Rural by Nature, Industrial by Trade: Creating a New Industrial Zoning Regulation for Salt Spring Island

by

JAMIESON FREDERICK PRITCHARD
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Jordi Honey-Rosés (Supervisor) Stefan Cermak (Second Reader)

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Abstract

Salt Spring Island may have a reputation as an idyllic and unique community, but it faces several key challenges: rural poverty, unaffordable real estate, growing wealth disparity, and declining economic opportunity for its shrinking working-age population. Recognizing the importance of increasing socio-economic diversity through land use planning, the relevant local organization responsible for controlling development – the Islands Trust – has spent the past decade working with the community to determine what the Island’s future industrial land use regime should look like. Acknowledging the importance of zoning as the Islands Trust’s primary land use planning instrument, the paper provides recommendations on how the Trust could improve the flexibility and coherence of its current industrial zoning regulation.

Specifically, this research project strongly advocates for (i) the radical simplification of all existing heavy commercial and industrial zoning districts into a traditional three-tiered industrial zoning district regime, (ii) the use of a new dedicated marine-related zone to complement existing Shoreline zones, (iii) the incorporation of intent statements for the new zoning districts, (iv) the adoption of flexible industrial use categories, defined by certain performance standards and scale limitations, (v) the restriction of non-industrial uses in industrial zones, (vi) the reduction of setbacks between adjacent industrially-zoned properties, (vii) the inclusion of a Zoning User’s Guide in the existing zoning bylaw, (viii) the need to directly confront the political nature of zoning, and (ix) the potential consideration of a Development Approval Information Bylaw for impact assessment during rezoning.

Background

A Cursory History of Salt Spring Island

“Welcome to Old Salty, the Rock, Salt Spring or, for more formal occasions, Salt Spring Island. Be careful, you may never want to leave.”

What makes a place special? Certainly, there are rare and enchanting places in this world that beckon to us through so many qualities: beauty, character, history, and others that are simply indescribable. Described as “a unique place [with] a unique community”, Salt Spring Island likely qualifies as one of these magical places hidden throughout the world. Nested within the southern Gulf Islands, Salt Spring Island is the archipelago’s largest and most populous location. Salt Spring Island sprawls over 182 square kilometers of extremely varied topography, from flat agricultural land to rugged mountainous terrain. The island also contains to an incredible wealth of ecological biodiversity, a treasure only made possible through its unique form of municipal

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1 Tabitha Youngreen Steager, “(Re)Making Place on Salt Spring Island, British Columbia: A Tale Told Two Ways.” (PhD Diss., University of British Columbia, 2014): 2
Despite a relatively recent surge in popularity, Salt Spring Island is no recently discovered gem. Numerous Coast Salish groups have lived on the island for thousands of years, making use of the Island’s veritable treasure of terrestrial and aquatic species for food. Current archaeological mapping indicates that sites of permanent First Nations inhabitation were located primarily near Ganges Harbour, Long Harbour and Fulford Harbour – locations that are, not too coincidentally, some of the highest populated areas on Salt Spring Island.

In the aftermath of European exploration and settlement, Salt Spring Island garnered a reputation for being “an alternative kind of place.” Once the island was opened up for pre-emption by the colonial government in Victoria, a diverse menagerie of settlers would establish themselves on Salt Spring Island over the 19th century. Despite some difficulties, early settlers would create livelihoods for themselves through agriculture, forestry, and fishing. The island’s few narrow, but extremely fertile valleys would help Salt Spring Island establish itself as a farming community with a strong working-class ethic for the better part of the 19th and 20th century. The rugged terrain and relative isolation of Salt Spring Island meant that local communities often developed in isolation from one another, joined together only by ferries and other forms of water-based transportation. Subsequently, the difficulty of over land connection would cause communities on Salt Spring to develop independently from one another, “each with its own character and interests.”

With the arrival of new technologies and services, Salt Spring Island changed significantly over the early part of the 20th century. The island’s internal road connections improved alongside the introduction of many new community assets, including the construction of St. Lady Minto’s hospital, the creation of the local volunteer fire department, the island’s connection to the electrical grid, and the establishment of the Island’s first waterworks districts: North Saltspring and Fulford. True change, however, came with the improvement of the Island’s ferry services – opening up connections at Fulford Harbour, Vesuvius, and Long Harbour.

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4 Ibid, 22.
6 Charles Kahn, *Salt Spring: The Story of an Island*, 37
7 Ibid, 301.
8 Ibid, 12.
9 Ibid, 14.
In the sixties and seventies, however, “Salt Spring Island lost its innocence.”10 Salt Spring Island became a refuge for people seeking an alternative lifestyle away from mainstream society. Many of these new immigrants included American draft dodgers, seeking asylum from the Vietnam War.11 Similar to early 19th century settlers, many newcomers on Salt Spring Island sought to create new lives for themselves. Many individuals seeking an alternate lifestyle on Salt Spring did so with minimal income, supporting themselves through whatever means possible. While many would eventually move away from the island, their alternative lifestyles and philosophies would remain for much longer – constituting a major cultural influence on the Island even today.12 During this time, the island’s economy flourished; with an increasing population came the demand for local goods and services. Local tradespeople and carpenters were in short supply as the island’s population boomed, requiring their particular skillset for homes and businesses.13 Salt Spring Island’s creative economy of craftspeople, artisans, and informal home-based professionals can also be sourced to this particular time period.14

Controlling land development on Salt Spring during this time became a priority issue. Prior to 1974, the Capital Regional District was responsible for local land use planning in the area. However, responding to rampant subdivision and increasing development pressure throughout the Gulf Islands, the Province of British Columbia created the Islands Trust in 1974 – a municipal entity responsible for local land use planning and community engagement, with a legal mandate to “preserve and protect the trust area and its unique amenities and environment for the benefit of residents of the trust area and of British Columbia generally [...]”15 Islander perspectives on the Islands Trust vary wildly; indeed, the Trust could be described as one of Salt Spring Island’s most contentious and polarizing assets.16

By the end of the 20th century, Salt Spring Island had transformed into a retirement and resort community. Due to its proximity to three major urban centres (Vancouver, Victoria, and Nanaimo), favourable climate, idyllic appearance, rural character, and availability of certain

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11 Charles Kahn, Salt Spring: The Story of an Island, 278.
12 Ibid, 284.
13 Ibid, 279
14 Ibid, 277.
16 Tabitha Youngreen Steager, “(Re)Making Place on Salt Spring Island, British Columbia: A Tale Told Two Ways”, 21
amenities and services (specifically healthcare), Salt Spring Island rapidly became one of Canada’s top destinations for tourists and retirees.\textsuperscript{17} Subsequently, Salt Spring Island’s population varies greatly throughout the year; while it enjoys a year-round population of approximately 10,500 people, this number greatly expands during the summer months.

\textit{A Few Islander Woes}

Salt Spring Island, however, is not without its unique troubles. Salt Spring Island’s reputation as an idyllic and unique community enticed many retirees and visitors to settle down on the island. With such strong demand over the past twenty years, local real estate prices have increased significantly alongside the island’s ballooning population. Housing has become a top concern for many local residents, who find it extremely difficult to secure affordable year-round housing – whether to rent or own.\textsuperscript{18} In addition to substandard conditions, some renters find seasonal eviction to be a major issue, where the island’s large seasonal population returns to the island during the summer, rendering former rental properties unavailable until the winter season.\textsuperscript{19} Consequently, some researchers note that some islanders consider Salt Spring to be a private enclave for the wealthy.\textsuperscript{20}

Salt Spring Island also faces significant limits to future development and growth. While local social assets (schools, libraries, and recreational facilities) are well developed, the island’s hard infrastructure situation is much more complicated. Presently, Salt Spring Island faces a major infrastructural deficit, specifically in regards to water supply, transportation, and waste removal.\textsuperscript{21} The management of Salt Spring Island’s physical assets are emblematic of the island’s complicated governance regime – the roads are maintained by the Ministry of Transportation, solid and liquid waste is managed by the Capital Regional District (CRD), while fresh water is provided either through private wells or community water districts – some independently operated, while others are controlled by the CRD. As a consequence, the

\textsuperscript{17} Islands Trust page, Charles Kahn, \textit{Salt Spring: The Story of an Island}, 298
\textsuperscript{18} Ibid.
\textsuperscript{19} JG Consulting Services Ltd. \textit{Islands Trust Housing Needs Assessment: A Step towards a Comprehensive Affordable Housing Strategy on Salt Spring Island}. 2009: 7. \url{http://islandstrust.bc.ca/ltc/ss/pdf/ssrphousingneedsassessment.pdf}
\textsuperscript{20} Charles Kahn, \textit{Salt Spring: The Story of an Island}, 313 ; Tabitha Youn green Steager, “(Re)Making Place on Salt Spring Island, British Columbia: A Tale Told Two Ways”, 22
management, maintenance and upgrading of the Island’s various systems may be uncoordinated.  

One of the island’s most pervasive issues, by far, is the prevalence of rural poverty and general lack of permanent employment opportunity. On Salt Spring, there is a growing economic divide between its senior residents and its younger, working-age cohort. While previous research has identified that a certain element of the island’s senior population faces economic difficulty (specifically, some long-time resident renters), the vast majority (96%~) qualify as moderate (or high) income earners.  

As Salt Spring Island has become a premier retirement destination, it isn’t too surprising that “over 40% of the income on the island comes from non-employment sources such as investments and pensions” – one of the highest in British Columbia.  

Contrastively, Salt Spring Island’s working age population does not enjoy this financial security. As noted in one CRD economic development report, “most working age families on the island are not well off.” Permanent employment, especially well-paid jobs, are in short supply. As one observer notes, “many people describe making a life on Salt Spring as an almost herculean effort.” Available statistics certainly appears to back this statement up: the majority of jobs on the island are either seasonal and/or part-time in nature - an inevitable side-effect of Salt Spring Island’s growing agri-tourism economy.  

Lower income families are often unable to establish themselves on Salt Spring Island for numerous reasons: unaffordable real estate, lack of employment opportunities, and costly ferry trips to name a few. Excluding retirees and other non-employment income earners, “Salt Spring Island’s median income is 13% below the BC average.” Demographic projections indicate that

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22 Ibid.  
23 Ibid, 7; JG Consulting Services Ltd. Islands Trust Housing Needs Assessment, 8.  
24 Urbanics Consultants Ltd. Salt Spring Island Land Needs Assessment. [Vancouver, BC], 2013: 3, 23.  
the Salt Spring community will likely become less diverse – the local population, on average, is expected to continue gradually age, while its working-age residents are much more likely to move elsewhere.\textsuperscript{30}

Salt Spring Islanders are deeply philanthropic, as evidenced by their plethora of community services and charity initiatives, but the continued provision of charity will not solve the island’s current lack of permanent, well-paid work. To reduce the island’s declining socio-economic diversity, the community must find a way to provide its younger population with productive and meaningful employment opportunity outside of the tourism and service sector. One possible part of the overall solution may require the Salt Spring community to consider the possibility of expanding and accommodating the needs and desires of its smaller, production-oriented businesses; specifically, those relating to light industrial and manufacturing activity.

Purpose

The problem of inadequate economic development and lacking employment opportunity on Salt Spring Island is by no means a new problem. As noted by local historian Charles Kahn, “the same polarizing issues keep resurfacing – […] development and growth, jobs, economic and cultural diversity […]”31 However, finding a resolution has proven to be quite difficult. Due to Salt Spring’s unique system of overlapping governance structures, no single entity is responsible for facing this challenge as municipal governance on Salt Spring Island falls under the jurisdiction of both the Capital Regional District (the CRD) and the Islands Trust.

While the CRD is specifically responsible for fostering economic development plans on the Island, the disjointed nature of local governance stifles the creation of a comprehensive long-term economic development plan.32 Recent CRD initiatives in economic development, however, are attempting to unite Salt Spring Island’s related organizations in formalizing a more systemically co-ordinated approach. One important aspect of economic development on the island, however, involves determining how exactly Salt Spring Island’s land use regime and planning process could be used to incentivize and accommodate future commercial and industrial development on the Island. Subsequently, this paper is focuses on the Islands Trust’s role in fostering production-based economic activity through land use planning and community engagement, specifically in reference to the Trust’s longstanding Salt Spring Island Industrial Lands Project.

While the Islands Trust is primarily concerned with land use planning, this particular aspect of urban planning is vital to fostering good economic development in any community. Land use and development planning provides the “framework for [local governments] to set goals for how they will grow and develop while keeping important social, economic and environmental concerns in mind.”33 However, the effectiveness of land use planning – and subsequent economic growth - depends strongly on the quality of local policies, plans and

31 Charles Kahn, Salt Spring: The Story of an Island, 316.
In recognition of Salt Spring Island’s declining socio-economic diversity and sustainability, the Islands Trust initiated an island-wide conversation on current industrial zoning and land use practices at the request of local residents during its 2006-2009 Official Community Plan review. Over the past nine years, the Islands Trust – with the assistance of outside consultants and advisory commissions - has reviewed the island’s current supply and demand projections for industrial land, and the organization could amend and improve current land use policy and industrial zoning regulation to be more flexible and predictable.

The creation of an appropriate industrial zoning regime, however, is further complicated by numerous factors: 1) the deeply local and neo-traditional characteristics of local home-based commercial and industrial activity, 2) the unique, but severely limited, powers and jurisdiction of the Islands Trust, and 3) the need to balance between retaining the Island’s pastoral and environmentally pristine character with the desire for local economic development beyond the tourism industry. Consequently, this research project seeks to answer the following questions:

1) Why does Salt Spring Island require new industrial zoning regulation?

2) What is the nature of industrial activity on Salt Spring Island and how does it differ from other municipal contexts?

3) Should the new industrial zoning regulation be founded on the impacts of land use activities (performance standards), prescriptive form guidelines, or through specified land use? Should future use categories be detailed and prescriptive, or be as flexible as possible?

4) Taking previous local recommendations into consideration, what should Salt Spring Island’s new industrial zoning regulation – specifically, zoning districts, use categories, dimensional standards, and other measures - look like?

In summary, this research project intends to assess how the local government agency responsible for local land use planning, the Islands Trust, might update its current industrial zoning bylaw to accommodate 1) the future creativity and growth of local industrial activity with 2) the need to mitigate the impacts of such development on surrounding neighbours, all within the context of the Islands Trust’s legislative mandate to protect and preserve Salt Spring Island Island’s unique community character and environmental characteristics.

34 Ibid, 7.
Research Methodology and Structure

To inform the proposal for future industrial zoning regulation on Salt Spring Island, this report will use a variety of primary and secondary sources including academic publications (books and peer-reviewed articles), newspaper articles, historical rezoning cases, staff reports, and relevant municipal planning documents including Salt Spring Island’s Official Community Plan (no. 434) and Land Use Bylaw (no. 355). Data will also be collected from relevant policy documents, including Urbanics Consultants Ltd’s industrial lands assessment report and the CRD’s local economic development plan.

The first section of this project will begin with a non-exhaustive literature review of historical zoning development and practice in North America, followed by a brief look at the evolution of industrial zoning practice over the 20th century. Beyond providing much needed context into zoning’s finer details, this section is intended to show the stark contrast between mainstream industrial zoning practice and the home-based nature of Salt Spring Island’s industrial lands.

The second section will review and summarize the Salt Spring Island Industrial Land Uses project, including details on what it is, how it began, and how it evolved over the past decade. This summary will also include a look at the characteristics of Salt Spring Island’s industrial lands, such as its current status and projected future demand. With an understanding of the Salt Spring Island Industrial Land Uses project, the next step of the research project will be to briefly review the recommendations for future commercial and industrial zoning regulation put forth by the Industrial Task Force, Urbanics Consultants Ltd, the Industrial Advisory Planning Commission (the IAPC), and IPS Island Planning Services. This report will not be discussing the future location of additional industrial lands on the Island, as this issue is an important concern that must be determined by the community.

Building upon this case study review, this report will conclude with a step-by-step analysis of the basic elements of a well-written industrial zoning ordinance, drawing upon the best practices recommended by the zoning literature. It will also explore certain non-technical aspects of zoning vital to the industrial debate, such as politics, the need for certainty, and perceptions of community character. Additionally, this analysis will be grounded in the context of three key aspects of good zoning practice: flexibility, predictability, and simplicity.
Literature Review: Zoning History and Practice

Zoning in British Columbia

In British Columbia, zoning is the primary legislative tool used by municipal and regional governments to implement land use plans.\textsuperscript{35} Local governments are empowered to use the zoning power under Part 14 – Planning and Land Use Management of the Local Government Act [RSBC 2015]. At its very core, “zoning is the division of an area into zones within which uses are permitted, as set out in the zoning [bylaw].”\textsuperscript{36} Established by elected officials, these zones outline what type of development may occur within each zone. Zoning bylaws are comprised of two parts: the written regulation and a geographical map.

The written element of the zoning bylaw often contains numerous restrictions and conditions within each zone, the most significant being specified permitted uses and density measures. Other regulations include the siting, size and physical dimensions of buildings, structures, and uses; 2) the minimum and maximum size of parcels; 3) conditions for the provision of amenities (such as housing agreements or density bonusing), and 4) different standards for works and services located within any particular zone.

The zoning map, in line with the written regulation, provides a visual understanding of the geographic characteristics of each zone located within a local government’s jurisdiction. Numerous local governments in British Columbia, however, often cover other zoning-related topics in their zoning bylaws; these issues include parking space requirements, screening and landscaping guidelines, signage, and storm water runoff control. Recognizing that not all parcels would be able to accommodate generalized zoning regulation, the Local Government Act also permits landowners to receive a partial relaxation to the rules – assuming individuals can prove that the application of the rules to their intended plans creates unnecessary hardship.

Similar to other municipal jurisdictions across North America, zoning bylaws in British Columbia often work in tandem with advisory land use policy plans called Official Community Plans, which are used by local governments to “govern the overall direction of development and its pace at a policy level without descending into [regulatory] detail.”\textsuperscript{37} Unlike their American

\textsuperscript{37} William Buholzer, \textit{British Columbia Planning Law and Practice}, 6-1.
counterparts, British Columbian municipalities enjoy the ability to wield some top-down discretionary power over particular characteristics of land development, including environmental preservation and building form/design, through the designation and use of Development Permit Areas.

While zoning in British Columbia is primarily influenced by longstanding Euclidean (use-based) zoning practice, starting with the 1925 Town Planning Act, current enabling legislation under Part 14 of the Local Government Act permits local governments to use elements from other types of zoning – albeit to a limited degree.38 One variant of zoning includes Comprehensive District Zones (otherwise known as Planned Unit Developments), a type of site-specific and negotiated zoning that is usually “adopted in response to the application of a landowner whose plans cannot be accommodated by using an existing zoning category.”39 The other two major forms of zoning, while not explicitly authorized under the Local Government Act, are used to some degree in British Columbia. The first, performance zoning, attempts to regulate land use through flexible performance standards; the second, form-based code, guides land use development through prescriptive form and character requirements.

With the presence of such alternatives, why have they not yet eclipsed the dominant use-based model of Euclidean zoning? To some degree, they already have – many local governments across North America adopt elements of performance zoning, form-based code, and planned unit developments into their zoning ordinances. However, the Euclidean zoning model still remains as the functional basis of most zoning bylaws. A deeper look into the development of general zoning practice, and the emergence of competing zoning forms, will help illustrate why the Euclidean-hybrid model continues to guide current zoning practice.

38 Ibid, 7-1.
39 Ibid, 7-65.
Zoning History and Typology

Euclidean Zoning: What’s the Use?

The very roots of zoning can be sourced to the development of public health, structural safety and fire prevention regulation in the United States and Europe in the 19th century. As land use at the time was still primarily a private affair, the only real land use regulation dealt with ownership. In the absence of modern land use controls, larger North American cities could best be described as chaotic - a mish-mash of incompatible uses, nuisances and hazards. Some communities during this time would attempt to regulate land use development, usually with the focus of separating incompatible uses and their respective nuisances.

The first comprehensive zoning plan, however, was created in 1916 to regulate land use development in New York City. Inspired by the existing German ‘Zone Plan’, which separated industrial activity (and associated nuisances) from residential neighborhoods, the New York City comprehensive zoning ordinance would lay the foundation of zoning plans throughout North America. This early version of zoning would also pioneer a number of concepts still used in zoning today: the creation of separate zone categories based on use (residential, commercial, and industrial and a few development standards – specifically, setback requirements (distance of structures to the property line) and height limits. As a comprehensive regulatory instrument, zoning regulations would be consistently applied across all parcels within every zone to ensure predictability and fairness.

Acknowledging that some future circumstances unforeseen by the current regulation might require some regulatory flexibility, New York City’s zoning regime would also establish the concept of the variance procedure: a method of legal recourse for property owners seeking a conditional relaxation of the rules for their particular parcel. The variance procedure would also require the property owner to prove that the application of the generalized zoning rules in their

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42 Ibid.
43 Ibid, 8.
particular circumstances would cause undue hardship – assuming that the property owner was 
not actually responsible for creating the issue in the first place.45

Even though the zoning tool was relatively untested, its use quickly spread across North 
America like wildfire over the next decade.46 This specific type of zoning based on defined land 
use, more famously known as ‘Euclidean Zoning’ today, received its namesake after the 
landmark U.S. Supreme Court case, Village of Euclid v. Ambler Realty Co. (272 U.S. 365), 
1926. In Village of Euclid v. Ambler Realty, the Supreme Court sided with the Village of Euclid, 
stating that the Village’s zoning ordinance was a constitutional use of the municipal police power 
to limit noxious uses and nuisances. Through the police power – “the power of government to 
protect its citizens” – zoning has been used ever since to balance the rights of the property owner 
with the health, safety, and continued well-being of the general public.47

Euclidean zoning, however, is not without its flaws. Over the 20th century, Euclidean 
zoning became ever more complicated with the addition of new public concerns. Signage, 
landscaping, floodplain protection, runoff control, heritage preservation, and parking 
requirements began appearing in zoning bylaws everywhere.48 Soon, many Euclidean zoning 
regulations “did not vary just by zone district; some regulations varied by specific use rather than 
by the zone it was located”.49 Beyond zoning’s increasing complexity, its focus on segregated 
uses lead to the development of inefficient, automobile development land use patterns as 
Euclidean zoning “entirely separated workplaces and shopping from exclusively residential 
areas.”50 Other critics note that Euclidean zoning has been used to promote racial and economic 
segregation, turning a technical instrument into a political tool.51 Others note that since 
Euclidean zoning is primarily use-based, it is static and unable to adapt to future development 
patterns – and in turn, stifles creativity and innovation in the built environment.52

47 American Society of Planning Officials, A MODEL ZONING ORDINANCE, 3rd ed, (Chicago: APA Press, 
1966): 1
48 Donald L. Elliott, A Better Way to Zone Ten Principles to Create More Livable, 11.
49 Ibid.
50 Daniel G. Parolek et. al, Form-Based Codes: A Guide for Planners, Urban Designers, Municipalities, and 
51 Ibid; Patrick R. Douglas et al, Flexible Zoning: How It Works, (Washington, DC: The Urban Land Institute, 
52 Ibid, 8.
In recognition of the problems associated with Euclidean zoning, specifically its inflexibility and complexity, local governments began to experiment with different forms of zoning. While many new creative forms of zoning emerged over the past few decades (such as overlay and cluster zoning etc), this literature review will only consider the three major contenders to Euclidean zoning: Planned Unit Development(s), Performance Zoning, and Form-Based Code.

**Planned Unit Development(s): Customized Zoning**

In the face of rigid Euclidean zoning regulation, developers and planners sought an alternative that permitted greater flexibility and creativity in land use development. This led to the creation of the first type of alternative zoning – the Planned Unit Development. Unlike prescriptive Euclidean zones, which fostered homogeneous but predictable development, the PUD offered developers and local governments an opportunity to work together and negotiate the creation of customizable, site-specific zoning regulation for specified developments.\(^53\) These negotiated zoning districts fostered many good urban planning practices: many PUDs promoted mixed-use development, strong design standards, and the preservation of open space, “balancing innovation, quality, and flexibility”.\(^54\) In British Columbia, PUDs are otherwise known under their alternative name, ‘Comprehensive Development Zones.”

As the use of PUDs became more prevalent throughout North America, so did their problems too. PUDs were cumbersome and required considerable skill and time to fully flesh out. Ironically, another weakness of the PUD was its dependence upon negotiation – developers or local governments lacking in this capacity could be easily swindled.\(^55\) Local governments who preferred to use PUDs would set themselves up for serious trouble in the future. Future land owners would often find themselves stuck with a very specific type of permissible development – and any amendment to the zoning, even minor ones, would require a whole new re-negotiation. The overuse of PUDs often turned zoning bylaws into veritable tomes of almost endless and overly detailed zones, losing the reliability and relative simplicity offered by Euclidean zoning.

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\(^{55}\) Ibid.
ordinances.\textsuperscript{56} Today, while PUDs are still extremely useful for negotiating large-scale developments in municipalities, they did not replace Euclidean zoning.

\textbf{Performance Zoning: All About Impact}

Another attempt at improving land use flexibility and creativity came in the form of performance-based zoning. During the 1950s, American industrial zoning specialists looked towards the problems that building inspectors and legislators were facing; the emergence of new technologies and materials used in construction required legislators either to revise continually their building codes, or to find a different approach that could adapt to changing conditions.\textsuperscript{57} The solution proved to be extremely versatile: rather than focus on materials or technologies that could easily become outdated, these new building codes made extensive use of measurable performance standards, such as noise (decibels) or storm water runoff (liters per day). Many other standards would be included, including smoke, odor, glare, and aesthetic concerns. This idea, first appropriated by industrial zoning planners, would eventually form the basis for performance zoning.

Unlike Euclidean zoning, the basis of performance zoning focused entirely on the physical impacts of varying land uses on the surrounding environment, rather than dealing primarily with specific land uses.\textsuperscript{58} In other words, any proposed use (which would remain undefined) had to demonstrate that it could actually operate within the performance standards listed within the zoning bylaw.\textsuperscript{59} The idea proved to be extremely seductive with planners, as lists of defined land uses and their accompanying physical dimension requirements could be replaced with general performance standard zones.\textsuperscript{60}

While performance zoning would flourish in the 1960s and 1970s, it would quickly fade away after the 1980s. As many planners discovered, it was much easier to craft, regulate and monitor land use by defined category than by performance measures, which required serious funding and technical expertise.\textsuperscript{61} Performance-based zoning also lacked the one quality that Euclidean zoning excelled at: providing predictable building form and massing in line with

\begin{itemize}
\item \textsuperscript{56} Ibid.
\item \textsuperscript{57} Patrick R. Douglas et al, \textit{Flexible Zoning: How It Works}, 11.
\item \textsuperscript{59} Patrick R. Douglas et al, \textit{Flexible Zoning: How It Works}, 11.
\item \textsuperscript{60} William Buholzer, \textit{British Columbia Planning Law and Practice}, 7-117.
\item \textsuperscript{61} Ibid; Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable}, 24.
\end{itemize}
already existing neighborhood character.\textsuperscript{62} Despite its short comings, elements of performance zoning are used by numerous large municipalities today to regulate and monitor heavy commercial and industrial activity.\textsuperscript{63}

Form-Based Zoning: Form over Function

In the 1980s, a group of New Urbanist planners and academic scholars began to question the conceptual underpinnings of Euclidean zoning. These individuals proposed a radical, place-based alternative – if zoning shouldn’t be purely defined by land use, why not focus on controlling development primarily through building form and streetscape design?\textsuperscript{64} Unlike the other versions of zoning, form-based code was firmly concerned the visual elements of development – specifically through “standards for design and site layout.”\textsuperscript{65} Unlike in performance, land use categories were retained, but were simplified into broadly defined categories that promoted the mixing of uses. Since strict form requirements defined what development could take place in any particular zoning district, form-based zoning placed a greater emphasis on retaining and fostering the visual character of the neighborhood than anything else.

While form-based zoning is still an effective instrument for fostering good urban form, only a few municipalities have completely replaced their zoning regimes to a form-based model.\textsuperscript{66} In most cases, local governments prefer to offer form-based regulation either as a parallel code that developers can voluntarily choose to adopt and use, or administer them in very specific geographical locations where municipalities seek to foster a particular kind of urban form.\textsuperscript{67} Unlike regular Euclidean zoning bylaws, form-based codes take far more time and resources to draft and implement due to their visually-oriented nature – often requiring the local government to take a full inventory of what defines its urban form, and then translate this visual element into written regulation.\textsuperscript{68} Furthermore, while form-based code promotes land use

\textsuperscript{62} Ibid, 25-26.
\textsuperscript{63} Ibid, 24.
\textsuperscript{64} Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable}, 27; Daniel G. Parolek et. al, \textit{Form-Based Codes: A Guide for Planners, Urban Designers, Municipalities, and Developers}, 9.
\textsuperscript{66} Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable}, 32.
\textsuperscript{67} Ibid;
\url{https://www.mml.org/pdf/map_article_issue28.pdf}
flexibility, some critics in the development argue that this alternative form of zoning stifles architectural creativity as they are intended to directly influence the urban aesthetic.  

The Euclidean Hybrid: The Problem with Zoning Today

Despite all of its many shortcomings, zoning remains the most ubiquitous and popular form of land use control used in North America today. Euclidean zoning continues to serve as the dominant model for many reasons: PUDs are too cumbersome to deploy on a mass scale, performance zoning requires significant technical expertise, and form-based code exchanges land use complexity for overly detailed design standards. The weaknesses of Euclidean zoning, such as its inflexibility and age, have inadvertently proved to be some of its greatest strengths: the private sector finds comfort in the predictability and rigidity of conventional zoning, while planners prefer “its low costs, ease of implementation, and the level of control it gives them.” Despite the above, many municipalities have a zoning regulation that utilizes a combination of all four zoning types – succinctly described as “hybrid Euclidean” zoning.

This hybrid model, unfortunately, is deeply problematic. As hybrid-Euclidean zoning regimes can incorporate any aspect of every form of zoning, the complexity of local zoning regulation subsequently increases dramatically. Performance standards and prescriptive form guidelines, for example, require significant technical skill and finesse, while a dependence on PUDs can turn “one-size-fits-all” regulation into a mess of wildly varied site-specific rules. This trend towards highly detailed and specific regulation, consequently, further alienates the general public from fully understanding how they might be able to develop their own land.

As noted by one planning scholar back in the 1960s, zoning is an extraordinarily flexible instrument – and yet, local governments have failed to take advantage of this flexibility. This is primarily due to two major reasons: the difficulty associated with drafting a full, locally specific zoning regulation, and the overwhelming pressure to provide predictability in future land use decisions. In reference to the first case, planners and elected officials prefer to make piece-meal

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70 Chi Chi Cai, “Make Art, Not Sprawl: Using Form-Based Codes to Create Complete, Compact, and Livable Suburban Communities.” (Masters Diss., Ryerson University, 2013): 9
71 Donald L. Elliott, *A Better Way to Zone Ten Principles to Create More Livable*, 34
72 Ibid, 130.
adjustments to local zoning regulation by adopting material from neighboring municipalities.\textsuperscript{74} Not only does this permit local planners to retain a regime that is “familiar, tested, and comfortable”, but it prevents the need for a complete zoning overhaul in the short-term.\textsuperscript{75} This creates problems in the long-term, however, as this incremental method often does not utilize any sort of comprehensive review to ensure that the intricate web of regulation is actually coherent, compatible, or complete in any way.

The other primary reason behind the inflexibility and overly detailed nature of hybrid-Euclidean zoning is because it is politically expedient to make it that way. While zoning was initially perceived as a technical process, it is actually deeply political; most zoning regulation tends towards detail and complexity because most private land owners want to ensure predictable land use activity and form in their communities.\textsuperscript{76} Predictability, in this case, usually refers to the continued protection of property values; by preventing the introduction of certain uses in the vicinity, private land owners can protect the market value of their land.\textsuperscript{77} Subsequently, local officials find themselves in a difficult position: how can they balance the need to introduce a much-needed land use activity into a certain area, while simultaneously attempting to control the impacts generated from the activity?

The answer, unfortunately, has led to the practice of creating long, extremely detailed use lists. As zoning still remains dependent on the definition of land use, some local officials control land use impacts through the incorporation of ever more detailed use categories. This method is an attractive solution for political decision-makers – not only is this resolution expedient and requires only minimal correction to the zoning bylaw, elected officials rarely face the regulatory consequences for this practice.\textsuperscript{78} While it works in the short-term, this political practice makes zoning regulation rigid, complicated, and inflexible over the long term. This reinforces the perceived static nature of zoning – rather than promoting flexibility in the first place, this emphasis on detail prevent zoning regulation from readily adapting to changing circumstances.

\textsuperscript{75} American Society of Planning Officials, A MODEL ZONING ORDINANCE, 2.
\textsuperscript{77} Chi Chi Cai, “Make Art, Not Sprawl: Using Form-Based Codes to Create Complete, Compact, and Livable Suburban Communities.” 9; Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable}, 59.
\textsuperscript{78} Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable}, 59.
All of the problems listed above are somewhat apparent in current industrial zoning practice on Salt Spring Island, which will be discussed in further detail in the case study review and analysis. Before we can continue onto this section, however, an investigation into the history and current practice of industrial zoning is required to provide much needed context into what issues planners should be keenly aware of when crafting industrial zoning regulation.

*Industrial Zoning: The Dark Horse of Land Use Regulation*

Despite its reputation as “the stepchild of zoning”, the evolution of industrial land use has contributed significantly to its development. Urban growth in most North American cities was effectively unrestrained and unregulated in the 19th century, leading to haphazard development and the widespread clash of incompatible uses – the most prominent being the proximity of industrial activity (and its effects) near residential areas. The real and perceived nuisances produced by industrial activity laid the foundation for zoning: the creation of zones by general use category (residential, commercial, and industrial) and the separation of incompatible uses.

Prior to the post-Second World War period, the layout and location of industrial lands often was an afterthought. Due to the negative reputation of industrial activity, good and accessible land went to more desirable land uses first (such as residential and commercial). Subsequently, industrial land use was usually relegated to whatever was left over, “unable to be used for any other purpose.” Industrial zoning was also extremely permissive during this time; in many jurisdictions, any permitted use defined in a zoning ordinance was usually permitted on industrially zoned land, creating the higher potential for land use conflicts.

The negative reputation around industrial zoning, however, changed drastically during the early 1950s. Concerted efforts to improve community planning around industrial lands, including the prohibition of residential uses and increasing the quantity of land available for industrial activity, began to gain traction. Recognizing the restrictive nature of then-current industrial use categories, academic scholars and planners sought to increase industrial zoning

http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1644&context=dlj
82 Ibid.
84 Ibid.
flexibility through the adoption of performance standards. These performance standards, borrowed from emergent building code regulations, regulated land use by the impact of land use activity. Some performance measures were clearly quantifiable like noise, waste, and smoke, while others were much more subjective, such as aesthetics and psychological impact.\textsuperscript{85} Performance standards would be widely adopted in numerous zoning ordinances for industrial activity – and would eventually lay the foundation for performance zoning.

The widespread introduction of this new concept led to the creation of industrial parks over the late 1950s and 1960s where industrial operators and businesses could establish themselves in homogenous, but use-compatible environments.\textsuperscript{86} By the 1970s, however, the process of de-industrialization in North America began to take hold. In the face of persistent inflation, sluggish economic growth, and increasing competition from overseas, many industrial businesses struggled to adapt to these changing circumstances.\textsuperscript{87} De-industrialization led to negative feedback effects: job losses and reduced production in one industry adversely affected related industries in the same way, creating a cycle of decline and eventual closure.\textsuperscript{88} While there were some attempts to stimulate industrial land development during this era, usually through higher level incentive programs, many municipalities were left with an abundant supply of unused, industrially-zoned land.\textsuperscript{89}

Due to overwhelming supply and favourable land economics, industrial land appropriation by commercial users became a visible trend in many North American municipalities by the late 20\textsuperscript{th} century.\textsuperscript{90} While this process was initially very slow to start, this organic mixing of commercial and light industrial activity, usually in the form of business parks, nurtured a beneficial land use relationship. As it turns out, not only are the land use impacts of both uses quite similar, ensuring their compatibility, but both uses often complemented one another in terms of economic activity. Presently, while some municipalities have expanded their industrial zones to accommodate a host of residential and commercial uses, this trend is rapidly

\textsuperscript{85} Ibid, 22.
\textsuperscript{86} Ibid, 9.
\textsuperscript{89} Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable Cities}, 70.
\textsuperscript{90} Ibid.
reversing in others. The preservation of industrial land, and the restriction of other uses in industrial zones, is the key priority for many large cities across North America.\(^9^1\) To understand why local governments are placing significant emphasis on the preservation of existing industrial land, one must understand how industrial lands are lost to more desirable uses.

While residential and commercial growth is certainly desirable, planners have realized that despite their noxious tendencies, “many industrial land uses [are] integral to daily life.”\(^9^2\) As planners are discovering, existing industrial areas were deliberately placed in certain locations because they would otherwise have nowhere else to go.\(^9^3\) Furthermore, the introduction of certain residential and commercial uses into industrial lands increases competition for scarce (albeit cheap) land, exposing industrial users to high rent levels – something that many traditional operators cannot afford.\(^9^4\) Another phenomena discovered through the re-introduction of residential use in industrial lands, specifically through the live/work concept, is the problem of residential reversion. In short, many live/work spaces often relapse into a primarily residential use, which in turn brings back complaints towards nuisances produced by neighbouring industrial operators.\(^9^5\) This form of ‘imported NIMBYism’ is difficult to address once introduced; as soon as the issue of nuisance compromises the ability of industrial operators to function, lost industrial land will rarely if ever revert back to its former purpose.

Today, industrial zoning is at the forefront of creative land use practice. Through technology and improved methods of operation, most modern industrial activity no longer reflects the grittiness and undesirability of traditional heavy industry.\(^9^6\) While the necessity of separating formerly incompatible land uses may no longer be readily applicable, the preservation of industrial lands is a key priority for the above-stated reasons. Despite the review stated above, Salt Spring Island’s historic and current industrial land development does not neatly fit into the general North American archetype. While the Salt Spring Island Industrial Land Uses Project is

\(^{91}\) Ibid.
\(^{94}\) Scott Dempwolf, “An evaluation of recent industrial land use studies: Do theory and history make better practice?”, 16.
\(^{95}\) Ibid, 15.
\(^{96}\) Ibid, 142
similar to other municipal zoning review initiatives, adapting industrial zoning best practices from elsewhere is complicated by the island’s unique economic qualities and governance regime.

Case Study: The Salt Spring Island Industrial Land Uses Project

*First Steps: Where It All Began*

The discussion around the future development and improvement of Salt Spring Island’s industrial lands is by no means a new conversation. The earliest conceptions of the Salt Spring Island Industrial Lands Project can be sourced to the 2006 review and update of the existing Official Community Plan (OCP). Initiated by a group of elected officials known as the Local Trust Committee, this process was intended to assess and address pressing policy issues affecting the community with the help of six focus groups. The team responsible for reviewing the Island’s economic sustainability and security noted that the community’s biggest socio-economic concern revolved around the island’s inadequate supply of income-generating opportunities.97

Looking beyond the Island’s three major industries (the public sector, construction, and tourism-related activities), this task force recognized that a potential solution lay within improving the island’s local production capabilities. Noting that Salt Spring Island is dependent upon the outside flow of basic and manufactured products for essentially all of its industries, the focus group recognized that this particular logistical arrangement would only create more difficulty in the future due to rising energy costs.98 The focus group recognized that rather than promoting this unsustainable economic relationship, perhaps improving the community’s capacity to create industrial goods to satisfy local consumer demand made much more economic and environmental sense.99

The focus group also recognized the importance the island’s numerous home-based businesses in strengthening the local economy. The island’s current wealth of home-based businesses were a natural evolution from Salt Spring Island’s earlier “alternative” days. During the 1960s and 1970s, the island’s undeveloped and isolated nature required the influx of

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98 Ibid, 14.

99 Ibid.
immigrants and alternative thinkers to creatively eke out an existence on minimal income. Subsequently, these individuals learned to support themselves through “survival skills like gardening and carpentry” and “by building houses, fishing, fixing cars, making crafts, and planting trees.” As a consequence of this form of informal economic development, current commercial and industrial activity on the island reflects certain qualities of neo-traditional development – specifically, the strong emphasis on local, home-based production.

Resultantly, the group recommended that “additional light industrial zoning be created to facilitate increased local production and expansion of local businesses.” Recognizing the nature of economic activity on Salt Spring Island, these recommendations would also include the consideration of placing an upper limit on the size and scale of industrial and commercial use on the island. Yet, numerous questions still remained: what was the current inventory of industrial land supply on the island, and was it sufficient for future purposes? Which industrial activities should be permitted in the future, and how would their impacts be controlled? Where should future industrial land be located in the future? These concerns would be grappled with over the next decade by a number of groups, including the Industrial Task Force, the Industrial Advisory Planning Commission, and Urbanics Consultants Ltd.

Identifying the Problem: The Industrial Task Force

Noting the paucity of information regarding the Island’s industrial lands, the Local Trust Committee established the Industrial Task Force (ITF) in 2008. Comprised of local residents and relevant professionals, this committee would assess 1) the island’s inventory of industrial lands, 2) the requirements of industrial land future within the decade, 3) the form and typology of industrial use that may require appropriate zoning, and 4) where additional industrial lands might be located in the future.” To analyze the condition and activity of local industrial lands, the ITF drafted and distributed questionnaires to a number of home-based businesses and industrially-zoned property owners. The ITF would also consider the geographical placement of

100 Charles Kahn, Salt Spring: The Story of an Island, 286.
future industrial activity, taking infrastructural service requirements, environmental concerns,
and proximity to village centers into consideration.

By the end of their investigation, the ITF’s final report revealed that a significant
proportion of light industrial activity on Salt Spring Island was not actually located in an
industrial or heavy commercial zone. Furthermore, task force members noted that Salt Spring
Island’s industrial zoned lands were unsuitable for full development for numerous reasons:
unsuitable topography, drainage issues, and distance to village centers and major roads.¹⁰³
Interestingly, the ITF noted that a significant amount of unquantifiable light industrial activity
was taking place as part of islander home-based businesses. Beyond recommending the
relaxation of home-based business regulation in the zoning bylaw, the ITF noted that local
zoning regulation for industrial land was “excessively complex and to some degree
impractical.”¹⁰⁴ In this respect, the task force recommended the simplification of the ten existing
light industrial and heavy commercial zoning districts - Industrial 1, Industrial 2, Industrial 3,
Industrial 4, Commercial 6 and five other minor variants - into three new zoning categories:
Light Industrial, Medium Industrial, and Heavy Industrial.¹⁰⁵ Furthermore, there was also
discussion about the possibility of simplifying existing use categories and the incorporation of
flexible setback and buffering criteria for future industrial land use impact reduction.

A number of recommendations put forth by the Industrial Task Force would eventually
be adopted by the Local Trust Committee in 2011. Through Bylaw Amendment 448, the Local
Trust Committee would make two minor changes to the zoning bylaw: first, it would include
limited food processing as a permitted use in a number of industrial zones under the new use
category “farm-related light industry”. Their second modification to the zoning bylaw, however,
was much more significant: expanding the capacity of home-based businesses, the new zoning
regulation would now permit home-based businesses to have additional non-residential
employees (3 if the lot is less than 1.2 hectares, 4 if larger), in addition to an increase in
permitted floor area for business-related activities (750 square feet for properties less than 1.2
hectares, 1600 square feet for those larger).

¹⁰³ Ibid.
¹⁰⁴ Ibid.
¹⁰⁵ Canada, Province of British Columbia, Islands Trust, Stefan Cermak, Implementation of Industrial Task Force
Putting the Pieces Together: The Industrial Land Needs Assessment

While the Industrial Task Force was able to implement a number of key recommendations in the zoning regulation, the group was ultimately unable to “satisfactorily quantify the use, availability, or demand for [local] industrial lands.” To rectify this situation, the Local Trust Committee would direct the Industrial Land Uses work program to create the Industrial Land Needs Assessment - a full survey and analysis of Salt Spring Islands Industrial lands, including their constraints, viability, and projected demand capacity. Urbanics Consultants Ltd, the consulting firm tasked with assembling the Industrial Lands Needs Assessment, would also consider a number of other concerns, such as the future location of additional industrial land on the island and the community’s concerns over increased local industrial activity. As this report is integral to the Salt Spring Island Industrial Land Uses project, a number of key findings supplemented with material from other sources are provided below:

1. Salt Spring Island’s industrial land inventory does not satisfy current demand.

At the time of the report’s publication in mid-2013, approximately 99.4 acres of land on Salt Spring Island were zoned for industrial or heavy commercial use (with only 86 acres actually suitable for development). Interestingly, the consulting firm recognized land used for waste management activities (recycling, transfer, etc) to be industrial in nature, adding a further 55.78 acres to the total. Save for the possible exception of the Gulf Coast Materials concrete mixer, almost all industrial activity on Salt Spring Island could effectively be classified as light industrial. In this case, light industrial activity constitutes uses like warehousing, wholesaling, construction, manufacturing, processing, vehicle repair, waste management, and related marine operations (marines, aquaculture, etc).

Like the Industrial Task Force, the firm also noted that a significant but unquantifiable amount of light industrial activity was taking place on non-industrially zoned land in the form of home-based businesses. Using data from BC Assessment (BCAA), the firm noted that while 71% of the island’s industrially-zoned parcels matched their BCAA use classification, only 30% of the island’s industrial lands actually met BCAA’s requirements for Light Industrial (Class 5)

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activity. Additionally, while some parcels of land were found to be vacant or underutilized to their full extent, the firm concluded that the intensification of industrial activity on existing properties was likely not possible “without either disrupting the operation of the existing land use, or going against the express wishes of the land owner.”

This reluctance of private land owners to intensify existing industrial activity on their parcels makes much more sense when one considers the mixed-use, home-based nature of industrial activity on Salt Spring Island; the majority of industrially-zoned land available for development already accommodates more desirable uses, like residential or farm use. Additionally, the consulting firm noted that the real estate market for appropriate, already-zoned industrial use land was somewhat dismal for prospective industrial operators: the average parcel of industrial/heavy commercial land offered over the summer of 2013, complete with appropriate zoning, was found to be extremely small (approximately 0.3 acres on average). Home-based business owners, subsequently, would be hard pressed to expand their permitted light industrial operations by investing in a property which permitted only a marginally larger amount of developable space due to existing setback and building coverage regulations.

2. More industrial land will be required to accommodate future economic growth.

Despite the aging population, the firm notes that all economic sectors on the island will likely grow over the long term. While the largest gains will likely be made in the healthcare and social assistance, the report notes that light industrial activity – and subsequent employment opportunity on industrial lands - will increase gradually over the next 35 years. Utilizing an employment-driven forecasting method (employee per acre), the report notes that the island will require an average addition of 0.67 acres of industrially-zoned land every year - a total of 23.45 acres by 2036. The size of future industrially-zoned parcels was also acknowledged as an important issue; in the future, business operators would likely look for properties that could accommodate more than 1,000 (but likely less than 3,000) square feet for light industrial uses.

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110 Ibid, 33.
111 Ibid.
112 Ibid, 21
113 Ibid, 4.
114 Ibid, 5 and 33.
This projection, however, is dependent on a number of assumptions, including the supposition that zoning and industrial land use intensity will remain static over the long-term. Likewise, the expected growth of Salt Spring Island’s population will necessitate the expansion of its capacity to deal with solid waste. Utilizing a per-capita method, the report notes that an additional 9.59 acres will be required for waste management-related uses.\textsuperscript{115}

Interestingly, the report also repeatedly noted that the current paucity of data surrounding home-based businesses on the island constituted a major issue for projecting future employment, as “an unknown amount of demand is currently absorbed by home-based businesses.”\textsuperscript{116} While the report acknowledges that “home-based industries will continue to be the bedrock of economy activity on the island”, improving the ability of local organizations to monitor and regulate the operation of home-based businesses would subsequently help in future planning and policy initiatives to foster local economic development.\textsuperscript{117}

3. The current industrial zoning regime is inadequate and inflexible.

One of the top issues expressed by surveyed community members involved the rigidity and complexity of the current zoning bylaw, which some described as “unnecessarily complicated, overly specific and not entirely responsive to the changing needs of business.”\textsuperscript{118} Some members of the public also criticized the rezoning process, noting the expense and difficulty involved with previous rezoning attempts by industrial operators – such as the controversial Salt Spring Island Coffee rezoning application in 2008. The report notes that the rezoning process on Salt Spring Island can be arduous and time-consuming, with each recent application taking longer than 9 months.\textsuperscript{119} These delays can likely be sourced to neighborhood opposition to the proposed and use activities, associated nuisances, and their possible effects on surrounding property values.\textsuperscript{120}

The assessment report also noted the contrast in flexibility between the home-based business regulation, and the island’s industrial/heavy commercial zones and use categories.

\textsuperscript{115} Ibid, 45.
\textsuperscript{116} Ibid, 41.
\textsuperscript{117} Ibid, 43.
\textsuperscript{118} Ibid, 46.
\textsuperscript{119} Ibid, 49.
Unlike the flexibility permitted in the home-based business regulation, formal industrial zoning is rigid and overly specific. As home-based business operations may continue to grow in the future, the transition from a flexible regulation to a rigid one could cause significant confusion and stress. Furthermore, this historic inflexibility meant that the accommodation for proposed uses by industrial operators seeking a re-zoning has often necessitated the creation of a new zone variant.\(^{121}\) This incremental process has led to the proliferation of highly specific zones and their variants, all of which permit some varying aspect of light industrial activity. Consequently, the report suggests two major changes to the current industrial regime: the simplification of industrial zones into broad categories, and the increased flexibility of uses permitted in each simplified zone.\(^{122}\)

While the firm briefly discusses the potential of utilizing a traditional industrial zoning regime rubric of Light Industrial, Medium Industrial, and Heavy Industrial, their ultimate recommendation goes one step further. Recognizing the overlap of industrial and commercial activity on numerous parcels, the firm recommends the incorporation of all industrial and commercial zones into the following three zones: General Employment Zone 1 (GEZ 1), General Employment Zone 2 (GEZ 2), and Heavy Industrial.

The new General Employment Zones would permit a mix of commercial-light industrial activity, utilizing flexible use categories similar in scale and intensity used by the traditional ‘Light-Medium-Heavy Industrial’ regime. The re-framing of ‘industrial’ to ‘general employment’ is rather clever, as it serves to re-orient the conversation around employment opportunity rather than the negative reputation associated with ‘industry’. GEZ1 would be intended for lighter activities located near village centers with an emphasis on high building coverage on small lots, while GEZ 2 would permit an increase in land use intensity through larger lots and small building coverage requirements. Both GEZs would permit marine-related activities, assuming compatibility. Unlike the ‘General Employment Zones’, the Heavy Industrial zone would retain its name and would be reserved for only the most intensive and objectionable uses. Interestingly, no new flexible use categories are proposed for future incorporation into the new industrial zoning regulation.\(^{123}\)

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\(^{121}\) Ibid, 48.
\(^{122}\) Ibid, 48-49.
\(^{123}\) Ibid.
Producing a “Working Blueprint”: The Industrial Advisory Planning Commission

Simultaneous to the commissioning of the Industrial Land Needs Assessment in 2012, the Local Trust Committee would also create a new advisory group, comprised of eight volunteers, to assist in the implementation of the recommendations put forth by the Industrial Task Force. The Industrial Advisory Planning Commission (IAPC) was ultimately tasked with a number of objectives: not only would they assist in drafting the terms of reference for the Industrial Land Needs Assessment report, but they reviewed the produced draft report before its final publication. Building upon the previous work of the ITF and Urbanics Consultants, the IAPC created their own written report to analyze the characteristics of industrial land use on Salt Spring Island, its compatibility with relevant policy and regulation, and proposed recommendations drawn from local industrial operators to optimize the use of existing industrial lands.\(^{124}\)

The result of almost two years of iterative review and community consultation, the IAPC produced their final report (“Blueprint Towards a Working Community”) in late 2014.

Like the previous Industrial Land Needs Assessment, the IAPC conducted their own investigation into the current land inventory and projected demand for industrial and waste management uses, and where these activities could be located in the future. The results of this independent investigation bears significant similarity to the previous assessment report, with some variation due to differences in methodology. Other recommendations produced by the IAPC include the needs for increased collaboration with the Capital Regional District and the Salt Spring Island Chamber of Commerce to assess the demand for marine-related activities, agricultural industry, and a review of Salt Spring Island’s commercial zones and variants.\(^{125}\)

Noting that the current industrial zoning regulation is too complex and confusing, the IAPC recommends a wholly new approach to local industrial and commercial zoning. Recognizing Salt Spring Island’s highly entrepreneurial economy, the report notes that local business owners often require the ability to conduct all relevant activities from the same property.\(^{126}\) With land constraints and the need for zoning use flexibility in mind, the IAPC

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\(^{126}\) Ibid, 13.
report recommends that Salt Spring Island’s zoning bylaw should focus on the land use impacts of commercial and industrial activities, rather than specified land uses.\textsuperscript{127} As noted by the acting planner responsible for providing an appraisal on the IAPC’s report, he noted that this impacts-based approach would be consistent with the home-based business regulation, which partially focuses on regulating land use activity through a number of performance standards.\textsuperscript{128} The proposed performance standards in the IAPC’s five new zones would include a variety of somewhat ambiguous and subjective metrics, including “negative alteration to the existing landscape; traffic implications, and environmental impacts to neighbors and ecosystems […]”\textsuperscript{129}

Similar to the assessment’s recommendations, the IAPC report ultimately recommends the merging of all existing industrial and heavy commercial zoning into five new zones based upon 1) the perceived intensity of the land use and its resultant impacts, and 2) the nature of certain forms of industrial land use that may require specific categorization such as waste management and marine-related activities.\textsuperscript{130} Land use impacts would be regulated through a number of form and character controls (e.g: siting, buffering, lot coverage) found in the Island’s existing development permit regime. The first three out of the five proposed categories, based upon the intensity and potential impact of land use activity, are as follows:

**General Employment Zone 1 (GE 1):**

This zone would deal with regulating commercial and light industrial activity located near village centers on Salt Spring Island. Identical to the GEZ 1 variant recommended by Urbanics Consultants Ltd, GE 1 parcels would require high building coverage percentages, with buildings located close to the streetscape. Some residential use would be permitted. Land use impacts would be ‘minimal’ as any nuisance by on-site activity would be enclosed and located indoors.\textsuperscript{131}

**General Employment Zone 2 (GE 2):**

Again, like with the GEZ 2 variant discussed by Urbanics Consultants Ltd, this zone would accommodate more bothersome industrial activities that would otherwise be offensive in an urban setting (e.g: outdoor uses, etc.). As some moderate land use intensity is expected, mitigation of expected nuisance would be provided through larger lot sizes, buffering between

\textsuperscript{127} Ibid.
\textsuperscript{128} Canada, Province of British Columbia, Islands Trust, Stefan Cermak, *Industrial Land Use Bylaw Update – Update Work Program*. December 10\textsuperscript{th}, 2014. \url{http://www.islandstrust.bc.ca/media/304852/december-2014-staff-report-.pdf}
\textsuperscript{130} Ibid, 11.
\textsuperscript{131} Ibid, 15.
adjacent incompatible land uses, and other unspecified techniques.\textsuperscript{132}

**General Employment Zone 3 (GE 3):**

As the ‘heavy industrial’ zone, this category would be reserved for the most noxious of land uses. Interestingly, rather than facilitating a mix of residential, commercial, and industrial uses on this property, this zone is based on the specification of particular land use activities – and their separation from all uses.\textsuperscript{133} The intention of this zone is likely meant for the preservation of existing noxious activities critical to Salt Spring Island’s economy, rather than their continued proliferation. Significant mitigation for impacts would also be required, but these measures remain undefined in the report.

**Marine Employment Zone (MEZ):**

Like the name entails, this zone would be concerned with the siting and land use of marine-related businesses located in close proximity to Salt Spring Island’s freshwater and ocean resources. Out of all the zones, this one is the least developed for numerous reasons: 1) the proposed uses vary significantly in terms of impact (e.g: a private dock vs. an aquaculture operation), 2) no performance criteria are provided to regulate impacts, and 3) no data exists concerning marine-related demand. The IAPC recognizes these facts, and notes that a comprehensive study is required for this zone’s future application.\textsuperscript{134}

**Waste Management Zone (WMZ):**

Recognizing the need to accommodate future solid and liquid waste disposal on Salt Spring Island, this zone would regulate all waste management activities, including transfer stations and recycling activities. Indoor recycling, however, would be permitted in GE 1 and GE 2. Again, like with the MEZ, the intensity of permitted uses vary significantly in this zone – the prime case being the difference between a recycling collection hub and a metal crushing operation.\textsuperscript{135}

The IAPC’s changes to permitted residential use in commercial and industrial zones also deserves a closer look. While the report recognizes one dwelling unit is already permitted as an accessory use in almost every commercial and industrial zone, properties zoned as GE 1 (and possibly GE 2) should have more rigorous requirements (e.g: located away from the streetscape, possibly above the ground floor) around the form and type of residential activity. The proposed regulation would also increase the number of dwelling units permitted on GE-zoned parcels.\textsuperscript{136}

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\textsuperscript{132} Ibid, 16.
\textsuperscript{133} Ibid.
\textsuperscript{134} Ibid, 16 and 30.
\textsuperscript{135} Ibid, 16 and 56.
\textsuperscript{136} Ibid, 41-42.
In early 2016, the Islands Trust contracted IPS Island Planning Services (IPS) to advance and complete the current Industrial Land Uses Project by “consult[ing] with neighborhoods and community, begin[ning] First Nations consultations, and draft[ing] the necessary bylaws that would give force to the IAPC’s priority recommendations for the LTC’s consideration.”

Beyond reviewing, rewriting, and proposing significant modification to both the local Official Community Plan and the Land Use Bylaw, the consulting firm undertook its first public consultation process on February 16th, 2016. Building on the recommendations of the Industrial Advisory Planning Commission and Urbanics Consultants Ltd, the consultants clearly endorse the previously proposed ‘General Employment’ framework, proposing serious revision to Salt Spring Island’s existing heavy commercial and industrial zoning districts.

While the IPS planning process is still in its early stages, its current initiative constitutes the most comprehensive and technical approach in Salt Spring Island’s Industrial Land Uses Project thus far. Beyond an extensive community consultation process with First Nations groups, community members, and local business operators, IPS has submitted three bylaws for consideration: Bylaw 488 (policy modifications to the SSI OCP no. 434 to ensure regulatory consistency), Bylaw 489 (the establishment of a general employment zone framework in the SSI LUB no. 355) and Bylaw 490 (the rezoning of specific waste management-zoned parcels, requiring zoning amendment). While all three bylaws are important to the overall industrial zoning discussion, this report is chiefly concerned with Bylaw 489 as this proposed regulation completely reimagines the existing heavy commercial and industrial zoning regime.

Proposed Bylaw 489, *Modifications to the SSI Land Use Bylaw*, establishes a number of key changes to the Salt Spring Island Land Use Bylaw (no. 355). The most significant modifications would occur in sections 9.2 – *Commercial Zones* and 9.7 – *Industrial Zones* of the Salt Spring Island Land Use Bylaw, where all nine existing industrial zones and variants, including heavy commercial zones C6 and C6(a), would be completely reworked into a new ‘General Employment’ regime. Not only would there be a new list of permitted uses and siting regulations (specifically site coverage and setback regulations), all existing zones would be

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dissolved and subsequently incorporated in the four new General Employment Zones (plus two variants) described below. All properties previously zoned under C6/Industrial under the old zoning regime would be rezoned to their new General Employment equivalent.

Unlike the IAPC report, however, the particular use-centric emphasis of the proposed industrial zoning modifications under Bylaw 489, much like the existing SSI Land Use Bylaw, indicates a focus on specified use rather than defined impact. Like in other Euclidean zoning regulations, the new General Employment zones would clearly be defined by a mixture of specified land uses - some broadly defined (like *creative industry*), others very specific (like *abattoir*) - accompanied by a list of physical dimensions (size, siting, and height).

Additionally, while some waste management uses would be included in the new regime (e.g: recycling collection hubs, vehicle scrapping), IPS intends to utilize the existing Community Facilities 2 zone for more noxious ‘utilities’, such as solid / liquid water transfer stations.

Like to the previous IAPC report, the proposed IPS zoning bylaw promotes the creation of four General Employment zones and two accompanying variants in a simplified but flexible regime defined by scale of use intensity: General Employment 1 and variant 1(a) (the ‘light’ industrial zone), General Employment 2 and variant 2(a) (the ‘general’ industrial zone), General Employment 3 (the ‘heavy’ industrial zone), and General Employment 4 (marine-related industry, land-based). While the first three General Employment zones greatly reflect those put forward in the IAPC Report, the General Employment 4 Zone is intended to broadly serve and complement existing marine-related uses permitted in specific Shoreline zones, the island’s equivalent of water zoning.

While a number of new permitted uses are included and defined in the proposed zoning regulation (e.g: ‘creative industry’, ‘car wash’), the majority of existing use categories were retained and repurposed for the new zones – possibly indicating that presently available uses already provide applicants with some flexibility. Accessory uses, such as dwelling units and offices, are also more thoroughly fleshed out in this regulation. To further improve zoning flexibility, the IPS report also recommends a modified form of pyramid zoning for three of the

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138 Ibid, 89.
139 Ibid, 136: “creative industry” means music, art and craft studios, picture framing, schools (commercial, art, vocation), and small-scale research facilities.
140 Ibid, 136: “abattoir” means buildings or structures used for the processing of farm products that involves the handling, slaughter, cutting, wrapping and storage of processed livestock.”
four General Employment zones—specifically, all previous uses permitted in a ‘less intensive’ zone (e.g: General Employment 1) would be permitted in more ‘intensive’ zone (e.g: General Employment 2 and General Employment 3).\textsuperscript{141}

Land use impacts would be regulated through a number of form and character controls found in both the Island’s existing zoning bylaw and its development permit regime; in the case of zoning regulation, permitted zone intensity would be reflected in building/activity coverage and siting regulations (e.g: ‘heavier’ zones would entail smaller building coverage and greater setback requirements). Unlike the other reports, IPS also provides specific detail on the requirements of these siting specifications – GE1, for example, would have a permissible lot coverage of 75%; GE 2 and GE 3 would enjoy a lot coverage of 50% and 33%, respectively.\textsuperscript{142}

The proposed regulation also contains a vast amount of minor housekeeping modifications to the existing zoning bylaw, intended to help incorporate the new zoning changes in a consistent and coherent manner.

The community’s reception to the proposed bylaws, detailed in IPS’s community consultation report, reveals quite a bit of the community’s concerns for the future industrial zoning regime. On February 16\textsuperscript{th}, 2016, IPS held three community meetings across the island, specifically at locations where further industrial development was expected. In particular reference to Bylaw 489 ("Modifications to the SSI Land Use Bylaw"), local residents made many technical suggestions which would later be incorporated into the proposed regulation. These recommendations included the inclusion of certain principal uses (e.g: above-ground residential, offices, boat-building), while removing others (such as ‘general employment’, which was deemed to be too flexible).\textsuperscript{143}

At all three community meetings, residents shared one common concern: the potential impact of industrial development not only on local community character, but on Salt Spring Island’s reputation as a bucolic retreat for tourists.\textsuperscript{144} Some community members felt that industrial operators were “consistent[ly] flaunting the rules”, and that “the overall framework for ensuring that industrial uses are good neighbors might be too lax”.\textsuperscript{145} IPS specifically noted that

\textsuperscript{141} Ibid, 88.
\textsuperscript{142} Ibid, 141.
\textsuperscript{143} Ibid, 96.
\textsuperscript{144} Ibid, 94; 120.
\textsuperscript{145} Ibid, 94.
some members of the community felt that current regulation was insufficient, noting that “the current Development Permit guidelines for non-Village Industrial and Commercial may be too permissive.”\footnote{146} Others felt that there was inadequate enforcement of local land use regulation, making explicit reference to Section 3.4.2 of the Salt Spring Island Land Use Bylaw (no. 355) as an example.\footnote{147} These concerns constitute the heart of the current industrial zoning debate on Salt Spring Island, and if they are not appropriately addressed, the process may fall through.

Choosing the Way Forward – Which Proposed Zoning Regulation Works Best?

After nearly a decade of research and community consultation, the Salt Spring Island Industrial Land Uses project is nearly at its end. The next step in the process is to craft an entirely new industrial zoning regulation. Despite the efforts of the Industrial Task Force, Urbanics Consultants Ltd, the Industrial Advisory Planning Commission, and IPS Island Planning Services, the way forward is not entirely clear. Each group has their own approach on what the new industrial zoning regulation should look like:

1. The Industrial Task Force recommended a three-tiered system based upon traditional industrial practice (Light, Medium, and Heavy Industry).

2. Urbanics Consultants proposed a modified variant of the ITF’s recommendations, promoting the incorporation of all light industrial and commercial uses into two new ‘General Employment Zones’ – accompanied by a third ‘Heavy Industry’ zone reserved for the most noxious of uses. Emphasis would be placed on building form and siting, alongside broadly defined use categories.

3. The IAPC argued that future industrial zoning classification should focus more on the scale and intensity of potential land use impact through specific performance criteria, rather than specified use. Despite this claim, their five zones are actually based upon a mixture of specified use and land use impact; this can clearly be seen in the use/type-based nature of their General Employment 3, Waste Management, and Marine Employment Zones.

4. IPS Island Planning Services suggests that the new industrial regime should be based four new General Employment Zones, with two variants to accommodate specific properties. Using a primarily Euclidean model, three of these GE zones would be based upon the perceived intensity of specified land-based uses, like a traditional three-tiered industrial zoning regulation. The fourth zone, on the other hand, would complement marine-related uses occurring in adjacent Shoreline zones.

\footnote{146} Ibid.
\footnote{147} This regulation requires that all commercial and industrial users to abide by certain vegetative screening and landscaping regulations to mask their activities.
While each proposed regulation offers excellent recommendations, they do not fully address the overwhelming litany of issues brimming just underneath the surface: At what point does a home-based business become an ‘industrial’ operation, necessitating the need for a rezoning? Should residential activity be permitted on industrially-zoned land, and to what degree? What criteria should the new industrial zoning regulation be founded upon: specified impacts, defined land uses, or form regulations? To answer these questions, along with many others, a deeper investigation into best zoning practice – specifically relating to industrial lands – will be required to understand what planners have ultimately learned from its application.
Recommendations for a New Industrial Zoning Regulation

The criticisms levied against Salt Spring Island’s current zoning schema seem almost endless. Salt Spring Island Land Use Bylaw (no. 355), the island’s comprehensive zoning document, has been criticized for being excessively complex, inconsistent, overly specific, and hard to understand.\textsuperscript{148} This criticism extends far past the written regulation itself, with some individuals outright describing that the local rezoning process as a time-consuming affair, not only difficult to negotiate through, but also “expensive and all too often fruitless.”\textsuperscript{149} Salt Spring Island’s zoning situation, however, is not an exception; it is a great example of zoning’s present day plight. The very same criticisms levied against Salt Spring Island’s zoning regulation could be applied to many others across North America: not only are they needlessly complex, difficult to understand, and oftentimes unable to adapt to changing circumstances, but these ordinances are further hampered by inconsistent governance and short-term politics.\textsuperscript{150}

Somewhat unsurprisingly, all of these issues are not by any means new, nor are they naturally intrinsic to the practice of zoning. The consistent appearance of these myriad issues, however, requires planners to critically analyze how these problems emerge in the first place in order to effectively address and resolve them. Additionally, to better understand why the local industrial zoning regime has become convoluted and complicated, this section is concerned with analyzing and improving upon the current roster of industrial zoning regulations assessed in the previous chapter and recommend modifications informed by best practices located in the zoning literature.

Building upon this case study review, this report will conclude with a step-by-step analysis of the basic elements of a well-written industrial zoning ordinance, drawing upon the best practices recommended by the zoning literature. It will also explore certain non-technical aspects of zoning vital to the industrial debate, such as politics, the need for certainty, and perceptions of community character. Additionally, this analysis will be grounded in the context of three key aspects of good zoning practice: flexibility, predictability, and simplicity.


\textsuperscript{149} Ibid.

\textsuperscript{150} Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable}, 2.
Drafting Regulation: Best Practices in Industrial Zoning

Rewriting a zoning bylaw, whether through amendment or completely anew, is not an easy task. It requires more than mere technical knowledge to draft an appropriate regulatory scheme and how all of its components interact with one another, a zoning document must address and carefully balance the needs of multiple publics, whether they are applicants, developers, community members, politicians, and so on. Each group desires a mixture of certain qualities which vary in compatibility: simplicity, predictability, and flexibility. For example, applicants want flexible zoning regimes that permit them to what they want on their property; meanwhile, some neighboring residents may oppose this flexibility as they will be affected by any future impacts. Subsequently, these neighbors desire predictability - they might want all aspects of future neighboring development to be in line with their values, with any use and form strictly defined and regulated by the zoning ordinance. Unsurprisingly, all parties likely agree that any sort of zoning bylaw should be simple and accessible; a fairly difficult task, as zoning ordinances often contain hundreds of interrelated clauses, making them “mind-numbingly complex.”

All parties would prefer that their local zoning regulation, industrial or otherwise, to be flexible, predictable and easily comprehensible. Yet, despite the importance of these three aspects of good planning practice, fully incorporating all of them is nearly impossible. Drafting a new zoning regulation, consequently, requires a careful balancing act with tradeoffs to be made. To understand how Salt Spring Island might rewrite its industrial zoning regulation to promote a healthy balance, this section will review and analyze the basic elements of a zoning bylaw: the underlying framework, the zoning districts, use categories, dimensional standards (size, siting, physical dimensions), landscaping and buffering, and an instruction manual (the Zoning User’s Guide) to understand how all of these elements fit together into one comprehensive document.

Establishing the Industrial Zoning Framework: Use, Form, or Impact?

The first element of a zoning bylaw is its philosophical foundation, the framework that defines how a zoning regime will regulate land use. This discussion, as describing in the literature review, is at the heart of zoning’s development over the past century. The people of

151 Donald L. Elliott, A Better Way to Zone Ten Principles to Create More Livable Cities, xi.
Salt Spring Island, therefore, must make an important decision: should the future industrial zoning regulation be founded on the impacts of land use (performance zoning), prescriptive form guidelines (form-based zoning), negotiated regulation (PUDs), or through specified land use (Euclidean zoning)?

Each approach offers serious benefits and drawbacks. Euclidean zoning based on specified use may be the easiest to use and understand, but it is insufficient in many regards; it often becomes overly complex, inflexible, and unable to adapt to changing circumstances. Planned Unit Developments may offer incredible flexibility through site-specific customization, but the overuse of PUDs turns zoning bylaws into veritable tomes of almost endless and overly detailed zones, losing the reliability and relative simplicity of use-based zoning. The impact-based nature of performance zoning is extremely seductive for land use planning, as evidenced by the IAPC’s fondness for this approach, but it is ultimately far too complicated to draft and properly enforce. Form-based zoning, while effective at fostering good urban form and mixed use, it is extremely prescriptive and difficult to draft.

With so many options, how could the Salt Spring community choose? In truth, the answer already lies in Part 14 of the Local Government Act - the enabling legislation that defines the zoning power in British Columbia. The province, as noted by one planning scholar, is not “a strong innovator in equipping its local governments to deal with land use matters, preferring to follow the lead of other jurisdictions.” 152 Subsequently, while local governments are permitted to use elements from all types of zoning, they are only allowed some limited flexibility beyond the Euclidean framework. As Salt Spring Island Land Use Bylaw (no. 355) is built upon the Euclidean model of zoning, any further industrial zoning bylaw amendment should be based upon the Hybrid-Euclidean model - emphasis on defined use categories – for easy adaptation and incorporation. The community should not despair at this choice; primarily use-based zoning “can be a very flexible instrument” through the careful application of elements drawn from alternative forms of zoning to help guide building form and impact mitigation.153

What’s in a Name? Determining Industrial Zoning Districts

The next element of a zoning bylaw involves the geographic and legal separation of the local jurisdiction “into specified land-use zones (such as residential, commercial, and industrial) and districts.” These zoning districts, in turn, set the regulations for each district – including use categories, development standards, and other related pieces of regulation. While zoning districts were originally intended to segregate incompatible uses, such as quiet residential neighborhoods from noxious industrial uses, most modern industrial activity no longer reflects the grittiness and undesirability of traditional heavy industry. Salt Spring Island takes this trend one step further: the deeply local and neo-traditional characteristics of local home-based industry not only contributes to the Island’s ‘alternative’ reputation as an artisanal community, but actively promote a mix of residential, commercial, and industrial uses.

As previously noted by almost every consulting firm and advisory commission related to the Salt Spring Island Industrial Land Uses Project, the organization of the zoning bylaw’s industrial districts are nonsensical, inconsistent and in need of serious reduction. Consequently, all reports support the radical simplification of all existing industrial zones and accompanying variants into only a couple of new industrial zoning districts – a common practice endorsed by planning practitioners. Despite this consensus, the proposed recommendations differ in district organization: while the Industrial Task Force argues that the new industrial district regime should be modelled after the traditional three-tiered system (light, medium, and heavy industry), the other three organizations (Urbanics Consultants Ltd, IPS Island Planning Services, and the Industrial Advisory Planning Commission) advocate the adoption of a ‘General Employment’ framework. Even then, these three groups cannot decide on whether waste management and marine-related uses should be located in zones defined by scale of use intensity, or whether they should be reserved exclusively to their own special zone.

So, which zoning district classification system should Salt Spring Island use in the future? Compared to all the other options, IPS Island Planning Services (IPS) is the clear frontrunner – but their recommended zoning classification regime requires a few modifications. As the topic of zoning district classification is integral to the new industrial zoning regulation, a
number of key recommendations – supplemented with material drawn from previous reports and other related academic sources – are provided below:

1. **Keep the ‘Light-Medium-Heavy Industrial Zone’ Framework**

Excluding the marine-based GE 4 zone, the ‘General Employment’ framework proposed by IPS actually shares quite a bit in common not only with the Industrial Advisory Planning Commission’s recommendations, but the traditional three-tiered system promoted by the Industrial Advisory Task Force. Like the recommended zones put forth by both IPS and the IAPC, this three-tiered classification system is use-based, with specific use designation organized based upon perceived intensity and impact of the particular land use activity. While this method of use/district classification is relatively subjective and dependent upon the values of the community in question, this is an established method of industrial classification.

To help clarify, here is an example drawn from the *Small Town Planning Handbook* notes that modern “small towns often have two manufacturing or industrial districts.”\(^{156}\) The first industrial classification, the Light Industrial Zone, is usually intended for lighter activities where almost all industrial activity (including storage) is not only enclosed within buildings, but any sort of noxious impact or perceived nuisance (e.g: noise, odor, etc.) “[is] small and does not travel beyond the boundaries of the property.”\(^ {157}\) The second district is intended for general industrial activity – “contain[ing] most of the fabrication, processing, storage, and assembly operations in the community.”\(^ {158}\) Rather than being limited by enclosure, nuisances and impacts produced by general industrial activity would be permitted to travel beyond the property line.\(^ {159}\)

The most intensive form of industrial zone classification, Heavy Industry, would be intended to accommodate industrial uses “which must be segregated because of major negative impacts with cannot be made compatible” through technology or performance standards.\(^ {160}\) Like the General Employment 3 Zone proposed by the IAPC, this zone would be exclusively reserved for necessary but noxious activities necessitating the segregation of uses. As this form of industrial zoning would be dependent on dedicated transportation networks, such as rail or seaport, it is unlikely that Salt Spring Island would need this sort of zoning except to protect the

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156 Ibid, 201.
158 Ibid.
159 Ibid.
continued existence of certain heavy industrial uses on the island (e.g: the Gulf Coast Materials cement production and distribution facility).

Like IPS recommends in their industrial zoning assessment, waste management uses can be organized and classified by scaling intensity of activity – a recycling hub would classify as a light industrial use, while metal wrecking/salvage would clearly be a heavier activity. Unlike the IAPC, IPS acknowledges and uses the pre-existing Community Facilities 2 zone for relevant – but non-conforming utility-like waste management activities, such as transfer stations. IPS’s General Employment Zone 4 is also a good zoning district choice for marine-based development, as it is intended to complement permitted marine-related uses primarily located in adjacent Shoreline zones. In summary, this report supports the industrial zoning framework put forward by IPS: three land-based industrial zones which scale in perceived use intensity and impact (light/GE 1, medium/GE 2, heavy /GE 3), and one general marine-related zone intended to complement existing Shorelines zones.

2. Drop the Proposed ‘General Employment’ Zoning Nomenclature

The use of the ‘General Employment’ naming framework for Salt Spring Island’s industrial lands is emblematic of a critical zoning issue: the widespread practice of borrowing concepts and regulations from other zoning ordinances, innovative or not, and transplanting them into incompatible land use contexts.161 The concept of the ‘General Employment’ zoning framework was born out of a need to recognize the importance of industrial lands in major cities such as the City of San Diego or the City of Portland, specifically for employment opportunities.162 In the context of Salt Spring Island, its popularity among previous taskforces is clear: this redefinition “sidesteps the visceral, reflexive reaction that many people have to the term “industrial.””163 Urbanics Consultants Ltd, the first group to use this language in the Industrial Land Uses Project, deliberately chose the ‘General Employment’ naming designation

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161 Ibid, 178; American Society of Planning Officials, A MODEL ZONING ORDINANCE, 3.
163 Ibid.
for this specific reason, noting that “it makes sense to acknowledge land use as a function of employment.”

Despite this, the ‘General Employment’ framework was intended for use in major cities to rehabilitate major industrial areas that were deeply affected by globalization and deindustrialization back in the 1970s and 1980s. In sense, these zones were originally intended to rehabilitate formerly derelict industrial land by introducing new users, usually commercial businesses, into these areas while retaining core industrial areas. Subsequently, the community should be careful about adopting this term; while its nominal redefinition certainly helps to improve the image of future industrial development on the island, the idea behind General Employment areas is promote brownfield development and increased commercial use in derelict industrial areas. This context is not relevant to the Salt Spring experience as industrial lands have always been small-scale and geographically limited on the island. Therefore, it is recommended that Salt Spring Island planners consider adopting the somewhat unsavory, but honest traditional ‘Light-Medium-Heavy-Marine Industrial’ naming system rather than the alluring, but contextually inaccurate ‘General Employment’ framework.

3. Keep ‘Pyramid Zoning’ to a Minimum

To improve zoning flexibility, IPS recommends incorporating a modified form of pyramid zoning for its three land-based General Employment zones. One of the earliest forms of Euclidean mixed-use zoning, pyramid zoning, organized land use on a hierarchy of desirability. As industrial zones were seen as the least desirable, it subsequently became the least restrictive zone – all land uses would be permitted in industrial zones, but not vice versa. Pyramid zoning is what made industrial zoning difficult in the past; as any permitted use defined in a zoning ordinance was usually permitted on industrially zoned land, creating the higher potential for land use conflicts. While IPS’s pyramid zoning scheme does increase flexibility to some degree, it fails to protect Salt Spring Island’s heavy industrial users. By permitting all forms of industrial and heavy commercial activity in IPS’s proposed heavy industrial zone (GE 3), this could lead to the irrevocable loss of industrial land intended for critical, albeit noxious, industries that Salt Spring requires to function. Subsequently, it is recommended that Salt Spring

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164 Urbanics Consultants Ltd. Salt Spring Island Land Needs Assessment, 49.
166 Donald L. Elliott, A Better Way to Zone Ten Principles to Create More Livable Cities, 28.
Island does not adopt this modified form of pyramid zoning. In line with other industrial zoning practices around North America, Salt Spring Island’s heaviest industrial zones should be exclusively reserved for noxious but necessary industrial activities.


While this would be difficult to incorporate in the existing Salt Spring Island Land Use Bylaw (no. 355), planners on Salt Spring Island should seriously consider the adoption of intent statement for all future zoning districts. The purpose of the intent statement is to provide a brief narrative summary of a specific zoning district’s purpose. Beyond providing a definite link between the zoning regulation and a community’s advisory land use plan (such as an Official Community Plan), the purpose of the intent statement is to help “defend the presence of a zoning district, the uses allowed […], and the specific standards contained within it.”\(^{167}\) A zoning district intent statement is a good first step towards improving the coherent and comprehensibility of zoning regulation: through written description, an intent statement provides the public – and the courts - with a clearer understanding of a zoning district’s purpose.\(^{168}\)

The Heart of Industrial Zoning: Establishing Use Categories

At the heart of every zoning district, there is a list of permitted use categories that specifies the permitted principal and accessory uses. Unsurprisingly, this list is often the center of attention, as it is often “one of the most influential and hotly debated sections of a zoning ordinance.”\(^{169}\) Permitted use lists tend to become inflexible and complicated over time; as most private land owners want to ensure predictable land use activity and form in their communities, elected politicians often try to control development through the adoption of ever more detailed use categories and isolated zoning districts. A well-written zoning ordinance should contain permitted uses lists that are broadly defined, flexible, and better able to adapt to future circumstances. Despite this desire, industrial land use must be protected from other competitive non-industrial land activities. While some non-industrial activities, like office or residential, should be permitted to accompany primary industrial uses on Salt Spring Island, they must be


\(^{169}\) Ibid, 7.
carefully limited to prevent the loss of much needed industrially-zoned land. With all of this in mind, there are a number of recommended practices concerning use categories worth adopting:

1. **Industrial Use Categories Must Be Flexible (But Defined Carefully)**

   Unlike the use flexibility permitted in the home-based business regulation, Salt Spring Island’s industrial use lists can be rigid and overly specific. Subsequently, home-based business operators may find the transition from a flexible regulation to a rigid one to be confusing and difficult, especially during the rezoning process. Subsequently, any new zoning regulation should include fewer, broadly defined use categories based on real impacts.  

   As the proponents of form-based zoning have noted, a zoning bylaw can more effectively address the impact of a land use controlling its scale, usually through implementing measurable size restrictions as part of the permitted use category (e.g: *Light Industry*, 185 square meters). Furthermore, the limited application of performance standards in a zoning bylaw can also be used to restrain flexible land uses in a sensible, impact-oriented way; a balance between use flexibility and predictability.

   The Local Government Act, surprisingly, actually provides local governments in British Columbia with this power – if applied correctly. As noted by one British Columbia’s planning law expert, “local governments in B.C. have very broad powers” in establishing or defining particular activities as a permitted use. One previous court case over the scope of the zoning power established in Part 14 of the Local Government Case appears to indicate that “it may be possible to include in the [zoning] bylaw requirements that are not plainly authorized [under the legislation] by incorporating them into the definitions of permitted use.”

   To a limited degree, this sort of regulation already exists in Salt Spring Island’s home-based business regulation which includes performance standards and a limited floor space for business-related activities. Salt Spring Island’s new industrial zoning regulation could go a step further and take full advantage of this unexpected boon. Through the adoption of performance standards, some local governments across North America already operate with a radically simplified industrial use list regime through the use of adopted performance standards. Therefore, it is recommended that local planners carefully consider the incorporation of specific

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171 Ibid.
173 Ibid, 7-23.
performance standards in future definitions of flexible industrial uses, such as the Light Industry and Heavy Industry categories already present in the zoning bylaw.

2. In Most Cases, Avoid Definitions and Keep It Simple

There is no doubt that zoning definitions have serious power, as noted above. Yet, despite this, zoning definitions should be used sparingly and carefully. While zoning definitions should simplify the zoning text, the opposite tends to occur, with many zoning bylaws adopting lists of “lengthy definitions of permitted and prohibited uses”. While there is the temptation to use zoning definitions as a way to impose conditions upon certain industrial activities to control negative impacts, this added complexity can lead to trouble later on in the courts. From a legal standpoint, terms used in zoning bylaws are “interpreted by their generally understood meaning, which is their dictionary meaning, unless a different meaning is provided in the bylaw.” While some practitioners argue that planners should probably avoid regulating the intensity of a defined use in a zoning bylaw, Salt Spring planners may not have any other choice in regards to implementing innovative zoning elements.

3. Mixed Use, Mixed Blessing: Limit Non-Industrial Activity to Accessory Uses

Mixed use in industrial zones, as many municipalities have discovered, is ultimately a mixed blessing. Presently, while some municipalities have expanded their industrial zones to accommodate a host of residential and commercial uses, this trend is rapidly reversing in others. The move towards industrial land use preservation and exclusivity makes sense: the introduction of non-industrial uses, such as offices or otherwise, tends to create between incompatible users. Local municipalities in the Lower Mainland, for example, acknowledge that allowing more non-industrial uses in industrial areas can drive away industrial operators for numerous reasons. As discussed in the literature review, the arrival of commercial and residential users in industrial lands increases competition for scarce (albeit cheap) land, exposing industrial users to high rent levels. Subsequently, non-industrial uses (such as retail sales or offices) in local industrial / general employment zones should only be permitted only as accessory uses, subordinate to

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176 Ibid.
178 BEST PRACTICES, page 41.
permitted principal industrial uses. Other restrictions could include establishing a limited permitted floor area for these accessory uses, to ensure that these accessory commercial and office uses do not supersede industrial uses.

Determining the extent of residential activity on local industrial lands, however, is much more complicated. Even since the introduction of zoning regulation, residential dwelling units have always been permitted as an accessory use on industrially-zoned properties. There is sufficient evidence that Salt Spring Island’s industrial zoned properties suffer from a unique variant of residential reversion. Not only is a relatively high percentage of industrial land on Salt Spring Island classified as residential by BCAA (46%), but several property owners of industrially-zoned parcels stated that they “would rather have their property rezoned to more accurately reflect their actual or intended (non-industrial) uses.” Consequently, the intensification of industrial activity on underutilized land was not supported by local owners.

Industrial activity on Salt Spring Island is based upon small-scale, home-based production; so residential use is a critical aspect to its continued function. However, some business owners might let their properties lapse into a primarily residential use as their families grow, compromising the ability of the property to operate under its industrial classification. Thankfully within their recommended zoning modifications in Bylaw 489, IPS Planning Services offers a suitable compromise in their original bylaw draft: while all industrially zoned land (no matter the classification) would only permit one dwelling unit accessory to a permitted principal use, the maximum floor space for this dwelling unit would be limited to 185 square meters.

Improving Dimensional Standards: Siting, Size, and Physical Measurements

Along with use categories, dimensional standards play an important role in zoning regulation. These standards usually specify minimum and maximum lot sizes, setbacks, building coverage, and height limitations. This sort of regulation truly represents just how detailed and complicated zoning can be. This report supports the dimensional standards recommended by IPS Island Planning Services, as it best reflects an accurate and consistent approach to approach to

180 Ibid, 24-25.
181 Beverly Suderman and Chris Hall (IPS Island Planning Services), *Industrial Zoning: Update on Work Program, Community Consultation and Draft Bylaw*, 141.
form-based impact reduction. Despite this, the community should consider reducing required setbacks between industrially-zoned properties. Save for the most intensive industrial activities, these setbacks appear to serve little purpose. If these setbacks are not reduced, however, applicants could be persuaded to use these strips of land as a shared driveway.\textsuperscript{183} Reducing building setbacks between industrially-zoned properties would also greatly improve the efficiency of industrial operations located on smaller properties; an incentive to promote denser village-oriented development.\textsuperscript{184}

**The Elephant in the Room: Landscaping and Buffering Regulation**

Determining appropriate landscaping and buffering requirements for industrial activities, on the other hand, is much more difficult and controversial. This debate represents two of the community’s greatest concerns about increasing local industrial land activity: 1) the fundamental need to protect, preserve and enhance the aesthetics of Salt Spring Island’s bucolic rural character, and 2) the public perception that current screening regulation is not being adequately enforced against industrial operators. Like other local governments in British Columbia, Salt Spring Island’s Land Use Bylaw contains a small provision for aesthetic screening to separate incompatible uses. Specifically, the regulation states that “all outdoor industrial and commercial uses require vegetative screening.”\textsuperscript{185} This visual barrier is located in the defined buffer area of a lot: a 7.5 meter wide strip of land that runs along the inside of all lot lines.

Some community members feel that this regulation is not being rigorously enforced, noting that some industrial operators are “openly flouting this provision without direct personal consequences.”\textsuperscript{186} While the decision to enforce zoning regulation resides primarily in the realm of politics, Salt Spring Island planners could take this opportunity to engage the community in a more rigorous discussion about its limited landscaping and screening regulation. As many members of the community would likely be interested in determining the form and character of

\url{http://www.metrovancouver.org/services/regional-planning/planningpublications/bestpracticesfortheintensiveuseofindustriallanddiscussionpaper29oct2012.pdf}

\textsuperscript{184} Ibid.

\textsuperscript{185} Beverly Suderman and Chris Hall (IPS Island Planning Services), *Industrial Zoning: Update on Work Program, Community Consultation and Draft Bylaw*, 94.

\textsuperscript{186} Ibid.
landscaping and screening on Salt Spring Island, planners could use this as an educational experience for the public. As this topic constitutes a careful balancing act between aesthetics, land use intensity, and monetary cost, bringing the community on board would help the community to understand that drafting appropriate zoning regulation is a difficult process that must manage through the complex interrelated perspectives of multiple publics.

Providing an Instruction Manual: Improving Public Understanding through ZUGs

Over time, the evolution of zoning has led to the trend of increasing complexity and sophistication much to the detriment of clarity and simplicity.\textsuperscript{187} This process is relatively subtle and insidious, building up over time as bylaw amendments modify and add onto existing regulation. In this way, a zoning bylaw is a living document, made up to hundreds of regulatory clauses and minutiae which all interconnect in strange, complex ways. While it is the duty of the planner to comprehensively interpret the entire regulation, it is ultimately a document that should serve the public. Citizens may appreciate the simplification of zoning districts and use categories, but they would rather prefer to know how to use the zoning bylaw to find specific information without having to read the entirety of the bylaw to understand how it works.\textsuperscript{188} As all members of the public desire zoning simplicity and comprehensibility in their zoning regulation, this report recommends that local planners should adopt a Zoning User’s Guide for Salt Spring Island’s Land Use Bylaw.

Written in clear, jargon-free language, a ZUG is intended to help members of the public understand how their local zoning regulation works without requiring the assistance of a planner. ZUGs are located at the very beginning of a zoning bylaw, providing information on what zoning is, how the zoning bylaw in question is laid out, and how readers can find basic zoning information. A ZUG usually provides an overview of how the zoning bylaw is organized by section, providing brief summaries of each major section (e.g.: General Regulations). As a sort of instruction manual, ZUGs should be used to help citizens understand how they can use their property in the context of zoning regulation. If local planners wish to pursue this option, the City of Port Alberni’s zoning bylaw contains an excellent example; its ZUG explains both the purpose

\textsuperscript{187} Donald L. Elliott, \textit{A Better Way to Zone Ten Principles to Create More Livable Cities}, 97.

\textsuperscript{188} Ibid, 100-101
and format of the bylaw, and provides a set of instructions on how to use the various sections of the zoning regulation.

**Beyond Technical Procedure: Politics, Process and Policy**

**Planning the Impossible: Working with Zoning Politics**

While it was originally perceived as a technical exercise by planners to promote and regulate sensible land use development in a given community, the current reality of zoning is very different. Much to the chagrin of some planners, zoning is a deeply political process. While the creation of a plan may be a technical matter with some politics, zoning is ultimately a political game, fought over by competing and sometimes incompatible interests. The Salt Spring Island Industrial Land Uses project is not exempt from this reality; no matter how many technical recommendations are offered to modify or improve the existing zoning regulation, none of them can be implemented if there is no political will or support for any proposed changes. The political aspect of zoning is the key reason why local governments make short-sighted land use decisions, contributing to the proliferation of overly restrictive and sometimes nonsensical zoning districts, variants and use categories.

In the future, the Salt Spring Island Industrial Land Uses project will require serious political will and community support. While the process has lasted for nearly a decade, IPS Island Planning Services’ consultation events reveals that the community ready to have a serious conversation on the future of industrial lands on Salt Spring Island. This issue is quite complex, but to come up with an equitable solution, all affected parties need to be present at the proverbial table. Discussing the future of industrial lands on Salt Spring Island will certainly be a heated topic - in a more abstract sense, this debate represents a clash of values not only over what Salt Spring Island means to competing multiple publics (e.g: its working class residents vs. its growing senior population). Therefore, local planners need to ensure that both local residents and elected officials understand the history and necessity of industrially zoned land on the Island, whether through community education events or with the help of a few community champions.

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Reworking the Rezoning Process, DAI by DAI.

Many members of the Salt Spring Island community decry the local rezoning process as “onerous, expensive and all too often fruitless.” As Urbanics Consultants Ltd determined, “the [rezoning] process has proven to be a very lengthy one, in rare cases taking 9 months, but usually much longer.” Additionally, some community members continue to bear some resentment towards the Islands Trust for past decisions on controversial industrial rezoning applications, such as Salt Spring Metal Recycling and Salt Spring Coffee. While applicants understand that there is no guarantee of approval, many local businesses (and their financiers) are unwilling to tolerate the uncertainty and ambiguity associated with waiting for a rezoning decision.

There is no doubt that the reclassification of industrial zoning districts and use categories into a few broad, flexible designations would help simplify the rezoning process. Rather than depending entirely on cumbersome restrictive covenants, the inclusion on performance standards in the new industrial zoning regime would simplify the regulation of future land use impacts on properties rezoned for industrial purposes. However, further steps must be taken to ensure that all rezoning applications are processed in an equitable, consistent, and expedient manner; “subject to the same types of review” as other applications.

One method to ensure fairness is through the adoption of a Development Approval Information Bylaw (DAI Bylaw). A DAI bylaw obliges a developer, at their expense, to provide a professional impact assessment regarding the negative environmental and socio-economic impacts of their proposed development as a requirement of the rezoning process. This regulation would ensure clear requirements for developers to provide elected officials with 1) a detailed evaluation on the scale and nature of negative impacts generated by the proposed development, and 2) professionally-supported mitigation practices to be enacted as a condition of rezoning. Drafting and adopting a DAI bylaw, however, would pose some problems: not only are the impacts identified in the enabling legislation relatively limited in scope, but the local community is “generally not receptive to perceived greater regulation.”

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191 Ibid, 49.
192 Ibid, 46.
194 Beverly Suderman and Chris Hall (IPS Island Planning Services), *Industrial Zoning: Update on Work Program, Community Consultation and Draft Bylaw*, 94.
Conclusion: A Series of Difficult Conversations

Salt Spring Island may have a reputation as an idyllic and unique community, but it faces several key challenges: rural poverty, unaffordable real estate, growing wealth disparity, and declining economic opportunity for its shrinking working-age population. Recognizing the importance of increasing socio-economic diversity through land use planning, the relevant local organization responsible for controlling development – the Islands Trust – has spent the past decade working with the community to determine how to accommodate the needs and desires of the Island’s local industrial operations through appropriate zoning. The diverse collection of outside consultants and advisory commissions who have assessed Salt Spring Island’s industrial lands generally agree that it is clear that the existing industrial zoning regulation should be radically simplified and reorganized to increase flexibility and comprehensibility. Any new zoning regulation should be primarily use-based, as this would greatly ease its incorporation into the existing local zoning bylaw. While hybrid-Euclidean zoning is derided for its rigidity, it can be made flexible through the specific inclusion of carefully defined elements drawn from alternative forms of zoning. It is also clear that industrial land on Salt Spring Island is extremely limited, and that more land will be required even if permitted land use intensity is increased.

The next step in the Salt Spring Island Industrial Land Uses project will require the community to go beyond the written regulation and to enter into a series of difficult conversations on what makes Salt Spring Island “Salt Spring.” While the nature of small-scale, home-based industrial activity embodies Salt Spring Island’s unique artisanal character, many community members oppose industrial activity for many reasons – potential nuisances, serious environmental concerns, the continued preservation of property values, the perceived lack of bylaw enforcement, and the reputation of some local industrial operators to blatantly disregard zoning regulation as they see fit. As debates around “community and character can be slippery, nebulous, and very personal”, the Islands Trust will need to tread carefully as it moves ahead with drafting, implementing, and enforcing its new industrial zoning regime.195 Perhaps with time, the community will find a way to once again embrace Salt Spring Island’s historic reputation as a beautiful and rare place both rural in nature and industrious by trade.

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