

**From:** Al Razutis <razutis@hotmail.com>  
**Sent:** Monday, March 25, 2024 11:15 AM  
**To:** vicphsub  
**Cc:** Al Razutis; Anne Popperwell  
**Subject:** Comment re: Application SA-RZ22023.2  
**Attachments:** A EXHIBIT wetland march 21-2016 copy.jpg; B-EXHIBIT photo of sign near 101 Payne Road.jpg; C-EXHIBIT-photos of trench before - after.jpg; D-EXHIBIT TIMELINE BY A.R.pdf; E EXHIBIT -TO LINDA LETTER FROM US.jpg; F-EXHIBIT - LINDA-BEV RESPONSE.jpg; FINAL POPPERWEL -RAZUTIS-OBJECTIONS TO BYLAW CHANGE.pdf

**Date March 25, 2024 , Time: 11:012 am**  
**(via e-mail to [vicphsub@islandstrust.bc.ca](mailto:vicphsub@islandstrust.bc.ca) - with 7 attachments)**

**Objections to Proposed Bylaws 140 and 141, and proposed changes to OCP Bylaw 70**  
**Objection to Application SA-RZ2023.2 (Thachuk) being advanced as filed to date**  
**Requested Action: That this Application SA-RZ2023.2 be denied, rejected in its entirety.**

**Date** filed via electronic Form Field with Islands Trust: **March 25<sup>th</sup>, 2024** (by deadline)  
**Filed by Elizabeth Anne Popperwell**, permanent address 132 East Point Road, Saturna, V0N2Y0 (co-owner, co-tenant on Title)  
and Part 2, with exhibits  
**Filed by Aloyzas (Al) Razutis**, permanent address 132 East Point Road, Saturna, V0N2Y0 (co-owner, co-tenant on Title)

**re: Application SA-RZ22023.2**

We request that this application be denied for the following reasons.

This property is less than 5 acres and is therefore too small to be sub-divided according to our OCP without an addition created for solely private benefit. There are many lots on Saturna that are bisected by a road.

Our community spent several years and put a lot of thought and hard work into our OCP. Now it appears anyone with \$10-15,000. can simply apply to have it changed for their own personal needs and benefit.

If, as a community, we want all lots to be sub-dividable regardless of size, then we need to change our OCP to reflect that.

Similarly, if we want to increase density in an area, we need to change our OCP to reflect that.

It's unfair and unjust to continue to make exceptions to the rules to benefit individual property owners.

The current status of Title and applicant's interest in this property is that of undivided property with four co-tenants. If this land ownership structure no longer meets the applicant's needs, there are other structures available to own property that the owners could pursue that will give them more financial separation.

Asking the community to grant an exception to our OCP is not a reasonable way for their estate planning to be addressed. It is their personal problem to solve, not the community's.

The subdivision of this property will result in a large financial gain for both couples with negligible benefit to the larger community.

The applicants are privileging their private needs and economic incentives above the public benefit.

Sincerely, Elizabeth Anne Popperwell

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Part 2 (Aloyzas Razutis)

**LIST of Objections, to include CHRONOLOGY of my previous complaints** to local and Provincial authorities concerning the actions of the applicants in damaging neighboring and their own property and environment. This includes the listing of such actions by applicants now seeking variance to bylaws which specifically include past damage to environment and 'groundwater protection zone', and their disregard of said damage (providing no remedy).

1. We, the immediate neighbors of 101 Payne Road property, were not notified of this 2023 application and meetings held on behalf of it, or the supporting material provided until March 2024, less than a month before deadlines for response.
2. This application proposes to increase density, and land value for the applicants, which is not of public benefit and provides additional risk to environment and enjoyment of life in our neighborhood.
3. This application was filed with an incomplete history. It omits previous actions by the applicants regarding their stewardship of the environment and omits previous complaints made to Island Trustees, Bylaw Enforcement Officer, Ministry of Lands and Forests, Ministry of Highways.
4. Staff Reports fail to adequately show due diligence in researching past history and conduct of the applicants on property in question, stating the following in error:

*"Staff are of the view that draft Bylaw No. 140 and 141 are not contrary to or at variance with Islands Trust Policy Statement (ITPS) policies, in particular with*

*respect to policies related to ecosystem protection and preservation, stewardship of resources, groundwater, and growth and development.”*

5. In 2017-2020 I made formal complaints about the actions of the owners re-directing the water flow from our property without permit or notice to us. (see **A ‘Chronology’ of the 2017 events is D-Exhibit**), and our formal protest to applicants is #E-Exhibit, and their curt reply is #F-Exhibit).
6. The current status of the property allows for one house and one cottage no more than 1,000 sq. ft. This bylaw was ignored and not enforced. The “cottage” on the property is larger than 1,000 square feet and the “house” is over 2500 sq. ft.
7. If any special exemption from rules, regulations exist for any party to this agreement, no such exemption or side agreements have been registered on the title.
8. We jointly share a long property line with the owners, tenants of 101 Payne Road, which proceeds from the road setback on Payne Road, across the street from what is marked “100 Payne Road”, across a pristine natural wetland of ecological beauty and habitat for a number of creatures, along and across a meadow area with fruit trees on them which were planted many decades ago, up to the corner with a 10 meter wide ‘right of way’ which reserves our right and passage and ownership to a right of way down the property to Boot Cove Road, where it is now adjoining the property of Robert Bruce.
9. I make extensive reference to the environmentally sensitive ‘wetland area’ on 132 East Point Road property, adjoining Payne Road on one side, and adjoining subject 101 Payne Road property. “. **See A EXHIBIT** -- 2016 *photo* of wetland area on 132 East Point Road adjacent to 101 Payne Road property.
10. This wetland area also adjoins the road setback, and a metal sign from decades ago proclaiming “Entering Groundwater Protection Zone” wetland area on 132 East Point Road property adjacent to 101 Payne Road property. **See B Exhibit** for photo of legacy signage announcing “Groundwater Protection Zone” directly adjoining 101 Payne Road property. This sign represents ongoing community interest in maintaining safe groundwater drinking zones.
11. This is a pristine wetland area, directly feeding the aquifer and ground water area once populated by many wells. It is home to many species of birds, insects, and other natural creatures who rely on the cycle of wet to feed the environment. On East Point Road, from the Ferry dock to Payne Road intersection, this wetland area on 132 East Point Road is one of the last of such areas, the others having been altered by owners or agents unknown. We are dedicated to preserving this natural wetland area. We ask you to protect it and preserve it too from any present or future risk.
12. In November 2017 a backhoe operator hired by the applicants dug a ditch across the highway road allowance and drained our wetland. We

responded and made our objections known to the owners and to authorities, commencing in 2017.

13. 'Chronology of these events' is contained **in D-EXHIBIT**.
14. In previous readings of this application, Islands Trust staff have approved in writing the earlier filings by the applicants and determined this application to be in the public interest, and that it does not violate or impact any environmental issues. I quote the "Staff Report" of October 2023 meeting which states: *"Staff are of the view that draft Bylaw No. 140 and 141 are not contrary to or at variance with Islands Trust Policy Statement (ITPS) policies, in particular with respect to policies related to ecosystem protection and preservation, stewardship of resources, groundwater, and growth and development."*
15. In making such a conclusion, the staff may have not have known the past history of the applicants' behavior concerning damage to the environment, trespass, damage to the wetland and groundwater ecosystem. This is documented in our correspondence to them in 2017-2018 and Islands Trust (Lee Middleton). I ask the staff to reconsider their conclusion and to consider our submission, and make a determination then.
16. This history of intrusions into our wetland area is outlined and supported in see **documentation provided in Exhibits C, D, E, F and continuing**.
17. We applied for relief and remedy to this damage by trench to our wetland from Islands Trust, Bylaws Enforcement, Islands Trust, Ministry of Forests, Lands (who sent inspector), and to Ministry of Highways (who sent a full team to evaluate). It was Ministry of Highways who finally provided relief when they determined the 'road setback' had been violated without notice or permit by the applicants. Finally, in 2018 the Department of Highways stepped in and ordered a bern built, and original waterway to wetland area was restored.
18. I provide documentation of these communications. All this correspondence I have and can make available at any time.
19. Applicants appear to be privileging their private needs and economic incentives over public benefit. Were this an application for variance for all ratepayers in a similar situation, especially those of us with a road separating part of our properties (which we at 132 East Point Road also have, as do many others), were this an application of rule changes to all, then we would be having a different conversation. However, this variance application serves only the applicants listed, no one else, and certainly not their immediate neighbors.

**Summary – Conclusion:**

20. We request that the application to re-zone this undivided property be rejected and denied.
21. By granting this application by the Applicants you will encourage greater density of buildings, increased construction, increased water consumption, more noise, more damage of environment, and you will

create more pollution, thereby diminishing the enjoyment of life by the existing neighbors, such as ourselves, the complainant here and his wife who have lived continually on their property for almost 30 years as co-tenants and owner. It also has an ongoing adverse effect on the natural habitat and the creatures we share it with.

Sincerely,

\_\_\_\_\_ ('e-signed')

Aloyzas (Al) Razutis

132 East Point Road, Saturna, BC



*'Wetland' at 132 East Point Rd.  
Adjoining 101 Payne Rd.  
March 21, 2016*

B-EXHIBIT photo of sign near 101 Payne Road.jpg



C-EXHIBIT-photos of trench before - after.jpg



Left: 2014 prior to stream excavation-diversion  
Right - November 2017 after excavation-diversion  
100 Payne Road, Saturna, BC



- A: 132 East Point Road (Popperwell & Razutis)
- B: 100 Payne Road (Cunningham & Lowsley)

white arrow indicates common tree trunk for reference



**TIMELINE BY AL RAZUTIS,**  
132 EAST POINT ROAD, SATURNA, BC, V0N2Y0  
TEL: 250 5392779  
EMAIL: [RAZUTIS@HOTMAIL.COM](mailto:RAZUTIS@HOTMAIL.COM)

**TIMELINE OF OBSERVATION & COMPLAINTS:**

**November 18, 2017** – Al Razutis observes digging in the wetland adjacent to 100 Payne Road, Saturna, and asks bobcat operator 'Peter Stolting' what is going on and is told by him that he's excavating trenches to 'provide drainage around and concerning a future garden area' in the meadow below. I ask him who is ordering this, he tells me it is "Linda" (100 Payne Rd) doing it on behalf of "Beverly" one of the owners of this property adjoining us.

- Photos of this trench in the wetland which redirected the stream afe attached, as are photos of the same areas prior to this incident. I have also attached an overhead photograph showing all three trenches which are identified here and below at Mr. Davidge's place 122 East Point Road.
- "A" denotes 132 East Point Road property (Popperwell, Razutis), "B" denotes 100/101 Payne Road property (Cunningham, Lowsley, Thachuck), "C" denotes 122 East Point Road property (Davidge), and "D" denotes 121 Boot Cove Road property (R. Bruce).

I (Al Razutis) come back after our walk around the block and after Peter returns from lunch and meet him, and "Troy" (no last name) who says he is managing this for 'Linda' in the meadow below and observe a long deep ditch spanning the property. I ask him if he has a legal boundary map to ascertain that this is indeed on Linda and Beverly's property and he says I have a 'map' which he got showing general property boundaries, a type of map which I have attached here.

I ask Troy if they have surveyed property lines, he tells me a "survey of this property line will be made in two weeks".

I take pictures of this work in plain sight of them. I am standing on what I think is our property at the border which is not properly surveyed or marked.

I go home and telephone Dan Thachuck, the co-owner of this property and a person we have had cordial relationship with and I inform him of my concerns that digging is taking place without proper legal boundaries marked and surveyed, and that the digging is destroying the 'wild area', the wetland which is at the top of the hill. I also inform him that the digging is redirecting a stream that has been there in this wetland for decades. He tells me a "survey of property boundaries will be done in two weeks".

Dan tells me he will talk with Linda and Bev about this. He then telephones me after their meeting to tell me only to talk to him, not Linda about this. I agree.

**November 19<sup>th</sup>**, I phone Dan Thachuck around 9 am and inform him that I would like all work to "cease and desist". I tell him we need further information on this action by Linda which to me is destroying a wild area, a wetland which he himself had represented to us previously (months ago) that we would like to see "stay wild", as we did. This wetland is a common area to them and to us, we shared a common border, the wetland and streams extended into our property and fed an ecosystem rich and varied year around.

Mr. Thachuck then informs me that because I had used a “legal term”, the term “cease and desist”, he does not want to talk with me anymore and he instructed me to talk with Linda who he said was managing the project on their own behalf. Linda and Bev have exhibited animus to us previously so I decide to contact our elected representatives.

**November 20<sup>th</sup>** I file a complaint with our island Islands Trust representative Lee Middleton, who directed me to the enforcement officer, and I filed another similar complaint with him (on-line).

**November 24<sup>th</sup>** Islands Trust Bylaws Enforcement directs me to file a complaint with the Ministry of Lands, Forests and Natural Resources and I file a complaint here, because these actions by our neighbors are in contravention of what we understand is the Water Act, Water Sustainability Act, and Land Act.

**WE WERE NEVER NOTIFIED OR CONSULTED ON THESE EXCAVATIONS:**

These actions of digging trenches, redirecting streams, and otherwise changing directing water flow towards our property and the property of Robert Bruce (121 Boot Cove Road) were done without consulting or notifying us, without any permit that was shown to us, without ascertaining legal boundaries, and they have resulted in flooding of our land by their diversion of surface water. A similar diversion of surface water by Mr. Davidge of 122 East Point Road in the meadow area below has further damaged our property, its enjoyment, its natural ecology and has directly contributed to damage to property along Boot Cove Road.

**THE LAW IN PART:**

***Water Sustainability Act***

<http://www.bclaws.ca/civix/document/id/complete/statreg/14015#section6>

*Section 6*

*Use of water*

*6 (1) Subject to this section, a person must not divert water from a stream or an aquifer, or use water diverted from a stream or an aquifer by the person, unless*

- (a) the person holds an authorization authorizing the diversion or use, or*
- (b) the diversion or use is authorized under the regulations.*

**THE EFFECT OF THE COMBINED ACTIONS ON LAND, ENVIRONMENT, WATER SYSTEMS:**

These combined actions by Linda Cunningham/Bev Lowsley and by extension their co-owner Dan Thachuck who was aware of this all and did not object when notified by me, along with the action of Mr. Davidge in constructing his trench to spill over at our property line has:

- a) damaged property at 132 East Point Road (Popperwell/Razutis) and at 121 Boot Cove road below (R. Bruce)

- b) damaged the natural environment of both properties (132 East Point Road, and 121 Boot Cove road)
- c) caused out of control erosion on both properties water ways
- c) altered the natural flow of water (i.e. a stream) adjacent to 100 Payne Road and replaced it with long trench
- d) altered the natural 'community ground water system' by redirecting water away from a natural flood plain that affects properties A B C D as noted in my photos and attachments.
- e) damaged the enjoyment of their property by A. Popperwell, A. Razutis, and damaged the property value of their property, at 132 East Point Road
- f) damaged the structures, garden, and spillways of R. Bruce Property at 121 Boot Cove Road
- f) produced unnecessary anxiety, strife among neighbors.
- g) are actions that were unnecessary, lacking in logic, without permits, without lawful basis, without notice to neighbors, without proper research and evaluation of the affect that such actions would have on their neighbors, the community, and the island environment.
- h) these actions were irresponsible and contemptuous of neighbors and when a request to 'stop and desist' was directly conveyed to Mr. Thachuck, 100 Payne Road, he chose to ignore it, and the next day digging, burning continued without stop.

REMEDY:

We request that the Enforcement Branch of the Ministry take immediate action to have this damage creased, and to order that the perpetrators make immediate remedy to stop further damage to our environment and our properties. We further request that the perpetrators be ordered to restore the environment to its previous conditions and to pay a fine appopriate to the incident as the Enforcement Branch may see as suitable.

Al Razutis & Anne Popperwell  
132 East Point Road  
Saturna, BC V0N 2Y0  
tel: 250 539 2779  
email: [razutis@hotmail.com](mailto:razutis@hotmail.com)

# E EXHIBIT -TO LINDA LETTER FROM US.jpg

WITHOUT PREJUDICE

Anne Popperwell and Al Razutis  
132 East Point Road, PO Box 106  
Saturna, BC, V0N 2Y0

Linda Cunningham and Beverly Lowsley  
101 Payne Road  
Saturna, BC, V0N 2Y0

Dear Linda Cunningham and Beverly Lowsley,

**Re: Damage to Property from Trespass Excavations and Unwanted Surface Water**

This letter is conveyed to you as a consequence of you having caused excavations on our property at the boundary line adjoining 100 Payne Road and the meadow property boundary area below.

Furthermore you have caused surface water to be directed via a newly excavated trench on your property towards our adjoining property at the meadow property boundary area which has caused and continues to cause serious flooding of our property.

Your excavations in the adjoining 100 Payne Road were made over our objections which were conveyed to your land partner Dan Thachuck in November 2017. Your excavations were made without obtaining proper permits, an up to date boundary survey, and when you had a survey done in mid April 2018 the survey markers clearly indicate a boundary line between your property and our's which shows your excavations trespassed upon our property. This trespass with backhoe or other digging equipment is against our wishes as declared to Dan Thachuk in November 2017; it has damaged the environment wetland which this waterway has for many years flowed into and naturally drained creating a lush wetland bird insect and reptile sanctuary and damaged our enjoyment and use of our property.

Your second trench, in the lower vicinity of the meadow, which terminates abruptly at our property line area, has caused new unwanted erosion and flooding of our property. This flooding has damaged our enjoyment, use and value of our property.

We demand that this damage to our environment and property immediately cease and that you desist from any further new actions which would result in damage to our property and our wildlife environment. We demand that you obtain proper competent advice from a hydro land engineering firm before proceeding further in repairing and restoring the affected property areas and that you obtain a permit for changes you intend to make to sensitive ecosystems such as the wetland adjacent to 100/101 Payne Rd.

Finally, we demand that you repair and restore all areas affected by your excavations, trespass and removal and burning of vegetation in our shared common wetland and meadow areas. We suggest you fill in the trenches that you have caused to be dug immediately and work on restoring the property environment with a professional engineering company.

We are aware past decisions and precedents on similar matters by BC courts are in our favor, that your previous actions are actionable in a court of law and that resultant damages are compensable in monetary terms.

However, in the hope that formal legal proceedings might be avoided, we are prepared to forgo legal action in the event that you satisfy the demands contained within this letter.

Should you fail to comply with the demands by the date specified below, we will seek other remedy.

This letter is therefore a formal demand that not later than May 15, 2018 you comply with our requests as stated in this document.

Your reply to this demand must be in writing only and addressed to:

Anne Popperwell and Al Razutis  
132 East Point Road, PO Box 106  
Saturna, BC V0N 2Y0

Yours truly,

---

Bev Lowsley and Linda Cunningham

101 Payne Rd PO Box 172

Saturna BC V0N 2Y0

30 April 2018

Anne Popperwell and Al Razutis

132 East Point Rd PO Box 106

Saturna BC V0N 2Y0

Dear Anne Popperwell and Al Razutis

We do not agree with the assertions and conclusions in your undated "Without Prejudice",  
"Registered" letter we received in the mail on April 25, 2018



Bev Lowsley



Linda Cunningham

**Objections to Proposed Bylaws 140 and 141, and proposed changes to OCP Bylaw 70**  
**Objection to Application SA-RZ2023.2 (Thachuk) being advanced as filed to date**  
**Requested Action: That this Application SA-RZ2023.2 be denied, rejected in its entirety.**

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and Part 2, with exhibits

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**re: Application SA-RZ2023.2**

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**Summary – Conclusion:**

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Sincerely,

\_\_\_\_\_  
(‘e-signed’)

Aloyzas (Al) Razutis  
132 East Point Road, Saturna, BC