



From: **Finlay, B Brett** <[REDACTED]>  
Date: Sun, 16 May 2021 at 21:18  
Subject: Visiting upper ridge tomorrow  
To: [REDACTED]

Karen:

I understand you and your team are doing a site visit to Crystal Mountain tomorrow morning. I am not on island, but **STRONGLY** urge you and your team to visit the upper ridge tomorrow as well, and see exactly what is really being proposed, and the impact it will have on the area. The upper road is not built for the extensive traffic planned, and is a private easement through our property and one other, and it is **NOT** a public road, so puzzled how one can put such a development through on this. We didn't even envision it as a major road going through our property, just access to a hut at the top (which has been fine). The upper ridge is very special (similar to Bodega Ridge), and it is also a beautiful access directly to DL87 along the ridge (and a lovely trail back down to Cook Road in DL87), and the CM proposal would a) significantly develop the upper area (multiple buildings, septic field, generators, forest fragmentation, etc), b) block access for anyone else using the upper ridge at all, and c) is not at all in the overall spirit of the Galiano Community plan for forest lots on the island - quite frankly it is quite perplexing that such an extensive development would occur on a forestry lot given the major blockage of **ANY** previous proposed development on forestry lots in all other cases, including potentially one house on an entire forestry lot. This really is a **MAJOR** development.

Please have your team look at the top area, and think carefully about the potential impact it will have on us and others and the upper area, as well as the major precedent it will set for future developments on the island, which seems counter to the general concept of preserving the natural beauty of the island versus future major developments.

Please forward this letter to your team for their information.

Thanks for considering!

B

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[REDACTED]

[REDACTED]

From: **Risa Smith** <[REDACTED]>

Date: Wed, 12 May 2021 at 00:11

Subject: Letter from North End Neighbours of Crystal Mountain Spiritual Resort Proposal

To: <[REDACTED]>

Cc: Tom Mommsen <[REDACTED]>

HI APC,

Thank you for giving the Neighbours of Crystal Mountain Resort an opportunity to contribute to your deliberations over their proposal. I have attached a letter from 4 neighbours for your consideration. Two of us have no access to internet so we will follow up with a signed hard copy of the letter to the Chair Karen Harris via mail. Unfortunately we are unavailable to attend the meeting so are sending this in writing.

Risa Smith, Tom Mommsen, Donna Marben, Hans Bongertman

From: **Karen Harris** <[REDACTED]>  
Date: Mon, May 17, 2021, 07:04  
Subject: Fwd: Water license  
To: Robin Paterson <[REDACTED]>, Robert Matson <[REDACTED]>, Al DeGenova <[REDACTED]>, Laurene <[REDACTED]>, Dave Koster <[REDACTED]>

I was curious about the issues with the water license for Spotlight Creek that Suzanne mentioned. I wrote to Noah Powers, a Thorsteinsson family member who lives on their property. I received the following reply.

Karen

----- Forwarded message -----  
From: **Noah Powers** <[REDACTED]>  
Date: Sun, May 16, 2021, 10:44  
Subject: Re: Water license  
To: Karen Harris <[REDACTED]>

Hey Karen,

I've been meaning to write an email or voice my opinion on this matter for a while now, as I heard there's others against the rezoning.

For years now we haven't used the water from our stream, originally it was due to the destruction of the stream head collection system. Every time we would replace it and build it stronger than the last, thinking it wasn't holding up due to natural causes. Overtime we realized there was no way nature could have been breaking it apart the way it was, it became obvious someone wasn't happy with our rights to the stream and had intentionally been disconnecting and battering our collection system.

Once realizing that Crystal mountain was growing and hosting large quantities of people for extended periods of time, without any proper waste management systems in place we knew the water would be contaminated with waste. We originally used the stream for our main source of drinking water for well conservation along with our large garden, which provides a high quantity of our veg for the year.

This stream also runs directly into Spotlight Cove's bays, which is full of sea life, shellfish, not to mention where we swim and relax regularly throughout the year.

Over the past two years there has been a foul smell increasingly getting stronger near the cabin closest to the road (directly under crystal mountain) I have no proof that this is run off seeping down from the property above us, but there's no other explanation. We maintain our septic diligently and have no outhouses in the area.

The last thing I'd like to mention is the obstruction of our private property in the past, for the last

couple years this has subsided due to me living full time on the property. We had multiple encounters with people trespassing on our land asking if we would rent our cabins out. There was a note left asking if we would move out for the summer and let them use the land. Which of course we ignored.

Along with a woman two years back who we caught pruning a pathway down the roadside bank to the beach, then lighting candles and having some sort of ritual on the beach.

This has been addressed with a proper sign saying no beach access, which has stopped that from happening.

If there's anything else I can help with to prevent this rezoning please feel free to contact me whenever you need. I have a 4 month old daughter so my free time is very limited these days! Never the less I want to stop this from happening anyway I can. The lot was sold as a forest lot, ever since purchasing they've been illegally building and abusing the rules.

Thanks Karen.

[REDACTED]

Noah Powers

> On May 15, 2021, at 1:02 PM, Karen Harris <[REDACTED]> wrote:

>

>

> Hi Noah,

> I am on the Advisory Planning Commission for the Islands Trust, and recently we were having a meeting about the Crystal Mountain rezoning and Susanne Fornier was part of a delegation of neighbours speaking against the rezoning.

>

> During her remarks, she made reference to a 52 year old water license for irrigation from Spotlight Creek held by the Thorsteinsson family that is now unusable due to pollution from the activities at Crystal Mountain over the past years. I am trying to find out any details about this. Would you or your family be able to shed any more light on this?

>

> My apologies if I have contacted you in error, and this is not related to your family property.

>

> Feel free to pass my contact to anyone who may have relevant information.

>

> Thank you,

> Karen Harris,

> [REDACTED]

[REDACTED]

From: **Sandy Pottle** <[REDACTED]>

Date: Wed, 12 May 2021 at 17:15

Subject: Re: APC today

To: Karen Harris <[REDACTED]>

Hi Karen

When I contacted the correspondent she said that she wanted to update the letter to fit present circumstances.

During the targeted OCP review 2008 -2011 we had to remove references to non- profits from many parts of our bylaws. When Kim Stockdill wrote a staff report and bylaws regarding CMS she included a clause stating that the zone being proposed would be available to non-profits only. I requested a legal opinion on that provision and it was subsequently removed from the draft bylaw. A partial release of the legal opinion is included in the staff report o the October 16 2016 Agenda Package. The LTC was provided with the whole opinion of course and as you know this document is confidential. A request to have it released is possible.

At the last LTC meeting the Chair stated that there were still issues regarding this matter in the present draft.

Sorry I couldn't zoom in this morning for the meeting. I hope this all resolves to everyone's satisfaction but as we know that doesn't happen very often.

Keeping my fingers crossed.

I have a lot of respect for you as Chair of the APC and was always impressed with the thoroughness of your considerations when we served on the APC together.

Good Luck to us all

Sandy

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**From:** Karen Harris <[REDACTED]>

**Sent:** May 12, 2021 4:14 PM

**To:** Sandy Pottle <[REDACTED]>

**Subject:** Re: APC today

Hi Sandy,

I forwarded your email to the members of the APC, and they were hoping that you could provide more information on who the correspondent was in the letter that you attached, and which judgement you were referencing.

Any other information that you feel would clarify beyond the information available to us via the referral package and on the Islands Trust website would also be greatly appreciated. I know that your position as Trustee during many of the years that this application has been open has given you a deep understanding of the issues involved, and you are sure to see any outstanding concerns in the current proposal.

We will be meeting again in 10 days, and would probably receive the most benefit from your information if we have at least a few days to digest and follow up with staff, the applicants or others prior to the meeting.

Thanks,  
Karen

On Wed, 12 May 2021 at 09:15, Sandy Pottle <[REDACTED]> wrote:  
Hi Karen

The author is not me. I was a trustee at the time. I just think it was a great letter and have it in my files. It was received at that meeting.

Thanks Karen

Sandy

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**From:** Karen Harris [REDACTED] >  
**Sent:** May 12, 2021 8:56 AM  
**To:** Sandy Pottle [REDACTED]  
**Subject:** Re: APC today

Hi Sandy, I don't see an author on this letter. Can I assume that the author is you or is it someone else?

Karen

On Wed, 12 May 2021 at 08:51, Sandy Pottle <[REDACTED]> wrote:  
Hi All

All of the correspondence re CMS application is not included on the website re Current applications. I can find no record of my own recent correspondence nor one of the submissions

received at the LTC meeting indicated in the attached document which will be updated by the writer for the current trustees.

I also think that the legal opinion needs to be revisited and shared with the APC.

Sandy Pottle

[REDACTED]  
[REDACTED]  
[REDACTED]

From: **Sandy Pottle** <[REDACTED]>  
Date: Thu, 20 May 2021 at 19:47  
Subject: APC  
To: Karen Harris <[REDACTED]>

Hi Karen

I am sending this correspondence to you for the APC meeting tomorrow.

Thank you for chairing the APC

Sandy

Dear APC Members:

Please consider the following 2 points in your deliberations regarding the Crystal Mountain Rezoning Proposal:

If this application is approved it will be precedent setting.

For example: if this density of development is permitted upon rezoning of a 50 Acre F1 forest land parcel, a 160 Acre F1 property owner may use this precedent to put forward an application for development 3 times this density for similar forest retreat use and/or nature-based retreats (ex: artists' retreats or professional development retreats).

Evidence for this is extrapolated from the following Statement:

Excerpt from memorandum Brad Smith:

**While the circumstances differ in each application, this approach is modelled after other successful F1 lot rezoning processes on Galiano Island, where the property owner agreed to give up at least 75% of the land base in exchange for increased density on the remainder.**

Planner Smith points to precedents set in other F1 Rezoning and if approved this one will also be used in support of such an application.

The Millard Learning Centre (Galiano Conservancy Association) project is often cited as an equivalent rezoning to Crystal Mountain but this is an inaccurate comparison. The land on which the Millard Learning Centre is located was not Forest Zoned land. It was a residentially zoned lot that already had preliminary lay out approval for 13 houses and 13 cottages mostly along prime and spectacular waterfront before the land was purchased by GCA in 2012.

The Millard Learning Centre is 188 acres and features over 2 kilometers of undeveloped waterfront as well as old growth Douglas Fir and Arbutus.

The site was chosen for the fact that it was NOT a forest lot and that it was unlikely to affect neighbours peace and privacy.

Thank you for serving on the Galiano Island APC.

Yours Sincerely  
Sandy Pottle

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████████████████  
████████

Sandy Pottle



On Sun, Jun 6, 2021 at 6:19 PM Holly Schofield <[REDACTED]> wrote:  
This letter is to express my opposition to the proposed Crystal Mountain development (GL-RZ-2014.1). The pending application should be denied because:

- It does not respect the Islands Trust mandate of Preserve and Protect.
- It does not follow the recommendations in the recent Coastal Douglas-fir Zone & Associated Ecosystems An Islands Trust Toolkit
- The scale of development would have a huge footprint and require much forest fragmentation.
- It has too high density for the area. Indeed, there is no small contained area on Galiano that can support 30+ people in close proximity and have sustainable water and septic operations;
- It infringes upon ecologically sensitive areas. We created DPAs for a reason and should abide by them.
- There has been insufficient study on the impact on wells in neighbouring properties;
- There is no provision for food waste and garbage.
- Fire safety will be difficult due to the number of propane heaters and stoves
- Decades of local history have shown that the applicant does not value the environment nor do they respect the law, as demonstrated by repeated bylaw infractions for residency of guests, the negative impact on Spotlight Creek, the on-going large garbage pit, and the lack of consultation with neighbors. Basically, over the many versions of the application, the applicant has not negotiated in good faith.
- There appears to be no succession plan. The society would be quite free to sell it to a different "spiritual education" society which could be even more abusive to the land and disregard bylaws even more. The same is true if Mark Webber were to step down -- a different leader would have far too wide a latitude.
- This sets a precedent regarding rezoning Forest Lots, one which has many and far-reaching repercussions. It is naive to think otherwise.

Basically, this proposal is far too large for the island. Galiano's carrying capacity needs to be factored into any large development, regardless of whether it's for retreats, affordable housing, or tourism.

This application, in various forms, has gone on far too long and has consumed too many Islands Trust hours and dollars. As demonstrated by the time limit given to Application GL-RZ-2005.1 (Romagnoli-Smith) at the recent LTC, there is a point where an application is ultimately declined. Crystal Mountain has reached that point. It is an ill-conceived and massively overlarge project that needs to be removed from consideration.

Please, Trustees, deny this application in finality.

Thank you,  
Holly Schofield

**From:** Akasha [REDACTED]  
**]Sent:** Monday, June 14, 2021 11:47 AM  
**To:** Tahirih Rockafella; Jane Wolverton; Dan Rogers  
**Subject:** Questions for June 14/21 CIM

June 14, 2021

Galiano Island Local Trust Committee  
Trustee Tahirih Rockafella  
Trustee Jane Wolverton  
Trustee Dan Rogers, Chair

Good Morning Trustees

A group of neighbours and other islanders has prepared, at short notice, a number of questions for today's Community Information Meeting regarding Proposed Bylaws 256 and 257 - Crystal Mountain application.

Concerned that there will be time constraints for today's Information meeting, the attached document is being sent to you in the hope it will provide more complete context and background for the specific issues that need to be addressed and questions answered before the application proceeds further.

These questions need to be asked and we need to receive the answers in addition to providing you this document.

Sincerely,

Tom Mommsen,  
Art Moses  
Akasha Forest  
On behalf the group of neighbours and other islanders.

attachment

**Precedent-setting** should be the overriding line of questioning on the rezoning proposal. In our opinion, the rezoning proposal is incompatible with the Official Community Plan and (dangerous) precedent-setting in nine key areas. This leaves the LTC/Trust open to multiple legal challenges in the future.

Potential questions are **bolded**; explanatory notes are provided; text from Islands Trust documents is in *italics*

## 1. **Community Facility**

There is no existing category in the OCP that can accommodate this proposed retreat: assigning it to "Community Facility" is inappropriate as it does not fit the criteria for this zone.

**1.1 Why is putting this zoning under the title of community facilities being proposed when it does not fit with the definition of community facilities in our OCP?** The LUB states: *"In the Community Facility zone, the following uses are permitted...: public and non-profit schools not including overnight accommodation or dormitories; community halls, libraries, museums, churches, cemeteries, recycling facilities; parks, playgrounds and sports fields; affordable and special needs housing; community gardens; farmers' markets; community orchards; community nurseries."* None of these are even remotely related to a private spiritual retreat centre. This matter was addressed in a staff report (2May16). *"Generally, community facilities are to provide a benefit and service to the entire community. Providing a very specific service (spiritual retreat) would only service the interest of a limited portion of the community therefore this designation is not recommended to be amended for the CMS proposal"*.

Note that *community facilities shall not be considered in advance of demonstrated need.*

### **1.2 Where is the demonstrated community need for this facility?**

**1.3** The proposed zoning refers to people's 'spiritual education', but we are not zoning people. **What is the actual land use and its impact? Doesn't the land use proposed fit best into the OCP definition of commercial visitor accommodation?**

**1.4** It should be commercial visitor accommodation as it fits that definition in the OCP. This is not allowed on forest lands. **What was the thought process to develop new definitions and zoning that are outside the provisions of the OCP?**

**1.5 What's the process planners use to craft an application that's outside the provisions of the OCP?**

**1.6** A previous CMS application contravened OCP transportation objective 4) and policy f). **Was the reason the draft bylaws propose this zone as a Community Facility?**

*(OCP Transportation objective 4) strives to see land use managed to limit traffic generation through quiet safe neighbourhoods. Policy f) land that is rezoned to any Economic Activity zone should have direct frontage and suitable access on a highway classified as main rural or minor rural).*

## **2 Density**

Deciding on a **density** based on single occupancy when there is no legislative tool to enforce occupancy limits seems strange. In 2018 the trust was advised:

*'The option to cap occupancy rates through a legal mechanisms such as a restrictive covenant is not recommended because Islands Trust does not have a legislative tool to enforce occupancy. That is, occupancy cannot be enforced through the land use bylaw'. (report to Islands Trust Executive Committee from Susan Palmer MCIP, RPP, SLP Consulting, Salt Spring Island Team, Jan. 11, 2018*

<https://bowenland.civicweb.net/document/156403/Islands%20Trust%20Executive%20Committee%20re%20Approval%20proc.pdf?handle=81F1AB1A42FA4807BDD4665FEA473CDE>

**2.1 Can the planner comment on if or how the single occupancy of the small dwellings can be enforced?**

**2.2 Is there any precedent on the island for a non-commercial zoning of this density?**

### **2.3 What are the safeguards against large day-use retreats at this site, with the associated impact (sewage and waste) on community resources (water)?**

- The proponent's representative stated at the APC meeting that there would be no limits on day-use.  
**Could this be confirmed?**
- We note that caps on day-use as discussed by CM with neighbours have been dropped from this draft LUB. **Why?**
- **Are the proponents required to take all of their waste off island?**
  - 2.4 If the maximum at a retreat has never exceeded 16, **why do the applicants need accommodation numbers that exceed that allowed for commercial establishments?**
  - 2.5 Looking at retreats that are similar on Saltspring Island they almost always have double occupancy in each unit and often triple occupancy. **What are the safeguards to prevent double occupancy or triple occupancy in these facilities and hence double the density?**

### **Zoning definitions on visitor accommodation**

- 3 **Is it not precedent setting by creating a new type of what is essentially visitor accommodation?** How is this not visitor accommodation – allowing this level of density when it vastly exceeds visitor accommodation density for any commercial visitor accommodation on the island.
- 3.1 **How does the proposed retreat differ from a commercial spiritual retreat?**
  - 3.2 The Galiano OCP Section II Land Use policy a) states: “ Land use decisions for all zones shall be directed by the following criteria where relevant:” and lists 24 criteria. **How has this proposal been assessed against each of these criteria and what are the outcomes?**
  - 3.3 For visitor accommodation some rules are outlined in Galiano's OCP.
    - For example, where there is a significant number of units proposed development should incorporate a variety of building types, including multi-unit buildings, in order to minimize the development footprint on the site and minimize impacts on adjacent properties.
    - **Considering the activity planned for the site, why isn't this being zoned as visitor accommodation?**
    - **Since it provides stays for up to six months, why isn't this being zoned as residential?**
    - Why do these draft bylaws not face up to what this land use actually IS?
  - 3.4 **Why does this draft bylaw allow a greater density than is allowed for any commercial visitor accommodation on Galiano, as defined in the OCP?**
  - 3.5 Remember we are zoning land, not people. In the OCP commercial zoning is required for: resorts with 8 to 12 rooms or cabins, a central building and a restaurant – all of which are in this proposal. **How is this not a commercial operation?**
  - A comprehensive resort is limited to up to 10 visitor accommodation units, 10 visitor accommodation sleeping rooms, a central building for accessory uses, a dwelling for the owner or operator, a restaurant and comprehensive resort accessory use.
  - 3.6 **Why should this development be larger than is allowed for a commercial visitor accommodation?** That would limit number the of cabins/sleeping rooms, no tent pads, a food building, an accessory building and an operator building. Note that commercial campgrounds are not permitted outside provincial parks.
  - 3.7 The current owner is registered under the CRA as having the purpose of “promotion of religion”. **Since the CRA does not have a category of 'spiritual education does this not mean that the designation in the bylaw is not compatible with their CRA purpose?**
  - 3.8 The length of stay of these 'retreat users' (referred to in the previous draft bylaws as 'visiting residents') would fit into definitions of residents – not visitors – as they are staying for more than 30 days. **How do the bylaws resolve this incompatibility?**
  - 3.9 During the community's OCP review in 2008-2011, forest retreats were not included in the OCP and this use was not recommended by the Forest Policy Advisory committee. **Since the basic application**

(apart from ever increasing density) the CMS application has not changed in principle since, why did the trust proceed with processing something that runs counter to the OCP?

#### 4 Transfer of title/fragmentation

**4.1 Is it not precedent setting to accept or allow a transfer of title with the degree of fragmentation that fails to follow ecological principles and is seen by the CM project manager as 'not ideal', but designed to accommodate the needs of the applicant?**

**4.2 Owners come and go, but the land remains. Where is the need of the ecosystem reflected in this rezoning?**

4.3 The Galiano OCP Section II Land Use policy a) states: "*Land use decisions for all zones shall be directed by the following criteria where relevant*" and lists 24 criteria. Number xii) refers to the importance of forest cover and the retention of unfragmented forest ecosystems. In other places OCP says that the *lot size for subdivision of Forest land shall be at least 20 ha (49.4 acres) and that it shall protect biodiversity, riparian zones and other sensitive ecosystems*

**How does this proposal meet ecological principles or OCP provisions for retention of unfragmented ecosystems?**

**4.4 How can the proposed fragmented protected areas be justified?**

4.5 The Sensitive Ecosystem Development Permit Guidelines state:

- no development can happen in a sensitive ecosystem or a Development Permit Area (DPA) and that a professional has to certify the absence of a sensitive ecosystems or DPA – yet the CM ecosystem map clearly identifies that the upper development infringes on a sensitive ecosystem and steep slope DPA. **Why is this development on the upper ridge considered at all?**
- Retain large, connected undisturbed areas, with connections and corridors providing continuity between sensitive ecosystem and important habitat - **Where are the connections and corridors between the sections of this subdivision and particularly the middle fragment and the land to be given to the ITC?**
- Avoid removal of mature and old trees – **How is the proponent building three cabins, a wash house, showers, toilets a septic tank, sump and a septic field without removing trees on the upper ridge?**
- **How will the proponent drill wells, clear land for parking and emergency vehicle turn around, install a septic tank and septic field in the upper ridge development without impacting on sensitive ecosystems or habitats?**

4.6 Restoration – the ridge trail on Lot A is currently badly damaged. **What is the restoration plan and when will this restoration happen? What are the built-in safeguards that the restoration actually happens?**

4.7 DPA steep slopes – **Where is a statement from a registered professional engineer or geoscientist that there is less than 10% chance of a geological hazard or slope instability?**

The OCP contains statements about clustering of developments and ecological footprint.

**4.8 Why is there no reference to the recommended clustering of development and minimizing ecological footprint, since the proposed development seems to have maximized distribution of small dwellings and maximized ecological footprint of human impact?**

**4.9 How is this bylaw not precedent setting for other potential developments that are commercial in nature, allow fragmentation, defy the recommended clustering of dwellings, ignore Climate Change, and exceed the density of all other commercial visitor accommodation on Galiano?**

#### 5 Carrying Capacity

Carrying Capacity is used by provincial and federal governments for environmental assessments and has been introduced to the Islands Trust to assist with evidence-based decision-making. It is based on the awareness of ecological limits, especially applicable to water, aquifers, forest stands and biological diversity.

**5.1 Was carrying capacity assessed and considered in the application?**

**5.2 Isn't it essential to do comprehensive studies before allowing this type of unprecedented density or distributed/fragmentary land use?**

5.3 It doesn't matter whether the cabins have showers or not, with showers available, they will be used and consume water. **When will a realistic water supply for that many people be assessed by an independent expert?**

5.4 An aquifer is not restricted to a specific lot, but is a common resource. When installing any commercial or heavy use property into a residential zone it is essential to assess the potential impact on surrounding properties. **When will an independent analysis be done to assess the effects of massively increased usage (CM has mentioned occasionally 60+ people during day use, and 30+ people during months-long use) of water?**

5.5 Small water districts or commercial users have their water and wells routinely inspected by the CRD. **Why is this requirement not included in the bylaw?**

**5.6 What were the results of an independent assessment of sewage treatment capacity, sewage volume and impacts on adjacent properties and Spotlight Creek?**

**6 Water.** Here are some of the recommendations following the Trust's own water study (May 2012) by Waterline Resources:

*"Hydrogeology assessments related to proposed subdivisions and developments requiring additional groundwater extraction should be clearly outlined in bylaws to include field verification of existing nearby wells, an assessment of the transmissivity and storage coefficient for the aquifer being proposed for development, and some prediction of the cumulative drawdown impact that could occur to the aquifer and existing users over a reasonable timeframe (20-30 years) ... and the hydrogeologist's report shall investigate the site specific hydrogeological conditions for the proposed subdivision or development.*

**6.1 Was the water study done for the proposed development done in compliance with the recommendations resulting from the Island Trust's water study? If not, why not?**

**6.2** The Trust's water study specifically mentions the aquifer and existing users. **Did the water study assess the aquifer parameters and effects of large drawdowns by the proponent on existing users?**

6.3 The water study assumed much lower water use compared to other developments. **Has this assumption been adjusted and parsed against potential water availability now that the development will be using flush toilets?**

6.4 Climate change exerts potential effects on precipitation, water movements and soil moisture retention. **For such large development, was there any modelling done to estimate the overall impacts of climate change on future water flows in Spotlight Creek, water table and well drawdowns?**

## **7 Climate change**

7.1 The LTC is required to assess the potential GHG emissions and climate change impacts anticipated to result from the development. **How was this done and where are the results?**

7.2 The use of gas or diesel-fired cooking and heating facilities is not compatible with BC's climate plan. Just last week, Vancouver City Council confirmed the phasing-out of fracked gas for heating and hot water in new buildings in Vancouver by 1 Jan. 2022. Diesel/Propane/Butane are worse than methane (fracked gas). **How is this proposed development compatible with BC's climate plan and the Trust's stance on emissions?**

- 7.3 The surface area of 22 individual small dwellings would be at least 5 times larger than a single building. **How can this five-times higher energy use be justified at the time when decarbonization and energy conservation are essential?**
- 7.4 **How was the Climate Change impact of international travel to this destination considered?**
- 7.5 **What are the initiatives to meet net-zero carbon requirements for the facilities?**

## 8 Process

- 8.1 This bylaw contains many exceptions designed to accommodate an applicant who has been 17 years in non-compliance and presents an application that inconsistent with the OCP framework. **How is this not precedent setting?**
- 8.2 **What are the specific criteria planners used to craft an application that's outside the provisions of the OCP?**
- 8.3 **Should this rezoning go forward what are the guarantees it will not be used as a template or precedent for other retreat-type developments on F1 land?**
- 8.4 'Huts' are not defined in the OCP. Dwelling units have well defined rules. **How do these 'huts' fit into the definition of dwelling units as defined in the OCP?**

## 9 Land use

Bylaws regulate USE rather than USER in land use planning – the legal opinion:

A legal opinion was received on the legalities of restricting the use of land to non-profit societies (31Oct16).

Portions of this legal opinion that are publicly available state: *“Land use bylaws must regulate the use rather than the user. The difference between use and user, and furthermore the distinction between non-profit and for-profit societies is not evidently clear”.*

**9.1 How is a distinction made, how can it be made, and how can it ever stand up to legal scrutiny that a society which receives donations to support their operations and teachers is non-profit rather than for-profit?**

### 10. Other: Land transfer

- 10.1 **Has the Islands Trust Conservancy (ITC) agreed to the land transfer?**
- 10.2 **Have the proponents met the nine conditions that must be met before the transfer?**
- 10.3 **Is it a strict condition of this proposal that the land transfer occur?**
- 10.4 **If the land transfer conditions are not met what will be the status of the application?**
- 10.5 **Does the applicant then revert to an offer of a covenant?**
- 10.6 **Is there any tangible community benefit?**

**From:** Sandy Pottle [REDACTED]  
**Sent:** Monday, June 14, 2021 10:49 AM  
**To:** Dan Rogers; Jane Wolverton; Tahirih Rockafella  
**Cc:** Brad Smith  
**Subject:** CIM

Hi Dan, Jane and Tahirih

I am sending this letter to you for the CIM. I'm not sure I will be able to attend the meeting as I am on call with BC Ambulance and have received information that there may be a call out or I may have to go and check in on a very ill personal old friend

Thanks for all your hard work.

Dear Dan Jane and Tahirih:

It is recommended in the Staff report of October 5 2020 that the CMS proposed spiritual Retreat be included under the Community Facilities Zone. This matter was addressed in a staff report May 2 2016 which concluded that "this designation is not recommended to be amended for the CM proposal".

The following is excerpted from the staff report of May 2 2016:

***Community Facilities and Utilities***  
***The objective of this designation is to enhance the social, economic, educational, environmental, and cultural aspects of life on the island and in a manner that minimizes impacts on the natural environment. Generally, community facilities are to provide a benefit and service to the entire community. Providing a very specific service (spiritual retreat) would only service the interest of a limited portion of the community therefore, this designation is not recommended to be amended for the Crystal Mountain proposal.***

From the OCP:

***Galiano's community facilities for social and cultural services currently include a recycling centre, fire halls, ambulance station, a health care centre, a church, a school, a cemetery, community halls.***

***The objective of this subsection is: to promote the establishment of community facilities that enhance the social, economic, educational, environmental and cultural aspects of life on the island and in a manner that minimizes impacts on the natural environment.***



***Community facility zones shall be developed for such uses as community orchards, nurseries, gardens and woodlots, farmers markets, arts facilities recycling centre, ambulance station, R.C.M.P. facilities, emergency evacuation services and fire halls.***

***Zoning for a community facility shall be considered on a site-specific basis.***

***As a plan for a local trust area designated under the Islands Trust Act and placing priority on the preservation and protection of unique amenities and environment of the area, rezoning for new community facility uses should not be considered in advance of demonstrated need.***

From the Galiano Land Use Bylaw (LUB):

***8.2.1 In the Community Facility zone the following uses are permitted, subject to the regulations set out in this section and the general regulations set out in Parts 2 and 3, and all other uses are prohibited.***

***8.2.1.1 public and non-profit schools not including overnight accommodation or dormitories***

***8.2.1.2 community halls, libraries, museums, churches, cemeteries, recycling facilities***

***8.2.1.3 parks, playgrounds and sports fields***

***8.2.1.4 affordable and special needs housing***

***8.2.1.5 community gardens***

***8.2.1.6 farmers' markets***

***8.2.1.7 community orchards***

***8.2.1.8 community nurseries***

I do not feel that that the application has changed significantly since 2016 and agree with the conclusion of the May 2016 staff report that this is not an appropriate zone for the proposed spiritual retreat as it does not meet the objectives of the Community Facility zone.

At the July 4, 2016 staff provided draft OCP and LUB bylaws (256 and 257 respectively) for the LTC's review and consideration. No decisions were made regarding the draft bylaws at that meeting and the Galiano Island LTC passed the following resolution:

***“GL-2016-063***

***It was MOVED and SECONDED,  
that the Galiano Island Local Trust Committee requests staff to explore and  
report on: legalities of using a s.219 covenant restricting the use of land to non-  
profit societies only; identification of community benefits; and the legality of  
including the clause on package page 35 (Schedule 1, A.1., 1) c, i)”***

*clause referenced:*

***1. c) Zoning for comprehensive spiritual retreat use:  
i) shall only be permitted for non-profit organizations.***

This provision was removed from the draft bylaw based on the legal opinion received from Islands Trust Legal Counsel.

This part of the legal opinion as interpreted by staff was included in the staff report of October 31 2016:

#### ***Legal Opinion***

***A legal opinion was received to address restricting the use of the land specific to non-profit societies by OCP amendment or a s.219 covenant. The following is based on staff’s review and understanding of the legal opinion recently received. Although the legal opinion has been circulated to the LTC members, all legal opinions are confidential and not publicly available unless released by resolution of the Executive Committee.***

***Land use bylaws must regulate the use rather than the user. If the characteristics of the land use would be different if a non-profit society owned the land compared to a for-profit- society then the regulations can legitimately draw a distinction. For example, a for-profit society may have more intensive use of the land and therefore the LUB amendment could potentially restrict the use to non-profit societies only. However, this is not a clear and certain basis for proceeding and could risk a future legal challenge***

***The above interpretation is also the same for OCP policies and s.219 covenants. The difference between use and user, and furthermore the distinction between non-profit and for-profit societies, is not evidently clear. By including a restriction to non-profit society use only would leave the LUB amendment, OCP***

*amendment, and even a s.219 covenant vulnerable to be challenged in court, however remote a possibility.*

*A clearer approach would be to consider the intent of restricting the use, which is to ensure the use is not used for commercial purposes (for example, visitor accommodation, short term vacation, restaurants, etc.). In order to achieve the goal of restricting the retreat use, the definition of 'comprehensive spiritual retreat' can be refined to not permit commercial uses, and restrict the period of time visiting residents can stay. The definition currently reads:*

*““comprehensive spiritual retreat” means a facility that provides contemplative, spiritual or meditative opportunities for visiting residents, who typically stay at the facility for a period of at least 3 days, but in no case for more than 6 months, and are accommodated in sleeping huts, but does not include, offer, or provide any form of short term or temporary accommodation for the travelling public, or any restaurant or other forms of food service to the general public.”*

*This definition would restrict the use of the land to non-commercial purposes without defining the status of the user.*

This legal opinion as interpreted by Islands Trust Staff raises several questions such as:

(1) how would the impact on the land be any different if this was a for profit enterprise rather than a not-for-profit enterprise?

(2) Wouldn't using a definition that would restrict the use of the land to non-commercial purposes without defining the status of the user be the same as saying it is only available to non-profits?

(3) Doesn't a 6 month stay constitute residential use?

(4) Issues of land use have been quite contentious and litigation or threats of same have been used on Galiano many times. Why is it said to be a remote possibility?

(5) What is the definition of a "visiting resident"?

CMS currently has a 10 Acre Residentially zoned lot and a 50 Acre Forest 1 zoned lot. They are entitled to one house and one cottage on the Residential lot already and they could be entitled to one house on the 50 Acre F1 Lot if they were to rezone to the only option currently available (F3) in our OCP and Land use bylaws. The F3 option also requires a Sustainable Forestry Covenant.

The addition of 2 houses and one cottage plus a Sustainable Forestry Covenant would have less impact on the land than what is currently being considered in the proposed Crystal Mountain Spiritual Retreat (SE1) Zone. Details of the proposal are included below:

### ***8.7 Crystal Mountain Spiritual Education Retreat (SE1) Zone Permitted Uses***

#### ***8.6.1 The following uses and no others are permitted in the SE1 Zone:***

- 1. 8.6.1.1 contemplative, spiritual or meditative education retreat uses***
- 2. 8.6.1.2 contemplative, spiritual or meditative educational activities and facilities with accessory overnight accommodation and camping***
- 3. 8.6.1.3 accessory dwelling unit for a person or persons acting as a caretaker for the spiritual education retreat.***

#### ***4. Permitted Density***

#### ***8.6.2 The following buildings and structures and no others are permitted in Area A on Schedule D – Plan 6:***

- 1. 8.6.2.1 2 sleeping huts, each with a maximum floor area of 21 square metres (226sq.ft.) ;***
- 2. 8.6.2.2 17 sleeping huts, each with a maximum floor area of 15 square metres (161 sq.ft.);***
- 3. 8.6.2.3 one meditation hall restricted to contemplative, spiritual or meditative education uses only with a maximum floor area of 125 square metres (1345 sq.ft.);***
- 4. 8.6.2.4 one dining/kitchen building with a maximum floor area of 125 square metres (1345 sq.ft.);***
- 5. 8.6.2.5 one communal bathroom and laundry building with a maximum floor area of 70 square metres(753 sq.ft.);***
- 6. 8.6.2.6 one storage/workshop structure with a maximum floor area of 80 square metres (861 sq. ft.);***
- 7. 8.6.2.7 one office with a maximum floor area of 70 square metres (753 sq. ft).;***
- 8. 8.6.2.8 one accessory dwelling unit with a maximum floor area of 80 square metres, 861 sq.ft.) and***
- 9. 8.6.2.9 six tent platforms, each with a maximum floor area of 14 square metres (150 sq.ft)..***

#### ***8.6.3 The following buildings and structures and no others are permitted in Area B on Schedule D – Plan 6:***

- 10. 8.6.3.1 three sleeping huts, each with a maximum floor area of 21 square metres (226 sq.ft.);***

**11. 8.6.3.2 one communal kitchen/bathroom/laundry building with a maximum floor area of 36 square metres (387sq.ft.); and**

**12. 8.6.3.3 one storage building with a maximum floor area of 10 square metres (108sq.ft)..**

**8.6.4 Lot coverage must not exceed 1,479 square metres.**

Which do you think would have a greater impact on the land? Should you approve this application? Do not let the fact that this application has been on the books for so long be an excuse for approval. I realize that there is much pressure from planners to approve.

You must consider the long - term effects this application's approval may have on the future of Forest Land development.

It was noted by one member of your Advisory planning Committee that: “ Everything is a precedent for something but it doesn’t mean that if one gets it the other will as well” . As you know applicants should be treated equally as stated in our OCP and as you also are well aware comparisons are always made to past successful applications.

As a community we have worked long and hard to develop bylaws. We have battled it out in the courts and our bylaws have stood the test of time. We have been able to exercise what powers we have to control what happens to the Forest zoned lands on our island against the odds. The LTC does not have the power to control forestry practises but we do have the power to control land use and approval of this application will set a precedent for Forest land rezoning into the future.

Forest retreats were considered by the Forest Policy Advisory Committee through a year of gruelling meetings and it was not recommended as an option for rezoning forest lands.

Please take the time you need to consider next steps and Thank you for the opportunity to express my concerns regarding this application.

Yours Sincerely,

Sandy Pottle

A large black rectangular redaction box covering the signature area.