

DRAFT

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 235

A BYLAW TO AMEND NORTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 171, 2007

The North Pender Island Local Trust Committee in open meeting assembled enacts as follows:

1. CITATION

This Bylaw may be cited for all purposes as “North Pender Island Official Community Plan Bylaw No. 171, 2007, Amendment No. 1, 2023”.

2. SCHEDULES

North Pender Island Official Community Plan Bylaw No. 171, 2007 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	_____	DAY OF	_____	20__
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20__
READ A SECOND TIME THIS	_____	DAY OF	_____	20__
READ A THIRD TIME THIS	_____	DAY OF	_____	20__
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20__
APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS THIS	_____	DAY OF	_____	20__
ADOPTED THIS	_____	DAY OF	_____	20__

CHAIR

SECRETARY

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 235**

SCHEDULE 1

The North Pender Island Official Community Plan Bylaw No. 171, 2007, is amended as follows:

1. Subsection 5.2.8 Development Permit Area Seven – Raptor Nests, is deleted in its entirety and replaced with the following:

“5.2.8 DEVELOPMENT PERMIT AREA SEVEN - RAPTOR AND HERON NESTS

5.2.8.1 Development Approval Information

This development permit area is designated as an area for which development approval information may be required as authorized by Section 485(1) of the *Local Government Act*. The designation of these as areas, for which development approval information may be required, is based on the special conditions or objectives supporting the designation of the DPA. Development approval information means information on the anticipated impacts of the proposed activity or development in the form of a report from a qualified professional.

All applications shall be consistent with all requirements established in the fees bylaw, development procedures bylaw and development approval information bylaw adopted by the North Pender Island Local Trust Committee.

5.2.8.2 Designation

Development Permit Area Seven is shown in a generalized representation on Schedule O and includes a minimum 60 metre radius around identified eagle, great blue heron and other raptor nest trees, including falcons, hawks, ospreys, and owls.

Development Permit Areas are designated as follows:

- a) For Bald Eagle Nest Trees – the Development Permit Area applies to all mapped trees containing bald eagle nests and is:
 - i. a 60 m radius from a nest tree in high density areas (lands zoned Rural Residential One in North Pender Island Land Use Bylaw No. 224, 2022
 - ii. a 100 m radius from a nest tree in all other zones in North Pender Island Land Use Bylaw No, 224, 2022.
 - iii. an additional 100 m radius from any nest tree during the breeding season as a ‘Breeding season quiet buffer’ of February 5th to August 31st.
- b) For Great Blue Heron Nest Trees – the Development Permit Area applies to all mapped trees containing great blue heron nests, and is:
 - i. a 60 m radius from the nest tree in high density areas (lands zoned Rural Residential One in North Pender Island Land Use Bylaw No. 224, 2022;

- ii. a 200 m radius from the nest tree in all other zones of North Pender Island Land Use Bylaw No. 224, 2022.
 - iii. an additional 200m radius from any nest tree during the breeding season of January 15th to September 15th.
- c) All other raptor Nest Trees or cliff nest locations (falcons, hawks, ospreys, and owls) – the Development Permit Area applies to all mapped trees or cliff sites containing raptor nests and is:
- i. a 60 m radius from the nest tree or site in high density areas (lands zoned Rural Residential One in North Pender Island Land Use Bylaw No. 224, 2022; and
 - ii. a 100 m radius from the nest tree or site in all other zones of North Pender Island Land Use Bylaw No. 224, 2022.

Schedule O depicts all trees designated as raptor and heron nest trees, including appropriate non-nesting and nesting season buffers areas for each tree based on the bird species utilizing each tree as described above.

The definitive designation and delineation of Development Permit Area Seven consists of a digital record compiled by means of air photograph interpretation and verification through field studies. This digital record is stored and maintained in a Geographic Information System (GIS) at the offices of the Islands Trust.

In some instances, exact nesting tree location coordinates have not been field verified. In those cases, where a discrepancy exists between the digital record and the actual location of the nesting tree, the minimum radius distances apply to the actual location of the nesting tree as verified by a qualified professional.

5.2.8.3 Special Conditions or Objectives that Justify the Designation

It is the Object of the Islands Trust to “Preserve and protect the Trust Area and its unique amenities and environment of the Trust Area for the benefit of the residents of the Trust Area, and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, First Nations, other persons and organizations and the government of British Columbia.”

The North Pender Island Local Trust Area contains habitat used by bald eagles, other raptors and great blue herons for nesting and breeding.

Bald Eagles are a regionally significant species and include both resident and wintering birds. Resident eagles establish a territory around a nest, with most pairs using the same site for all their breeding life. Nests are semi-permanent structures which represent a considerable investment of energy. Nest abandonment – either permanent or temporary – can result from tree damage or removal, nest damage or human disturbance during the critical nesting period from January 15th to August 30th.

Eagle nest trees requirements are specialized: typically large, very old trees near the water and although second growth trees are sometimes used, most nest trees are Douglas-firs over 150 years of age, usually within one kilometre of the shoreline. Human activity related to logging and land development have resulted in the loss of nest sites, which results in a permanent reduction in the nesting population. Gradual loss of nesting habitat is considered to be the most significant factor

affecting bald eagle abundance in B.C. (Province of BC. Develop with Care 2014: Environmental Guidelines for Urban and Rural Land Development) and specifically on Vancouver Island and the Gulf Islands, habitats within low-elevation coastal habitats in the Coastal Douglas-fir Biogeoclimatic zone have been degraded by human developments (Province of BC. Guidelines for Raptor Conservation during Urban and Rural Land Development in British Columbia 2013).

‘Breeding season quiet buffer’: During their breeding season (Feb 5 to Aug 31), especially during early courtship and egg-laying periods, bald eagles are very sensitive to noise disturbances and may abandon their nests and young.

Great Blue Herons are a Species of Special Concern in Canada and are blue-listed in British Columbia. The number of active nests on Vancouver Island and the Gulf Islands averages 525 annually. Bald eagles require large territories and generally locate nest sites 1 km away from another breeding pair. Both species nest near large bodies of water such as lakes, large rivers or the ocean, near their main food source. The loss of available nesting habitat due to human disturbance reduces the birds’ ability to reproduce and successfully raise their young. Great Blue Heron breeding sites are concentrated in the Strait of Georgia, with large colonies generally occurring in relatively contiguous forest, fragmented forest or solitary trees and associated with extensive estuarine mudflats and eelgrass beds. Avoid any new disturbance, especially early in the season as herons are particularly susceptible to disturbance. Great blue heron breeding window is between January 15 and September 15. During their breeding season (Jan 15 to Sept 15), especially early in the breeding season, herons are very sensitive to noise disturbances and may abandon their nests and young.

Colonies are dynamic, especially in areas of high disturbance and habitat destruction and human disturbance has been implicated in historical colony abandonment. In particular, disturbance from humans can cause herons to temporarily abandon breeding attempts, allowing predators to take eggs. The Province of British Columbia recommends a buffer of at least 300 m in undeveloped areas, 200 m in rural areas, and 60 m in urbanized areas. An additional 200 metre ‘no disturbance’ buffer is recommended during the nesting season, especially for colonies not previously accustomed to people and their activities. (Develop with Care 2014: Fact Sheet #11 - Great Blue Heron: Environmental Guidelines for Urban and Rural Land Development in British Columbia).

Other Raptors include falcons, hawks, ospreys, owls and other eagle species. Healthy raptor populations are important in maintaining a balance in prey populations. Protection of habitat, including nesting areas, is important in order to maintain raptor populations.

In considering the issuance of a development permit, the LTC should be satisfied that the objectives of the DPA have been met where applicable and may impose conditions where appropriate.

The objective of this development permit area is as follows:

1. To preserve and protect raptor and heron nesting sites.

5.2.8.4 Authority

This development permit area is established, pursuant to Section 488(1)(a) of the *Local Government Act*, for the protection of the natural environment, its ecosystems and biological diversity. In considering the issuance of a development permit, the LTC should be satisfied that the

objective of the DPA has been met where applicable and may impose conditions where appropriate.

5.2.8.5 Applicability

Section 489 of the *Local Government Act* provides that within areas designated as Development Permit Areas in an official community plan:

- (a) land must not be subdivided,
- (b) construction of, addition to or alteration of a building or structure must not be started;
- (c) land must not be altered;

unless the owner first obtains a Development Permit or an exemption under s 488(4) applies.

5.2.8.6 Development Permit Exemptions

The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, owners must satisfy themselves that they meet any other applicable local, provincial or federal requirements.

- a) for certainty: development or alteration of land occurring outside of a development permit area;
- b) the placement of impermanent structures , such as benches, tables and garden ornaments;
- c) submission to the Islands Trust of a written statement from a registered professional biologist with relevant experience, stating that the proposed work would have no impact on any raptor or heron nesting site;
- d) forest management activities on land classified as managed forest land under the *Private Managed Forest Land Act*;
- e) forest management activities on land that is the subject of a valid and subsisting woodlot license or tree farm license under the *Forest Act*;
- f) work undertaken by an agent of the Crown;
- g) gardening and yard maintenance activities within an existing landscaped area, including mowing, pruning, planting and minor soil disturbance that does not alter the general contours of the land;
- h) the removal of dangerous trees that have been examined by an arborist and certified to pose an immediate threat to life or property;
- i) the removal of invasive, non-indigenous trees or vegetation;
- j) the removal of trees or vegetation minimally necessary for the construction of any of the uses, buildings or structures exempted from the requirement for a development permit;
- k) the repair, maintenance, alteration or reconstruction of existing legal or legal non-conforming buildings, structures or utilities provided there is no alteration of undisturbed land or vegetation (building permit may be required);
- l) the repair and maintenance of existing roads, driveways, paths and trails, provided there is no expansion of the width or length of the road, driveway, path or trail, and no creation of additional impervious surfacing, including paving, asphaltting or similar surfacing;
- m) farm operations as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses as defined in the *Agricultural Land Reserve Use Regulation*; or,
- n) The construction or placement of a small accessory building or structure such as a pump house, gazebo, garden shed or storage structure if all the following apply:

- i) The accessory building or structure is located entirely within the seasonal buffer;
- ii) No native trees are removed; and
- iii) The total area or coverage of the accessory building or structure is less than 10 m².

5.2.8.7 Guidelines

1. Where an application involves a proposal to subdivide land, the layout of proposed lots should be configured in such a manner as to ensure, to the extent practical, that Bald Eagle, other raptor, or Blue Heron nesting trees are protected by clustering lots through lot averaging or bare land strata. Where feasible, the lot containing the nesting tree should be of a sufficient size to accommodate the permitted level of development, including driveway access, septic disposal systems, and accessory uses, in addition to an adequate buffer around the nesting tree.
2. Where an application involves proposals to construct or locate new buildings, structures, roads, driveways, utility corridors, or to clear or alter undisturbed land or vegetation in areas within the DPA, development should, where feasible:
 - a) Avoid disturbance of occupied nesting, roosting and feeding sites.
 - b) Consider potential impacts stemming from the construction phase, the intended long-term use of the site, and any cumulative impacts of development in the area.
 - c) Consider the timing of development in respect of minimizing impacts during breeding season timing windows and ensure that species specific breeding season quiet buffers are applied where applicable.
 - d) Retain existing natural habitats suitable for raptors and herons, such as potential or currently unoccupied nesting trees, perches, roosting trees, snags, and trees with cavities.
 - e) Where possible, retain groups of trees rather than isolated single trees to provide an inter-locking canopy.
 - f) Maintain an effective buffer of undisturbed vegetation around nest sites. Larger buffer areas may be suitable on larger lots; lesser buffer areas may be suitable in areas of longstanding development, on small lots and where on-going activity has habituated birds to human presence.
 - g) Locate new trails, buildings and roads away from nesting, roosting and foraging areas.
 - h) Consider restoration or enhancement of key habitat features where they have been disturbed.
3. Permits may include conditions respecting the timing or phasing of development work, including conditions restricting significant work to periods when eggs and young are not present in the nesting sites, and restoration or enhancement of key habitat features.

4. Where a qualified professional recommends additional mitigation measures within the DPA based on site-specific observations, permits may include conditions to:
 - a) protect trees, cliffs or other specific sites that are in regular use for roosting, perching or feeding.
 - b) protect primary foraging sites such as shorelines, wetlands, shrubby areas, hedgerows and riparian areas.

5. Where an application involves the development of a primary residence on a previously undeveloped residential parcel, and a significant portion or all of the developable area of the parcel falls within a raptor or heron DPA, development should, where feasible:
 - a) Be designed and sited in a way that minimizes impacts to raptor and heron activities within the DPA, including siting development outside the DPA where possible;
 - b) Consider the establishment of a 'residential home plate' as a permit condition that delineates an area within the parcel where residential uses, including dwellings, driveways, and ancillary uses, must be sited.

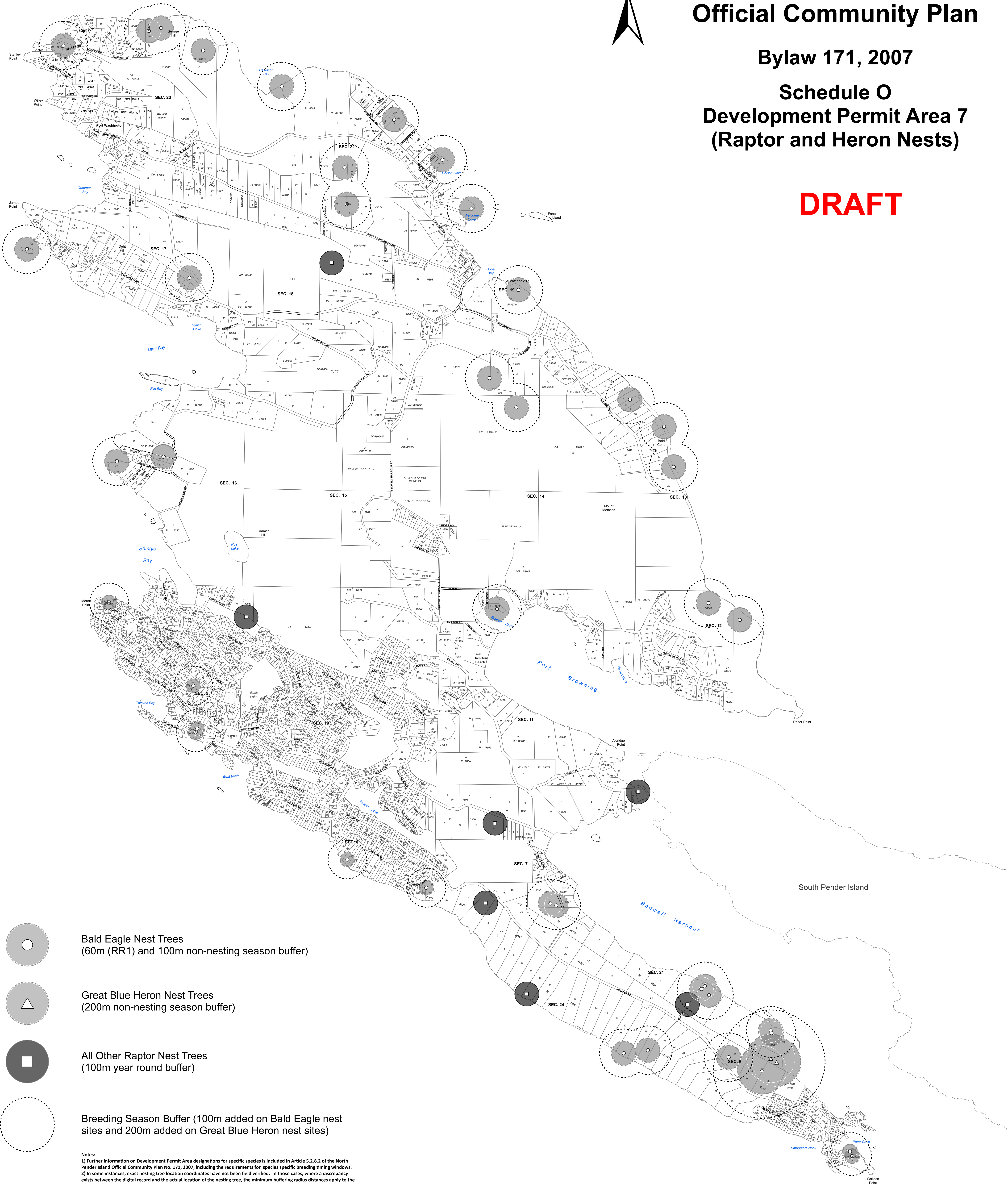
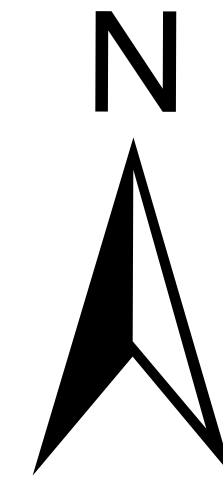
6. The LTC may consider variances to relax siting, size or subdivision regulations where the variance may result in enhanced protection of a nesting tree or colony or habitat feature.
 2. Schedule O - Development Permit Area 7 Map (Raptor and Heron Nests) is deleted in its entirety and replaced with an updated Schedule O - Development Permit Area 7 Map (Raptor and Heron Nests) attached to and forming part of this bylaw.

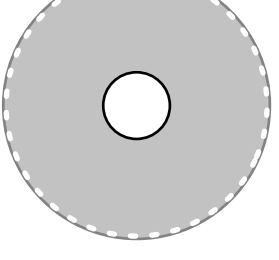
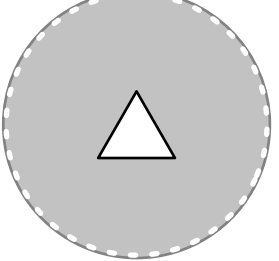
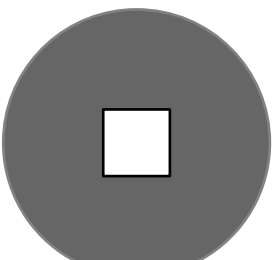
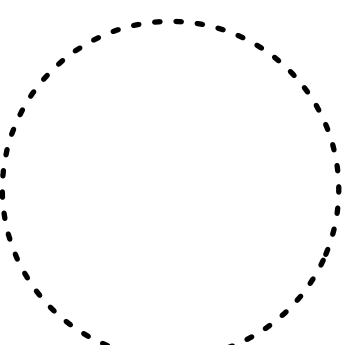
North Pender Island Official Community Plan

Bylaw 171, 2007

Schedule O Development Permit Area 7 (Raptor and Heron Nests)

DRAFT



-  Bald Eagle Nest Trees
(60m (RR1) and 100m non-nesting season buffer)
-  Great Blue Heron Nest Trees
(200m non-nesting season buffer)
-  All Other Raptor Nest Trees
(100m year round buffer)
-  Breeding Season Buffer (100m added on Bald Eagle nest sites and 200m added on Great Blue Heron nest sites)

Notes:
1) Further information on Development Permit Area designations for specific species is included in Article 5.2.8.2 of the North Pender Island Official Community Plan No. 171, 2007, including the requirements for species specific breeding timing windows.
2) In some instances, exact nesting tree location coordinates have not been field verified. In those cases, where a discrepancy exists between the digital record and the actual location of the nesting tree, the minimum buffering radius distances apply to the actual location of the nesting tree as verified by a qualified professional.



North Pender Island

North Pender Island
Local Trust Committee

Schedule O
DPA 7