



DATE OF MEETING: December 5, 2022
TO: Galiano Island Local Trust Committee
FROM: Brad Smith, Island Planner
Southern Team
COPY: Robert Kojima, Regional Planning Manager
SUBJECT: 490 GARDNER RD Rezoning Application – Preliminary Report
Applicant: Judy Hayes
Location: Lot 1, District Lots 1 and 3 and of Section 7, Galiano Island, Cowichan District, Plan 13005 Except All of District Lots 1 and 3 now included in Plan 50163

RECOMMENDATION

- 1. That the Galiano Island Local Trust Committee direct staff to proceed with application GL-RZ-2022.2 (Hayes) and to prepare draft bylaws.**

REPORT SUMMARY

The purpose of this preliminary report is to provide information regarding rezoning application GL-RZ-2022.2 (Hayes) and to seek direction from the Galiano Island Local Trust Committee (LTC) to proceed, or not proceed, with the application, including the preparation of draft bylaws.

The application as proposed would amend the Galiano Island Land Use Bylaw No. 127, 1999 (LUB) and the Galiano Island Official Community Plan No. 108, 1995 (OCP) by rezoning and re-designating a portion of the subject property from Rural Residential (RR) to Agriculture (AG) to enable the subdivision of the property to create one additional residential lot.

The above recommendation is supported as:

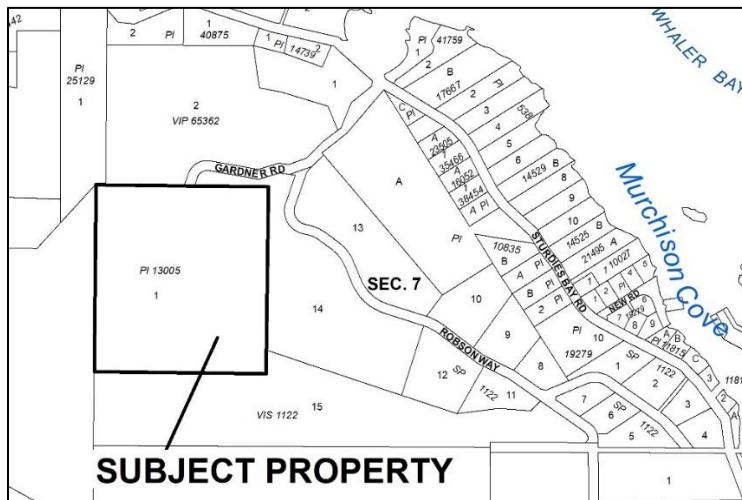
- The application is reasonable as proposed and is consistent with OCP policies and LUB regulations;
- The currently zoned RR portion of the property which would be included in the revised AG zone is substantially the same as the land which is currently in the AG zone;
- The rezoning would address the issue of the existing house and driveway lying in the middle of two zones on the property; and,
- Proceeding with the preparation of draft bylaws would allow for next steps in the process to proceed including the initiation of First Nations engagement, referrals to potentially affected agencies, and the consideration of further input from the public including adjacent property owners.

BACKGROUND

A rezoning application for the 13.4 hectare (33.2 acre) subject property was received on August 2, 2022. The property owner is seeking to rezone and re-designate a portion of the subject property from Rural Residential (RR) to Agriculture (AG) to enable the subdivision of the property to create one additional residential lot.

The subject property is located on southern Galiano Island at the terminus of Gardner Road (Figure 1). There is a single family residence and a shed currently located on the subject property. Adjacent properties are zoned a mix of RR and AG, including Cedar Moss Properties and Robson Way strata.

Figure 1. Location of Subject Property



Staff visited the property in June 2022 and met with the applicant to discuss the proposal. Attachment 1 provides additional site context. Attachment 2 provides relevant maps and ortho-photos. A cover letter provided by the applicant is included as Attachment 3. It provides additional information and rationale for the rezoning, site photos, and a letter from the Ministry of Transportation and Highways regarding road access.

ANALYSIS

Application Rationale and Preliminary Layout Plan

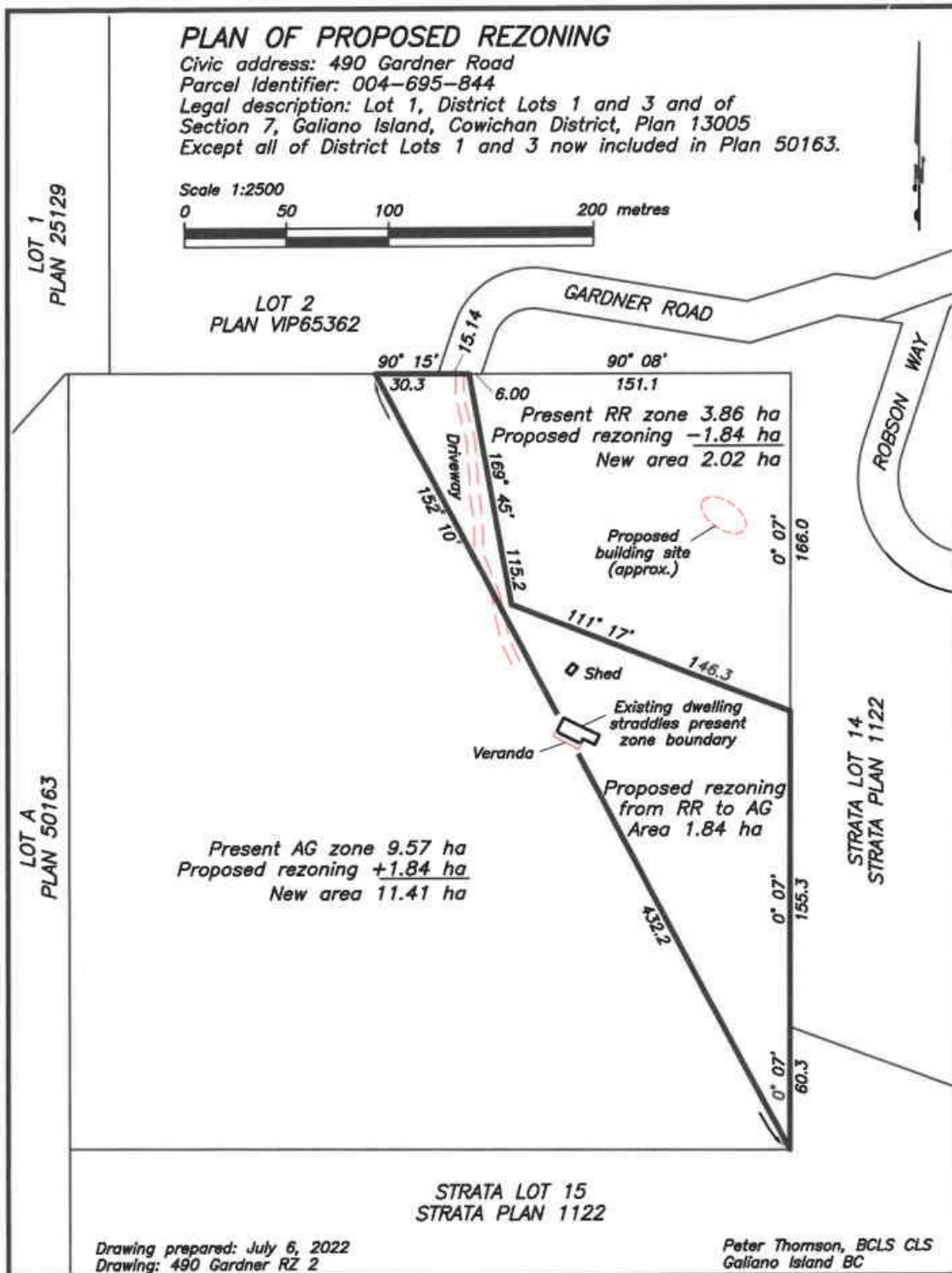
As stated by the applicant, the rationale for the proposed rezoning is as follows:

- The rezoning and subsequent subdivision would result in the current split zoned property becoming two single zoned properties (remainder lot zoned AG, new lot zoned RR);
- The applicant is intending to gift the newly created RR zoned lot to friends that have longstanding connection to the property;
- The habitat and topography of the land currently zoned RR and proposed to be rezoned to AG is substantively the same as the land on the property currently zoned Ag;
- The existing house is permitted by the CRD but the line separating the AG and RR areas of the property intersect the middle of the house, creating challenges for determining any future dwelling potential. The rezoning proposal locates the house entirely within the AG zone, thus eliminating this issue. The rezoning would also locate the existing driveway entirely within the AG zone.

It should also be noted that the proposed change in zoning and subsequent subdivision does not create additional dwelling density potential on the property.

The present RR zone on the subject property is 3.86 hectares, and the AG zone is 9.57 hectares. If rezoned as proposed, the RR zone would be reduced by 1.84 hectares to 2.02 hectares and the AG zone increased by 1.84 hectares to 11.41 hectares. The lot layout for the rezoning proposal is shown in Figure 3.

Figure . Preliminary Layout Plan



Highway Access

As part of the subdivision proposal, there would be 6.0 m highway frontage for the subdivided RR zoned property and a 17 m frontage for the remainder portion. This would require a frontage waiver at subdivision stage, alternately if the LTC does not approve the waiver or the approving does not support the frontage, the property owner is willing to provide a legal easement for the new parcel to access the portion of the existing driveway that abuts the highway at that point.

Terms of Reference

Should the LTC decide to proceed with the application, a terms of reference will be issued to the applicant from staff that provides specific guidance on application requirements that is consistent with the Galiano Island Development Approval Information Bylaw No. 148 (DAI Bylaw).

Policy/Regulatory

Islands Trust Policy Statement

The proposal appears consistent with Islands Trust Policy Statement (ITPS) policies, in particular with respect to policies related to Agricultural Land (s.4.1), Freshwater Resources (s4.4) and Growth and Development (s.5.2).

The property has been visited by a septic professional who was confident that there would no issues with putting in a septic field on the newly created RR zoned lot and that there are several sites to choose from.

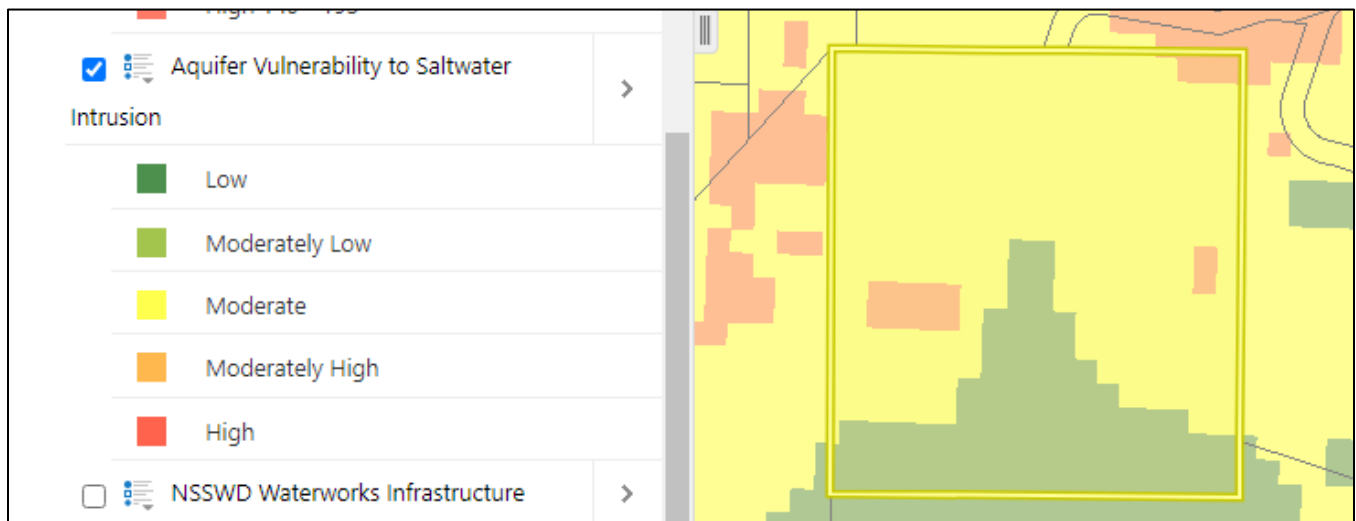
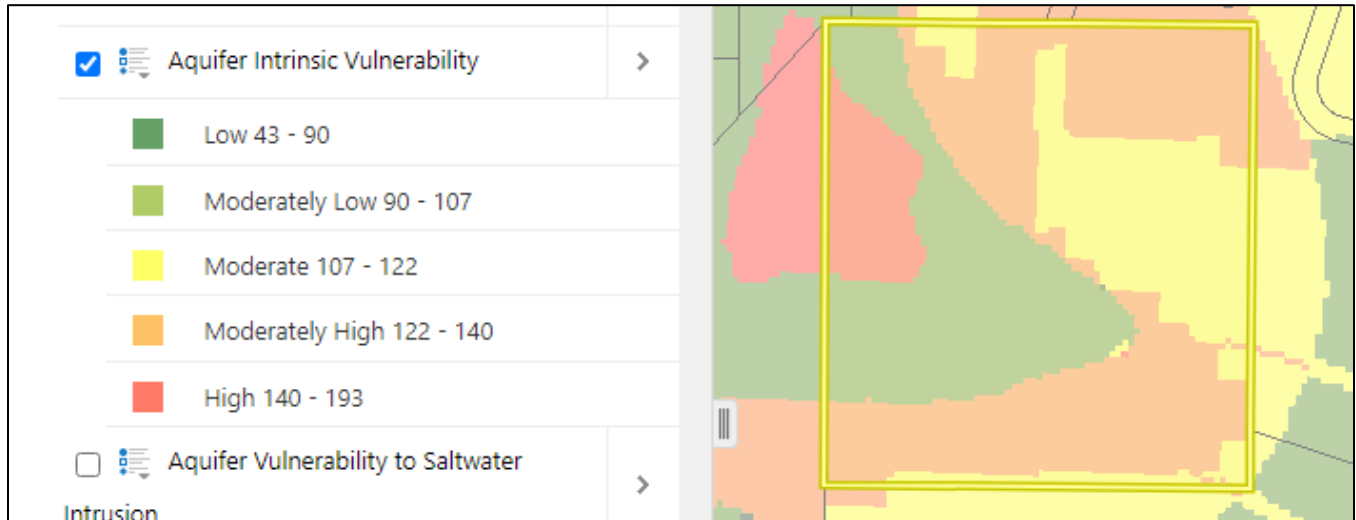
There is currently no well on the property to service the proposed RR zoned lot. The applicant intends to drill a well in the future to service this lot with groundwater. The site has been visited by a well drilling professional who has determined the drilling of a well would be viable.

At time of subdivision, the applicant would need to demonstrate proof of water and septic disposal for the new RR zoned lot consistent with the relevant subdivision and development regulations within s.13 of the LUB, including the submission of a report from a professional hydrogeologist with respect to groundwater supply.

In order to ensure that the future subdivision is viable prior to amending the zoning, staff recommend that the LTC require that the applicant demonstrate proof of water and septic viability prior to consideration of first reading of the draft bylaws or a public hearing to ensure the application is consistent with policy 4.4.2 of the ITPS rather than deferring proof of water and septic to the subdivision stage. Staff will include these requirements in the TOR should the LTC choose to proceed with the application. Policy 4.4.2 is shown below.

4.4.2	<p>Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure:</p> <ul style="list-style-type: none">• neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater,• water quality is maintained, and• existing, anticipated and seasonal demands for water are considered and allowed for.
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The location of the proposed new lot on the subject property is determined to have primarily *moderately high aquifer intrinsic vulnerability* and *moderate vulnerability to saltwater intrusion*, as shown below. As such, it would be appropriate to ensure groundwater viability through the drilling of a well and a proper pump test by a qualified professional at time of rezoning, as opposed to leaving it to time of subdivision.

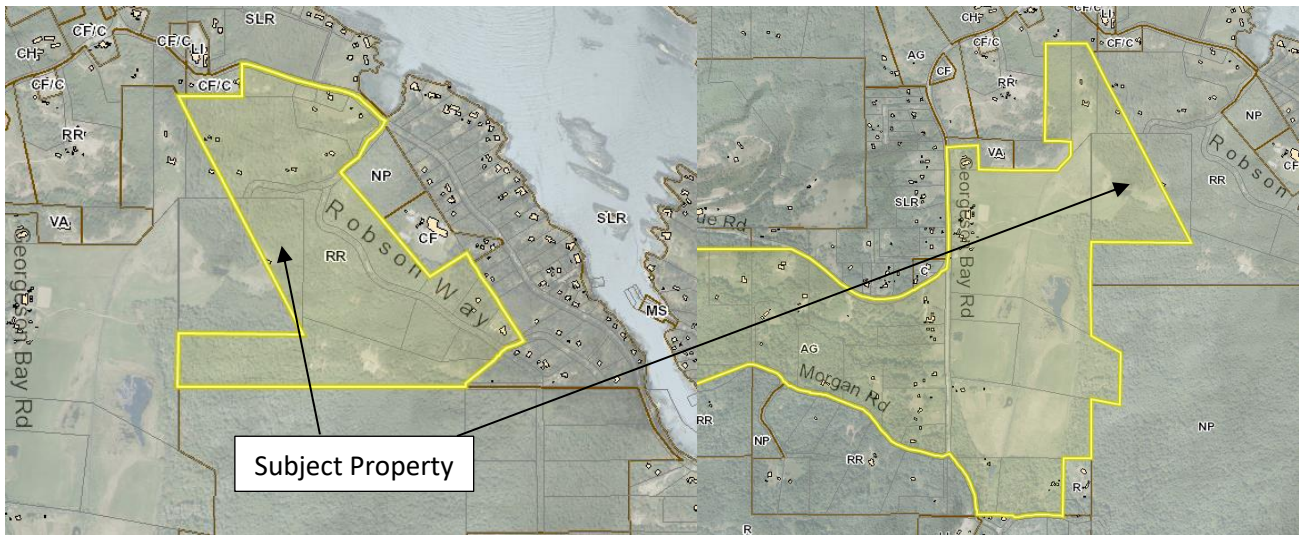


If LTC decides to proceed with drafting bylaws, the ITPS policy checklist would be presented to LTC for review and consideration in a future staff report if at such time draft bylaws are presented for 1st reading.

Official Community Plan

The OCP land use designation for the subject-property is currently a mix of Rural Residential (RR) and Agriculture (AG), as shown below. Rezoning would result in changes to the OCP schedule B map to show the adjusted land use designations.

As proposed, the application is consistent with the policies of the OCP including minimum average lot size subdivision requirements in respect of Rural Residential and Agriculture policies and public road access requirements in respect of Land Transportation policies.

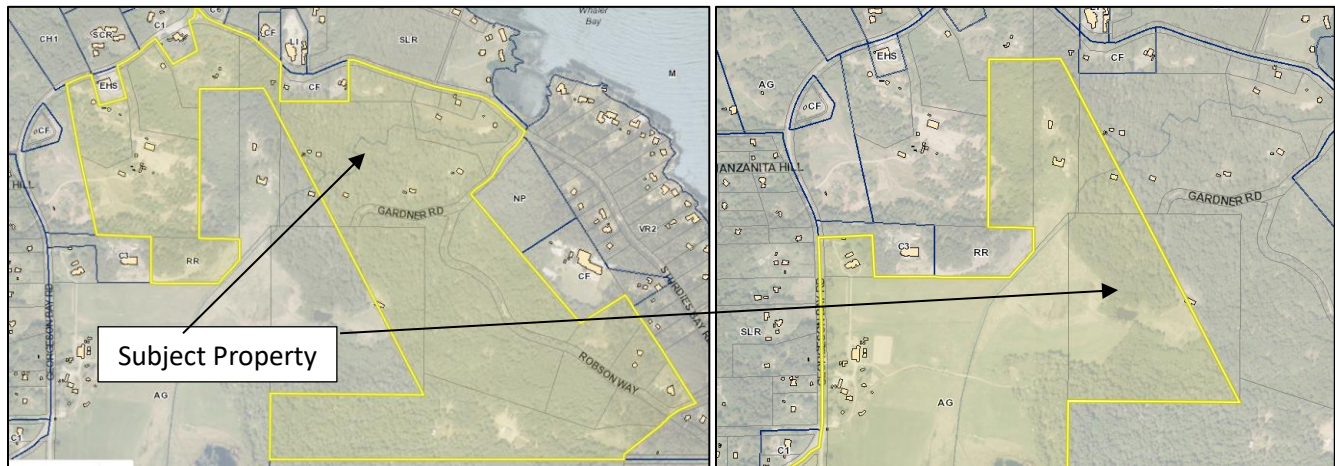


Rural Residential Land Use Designation

Agriculture Land Use Designation

Land Use Bylaw

The subject property is split zoned as Rural Residential (RR) and Agriculture (AG), as shown below. Rezoning would result in changes to the LUB schedule B map to show the adjusted land use zoning.



Rural Residential Zoning

Agriculture Zoning

The minimum average lot size for RR zoned lots is 2.0 hectares and the minimum lot size for AG zoned lots is 4.0 hectares. If rezoned as proposed, the RR zone would be reduced by 1.84 hectares to 2.02 hectares and the AG zone increased by 1.84 hectares to 11.41 hectares, thus minimum lot size standards would be met for each lot at time of subdivision.

Based on the size of the adjusted zones, there would be no increased density potential as the proposed amended zoning does not trigger the allowance of additional densities on either the AG or RR portions of the lot.

The permitted density on the AG zoned portion of the lot is one dwelling permitted on each lot (with no accessory cottage), and one additional dwelling in respect of each 4 hectares of lot area over 4 hectares. As such, assuming the existing house was located entirely in the AG zone, there is currently the additional dwelling

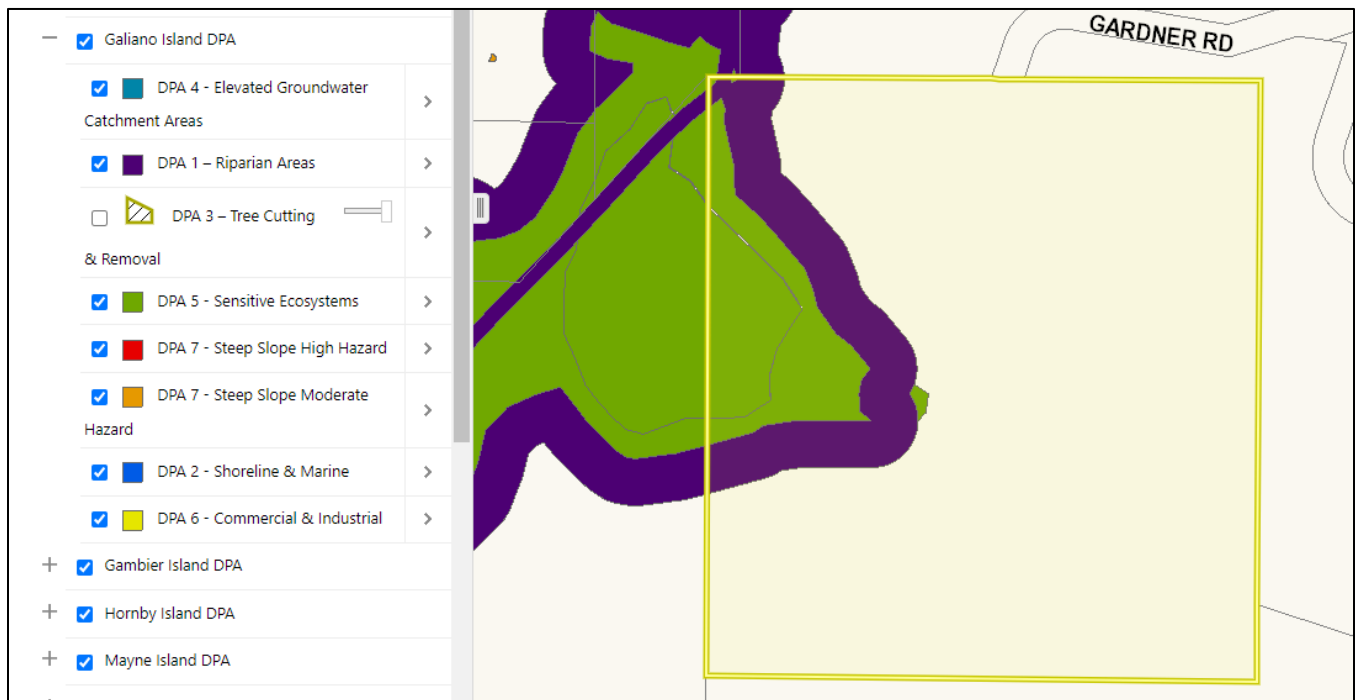
potential of 1 permitted dwelling on the AG zoned portion, subject to approval by the Agricultural Land Commission (ALC). To receive any additional density, the AG portion would need to be greater than 12 hectares.

The permitted density on the RR zoned portion of the lot is one dwelling permitted on each lot, and one additional dwelling in respect of each 2 hectares of lot area over 2 hectares. One cottage is also permitted on each lot having an area of 0.4 hectares in respect of each permitted dwelling. To receive any additional density, the RR portion would need to be greater than 4 hectares.

Development Permit Areas (DPAs)

Figure 5 shows the *DPA 1 – Riparian Areas* and *DPA 5 – Sensitive Ecosystems* located on the property. Both areas are located well away from the proposed location of the new lot, existing dwelling and any future development could occur outside the DPA. No Development Permit (DP) is required at time of rezoning. However, the OCP states that a DP is required for all subdivision of land where DPA 1 and 5 is present. As such, at time of subdivision, the applicant would be required to apply for a DP.

Figure 4. DPA 1 – Riparian Areas and DPA 5 – Sensitive Ecosystem



DPA 3 – Tree Cutting and Removal

The entire Galiano Island local trust area is designated as a development permit area for the purpose of cutting and removal of trees. A DPA 3 development permit is not required for the subdivision of land. However, the applicant should be aware a DPA 3 development permit may be required for future residential development on the newly proposed lot if removal of greater than 12 m³ of timber per hectare occurs over a 3 year period.

The DPA 3 guidelines also state that “activities permitted by the Land Use Bylaw and necessitating the removal of trees should be conducted at those locations on the lot that will involve removal of the fewest trees and the removal of no Garry Oak trees.”

Archaeological Material

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 have directed the applicant to the following guidelines:

- All archaeological and cultural heritage is protected under the *Heritage Conservation Act* and areas of archaeological potential may contain undocumented archaeological sites which would be automatically protected under the *Heritage Conservation Act* (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.

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, should the application proceed to that stage.

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

First Nations

Staff have identified the following First Nations for bylaw referral based on the Province's database:

- 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
- Malahat First Nation
- Snuneymuxw First Nation
- WSANEC Leadership Council

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
- Island Health
- CRD, Planning and Protective Services, Building Inspection
- Galiano Island Fire Rescue – South Department
- Mayne Island Local Trust Committee
- Thetis Island Local Trust Committee
- Salt Spring Island Local Trust Committee

Rationale for Recommendation

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

- The application is reasonable as proposed and is consistent with OCP policies and LUB regulations;
- The currently zoned RR portion of land which would be included in the revised AG zone is substantially the same as land which is currently in the AG zone;
- The rezoning would address the issue of the existing house and driveway lying in the middle of two zones on the property; and,
- Proceeding with the preparation of draft land use bylaws would allow for next steps in the process to proceed including the initiation of First Nations engagement, referrals to potentially affected agencies, and the consideration of further input from the public including adjacent property owners.

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-2022.2 (Hayes).

3. Hold the application in abeyance

The LTC may choose to hold the application in abeyance pending completion of a significant study or OCP process, etc.

Resolution:

That the Galiano Island Local Trust Committee hold application GL-RZ-2022.2 (Hayes) in abeyance.

NEXT STEPS

With direction from the LTC, Staff will draft amending bylaws for further consideration by the LTC

Submitted By:	Brad Smith, Island Planner	November 22, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	November 24, 2022

ATTACHMENTS

1. Site Context
2. Maps, Plans, Ortho-photos
3. Cover Letter from applicant

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 1, District Lots 1 and 3 and of Section 7, Galiano Island, Cowichan District, Plan 13005 Except All of District Lots 1 and 3 now included in Plan 50163
PID	004-695-844
Civic Address	490 Gardner Road, Galiano Island
Lot Size	13.42 hectares (33.16 acres)

LAND USE

Current Land Use	Rural Residential (RR), Agriculture (AG)
Surrounding Land Use	Rural Residential (RR), Agriculture (AG)

HISTORICAL ACTIVITY

File No.	Purpose
None	N/A

POLICY/REGULATORY

Official Community Plan Designations	Galiano Island OCP No. 108, 1995 Designations: Rural Residential (RR), Agriculture (AG)
Land Use Bylaw	Galiano Island LUB No. 127, 1999: Rural Residential (RR), Agriculture (AG)
Other Regulations	None
Covenants	None
Bylaw Enforcement	None

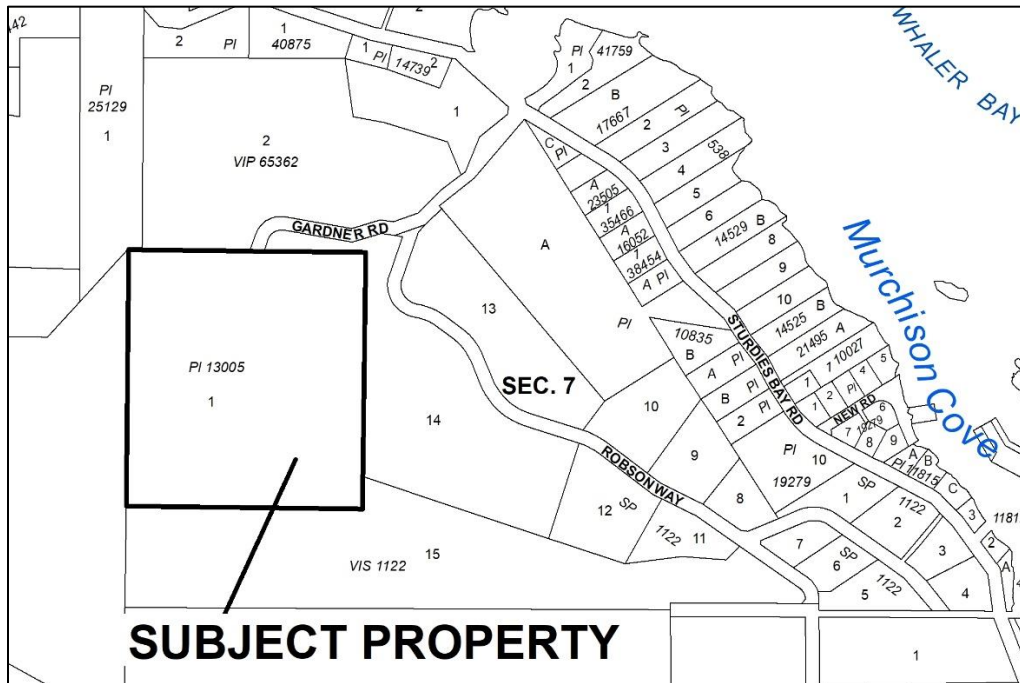
SITE INFLUENCES

Islands Trust Conservancy	There are no Islands Trust Conservancy covenants or properties in the direct area; therefore no referral will be 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	Sharp-tailed snake zone across entire property and numerous others encompassing a large portion of southern island
Sensitive Ecosystems	Portions of mixed Coastal Douglas Fir habitat and wetland
Hazard Areas	A very small portion of small and medium risk steep slope on property
Archaeological Sites	There is potential for the presence of archaeological material. Staff have directed the applicant to the following guidelines: <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

	<p>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.</p> <ul style="list-style-type: none"> • 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	N/A
Shoreline Data in TAPIS	N/A

ATTACHMENT 2 – MAPS, PLANS, ORTHO-PHOTOS

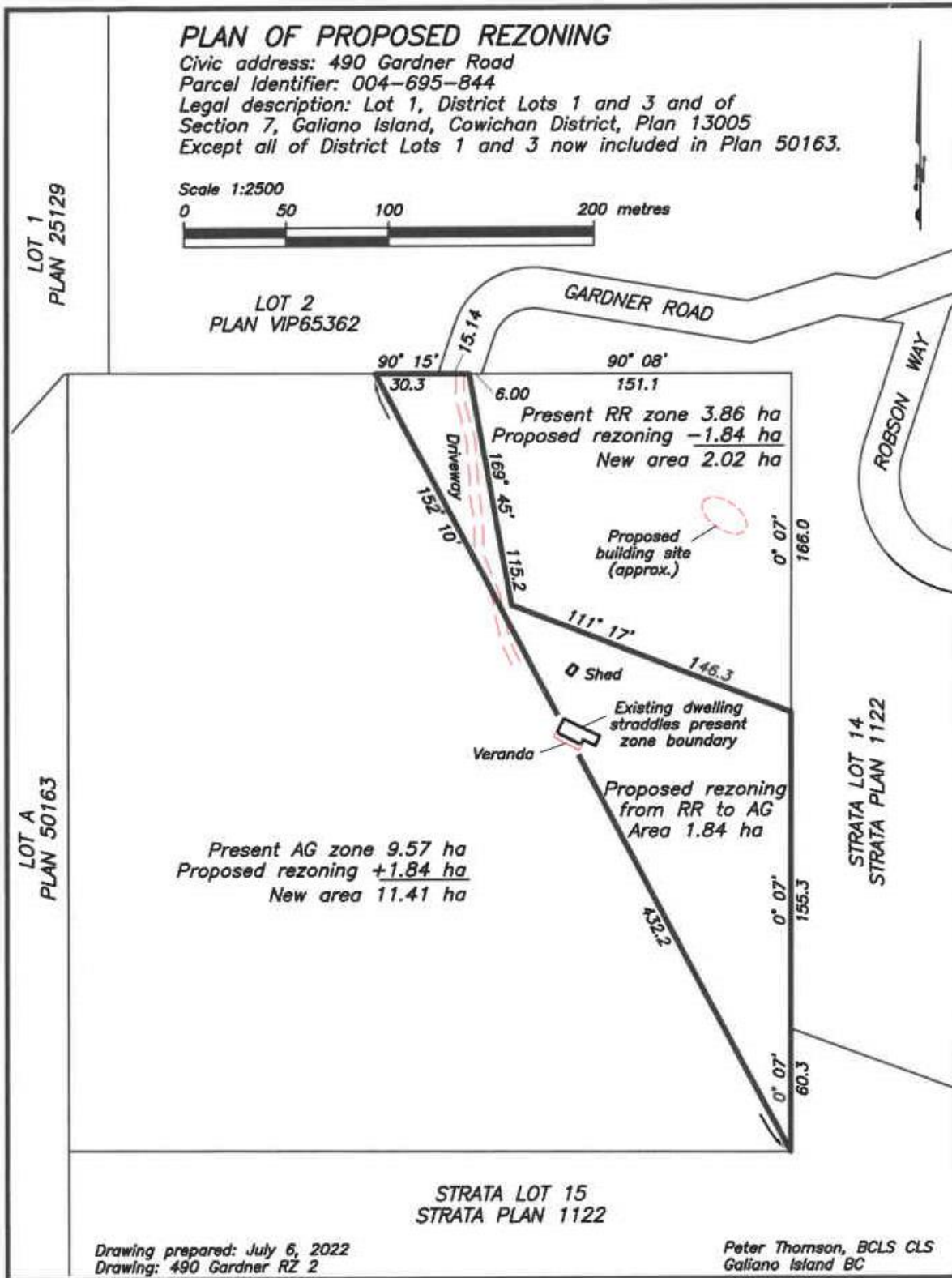
2.1 SUBJECT PROPERTY MAP



2.2 ZONING AND ORTHO

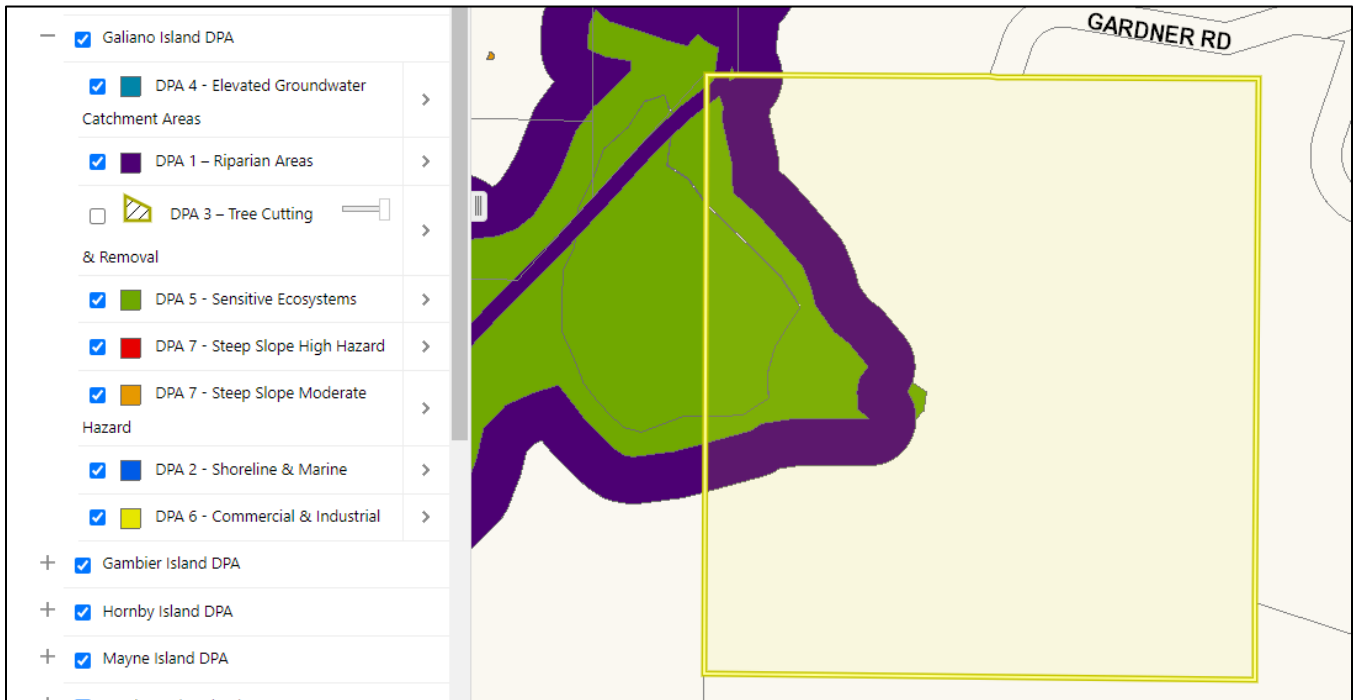


2.3 PROPOSED REZONING AND SUBDIVISION PLAN

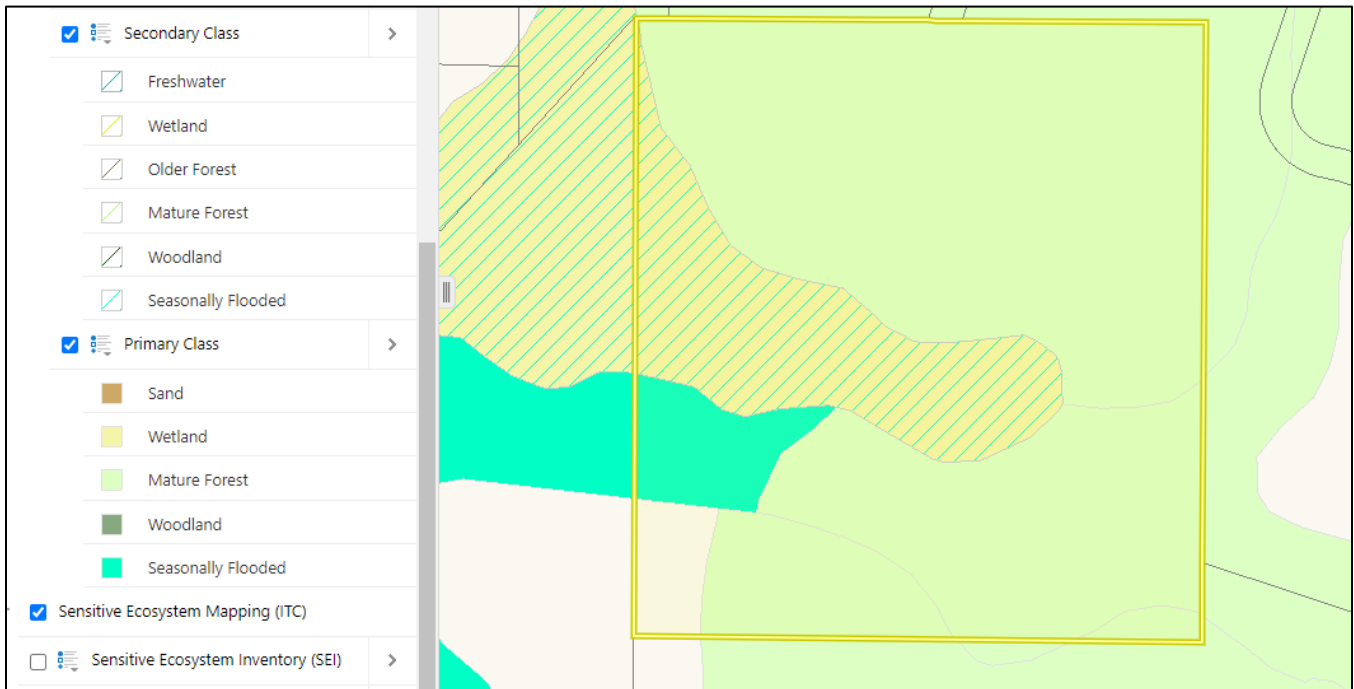


2.4 DEVELOPMENT PERMIT AREAS

DPA 1 - Riparian Areas, DPA 5 - Sensitive Ecosystems



2.5 SENSITIVE ECOSYSTEM MAPPING



2.6 STEEP SLOPE RISK

