



File No.: GL-RZ-2021.2
(Matheson/Bairstow)

DATE OF MEETING: July 11, 2023
TO: Galiano Island Local Trust Committee
FROM: Kim Stockdill, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: District Lot 86 Rezoning Application – Staff Report
Applicant: Corinne Matheson and Wayne and Ed Bairstow
Location: District Lot 86 Galiano Island Cowichan District

RECOMMENDATION

1. That the Galiano Island Local Trust Committee direct staff to proceed with application GL-RZ-2021.2 (Matheson/Bairstow) including preliminary engagement with First Nations.

REPORT SUMMARY

The purpose of this staff report is to provide information regarding rezoning application GL-RZ-2021.2 (Matheson/Bairstow) and to seek direction from the Galiano Island Local Trust Committee (LTC).

The application would amend the Galiano Island Land Use Bylaw No. 127, 1999 (LUB) by rezoning the subject property from **Forest 1 (F1)** to a combination of **Forest 3 (F3)**, **Rural Residential (RR)** and **Nature Protection (NP)**. The proposal would also require subdivision to create five new lots.

The above recommendation is supported as:

- The property owner has demonstrated a willingness to collect the additional information and amend their proposal to support LTC's decision-making
- Directing staff to proceed with the application will enable staff to begin preliminary engagement with First Nations as a first step to determining the viability of the proposal or other potential options.

BACKGROUND

A rezoning application for the approximately 38.8 hectare subject property was received on August 23, 2021. The property owners seek to rezone the property from **Forest 1 (F1)** to a combination of **Forest 3 (F3)**, **Rural Residential (RR)** and **Nature Protection (NP)**.

The subject property is located at the north end of Galiano Island (Figure 1). There is one illegal dwelling on the property that is subject to bylaw enforcement file GL-BE-2019.16. Adjacent land uses include Dionisio Park to the north (DL 92), Therah Village Community to the east (DL 91), and F1 zoned lots to the south. DL 85 is privately owned and a rezoning application has been submitted to rezone the F1 zoned property. DL 87 is provincial Crown land.

A preliminary staff report was presented to the previous Galiano LTC at the December 6, 2021 meeting. The LTC passed the following resolutions:

GL-2021-101

It was Moved and Seconded,

that the Galiano Island Local Trust Committee direct staff to proceed with GL-DVP-2021.2 (Gaylor) and further investigate road and lot layout with potentially effective government agencies and First Nations, in particular considering OCP Transportation Policy S.

CARRIED

GL-2021-102

It was Moved and Seconded,

that the Galiano Island Local Trust Committee ask staff to bring the 1995 Heritage Forest Bylaw Official Community Plan provisions (Bylaw 108) back to the Local Trust Committee to be reviewed for consistency.

CARRIED

GL-2021-103

It was Moved and Seconded,

that the Galiano Island Local Trust Committee seek early consultation and engagement with First Nations on GL-RZ-2021.2 (Gaylor), particularly the Penelakut, regarding cultural heritage sites on DL86.

CARRIED

Staff reported back at the September 6, 2022 Galiano LTC meeting seeking direction on how to proceed with the application. As the Galiano LTC decided to proceed no further with rezoning application for District Lot (DL) 85, the LTC passed the following resolution to defer DL 86's rezoning application:

GL-2022-097

It was Moved and Seconded,

that the Galiano Island Local Trust Committee defer application GL-RZ-2021.2 (Gaylor) to the September 27, 2022 LTC meeting.

CARRIED

Attachment 1 provides additional site context. Attachment 2 provides relevant maps and ortho-photos.

ANALYSIS

Application Proposal

The rezoning proposal is to create five new lots (through subdivision at time of rezoning adoption) with three lots zoned Rural Residential, one lot zoned as Forest 3 (F3), and the remainder zoned to Nature Protection (NP) via land transfer.

A cover letter provided by the applicant (Attachment 3) provides an updated proposal outlining two different subdivision layouts for the LTC's consideration. Both options would create the same number of lots, but the configuration and size of the RR zoned lots differ. Issues with the two options are that the Forest 3 lot and one of the Rural Residential lot does not meet the minimum lot size.

A third option proposed by staff is to rezone and subdivide the subject property into:

- One F1 zoned lot with a lot area of 20 ha

- Two RR zoned lots with a lot area of 2.1 ha each
- One site-specific Small Lot Residential zoned lot with a lot area of 1.2 ha, and a restriction to only permit one dwelling (a cottage would not be permitted) on the lot. By rezoning this lot to the SLR zone, the minimum and average lot size would be met. The sale of this lot would then be donated to an affordable housing society on Galiano Island

The third option would transfer 77 percent of the property (13.05 for NP zoned lot and road, and for the 1.2 ha SLR lot) and the property owners would create two RR zoned 2.1 ha lots at 23 percent.

Figure 1. Location of Subject Property

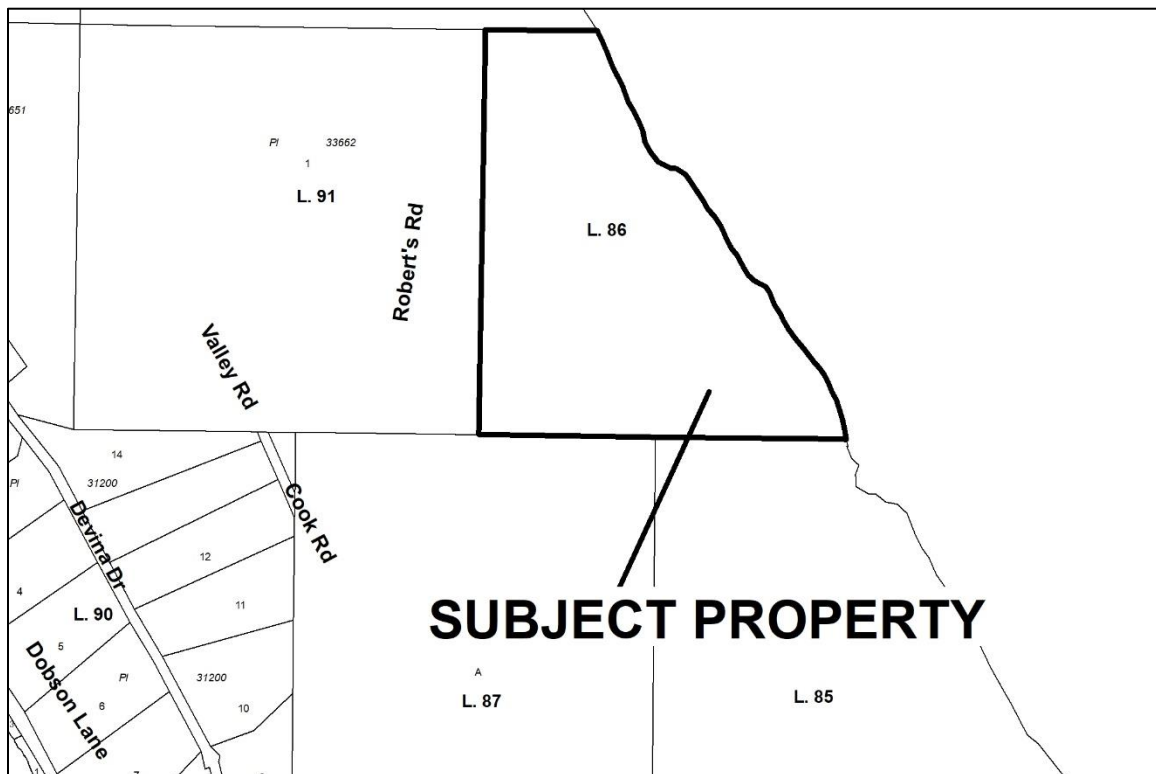


Figure 2 – Option 1

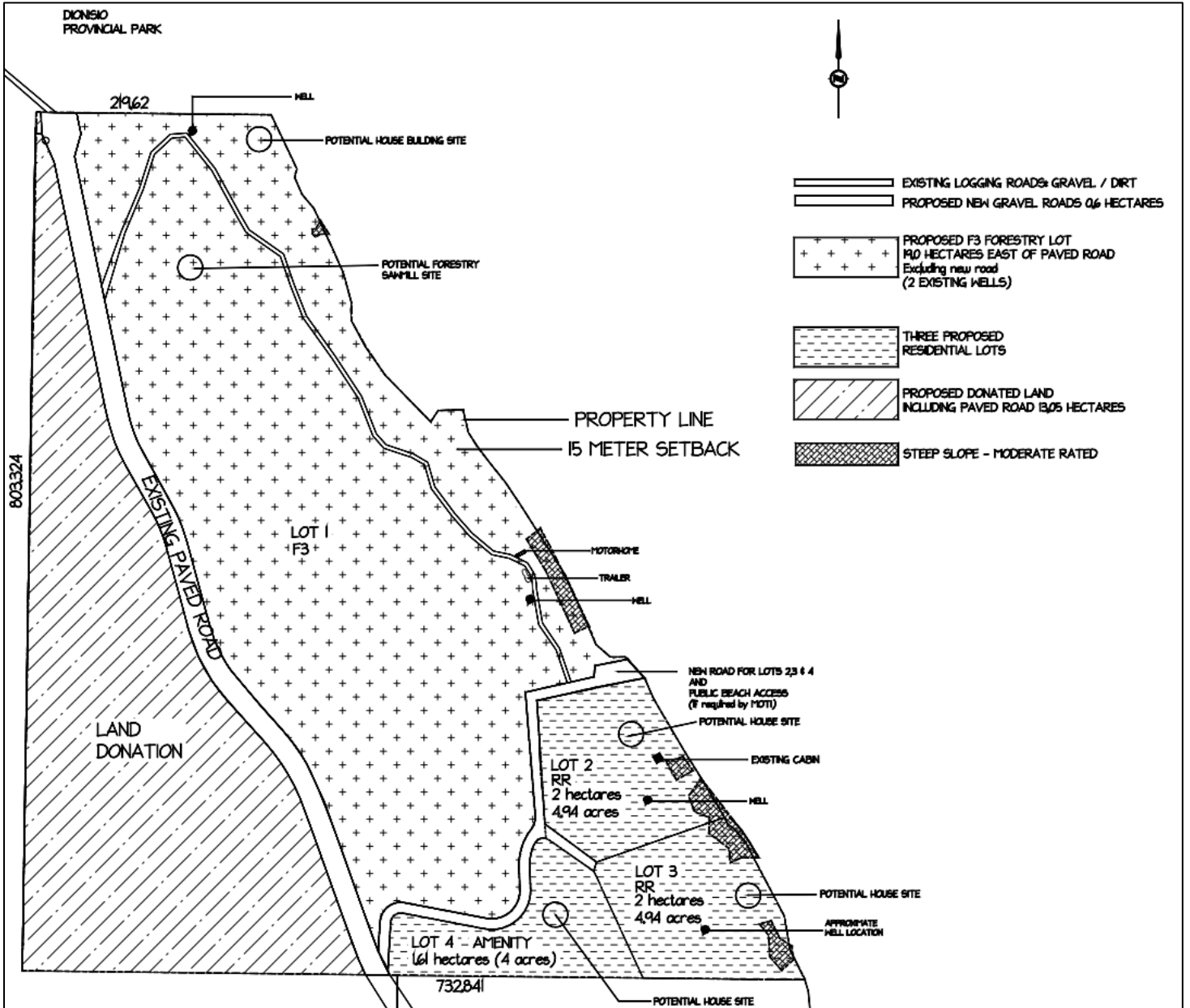
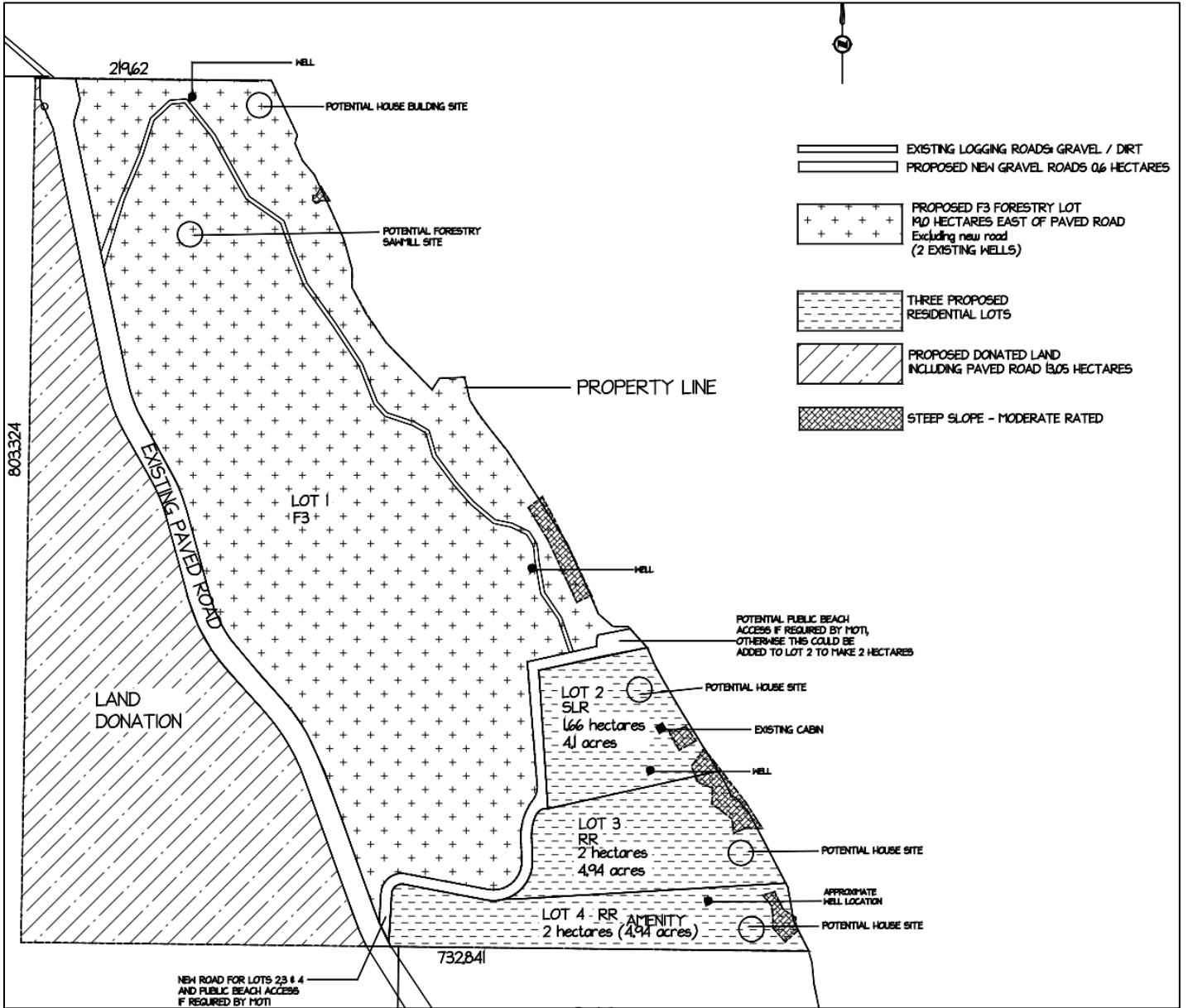


Figure 3 – Option 2



Policy/Regulatory

Official Community Plan

The OCP land use designation for the subject-property is currently **Forestry**. A OCP amending bylaw will be required to change the land use designation for portions of the property.

Lot 1 - Forest 1 to Forest 3 Rezoning

The applicant is proposing to create one ~22.45 hectare F3 zoned lot. OCP Forest Policy b)ii) states that:

Land whose owner grants to the Silva Forest Foundation and the Local Trust Committee or any other covenantee satisfactory to the Local Trust Committee a covenant to manage the land in accordance with sustainable forest practices and prohibiting subdivision of the land into lots less than 20 hectares (49.4 acres), may be rezoned to permit one accessory dwelling per 20 hectares (49.4 acres) if the lot complies with Land Transportation Policy o). The location of the dwelling and any accessory buildings or structures must be selected to minimize their impact and the impact of related services on the forest, and the land use bylaw amendment must specify the location of the buildings.

As proposed, the application is consistent with this Forestry policy, including compliance with Land Transportation Policy o). The applicant will also be required to establish a **developable area** on the F3 lot with the location selected to minimize impact.

Subject to further clarification of details, the property owner has also indicated a willingness to enter into a sustainable forestry covenant with the LTC and a 3rd party covenant holder. The covenant would restrict forest activities based on a Sustainable Forestry Management Plan that includes consideration of sensitive species and habitats identified in a baseline report.

With respect to a 3rd party covenant holder, staff have advised the applicant to contact the Galiano Conservancy as a starting point, should LTC decide to proceed.

Proposed Rural Residential Lots

Although there are no specific OCP forestry policies with respect to the transfer of at least 75% of land in exchange for the remaining 25% to be rezoned to **RR** with a minimum average 2.0 hectare lot size, there are site specific instances in the OCP rural residential policies where LTC has approved rezoning under these terms (RR OCP Policies 1.4 e, f and g).

Nature Protection Lot

The 12.35 hectare portion of the subject property west of the existing paved access is proposed to be designated **Nature Protection**. Staff have engaged with BC Parks to discuss the potential transfer of lands to expand Dionisio Park and to provide public road access to the park, which is currently designated a marine access only park. At that time, BC Parks is reluctant to consider a land transfer given local First Nations have expressed interest in receiving the lands.

Staff is in the process of meeting with the Penelakut First Nation staff and council to discuss the option of land transfer, similar to District Lot 85's rezoning application. The land may also be transferred to other Nations if

interested is expressed. Staff are aware that discussion is required between Nations to determine who receives the land transfer for this application, and future potential applications.

Land Use Bylaw

The subject property is currently zoned **F1** in the LUB. The Permitted uses in this zone are:

- Timber production and harvesting
- Accessory forestry uses including the sawmilling and planing of timber harvested on the same lot and the growing of seedlings in nurseries

For Lot 1, rezoning to **F3** would permit:

- Timber production and harvesting
- Dwellings accessory to timber production and harvesting uses and home occupations, on lots having an area of 20 hectares and more and highway access as defined in subsection 17.1.16
- Accessory forestry uses including the sawmilling and planing of timber harvested on the same lot and the growing of seedlings in nurseries

Based on the minimum rezoning requirement of one accessory dwelling per 20 hectares, rezoning from F1 to F3 would allow for up to one dwelling along with permitted accessory uses that do include an accessory cottage.

For lots zoned Rural Residential, the following uses would be permitted on each lot:

- One dwelling (with no maximum floor area) and one accessory cottage with a maximum floor area of 80 m² (to be located within pre-defined **developable areas** determined at time of rezoning)
- Home occupations
- A secondary suite (if no accessory cottage is already built on the lot)

Road Access

As stated in the applicant's letter dated June 26, 2023, the applicants have met with Penelakut First Nation Chief and Council regarding transfer land to the Nation. The letter states that the main issue discussed beyond their acquisition of the land is creation of a public road that would access Dionisio Park. The Penelakut Chief and Council expressed a desire to keep vehicle traffic restricted by gating access to DL85 and DL86. Further discussions are required between the Ministry of Transportation and Infrastructure, BC Parks, First Nations, and future property owners regarding access restrictions.

Community Benefit – Amenity Lot

As a condition of rezoning a F1 lot to Rural Residential lots (25 percent of land) and transfer 75 percent of the land for conservancy, a community benefit is requested. This has been addressed by transferring at least 75 percent of the land to nature conservancy, park or to a First Nation, and also donating a residential lot for affordable housing. Due to the location of the subdivision at the north end of Galiano away from services and ferry access, a donation of the sale of a residential lot to an affordable housing society on Galiano Island would be recommended.

The applicant is also requesting the LTC consider a portion of the funds to be donated to the following non-profit societies on Galiano:

- The North Galiano Fire Protection Society

- The Galiano Health Care Society
- One or more Galiano affordable housing organisation(s)

Consultation

Statutory Requirements

In accordance with regular statutory requirements, a public hearing is required and it is normal practice to hold a Community Information Meeting (CIM) prior to that. With direction from LTC, these would be scheduled either separately or concurrently after draft bylaws are complete, reviewed and have received at least First Reading.

Public hearing notice would be posted as per statutory and bylaw requirements in advance of a public hearing.

Agencies

Staff have identified the following agencies for bylaw referral; the LTC may direct staff to include other agencies not listed. The LTC may also choose to refer the proposal to the Galiano Island Advisory Planning Commission.

- Ministry of Transportation and Infrastructure
- BC Parks
- Island Health
- CRD, Building Inspection Services
- CRD, Galiano Island Parks and Recreation Commission
- Galiano Trails Society
- Galiano Island Fire Rescue – North Department
- Mayne Island Local Trust Committee
- Thetis Island Local Trust Committee
- Salt Spring Island Local Trust Committee

First Nations

Staff have identified the following First Nations for bylaw referral:

- Stz'uminus First Nation
- Lake Cowichan First Nation
- Halalt First Nation
- Lyackson First Nation
- Penelakut Tribe
- Semiahmoo First Nation
- Pauquachin First Nation
- Tsartlip First Nation
- Tseycum First Nation
- Cowichan Tribes
- Tsawwassen First Nation
- Tsawout First Nation
- Musqueam Indian Band
- WSANEC Leadership Council
- Coast Salish Peoples of Galiano
- Georgeson Family of Galiano

Terms of Reference

A TOR for this application has been provided to the applicant and is included for LTC's reference as Attachment 4. The TOR is consistent with the Galiano Island Development Approval Information Bylaw No. 148 (DAI Bylaw) and provides specific guidance on application requirements and considerations including:

- Provision of a professionally prepared site plan including identification of **developable areas** for each of the proposed Rural Residential lots with residential uses (developable area includes the area required for the dwelling, accessory buildings and structures, well, septic field, driveways and parking areas)
- Provision of a professionally prepared groundwater report demonstrating proof of water to meet the residential potable water standard of 2275 litres/day for each of the three proposed lots with residential uses;
- Provision of a professionally prepared septic disposal report confirming septic viability and proposed siting for each of the three proposed lots with residential uses;
- Provision of a professionally prepared Ecological Overview and Forestry covenant baseline reports;
- Development Permit Area requirements;
- Road dedication requirements including the potential need for a variance to section 13.7 of the Galiano Island Land Use Bylaw No. 127 (LUB); and,
- Information with respect to potential for archaeological material.

Rationale for Recommendation

Based on the foregoing, the recommendation on page 1 is supported as:

- The property owner has demonstrated a willingness to collect the additional information and amend their proposal to support LTC's decision-making
- Directing staff to proceed with the application will enable staff to begin preliminary engagement with First Nations as a first step to determining the viability of the proposal or other potential options.

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.

Resolution:

That the Galiano Island Local Trust Committee request that the applicant submit to the Islands Trust

_____.

2. Deny the application

The LTC may deny the application.

Resolution:

That the Galiano Island Local Trust Committee proceed no further with application GL-RZ-2021.2 (Matheson-Bairstow).

NEXT STEPS

With direction from the LTC, Staff will:

- Draft letter for preliminary engagement with First Nations
- Finalize site plan
- Further direct the applicant to complete the requirements of the TOR

Submitted By:	Kim Stockdill, Island Planner	July 4, 2023
Concurrence:	Robert Kojima, Regional Planning Manager	July 4, 2023

ATTACHMENTS

1. Site Context
2. Maps, Ortho-photos
3. Cover Letter from applicant
4. Plan 1
5. Plan 2
6. DAI Letter - Terms of Reference

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	District Lot 86, Galiano Island, Cowichan District
PID	008-015-961
Civic Address	DL 86, Cook Road, Galiano Island
Lot Size	38.45 hectares (95 acres)

LAND USE

Current Land Use	Forest 1
Surrounding Land Use	Forest 1, Rural 2, Marine, Park, Marine Park

HISTORICAL ACTIVITY

File No.	Purpose
GL-RZ-2008.1	Rezoning to amend OCP and to rezone properties to RR and FH with policy amendment to consider BC Parks as eligible to hold FH zoned land as Park. DLs 79, 85, 86 and 87. LTC directed to proceed no further in March, 2009.
GL-SUB-1993.15	Subdivision to residential – did not proceed

POLICY/REGULATORY

Official Community Plan Designations	Galiano Island OCP No. 108, 1995 Designations: Forest (F)
Land Use Bylaw	Galiano Island LUB No. 127, 1999: Forest 1
Other Regulations	None
Covenants	None
Bylaw Enforcement	GL-BE-2019.16 – Unlawful dwelling

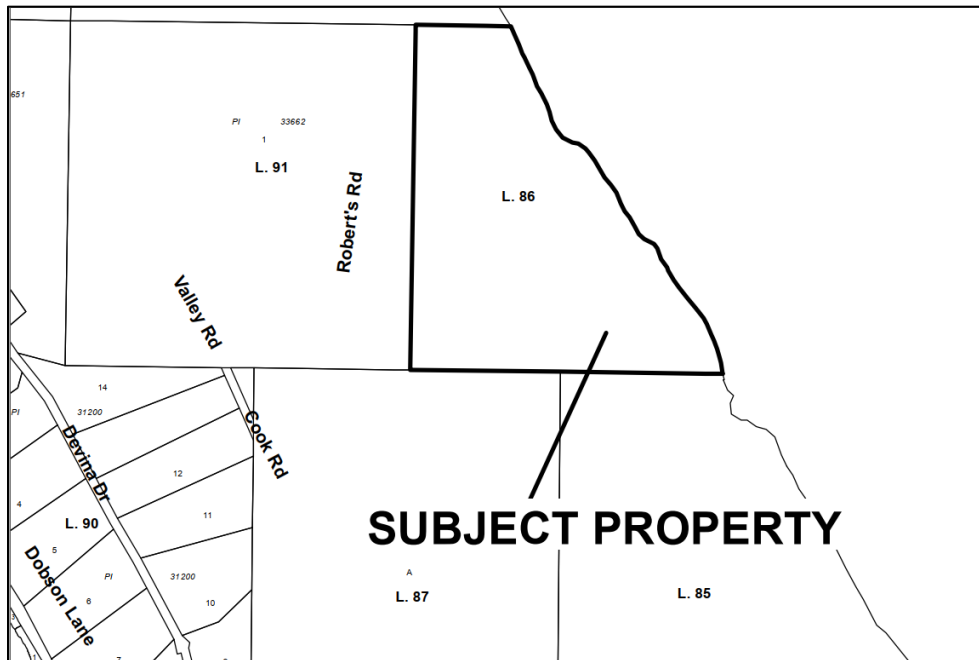
SITE INFLUENCES

Islands Trust Conservancy	There are no Islands Trust Conservancy covenants or properties in the direct area; therefore no referral has been made to the Board.
Regional Conservation Strategy	The proposal does not impact the objectives and priorities of the Islands Trust Conservancy regional conservation plan.
Species at Risk	Raptor nest near potential building sites on proposed lots 2 and 3, a second raptor nest in area proposed to be donated to BC Parks
Sensitive Ecosystems	Property is largely predominantly <i>Young Forest</i> with a narrow band of <i>Mature Forest</i> along the foreshore. The <i>Mature Forest</i> is mostly protected in the 15 m band of DPA 2 – Shoreline and Marine.
Hazard Areas	There are portions of the property identified as Steep Slope Moderate Risk close to or within the proposed developable areas.

Archaeological Sites	<p>There is potential for the presence of archaeological material. Staff have directed the applicant to the following guidelines:</p> <ul style="list-style-type: none"> • All archaeological and cultural heritage is protected under the <i>Heritage Conservation Act</i> and areas of archaeological potential may contain undocumented archaeological sites which would be automatically protected under the <i>Heritage Conservation Act</i> (including all intact or disturbed sites) and require a permit from the BC Archaeology Branch. Further information regarding permits: https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/archaeology/permits. • In the event that archaeological features or materials are found, either intact or disturbed on the subject property, stop work immediately and contact the BC Archaeology Branch at 250-953-3334 or archaeology@gov.bc.ca. • Any impacts, would include the following: landscaping, tree removal, digging, using heavy equipment, development, fencing, footings, or any form of groundwork. • For more information regarding registered archaeological sites and archaeological potential on the subject property, submit an Archaeological Information Request Form: www.archdatarequest.nrs.gov.bc.ca, or contact Islands Trust to access mapping of the subject property.
Climate Change Adaptation and Mitigation	None
Shoreline Classification	Low Rock/Boulder
Shoreline Data in TAPIS	None

ATTACHMENT 2 – MAPS, ORTHO-PHOTOS

2.1 SUBJECT PROPERTY MAP

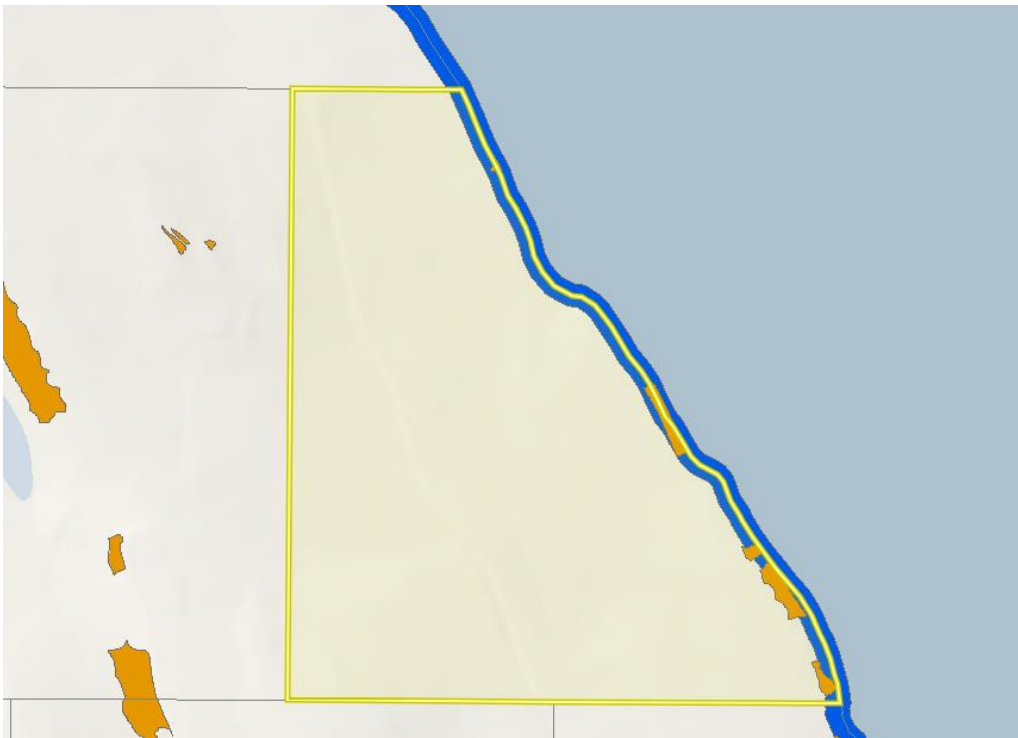


2.2 ZONING AND ORTHO

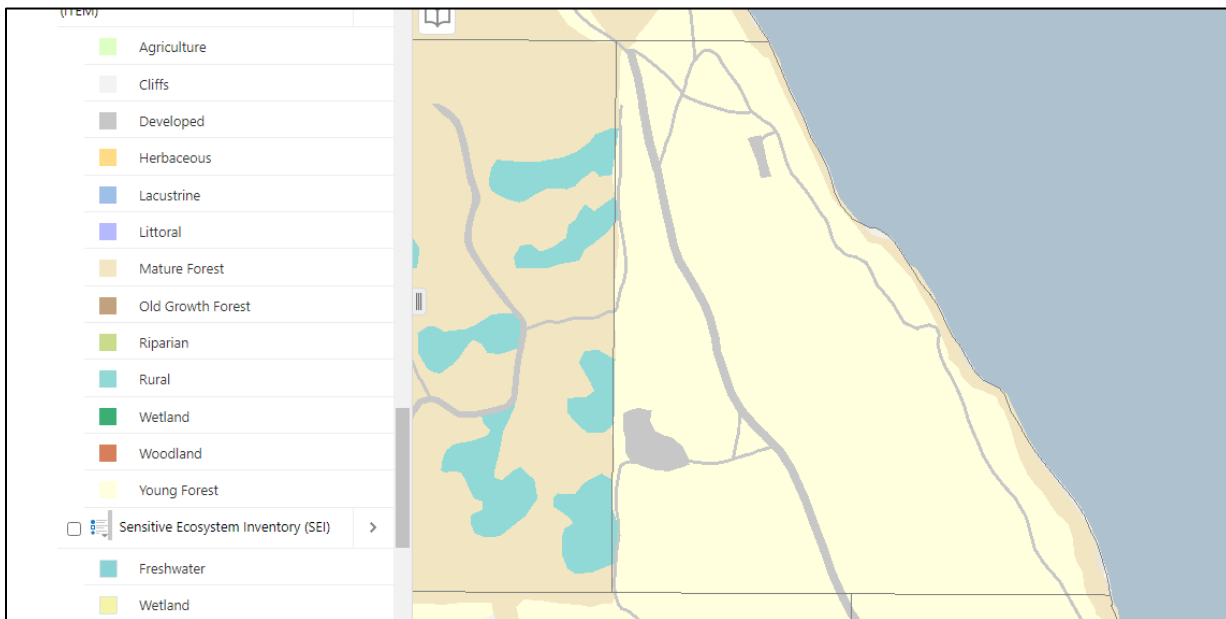


2.3 DEVELOPMENT PERMIT AREAS

DPA 2 (Shoreline and Marine) and DPA 7 (Steep Slope Moderate)



2.4 SENSITIVE ECOSYSTEM MAPPING



June 26, 2023

Attention: Planner Kim Stockdill, Trustee Ben Mabblerley, Trustee Lisa Gauvreau and Trustee Timothy Peterson.

Our file: GL-RZ-2021.2 (Gaylor)

We are providing documents to rezone DL86 from F1 with 38.45 hectares (95 acres), to one F3 lot, and three residential lots which includes the additional residential amenity lot as requested by the Trust planners due to bylaw 215 #1.6b, with the remaining 13.05 hectares of the property to be donated, as per the 25/75 required split for residential lots. To prevent fragmentation of the forest area to be donated, we have taken a 1.61-hectare portion out of the F3 parcel to create the additional RR amenity lot, to keep the RR lots clustered, as proposed by the OCP, thus reducing the F3 portion to 19 hectares.

Our proposal follows the precedent set by DL79 on page 9 of the OCP, which combines F3 and RR lots, and land transferred for the 25/75 split.

We have met with the Penelakut chief and council and entered negotiations for the land donation required for the creation of the Residential lots, to be transferred back to the Penelakut. Currently the Penelakut are our first choice for the recipient of these lands with BC Parks second. The main issue that was discussed beyond their acquisition of the land is that the public foot and bike access will still be allowed to the park. The Penelakut would still like to keep vehicle traffic as is and for DL85 and DL86 to effectively become one gated community. Although some of the owners would prefer to have the gate removed, all owners are happy to grant the Penelakut's wishes. The end location of the gate is still to be decided, but we did discuss moving the gate north of the gravel pit which could benefit the neighbourhood by increasing fire safety by removing the gate off Cook Road and decreasing some travel distance to the park for visitors.

As for the community housing amenity lot, we feel that it is important that this bylaw has not historically been strictly adhered to as written because it is unworkable in many instances. Which states, as far as we can tell, that a portion of any increase in density must be used for affordable housing regardless of if it makes sense. Ours is a good example of this since it is ~30min from the nearest stores. However, at its core the goal is to make it so that people can afford to live on Galiano. There are many things that limit this and many organisations that mitigate those limitations. We would like the Trust to consider, as we believe has happened in the past, that money raised by the sale of the amenity lot go to our choice of one or multiple of the following:

- The North Galiano Fire Protection Society - which would effectively lower the cost of taxes and insurance as well help allow residents to get insurance.
- The Galiano Health Care Society – based on the assumption that money raised could be used to help increase staff to a rate where residents do not have to go off island for regular health visits.
- One or more Galiano affordable housing organisation(s) to help further their projects.

We have provided two options for fundraising lot, the first being a non-waterfront lot. The layout is the same as what we originally proposed, with this lot coming out of the original F3 portion south of the proposed new road to access the two waterfront RR lots. This plan is labeled Option 1.

Option 2 creates three oceanfront residential lots, (not including the F3). If the Trust agrees that this is the best use of the land, some of the additional revenue from the sale of an ocean front lot could be used to increase the donation to local charitable organizations.

We would like guidance on how much of a monetary donation is equitable based on the increase in density given that we have a permitted nonconforming cabin already on the property as well as established precedent. This should be a calculation and not based on the sale of a single property of unspecified size as doing so could allow the sale to a friend to be at a low market value, could encourage limiting work to enhance the land for sale, or could be unequitable in many other ways. We feel that not providing documented guidance for this in the OCP could and maybe already has led to unequitable rezoning applications. Not only might some Trustees be more favorable to applicants, intentionally or subconsciously, but those applicants that are not comfortable with negotiating will be unfairly affected as well.

For your convenience we have attached some documents and have also attached four pages of signatures of residents and visitors that have read or listened to and approved of our plans for the subdivision. Most of the visitors we met on our private paved road that goes to Dionisio Point Provincial Park while pulling invasives such as broom.

Please find attached documents:

1. [2021-12-06 – Preliminary Staff Report.pdf](#): Old staff report for reference.
2. [DL86 Eco_Baseline_Report.pdf](#): Ecological baseline report
3. [DL86 Groundwater Evaluation.pdf](#): Groundwater Evaluation Report
4. [DL86 LiDAR contours.pdf](#): Contour map via McElhanney Engineering
5. [DL86 LIDAR image.pdf](#): Image map via McElhanney Engineering
6. [McElhanney DL86 2022 plan.pdf](#): Original Proposal via McElhanney Engineering
7. [F1 lot Rezoning Options.pdf](#): Rezoning options for F1 lots from Trust Bylaw
8. Proposal support documents
 - a. [Schedule A Application signed.pdf](#): Schedule A Declaration
 - b. [Support signatures Residents 1.pdf](#): Galiano resident support
 - c. [Support signatures Residents 2.pdf](#): Galiano resident support
 - d. [Support signatures Visitors 1.pdf](#): BC resident visitor support
 - e. [Support signatures Visitors 2.pdf](#): BC resident visitor support

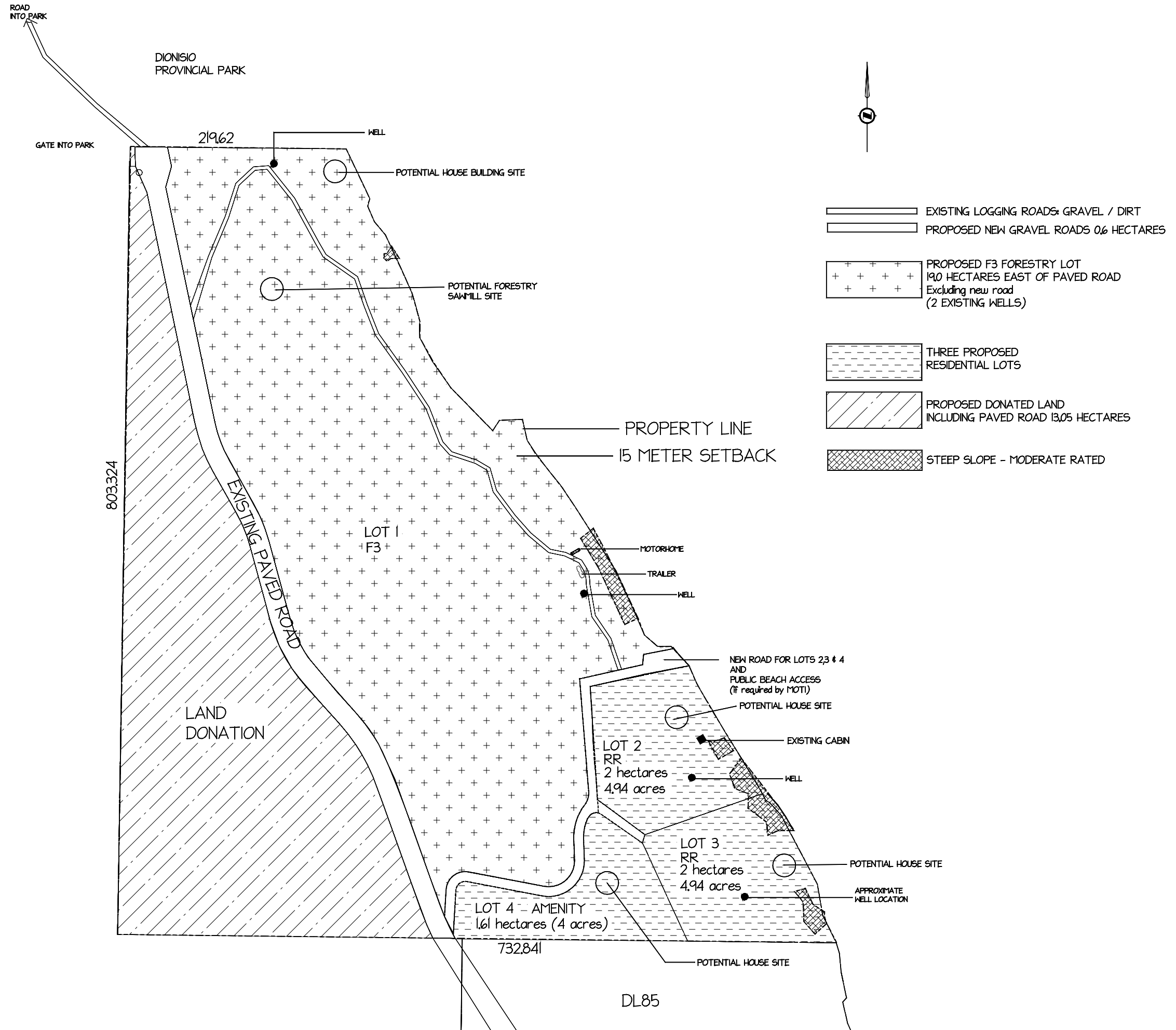
Thanks for the work you do to make the island work for the majority while not hurting the minority,

Corinne Matheson, Wayne Bairstow, and Garth Bairstow

DISTRICT LOT 86 GALIANO ISLAND
 COWICHAN DISTRICT
 PID : 008-015-961
 38.45 HECTERS (95 ACRES)

SUBDIVISION PROPOSAL
 OPTION ONE

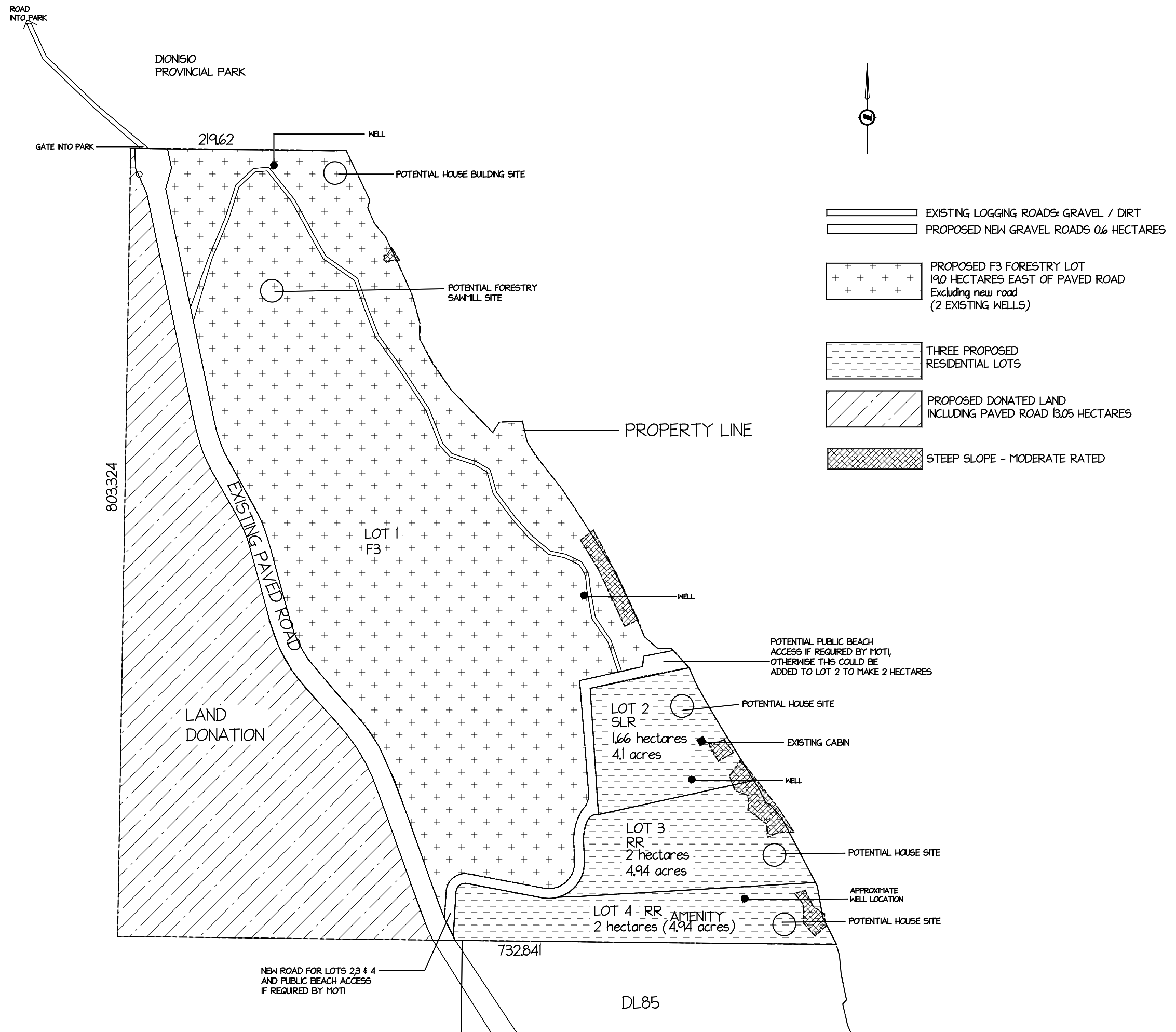
NOTE : WELLS ARE EXISTING



DISTRICT LOT 86 GALIANO ISLAND
 COWICHAN DISTRICT
 PID : 008-015-961
 38.45 HECTERS (95 ACRES)

SUBDIVISION PROPOSAL
 OPTION TWO

NOTE : WELLS ARE EXISTING





200-1627 Fort Street, Victoria, BC V8R 1H8
Telephone 250 405-5151 Fax 250 405-5155
Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC
1.800.663.7867
Email information@islandstrust.bc.ca
Web www.islandstrust.bc.ca

October 5, 2021

File Number: GL-RZ-2021.2 (Gaylor)

Attn: Andy Gaylor, McElhanney Ltd.
Via email:

Dear Andy Gaylor:

Re: Rezoning Application GL-RZ-2021.2 (Gaylor) - Terms of Reference - District Lot 86, Galiano Island, Cowichan District (PID 008-015-961).

The Islands Trust has completed a preliminary review of the rezoning application for District Lot 86 on Galiano Island submitted by you on behalf of your clients on August 13, 2021.

The purpose of this letter is to identify information that is required from the applicant pursuant to the [Galiano Island Development Approval Information Bylaw No. 148](#) (DAI Bylaw). Under the DAI bylaw, a zoning amendment application uses a 'terms of reference' (TOR) approach to information collection. The objective of this TOR is to identify and request any anticipated information from the applicant in a timely manner, and as early as possible in the process.

The information received by Islands Trust in your application package includes:

1. Cover Sheet
2. Completed application form
3. Statement of Intent
4. Statement of Title Certificate
5. Site Disclosure Statement
6. Preliminary concept plan

As per this TOR, additional information that is required to proceed with your application for consideration by the Galiano Island Local Trust Committee (LTC) includes:

- 1) A site plan professionally prepared at an appropriate scale, based on a legal survey, delineating all proposed lot lines along with the '**developable area**' and associated features for each of the three (3) proposed residential lots, the applicable development permit area boundaries, existing buildings and structures, roads and driveways, topographic features, and any significant sensitive habitat features.
 - a. The **developable area** for each residential lot includes the portion identified for the dwelling, accessory buildings and structures, along with the associated location of the well, septic field, driveways and parking areas.
- 2) A groundwater report, prepared by a professional hydrogeologist, demonstrating proof of water to meet the residential potable water standard of **2275 litres/day** for each of the three (3) proposed residential lots. Staff can provide technical guidance on a terms of reference for demonstrating proof of potable water if requested by the applicant.

- 3) A septic disposal report, prepared by a registered onsite wastewater practitioner, confirming septic viability and proposed siting for the three (3) proposed lots.
- 4) Ecological Overview Report

While the Galiano Island Official Community Plan No. 108 (OCP) does not have a specific policy enabling rezoning from Forest 1 to Rural Residential zoning (RR), the LTC has considered applications based on the approach that the applicant transfer title to at least 75% of their land base in exchange for the remaining 25% that would then allow for a house and accessory cottage per a minimum of each two hectares.

An agreement between the property owner and a new title holder (e.g. BC Parks) will be required based on terms amenable to all parties (including the LTC). While staff can provide some technical guidance, it is largely the responsibility of the applicant to negotiate this land transfer agreement.

To ensure that LTC and staff understand the entire scope and ecological significance of both the lands proposed for transfer and those to be retained by the applicant, an **ecological overview report** is required that considers the entire property. The **ecological overview report** should include at a minimum:

- a. Property location and description including existing legal encumbrances and history of use
- b. Identification of existing structures, roadways and other development features
- c. A desktop GIS inventory that includes:
 - i. Identification of habitat by type and calculation of percentage of each type in relation to proposed 75/25% lot lines (e.g. of total parcel, XX % consists of YY habitat type, of which XX percentage is located within the 75% transfer portion)
 - ii. Identification of significant or sensitive terrestrial and aquatic ecosystem features
- d. Identification of development permit areas (DPAs) and an assessment of ecological impacts of any proposed **developable areas** within those DPAs
- e. Ground-truthing of desktop inventory findings as required
- f. Maps, Photos and other relevant materials

5) Forestry Covenant Baseline Report

The OCP policy enabling rezoning from F1 to F3 requires the granting of a sustainable forest management covenant with a 3rd party covenant holder. An agreement between the property owner and a 3rd party sustainable forestry covenant holder for the proposed F3 lot will be required based on terms amenable to all parties (including the LTC).

While staff can provide some technical guidance, it is largely the responsibility of the applicant to negotiate this agreement with a 3rd party covenant holder. This typically involves providing a **baseline report** and an endowment for monitoring.

The covenant will restrict forest activities based on an approved Sustainable Forestry Management Plan that includes consideration of sensitive species and habitats identified in the **baseline report**.

The **baseline report** for the proposed F3 lot should include at a minimum:

- a. Biological Inventory by Ecosystem Type including:
 - i. Plant and Tree Inventory
 - ii. Wildlife and Wildlife Habitat

- iii. Soil Type
- iv. Disturbance History
- v. Succession
- vi. Restoration Recommendations
- vii. Potential threats
- b. Maps, Photos and other relevant materials

A separate report can be prepared, or this baseline information specific to the F3 lot may be incorporated into the same **ecological overview report** as required in item #5 above.

6) Development Permit Areas

DPA 2 – Shoreline and Marine

DPA 2 includes all land 15 m upland of the natural boundary of the sea. The OCP states that a development permit is required for all subdivision of land where DPA 2 is present (Attachment 1). This is dealt with through a separate application process (and separate fee). The application guide is located here: <https://islandstrust.bc.ca/document/schedule-b-development-permits-application-form/>

The preliminary concept plan identifies building sites that may be located within DPA 2. Any proposed development within DPA 2 would also need to be considered in a development permit.

The development permit may be issued at the same time as rezoning. It could also be deferred to subdivision stage.

DPA 7 – Steep Slope (moderate)

The preliminary concept plan identifies building sites that may be located within DPA 7 (Attachment 1). The applicant will need to either verify that the proposed **developable area** for each lot does not fall within DPA 7, or provide a **geotechnical assessment** confirming a suitable building site(s) for the proposed use within the proposed **developable areas** that contains DPA 7. The assessment should be undertaken by a certified Geotechnical Engineer (P.Eng.) and delineate:

- a. 'safe' buildable areas within the proposed developable area without mitigative measures;
- b. areas that could be built upon with mitigative measures (if applicable); and/or
- c. areas where building is unsafe (if applicable)

7) Road Dedication

The Ministry of Transportation and Infrastructure (MOTI) is the provincial agency that authorizes subdivision approval on Galiano Island. Staff direct the applicant to contact MOTI to determine if the proposed subdivision layout that includes an easement road to access proposed lots 2 and 3 is viable.

If MOTI requires that this easement road be a dedicated provincial highway as a condition of subdivision approval, the applicant will be required to seek development variance from section 13.7 of the Galiano Island Land Use Bylaw No. 127 (LUB) which states:

13.7 No lot divided into two or more areas by a highway or other land may be created unless there is no practical alternative to such configuration.

The applicant will need to consider other sections of Part 13 of the LUB in relation to lot layout (Subdivision and Development Regulations). Islands Trust is a referral agency in the MOTI subdivision process. Once directed by MOTI, the applicant will need to apply again through a separate process (with a separate fee) for Islands Trust to review the proposed subdivision against Part 13 of the LUB. Islands Trust will then respond to MOTI and the applicant with proposed conditions of approval that MOTI typically includes in a preliminary layout review letter to the applicant.

8) Archaeological Material

Regarding the potential for archaeological material to be found on the property, Islands Trust reviews all applications/permits using Remote Access to Archaeological Data (RAAD) mapping to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. Further to that review, staff direct the applicant to contact the BC Archaeology Branch to determine if an archaeological permit would be required prior to commencing development.

Reporting Requirements

With respect to any reporting requirements listed above, the applicant and/or professional must, in accordance with generally accepted impact assessment methodology, ensure the reports:

- (a) identify relevant baseline information and document the nature of the resource or other matter on which the proposed activity or development may have an impact;
- (b) identify and describe the potential and likely impacts of the activity or development including any cumulative effects when combined with other projects proposed or under development;
- (c) evaluate the impacts in terms of their significance and the extent to which and how they might be mitigated; and
- (d) make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are minimized or avoided, and
- (e) make recommendations as to measures that may restore or enhance natural functions or features that have been damaged or degraded prior to development or that would be impacted by the proposed development.

This information must be prepared by a professional or professionals in good standing with his/her professional organization within British Columbia, acting within his/her area of expertise, and with demonstrated and pertinent experience and/or training.

Please also note that the Islands Trust reserves the right to require additional information or clarification in response to the project reports. Any additional requirements will be provided in writing and will identify the additional information required in as clear and specific manner as possible.

Next Steps

Staff will present your application to the LTC at the December 6, 2021 LTC meeting via a preliminary staff report. The staff report will outline the basic parameters of your rezoning proposal and will seek LTC direction to proceed with next steps including the drafting of amending bylaws.

Staff appreciate that providing all of the above information in advance of that meeting may not reasonably be expected. As such, the staff report will include an update on the current status of your application materials along with a copy of this letter. Assuming LTC decides to proceed with your

application, you will then be expected to complete the remainder of these TOR requirements before your application may be considered for final approval.

I will also arrange an onsite meeting with you some time in the fall of 2021 so that I can get a first-hand perspective of your property and the associated rezoning proposal.

If you have any questions concerning the application or TOR requirements stated above, please do not hesitate to contact me.

Sincerely,

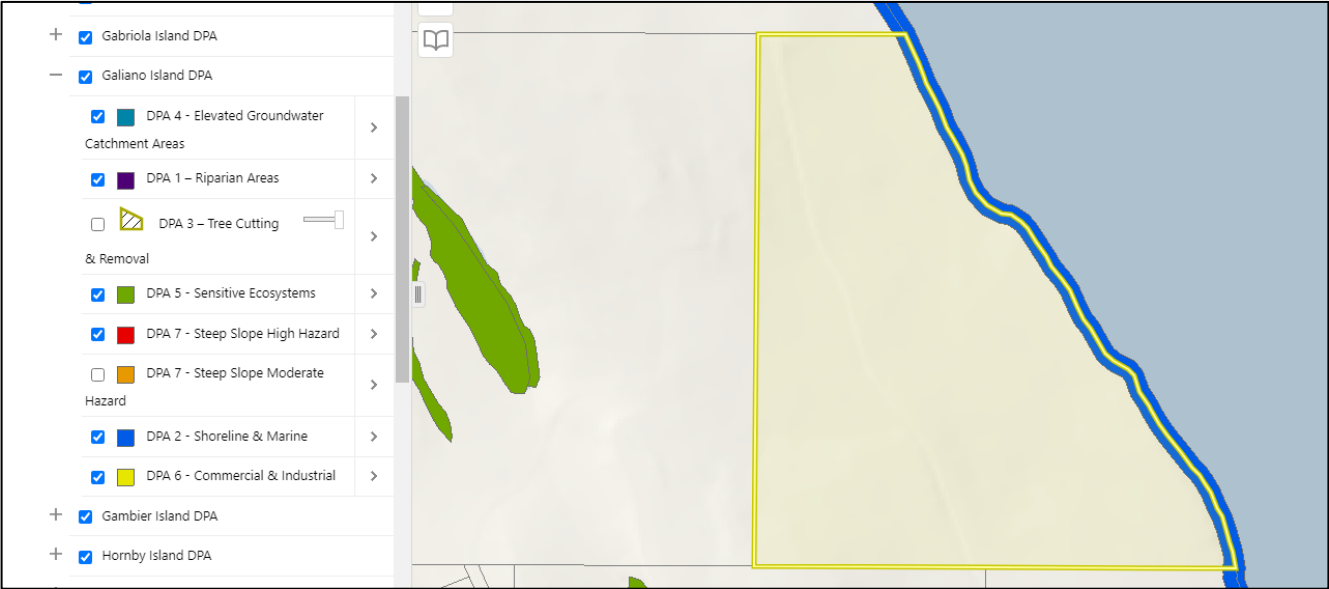
BSmith

Brad Smith
Island Planner, Galiano Island Local Trust Area

pc: Robert Kojima, Regional Planning Manager

Attachment 1: Development Permit Area Maps

DPA 2 Shoreline and Marine



DPA 7 - Steep Slope (Moderate and High Hazard)

