



DATE OF MEETING: May 23, 2024
TO: Saturna Island Local Trust Committee
FROM: Brad Smith, Island Planner
Victoria Office
SUBJECT: SA-RZ-2023.2 (Thachuk) – Bylaw No. 140 and No. 141 – Post Public Hearing

RECOMMENDATION

1. That the Saturna Island Local Trust Committee Bylaw No. 140, cited as “Saturna Island Official Community Plan Bylaw No. 70, 2000, Amendment No. 1, 2023” be read a third time.
2. That the Saturna Island Local Trust Committee Bylaw No. 141, cited as “Saturna Island Land Use Bylaw No. 119, 2018, Amendment No. 2, 2023” be read a third time.
3. That the Saturna Island Local Trust Committee proposed Bylaw No. 140 and No. 141 be forwarded to the Secretary of the Islands Trust for Executive Committee approval.
4. That the Saturna Island Local Trust Committee proposed Bylaw No. 140 be forwarded to the Ministry of Municipal Affairs for Ministerial approval after Executive Committee approval.

REPORT SUMMARY

Proposed bylaws No. 140 and No. 141 would amend the Saturna Island Land Use Bylaw No. 119, 2018 (LUB), and the Saturna Island Official Community Plan No. 70 (OCP), by rezoning the parcel at 100/101 Payne Road to permit an additional dwelling density. The density will transfer from 201 Harris Road through a private agreement between the property owners, along with the donation of three additional densities from the Harris Road property to the Community Amenity Density Reserve (CADR).

The recommendations above are supported as:

- All statutory requirements have been completed including the required notification and holding of a public hearing consistent with the *Local Government Act*;
- There have been no significant public, government agency or First Nation concerns raised with the proposed rezoning and the community will benefit from the transfer of densities into the CADR;
- All Islands Trust bylaw amendments require the approval of the Executive Committee of the Islands Trust prior to the consideration of adoption; and,
- In this case, as there is an OCP amendment, there is the requirement for Ministerial approval.

BACKGROUND

Proposed bylaws No. 140 and No. 141 would amend the LUB and the OCP by rezoning the subject parcel located at 100/101 Payne Road to allow for an additional dwelling density to be added. Currently, the shared property has a single primary dwelling and an accessory cottage, which are ‘owned’ by separate families.

The proposed additional density will be transferred from the subject parcel located at 201 Harris Road. Three additional densities are also being donated by the Harris Road property owner to the CADR, to be used for future property acquisition for conservation purposes.

Proposed Bylaw No. 140 and No. 141 were given first reading on October 19, 2023, and second reading on February 15, 2024.

A public hearing was held electronically via zoom on March 26, 2024. A public hearing is a quasi-judicial process within and following which specific procedures must be followed.

Following the hearing, the LTC may choose to give further readings to a bylaw, defeat a bylaw, or alter a bylaw within certain parameters. The procedural steps following the close of the hearing are as follows:

1. Consideration of Third Reading.
2. Forwarding of the bylaw to Executive Committee for approval.
3. Forwarding of the bylaw to the Minister's office for approval (OCP amendment bylaws only).
4. Reconsideration and adoption.

In this case, the LTC decided to defer consideration of Third Reading following the public hearing to allow time for consideration of information presented at the public hearing from community members. As such, staff are now seeking direction from the LTC again on next steps with respect to proposed bylaws No. 140 and No. 141.

Following the close of the hearing, the LTC may not hear further submissions without holding a new hearing. The principle is that if new information is considered by the LTC, all other interested parties also need to have the opportunity to consider any new relevant material and to make further representations to the LTC. The courts have clarified that this does not open the door to endless public hearings: a local government body can legitimately decide that after a hearing it wishes to hear further from staff on issues raised at the hearing.

A bylaw may be altered after the hearing, based on information received or heard by the LTC at any point prior to the close of the hearing, provided that the amendments do not alter use or increase density, or decrease density without a landowner's consent.

In this case, as there is an OCP amendment, there is the requirement for Ministerial approval. If the Executive Committee approves bylaw No. 140 and No. 141, staff will then forward bylaw No 141 to the Ministry.

ALTERNATIVES

1. Make amendments to the bylaws.

The LTC may amend the bylaws.

Resolution:

That Saturna Island Local Trust Committee proposed Bylaw No. 140, cited as "Saturna Island Official Community Plan Bylaw No. 70, 2000, Amendment No. 1, 2023" be amended as follows:

That Saturna Island Local Trust Committee proposed Bylaw No. 140, cited as "Saturna Island Land Use Bylaw No. 119, 2018, Amendment No. 2, 2023" be amended as follows: _____

2. Receive for information

The LTC may receive the report for information.

3. Proceed no further with the bylaw.

The LTC may decide to proceed no further with Bylaw No. 140 and No. 141.

Resolution:

That the Saturna Island Local Trust Committee proceed no further with Bylaw No. 140 and No. 141.

NEXT STEPS

Upon direction from LTC, staff will send proposed Bylaw No. 140 and No. 141 to the Islands Trust Executive Committee for approval, and then Bylaw No. 140 to the Ministry of Municipal Affairs for approval.

Submitted By:	Brad Smith, Island Planner Southern Team	May 1, 2024
Concurrence:	Robert Kojima, Regional Planning Manager	May 2, 2024

ATTACHMENTS

1. Proposed Bylaw No. 140
2. Proposed Bylaw No. 141
3. March 26, 2024 draft public hearing minutes

PROPOSED

SATURNA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 140

A BYLAW TO AMEND SATURNA ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 70, 2000

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

1. CITATION

This Bylaw may be cited for all purposes as “Saturna Island Official Community Plan Bylaw No. 70, 2000, Amendment No. 1, 2023”.

2. SCHEDULES

Saturna Island Official Community Plan Bylaw No. 70, 2000 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	19 TH	DAY OF	OCTOBER	2023.
READ A SECOND TIME THIS	15 TH	DAY OF	FEBRUARY	2024.
PUBLIC HEARING HELD THIS	26 TH	DAY OF	MARCH	2024.
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

**SATURNA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 140**

SCHEDULE 1

The Saturna Island Official Community Plan No. 70, 2000, is amended as follows:

1. Part C – Policies, Subsection C.1.3 is amended by deleting the sentence “Details are described further in Appendix A.” and replacing it with the sentence “A reference table is included as an information note following Schedule E, Appendix A and not forming part of the bylaw for tracking and controlling changes in unallocated density designated as CADR”.
2. Subsection D.1.G (Rural General) is amended by:
 - a. adding a new Article D.1.G.6 that states “Despite Article D.1.G.5, the minimum lot area for subdivision of *Lot 1, Section 18, Saturna Island, Cowichan District, Plan 6417* shall not be less than 0.70 hectares (1.73 acres)”
 - b. renumbering subsequent Article D.1.G.6 accordingly.

PROPOSED

SATURNA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 141

A BYLAW TO AMEND SATURNA ISLAND LAND USE BYLAW NO. 119, 2018

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

1. Citation

This bylaw may be cited for all purposes as “Saturna Island Land Use Bylaw No. 119, 2018, Amendment No. 2, 2023”.

2. Saturna Island Local Trust Committee Bylaw No. 119, cited as “Saturna Island Land Use Bylaw No. 118, 2018,” is amended as follows:

2.1 Inserting a new row in the Site Specific Regulations Table immediately following the row referencing RG(e) with the Site-Specific Zone Reference of “RG(f)”, such that it reads:

RG(f)	Lot 1, Section 18, Saturna Island, Cowichan District, Plan 6417	(7) Despite 4.2.12 no subdivision plan may be approved unless the lots created by the subdivision have a minimum lot area of at least 0.70 hectares (1.73 hectares). (8) Despite 4.2.13 no subdivision plan may be approved unless the lots created by the subdivision have a minimum average lot area of at least 0.84 hectares (2.08 hectares).
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2.2 Inserting a new row in the Site Specific Regulations Table immediately following the row referencing RG(f) with the Site-Specific Zone Reference of “RG(g)”, such that it reads:

RG(g)	Lot 1, Section 5, Saturna Island, Cowichan District, Plan 25360	(9) Despite 4.2.13 no subdivision plan may be approved unless the lots created by the subdivision have a minimum average lot area of at least 7 hectares (1.78 hectares). (10) Despite Subsections 4.2.4 - 4.2.6, the maximum density is one (1) residence.
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2.3 Schedule “B” – Zoning Map, is amended by changing the zoning classification of a portion of the lands legally described as Lot 1, Section 18, Saturna Island, Cowichan District, Plan 6417 from Rural General (RG) to Rural General (f) [RG(f)], as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “B” of Bylaw No. 119 as are required to effect this change.

2.4 Schedule “B” – Zoning Map, is amended by changing the zoning classification of a portion of the lands legally described as Lot 1, Section 5, Saturna Island, Cowichan District, Plan 25360 from Rural General (RG) to Rural General (g) [RG(g)], as shown on Plan No. 2 attached to and forming part of this bylaw, and by making such alterations to Schedule “B” of Bylaw No. 119 as are required to effect this change.

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.

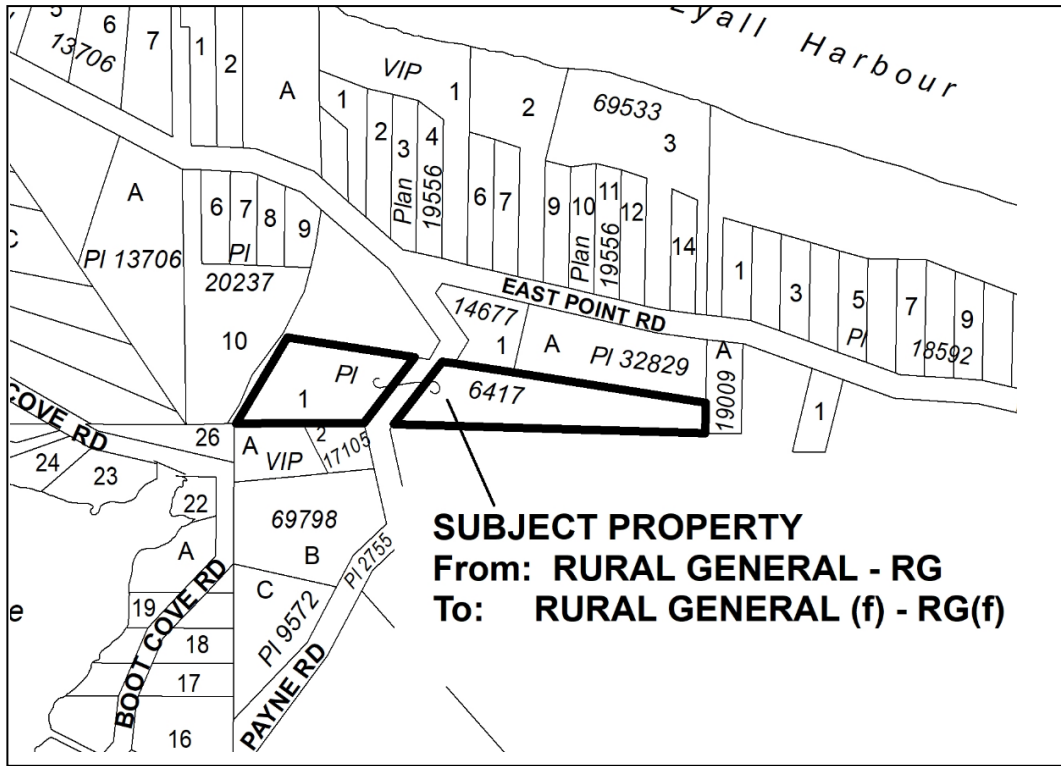
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APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS				
	_____	DAY OF	_____	20____
ADOPTED THIS	_____	DAY OF	_____	20____

CHAIR

SECRETARY

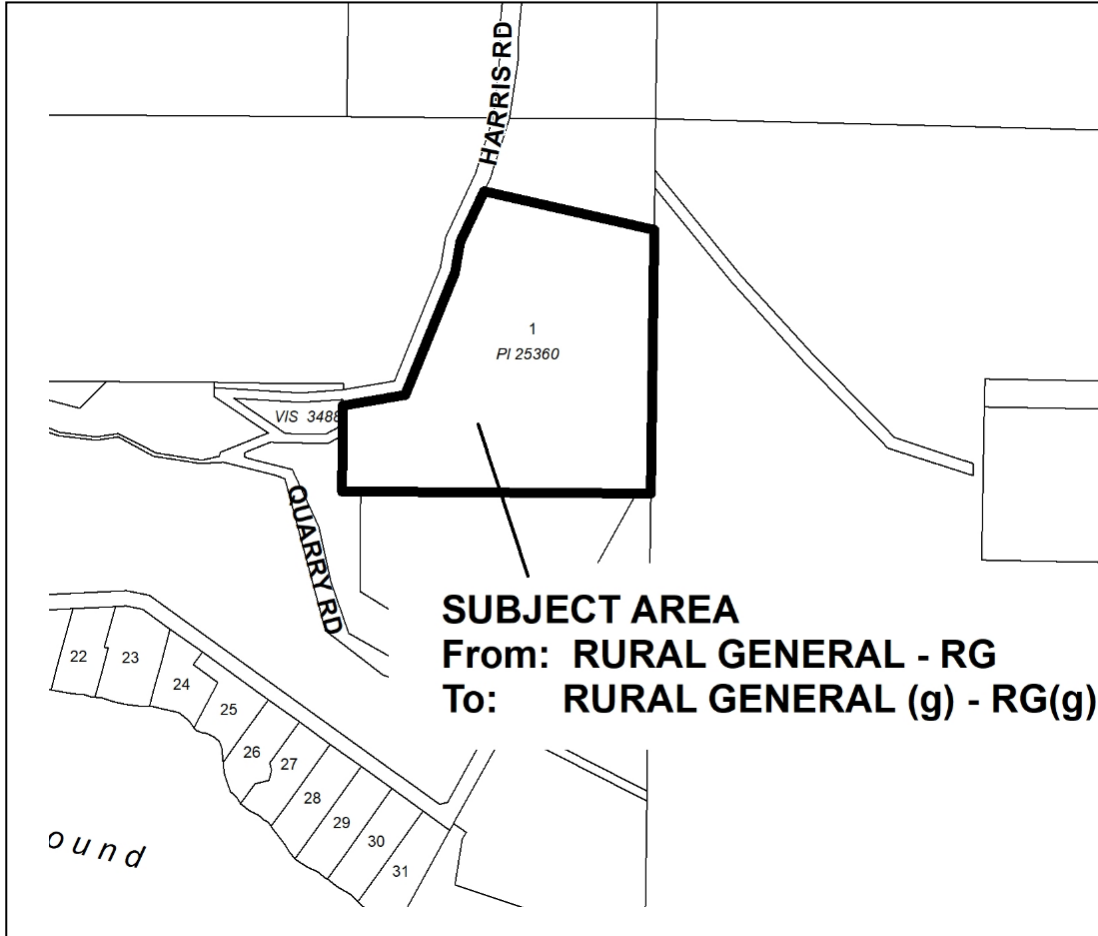
SATURNA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 141

Plan No. 1



SATURNA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 141

Plan No. 2



Saturna Island Local Trust Committee

Record of Public Hearing

SA-RZ-2023.2 (Thachuk)

Date: March 26, 2024
Location: Electronic Meeting

Members Present: David Maude, Chair (electronic)
Lee Middleton, Local Trustee (electronic)
Mairead Boland, Local Trustee (electronic)

Staff Present: Brad Smith, Island Planner (electronic)
Katherine Vogt, Recorder (electronic)

Others Present: There were approximately five (5) members of the public present.

1. CALL TO ORDER

Chair Maude called the Public Hearing to order at 2:18 p.m. He acknowledged that the meeting was held on the territory of the Coast Salish First Nations.

2. INTRODUCTIONS AND OPENING STATEMENT FROM THE CHAIR

Chair Maude introduced himself, the Trustees, staff, and the recorder.

Chair Maude read a statement outlining the content, purpose, and process of the Public Hearing according to Section 465 of the *Local Government Act*.

Chair Maude noted that all written submissions that had been received prior to the meeting and all relevant documents are contained in the Public Hearing binder, which is available to the public.

3. REVIEW OF PUBLIC HEARING NOTICE

Island Planner Smith reviewed the procedures for posting of notices and publication of Public Hearing according to statutes. There were two recent public submissions received in response to the notice. There were no referral responses from First Nations that the Local Trust Committee received. There were no other concerns raised by other agencies.

Island Planner Smith explained that the purpose of proposed Bylaws 140 and 141, if adopted, will amend the Saturna Island Land Use Bylaw No. 119, 2018 and the Saturna Island Official Community Plan by rezoning the subject parcel located at 100 and 101 Payne Road to allow for an additional density. Currently the subject property is a single-family dwelling with an accessory cottage which are owned by separate families. The proposed additional density is to

be transferred from the subject parcel located at 201 Harris Road. Three additional densities are also being donated by the Harris Road property owner to the Community Amenity Density Reserve to be used for future property acquisition and conservation purposes.

4. SA-RZ-2023.2 (Thachuk) - Proposed Bylaws 140 and 141

Chair Maude asked if any members of the public would like to speak to application SA-RZ-2023.2 (Thachuk) and Proposed Bylaws 140 and 141. He also offered that email submissions could be made up until the end of the meeting to vicphssub@islandstrust.bc.ca.

The following comments were made:

- Al Razutis spoke on his recent 17-page submission to the Islands Trust, sent March 25, 2024 written by himself and Elizabeth Popperwell
 - The submission was to request that the application for rezoning be denied for numerous reasons, especially that planning staff has not adequately reviewed the previous history of sensitive watercourse degradation/excavation issues related to the property proposed for rezoning
 - The speaker added that adequate notification was not provided for immediate neighbors of the property
- Robert Bruce added to his recent two-page submission to the Islands Trust sent on March 25, 2024, to note that the previous owners of the property proposed for rezoning had tried to have it subdivided and were turned down, and had tried to sell the property to Robert Bruce
 - The sensitive wetlands on the subject property have been long identified in maps on the Islands Trust website
- Elizabeth Popperwell reiterated comments made in the Community Information Meeting for the record
 - It was stated that the piecemeal dismantling of the Official Community Plan by people with the money and time to create exceptions for themselves is done without consideration for their neighborhood
 - Density transfers on a whole island basis, rather than a neighborhood basis, is flawed
 - The property proposed for rezoning is currently an undivided one with four co-tenants who could pursue other methods of dealing with their estate planning issues, rather than upending the Official Community Plan
 - A subdivision of the subject property will provide a large financial gain for both couples

Chair Maude called a second time for any comments or submissions on the application.

Chair Maude called for submissions a third and final time.

5. ADJOURNMENT

Chair Maude noted that upon closure of the Public Hearing, any further questions or submissions should be forwarded to staff, as Trustees cannot hear or receive anything further on the application post-public hearing.

There being no further submissions, Chair Maude declared the Public Hearing closed at 2:34 p.m.

I CERTIFY THAT THIS IS A FAIR AND ACCURATE SUMMARY OF THE NATURE OF REPRESENTATIONS RESPECTING THE MEETING HELD.

David Maude, Chair

Certified Correct:

Katherine Vogt, Recorder

DATE

DRAFT