may defer enforcement activity even if the LTC does not resolve consideration of the application by January 31 of any year following receipt of a TUP application.
3. Application for a TUP for an STVR for more than three months that is not submitted in October of any year. This application would be subject to payment of a full fee of \$1100 as there are no economies of scale achieved in the consideration of such applications. The application would be considered as available resources allow.

iii Documentation to Facilitate Application Process

Some added steps to facilitate timely consideration of a Temporary Use Permit for STVR use can include the following:

1. Definition of information requirements in TUP Application specific to a TUP proposal.

There is an established TUP application form and guide that is found on the Islands Trust website that asks an applicant to provide a variety of information in support of their application. Depending upon the type of guidelines that the LTC finally adopts, an additional application schedule could be developed that outlines specific information that would be useful to the consideration of STVRs. Examples of additional information that could be requested includes:

- Requests for a water supply plan and water conservation measures that would be proposed together with well assessments that illustrate that ongoing water supply can be achieved;
 - Request a professional assessment of the septic tank to show that it is working properly and is capable of supporting the proposed occupancy.
 - Request a professional assessment that the building and plumbing fixtures comply with BC Building Code requirements
 - A copy of all information that will be provided to guests regarding the location of property lines by way of a map, any applicable noise bylaws, measures to address water conservation, fire safety, storage and management of garbage, septic system care and control of pets (if pets are permitted) in accordance with standards applicable by bylaw, as stated in the permit or as determined by the owner or manager to effectively manage the site;
 - Scaled plans of the property showing a) location of the dwelling unit and accessory buildings and structures with setback distances from property lines; and b) the location of parking spaces provided for the vacation rental use;
 - Name and address and telephone/email information of contact persons who will be available 24 hours per day to respond to any concerns;
 - Proposed maximum number of occupants;
 - Proposed time periods that dwelling will be available for rental or months of the year when the rental will occur.
2. A template TUP that may be used for purposes of allowing an STVR.
3. Notice templates for use in notification of neighbouring property owners and tenants.

OCP Amendments

The proposal is to introduce additional amendments to the draft Official Community Plan to enable consideration of rezoning and temporary use permits for short term vacation rentals. The following is an inventory of the proposed changes to the earlier draft OCP:

Changes are noted in a track changes format that is identified in red on electronic versions of this report and is underlined and marked with a vertical line on the left margin on printed copies.

1. Addition of Background in s. 1.6 as follows:

1.6 Socio-economics of Hornby Island

A permanent population of 1075 persons in 2006 represents an 11.2% population increase or double the provincial increase since 2001. The population is generally aging with increases in numbers of persons age 45 and older and a drop in persons aged 44 and younger. Seventy-eight per cent (78%) of the family units are persons without children at home representing the higher concentration of older couples who choose to retire on Hornby Island. The population is characterized by lower than average incomes and higher than average education. If trends continue, the challenges of ensuring housing affordability and safety, mobility and security will increase and efforts to provide for supportive services will be of concern.

The economy follows a seasonal cycle and is highly dependent on a population of visitors that is estimated to quadruple the island population in summer months. There are an estimated 100 businesses on Hornby Island, of which about 80% operate as home based businesses. Tourism is the major economic driver manifested in the range of accommodations, services, arts and crafts, performing arts and alternative health experiences that are available. There has also been a history of homeowners renting their homes to others for short periods of time (referred to as short term vacation rentals or STVRs) as a means of creating an income or to offset some home ownership costs. In recent times with the internet and other broad based communications, there has been a potential for increased numbers of STVRs. The construction industry, some public service positions and an increasing number of caregivers rounds out an integrated economy.

A recently published (March, 2010) Hornby Island Community Profile provides more detailed information.

2. Policy 6.5.2.7 under “Visitor Accommodations and Tourism

6.5.2.7 Visitor accommodation may be considered in the following situations if enabled by other policies of this Plan:

- a) Small resorts, hostels, lodges, cabins and camping facilities, guest houses or short term (less than one month) vacation rentals on non-Agricultural Land Reserve land where allowed by using site specific zoning or through temporary use permit.
- b) Agri-tourism accommodation on Agricultural Land Reserve Land in accordance with Agricultural Land Reserve policy and regulations if zoning allows such a use; and
- c) Visitor accommodation authorized by a temporary use permits, in accordance with guidelines of the permit, to allow for a period of assessment of a new use involving minimal new infrastructure (such as a small-scale campground).

3. Section 6.5.3 “Vacation Home Rental” is amended as noted below:

6.5.3 Vacation Home Rental

Background

Given the island's increasing popularity as a summer destination, there has been increasing demand for visitor accommodation. Aside from the commercial visitor accommodation facilities and bed and breakfast home occupations, there has been a tradition of some home owners renting their cottages or homes for short periods of time predominantly during the summer.

Property owners benefit from the opportunity to raise funds whether to assist with property costs, while retaining their residence for its primary residential use for most of the year or as means to provide an income. Visitors benefit from a range of accommodation options to experience the Island's environment and amenities. The community benefits from the economic inputs from these visitors.

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At first, homes were generally rented to friends, acquaintances and relatives through “word of mouth” contact. This direct contact established a relationship between owner and visitor that provided connectivity to, and respect for, the property, the neighbourhood, the community and the environment.

The availability of Internet advertising and the establishment of property management companies corresponded with an increase in the number of homes available for vacation rental and a transformation of many rental situations into a more commercial practice that does not always involve such a direct relationship between the property owner and those renting the property or with the neighbourhood or community.

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This change over time in the number and type of vacation rentals has lead to concerns regarding the individual and cumulative impacts of an unregulated commercial land use happening in areas zoned for residential use. Some dwellings are advertised for year-round availability as visitor accommodation - some by the night. Some involve levels of potential occupancy much higher than normal household size. This can erode the residential character of neighbourhoods and put pressure on water resources in areas with documented problems.

The previous Plan attempted to address this issue by including a policy suggesting that a vacation rental could be permitted and regulated as a home occupation. However, a home occupation implies that an owner or resident is living in a home on the property while conducting the occupation. Therefore such a policy can only be applied to the limited number of properties that contain two permitted dwellings with the owner occupying one as their home while operating the other as a rental.

For several years prior to the adoption of this Plan, the Local Trust Committee considered potential options for addressing vacation home rentals. The option of permitting vacation rentals on all lots through zoning regulations precludes the ability to address potential impacts of concern and it removes future choices by the community to limit the number of residential properties used for commercial visitor accommodation. The option of addressing all existing and future vacation rentals through issuing Temporary Use Permits or rezoning properties was initially viewed as bureaucratic and not appropriate especially for those vacation rentals carried out on a modest scale.

The challenge is that provincial legislation and good planning practice requires that an official community plan address residential development requirements, as well as commercial requirements to meet future needs. Consequently a bylaw cannot allow use of residential lands for non residential purposes, such as vacation rental use unless there is sufficient residential land exclusively devoted for residential use to meet community needs. Furthermore the Trust Policy Statement, supported again by good planning practice, requires that Local Trust Committees address a variety of factors that relate to social impact, community character and needs for community services. Development of land use policy and regulation that can address the values that vacation home rentals can offer Hornby Island while addressing other community values and Trust Policy requirements then becomes significant in the future planning of Hornby Island.

In an effort to address vacation rentals recent efforts have included the adoption of an enforcement policy, not to authorize a vacation rental as part of a residential land use (as such authorization cannot be granted by the definition of such uses) but rather by the management of finite enforcement resources in a transparent manner that gives recognition as to when enforcement actions may be initiated regarding the use of a residence as a vacation rental. This enforcement policy would not prevent a vacation rental from occurring on a property provided the use did not exceed thresholds defined in the policy. If such thresholds were exceeded an applicant would have to cease the use or seek approval by approval of a temporary use permit or by rezoning.

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Area:

The areas identified on Schedule B (Map Designations) are subject to the following objectives and policies.

Objectives:

The objectives of this subsection are:

- 1) to recognize that there has been a long history of short term vacation home rental on Hornby Island without authorization by land use bylaw;
- 2) to ensure that the residential use of property and its residential character is retained where it is the permitted and established use;
- 3) to enable some traditional practice of vacation home rentals;
- 4) to address potential impacts of vacation home rentals if such uses are authorized; and

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- 5) to support future evaluation of vacation home rental policies, recognizing that such uses are a significant and challenging issue for the Hornby Island community.

Policies:

6.5.3.1 Provision of paid accommodation for visitors to Hornby Island through the short term rental of residences is supported provided that some management of the community and neighbourhood residential needs and other land use needs of Hornby Island can be addressed. Issues to consider in permitting vacation rentals includes minimizing nuisance impacts such as noise and parking congestion on the local neighbourhood; the retention of the residential character of that neighbourhood; health and safety issues and the application of a principle of welcome without commercial promotion.

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6.5.3.2 Provision of a residence for short term vacation rental beyond thresholds of residential land use, such as when commercial approaches are used in the promotion and management of such use, may be permitted through a temporary use permit or rezoning. Examples of additional issues to consider in such processes are water supply and sewage treatment capability; traffic management and environmental management as well as the benefits that such accommodation may provide to the community at large.

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6.5.3.3 The rental of a residence for a term of one month or more should be considered a residential use of land while a rental of less than one month is a short term vacation home rental or vacation rental.

¶
a) amendment of this Plan:¶
(i) to provide a new land use designation for vacation home rentals, and¶
(ii) development of development permit area guidelines to address form and character of commercial accommodation; protection of the natural environment, its ecosystems and biological diversity; promotion of energy conservation, water conservation and reduction of greenhouse gas emissions for vacation home rentals; and ¶

6.5.3.4 The use of a residence for a vacation home rental may be considered a residential use of a property where there is a second dwelling on the property occupied by the resident of the lot, in which case such a rental may be permitted as a home occupation.

¶
b) consideration of a rezoning application and development permit area application to allow for such use; or¶
¶
c) amendment of section 6.10 (Temporary Use Permits) of this Plan to allow for the vacation home rental use on a temporary basis and allow for future evaluation as to the impacts of the use. A temporary use permit should include conditions to address impacts that are identified in the review of the development proposal.

4. Policy 6.5.4.2 pertaining to the Ford's Cove area is amended to read as follows:

" An increased density of residential development or rezoning or temporary use permit to allow for a guest house or short term vacation rental may be considered if other commercial land uses currently permitted by zoning are removed from the list of permitted uses in the zone applicable to this area or from a particular property that is subject to the rezoning application."

5. Section 6.10 Temporary Use Permits is amended to read as follows:

6.10 Temporary Use Permits

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Background:

Section 921 of the *Local Government Act* provides that temporary uses may be permitted in areas designated in Official Community Plan. Upon application by a property owner the Local Trust Committee can issue a Temporary Use Permit through resolution. The permit can allow a use not permitted by the land use bylaw, the conditions of use and the time period. Temporary Use Permits can be issued for a term up to three years and may be renewed one time only.

Objectives:

The objectives of this subsection are:

- (1) to consider allowing a temporary event as per policy 6.5.1.11;
- (2) to allow for a period of evaluation of new commercial ventures that do not involve significant new development prior to an application for rezoning as per policy 6.5.1.11;
- (3) to allow particular uses for a period of time to enable impacts to be assessed before any further permitting of the use as per policy 6.5.1.11;
- (4) to consider allowing transport of ground water off a lot where the water is extracted as per policy 5.1.4;
- (5) to consider allowing temporary seasonal or emergency accommodations as per policies 6.3.5.17 and 6.3.5.18;
- (6) to consider allowing a temporary secondary suite or detached housing for a relative or caregiver of occupants of the residence as per policy 6.3.5.13 in association with a housing agreement or by such other means as are available to encourage occupancy by a relative or caregiver;
- (7) to consider allowing temporary non agricultural uses on land within the Agricultural Land Reserve or on land used for agriculture where there is minimal negative impact upon the agricultural land values and where applicable approval has been received from the Agricultural Land Commission as per policy 6.4.2.5; and
- (8) to allow light industrial home occupations that require a more rigorous permitting process than provided for under land use regulations for extended home occupations as per policy 6.5.5.9.
- (9) to consider allowing short term vacation rental uses on properties zoned for residential use as per policy 6.5.3.2.

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Guidelines:

- 6.10.1 Upon application, Temporary Use Permits may be considered for all parcels of land within the Hornby Island Local Trust Area, as shown on Schedule B, with the following exclusions:
 - a) properties less than one quarter of a hectare (0.63 acre), other than for applications for short term vacation rentals;
 - b) land designated as PR1 and PR2 (park) and LR/WSPA (Large Lot Residential/ Water Supply Protection Area), as shown on Schedule B; and

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- c) land identified as an ecologically sensitive area, as shown on Sensitive Ecosystem Mapping or Schedule D2.

6.10.2 Temporary Use Permits for parcels within the Agricultural Land Reserve ~~may~~ only be issued for uses that do not conflict with Agricultural Land Commission policies and regulations. Deleted: should

6.10.3 A professional assessment of hydrological impacts may be required when the proposed use is within an identified groundwater recharge area or an aquifer classified as highly developed and if the proposed use involves more than minimal potential impacts upon the groundwater resource.

6.10.4 Where approvals are required from other agencies, these should be obtained prior to the issuing of a Temporary Use Permit.

6.10.5 The general conditions for issuing a Temporary Use Permit are as follows:

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- a) adequate off-road parking should be provided;
- b) there should be adequate provision for approved waste disposal before consideration is given by the Local Trust Committee;
- c) commercial uses (other than very short term or short term vacation rentals) should be screened from adjacent residential uses;
- d) industrial uses should be screened from adjacent properties and roads;
- e) there should be adequate setbacks of the use to minimize impacts upon adjacent properties;
- f) noise generation should be addressed to prevent disturbance of the neighbourhood and to ensure compliance with regional district regulations;
- g) the use should be conducted so as to not risk contamination of the land, surface water or groundwater, including by making adequate provision for the safe storage of toxic materials;
- h) water supply should be addressed so as to not create negative impacts upon existing common water sources;
- i) other potential impacts upon the neighbourhood should be mitigated, including by limitations upon the hours of operation where appropriate;
- j) the owner of the property may be required to provide a security to guarantee the performance of the terms of the permit and should be required to provide an undertaking to demolish or remove any building or structure and to restore the land to a condition specified in the permit, especially in circumstances where temporary housing is provided and such housing is no longer used for such temporary purposes; and
- k) lands with good agricultural potential should not be compromised by any use permitted by a Temporary Use Permit.

6.10.6 Applicants for Temporary Use Permits should address the issues identified in these policies in their applications and are strongly encouraged to consult with neighbours about the proposed use prior to making application.

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6.10.7 Light Industrial activities which require specific consideration of impacts with respect to environmental protection, water use, waste generation, noise, odour, parking, or neighbourhood character, may be allowed upon application for a Temporary Use Permit that will contain specific conditions to address these impacts.

6.10.8 The Local Trust Committee should consider the climate change impacts of any significant change in reviewing temporary use permit applications.

6.10.9 In consideration of applications for short term vacation rentals the following should also be considered:

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a) the cumulative effects, both positive and negative, on the neighbourhood and island of all temporary use permits issued for short term vacation rentals;

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b) mitigating measures such as screening or fencing to address potential impacts or to address neighbour privacy issues;

c) requirements for the owner to provide neighbours within a distance specified in the permit with the manager's or owners contact information and a copy of the temporary use permit;

d) the permit should require that the owner or manager be accessible 24 hours/day, 7 days per week by telephone;

e) the permit should require that the owner or manager posts for guests information about the location of property lines by way of a map, any applicable noise bylaws and measures to address water conservation, fire safety, storage and management of garbage, septic system care and control of pets (if pets are permitted) in accordance with standards applicable by bylaw, as stated in the permit or as determined by the owner or manager to effectively manage the site;

f) restrictions on the number or people that can stay to a maximum of two guests per bedroom;

g) limitations on any signage that may be placed on the property;

h) prohibition of any use of recreational vehicles or camping on the property or any use of accessory buildings for vacation rental occupancy;

i) requirements that confirmation be provided from a qualified person that the building meets BC Building Code requirements;

j) the permit may request that the owner or manager post information for guests about awareness and sensitivity of the history of the K'omoks First Nation on Hornby Island; and

j) other requirements that the Local Trust Committee may consider appropriate.

RECOMMENDATIONS:

That the Hornby Island Local Trust Committee advances the information outlined in the staff report dated March 21, 2011 related to the fees bylaw amendment and processes and proposed amendments to the draft Hornby Island Official Community Plan labeled "Draft for Comment April 2011" as it relates to policies and temporary use permit guidelines to community information meetings for the public review and discussion

Prepared and Submitted by:

Brodie Porter

March 21, 2011

Brodie Porter

Date

Attachments: Draft Fees Bylaw Amendment

DRAFT

Hornby Island Local Trust Committee

BYLAW NO. XXX

A BYLAW TO AMEND THE HORNBY ISLAND LOCAL TRUST COMMITTEE FEES BYLAW

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

1. Bylaw No 132, cited as "Hornby Island Local Trust Committee Fees Bylaw, 2007" is amended as shown on Schedule 1.
2. This bylaw may be cited as "Hornby Island Local Trust Committee Fees Bylaw, 2007, Amendment No. 1, 2011"

READ A FIRST TIME THIS	DAY OF	20 xx
READ A SECOND TIME THIS	DAY OF	20 xx
READ A THIRD TIME THIS	DAY OF	20 xx
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS		
	DAY OF	20 xx
ADOPTED THIS	DAY OF	20 XX

SECRETARY

CHAIRPERSON

Hornby Island Local Trust Committee

Bylaw No. XXX

Schedule 1

1. The Hornby Island Fees Bylaw No. 132 cited as the "Hornby Island Local Trust Committee Fees Bylaw, 2007 " is amended by:
 - a. Amending TABLE 2, Column 1, Number 9 by deleting "Temporary Use Permit, non-profit & home based business<3 months per annum" and replacing it with "Temporary Use Permit for a non-profit, for a short term vacation rental use of less than 3 months per annum and for a short term vacation rental use of more than 3 months per annum when the application is submitted in October of any year."