



**MAYNE ISLAND LOCAL TRUST COMMITTEE
SPECIAL MEETING AGENDA**

**1:00 P.M., THURSDAY, AUGUST 12, 2010
MAYNE ISLAND COMMUNITY CENTRE
493 FELIX JACK ROAD, MAYNE ISLAND**

Page No.

- 1. CALL TO ORDER**
- 2. PUBLIC COMMENTS AND QUESTIONS ON
MA-TUP-2010.1 (McDougall)**
- 3. DELEGATIONS**
- 4. MA-TUP-2010.1 (McDougall)**
 - a. Staff Report dated May 28, 2010 (attached) 1**
 - b. Supplemental Staff Report dated July 30, 2010 (attached) 25**
 - c. Correspondence received –see separate binder**
- 5. AJOURNMENT**



STAFF REPORT

Date: May 28, 2010

File No.: MA-TUP-2010.1
MA-RZ-2010.2

To: Mayne Island Local Trust Committee

From: Kaitlin Kazmierowski
Planner 1
Islands Trust

CC: Robert Kojima, Senior Planner
David Marlor, Regional Planning Manager

Re: **Application for Temporary Commercial Use Permit
Application for Rezoning (preliminary report)**

Owner: Don and Shanti McDougall

Applicant: Same as above

Location: Lot 2, Section 8, Mayne Island, Cowichan District, Plan 17070,
PID: 001 864 653

Final Report

THE PROPOSAL:

The owners are applying for a Temporary Use Permit (TUP) for the retail sale of food items produced on their farm, produced on other island farms, as well as food items from other local, regional and sustainable sources, as space permits. The proposal seeks to use the interior of an existing 102.2 m² (1100 sq. ft) structure located at 568 Fernhill Rd. This property is owned by the McDougals and currently zoned C3(a) Service Commercial. In the past the property was used as a machine repair shop, but has not been used in this capacity for several years. The stated intention of the TUP application is to allow the owners to expand their farm gate sales year-round, serve as a retail location for other local and sustainable food producers, create jobs for Mayne islanders and help address the issues of food security and sustainability on Mayne Island.

In addition, the owners have also submitted a rezoning application to change the zoning on the property from C3(a) to C1 (Settlement Commercial). This report will address the TUP as well as serve as a preliminary staff report for the rezoning application.

SITE CONTEXT:

The subject property is a 0.348 hectare (0.860 acre) site located next to the Fernhill Centre; a retail centre located roughly halfway between the Miners Bay and Bennett Bay neighbourhoods,

just Northeast of Mount Parke in the centre of Mayne Island. The property is zoned C3(a) which permits the following uses: repair shops, machine shops, accessory buildings, accessory retail sales, and accessory dwelling unit.

A variety of zones exist adjacent to the subject property. The Fernhill Centre is zoned Settlement Commercial (C1) and is located to the East of the property; a large Rural (R) property is located to the south and properties zoned Settlement Residential (SR) exist to the West and North, across Fernhill Rd. The lot directly to the West of the subject property is undeveloped. In addition, the Mayne Island School, Health Centre and Fire hall are located approximately 800 metres west of the property, along Fernhill Rd, towards Miners Bay.

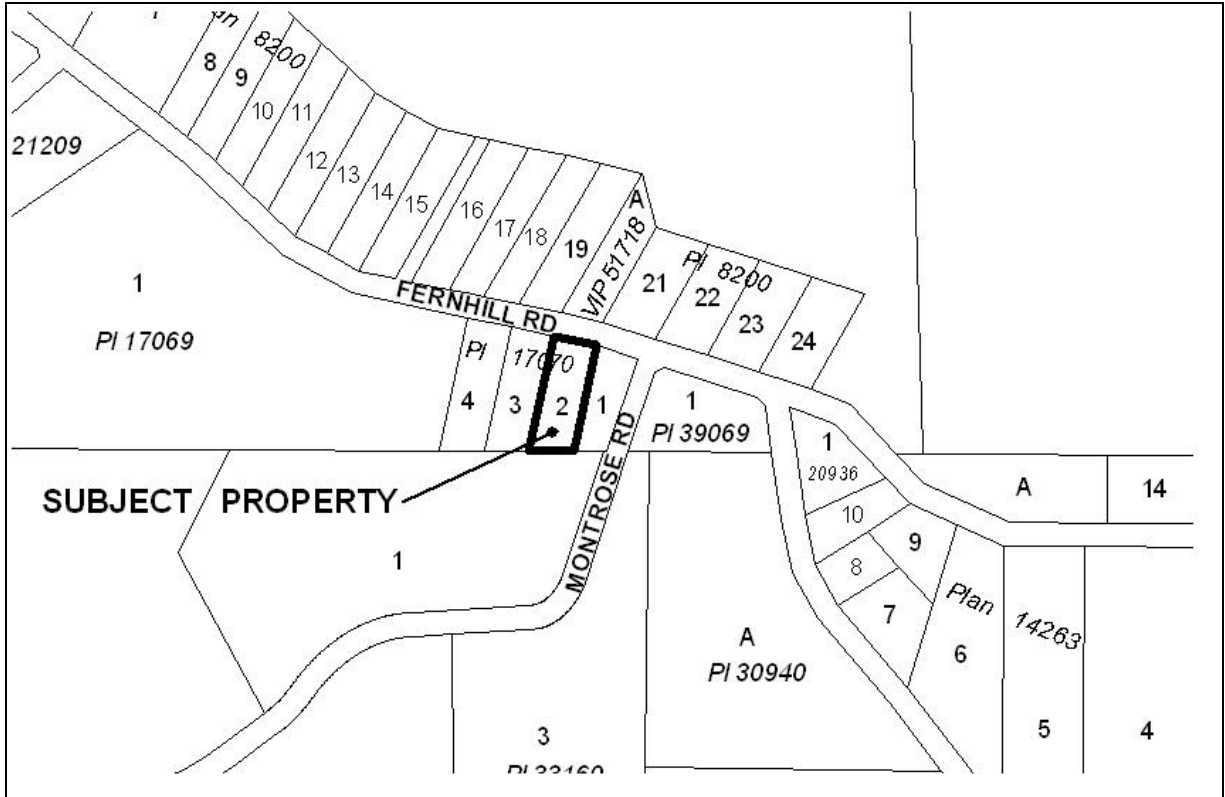


Figure 1: Location of the property

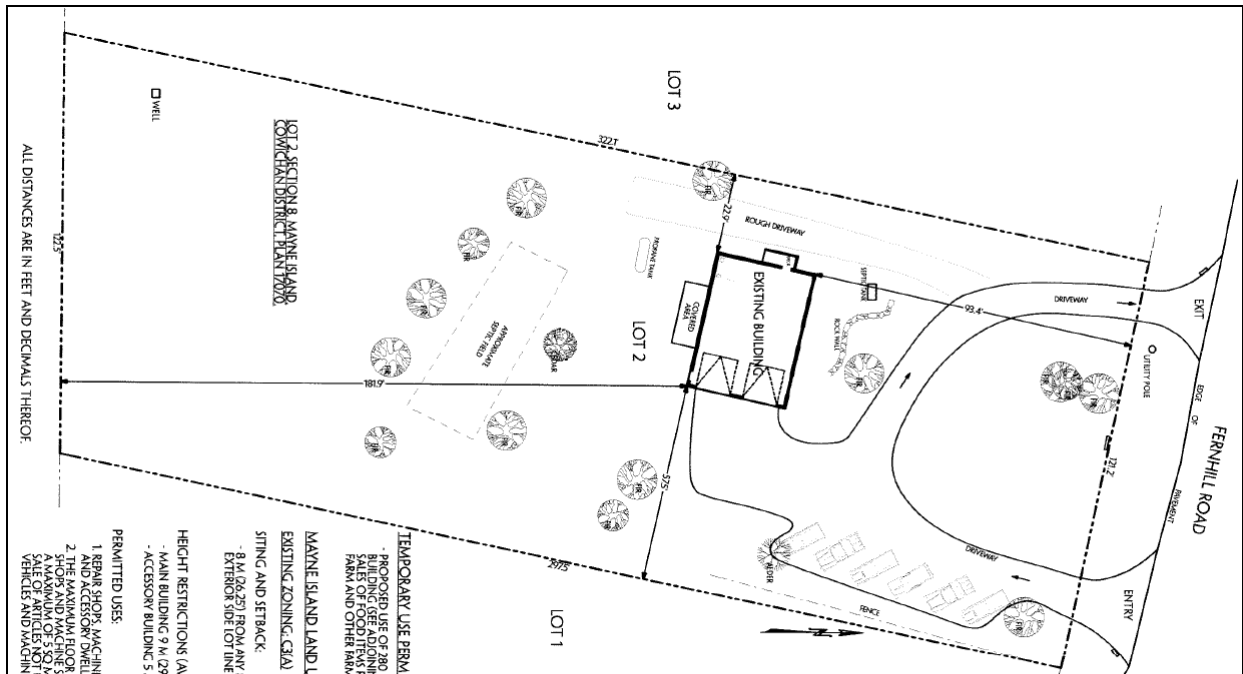


Figure 2: Proposed site plan for the TUP application

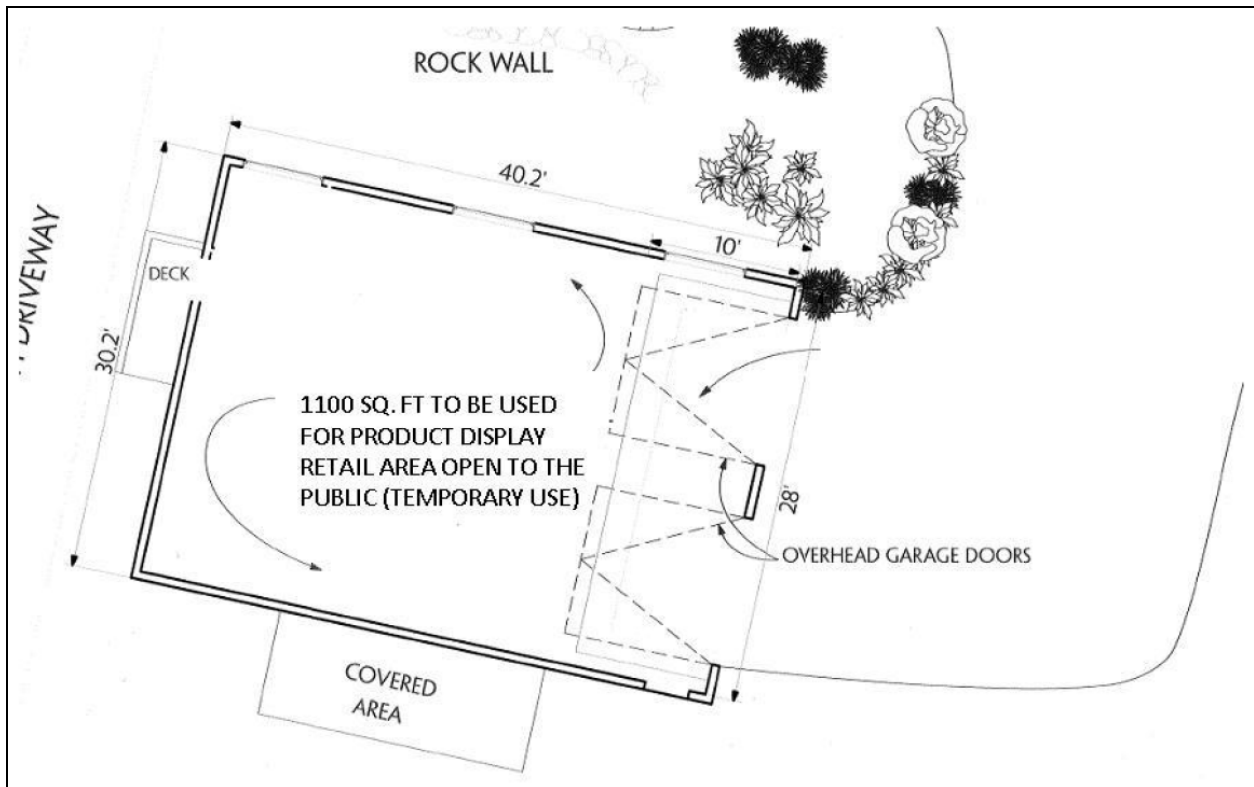


Figure 3: Detail of proposed area to be used for proposed TUP operations

CURRENT PLANNING STATUS OF SUBJECT LANDS:

Official Community Plan

The subject property is designated General Commercial in the Mayne Island Official Community Plan (OCP) No. 144, 2007. Subsection 2.4.1 of the OCP titled "Retail Commercial Background" states, "*Historically, the major focus of centralized commercial activity was concentrated at Miners Bay with a secondary commercial centre at the Junction of Fernhill and Montrose Roads and Fernhill and Whalen Roads.*"

The retail commercial objectives of the OCP include:

1. to supply services necessary to residents and visitors of the Mayne Island Trust Area,
2. to protect the integrity of quiet residential and rural neighbourhoods,
3. to provide employment opportunities within the community,
4. to protect the rural and marine character of the Mayne Island Trust Area, and
5. to ensure the scale, form and character of all new commercial developments harmonize with the natural surroundings.

The relevant general retail commercial policies of the OCP include:

- 2.4.1.1 The principal land use shall be small scale commercial business.
- 2.4.1.2 Retail businesses shall be clustered at Miners Bay with the exception of; Montrose/ Fernhill area, the Building Centre at Whalen/ Fernhill, and the Auto repair at Horton/ Fernhill.
- 2.4.1.3 Service based businesses should be dispersed in the Mayne Islands Trust Area.
- 2.4.1.4 The retail commercial needs of the community should be addressed by small developments within the immediate neighbourhood they serve, for example, small neighbourhood corner stores.
- 2.4.1.5 Strip development of businesses outside the commercial centres shall not be permitted.

Land Use Bylaw

The property is regulated by the site-specific zoning Service Commercial C3(a). The following Articles define the site specific regulations:

- 5.10(13)(1): Despite 5.10(1) the only permitted uses at these locations are repair shops, machine shops, accessory retail sales, and accessory dwelling unit.
- 5.10(13)(2): The maximum floor area of buildings used for repair shops and machine shops is 140 m² (1507 ft²), of which a maximum of 5 m² (54 ft²) may be used for the retail sale of articles not used directly in the repair of vehicles and machines.

The TUP application seeks to temporarily permit a non-permitted land-use within in the current zone via a set of specialized regulatory conditions. The rezoning application seeks to change the C3(a) zoning to a C1 Settlement Commercial zone. This rezoning would greatly increase the permitted uses on the property. A copy of Section 5.8 Settlement Commercial (C1) Zone from the Mayne Island Land Use Bylaw No. 146, 2008 is attached as Schedule 'A' for information.

Islands Trust Fund:

There are no Islands Trust Fund considerations for this application.

Sensitive Ecosystems and Hazard Areas:

The Mayne Island Sensitive Ecosystems Mapping project did not identify any sensitive ecosystems on this property, nor were any hazard areas identified on this property.

Archaeological Sites:

Based on information from the provincial Remote Access to Archaeological Data (RAAD), there are no archaeological sites on this property.

Notwithstanding the foregoing, and by copy of this report, the owners are advised that the unearthing of any archaeological resource should be reported to the Archaeological Branch.

Covenants:

There are no covenants registered on the title of the subject property.

Other:

The owners are currently in the process of applying for a re-zoning of this property from its current zoning of Service Commercial (C3(a)) to Settlement Commercial (C1). This report will present the LTC with options and a recommendation for a TUP as well as deliver preliminary background information as part of the rezoning application.

COMMUNITY INFORMATION MEETING(S):

A community information meeting is not typically recommended for a TUP; however the applicants held a public open house at the property on Monday May 17, 2010. Schedule 'B' attached was included as part of their information materials. The applicants reported that over 150 community members attended the open house over the course of 3 hours.

A community information meeting is part of the rezoning process, and will be held if the rezoning proceeds.

RESULTS OF CIRCULATION:

Up to and including the writing of this report, staff have received 99 public submissions regarding the rezoning application, and two public submissions regarding the TUP application. The vast majority of these (90 letters) have been in support of the applicants' proposal. Submissions have been forwarded to the Trustees as they have been received. Some of the main issues raised from the public submissions included concerns with traffic and parking, concerns with the location of the proposed use and increased competition with other similar uses leading to the closure of existing food retail services and outlets. Submissions also contained strong themes of support for the proposal and cited increased food security, high demand for local foods, appropriate/ convenient location and decreased carbon footprint as common themes. Any additional submissions will be brought forth during the LTC meeting.

ISSUES SUMMARY

THE TUP PROCESS

The Local Trust Committee has the authority to grant Temporary Use Permits through Section 921 of the Local Government Act and Section 29 of the Islands Trust Act. Section 2.9 of the Mayne Island Official Community Plan outlines the purpose and permitted uses associated with the granting of Temporary Commercial and Industrial Use Permits. The Mayne Island LTC may issue TUPs for all areas covered in the OCP except areas in the ALR or Resource Conservation designation.

Subsection 2.9.1 of the Mayne Island OCP states that TUPs may be issued for short term uses; or as a test of the compatibility of the proposed land use, which may not have been anticipated, with existing uses. Additional relevant permit guidelines outlined in the Mayne Island OCP include:

2.9.1.1 Permits can be issued for any period up to two years and could be considered for renewal once for any further period up to two years.

2.9.1.2 Permitted uses should be consistent with the policies of the designation and the provisions of 2.9.1.

2.9.1.3 Permitted uses should not preclude or compromise future permitted uses on the affected lot.

2.9.1.4 Uses should not be allowed if they conflict with any ongoing planning policies or programs.

2.9.1.6 Permit conditions must make reference to measures dealing with the following points:

- a) general activity levels that will not create any disturbance apparent beyond the property's boundaries;
- b) adequate landscape buffering or distance separation to adjacent lots;
- c) provision of off-street parking spaces consistent with regulatory bylaws;
- d) reclamation measures that will restore the permit area to suitability for its designated primary use; and
- e) adequate supervision of the site.

2.9.1.7 In addition, permit conditions should outline operational plans, including hours and days of operation and staffing to ensure compatibility with the neighbourhood and may include an undertaking for restoration of the site and a security deposit to guarantee performance conditions.

A TUP may be approved by the LTC during a single regular business meeting at which time staff present a draft permit based upon the details outlined in the application. Like a Development Variance Permit, neighbours are notified a minimum of 10 days in advance of the LTC meeting, notices are posted on the island and are run in one edition of a local newspaper. During the LTC meeting, Trustees may wish to amend the draft permit by adding restrictions without so drastically changing it as to require a re-circulation of the amended permit. Once the contents of the permit are established at the meeting, a decision can be made by the LTC at that time.

A TUP may be issued for a maximum of 2 years with the opportunity of a renewal for another 2 year period. If the applicants wish to seek a renewal, an application must be submitted to the

Islands Trust. A staff report and recommendation will be presented at a scheduled LTC meeting, at which time the LTC can decide whether or not to grant the renewal

THE REZONING PROCESS

The Local Trust Committee has the authority to approve a rezoning through Section 903 of the Local Government Act. The purpose of a rezoning is to change or amend the Land Use Bylaw and occasionally the Official Community Plan to change an existing zoning or create a new zone. An amendment to either the OCP or LUB must be consistent with the Islands Trust Policy Statement which includes the procedural guidelines for a rezoning process.

The rezoning process and consists of both legally required steps and procedures that are conventionally followed, as outlined below:

1: Pre-application

Prior to submitting an application, a potential applicant discusses the proposal with planning staff for information regarding process, policy, regulation, interpretation and potential impacts and constraints. At the time an alternate to a rezoning may be discussed, or other agencies may be contacted to identify shared interests in the application.

2: Application

A complete application form, fee and associated plans, maps, title and letters are submitted, the file is assigned to a planner and a copy of the application is forwarded to the LTC for information.

3: Preliminary Evaluation and Staff Report (Current step)

Staff analyze the application and prepare a preliminary staff report for the LTC identifying issues and recommendations regarding whether or not the application should proceed. If a planner makes such a recommendation, the report will outline the recommended process that should be undertaken and any additional information required. There is no guarantee that the LTC will agree with staff recommendations. After reviewing the application and preliminary staff report, the LTC may, by resolution

- adopt some or all staff recommendations;
- direct staff to undertake work on an alternative to rezoning;
- direct staff to obtain more information from the applicant or other agencies;
- direct staff to undertake a Community Information Meeting to obtain community feedback;
- direct staff to send the application to the Advisory Planning Commission for comment
- direct staff to prepare a draft bylaw, revise a drafted bylaw, or give first reading to a drafted bylaw;
- table the application;
- direct staff to ask if the applicant is willing to consider an amendment to the application;
or
- reject the application and proceed no further.

4: Public Consultation and Referrals to Agencies and Advisory Bodies

The LTC will typically hold a Community Information Meeting (CIM) or conduct other forms of consultation as part of the process. The application fee covers one CIM, the public hearing and all referrals to federal and provincial agencies as well as regional districts, municipalities, First Nations and other agencies.

5: Additional Information

If further information is required, or the LTC wishes the applicant to consider any amendments to the application, the planner will contact the applicant and determine whether the applicant is interested in amending the application.

6: Reconsideration by the LTC

Once any additional information, recommendations or referrals have been received, the LTC can proceed with further decisions on the application. The LTC may consider the application as many times as needed until it is satisfied to move forward or reject the application. An application may be withdrawn at any time during this process.

7: First Reading

Once the LTC is satisfied with the draft bylaws, it may give first reading to the bylaw which formally introduces it as a proposed legal enactment. At this point staff refer bylaws to agencies and First Nations, although this may occur earlier in the process as a draft bylaw.

8: Public Hearing

A public hearing is scheduled to give affected individuals the opportunity to speak directly to the LTC and/ or provide written submissions. Trustees cannot accept information relating to the bylaw after adjournment of the hearing. The public hearing requires public notification via a mail out to surrounding properties and a minimum of two newspaper advertisements. Public notification is a legislated requirement. The LTC may decide to hold a Community Information Meeting prior to a public hearing.

9: Subsequent Readings

After the public hearing, the LTC may give second and third reading; require certain conditions prior to final adoption; amend the bylaw(s), which may require another public hearing; or defeat the bylaw and deny the application. After third reading, the bylaw is submitted to the Executive Committee of the Islands Trust Council. The Executive Committee must ensure that the bylaw(s) is consistent with the Trust Policy Statement and the object of the Islands Trust.

The LTC must adopt the bylaw in order to complete the bylaw amendment process. Final adoption can be withheld until any development requirements are completed (e.g. registration of covenants or dedication of land and right-of-way).

IMPACTS

There are a number of issues that the LTC should consider in conjunction with the TUP and rezoning applications:

1. OCP Policies: Article 2.4.1.2 of the Mayne Island Official Community Plan recognizes that retail businesses have historically been and shall be primarily clustered in Miners Bay. Secondary commercial centres at the junction of Fernhill and Montrose as well as Fernhill and Whalen Roads are also recognized in the OCP.
2. LUB Regulations: The current C3(a) (Service Commercial) zoning on the property restricts land-use to repair and machine shops as well as associated accessory uses and an accessory dwelling. In addition, the current zoning restricts the maximum floor area of buildings used for repair shops and machine shops to 140 m² (1507 ft²), of which a maximum of 5 m² (54 ft²) may be used for the retail sale of articles not used directly in the repair of vehicles and machines.

The C1 (Settlement Commercial) zone permits a variety of land uses including retail sales, restaurants, offices, medical clinics, printers/ publishers, personal services, studios, appliance repair/ servicing, halls/ clubs, rental apartments, freight depots, accessory buildings and an accessory dwelling unit for the owner, operator or employee of a permitted use. In addition, the maximum Floor Area Ratio (the floor area of a building or buildings on a lot divided by the lot area) is 0.25, meaning that the maximum floor area of the primary use is 870m² (9364.6 ft²) within this zone. An identical Floor Area Ratio also exists for lots in the C3 zone.

3. Land Values: BC Assessment property valuation data was used to roughly compare property values of lots with C3 and C3(a) zoning to those with C1, C1(a) and C1(b) zoning. On average, properties zoned within a C3 category are worth roughly 70% of those zoned within a C1 variant. These averages were calculated using total BC assessment values and do not include uses or numbers/ types of structures located on each property. It should also be noted that there are very few lots on Mayne Island with either C1 or C3 zoning designations.
4. Traffic & Parking: Section 7.4 of the Mayne Island Land Use Bylaw No. 146, 2008 states that properties zoned for retail sales require 1 off-street parking space per 30 m² (323 ft²) of floor area. The applicants have proposed to exceed this minimal requirement by creating 6 rather than 4 parking spaces. The Mayne Island OCP designates Fernhill Road as a Main-Rural road from Miners Bay to just east of the Fernhill Centre. This indicates that it is a main arterial road and is intended to support higher volumes of traffic. The Mayne Island School, Health Centre and Fire hall are also located along this road.
5. Similar Land Uses: Currently, Mayne Island supports 2 grocery stores (Miners Bay), a health food store (Fernhill Centre), a bakery (Miners Bay) and several restaurants (Miners Bay, Village Bay, Bennett Bay and the Fernhill Centre). The Island also hosts a farmers market in Miners Bay every week during the summer. The applicants were central in establishing and running the market since its 2001 inception.
6. Climate Change Considerations and Food Security: This application has the potential to forward the general principles of Smart Growth outlined in Bill 27 greenhouse gas reduction legislation and the proposed OCP amendments for Mayne Island. These encourage land use patterns that result in a more compact, complete and connected community and encourage well-designed neighbourhoods that allow residents to live, work, shop and play in close proximity and thus support local businesses. In addition, in its 2008/2011 Strategic Plan, the Islands Trust Council recognizes food security as a specific goal in sustaining island character and healthy communities. The Islands Trust food security website acknowledges that food security is about supporting local farmers, protecting the environment, reducing our carbon footprint and strengthening our local economies and communities.

7.

STAFF COMMENTS:

The following section will address the specific impacts outlined above, discuss the various themes brought forward via public submissions, and outline the differences between how a TUP or rezoning would mitigate the identified potential impacts of the proposal. Draft and additional

TUP conditions are also included in this section for consideration by the LTC. These conditions relate directly to the mitigation of the identified potential impacts.

1. OCP Policies: The Mayne Island OCP identifies Miners Bay as the current and historic commercial centre on the island. Some public comments express the desire to keep Miners Bay vibrant; however, the OCP does not preclude other parts of the island from commercial activities and specifically mentions the Fernhill/ Montrose area as a secondary location for a commercial centre. Other public comments also reflected that this is an ideal location as it is in the centre of the island between the Miners Bay and Bennett Bay neighbourhoods. While the location may allow residents from those neighbourhoods to make fewer automobile trips, it is uncertain whether the location will reduce the number of trips for residents in the Horton Bay, Gallagher Bay, Georgina Point and Village Bay neighbourhoods.

The OCP does support small retail commercial developments (e.g. corner stores) within the immediate neighbourhoods they serve. This location, however, is not in close enough proximity to one of Mayne Island's neighbourhoods to serve as a walkable neighbourhood corner store. The temporary nature of a TUP would give the applicants and residents a limited amount of time to assess the benefits and challenges of the current location. An eventual rezoning which takes these experiences and impacts into account is more likely to ensure that new zoning is comprehensive and reflective of how the community interacts (or does not interact) with the use.

2. LUB Regulations: The subject property was rezoned in 1989 from Settlement Residential to C-4 L (Service Commercial Limited) to permit the use of repair and machine shop in an area not to exceed 112 m² (1200 ft²). While the name of the zoning designation has changed over time, its restrictive and specific nature has not. This indicates that the intent of the initial rezoning was for a very specific commercial use, rather than a more permissive commercial designation. Public comment suggests that at one time, the repair shop was heavily used by local residents, and while some suggest that its original intent should be left intact, others feel that since the property has been unused as a repair shop for several years, a new use is a welcome change. There is also a strong feeling that the change from a machine shop to a local food store is more in tune with current values and the Islands Trust's environmental goals.

One of the main issues surrounding the rezoning of this property from C3(a) to C1 is the substantial increase in the range of permitted uses, and the intensity of use and impacts that such a change would afford. As outlined in Schedule 'A', the C1 designation permits a number of uses and (like the C3 zone) permits a maximum Floor Area Ratio of 0.25, meaning that a building with an 870m² (9364.6 ft²) footprint would be permitted. This size of structure may have implications in terms of water use, parking, noise and overall cohesiveness with surrounding rural character. It should be noted that this is the maximum building footprint allowable under the C3 and C1 zoning designation. It must also be considered that the property is currently designated under a commercial designation and therefore a rezoning from C3(a) to C1 is a rezoning within a similar designation in the OCP and therefore a rezoning from C3(a) to C1 would not require an amendment to the OCP. The restrictive nature of the proposed TUP would mitigate the size and permitted uses of proposed activities (see Draft TUP "uses" and "permitted conditions" 'a', 'b' and 'd'). A rezoning is much less restrictive than a TUP in terms of specific restrictions (e.g. hours of operation), and a rezoning could exacerbate, rather than mitigate the identified impacts. A site-specific zone could be created (much like the

C3(a) zone), or the LTC could require that covenants are placed on title regarding the size of buildings and structures. Finally, land use planning must account for the use of the property, not the current owners and their specific intentions. While current owners may have the best of intentions, and may be successful in their vision, this does not preclude someone with different intentions from purchasing the property in the future and using a permissive zoning designation to create undesirable land uses. Again, the temporary nature of a TUP mitigates the long term effects of a full rezoning.

3. Land Values: A rough calculation of land values indicated that properties with a C3 zoning or variant were worth roughly 70% of those with a C1 zoning or variant. While some may question the intent of purchasing a lot in order to rezone it to a more valuable designation, public comment and communication with the applicants suggests that the applicants have been trying to purchase a C1 property in Miners Bay for over 6 years with no success, and felt that this property was their next best option. The strength of a TUP is again demonstrated in its ability to “test” a different zoning designation, as well as the LTC’s discretionary option to renew the TUP based upon the success of the test period. Again, the LTC is concerned with appropriate land uses rather than property value and speculation.
4. Traffic & Parking: Some concern has been voiced regarding traffic congestion and the proposed use on the subject property. These include unsafe conditions near the Mayne Island School, increased on-street parking along Fernhill Road, and increased congestion in the Fernhill Centre parking lot. It has also been voiced that the location is ideal as it will not contribute to the traffic congestion in Miners Bay, especially during the summer months. Fernhill Road is a main thoroughfare on Mayne Island and is thus designated and designed to support higher volumes of traffic than other roads on the island. It is uncertain how the proposed store will change traffic patterns if at all. If the store allows residents to make more stops during a regular trip, the impacts on traffic could be negligible. In their proposed site plan for the TUP application, the applicants have designated 6 customer parking spaces on their property, exceeding the required minimum by 2 spaces. A TUP is an ideal means of evaluating how the proposed land use will affect traffic and parking, and thus allowing opportunity for amelioration in terms of a TUP renewal or a future rezoning. The draft TUP in the next section seeks to mitigate the parking impact through specific restrictions (see “conditions” ‘d’).
5. Similar Land Uses: Several food retail and service locations exist on Mayne Island. The applicants stated that due to high consumer demand, the seasonal nature of the farmers market and difficulty for the public to access their farm, the subject property was purchased in order to serve as a location to expand their farm sales and sell local and sustainably sourced food items. Public comment suggests that there is a strong desire for such products and there is great enthusiasm surrounding the notion of purchasing Mayne Island produced food on the island throughout the year. The main concerns surrounding the proposal are associated with increased competition and the fear that the new store may decrease the summer profits of existing establishments and thus lead to store closure during the winter months or indefinitely. While these may be valid business concerns, it is not the role of the LTC to make decisions based on business or the market. The possibility of a loss of services for Mayne Island residents would, however, be of LTC concern. While the LTC must consider the short-term land use implications of issuing a TUP or the long-term implications of approving a rezoning, it cannot influence, or play the role of the market. A TUP will allow the community to experience a locally-

focused food retail location for a defined period of time, and thus mitigate some of the potential impacts of a full rezoning without an initial testing period.

6. Climate Change Mitigation and Food Security: Through their TUP and rezoning applications, the applicants stated intention is to sell locally produced food as well as sustainably sourced food items (as space permits) on their property. Local sustainable foods are often produced using fewer petrochemicals and fewer imported resources, thus making them more environmentally friendly with potentially smaller carbon footprints. In addition, local foods travel fewer kilometers from field to table, reducing the amount of greenhouse gases associated with their transportation. The proposal could also support food security by serving as a consistent year-round market for Mayne and Gulf island farmers, providing them with the steady source of income needed to expand their operations and remain viable.

As previously mentioned, the central location of the property could promote “trip chaining” (multiple stops during one automobile trip), thus reducing carbon emissions. However, it was also noted that residents living in the neighbourhoods of Georgina Point, Horton Bay, Gallagher Bay and Village Bay may in fact increase their trips, or not change their driving and shopping habits at all, thus having negligible effects on their personal carbon emissions. In addition, the proposed land use is not located within walking distance of any major neighbourhoods and will only be accessible by car for a majority of residents. In this instance, a TUP will mitigate the climate change considerations associated with a retail food outlet by adding some specificity to the types of products sold as well as limiting the available retail space to limit the area available for the sale of imported foods.

DRAFT TUP CONDITIONS:

Typically, a TUP is used in two circumstances: (1) where a use is truly temporary (e.g. a temporary processing operation) or (2) where the local government is willing to permit a use to commence prior to rezoning. The latter situation can be in the interest of both the owner (they wish to undertake a particular use on a trial basis) or be in the interest of the local government (the local government wants the option of having a use cease if the impacts prove to be deleterious). A TUP can also be used in a situation where timing is an issue: the proposed use is consistent with the intent of the community plan and/or zoning and there is a willingness to allow the use to commence prior to completing the rezoning process. Finally, a TUP may be preferable because conditions may be included in a TUP that cannot be included in zoning (such as hours of operation, or requirements for restoration). Below are the draft uses and conditions for the TUP. These are followed by a list of additional conditions for LTC consideration.

Uses: the permit authorizes one commercial use on the subject property:

- a) “retail sale of food items”

Conditions: The TUP includes several conditions, intended to ensure that any impacts are limited and managed:

- a) The use permitted above shall be limited to the area within the existing building on-site.

- b) The food items permitted shall be limited to “produce”, defined as fresh fruits, vegetables, herbs, nuts, flowers and plants. Accessory sales of processed food items such as meat, poultry, dairy, eggs, baked goods and canned goods such as jams, jellies, pickles, sauces and chutneys are also permitted.
- c) One sign may be permitted in the location shown on schedule ‘C’, and one sign may be attached to the building. For certainty, signs shall conform with Sign Regulations outlined in Part 6 of the Mayne Island Land Use Bylaw No. 146, 2008. A total combined sign area of 4 square metres (43 square feet) is permitted.
- d) A minimum of 6 parking spaces shall be provided in the location shown on Schedule ‘A’. for certainty, all parking shall comply with the design standards in Section 7.2 Parking, of the Mayne Island Land Use Bylaw No. 146, 2008.

The conditions included in the permit were intended to address potential impacts or concerns associated with the proposed use. The LTC may wish to add to or modify the conditions based upon community need. Additional conditions could include:

- *Specific hours of operation:* The LTC may wish to regulate the hours of operation of the retail outlet in order to ensure their compatibility with the adjacent commercial centre.
- *Vegetation screening for parking area:* A fence currently exists along the eastern edge of the property, where the proposed parking is located. This fence also encloses a garden and patio area for the restaurant located in the Fernhill centre. Trustees may wish to see additional vegetation planted along this fence to further buffer the proposed parking area from the adjacent garden/ patio to further ensure compatibility between uses.
- *Additional improvements to the driveway and parking:* Possible improvements include a provision for the use of permeable paving materials when creating parking.
- *Retention and/ or addition to vegetation screen along the western edge of the property abutting a residential lot:* The residential lot to the west of the property is currently undeveloped, and the western edge of the subject property is densely vegetated. Trustees may wish to include a provision to retain or enhance the current vegetation buffer, or specify that only a natural vegetation buffer be permitted along this lot line.
- *Additional parking for owner/ operator vehicles:* The applicants are currently proposing to include 2 additional parking spaces to the 4 spaces required in the Mayne Island Land Use Bylaw No. 146, 2008. Trustees may wish to require additional parking for owner operator vehicles to ensure that customer parking is fully available.

The TUP conditions included in the draft permit were felt to address the identified potential impacts of the proposed land use, reflect the applicants’ vision for the property and afford the LTC and the public the opportunity to observe how the intentions and vision of the store will affect their community on a trial basis. The additional conditions give a finer grain to the TUP and further restrict the proposal in an effort ensure cohesiveness between the proposed use and the surrounding land uses.

A rezoning application was also submitted by the applicants, and this report sought to provide the LTC and the public with a preliminary report regarding the property and potential impacts of

a rezoning. A rezoning is a significant undertaking in any community and Mayne Island is no exception. While the strong community support surrounding the rezoning application speaks to the integrity of the applicants' vision for the property, the LTC must consider the long term implications of changing a zone from restrictive to fairly permissive. Again, rezoning applications must consider the property, not the individual person.

Given that the proposed land use is located in an OCP-designated secondary commercial centre, that the property is located along a main thoroughfare, that the property is currently zoned under a commercial designation and the strong public support for the application, staff recommend that the LTC approve MA-TUP-2010.1 (McDougal).

If the LTC approves the TUP, and the LTC wishes to proceed with the rezoning, the next steps would be to direct staff to draft an amending bylaw and to schedule a community information meeting (CIM). The LTC should give consideration to the general timing of a CIM

RECOMMENDATIONS:

THAT MA-TUP-2010.1 (McDougal) BE APPROVED.

THAT MA-RZ-2010.2 (McDougal) BE SCHEDULED FOR COMMUNITY INFORMATION MEETING.

Prepared and Submitted by:



Kaitlin Kazmierowski
Planner 1

May 28, 2010

Date

Concurred in by:

Robert Kojima

May 28, 2010.

Robert Kojima,
Senior Planner

Date

Schedule 'A'

ADOPTED

5.8 Settlement Commercial (C1) Zone

The purpose of the Settlement Commercial Zone is to provide for and regulate small scale commercial uses providing services to residents and visitors.

Permitted Uses

- (1) The following uses are permitted, subject to the regulations set out in this Section and the general regulations, and all other uses are prohibited:
 - (a) Restaurants;
 - (b) Retail sales;
 - (c) Offices, including financial services and travel agencies;
 - (d) Personal services;
 - (e) Medical and dental clinics;
 - (f) Printers and publishers;
 - (g) Appliance repair and servicing;
 - (h) Clubs and halls;
 - (i) Freight depots;
 - (j) Studio;
 - (k) Apartment Residential;
 - (l) Accessory dwelling unit for the accommodation of the owner, operator, or employee of a permitted principal use;
 - (m) Accessory uses, buildings and structures.

Density

- (2) The maximum Floor Area Ratio is 0.25.
- (3) The maximum number of accessory buildings, other than an accessory dwelling unit, utility sheds, or woodsheds, is:
 - (a) two on lots having an area of 0.2 hectares (0.5 acres) and less;
 - (b) three on lots having an area greater than 0.2 hectares (0.5 acres) and less than 0.4 hectares (1 acre); and
 - (c) four on lots having an area greater than 0.4 hectares (1 acre) or more;
- (4) The maximum lot coverage is 35%.

Siting and Size

- (5) The apartment residential use permitted by 5.8(1)(j) shall:
 - (a) be located within a principal building;
 - (b) not exceed 50% of the total floor area of the building;
 - (c) be located above the ground floor of a building;
 - (d) be provided with a separate entrance from the ground level; and
 - (e) have a minimum floor area of 50 square metres (538 square feet) per unit.

- (6) The minimum setback for any building or structure is:
 - (a) 6 metres (20 feet) from any front, rear, or exterior side lot line;
 - (b) 3 metres (10 feet) from any interior side lot line;
- (7) The maximum height for any principal building or accessory dwelling unit is 9 metres (29.5 feet).
- (8) The maximum height for any accessory building or structure, other than an accessory dwelling unit, is 5 metres (16.4 feet).

Subdivision Lot Area Requirements

- (9) The minimum lot area is 0.2 hectares (0.5 acres).

Conditions of Use

- (10) Lots on which commercial uses are carried on must be screened from residential uses on adjoining lots by a landscape screen not less than 1.5 metres in height and complying with the provisions of Section 3.8.

Site Specific Regulations

- (11) The following table denotes locations where, despite or in addition to the regulations in this Section, specific regulations apply. In the first column, the zone abbreviation and the lower-case letter reference the notation on the zoning map. The second column describes the location where the specific regulations cited in column three apply:

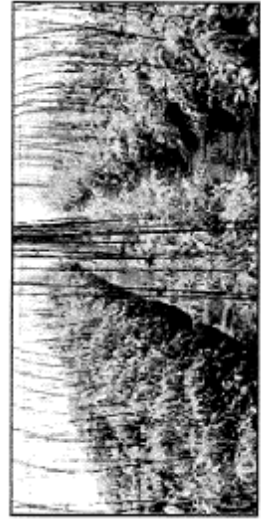
Column 1	Column 2	Column 3
Site-Specific Zone	Location Description	Site Specific Regulations
C1(a)	Lot 36, Section 6, Mayne Island, Cowichan District, Plan 22057 Dalton Drive	(1) Despite 5.8(1), the only uses permitted in this location are professional and business offices, and accessory uses, buildings and structures. (2) In this location, no more than one principal building containing premises for two separate businesses may be constructed or used. (3) Despite 5.8(3), the maximum number of accessory buildings in this location is two.
C1(b)	Lot 3, Section 12, Mayne Island, Cowichan District, Plan 715. 454 Village Bay Rd.	(1) Despite 5.8(1), the only uses permitted in this location are those permitted in 5.8(1)(a), (k), (l) and (m). (2) Despite 5.8(2), the maximum floor area ratio in this location is 0.15.

Points to Consider

- A local, fresh food retail store will feature products from Mayne Island, the Outer Islands, Saanich Peninsula and beyond.
- Mayne Island has many farms today and a history of food production – From Richard Hall (who built a greenhouse so large that horse-drawn cultivators could be driven through it) to the Japanese and the Active Pass Grower's Association, who grew tomatoes and cucumbers delivered as far south as San Francisco.
- The store will create employment opportunities, as well as business opportunities for local entrepreneurs who wish to wholesale their food products.
- The central location offers convenient and efficient access to the Bennett Bay, Horton Bay, and Callagher Bay neighbourhoods.
- The concept directly contributes to the Islands Trust's new focus on food security. As the Islands Trust website points out:

"Food security is about more than simply having enough to eat. It is also about supporting farmers, protecting the environment, reducing our carbon footprint and strengthening our local economies and communities. By improving our food security we build community resilience."

We couldn't have said it better.



Our Story

In 1995, we took a giant leap of faith and bought Deacon Vale Farm here on Mayne Island. Tired of living in the city and running a restaurant, we were looking for a life change. Don, who trained as a chef and spent many years working in restaurants, was ready to get out of the hot kitchen and into a more outdoor-focused lifestyle. And Shanti, born and raised in India and aware from an early age of the importance of growing one's own food, dreamed of being a farmer.

We have always been passionate about food growing it, preserving it, preparing it and of course, eating it. Producing food on our farm felt like a natural move for us. When we fell in love with Ardie Wickham's farm (now Deacon Vale), we knew that Mayne Island was the place to build our new life.

Since moving here our farm has grown; we plant a little more, we acquire new animals. We are excited by the fact that we are now able to offer our community a variety of certified organic vegetables, transplants, eggs, beef, chicken, lamb and hay. And in keeping with family tradition we continue to preserve food, producing a line of bottled products in our commercial kitchen on the farm.

In years past, we have offered our food through direct sales at the Farmers' Market and through stores on the islands. We have come to realize, however, that demand for our products has outgrown our ability to supply them by these means. A year-round venue carrying our products and those of other island growers feels like a natural next step.

We sincerely hope that our fellow islanders will support this next leap of faith as we move through the rezoning process for the property at 568 Fernhill Road.



Proposed New Local Food Store

Local People

Supporting Local Agriculture

Providing Local Employment

Serving the Local Population

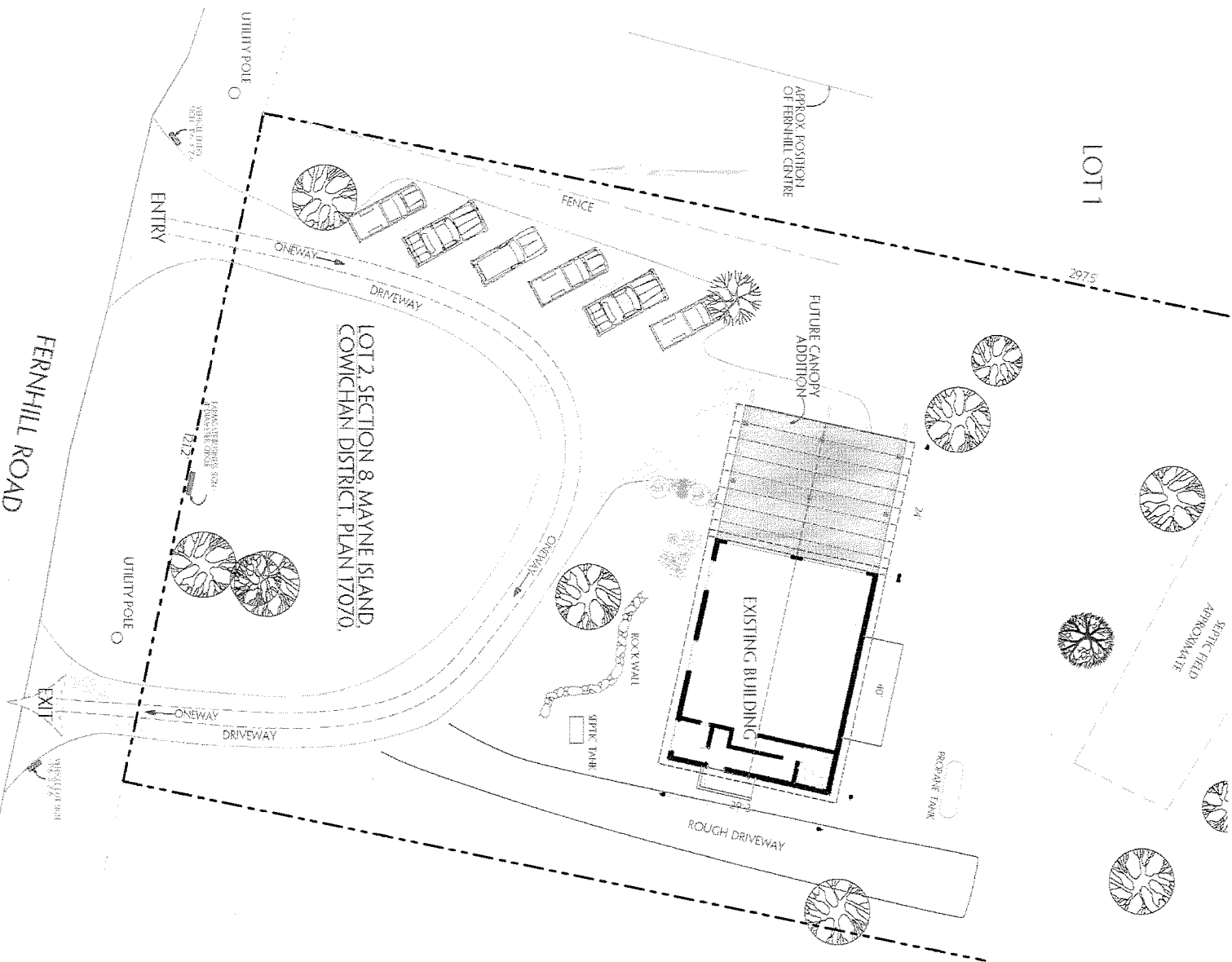
568 Fernhill Road
Adjacent to the Fernhill Centre

Our Vision

For some years now, we've dreamed of opening a locally-focused food store here on Mayne. We are very excited about the possibilities at 568 Fernhill Road. We envision converting this rundown and neglected piece of property into a beautiful and vibrant space that will provide great fresh and local food in a wonderful atmosphere.

Mayne Island has a strong agricultural history. Tomatoes and cucumbers were grown in abundance by the Japanese, who started the Active Pass Grower's Association. We would like to continue to encourage this tradition by inviting local growers and producers to market their products at the store. In doing so, we believe that as a community we can establish a food network that is both sustainable and more self-sufficient.

Dan & Shanti McDougall





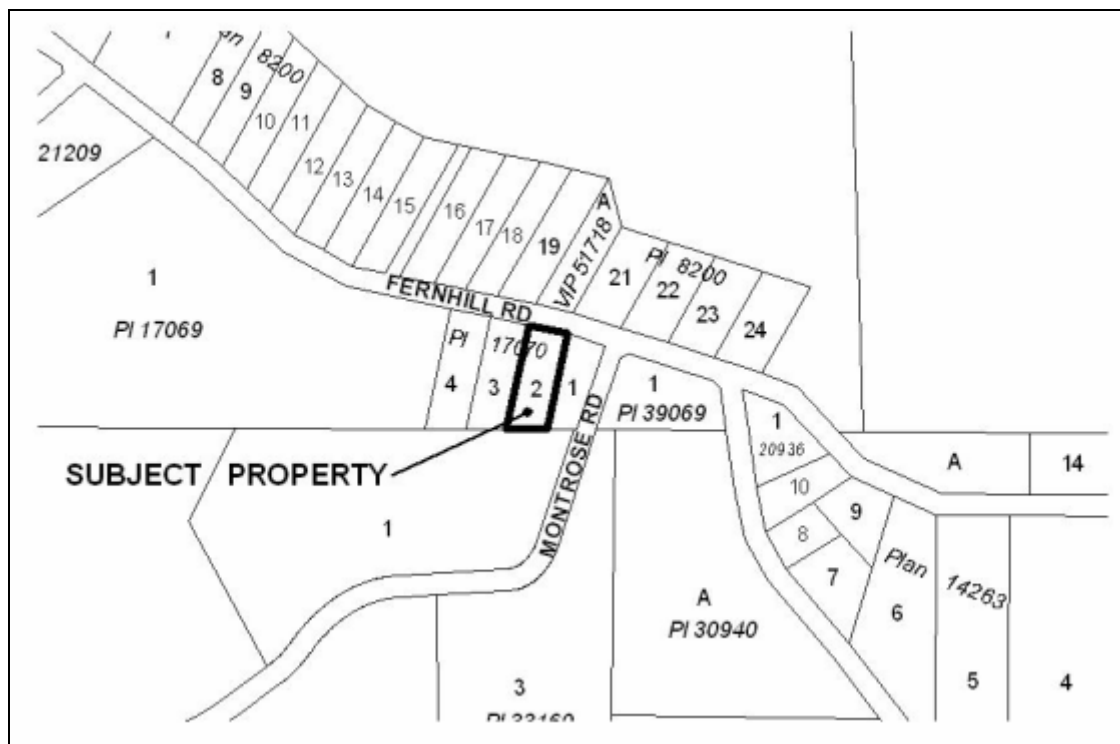
Islands Trust

**NOTICE
MAYNE ISLAND LOCAL TRUST COMMITTEE
MA-TUP-2010.1**

NOTICE is hereby given that the Mayne Island Local Trust Committee will be considering a resolution allowing for the issuance of a Temporary Commercial Use Permit pursuant to Section 921 of the *Local Government Act*. The proposed permit would apply to Lot 2, Section 8, Mayne Island, Cowichan District, Plan 17070.

The purpose of this temporary use permit would be to permit the commercial use of "retail sale of food items" on the property. The establishment of these uses would be subject to a number of conditions specified in the permit. The permit would be issued for two years and the owner may apply to the Mayne Island Local Trust Committee to have it renewed once for an additional two years.

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



A copy of the proposed permit may be inspected at the Islands Trust Office, 200 - 1627 Fort Street, Victoria, B.C., V8R 1H8, between the hours of 8:30 a.m. and 4:30 p.m., Monday to Friday inclusive, excluding Statutory Holidays, commencing, May 25, 2010 and up to and including June 4, 2010.

Enquiries or comments should be directed to Planner Kaitlin Kazmierowski at (250) 405-5194, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: information@islandstrust.bc.ca, before 4:30 p.m. June 4, 2010. The Mayne Island Local Trust Committee may consider a resolution allowing for the issuance of the permit during the regular business meeting starting at 1:00 p.m., Monday, June 7, 2010 at the Agricultural Hall on Mayne Island.

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

Kathy Jones
Deputy Secretary



Islands Trust

MAYNE ISLAND LOCAL TRUST COMMITTEE

TEMPORARY COMMERCIAL USE PERMIT

MA-TUP-2010.1

TO: Don and Shanti McDougall

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

Lot 2, Sec. 8, Plan 17070, Mayne Island, Cowichan District

As indicated on Schedule 'A', 'B', and 'C' attached to and forming part of this permit.
2. This permit is issued for the purpose of allowing the following commercial uses in the subject area:
 - a) "retail sale of food items"
3. The uses may be carried on subject to the following conditions:
 - a) The use permitted in 2(a) shall be limited to the area within the existing building as specified in Schedules 'A', and 'B'.
 - b) The food items permitted in 2(a) shall be limited to "produce", defined as fresh fruits, vegetables, herbs, nuts, flowers and plants. Accessory sales of processed food items such as meat, poultry, dairy, eggs, baked goods and canned goods such as jams, jellies, pickles, sauces and chutneys are also permitted.
 - c) One sign may be permitted in the location shown on schedule 'C', and one sign may be attached to the building. For certainty, signs shall conform with Sign Regulations outlined in Part 6 of the Mayne Island Land Use Bylaw No. 146, 2008. A total combined sign area of 4 square metres (43 square feet) is permitted.
 - d) A minimum of 6 parking spaces shall be provided in the location shown on Schedule 'A'. For certainty, all parking shall comply with the design standards in Section 7.2 Parking of the Mayne Island Land Use Bylaw No. 146, 2008.
4. This permit is valid for two years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust unless the permit is renewed by resolution of the Mayne Island Local Trust Committee.

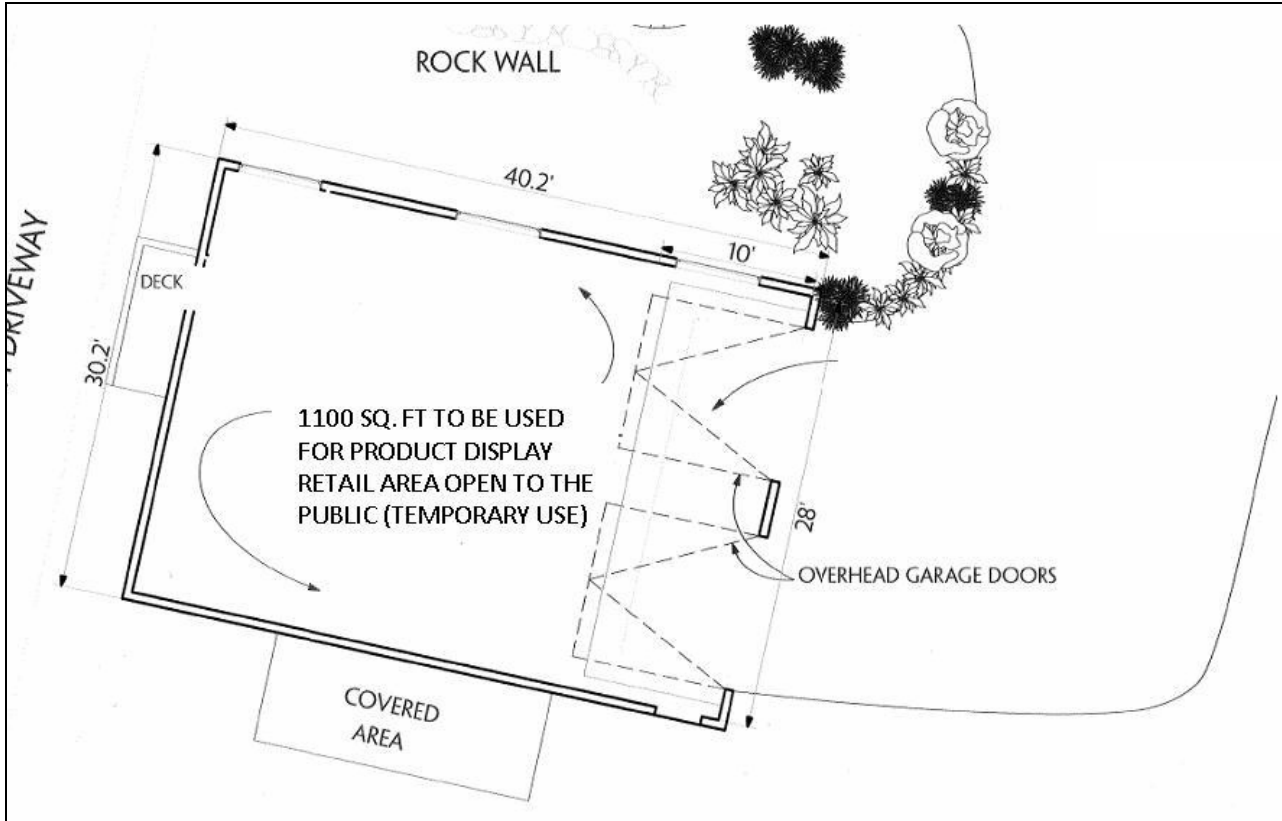
5. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "Mayne Island Land Use Bylaw No. 146, 2008 " and to obtain other approvals necessary for completion of the proposed development, including approvals from the Capital Regional District, Vancouver Island Health Authority and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE MAYNE ISLAND LOCAL TRUST COMMITTEE
THIS ____ DAY _____, 2010.

Deputy Secretary, Islands Trust

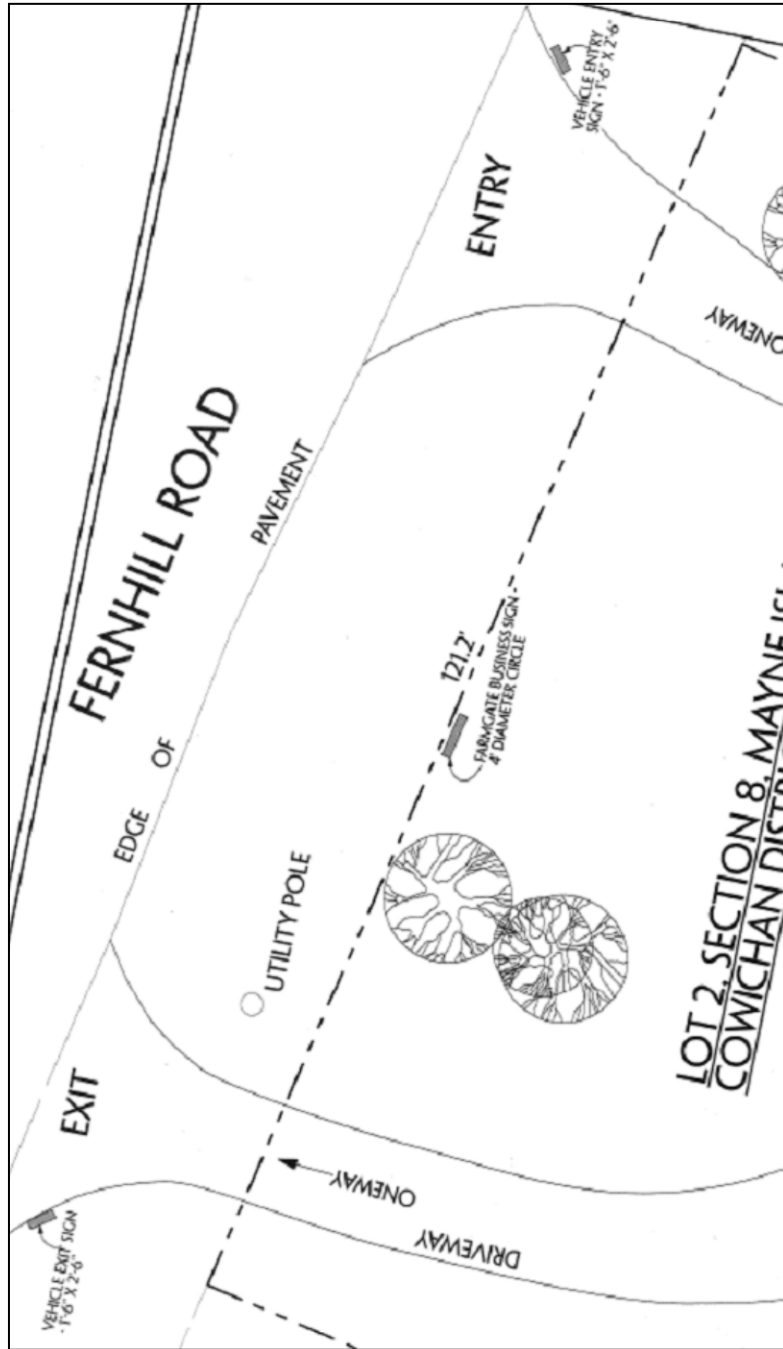
Date of Issuance

MAYNE ISLAND LOCAL TRUST COMMITTEE
MA-TUP-2010.1
SCHEDULE 'B'



Detail of portion of existing structure to be used for food retail sales

MAYNE ISLAND LOCAL TRUST COMMITTEE
MA-TUP-2010.1
SCHEDULE 'C'



Detail of proposed location of signage



STAFF REPORT

Date: July 30, 2010 **File No.:** MA-TUP-2010.1

To: Mayne Island Local Trust Committee
For Aug 12, 2010 Special Meeting

From: David Marlor, MCIP
Regional Planning Manager

CC: Robert Kojima, Island Planner
Kaitlin Kazmierowski, Planner

Re: **Application for Temporary Commercial Use Permit**

Owner: Don and Shanti McDougall
Applicant: Same as above
Location: Lot 2, Section 8, Mayne Island, Cowichan District, Plan 17070,
PID: 001 864 653

Supplemental to the May 28, 2010 Staff Report

BACKGROUND:

This report is supplemental to the report dated May 28, 2010 for the referenced application that was considered by the Mayne Island Local Trust Committee on June 7, 2010. The purpose of this Staff Report is to update the Local Trust Committee on the status of the application, provide advice on procedural options open to the Local Trust Committee and advise on new information received since June 7, 2010.

As stated in the May 28, 2010 Staff Report, the purpose of the application is as follows:

The owners are applying for a Temporary Use Permit (TUP) for the retail sale of food items produced on their farm, produced on other island farms, as well as food items from other local, regional and sustainable sources, as space permits. The proposal seeks to use the interior of an existing 102.2 m² (1100 sq. ft) structure located at 568 Fernhill Rd. This property is owned by the McDougals and currently zoned C3(a) Service Commercial. In the past the property was used as a machine repair shop, but has not been used in this capacity for several years. The stated intention of the TUP application is to allow the owners to expand their farm gate sales year-round, serve as a retail location for other local and sustainable food producers, create jobs for Mayne islanders and help address the issues of food security and sustainability on Mayne Island.

In addition, the owners have also submitted a rezoning application to change the zoning on the property from C3(a) to C1 (Settlement Commercial). This report will address the TUP as well as serve as a preliminary staff report for the rezoning application.

On June 7, 2010, the Mayne Island Local Trust Committee passed the following resolution:

Resolution MA-LTC-30-10

It was Moved and Seconded that MA-TUP-2010.1 (McDougall) not be approved.

CARRIED (1 opposed)

Following the decision of the Local Trust Committee, several people wrote to the Islands Trust concerned about the process and a perception of conflict of interest by Trustee Dodds. Trustee Dodds followed Islands Trust policy and determined that there was no conflict of interest.

The rezoning application for the referenced property was on the July 5, 2010 agenda for consideration by the Local Trust Committee. At this meeting, in advance of any discussion on the McDougall applications, Trustee Dodds read a statement indicating that she would not participate in further discussion or decision on the McDougall applications.

On July 14, 2010, the Mayne Island Local Trust Committee passed a Resolution-without-Meeting under Part 26 of the *Islands Trust Act* (Resolution MA-RWM-2010.02) that “the Mayne Island Local Trust Committee rescind resolution MA-LTC-30-10 (MA-TUP-2010,.1-McDougall). Trustee Dodds did not participate in this vote.

On July 14, 2010, the Mayne Island Local Trust Committee passed a second Resolution-without-Meeting under Part 26 of the *Islands Trust Act* (Resolution MA-RWM-2010.03) that “the Mayne Island Local Trust Committee holds a Special Meeting at 1:00pm, August 12, 2010 at the Mayne Community Centre for the purpose of reconsidering temporary use permit application MA-TUP-2010.1 (McDougall). Trustee Dodds did not participate in this vote.

PROCEDURAL OPTIONS:

The result of the resolutions-without-meeting is that the application MA-TUP-2010.1 is back before the Local Trust Committee for reconsideration, and that such reconsideration will occur on August 12, 2010.

Consistent with the *Local Government Act* requirements for advertisement and notification of a Local Trust Committee’s intention to consider issuance of a Temporary Use Permit, Staff published a notice of the reconsideration in the *Driftwood*, mailed a notice to owners whose properties were wholly or partially within 100 metres of the

subject property and delivered a notice to residents living on property wholly or partially within 100 metres of the subject property.

During the reconsideration on August 12, 2010, the Local Trust Committee is free to consider all information it has received on the application, including information received and considered at the June 7, 2010 meeting and information received after June 7, 2010 up to and including information received on the date of reconsideration.

The July 14, 2010 decision by the Local Trust Committee to reconsider the application does not fetter the Local Trust Committee on whether or not it issues the Temporary Use Permit. On reconsideration of the Temporary Use Permit, the Local Trust Committee may:

1. Decide to issue the Temporary Use Permit as drafted;
2. Decide to amend and then issue the Temporary Use Permit;
3. Decide to withhold a decision on the Temporary Use Permit until the applicant has addressed issues raised by the Local Trust Committee;
4. Decide to withhold a decision on the Temporary Use Permit until a later, specified date; or
5. Decide to deny the Temporary Use Permit.

COMMUNITY INFORMATION MEETING(S):

The *Local Government Act* does not require a public meeting for the issuance of a Temporary Use Permit. The applicants held a public open house at the property on Monday May 17, 2010. The public were also permitted to speak about the Temporary Use Permit application at the June 7, 2010 meeting in advance of the Local Trust Committee consideration.

RESULTS OF CIRCULATION:

At the time of writing this report, staff has received a total of 197 submissions regarding the proposed use of the subject property. Many of the submissions did not distinguish between the method of permitting the use – a temporary use permit or a rezoning – but instead spoke to the proposed use and either offered support or expressed concerns or opposition with the proposal. A total of 140 submissions were in support of the application, 52 were against and five did not indicate support or non-support.

Of the 199 submissions, 33 submissions (26 in support and 7 against) were second or third submissions from people who had already written.

Included in the submissions was one petition from Island farmers, growers and food producers in support of the proposal with 23 signatures. Many of the signatories also provided separate submissions.

Of the 52 submissions against or not supportive of the proposal, the most common reasons stated were increased traffic, safety of access to and from the site, the use is not needed, the location is not suitable and concerns about competition with existing establish food retailers.

Any further submissions received after the date of this Staff Report will be brought to the August 12, 2010 Special Meeting for consideration by the Local Trust Committee.

ISSUES SUMMARY AND IMPACTS

The May 28, 2010 Staff Report, presented to the local trust committee on June 7, 2010, identified issues and impacts related to the Temporary Use Permit. Those issues will not be repeated here; however, this report will address issues raised since the June 7, 2010 Local Trust Committee meeting.

Access and Traffic Safety

The main issues identified at the June 7, 2010 meeting was traffic safety and access to the property; specifically, a concern that sightlines from the property's access points may be insufficient to allow safe access to and from the property.

Under S.62 of the *Transportation Act*, owners of land must obtain an access permit from the Ministry of Transportation and Infrastructure before connecting to a Highway. The Ministry exempts residential driveways on side roads from this requirement; however, any other connection to the highway system requires a Provincial access permit.

In response to the Local Trust Committee's July 5, 2010 direction with regard to the rezoning application for this property, Staff referred the proposal to the Ministry of Transportation and Infrastructure. As the proposed temporary use is the same as that applied for in the rezoning application, the Ministry's response to the rezoning referral is relevant to the reconsideration of the Temporary Use Permit.

Ross Deveau, Area Development and Operations Technician, South Region Office, Ministry of Transportation and Infrastructure visited the site and provide the following email:

From: Deveau, Ross TRAN:EX [mailto:Ross.Deveau@gov.bc.ca]
Sent: Wednesday, July 21, 2010 6:46 AM
To: Kaitlin Kazmierowski
Subject: RE: Highway access permit at 568 Fernhill Rd. Mayne Island

Good morning Kaitlin. The proposal has been assessed and the MOT has the following comments. The most easterly access is to be blocked off permanently. The westerly access is to have brushing done to the west to provide adequate sight distance. The applicant is to prove that the westerly access will have 120 M of sight distance to the east, taken from a point 1.5 M high in the centre of the access. The sight distance

measurement is to be entirely in the road prism. The applicant is to provide the MOT with a drawing showing the required sight distance. Thank you. Ross Deveau BC MOT

Ross Deveau sent the following subsequent email:

From: Deveau, Ross TRAN:EX [mailto:Ross.Deveau@gov.bc.ca]
Sent: Thursday, July 22, 2010 5:52 AM
To: Kaitlin Kazmierowski
Subject: RE: Highway access permit at 568 Fernhill Rd. Mayne Island

Good morning. The sight distance is measured at .9 of a metre at the centre of the access—sorry a typo. Ross Deveau BC MOT

From these emails, it appears that modifications would be required in order to acquire a Ministry of Transportation and Infrastructure access permit for the subject property. At present, Staff has not been advised on the extent of work that would need to be done, or even if a safe access to the property is reasonably possible directly from Fernhill Road. Other options may be available to the applicant, such as negotiations with a neighbour to secure a safe access that meets Ministry of Transportation and Infrastructure requirements.

The applicant advises that they did not have an opportunity to meet with Mr. Deveau when he visited the property. The applicant should be given an opportunity to discuss their access options with the Ministry of Transportation and Infrastructure before the Local Trust Committee makes a decision on the Temporary Use Permit.

Environmental Concerns

At the July 5, 2010 Local Trust Committee business meeting during discussion about the rezoning application, Trustee Shew asked for a copy of an environmental assessment report; this request was due to a concern about possible contamination from the previous use of the property. The applicants indicated they would provide a copy of that report to the Local Trust Committee.

Attached as Appendix 1 is a copy of a report from Davey Consulting and Agrology dated January 19, 2010. The report is a “Review of Environmental Considerations and a Stage 1 and stage 2 Environmental Assessment” for the subject property. The report was commissioned by the owners of the property and outlines “... the requirements of the statute of liability under provincial law, and the British Columbia Contaminated Sites Regulation [BC Reg. 357/96] and the Provincial Waste Management Act”; the report concludes that no contamination was found.

DRAFT TUP:

Without a valid access permit for the proposed use the applicants will not be able to use the property as proposed, even if the Local Trust Committee issued a Temporary Use

Permit. Modifications required to meet the Ministry of Transportation and Infrastructure requirements may result in site changes that would then need to be reflected in the Temporary Use Permit. For example, revised site access may result in a different parking and circulation configuration that would not be the same as that authorized in the Temporary Use Permit.

Once the applicants apply for a highway access permit, there will be more detailed assessment and alternative solutions may be found.

It is also unlikely that the Ministry of Transportation and Infrastructure would issue an access permit before the Temporary Use Permit was issued or the zoning was in place for the proposed use. To avoid a “Catch-22” situation in which both agencies are waiting for the other, Staff recommends that the Local Trust Committee place the Temporary Use Permit application on hold until the applicant has developed an access solution to the satisfaction of the Ministry of Transportation and Infrastructure. Once planning Staff receives “approval in principle”, “preliminary approval” or other such notice from the Ministry of Transportation and infrastructure that the proposed modifications are acceptable or that an access permit could be issued, the application, along with the proposed access solution, would be returned to the Local Trust Committee for consideration.

A copy of a draft Temporary Use Permit for the subject property is attached to this Staff Report (Appendix 2). This draft Permit includes all of the conditions as outlined in the May 28, 2010 Staff Report.

Should the Local Trust Committee wish to issue the Temporary Use Permit, then staff recommends a further condition be added to the Permit to require an approved access permit from the Ministry of Transportation and Infrastructure.

RECOMMENDATIONS:

THAT the Mayne Island Local Trust Committee place MA-TUP-2010.1 on hold to allow the applicant to address Ministry of Transportation and Infrastructure concerns regarding access to the property and obtain preliminary approval, or similar, for an access permit for the subject property.

Prepared and Submitted by:

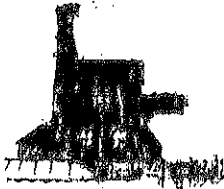
David Marlor
Regional Planning Manager

July 30, 2010
Date

Appendix 1

Environmental Report by Davey Consulting and Agrology
Dated January 19, 2010

DAVEY CONSULTING & AGROLOGY



Division of Davey Holdings Ltd
[Associate company: Advanced Environmental Inc.]
2881 Virago Place
Ladysmith
British Columbia V9G 1C8

Phones 250-722-3906 & 1-800-838-9887
Fax 250-722-3950
e-mail daveycon@telus.net

Mr William D Merrie
P.O.Box 515
Lac La Hache
British Columbia
V0K 1T0

19 January 2010

Dear Sir;

Review of Environmental Considerations and a Stage 1 and Stage 2
Environmental Assessment for a Parcel of Land described as
568 Fernhill Road, Mayne Island, British Columbia
Legal Description: Lot 2, Plan 17070, Section 8, Cowichan Land District,
Portion Mayne Island
PID 001-864-653

This report has been commissioned by the owner of record of the above property and land base, to document to environmental liability and prospective remediation required, if any contaminants are found on the property, following the requirements of a Stage 1 and Stage 2 Environmental Assessment of the property.

The purpose of this assessment is to provide an approved lending authority with a legal document outlining the requirements of the statute of liability under provincial law, and the British Columbia Contaminated Site Regulations [B.C.Reg 357/96] and the Provincial Waste Management Act. No contamination that falls under these various jurisdictions was found during this search of any or all of the Historical data of the lot, the subsequent use of the building placed on the lot, or from additional sources.

Scope and Methodology

a. A Stage 1 environmental assessment is based on standard industrial practises and protocols designed to identify potential hazards on a land mass previously occupied or used by residential, industrial or commercial activities. The requirements of the investigation process are contained in two reference publications used as a basis for fieldwork. These publications are CSA Z. 768-94 April 1994 Phase 1 Environmental Site assessment Information Product and British Columbia Contaminated Sites Regulations BC Reg. 375/96, and is controlled under the Waste Management Act. Under the CSR a contaminated site is defined as an area of land in which the soil, water, sediment or groundwater lying beneath the surface contains special waste in concentrations above numerical standard as listed in the CSR

b. The review may consists of any or all of the following

- i. City Directories
- ii. Aerial Photographs
- iii. Geological plans
- iv. Land use plans
- v. Agricultural soil information
- vi. Mining records
- vii. Topographical mapping
- viii. BC Environment search
- ix. Site inspections.

The Stage 1 assessment does not include sampling or testing of air, surface water, and ground water or building materials.

c. A stage two environmental assessment consists of an in-depth excavation of test hole, sampling pits or other means necessary to determine the extent of the possible environmental contamination that may have been indicated in the Stage 1 assessment. It is not the requirements of this phase to remove the possible materials but to suggest the limitations and methods of possible removal and the current policies of the Ministry of Environment and more importantly the criteria of the designation of the area as being either a "contaminated site" or if the possible contaminants are below the limits for this registration.

d. We have researched the contaminated site registration website and found no reference to this location has been cited, and therefore no previous reports of activities on the site that would have lead to either residential or commercial activities above the threshold activities of the particular acts being reported or found, and that no filing or notice of required remediation work was requested or ordered by the B.C. Ministry of Environment.

Property History

Attached as Appendix 1 is a legal search of the property and from this we have deduced and confirmed with local sources that the original property was formerly a portion of a much larger bare-land parcel of land with no residential habitation, industrial or commercial use, or major intensive agricultural use; however, access trails for human traffic were existent on the land to allow both First Nations and early European settlers access to the waterfront sections of the Island. Although no archaeological review has been commissioned or is required as part of the environmental assessment, given that the parcel of land has limited depth of soil no evidence of middens or other First Nations detritus was noted, and as the property is underlain by only a thin layer of overburden or topsoil above the competent sandstone formations, the existence of such deposits is considered limited, and no evidence found of such deposits during a field survey

Operation and Construction Activities

a) A review of the historical use of the property can be confirmed both from records obtained from the British Columbia Land Title office in Victoria and from local residents who have resided on Mayne Island prior to the date the property was severed from a larger parcel of undisturbed native land, and whose memory and commercial records substantiate to use of the building constructed on the site.

By reference to the land titles search and website the first recorded entry for the fee simple lot dates back to 12 July 1985 when the lot was first incorporated as a separate entity from the larger rural land base. This lot, a numbered Lot 2, was probably severed off from the original parcel of land in conjunction with the adjacent lots supporting a series of commercial buildings that are presently established and operating. This title of lot 2 was registered in 1985 in the names of a Mr and Mrs Walker of Coquitlam B.C whose occupations were as a teacher and clerk respectively. The joint title was held until the death of Mr Walker and the transfer of the title to Mrs Walker in March 2008. Subsequent purchase of the property and transfer of the fee simple title to Mr Merric was completed in May 2008 and no record of any alteration to this status is found in the land titles search from this period to the present date.

b) In conjunction with a local realtor and the present owner, the historical record of construction has been developed with Mr Walker, as the original owner of the property, being identified as the builder of the present workshop building on the site. This building is constructed as a basic "slab on grade" construction with a simple concrete foundation placed on soil and bedrock at an elevation approx 1m above the surrounding native ground at the front of north side of the building, and on the exposed sandstone bedrock in the rear (south) of the building. The North side of the foundation is also protected by the possibility of water intrusion from a possible high water table by a rock retaining wall, enclosing granular and native soil backfill around the foundation perimeter. The general topography is sloped from the South to North of the lot with the lowest elevations of the lot contained around the property's semi-circular access road intersecting a provincial paved road described as Fernhill Road, Mayne Island. Construction of the building above the concrete foundation perimeter consists of a stepped concrete block wall rising approximately 1.5m above the foundation elevation, with the original concrete block-work visible as installed and not plaster, stuccoed or sealed by any additional material.

No decrepitation, spalling, or cracking of the foundations and block-work is noted in this inspection and, as the foundations consists of a ground level "slab on grade," very little asphaltic material has been used on the exterior of the building as a waterproofing material.

c) Construction above the 1.5m concrete block elevation consists of a standard fibreglass batt insulated timber framing vertical wall with clear span roof trusses being installed above the framed walls. The vertical walls of the interior of the building are clad in a normal gyproc cladding that provides a limited non-combustible surface with the ceiling being similarly clad and insulated with again Fiberglas batts. No installation of asbestos containing "zonolite" material was noted, and under present regulations no interior hazardous materials were included or noted in the general construction of the building. An additional lean-to has been added to the rear (south) side of the main construction and storage of material in this location did not include any heavy petroleum hydrocarbons, and only a very small amount of light extractible petroleum hydrocarbons contained within two sealed 20 L pails. Soil samples were taken in the area to additionally verify the low exposure risk of any contaminants

d) The historical data received from the present owner and from verbal communications with local personnel illustrates that the shop was used as a low level mechanical shop and this description is reinforced by the internal semi-permanent installations including both an automotive shop hoist and a small air compressor. Additionally a residential style washer and dryer are included in the present fittings, however neither of these latter two items poses an environmental risk. The interior shop floor being a slab on grade is normally very susceptible to oil spills and contamination though absorption of spilled fluids i.e. antifreeze, lubricating oils, kerosene; however by inspection and visual sampling of the concrete surface, with a photographic record being attached, this floor surface is remarkable by its absence of any areas of possible contamination even under the shop hoist where such elevated levels of hydrocarbons would normally be expected.

e) The building, although not considered as residential, has been fitted with a rudimentary water and sanitary system with a drilled well noted at the rear (south) portion of the lot and fed by underground pipe to the building. No attempt to analyse the water standards was made, as this is outside the scope of an environmental review. The sanitary system however often has an environmental footprint and the present system is generally described as having been permitted at the time of the building construction with the internal plumbing fixture being connected and flowing by gravity to a holding tank to the (north) of the building foundation. An installed sewage pump is installed in this tank and pumps up to a sewage disposal field to the south of the building and onto an elevated area. No observable breakout was noted from a visual observation however a soil sample (#100261) was taken and sampled for total and faecal content. This sample was below the threshold for contaminated soils.

f) Heating within the building has, from the observation taken on site and from local knowledge, been consistently by propane and therefore this system of heating has minimised the possibility of environmental spills from fuel oils and overflow from storage tanks. A soil sample, from the area on which the propane tank is located, was taken. The general area can be considered as a massive sandstone rock outcrop, and this sample was taken to ensure that by-product contamination, or the possible previous use of

the area as an oils storage tank area has not occurred. The area and rock outcrop showed no contamination.

g) Additional sampling at the property boundary was also completed as historical information was provided that a laundry mat was at one time located on the East side of the subject property and that minor seasonal high water flooding was at one time a problem with this establishment. These samples are identified as #100257 and #100262. No observable contaminants were found, as the sample was high in natural carbon content

h) Within the property boundaries and adjacent to Fernhill Road a small area was noted containing an ephemeral water supply. It appears that the source of this water is a by-product of the road construction drainage and the natural topography of the area. At the time of site investigation the water capacity of the wetted area was extremely limited and no direct drainage for the building was being directed into the wetted area. It is not within the mandate of this review to provide a habitat assessment of this limited area; however no knowledge of any protected species exists within the present property.

Additional Possible Site Contaminants

The listing of the products under this category is contained within the full CSR text and a partial listing is attached to this report and taken from the Ministry of Environment website; however the most common items are identified here:

- i. PCB
- ii. Asbestos
- iii. Urea formaldehyde
- iv. Lead
- v. Of gases from Mining; Coal and Metalliferous operations
- vi. Radio Active gases from decay of Uranium [Radon Daughters]

Under the limited evaluation of the site and perusal of the prior reports, it is a possibility that given the age of the structure (+/- 25 years), the installation of roof tiles, and the older style wall cladding of the interior of the building that minor inclusion of asbestos products were used. If found during eventual demolition of the present building these products may require separation from the normal building construction material or even separate removal during the de-construction stage and disposal of the waste to an approved "hazmat" site.

It is well known, and well documented by mining plans, that no areas of Mayne Island were affected by major underground mining operations, and all references to Miners Bay, etc, were a reference to the trails, etc, that the former residents, dating back to the early 19th century used to access the mining workings and settlements on Vancouver Island. With reference to the Provincial Ministry of Mine and Petroleum Resources the boundaries of the subject property pose no settlement or subsidence hazards and that the route of the mining trails and/or former surface workings were well removed from this site. The establishment of the provincial road network limited the

possibility of human contamination, mine waste, refining operations or coal cleaning works; no evidence of any mining activity was found in this investigation.

As an extension to this observation, the presence of any radioactive gases produced from the decay of Uranium or other naturally occurring minerals found in soils or rocks can be negated as these products are found only in the granitic series of rock, or these of high intensity metamorphic action on sedimentary rock formations and deposition. No major deposits and occurrences are known to exist on Mayne Island in this particular area, and the underlying sedimentary formations do not give rise to radioactive decay, and therefore the liability to long-term exposure to these agents is negligible.

No evidence of PCBs, normally used in electrical transformers, associated equipment, and used for their insulation properties, or major concentrations of lead as used in lead piping appears to be in evidence on this or adjacent properties and the liability for the remediation of these products appears low. No injection of Urea Formaldehyde foam was noted in any portion of the building.

Conclusion

Based on the site inspection and review of the property and especially Lot 2 [568 Fernhill Road] the exposure to environmental discharges is presently low and the surrounding samples taken on the property shows one abnormal result with the elevated sample high in faecal material. All other levels are below the contaminated regulation standard for miscible Light or Heavy Petroleum Hydrocarbons and as contained within the total carbon footprint that consists of organic and inorganic carbons. The majority of the carbon is contained within the upper layers of soils and particularly in the upper native organic carbon bearing soil layers and is not a volatile compound or transmitted through the ground water layers

Continued operation of the premises, as it is presently constructed, would therefore not increase the area's vulnerability to movement of these carbons and light or heavy hydrocarbon sections of the total carbon footprint. Extractable Hydrocarbons are absent from the samples and especially in the areas in which it would be expected to be found i.e. the internal work area and the rear lean-to area of the building. In addition the internal sections of the single building on the property is not contaminated by light or heavy oils often used in the operation of a light garage operation. Further investigation of the Ministry Registration of Contaminated Sites indicates that no breakdown products or levels of extractible hydrocarbons appear to be above the Ministry's Regulations or has been identified and registered with this branch of the Government

The present building as discussed above indicate that contamination of spot sources may be found i.e. around the base of any former container or vessel used in the daily operation of the premises, however the level or volume of such extractible hydrocarbons is so limited that area sampling conducted by this survey would not detect any individual sample of such minor size, and that liability of such a sample would be limited and minimal. Although any sample taken on the property may exhibit an elevated

individual level of LEPH or HEPH the total retained volume of material that would exhibit these elevated levels would be considered to be less than 100 KG of material.

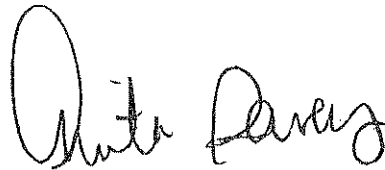
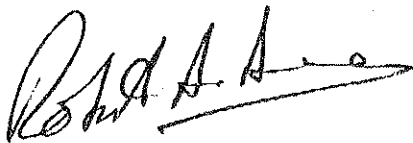
The interior of the building has been noted as not containing any light or heavy extractible petroleum hydrocarbons from both the actual garage servicing operations and installed 'above ground vehicle lift area' and this aspect of the building normally would demonstrate the highest potential environmental liabilities.

Therefore, in review of the documentation received and our assessment of soil samples we feel that Lot 2 has limited liability exposure, and except for an elevated fecal count in the soils above the septic disposal field, no widespread contamination was found on the property, and therefore no further invasive testing or action is needed for removal of material on the property. When and if the present auto service building is de-activated or remodelled the site may be considered free of contamination and not included or listed as a contaminated site under the present Ministry of Environment regulations. The regulations concerning the removal and disposal of normal commercial or residential building waste should be considered however before any attempt is made to alter the interior configuration of the building on the property.

If further information is required, or if additional information on the site is available for review, please contact our offices.

Respectfully yours,

Reviewed, Approved by

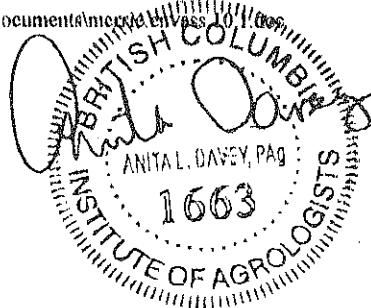


Robert A Davey ACSM

Anita Davey P.Ag.

Davey Consulting and Agrology

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Appendix 2

Draft Temporary Use Permit



Islands Trust

PROPOSED

MAYNE ISLAND LOCAL TRUST COMMITTEE

TEMPORARY COMMERCIAL USE PERMIT

MA-TUP-2010.1

TO: Don and Shanti McDougall

1. This Temporary Commercial Use Permit applies to the land described below:
Lot 2, Sec. 8, Plan 17070, Mayne Island, Cowichan District
As indicated on Schedule 'A', 'B', and 'C' attached to and forming part of this permit.
2. This permit is issued for the purpose of allowing the following commercial uses in the subject area:
 - a) "retail sale of food items"
3. The uses may be carried on subject to the following conditions:
 - a) The use permitted in 2(a) shall be limited to the area within the existing building as specified in Schedules 'A', and 'B'.
 - b) The food items permitted in 2(a) shall be limited to "produce", defined as fresh fruits, vegetables, herbs, nuts, flowers and plants. Accessory sales of processed food items such as meat, poultry, dairy, eggs, baked goods and canned goods such as jams, jellies, pickles, sauces and chutneys are also permitted.
 - c) One sign may be permitted in the location shown on schedule 'C', and one sign may be attached to the building. For certainty, signs shall conform with Sign Regulations outlined in Part 6 of the Mayne Island Land Use Bylaw No. 146, 2008. A total combined sign area of 4 square metres (43 square feet) is permitted.
 - d) A minimum of 6 parking spaces shall be provided in the location shown on Schedule 'A'. For certainty, all parking shall comply with the design standards in Section 7.2 Parking of the Mayne Island Land Use Bylaw No. 146, 2008.
4. This permit is valid for two years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust

unless the permit is renewed by resolution of the Mayne Island Local Trust Committee.

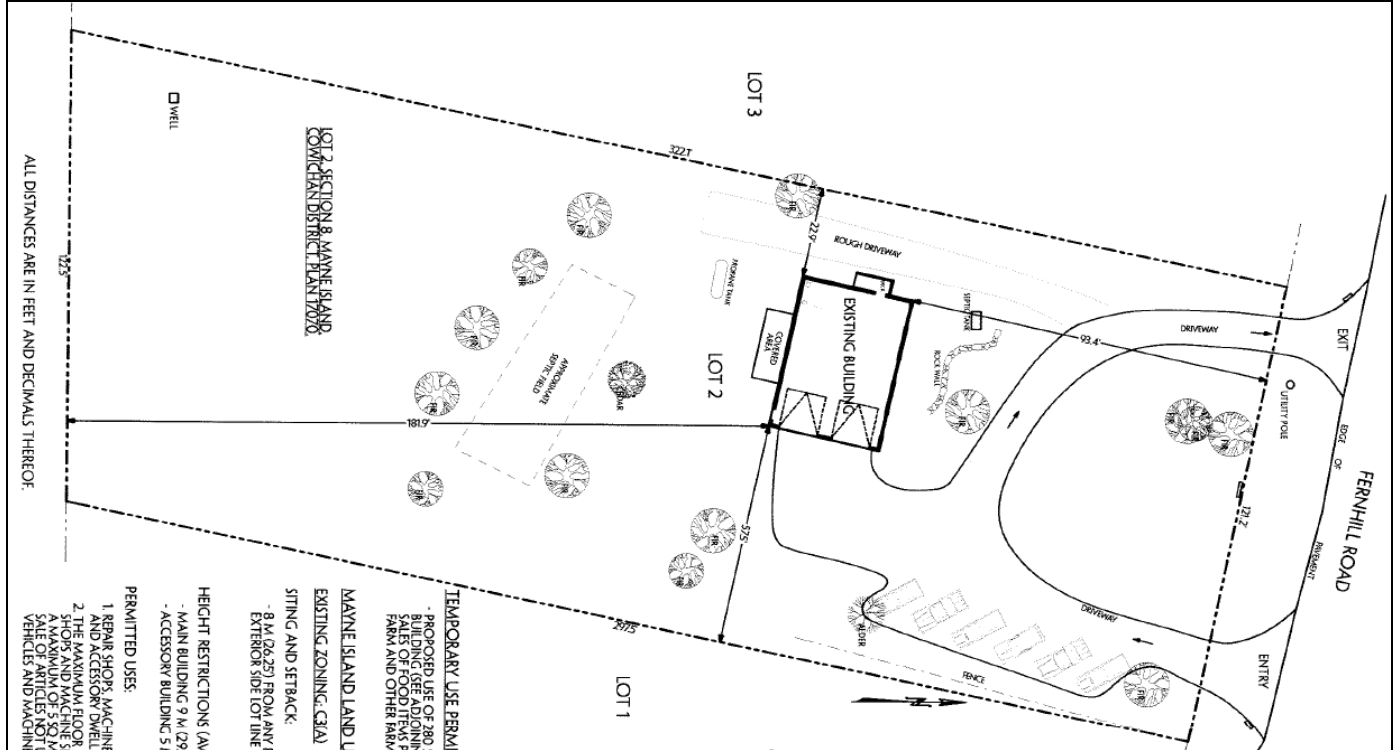
5. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "Mayne Island Land Use Bylaw No. 146, 2008 " and to obtain other approvals necessary for completion of the proposed development, including approvals from the Capital Regional District, Vancouver Island Health Authority and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE MAYNE ISLAND LOCAL TRUST COMMITTEE THIS ____ DAY _____, 2010.

Deputy Secretary, Islands Trust

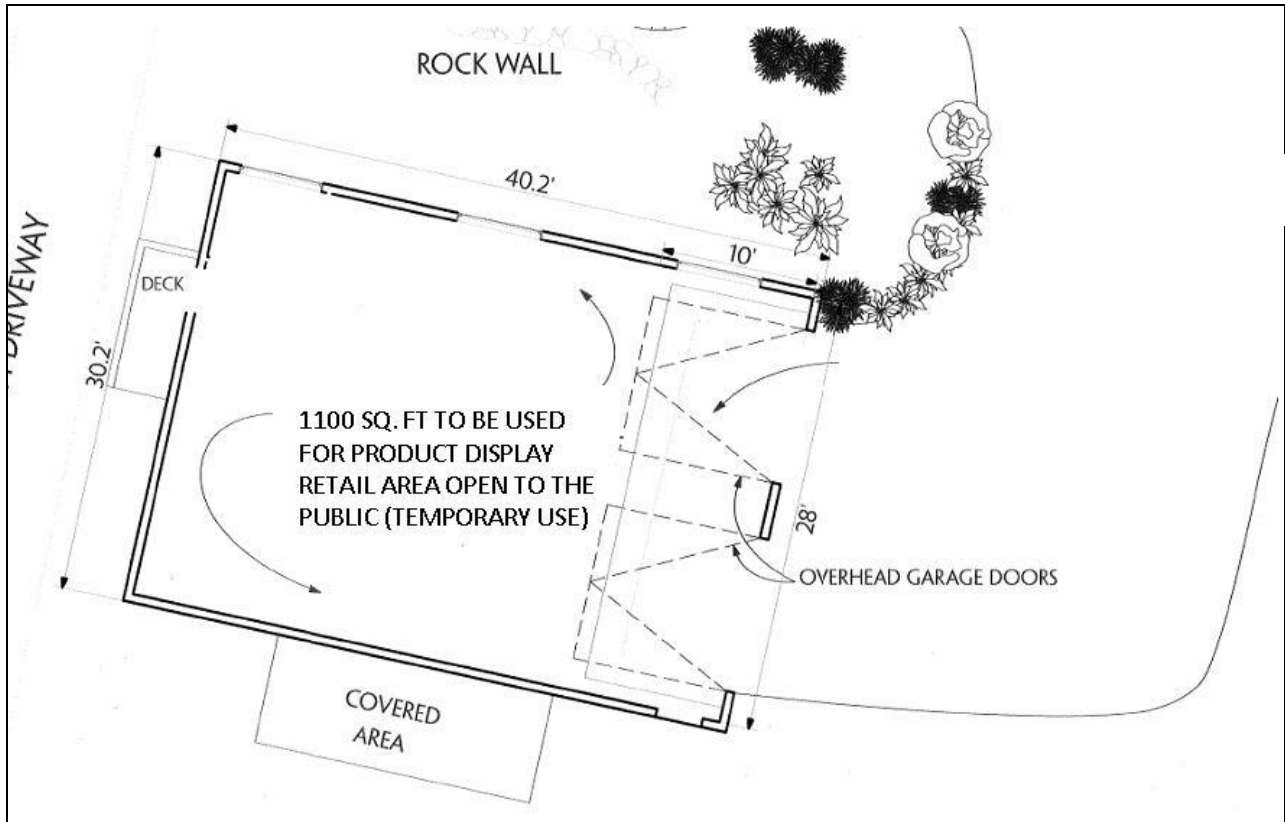
Date of Issuance

**MAYNE ISLAND LOCAL TRUST COMMITTEE
MA-TUP-2010.1
SCHEDULE 'A'**



Full site plan

MAYNE ISLAND LOCAL TRUST COMMITTEE
MA-TUP-2010.1
SCHEDULE 'B'



Detail of portion of existing structure to be used for food retail sales

MAYNE ISLAND LOCAL TRUST COMMITTEE
MA-TUP-2010.1
SCHEDULE 'C'



Detail of proposed location of signage