



Salt Spring Island Local Trust Committee Special Meeting Agenda

Date: Monday, January 22, 2024
Time: 1:30 pm
Location: Electronic Meeting

	Pages
1. CALL TO ORDER	1:30 PM - 1:35 PM
2. APPROVAL OF AGENDA	
3. PUBLIC COMMENTS	1:35 PM - 1:50 PM
4. BUSINESS ITEMS	1:50 PM - 2:30 PM
4.1 Draft Bylaw 537 - Accessory Dwelling Units Staff Report	2
5. ADJOURNMENT	



DATE OF MEETING: January 22, 2024
 TO: Salt Spring Island Local Trust Committee
 FROM: Chris Hutton, Regional Planning Manager
 Salt Spring Island Team
 SUBJECT: Proposed Land Use Amendment Bylaw to allow Accessory Dwelling Units

RECOMMENDATION

1. That the Salt Spring Island Local Trust Committee Bylaw No. 537, cited as “Salt Spring Island Local Trust Committee Land Use Bylaw No. 355, 1999, Amendment Bylaw No. 2, 2023 be read a first time.
2. That the Salt Spring Island Local Trust Committee Bylaw No. 537, cited as “Salt Spring Island Local Trust Committee Land Use Bylaw No. 355, 1999, Amendment Bylaw No. 2, 2023 be read a second time.
3. That the Salt Spring Island Local Trust Committee Bylaw No. 537, cited as “Salt Spring Island Local Trust Committee Land Use Bylaw No. 355, 1999, Amendment Bylaw No. 2, 2023 be read a third time.
4. That the Salt Spring Island Local Trust Committee refer Bylaw No. 537, cited as “Salt Spring Island Local Trust Committee Land Use Bylaw No. 355, 1999, Amendment No. 2, 2023” to the Islands Trust Executive Committee for comment.
5. That the Salt Spring Island Local Trust Committee has reviewed the Islands Trust Policy Statement Checklist attached to the January 22, 2024 report as Attachment 2, and determined that draft Bylaw No. 537, as amended cited as “Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2023,” is not contrary to or at variance with the Islands Trust Policy Statement.

REPORT SUMMARY

This report follows up on previous direction from the Salt Spring Island Local Trust Committee (SS LTC) to schedule a special meeting to consider up to three readings of draft Bylaw No. 537, cited as “Salt Spring Island Local Trust Committee Land Use Bylaw No. 355, 1999, Amendment Bylaw No. 2, 2023” (Attachment 1).

BACKGROUND

At its December 14, 2023 regular meeting the SS LTC passed the following resolutions:

SS-2023-150

It was MOVED and SECONDED,

That the Salt Spring Island Local Trust Committee not require a Public Hearing for Salt Spring Island Local Trust Committee Bylaw No. 537, cited as “Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2023” as presented in Attachment 5 of the Regional Planning Manager’s December 14, 2023 report as the Bylaw is consistent with the “Salt Spring Island Official Community Plan No. 434, 2008, and request staff to proceed with public notification as per Section 464 of the *Local Government Act*.

CARRIED

Trustee Harris OPPOSED

SS-2023-151

It was MOVED and SECONDED,

That the Salt Spring Island Local Trust Committee proceed no further with Salt Spring Island Local Trust Committee Bylaw No. 530, cited as “Salt Spring Islands Land Use Bylaw No. 355, 1999, Amendment No. 1, 2022”.

CARRIED

Trustee Harris OPPOSED

SS-2023-152

It was MOVED and SECONDED,

That the Salt Spring Island Local Trust Committee request staff to schedule a special meeting prior to January 23, 2024 to present Bylaw No. 537 for first reading.

CARRIED

Trustee Harris OPPOSED

ANALYSIS

Islands Trust Policy Statement:

Policy Statement analysis (Attachment 2) is provided for advancement of draft Bylaw No. 537 (Attachment 1). More in-depth discussion includes the following:

Section 3.1 (Ecosystems) policies are largely unaffected, insofar as the application of development permitting under the existing Salt Spring Official Community Plan (OCP) is our most current form of regulation and the protection of environmentally sensitive areas will continue to apply in these areas as needed. Section 3.2 (Forest Ecosystems) is equally protected insofar as the OCP itself protects forest ecosystems. The restriction on driveways encourages location of ADUs near the originally disturbed areas near existing principal residences as much as possible. Section 3.3 (Freshwater and Wetland Ecosystems and Riparian Zones) is upheld through the incorporation of the proof of water requirement. Future policy work in this area would improve policy performance in this area. Section 3.4 (Coastal and Marine Areas) relies on development permitting for environmentally sensitive areas. Future review of this area for current practice in funded projects will improve policy performance.

Section 4.1 (Agricultural Land) while the impacts of Accessory Dwelling Units (ADUs) are less impactful than full-size housing, their addition and the lack of agriculture protection development permit policy in the OCP to ensure buffering from agricultural uses is a gap in policy that should be addressed regardless of consideration of ADUs. This policy change does not represent a significant departure from standing policy regarding development on or near agricultural areas, regardless of whether or not they are in the Agricultural Land Reserve (ALR).

Sections 4.2 – 4.6 policies are as noted relating to Section 3 comments above, or in consideration of existing regulations for any dwelling type.

Official Community Plan:

Consideration of the proposal was assessed in the previous staff report, found in the [December 14, 2023 SS LTC Meeting Agenda](#).

Consultation

The expansion of ADUs has been widely discussed as part of the Salt Spring Island Housing Action Program. The development of this draft bylaw is the result of consideration of a range of options considered. Correspondence has been received on this draft, since notification was published and is included in this report as Attachment 3.

Statutory Requirements

The [Local Government Act](#) provides that a local government like the SS LTC may choose to not hold a public hearing for a proposed zoning (land use) bylaw provided the bylaw is consistent with the OCP. In such case, the SS LTC must provide notice *prior to* first reading. Draft Bylaw No. 537 is consistent with the OCP, and the SS LTC has chosen to resolve not to hold a public hearing and publish notification that it will not hold a public hearing on the new bylaw amendment. The adoption of [Bill 44 – Housing Statutes \(Residential Development\) Amendment Act, 2023](#) stipulates that a public hearing is prohibited from being held on this bylaw, but notification is still required prior to public hearing. Notice (Attachment 4) was published on January 10th and 17th, in accordance with the requirements of the *Local Government Act*.

Rationale for Recommendation

The proposed bylaw amendment, in the context of the existing regulatory structure related to protection of sensitive ecosystem and protection from life and safety hazards through development permitting, as well as the limited range of potential development area with this amendment amounts limited impact, and is consistent with key policies, such as the Policy Statement and the OCP.

ALTERNATIVES

1. Defeat the Bylaw and proceed no further

The SS LTC may choose to defeat this amendment and not explore ADUs further, except as part of the Official Community Plan – Land Use Bylaw project. There is no benefit to keeping the amendment in abeyance as the substance of this bylaw may be addressed through the upcoming SS LTC project. It should be noted that this option has the benefit of a more streamlined implementation, but would result in a significant delay before consideration of further policy development on this form of housing could begin. Recommended wording for the resolution is as follows:

That the Salt Spring Island Local Trust Committee proceed no further with draft Salt Spring Island Local Trust Committee Bylaw No. 537, cited as “Salt Spring Islands Land Use Bylaw No. 355, 1999, Amendment No. 2, 2023”.

NEXT STEPS

If the recommendation passes, the bylaw amendment will be forwarded to Executive Committee for review.

Submitted By:	Chris Hutton, MCIP, RPP Regional Planning Manager	January 15, 2024
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ATTACHMENTS

1. Draft Bylaw No. 537, cited as “Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2023,”
2. Islands Trust Policy Statement Directives Only Checklist
3. Correspondence
4. Notice of First Reading

DRAFT

SALT SPRING ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 537

A BYLAW TO AMEND SALT SPRING ISLAND LAND USE BYLAW NO. 355, 1999

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

1. Citation

This bylaw may be cited for all purposes as “Salt Spring Island Local Trust Committee, Bylaw No. 355. Land Use Bylaw, 1999, Amendment No. 2, 2023”.

2. Salt Spring Island Local Trust Committee Bylaw No. 355, cited as “Salt Spring Island Land Use Bylaw, 1999,” is amended as follows:

2.1 By adding the following in Section 1.1 “Definitions:”

“Accessory Dwelling Unit” means a dwelling unit accessory to a single-family dwelling unit intended as an independent, separate unit, and subordinate to the principal structure.

2.2 Schedule “M” is appended to and forms part of “Salt Spring Island Local Trust Committee, Bylaw No. 355. Land Use Bylaw, 1999, Amendment No. 1, 2022”, as shown on attached Plan No. 1

2.3 By replacing Section 3.16 “Secondary Suites” with the following:

3.16 ACCESSORY DWELLING UNITS AND SECONDARY SUITES

Regulations for accessory dwelling units and secondary suites:

3.16.1 *Secondary suites and accessory dwelling units are permitted only on lots that are within or partially within the shaded areas per the following:*

- (1) *Secondary suites* - Schedule “I” of this Bylaw;
- (2) *Accessory dwelling units* – Schedule “M” of this Bylaw.

Information Note: An accessory dwelling unit located within the Provincial Agricultural Land Reserve must also be consistent with the provisions of the Agricultural Land Commission Act and its regulations.

3.16.2 Only one (1) *secondary suite* or one (1) *accessory dwelling unit* is permitted per lot.

3.16.3 The *secondary suite* or *accessory dwelling unit* shall not be:

- (1) located within a portion of a lot that is identified as a Community Well Capture Zone on Map 22 of the Salt Spring Island Official Community Plan;

- (2) located within a *community water system*, except where written confirmation from the operator of the *community water system* is provided that the site has sufficient capacity to supply a *secondary suite* or an *accessory dwelling unit*;
- (3) operated as a *Bed and Breakfast home-based business*, nor rented on a *temporary* basis.
- (4) subdivided from the dwelling unit, single family to which it is accessory under the Land Title Act or the Strata Property Act.

3.16.4 The *secondary suite* or *accessory dwelling unit* shall be:

- (1) occupied by the owner of the *lot*; or
- (2) occupied by a person other than the owner who has responsibility for managing the property, including dealing with complaints of neighbours arising from the occupancy of the property.

Information Note: Pursuant to other provisions of this Land Use Bylaw, short term vacation rentals are not permitted in residential areas.

3.16.5 A building permit must be obtained for any *secondary suite* or *accessory dwelling unit*.

3.16.6 Where water to a *lot* containing a *secondary suite* or an *accessory dwelling unit* is supplied from:

- (1) rainwater collection, the rainwater system must be capable of supplying it with a sufficient quantity of *potable water*;
- (2) Where a *lot* is supplied by groundwater, a *single-family dwelling* containing a *secondary suite*, or an *accessory dwelling unit*, must have sufficient available groundwater.

Information Note: At time of Building Permit application, the Capital Regional District requires specific amounts of potable water be demonstrated, and proof of adequate septic capacity be provided, prior to issuing approvals.

- (3) a combination of sources, a written plan for the supply of water is to be provided under seal of an engineer that demonstrates an adequate supply of potable water;
- (4) a surface water body, a water license, issued or amended after November 30, 1994, must permit the withdrawal of the required amount of water.

Information Note: The provincial Water Management Branch completed a study of surface water availability in November of 1994. Water licenses issued before this time may not be a reliable indication that water is actually available in the necessary quantity.

Accessory Dwelling Unit Regulations

- 3.16.7 The maximum *height* of an *accessory dwelling unit* is 7 metres;
- 3.16.8 The maximum *floor area* of an *accessory dwelling unit* is 56 square metres on *lots equal to or less than 1.2 hectares* in area;
- 3.16.9 The maximum *floor area* of an *accessory dwelling unit* is 90 square metres on *lots greater than 1.2 hectares*;
- 3.16.10 Despite section 4.3, no accessory dwelling unit shall be constructed 4.5 metres from any interior side lot line;
- 3.16.11 The driveway access to the accessory dwelling unit must be shared with access to the principal residence, unless access to the accessory dwelling unit can be provided from a rear lane.
- 3.16.12 The *accessory dwelling unit* can be freestanding or combined with an *accessory building*;
- 3.16.13 The *accessory dwelling unit* must not have a *basement*;
- 3.16.14 The *accessory dwelling unit* including any stairs, decks or porches or other *structures* that are attached to the unit, or that function as part of the unit, should not be located within 6 metres of any other *building* on a *lot*;
- 3.16.15 An *accessory dwelling unit* does not include recreational vehicles, or any *dwelling unit* on wheels.

Secondary Suite Regulations

- 3.16.16 The maximum *floor area* for a *secondary suite* is 90 square metres.
- 3.16.17 The *secondary suite* must be contained within the walls of the *building* that contains the *principal dwelling unit*.
- 3.16.17 The entrance to a *secondary suite* from the exterior of the *building* must be separate from the entrance to the *principal dwelling unit*.

- 2.4 By adding a change to the table under Subsection 7.1.5 “Minimum Number of Parking Spaces for Automobiles, Disabled Parking and Bicycles” with the following:

TABLE 3 MINIMUM NUMBER OF PARKING SPACES FOR AUTOMOBILES, DISABLED PARKING AND BICYCLES			
LAND USE	Number of Automobile Parking Spaces Required	Number of required Automobile Parking Spaces which must be designed for use by the disabled	Number of Bicycle Parking Spaces Required
RESIDENTIAL			
<i>Seasonal Cottage, Accessory Dwelling Unit or Secondary Suite</i>	1 per unit	0	0

And by making consequential numbering alterations to effect this change.

READ A FIRST TIME 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_____

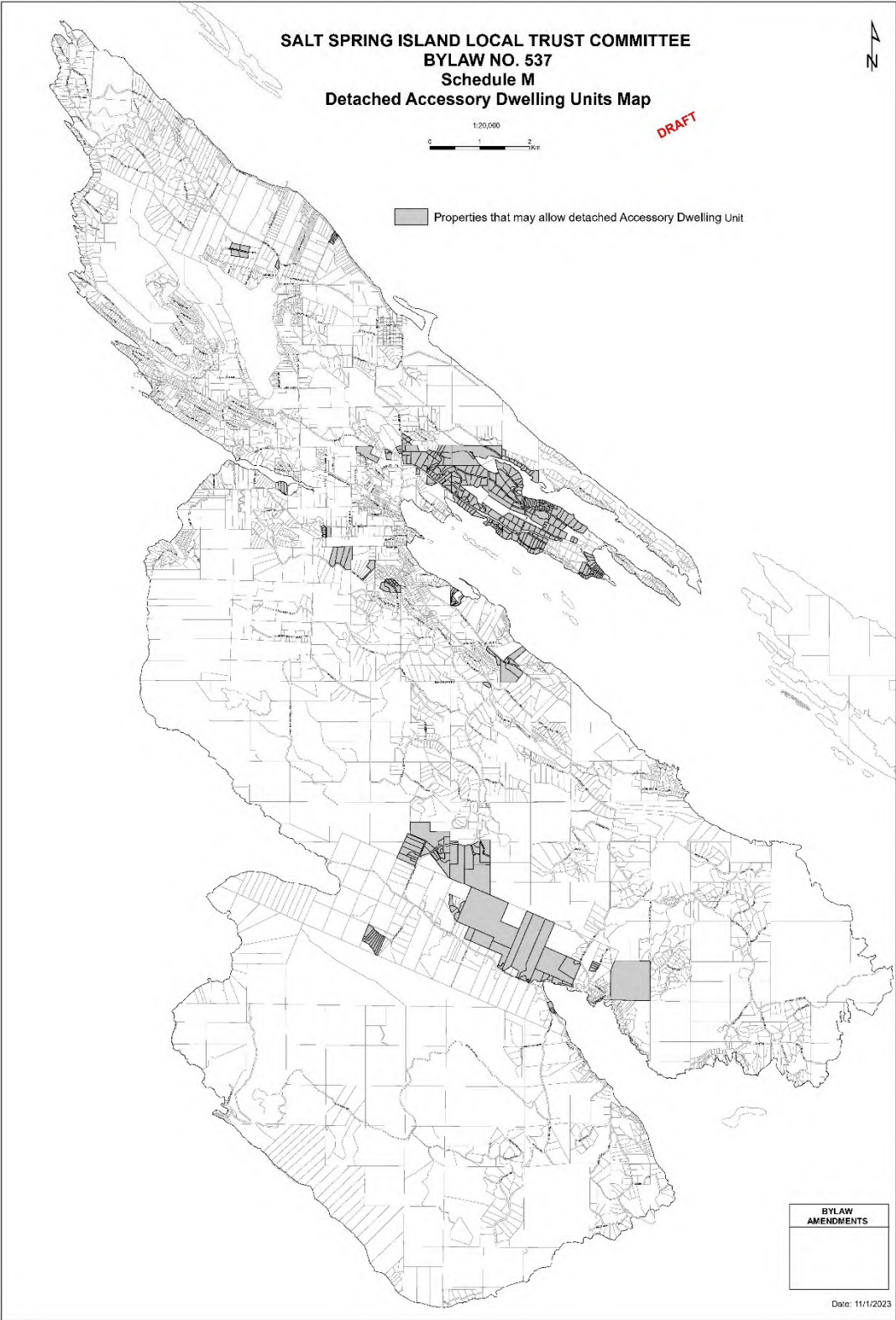
ADOPTED THIS _____ DAY OF _____ 20_____

Chair

Secretary

DRAFT

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 537
Plan No. 1





ISLANDS TRUST POLICY STATEMENT DIRECTIVES ONLY CHECKLIST

File No.: 6500-20 Housing Action Program (Accessory Dwelling Units)

Bylaw Name (s): Draft Amendment to Proposed Bylaw No. 530 or Draft Bylaw No. 537

PART III: POLICIES FOR ECOSYSTEM PRESERVATION AND PROTECTION

CONSISTENT	No.	DIRECTIVE POLICY
	3.1	Ecosystems
N/A	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
N/A	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
YES	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
YES	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
YES	3.3.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.
	3.4	Coastal and Marine Ecosystems
YES	3.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
YES	3.4.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

PART IV: POLICIES FOR THE STEWARDSHIP OF RESOURCES

CONSISTENT	No.	DIRECTIVE POLICY
	4.1	Agricultural Land
MAYBE	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
MAYBE	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
MAYBE	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.
MAYBE	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture.

MAYBE	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
MAYBE	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
N/A	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.
N/A	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
N/A	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
YES	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated and seasonal demands for water are considered and allowed for.
YES	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
N/A	4.5.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
N/A	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
N/A	4.5.10	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
N/A	4.5.11	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.
	4.6	Soils and Other Resources
N/A	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.

PART V: POLICIES FOR SUSTAINABLE COMMUNITIES

CONSISTENT	No.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
N/A	5.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
	5.2	Growth and Development
N/A	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
MAYBE	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
MAYBE	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
N/A	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.

	5.3	Transportation and Utilities
N/A	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.
N/A	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
N/A	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
N/A	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
N/A	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.
CONSISTENT	No.	DIRECTIVE POLICY
	5.5	Recreation
N/A	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
N/A	5.5.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
N/A	5.5.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.
N/A	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
N/A	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
N/A	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
MAYBE	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
MAYBE	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
YES	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

	POLICY STATEMENT COMPLIANCE
YES	<i>In compliance with Trust Policy</i>
	<i>Not in compliance with Trust Policy for the following reasons:</i>

From: Chris Hutton
Sent: Thursday, January 11, 2024 9:04 AM
To: 'Maxine Leichter' [redacted]
Subject: RE: Question about bylaw 537 process

Good morning Maxine,

1. The Division 3 of Part 14 of the *Local Government Act* (LGA) requires that we give notice that LTC has resolved not to hold a public hearing for this bylaw (s. 467). The LGA requires that we notify of the date the LTC will consider first reading of the bylaw. LTC may also consider all three readings to the bylaw at that time. If that occurs, the bylaw will be forwarded to the executive committee.
2. The information about attending the livestream is on the meeting website:
<https://islandstrust.bc.ca/event/ssi-ltc-sm-2024-1/>

Chris Hutton, RPP, MCIP (he/him)
Regional Planning Manager
Islands Trust | 250-538-5608

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

From: Maxine Leichter [redacted]
Sent: Wednesday, January 10, 2024 8:30 PM
To: Chris Hutton <chutton@islandstrust.bc.ca>
Subject: Question about bylaw 537 process

The notice in the Driftwood today says that at the LTC will hold a special meeting on Jan 22, to give draft bylaw 537 first reading. However, I remember that the trustees stated at the last LTC meeting, that they wanted to give the bylaw all three readings and send it to Executive Committee as soon as possible.

My first question is: given the announcement in the Driftwood, are the trustees allowed to give the bylaw more than first reading or are they bound by the announcement to only give it first reading?

My second question is: It is my understanding that the province requires that meetings held on zoom must also be held in a physical location where the public can attend if they wish. Please tell me the physical location where the special LTC meeting on January 22 will be held because I want to attend.

I look forward to receiving your answers to these two questions.

From: elissa poole [REDACTED]
Sent: Friday, January 12, 2024 10:52 AM
To: SSInfo
Subject: Bylaw 537

To: Laura Patrick and Tim Peterson, Trustees - just a note to say if the meeting to give bylaw 537 first through third readings - mistakenly advertised as first reading only, which is a problem on its own - turns out to be a back door means of pushing through this idea of spot zoning, it certainly has the potential of facilitating more ADUs in additional areas than would be compatible with the OCP provisions on population growth. One would expect such an important decision to be made with care, with full public participation, and with the criteria for spot zoning made clear well in advance, and with reliable adequate checks and balances in place - ie., on public transportation lines, designed especially as affordable housing, clear controls on vacation rentals, etc. Otherwise it's just Bylaw 530 on the sly, isn't it? With the same long-term implications, and the same legality issues....

Elissa Poole

From: Hugh Greenwood [REDACTED]
Sent: Friday, January 12, 2024 10:38 AM
To: SSInfo
Subject: BYLAW 537 ATTN: Laura Patrick, Trustee Peterson, planner Chris Hutton

The new manipulation of Bylaw 537 which bypasses public discussion and allows executive action without public involvement seems immoral and deceitful and should not be allowed.

Hugh Greenwood
Sent from my iPad

From: Jan Jang [REDACTED]
Sent: Friday, January 12, 2024 2:10 PM
To: SSInfo
Subject: Bylaw 537

Laura Patrick and Trustees

We are very worried that this amended bylaw could come into effect on January 22nd. The future of our Island Home and changes to the OCP need careful consideration and input from the community. Please remember your mandate to Preserve and Protect. Ed and Jan Jang. Sent from my iPad.

From: Riley Donovan [REDACTED]
Sent: Friday, January 12, 2024 10:26 AM
To: SSIIInfo
Subject: Bylaw 537

Good morning,

I am an islander writing in to object to the lack of a fulsome debate around Bylaw 537. Choosing not to hold a public hearing, and potentially passing all three readings at once, amounts to a circumvention of the legitimate democratic process that islanders expect and deserve.

This bylaw should not be passed using a shortcut process, but should rather be discussed and debated by residents.

Riley Donovan
Salt Spring Island

From: Laura Patrick
Sent: Sunday, January 14, 2024 8:46 PM
To: Patrick Akerman
Cc: SSInfo; Jamie Harris
Subject: Re: Draft Bylaw No. 537

Patrick,

Thank you for your email. Your perspective and input are important.

I agree that past engagement practices were not representative of the island population. We recently took action to move beyond the now outdated practise of simple 'inclusion' in public processes and are beginning a practice of 'equity in participation' for all our public engagement processes moving forward (citation: "Beyond Inclusion – Equity in Public Engagement, A Guide for Practitioners", Morris J. Wosk Centre for Dialogue).

Bylaw 537 introduces the regulations for accessory dwelling units and introduces a map of eligible properties, which was based on the existing secondary suites schedule. We have instructed staff to develop a spot zoning pilot program to allow additions to the map. This pilot program is intended to have significantly reduced fees and a simple set of criteria. Your suggestions to make this pilot work would be appreciated.

We are also about to kick off a review of the OCP and land use bylaws. We need to find a better way to move forward with housing options that meet the needs of a diverse island community.

Laura

On Jan 14, 2024, at 1:42 PM, Patrick Akerman <[REDACTED]> wrote:

Chris Hutton,

I have read the Notice of First reading Draft Bylaw 537.

I was on the review of the community plan some 35 or so years ago and suggested then among other things (zoning for Industrial, commercial etc) that this is idea is how Salt Spring Island should supply affordable rental homes. The private sector can build homes a lot cheaper than the public sector can.

I suggested at the time that we encourage the private sector to build up to 1200 square foot rental homes on their property as long as they could prove

an adequate water supply and have adequate sewage disposal. A up to 1200 square foot three bedroom home would be very comfortable for say a single mom with two or so children.

The biggest benefit is that these rental homes will be all over the island so that the children will be associating with neighbourhood children and have opportunities to work in those neighbourhoods doing odd jobs such as mowing lawns, gardening, working in the many studios etc. and not in a housing project where there are very limited opportunities. We all know what housing projects can become.

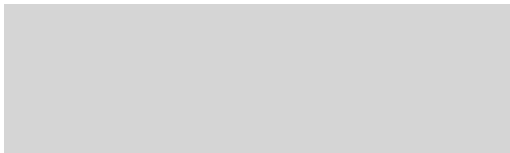
Unfortunately at the time of that review the 13 people on the committee were hand picked by the "stop every thing people" and I was the token old islander working fellow. None of my suggestion got in the report. I was told by chairman Max ... that I could, on my own write a report but unlike the rest of the committee, I was working, raising children, coaching youth sports and just did not have time to do that.

More to the point of this email, I note that my property and my children's property on the 225 to 281 block of Beaver Point Road were not included in the area for bylaw 537.

The neighbour to the south and west of our properties are included. (See attached map) We would like our properties included in bylaw 537.

Our properties do have have lots of good water with an average of 7 gallons per min in 5 drilled wells. The soil is also good for sewage deposal. The road and driveway access is good from Beaver Point Road and we are located just a few minuet walk to Fulford Elementary School, on the schools bus route, short walk to the Fulford ferry, village and main community bus route.

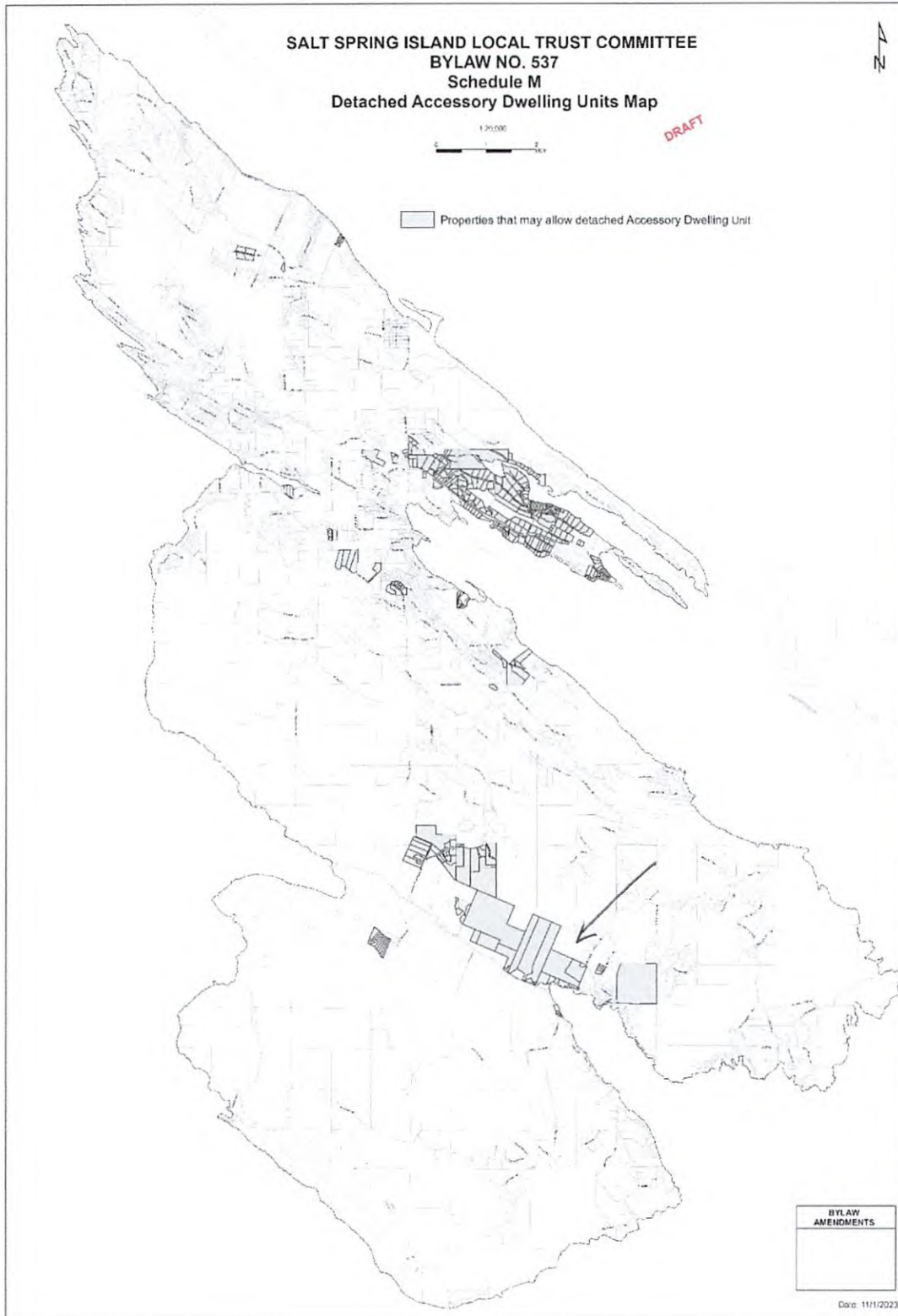
Patrick Akerman



“Fourth Generation Salt Springer”

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SALT SPRING ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 537
Plan No. 1



From: Maxine Leichter <[REDACTED]>
Sent: Thursday, January 18, 2024 2:17 PM
To: Timothy Peterson; Laura Patrick
Cc: SSInfo
Subject: about bylaw 357

Dear Trustees,

This letter is to express my opposition to giving all three readings to Draft Bylaw 537 at a special meeting. Here are my reasons:

- Because most people do not read the Driftwood, they will not know about the meeting to attend or listen on line.
- Those who did see the Driftwood ad will assume the bylaw is only being given first reading, when the intention was to give the bylaw three readings. This advertisement was obviously misleading.
- The advertisement failed to notify the public that a physical location would be made available for them to attend, even though this is required. Those with poor internet access will not know they can attend in person.
- No bylaw should be passed without full opportunities for public comment. Even though new provincial legislation allows (perhaps mandates) that no public hearing be held in certain situations, a public information meeting can be held.
- To pass a bylaw under these circumstances sets a bad precedent that reduces the public's confidence in government.

I hope you will reconsider.

Maxine Leichter

From: Frants Attorp <[REDACTED]>
Sent: Friday, January 19, 2024 2:20 PM
To: Laura Patrick; Jamie Harris; Timothy Peterson; SSInfo
Subject: Re: Proposed Bylaw 537

Dear Trustees:

I would like to express my opposition to Proposed Bylaw 537 for the following reasons:

1. The rezoning of these properties is unlikely to result in any new long-term rental units, so why do it? In Trustee Patrick's own words: "Nobody wants to be a landlord.". As you know, the cottages bylaw passed several years ago has produced almost no new long-term rentals, if any.
2. While the bylaw prohibits short-term rentals, there is, for all intents and purposes, no enforcement on SSI. Only a covenant and ongoing monitoring can ensure affordable workforce housing, and this bylaw has no such requirements. Landowners can simply apply for a building permit and then use the approved structures for pretty much any purpose.
3. Detached ADUs have a much larger environmental footprint than secondary suites - almost as much as a primary residence - especially in terms of tree removal.
4. This bylaw can serve as a lever to permit more of the same across the entire island, thereby violating our OCP even more.
5. It seems the main thing this bylaw will accomplish is to raise property values, thereby adding to the wealth of a few and making affordable housing even more unattainable.

Please protect the rural character, natural beauty and environmental integrity of this island by concentrating as much development as possible in existing towns, especially Ganges. Approve water towers if you must, but do not in any way compromise the qualities that set this island apart from surrounding urban areas.

Sincerely,

Frants and Jean Attorp
Salt Spring Island

From: Jo Ann Gainor <[REDACTED]>
Sent: Monday, January 22, 2024 9:16 AM
To: SSInfo
Subject: Bylaw 537

Attn: Laura Patrick, J. Harris, Tim Peterson and Cris Hutton

Please pay attention to the Viewpoint article in this week's Driftwood by Ronald Wright. Many here feel the Island Trust has lost its way. Please return to the mandate to "Preserve and Protect" the Environment and perhaps run for the Community Council to more appropriately represent business interests.

JoAnn Gainor
[REDACTED]
[REDACTED]

From: R Wright <[REDACTED]>
Sent: Friday, January 19, 2024 11:40 AM
To: SSIInfo
Cc: Chris Hutton
Subject: Bylaw 537 First Reading

Dear Chris Hutton,

I write to object against the recently announced "First Reading" of Bylaw 537, which the SSI LTC will consider on Monday. I request that my objection be entered on the record and be brought to our trustees' attention before the Jan 22 LTC meeting.

There's only one reason why the latest version of Bylaw 530 has mysteriously become Bylaw 537: to dodge the legal requirement for a full Public Hearing before it can be passed by Salt Spring trustees. The province recently waived Public Hearings for *new* bylaws that do not breach an Official Community Plan (OCP). For the past two years Trustee Laura Patrick was telling us —against obvious evidence —that the former version of Bylaw 530, which would have doubled zoning density over most of the island, did not breach the OCP. But she and Trustee Jamie Harris had to abandon that fantasy in the face of legal advice and stiff opposition. Now a slimmer version, originally floated last March as "Phase 1" of Bylaw 530, suddenly becomes the "new" Bylaw 537 —and public debate is sidestepped.

In last week's *Driftwood*, our trustees posted formal notice that they will give Bylaw 537 "First Reading" at a special meeting on Monday January 22nd, by Zoom. If it were only First Reading there might be less cause for alarm, as three readings —normally spaced over several months —must be held before a bylaw can be sent to Trust Executive for sign-off. But Laura Patrick has already let slip that she intends to pass all three readings of Bylaw 537 in one go. Trust staff have confirmed this could indeed happen on January 22nd. If it does, the official notice will have seriously misled the public.

Such gaming of due process is not the only reason for mistrust. Yet again, the trustees are telling us this re-zoning bylaw "is consistent" with our OCP. If Bylaw 537 stayed within the map attached to its latest draft, perhaps it might be. But trustees are also seeking ways to grow the bylaw's reach through "spot zoning," which means encouraging landowners to apply for extra density piecemeal almost anywhere on Salt Spring. The end result might become much the same as that of Bylaw 530's most extreme version: haphazard suburban sprawl.

Laura Patrick has always claimed Bylaw 530/537 is urgently needed to tackle the housing shortage, especially the lack of affordable long-term rentals for islanders. If this is true, why does

no version of the bylaw even mention affordability or contain any means to achieve it? Why focus only on the free-market Auxiliary Dwelling Unit model, which has failed to ease housing problems in big cities and small communities alike? Why no interest in promoting co-operative or public partnership housing, such as Salt Spring's successful Croftonbrook? And why are our trustees not calling for Salt Spring to be included in the Speculation and Vacancy Tax, and BC's new law to control short-term holiday rentals (Airbnb etc), which the January 10th *Times Colonist* reports is already having an effect in Victoria?

Judging by their deeds so far, our trustees' main interest seems to be exploiting the housing shortage to unleash mass private development in a legally protected area. The next big project in their cross-hairs is to "revise" our Official Community Plan during this year and next. They have already obtained \$120,000 of public money to hire outside consultants. Salt Springers must watch this carefully and be sure to make their voices heard. The many twists and turns with Bylaw 530/537 do not bode well for an open and above-board process.

With thanks for your time,

Ronald Wright



From: Anthony Ho <anthony@tollefsonlaw.ca>
Sent: Monday, January 22, 2024 12:32 PM
To: Timothy Peterson; Laura Patrick; Jamie Harris; Chris Hutton; SSIInfo
Cc: 'R Wright'; 'Ian Moore'; 'Chris Tollefson'
Subject: Letter to Salt Spring LTC re Proposed Bylaw No. 537
Attachments: 2024 01 22 - Letter re Proposed Bylaw No. 537.pdf

Good afternoon,

We are counsel to Keep Salt Spring Sustainable (KSSS).
Please find attached a letter regarding Proposed Bylaw No. 537 and kindly confirm receipt.
Thank you.

Best regards,

Anthony Ho, JD, MPA, BSc, BA
Associate
Tollefson Law Corporation
700 – 1175 Douglas Street
Victoria, BC V8W 2E1
<https://www.tollefsonlaw.ca>

Mobile: (778) 678-3818

I acknowledge with respect the Lekwungen peoples on whose traditional territory we are based, and the Songhees, Esquimalt and WSÁNEĆ peoples whose historical relationships with the land continue to this day.

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January 22, 2024

Our file: 2022-08-0039

VIA EMAIL

Salt Spring Local Trust Committee

1 – 500 Lower Ganges Road
Salt Spring Island, B.C.
V8K 2N8

Attn: Trustee Timothy Peterson
Trustee James Harris
Trustee Laura Patrick
Chris Hutton, Regional Planning Manager

Dear Trustees Peterson, Harris, and Patrick, and Mr. Hutton:

RE: Salt Spring Proposed Bylaw No. 537

We are counsel to Keep Salt Spring Sustainable (“KSSS”), a group of Salt Spring Island residents formed to uphold the island’s environmental sustainability and rural character, as protected by Salt Spring Island’s Official Community Plan and the mandate of the Islands Trust. Please forward this letter to the Salt Spring Local Trust Committee (“SS LTC”).

We have previously provided a written submission to the SS LTC on August 16, 2022 in relation to our client’s concerns about Bylaw No. 530—cited as “Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 1, 2022.” We sent further letters to the Islands Trust Executive Committee on August 31, 2022 and September 16, 2022 regarding the same matter.

KSSS has continuing and serious concerns about the most-recent version of this bylaw—Bylaw No. 537, cited as “Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 2, 2023.” We understand that a special SS LTC meeting has been scheduled for January 22, 2024. At that time, we are advised that Bylaw No. 537 will receive all three readings. We write to express our grave concerns about this plan, and respectfully ask you to reconsider.

Lack of Public Hearing

An initial priority is to correct the public record about the requirement for a public hearing on Bylaw No. 537. Any suggestion that a public hearing on this bylaw is prohibited is wholly erroneous and must be corrected forthwith.

The staff report from the December 14, 2023 SS LTC meeting and the staff report for the upcoming January 22, 2024 special meeting contain the following erroneous statement:

In fact, in this case, the adoption of *Bill 44 – Housing Statutes (Residential Development) Amendment Act, 2023*¹ stipulates that a public hearing *is prohibited* from being held on this bylaw.² (emphasis added)

While Bill 44 prohibits public hearings for some local governments in certain circumstances, these prohibitions do not extend to the SS LTC.³ Notably, the same conclusion was also recently communicated directly to the SS LTC by BC’s Minister of Housing.⁴

Inconsistency with the Official Community Plan

Bylaw No. 537 continues to have serious inconsistencies with the island’s Official Community Plan. In light of these inconsistencies, the SS LTC cannot lawfully waive the requirement for a public hearing on Bylaw No. 537 under section 464 of the *Local Government Act*.

For example, Bylaw No. 537 is inconsistent with the following objectives and policies for Residential Land Use set out in the islands Official Community Plan:

B.2.1.2.1 Zoning changes should be avoided if they would likely result in a larger island population than is expected under the development potential zoned in 2008. Exceptions to this policy are to be few and minor and only to achieve affordable housing and other objectives of this Plan. (emphasis added)

Secondary Suites

B.2.2.2.15 m. The Local Trust Committee will make zoning changes incrementally and monitor changes in order to have the effect of limiting the overall number of suites on the island. (emphasis added)⁵

The population increase that is likely to occur due to the adoption of this bylaw does not fall within the “few and minor” exception to the requirement of maintaining island population as expected in 2008 development levels. Furthermore, the proliferation of accessory dwelling units contemplated by Bylaw No. 537—even if it is less than the amount contemplated by Bylaw No. 530—is not an “incremental” change. Furthermore, the spot-zoning pilot program referenced in staff reports in connection with Bylaw No. 537 underscores the fact that impacts of this bylaw are unlikely to be limited to the immediate changes the amendments would bring into force. Indeed, depending on

¹ See Bill 44: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/42nd-parliament/4th-session/bills/progress-of-bills> (accessed on Jan 21, 2023).

² See: <https://islandstrust.bc.ca/document/salt-spring-ltc-special-meeting-agenda-8/> (accessed on Jan 21, 2023).

³ See clause 47 of Bill 44: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/42nd-parliament/4th-session/bills/progress-of-bills> (accessed on Jan 21, 2023).

⁴ See Jan 8, 2024 letter from Minister of Housing Ravi Kahlon to Chair Timothy Peterson: <https://islandstrust.bc.ca/document/response-from-minister-of-housing-regarding-bill-44/> (accessed on Jan 21, 2023).

⁵ See: <https://islandstrust.bc.ca/document/salt-spring-island-ocp-bylaw-no-434-2023/> (accessed on Jan 21, 2023).

how the spot-zoning program is administered, this bylaw could potentially bring about profound changes in development patterns on Salt Spring.

Requirement for Good Governance and Good Faith

As the individuals elected to make decisions on behalf of the residents of Salt Spring Island, you are required to act in a manner that reflects the principles of good governance and good faith.

The substance of Bylaws No. 530 and 537 has generated significant public interest as well as concern from some of the First Nations to whom Bylaw No. 530 was referred. In view of this significant interest, Bylaw No. 537 must only be considered in a manner that provides the public with a proper opportunity—at minimum, a public hearing on the bylaw—to understand and communicate its views. This perspective appears to have been shared by staff in its December 14, 2023 report:

Given the amount and range of input received on this application through referral responses and public engagement, SS LTC may wish to consider the value of hearing input from the community directly in a public hearing, prior to consideration of third reading.⁶

We strongly urge the SS LTC to consider the implications of proceeding with its current approach on Salt Spring Island’s relationship with First Nations whose territory and rights are impacted by decisions of the SS LTC.

Although the Crown’s “duty to consult” is not directly binding on the SS LTC, the SS LTC’s legislative obligations—including those set out in the Official Community Plan—must be interpreted in a manner that upholds the rights set out the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”), including the right to be consulted in good faith in order to obtain their free, prior, and informed consent.⁷

As such, we urge you to, at minimum, re-refer Bylaw No. 537 to impacted First Nations after giving first reading and before a public hearing is held.

Conclusion

To summarize, Bylaw No. 537 does not address the concerns our client has previously expressed in relation to its predecessor, Bylaw No. 530. We urge the SS LTC not to proceed with three readings at its January 22, 2024 special meeting. Instead:

1. Bylaw No. 537 must be referred to affected First Nations following first reading; and

⁶ See: <https://islandstrust.bc.ca/document/salt-spring-ltc-regular-meeting-agenda-addendum/> (accessed on Jan 21, 2023).

⁷ See *Gitxaala v British Columbia (Chief Gold Commissioner)*, 2023 BCSC 1680 at paras 407-418, section 8.1 of the *Interpretation Act*, and the preamble and Article 19 of UNDRIP.

2. if the response received to the above referral justifies moving forward with the Bylaw, ensure that a public hearing on the Bylaw is duly advertised and held.

Yours truly,

TOLLEFSON LAW CORPORATION
Counsel for Keep Salt Spring Sustainable

Per:


Chris Tollefson
Principal
Tel: (250) 888-6074
Email: chris@tollefsonlaw.ca



Islands Trust

Salt Spring Island Local Trust Committee
NOTICE OF FIRST READING
Draft Bylaw No. 537

NOTICE is hereby given pursuant to s.467 of the *Local Government Act*, that the Salt Spring Island Local Trust Committee will consider first reading of draft Bylaw No. 537, cited as “Salt Spring Island Land Use Bylaw, 1999, Amendment No. 2, 2023” at its Special Meeting scheduled at 1:30 p.m., Monday, January 22, 2024, via Zoom, Electronic meeting.

What is Draft Bylaw No. 537 about?

Draft Bylaw No. 537 will, if adopted, amend the current Salt Spring Island Land Use Bylaw No. 355 to allow Accessory Dwelling Units, such as secondary suites, cottages, or garden suites, to be established on select properties island-wide.

The local trust committee is not holding a public hearing for this bylaw under the authority granted in Section 464(2) of the *Local Government Act* that states that a local government may decide not to hold a public hearing on a proposed bylaw if an Official Community Plan is in effect for the area that is subject to a proposed zoning bylaw, and the proposed bylaw is consistent with the plan. Draft Bylaw No. 537 is consistent with the Official Community Plan for Salt Spring Island.

How Do I Get More Information?

A copy of the proposed bylaw may be viewed at the Islands Trust Office, 1-500 Lower Ganges Road, Salt Spring Island, BC, commencing Thursday, January 11, 2024 and ending Monday, January 22, 2024 during regular business hours (8:30 am – 4:30 pm) or on the Islands Trust website (<https://islandstrust.bc.ca/ss-ltc-bylaw-no-537>).

Enquiries or Written Comments may be directed to Chris Hutton, Regional Planning Manager by email ssiinfo@islandstrust.bc.ca , or **phone** at 250-537-9144. For toll-free access, request a transfer to the above telephone number via Service BC: in Vancouver at 604-660-2421 and elsewhere in BC at 1-800-663-7867. Written submissions must be received at the Islands Trust Salt Spring Office via email to ssiinfo@islandstrust.bc.ca or 1-500 Lower Ganges Road, Salt Spring Island BC V8K 2N8, no later than **4:00 p.m. Friday, January 19, 2024.**

Rob Pingle, Deputy Secretary