



File No.: EX-DVP-2024.1
X-Ref File No. EX-DP-2024.1

DATE OF MEETING: June 18, 2024

TO: Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands)

FROM: Bruce Belcher, Planner 1
Salt Spring Island Team

COPY: Chris Hutton, Regional Planning Manager

SUBJECT: EX-DVP-2024.1
Applicant: Cliff Walker
Location: 10 Mistaken Island, Nanoose Bay, BC V9P 9B6

RECOMMENDATION

1. That the Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) approve issuance of EX-DVP-2024.1.

REPORT SUMMARY

The purpose of this report is to consider a Development Variance Permit (DVP) to vary the minimum setback from the natural boundary of the sea.

BACKGROUND

The specific variance is to the minimum setback from the natural boundary of the sea in the Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013 (LUB).

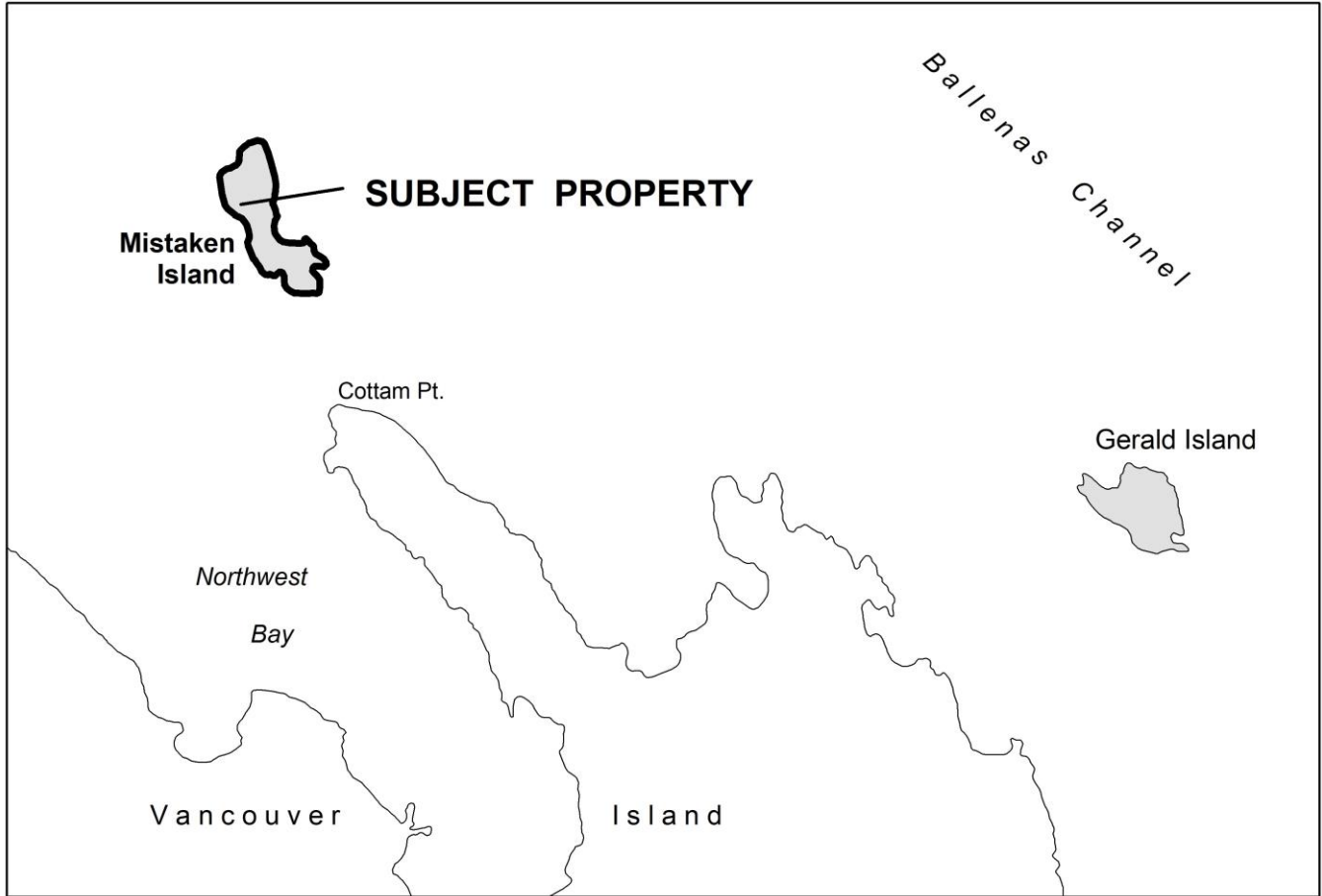
- Section 3.3 (3) which states that “buildings and structures, including a fence, or a pump/utility house shall not be sited within **15 metres** (50 feet) of the natural boundary of the sea” is varied to permit the renovation and addition of an existing cabin to be within 10.4 metres of the natural boundary of the sea.

The 12.95 ha (32 ac) in area subject property makes up the entirety of Mistaken Island in the Ballenas Channel. The property contains two dwellings; a cabin built in 1956, and a summer cottage built in 1964. The proposed addition and renovation to the 1956 cabin would involve relocating the cabins foundation approximately 4 meters to the east and 2 meters to the south. This proposed location would be 2.5 meters further from the natural boundary of the sea than the existing cabin location. The addition would increase the total floor area of the cabin by 34.5 sq m or 371 sq ft through the addition of a loft and screened porch area.

The applicant has chosen this location to limit tree and vegetation removal since the area was previously disturbed. Three identified danger trees would be required to be removed for building construction. Relocating the build outside of the 15 meter natural boundary setback and the 30 meter shoreline development permit area would require more extensive vegetation and tree removal to the native habitat.

A copy of the notice and proposed permit SS-DVP-2024.1 (Walker) are attached as Attachment 3 and 4.

Figure 1 – Subject Property Map



ANALYSIS

Policy/Regulatory

Section 498 of the *Local Government Act* enables the Local Trust Committee to approve a DVP in order to vary a siting regulation in the LUB. A DVP may not be used to vary density or land use. In this case a variance to siting regulations is being sought.

Official Community Plan (OCP)

The property is designated Residential (R) in the Ballenas-Winchelsea OCP. The property is located in the Shoreline Development Permit Area and the applicant has applied for a Development Permit (EX-DP-2024.1) for the proposed construction.

Land Use Bylaw

The property is zoned Residential (R) in the LUB. The proposed building construction meets the maximum size requirements, and the lot density requirements. The proposed work will require a building permit prior to construction commencing.

Issues and Opportunities

Rational for Variance

The applicant's rationale for the variances are:

- Original building was constructed in 1956 prior to natural boundary setback requirement.
- New addition and renovation would increase the distance of the building's location from the natural boundary of the sea.
- Location selected would use existing disturbed and cleared area to preserve the trees and ecosystem as much as possible.

Intent of Regulations being varied

The overall purpose of the setback to the natural boundary of the sea regulation is to minimize impacts on adjacent properties and the public realm related to:

- Protecting marine, foreshore, and nearshore habitats;
- Protection of development from natural hazards, particularly with sea level rise and increased storm surges;
- Limiting the visual impact of development on adjacent properties;
- Protection of views, scenic areas, and distinctive features contributing to the overall quality and scenic value of the Trust Area;
- Establishing a consistent development pattern within a local area;
- Public access;
- Establishing certainty with respect to residential development by maintaining consistent siting regulations.

Potential Impacts of Granting the Variances

Granting a variance can potentially create an expectation in the community with regard to future applications. As variances consider the unique circumstances pertaining to a particular situation that may warrant the relaxation of a specific zoning regulation, each application should be evaluated on its own merits.

Circulation

DVP notices were circulated to surrounding property owners and residents on June 7, 2024. The notification period ended on June 17, 2024

At the time of writing staff have received no written submissions in response to the notification. Any submissions received after the agenda deadline but prior to the LTC meeting will be forwarded to Trustees, the applicant, and will be reported at the meeting.

First Nations

The Islands Trust reviews all application to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, to provide applicants with awareness regarding unknown archaeological areas, staff forwarded the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on Heritage Act directly to the applicants with the initial application.

Rationale for Recommendation

Staff is recommending that the resolution on page 1 be supported for the following reasons:

- The rationale for the variance is reasonable.
- Impacts on neighbouring properties from approval of the variance would not be significant.
- Minimizing impacts on the natural environment is the primary objective with the proposed siting.
- The proposed variance do not challenge the intent of the regulation.
- At the time of writing, there has been no response to the notification.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) request that the applicant submit to the Islands Trust

2. Amend and Approve

The LTC may opt to make amendments to the permit as circulated provided the amendments *do not* allow further encroachments. Recommended wording for the resolution is as follows:

That the Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) amend application EX-DVP-2024.1 (Walker) as follows: _____; and,

That the Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) approve application EX-DVP-2024.1 (Walker) as amended.

3. Deny the application

The LTC may deny the application. If this alternative is selected, the LTC should state the reasons for denial.

Recommended wording for the resolution is as follows:

That the Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) refuse application EX-DVP-2024.1 (Walker).

Submitted By:	Bruce Belcher, Planner 1	May 28, 2024
Concurrence:	Chris Hutton, Regional Planning Manager	Select Date.

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. Notice
4. Draft Development Variance Permit

ATTACHMENT 1 – SITE CONTEXT

LOCATION

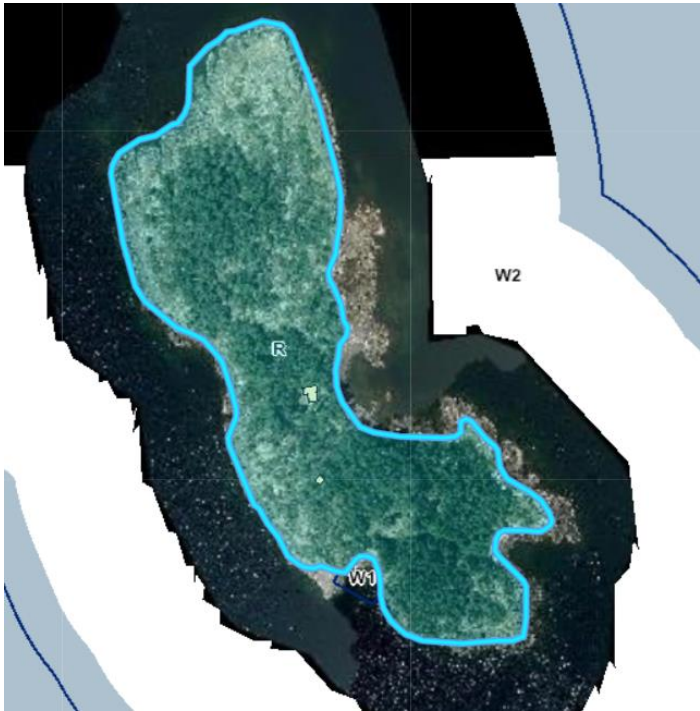
Legal Description	DISTRICT LOT 95, NANAIMO DISTRICT (KNOWN AS MISTAKEN ISLAND)
PID	009-777-261
Civic Address	10 Mistaken Island, Nanoose Bay, BC V9P 9B6
Lot Size	12.95 ha (32 ac)

LAND USE

Current Land Use	Two Dwellings
Surrounding Land Use	Residential / Marine General

POLICY/REGULATORY

<p>Official Community Plan Designations</p>	<p>Residential – R in the Ballenas-Winchelsea Islands Official Community Plan No. 27, 2013</p> <p>Shoreline Development Permit Area</p>  <p>■ Shoreline</p>
---	--

Land Use Bylaw	<p>Residential Zone in the Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013</p> <p>Zoning</p> 
Other Regulations	N/A
Covenants	N/A
Bylaw Enforcement	N/A

SITE INFLUENCES

Islands Trust Conservancy	The application has no considerations for the Islands Trust Conservancy
Regional Conservation Strategy	The Ballenas-Winchelsea LTA has a low conservation priority identified in the Regional Conservation Plan 2018-2027
Species at Risk	None listed
Sensitive Ecosystems	Herbaceous, Woodland

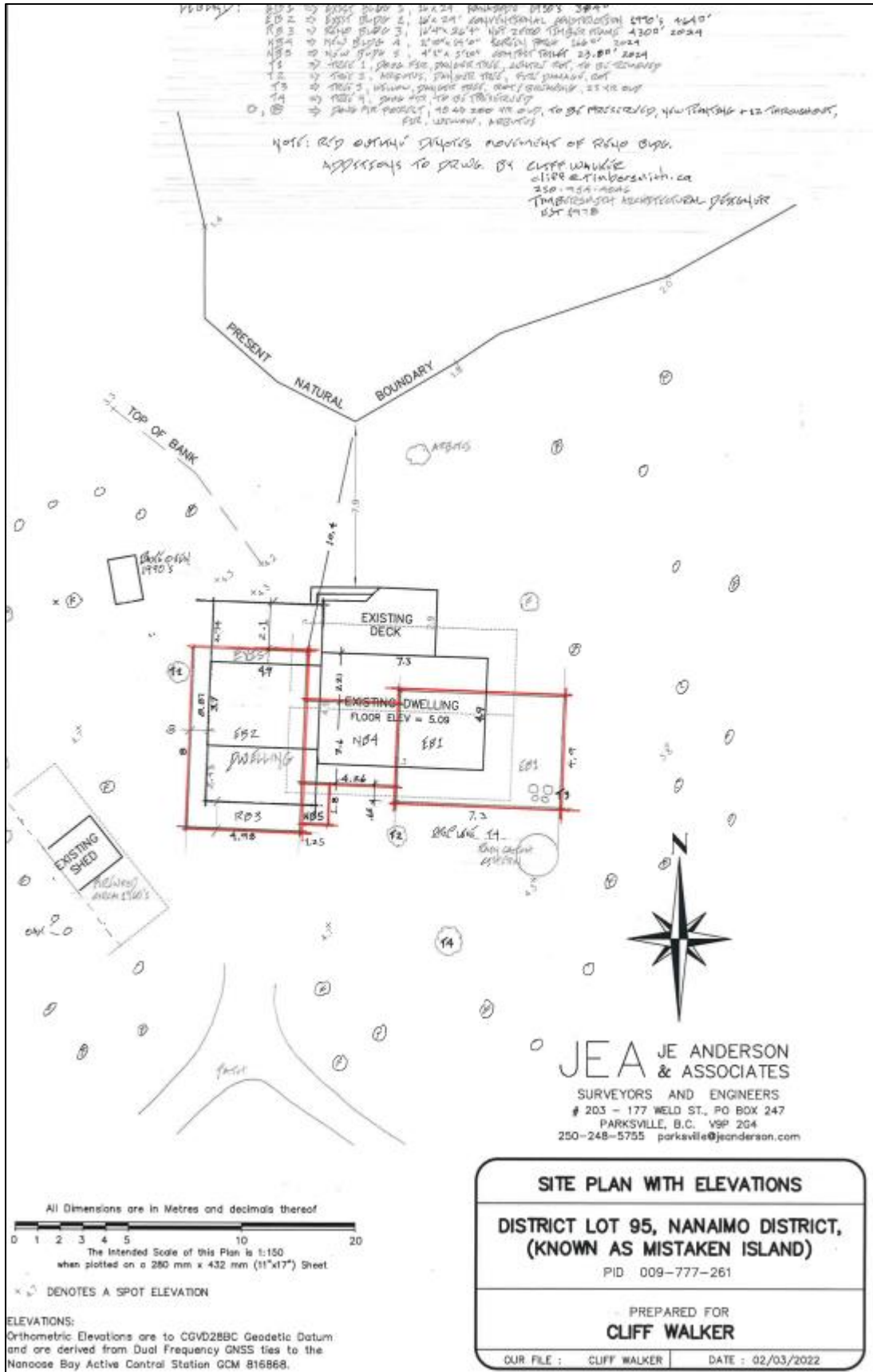
	 <p data-bbox="578 915 760 999"> ■ Herbaceous ■ Woodland </p> <p data-bbox="558 1014 906 1047"><i>Sensitive Ecosystem Mapping</i></p>
Hazard Areas	None
Archaeological Sites	None
Climate Change Adaptation and Mitigation	GHG emission changes are linked to allowable density on the property and will not change with approval of the DVP and DP
Shoreline Classification	Low Rock Boulder, Cliff

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS

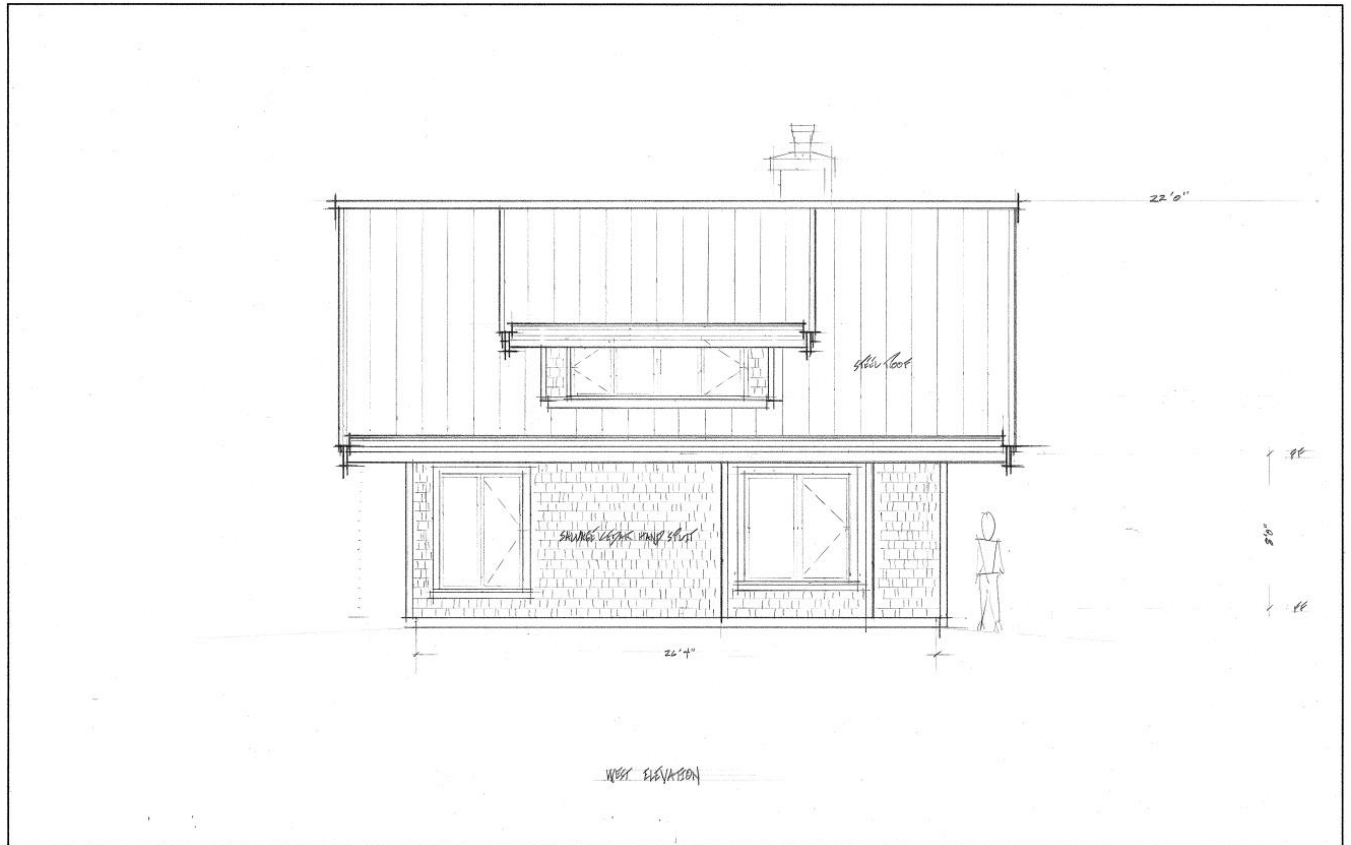
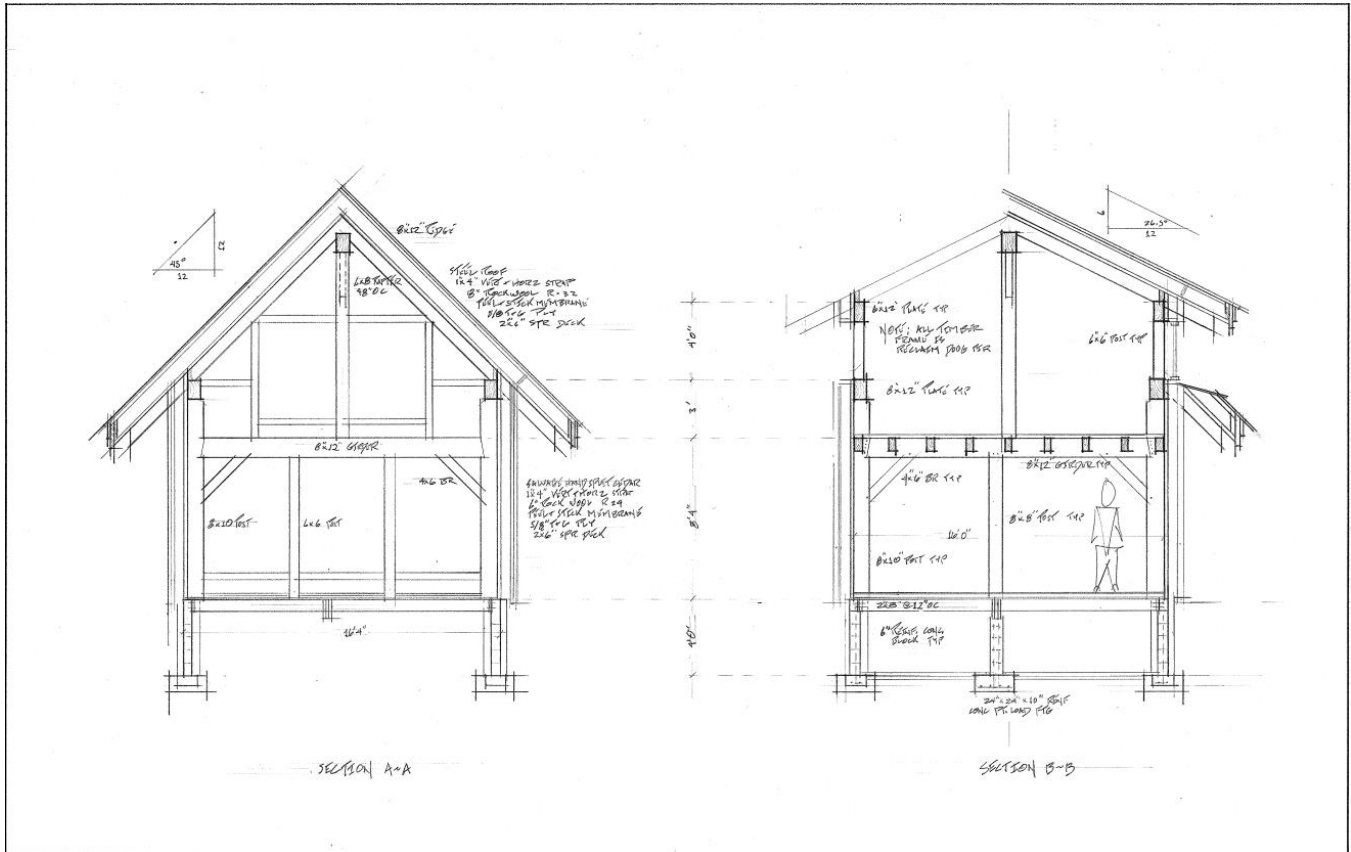
2.1 TWO METRE CONTOURS



2.2 SURVEY PLAN



2.3 BUILDING PLANS



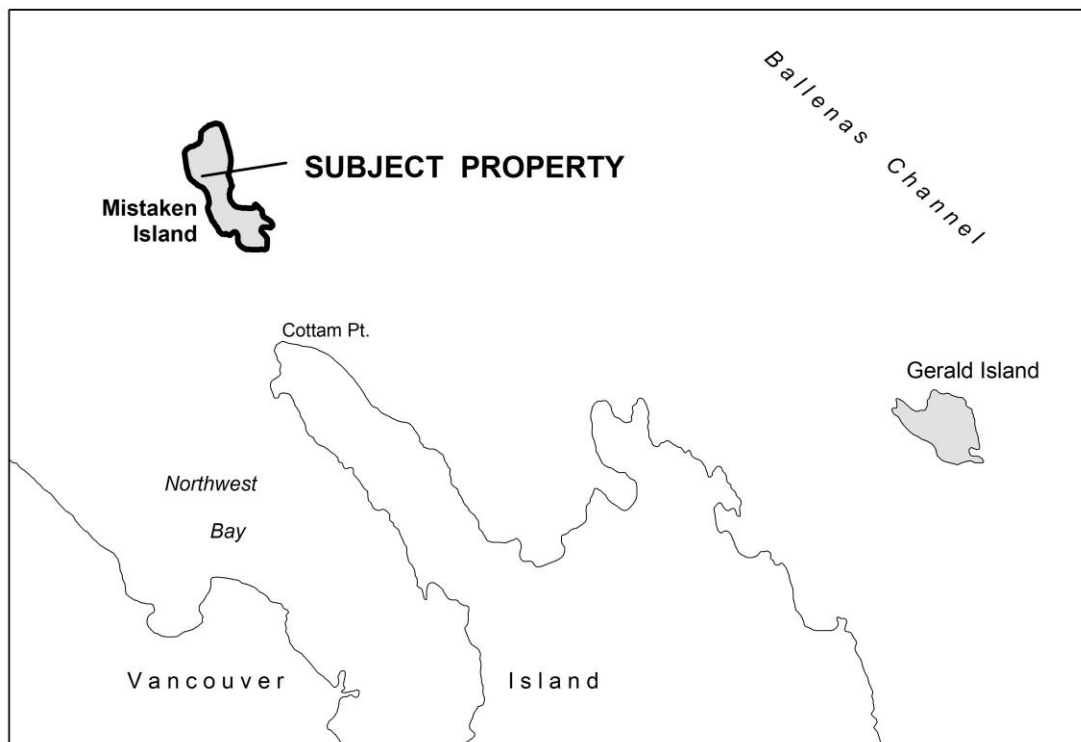
NOTICE
EX-DVP-2024.1
BALLENAS-WINCHELSEA ISLANDS LOCAL TRUST COMMITTEE

NOTICE is hereby given pursuant to Section 499 of the *Local Government Act* that the Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) will be considering a resolution allowing for the issuance of a Development Variance Permit, the proposed permit would vary the Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013 by:

- Varying the 15 meter minimum setback from the natural boundary of the sea to permit a renovation and addition to an existing dwelling within 10.4 metres of the natural boundary of the sea.

The property is located at **10 Mistaken Island, Nanoose Bay, BC** and is legally described as DISTRICT LOT 95, NANAIMO DISTRICT (KNOWN AS MISTAKEN ISLAND) (PID: 009-777-261).

The general location of the subject property is shown on the following sketch:



A copy of the proposed permit may be inspected at the Islands Trust Office, 1-500 Lower Ganges Road, Salt Spring Island, BC V8K 2N8 between the hours of 8:30 a.m. to 4:30 p.m. Monday, Tuesday, Wednesday and Friday inclusive, excluding statutory holidays, commencing **June 7th** and continuing up to and including **June 17th**.

Enquiries or comments should be directed to Bruce Belcher, Planner 1 at (250) 405-5179, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 660-2421 and elsewhere in BC 1-800-663-7867; or by fax (250) 405-5155; or by email to: ssiinfo@islandstrust.bc.ca before 4:30 pm, **June 17th**.

The Executive Committee acting as a Local Trust Committee (Ballenas-Winchelsea Islands) may consider a resolution allowing for the issuance of the permit during the business meeting on **June 18, 2024** starting at **9:00 am** at the Harbour House Hotel, 121 Upper Ganges Rd, Salt Spring Island.

All applications are available for review by the public with prior appointment. Written comments made in response to this notice will also be available for public review.

Rob Pingle, Deputy Secretary



Islands Trust

BALLENAS-WINCHELSEA ISLANDS LOCAL TRUST COMMITTEE
DEVELOPMENT VARIANCE PERMIT
EX-DVP-2024.1

To: Clifford Wesley Walker & Susan Marion Miller

1. This Development Variance Permit applies to the land described below:

DISTRICT LOT 95, NANAIMO DISTRICT (KNOWN AS MISTAKEN ISLAND)
(PID: 009-777-261)

2. Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013 is varied as follows:

- a) Subsection 3.3 (3) which states that *Buildings or structures, including a fence, or a pump/utility house, shall not be sited within 15 metres (50 feet) of the natural boundary of the sea* is varied to permit the construction of a dwelling within 10.4 metres of the natural boundary of the sea.

The development shall be consistent with Schedule 'A' which is attached to and form part of this permit.

3. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013" and to obtain other approvals necessary for completion of the proposed development, including approval of the Regional District of Nanaimo and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE EXECUTIVE COMMITTEE ACTING AS A LOCAL TRUST COMMITTEE (BALLENAS-WINCHELSEA ISLANDS) THIS ##th DAY OF [MONTH], [YEAR].

Deputy Secretary, Islands Trust

Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ##th DAY OF [MONTH], [YEAR (2 YEARS FROM DATE OF ISSUANCE)] THIS PERMIT AUTOMATICALLY LAPSES.

