

June 16, 2008

File No.: HO/04

To: Hornby Island Local Trust Committee

From: David Marlor, MCIP

CC:

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Re: Secondary Dwellings on Hornby Island – Review of HICEEC Report

## BACKGROUND

At its regular meeting on February 20, 2008, the Hornby Island Local Trust Committee passed the following resolution:

**HO-017-2008** It was **MOVED** and **SECONDED** that the Hornby Island Local Trust Committee requests staff to prepare a report with recommended policy directions based upon consideration of the suggestions provided in the report entitled, *Enabling Secondary Accommodation Units on Hornby Island*, dated January 2008, and request that, with respect to suggestion number 4, staff provide recommendations of how secondary units might be addressed on small lots in the Anderson Drive/Whaling Station Bay area.

**CARRIED**

The Hornby Island Community Economic Enhancement Corporation released a report entitled “Enabling Secondary Accommodation Units on Hornby Island, British Columbia” in January, 2008. The report suggests that the following be considered for developing legislation:

1. *Zoning regulations, rather than housing agreements, provide the most straight forward way to permit and regulate secondary accommodation units.*
2. *A permitting system involving an inspection process is not an option for Hornby Island unless a) the Regional District adopts building inspection for the area or b) the Islands Trust establishes site inspection for siting and use permits.*

3. *Secondary accommodation units could be allowed on any lot that is of the required size and is within specified zones and areas provided that conditions and regulations are met.*
4. *Secondary units should not be considered for Anderson Road/Whaling Station Bay area.*
5. *They should not be considered on lots in the Agricultural Land Reserve.*
6. *There should be stricter requirements on smaller lots than on larger lots.*
7. *No more than one secondary accommodation unit should be allowed per lot.*
8. *Secondary accommodation units should only be allowed as an additional density on lots where the units will be used to provide affordable or special needs housing (which should be clearly defined).*
9. *Units should contain only one bedroom on smaller lots. A second bedroom could be considered on larger lots.*
10. *There should be a maximum size for all units, allowing adequate space for the potential residents.*
11. *On smaller lots, units could be suites contained within or attached to an existing building (or possibly a mobile unit) and only occupy a specified percentage of the total floor area.*
12. *On larger lots, secondary units could be free-standing (cottage, garden suite, mobile unit, etc) or incorporated within an accessory building (e.g. carriage suite).*
13. *Regulations for siting and size of secondary accommodation units should be separate from density and use regulations in order to enable consideration of site-specific variances upon request.*
14. *Regulations could address the built footprint on the lot such as by requiring that the secondary unit be adjacent to the main unit or that one driveway serve both units.*
15. *On smaller lots, units should not be allowed where the following are conducted; vacation rentals, bed and breakfast or other home occupations involving significant activity.*
16. *One additional parking space should be required for a secondary accommodation unit.*
17. *Water storage could be required as a condition of establishing a secondary accommodation unit, especially on a smaller lot (Rainwater catchment could be considered as an additional requirement).*
18. *If possible, prescriptive regulations should be included to ensure sewage treatment according to provincial standards (otherwise this requirement should be addressed through an information note).*
19. *Draft regulations and definitions should be subject to legal review.*

20. *Municipal Ticketing should be considered as a way to encourage compliance, particularly with respect to units being used for their intended purpose.*
21. *Regulations should be introduced to address vacation rentals prior to allowing secondary suites.*

*The following associated suggestions should be considered:*

1. *When the new Regional District is established, the desirability of building permits should be explored with the Regional District and the Community. Alternatively, the possibility of providing site inspection as part of the siting and use permit process should be explored with the Islands Trust.*
2. *The issue of run-off could be addressed through regulation or education.*
3. *Provision of accommodation in the Agricultural Land Reserve should be pursued as a separate issue.*

*Community consultation should continue, including using what has been learned through this project to enable informed discussion.*

*Any regulations that are adopted should be accompanied by information and education with respect to:*

- Describing the regulatory requirements;*
- Explaining other regulatory requirements such as the building code;*
- Encouraging best practices, such as with respect to water use and siting;*
- Providing information on relevant government programs such as RRAP grants.*

## **STAFF COMMENTS:**

### Current Situation – Land Use Bylaw:

While the Hornby Land Use Bylaw does not have specific regulations for affordable housing, it does provide opportunities for more than one dwelling on certain lots. In the R3, AG, UP zone, a secondary dwelling unit is permitted on a lot having an area greater than 3.5 hectares. In the R3 zone, one dwelling unit is permit for each 4.0 hectares of lot area.

A secondary dwelling unit is defined as a dwelling unit that may be limited by size in the zone specific regulations. The zone regulations do not specify a size limitation for secondary dwelling units.

## Current Situation – Official Community Plan

Small Lot Residential Designation – Policy 6.3.2.6 – one dwelling shall be permitted on each lot.

Small Lot Residential / Water Resource Protection Area (Whaling Station Bay/Anderson Drive) Designation – Policy 6.3.3.5 - – one dwelling shall be permitted on each lot.

Large Lot Residential Designation – Policy 6.3.4.5 – one dwelling per 1.6 hectares (4 acres) shall be permitted on land designated large lot residential.

Large Lot Residential / Water Resource Protection Area Designation – Policy 6.3.5.3 - one dwelling shall be permitted on each lot.

Rural Residential Designation – Policy 6.3.6.5 – only one dwelling unit shall be permitted on parcels smaller than 3.5 hectares (8.75 acres) and a maximum of two dwelling units shall be permitted on lots 3.5 hectares (8.75 acres) or greater.

Forest Designation – Policy 6.3.7.5 – only one dwelling unit shall be permitted per parcel and two dwellings if the parcel is over 4.0 hectares (10 acres).

Forest Rural Designation – Policy 6.3.8.4 – two dwelling units shall be permitted per lot over 4.0 hectares (10 acres)

Agriculture Designation – Policy 6.4.1.4 – one dwelling only shall be permitted on lots smaller than four hectares (10 acres) and two dwellings shall be permitted on parcels four hectares (10 acres) or greater.

## Discussion

*Zoning regulations, rather than housing agreements, provide the most straight forward way to permit and regulate secondary accommodation units.*

Housing agreements are authorized under S. 905 of the *Local Government Act* as a means of ensuring that housing stock is made available to specified groups of people, such as seniors, people with low income and people with special needs. Housing agreements may be effective in situations where multi-family units are being considered for affordable housing, but the administration of housing agreements makes them unsuitable for single unit developments, such as secondary accommodation units.

Housing agreements are very much like conservation covenants, in that they can be expensive to administer, enforce and track. If we do not monitor or enforce, the agreement is ineffective.

When the Executive Committee considers amendments to Official Community Plans or Land Use Bylaws, one point it must consider is the impact of the proposed bylaw on resources. If the proposed bylaws could lead to a need to increase staffing to enforce, monitor, manage or administer a provision of the bylaws, then funding for this increase will need to be decided.

The Local Trust Committee is unable to enter into third party agreements with respect to housing agreements; so the option to get a third party, such as a not-for-profit group to take on this role is not an option. The Committee could enter into a servicing coordination agreement with the Regional District, but this would require that the Regional District provide an affordable housing service that applies to **Denman** Island.

*A permitting system involving an inspection process is not an option for Hornby Island unless a) the Regional District adopts building inspection for the area or b) the Islands Trust establishes site inspection for siting and use permits.*

Staff concurs with this suggestion. Any permit issued should have a follow-up and/or monitoring component to ensure that the terms of the permit are being met. At present, Staff will do limited follow-ups on certain development permits (not issued on Hornby Island). No follow-ups are conducted for siting and use permits.

*Secondary accommodation units could be allowed on any lot that is of the required size and is within specified zones and areas provided that conditions and regulations are met.*

A minimum lot size would need to be established under which a secondary unit would not be permitted. The lot size might not be the best indicator of suitability. While lot size may influence the ability of the lot to accommodate the second unit (such as water, sewage disposal, parking and neighbour impacts), other factors such as groundwater ability, distance from services, farming capability of the lot) will also influence the location of lots suitable for secondary units.

A lot size minimum of 1.0 hectares would ensure that, in most cases, the property is able to accommodate water supply and septic disposal.

*Secondary units should not be considered for Anderson Road/Whaling Station Bay area.*

The Local Trust Committee has requested Staff to address ways in which secondary units may be included in the Anderson Drive/Whaling Station Bay area. Lots in this neighbourhood are less than 1.0 hectares in area, and many are around 0.1 hectares. The area is noted in the Official Community Plan as having its own aquifer that is classed A1 – heavily developed with high vulnerability.

The Islands Trust Policy Statement Policy 4.4.2 directs Local Trust Committees not to increase use or intensity of development in areas know to have problems with quality or quantity of freshwater.

Given the above, the Local Trust Committee would need to ensure that addition of secondary dwelling units had no impact on the quality or quantity of water. Given that this area has been identified as a vulnerable aquifer, Staff recommends that the Local Trust Committee not consider adding secondary dwellings in this area.

If the Local Trust Committee wishes to include secondary units in this area, strict requirement for proof of water before construction begins would be required. On going monitoring may be required that could create an administrative burden on the Local Trust Committee (through the use of a restrictive covenant).

*They should not be considered on lots in the Agricultural Land Reserve.*

As the purpose of secondary units is to provide affordable accommodation, location of them in the Agricultural Land Reserve needs to be balanced with the need to ensure the land remains primarily for agricultural production. Additional accommodation for full-time farm works is permitted by the Agricultural Land Commission in the Agricultural Land Reserve; however, secondary units for affordable housing purposes would require approval of the Agricultural Land Commission. The Hornby Island Economic Enhancement Corporation suggestion is consistent with the Hornby Island Official Community Plan that does not permit more than one dwelling unit in the Agricultural Land Reserve.

*There should be stricter requirements on smaller lots than on larger lots.*

The regulations pertaining to secondary units may vary by zone, or specific locations within zone or by lot size or other criteria. The Local Trust Committee may wish to consider allowing secondary suites on smaller lots and either secondary suites or secondary dwellings on larger lots. As none of the smaller lots on Hornby Island are on a community water and community septic system, consideration of adding secondary units to lots less than 1.0 hectares should only be done with careful consideration from professional regarding ability to support the additional units with water and septic.

*No more than one secondary accommodation unit should be allowed per lot.*

Any additional dwelling units on lots would have to be consistent with the Official Community Plan policies. Given current Official Community Plan policies, secondary dwelling units would only be permitted in the Large Lot, Rural, Forest, Forest Rural and Agriculture designations. Inclusion of other designations would require amendments to the Official Community Plan.

*Secondary accommodation units should only be allowed as an additional density on lots where the units will be used to provide affordable or special needs housing (which should be clearly defined).*

Without the use of a housing agreement, it is not possible to specify that the units must be used for affordable or special needs housing. The Local Trust Committee could establish regulations on the siting and size of such units to make it unlikely that they would be used for anything other than affordable housing, but this will not guarantee the units will be used this way. For example, specifying the units must be within a building containing the principal dwelling unit, or in a principal dwelling unit occupied by the owner and/or that the unit be no larger than a specified size will all contribute to targeting the unit at people in need of affordable accommodation.

*Units should contain only one bedroom on smaller lots. A second bedroom could be considered on larger lots.*

While it may be possible to specify the number of bedrooms by regulation, it is not practical to do so. Without the use of building inspection and with the lack of reasonable means to enforce such a provision, including such a regulation will most likely be ineffective. A better alternative is to establish a unit size that would most likely result in a single bedroom unit. Units in the 56 square metre range are normally one bedroom units; units in the 70 square metre range are usually one or two bedroom units.

*There should be a maximum size for all units, allowing adequate space for the potential residents.*

Staff concurs with this recommendation. Size limitations are also a means to reduce the attractiveness of the units and therefore the market value.

*On smaller lots, units could be suites contained within or attached to an existing building (or possibly a mobile unit) and only occupy a specified percentage of the total floor area.*

On smaller lots, a suite inside the principal building would be the best option, provided that the suite is able to be connected to the same septic system and well system as the principal dwelling unit and provided there is enough room on the lot to accommodate additional parking.

*On larger lots, secondary units could be free-standing (cottage, garden suite, mobile unit, etc) or incorporated within an accessory building (e.g. carriage suite).*

Zoning regulations could be developed to accommodate a variety of options, allowing the landowners to choose the one most suitable for their property and preferences.

*Regulations for siting and size of secondary accommodation units should be separate from density and use regulations in order to enable consideration of site-specific variances upon request.*

Siting and size regulations can be included separately from density and use. Development variance permits may be used to vary the size of secondary units.

*Regulations could address the built footprint on the lot such as by requiring that the secondary unit be adjacent to the main unit or that one driveway serves both units.*

Zoning regulations regarding the siting of secondary dwelling units could specify that the unit must be located within a certain distance of the principal dwelling unit; regulations could require that the secondary dwelling unit shares a driveway with the principal dwelling unit. Zoning regulations could also establish [a](#) maximum site coverage that could include all impermeable surfaces on the lot, including paved driveways and parking.

*On smaller lots, units should not be allowed where the following are conducted; vacation rentals, bed and breakfast or other home occupations involving significant activity.*

The zoning regulations could be written to either allow or not allow a certain use; therefore, zoning regulations would need to be amended to remove one or more uses if secondary units are permitted. If a minimum lot size is established (such as 1.0 hectares), the added impact of the secondary dwelling unit should be minimal and could co-exist with bed and breakfast, home occupation and other uses. The Local Trust Committee may want to prohibit bed and breakfast and home occupation uses from occurring within a secondary unit. Doing so would remove an economic activity from the property, which may reduce the affordability by removing an income source. Of the two types, certain home occupations may not be suitable within a secondary unit and bed and breakfast operations would not be suitable.

*One additional parking space should be required for a secondary accommodation unit.*

The current zoning regulations require two parking stalls per dwelling unit. These regulations would apply to secondary units unless the regulations were amended to require more or less parking spaces for secondary units.

*Water storage could be required as a condition of establishing a secondary accommodation unit, especially on a smaller lot (Rainwater catchment could be considered as an additional requirement).*

The secondary unit use could be subject to the provision of a water catchment system. While Staff will ensure that such catchment systems are shown on siting and use permits issued for secondary units, without any follow-up, enforcement

would rely on the complaint driven process (which is the situation for all current zoning regulations).

*If possible, prescriptive regulations should be included to ensure sewage treatment according to provincial standards (otherwise this requirement should be addressed through an information note).*

The Sewage System Regulation under the *Health Act* sets the required standards for residential development; zoning regulations are not required.

*Draft regulations and definitions should be subject to legal review.*

Certain regulations may require legal review and Staff will seek legal review as necessary during the drafting process.

*Municipal Ticketing should be considered as a way to encourage compliance, particularly with respect to units being used for their intended purpose.*

To use Municipal Ticketing, the Local Trust Committee would have to adopt a Municipal Ticketing Bylaw. Before a Municipal Ticketing Bylaw is considered, the Land Use Bylaw would need to be significantly amended to bring it in line with the Official Community Plan. Staff recommends that Municipal Ticketing not be considered until a new Land Use Bylaw has been adopted.

*Regulations should be introduced to address vacation rentals prior to allowing secondary suites.*

Staff has no comment.

*The following associated suggestions should be considered:*

*When the new Regional District is established, the desirability of building permits should be explored with the Regional District and the Community. Alternatively, the possibility of providing site inspection as part of siting and use permit process should be explored with the Islands Trust.*

Staff agrees that building permits would improve the ability to enforce provision in the Land Use Bylaw. Further discussions with Denman Island and Hornby Island Local Trust Committees should be undertaken regarding the siting and use permitting process and its effectiveness.

*The issue of run-off could be addressed through regulation or education.*

The Local Trust Committee may include regulations requiring run-off controls for certain types of development, such as for development with over a certain percentage of impermeable surfaces.

*Provision of accommodation in the Agricultural Land Reserve should be pursued as a separate issue.*

Approval of the Land Reserve Commission would be required for any secondary accommodation in the Agricultural Land Reserve.

*Community consultation should continue, including using what has been learned through this project to enable informed discussion.*

Community consultation would be part of any amendment bylaw process.

*Any regulations that are adopted should be accompanied by information and education with respect to:*

*Describing the regulatory requirements;*

*Explaining other regulatory requirements such as the building code;*

*Encouraging best practices, such as with respect to water use and siting;*

*Providing information on relevant government programs such as RRAP grants.*

### Types of Secondary Dwelling Units

Secondary dwelling units could be free standing dwelling units, very much like a principal dwelling unit, or it could be a secondary suite located within the same building as the principal dwelling unit. It is likely that a separate unit would require a separate septic disposal system, water supply, utilities and driveways. A secondary suite located in the same building would be able to be accommodated, in most cases, by a single septic system and water system (subject to Provincial regulations), utility lines and driveway. Zoning could be developed to allow one, the other or both (choice is left with the landowner which one they wish to build).

Floor area limitations for secondary accommodation units are common in order to ensure that they remain secondary (accessory) that they remain priced for affordable accommodation and they do not become a second principal dwelling on the property.

Other regulations may be included to reduce the impacts of the secondary dwelling unit on neighbours and the environment; these include requirements for water and septic disposal, setback, siting and height regulations.

Allowing a secondary suite inside a building with an existing dwelling may be difficult to enforce on properties with multi single family dwelling if only one secondary dwelling per lot is permitted. If the secondary dwelling is freestanding, the enforcement is easier as siting and use permits would need to be issued and the construction would be more

visible. Conversion of interior space does not require siting and use permits and is less visible.

### Options

The Local Trust Committee has a range of options with respect to providing secondary dwellings on Hornby Island:

1. amend the Land Use Bylaw to accommodate secondary dwelling units within the constraints of the existing Official Community Plan. This would result in no net increase in dwellings on Hornby Island. Further restrictions could be placed on existing secondary dwelling units to comply with the suggestions in the Hornby Island Economic Enhancement Corporation report.
2. amend the Land Use Bylaw and the Official Community Plan to expand secondary units to other zones, excluding the Agricultural Land Reserve, and areas of Hornby Island. This would include policy amendments to allow secondary units and establish criteria for them; it would include regulatory amendments to add secondary units in specified areas and regulations for them. This could expand secondary dwelling units to all lots outside the ALR that are 1.0 hectare (or another prescribed minimum lot size) or larger, or to lots of a minimum size that are within a certain distance of services (such as the commercial centre, community centres, ferry terminal, etc).
3. amend the Land Use Bylaw and Official Community Plan to indicate the types of secondary dwelling units that may be permitted. The types of units could be specified and be different for different zones or different lot sizes, or a menu of options could be provided and left to the landowner to decide on the most appropriate for their situation.
4. secondary suites could be permitted on smaller lots (less than 1.0 hectares, but larger than 0.5 hectares), with secondary freestanding dwelling units being permitted on larger lots. Secondary suites may be considered on smaller lots if water and septic disposal could be adequately provided, and there was enough room to accommodate the additional parking.

### **RECOMMENDATIONS:**

Staff recommends that the Hornby Island Local Trust Committee:

1. decides on whether or not it wishes to proceed with Official Community Plan and Land Use Bylaw amendments to add secondary units to Hornby Island;
2. instructs Staff on which option it would like to pursue with respect to adding secondary units to Hornby island, and in doing so advises Staff on any limitations it would want on secondary units on Hornby Island (location size, type, siting, floor area);

3. instructs Staff to prepare a further report that provides details on the number of potential secondary dwelling units that would result from such an amendment and prepare the required draft amending bylaws; and
4. that such work does not begin until after November 2008.

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Respectfully submitted by:

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Date