

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 85 Rezoning Application – Preliminary Report  
Applicant: (McElhanney Ltd.) on behalf of DL 85 property owners  
Location: District Lot 85 Galiano Island Cowichan District

## RECOMMENDATION

1. **That the Galiano Island Local Trust Committee direct staff to proceed with application GL-RZ-2023.2 (McElhanney) including preliminary engagement with First Nations.**

## REPORT SUMMARY

The purpose of this preliminary report is to provide information regarding rezoning application GL-RZ-2023.2 (McElhanney) and to seek direction from the Galiano Island Local Trust Committee (LTC) to proceed, or not proceed, with the application, including initiating preliminary engagement with First Nations.

The application as submitted 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 an OCP amendment for changes to land use designations and subdivision to create the newly proposed lots.

The above recommendation is supported as:

- The proposal as submitted is consistent with Galiano Island Official Community Plan No. 108 (OCP) forest, rural residential and parks and recreation policies and approaches taken in other F1 rezonings;
- 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

This is the second rezoning application for the approximately 59.6 hectare subject property. The property owners previously applied to rezone (GL-RZ-2022.1) the subject property with the same proposal – rezone from Forest 1 to a combination of Forest 3 (F3), Rural Residential (RR) and Nature Protection (NP). At the July 4, 2022 the previous Galiano LTC passed the following resolution to proceed no further with the application, primarily citing concerns that in the LTC’s opinion the proposal is not consistent with the original heritage forest policies of the OCP:

**GL-2022-72**

**It was Moved and Seconded,**

that the Galiano Island Local Trust Committee direct staff to proceed no further with application GL-RZ-2022.1 (Gaylor).

**CARRIED**

Due to the resolution above staff closed file GL-RZ-2022.1. Although the applicants wished to reapply the Galiano Island LTC Development Procedure Bylaw No. 100 restricts an applicant to reapply for a substantially similar application less than one year from the date of refusal of a previous application.

The newly elected Galiano LTC at the December 15, 2022 then pass the following resolution:

**GL-2022-145**

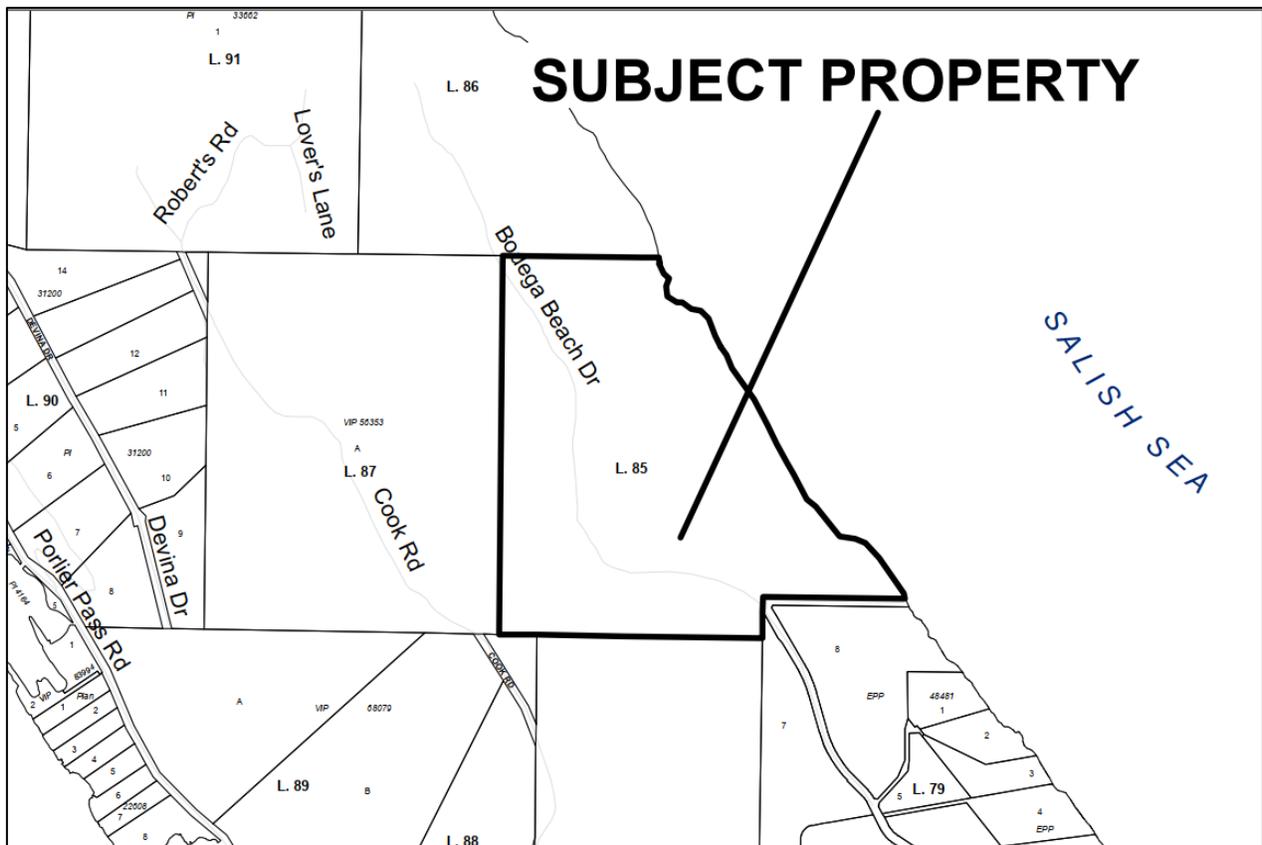
**It was Moved and Seconded,**

that the Galiano Island Local Trust Committee will accept an identical application for application GL-RZ-2022.1 (Gaylor).

**CARRIED**

The applicants have now come back with the same proposal which seeks 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). Adjacent land uses include forest zoned lands (DL 86), CRD Park and Crown lots. DL 84 to the south is Crown owned and zoned Nature Protection. Crown owned DL 87 is currently proposed for rezoning to Nature Protection.

**Figure 1. Location of Subject Property**



DL 85 is currently subject to bylaw enforcement file GL-BE-2019.6 for non-permitted uses on an F1 lot including illegal dwellings and seasonal use of travel trailers, storage of travel trailers, and existence of non-forestry accessory buildings. Attachment 1 provides additional site context. Attachment 2 provides relevant maps and ortho-photos.

**ANALYSIS**

***Application Proposal***

The applicant is proposing the creation of five new Rural Residential (RR) zoned properties, averaging 2.0 hectares, with the remainder of the subject property being dedicated as parkland zoned (Nature Protection) and public roads. The proposal also includes a 0.9 hectare amenity lot for the purpose of affordable housing, and a 2.3 hectare resource lot (ie. An existing gravel quarry). Figure 2, as provided by the applicant, provides a breakdown of the approximate total area of land proposed to be included.

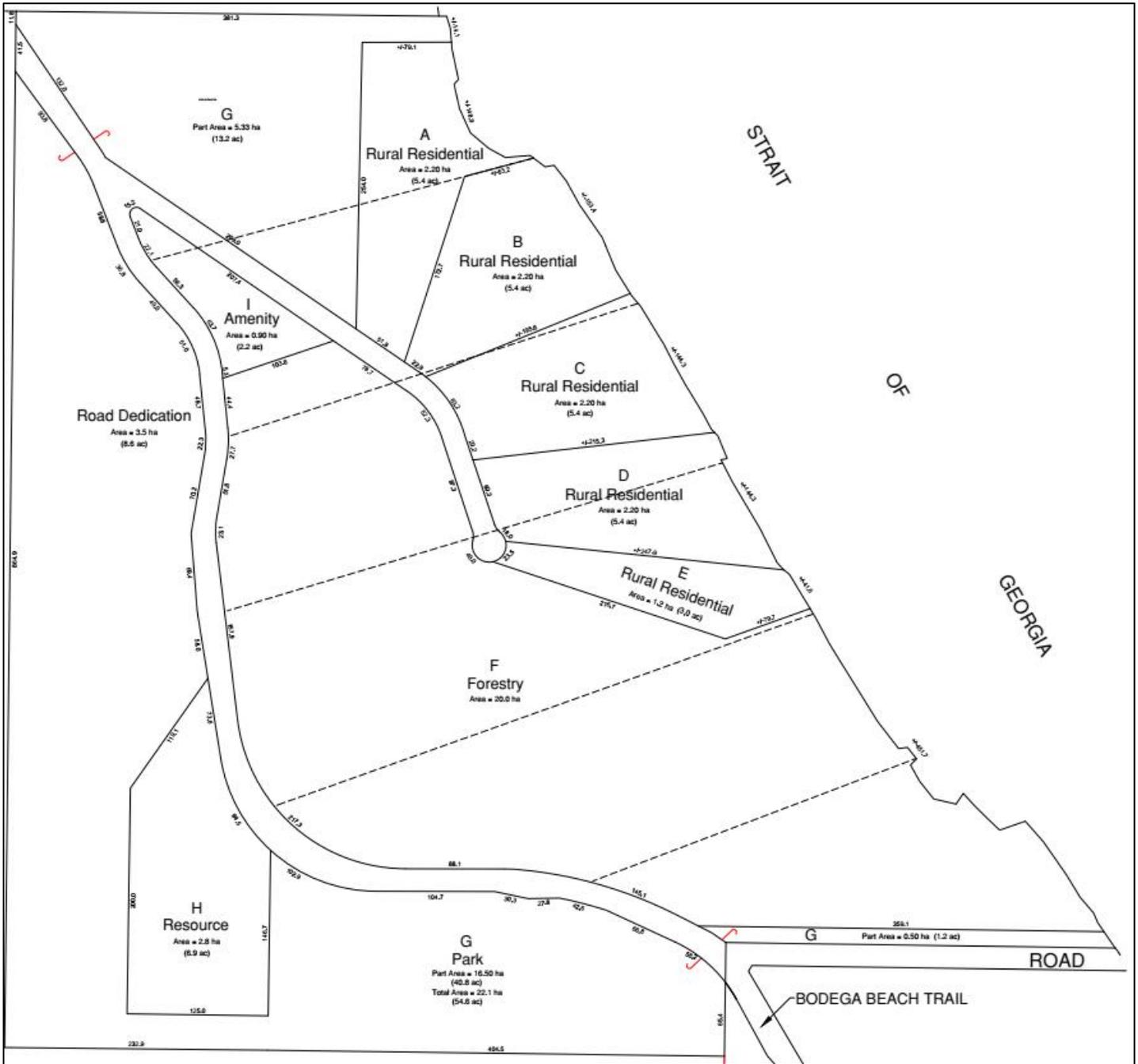
**Figure 2. Approximate Total Area Proposed per Zone Type (from applicant)**

<b>Proposed Zone</b>	<b>Area (ha / acres)*</b>	<b>% of gross total land base</b>
<b>Forest 3</b>	20.0 ha	34%
<b>Rural Residential</b>	10.0 ha	17%
<b>Parkland</b>	22.3 ha	37%
<b>Road Dedication</b>	3.6 ha	2%
<b>Resource</b>	2.8 ha	4%
<b>Amenity</b>	0.9 ha	2%
<b>Total</b>	59.6 ha (147.3 acres)	100%

\*These figures are approximate, with further refinement to occur at later stages of development.

The lot layout for the rezoning proposal is shown in Figure 3. A cover letter provided by the applicant is included as Attachment 3. It provides additional information and rationale for the rezoning as proposed by the applicant.

Figure 3. Preliminary Layout Plan



**First Nations Considerations**

During the first application, staff engaged with BC Parks to discuss the potential transfer of lands to BC Parks 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. As part of the initial step with this application, staff also intend to notify other local First Nations of the application. Staff are aware that discussion are required between Nations to determine which Nation(s) may receive the land for this application, and future potential applications.

**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**

As presented, the proposal appears consistent with Islands Trust Policy Statement (ITPS) policies, in particular with respect to policies related to Forest Ecosystems (s.3.2) Freshwater (s.3.3), Forests (s.4.2), and Growth and Development (s.5.2). Hydrogeological reports from the applicant will help to determine consistency with Policy 4.4.2 (Freshwater Resources).

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 1<sup>st</sup> reading.

**Official Community Plan**

The OCP land use designation for the subject-property is currently **Forestry**. Rezoning as proposed would result in the following changes to the OCP schedule B for the newly configured lots (Figure 4).

**Figure 4. OCP Designations for New Lots**

LUB Zoning	OCP Designation/Location	# Lots
Rural Residential	Rural Residential (Section II, Article 1.2)	5
Forest 3	Forestry (Section II, Subsection 3)	1
Nature Protection or Other (including amenity lot and resource lot)	Nature Protection (Section II, Subsection 7) Amenity lot and resource lot TBD	2-3 if resource lot separated from NP

Lot 1 - Forest 1 to Forest 3 Rezoning

The applicant is proposing to create one 20 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 would be required to establish a **developable area** on the F3 lot with the location selected to minimize impact.

The property owner has indicated a willingness to enter into a sustainable forestry covenant with the LTC and a 3<sup>rd</sup> 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.

Further discussions with First Nations and provincial agencies are required before any decisions should be made on the feasibility of the creation of an F3 lot and the final lot layout.

#### Forest 1 to Rural Residential and Nature Protection 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).

As presented, the proposed land transfer would be approximately 29.6 hectares (equalling 75% of the remaining lands once the F3 lot is removed), with the other 10.0 hectares used to create the five RR zoned lots. The lands proposed for transfer contain a mix of parkland, road dedication, an existing gravel quarry and an amenity lot for affordable housing.

As above, further discussions with First Nations and provincial agencies are required before any decisions should be made on the feasibility of a land transfer for the creation of RR lots and the final lot layout.

If the application proceeds, the applicant would be required to establish developable areas on the five RR lots with locations selected to minimize impact.

#### ***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

Rezoning a portion of the lot 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.

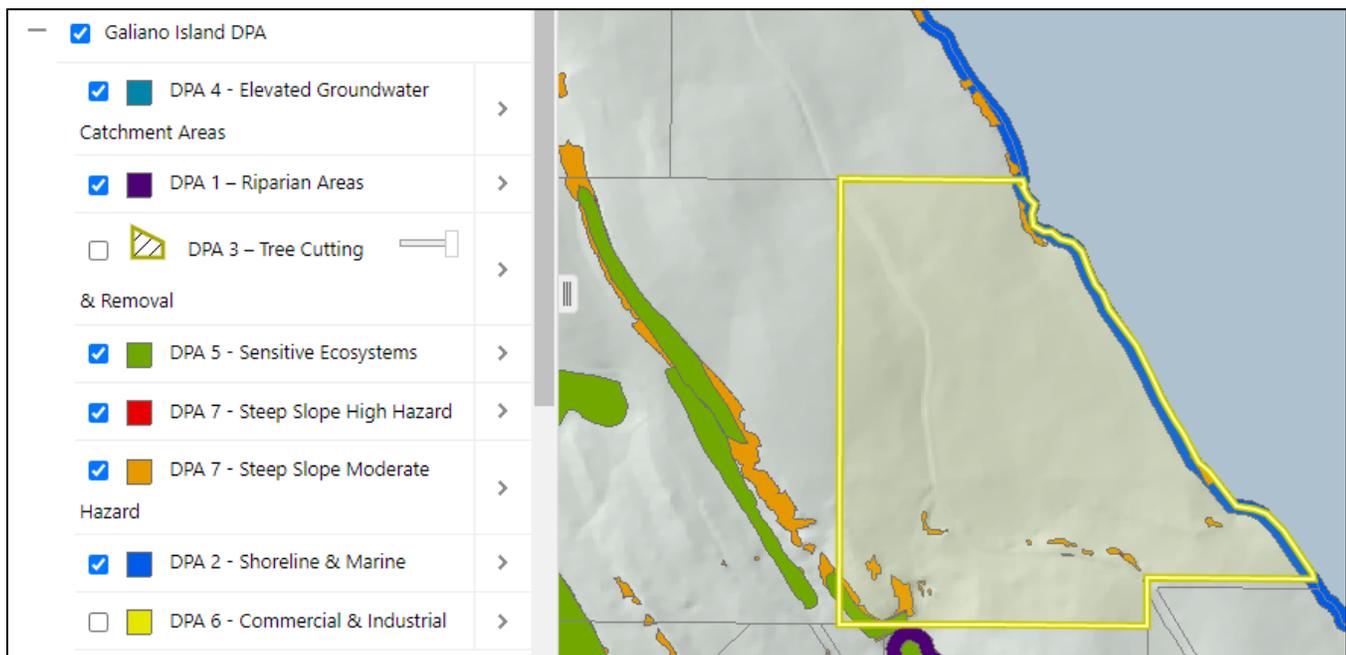
Rezoning to a portion to **RR** would permit on each new lot:

- one dwelling (with no maximum floor area) and one accessory cottage with a maximum floor area of 80 m<sup>2</sup> (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).

### Development Permit Areas

Figure 5 shows the *DPA 2 – Shoreline and Marine* (DPA 2 - Blue), *DPA 5 – Sensitive Ecosystem* and *DPA 7 Steep Slope –moderate* (DPA 7 – Orange) on the subject property.

**Figure 5. DPA 2 – Shoreline and Marine (Blue) and DPA 7 Steep Slope Moderate (Orange)**



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.

### 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 five proposed lots if removal of greater than 12 m<sup>3</sup> 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.”

For the proposed F3 lot, the DPA 3 guidelines provide the following exception to requiring a permit on the areas of land restricted to forest use only (i.e. areas outside of the **developable area**):

- *the cutting or removal of any tree from the Agricultural Land Reserve or from any area charged by a covenant granted pursuant to Forest policy b)ii) of this Plan that restricts the use of the area to forest uses exclusively.*

### **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](mailto: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](http://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 early engagement and 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

- Malahat First Nation
- Snuneymuxw First Nation
- WSA NEC Leadership Council
- Coast Salish Peoples of Galiano
- Georgeson Family of Galiano

If the LTC decides to proceed, as a first step staff would send a letter to these First Nations seeking further dialogue and input.

### **Agencies**

Staff have identified the following agencies for bylaw referral should the application proceed to that stage; 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

### **Rationale for Recommendation**

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

- The proposal as written is consistent with Galiano Island Official Community Plan No. 108 (OCP) forest, rural residential and parks and recreation policies;
- 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-2023.2 (McElhanney).*

**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-2023.2 (McElhanney) in abeyance.*

**NEXT STEPS**

With direction from the LTC, Staff will:

- Draft letter for preliminary engagement with First Nations, and
- Issue a TOR to applicant

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

**ATTACHMENTS**

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

## ATTACHMENT 1 – SITE CONTEXT

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### LOCATION

Legal Description	District Lot 85, Galiano Island, Cowichan District
PID	009-625-259
Civic Address	5500 Bodega Beach Drive, Galiano Island
Lot Size	59.6 hectares (149.33 acres)

### LAND USE

Current Land Use	Forest 1
Surrounding Land Use	Forest 1, Park, Marine, Nature Protection

### HISTORICAL ACTIVITY

File No.	Purpose
GL-RZ-2022.1	Rezone the property from Forest 1 (F1) to a combination of Forest 3 (F3), Rural Residential (RR) and Nature Protection (NP).
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-1994.1	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-2019.6 – non-permitted uses on an F1 lot including illegal dwellings and seasonal use of travel trailers, storage of travel trailers, and existence of non-forestry accessory buildings.

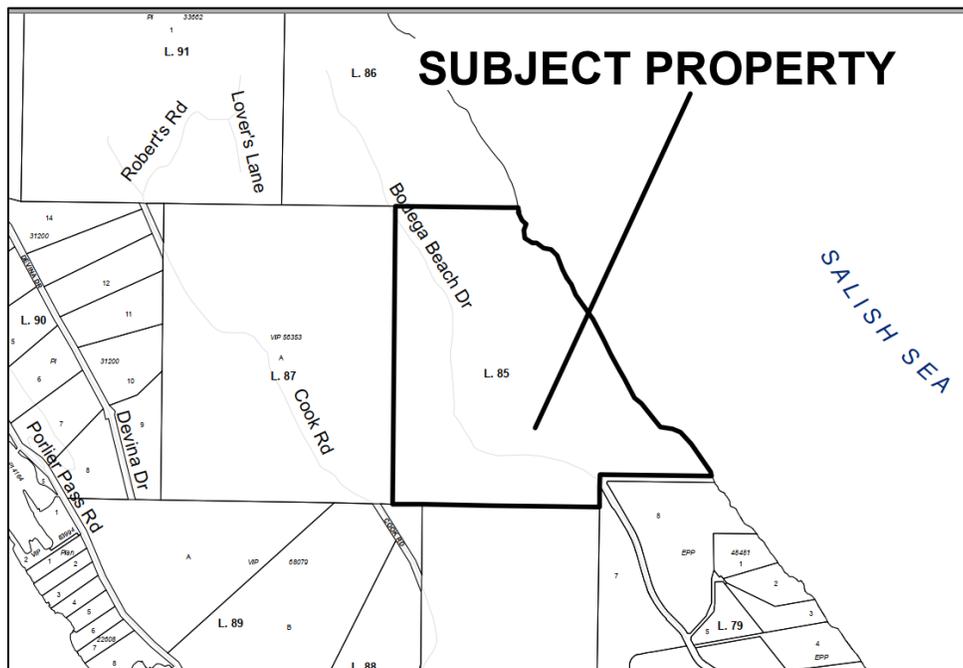
### SITE INFLUENCES

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	SAR masked secure zone across entire property and numerous others in a large polygon surrounding majority of island; sea bird colony identified in marine zone adjacent to southern lot boundary
Sensitive Ecosystems	Portions of mixed woodland.

Hazard Areas	There are portions of the property identified as Steep Slope Moderate Risk
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"> <li>• 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: <a href="https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/archaeology/permits">https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/archaeology/permits</a>.</li> <li>• 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 <a href="mailto:archaeology@gov.bc.ca">archaeology@gov.bc.ca</a>.</li> <li>• Any impacts, would include the following: landscaping, tree removal, digging, using heavy equipment, development, fencing, footings, or any form of groundwork.</li> <li>• For more information regarding registered archaeological sites and archaeological potential on the subject property, submit an Archaeological Information Request Form: <a href="http://www.archdatarequest.nrs.gov.bc.ca">www.archdatarequest.nrs.gov.bc.ca</a>, or contact Islands Trust to access mapping of the subject property.</li> </ul>
Climate Change Adaptation and Mitigation	None
Shoreline Classification	Low Rock/Boulder
Shoreline Data in TAPIS	None

# ATTACHMENT 2 – MAPS, PLANS, ORTHO-PHOTOS

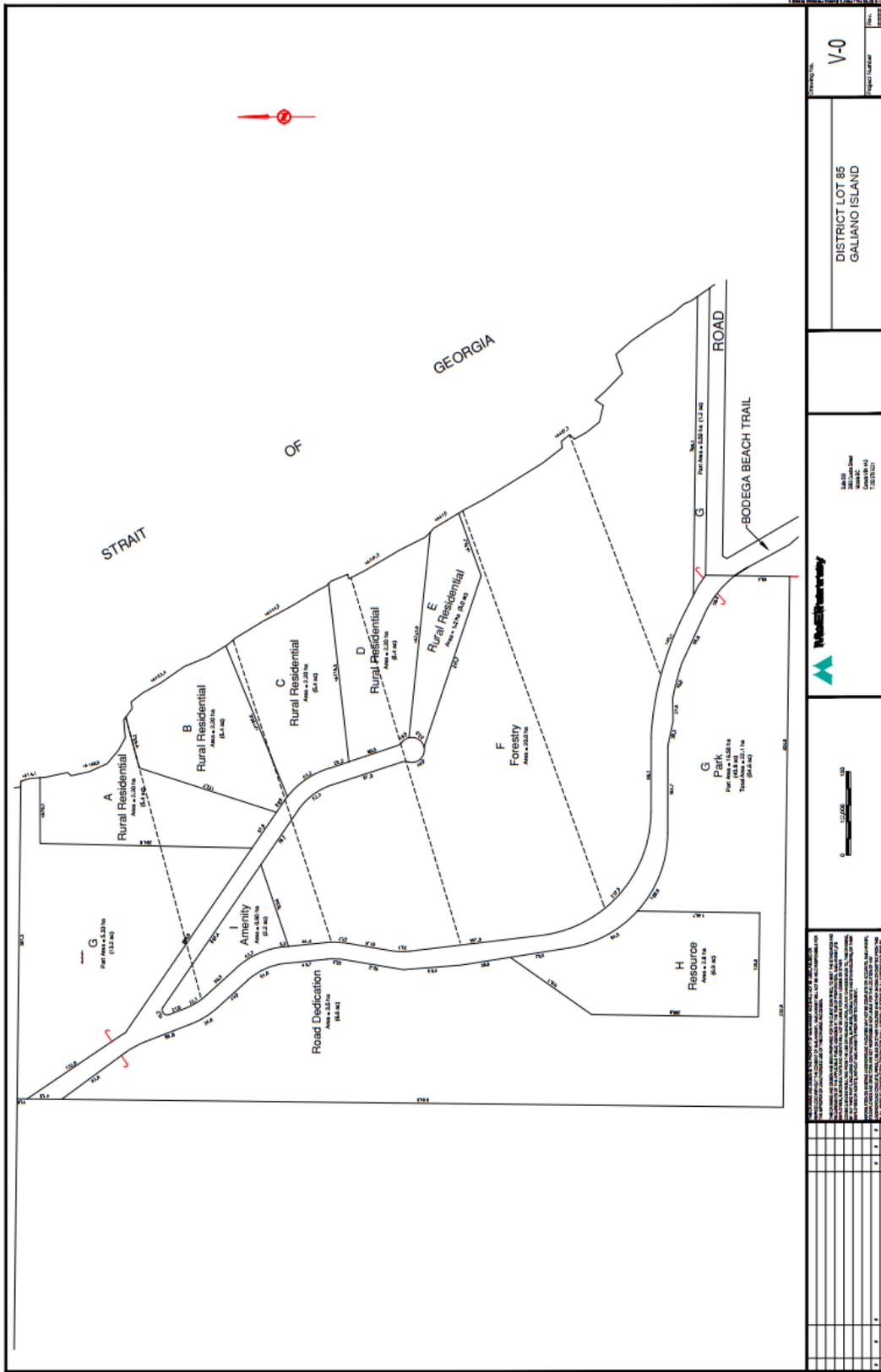
## 2.1 SUBJECT PROPERTY MAP



## 2.2 ZONING AND ORTHO

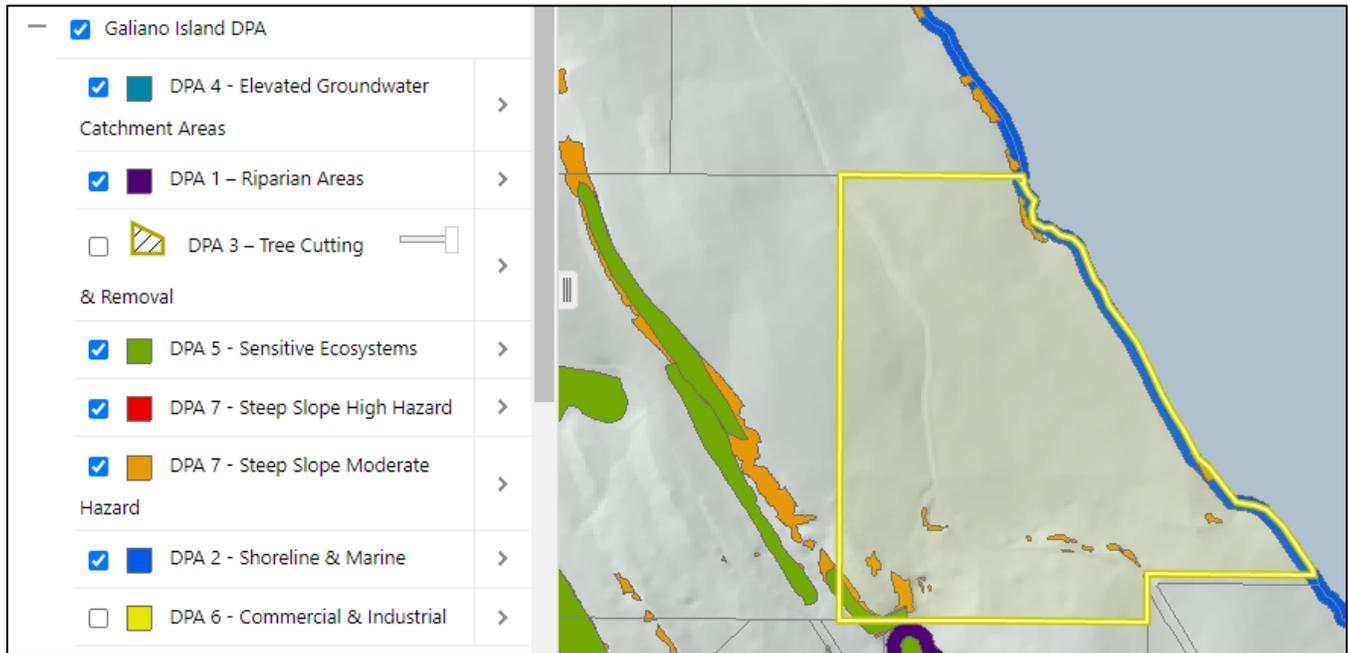


### 2.3 PRELIMINARY SITE PLAN RENDERING

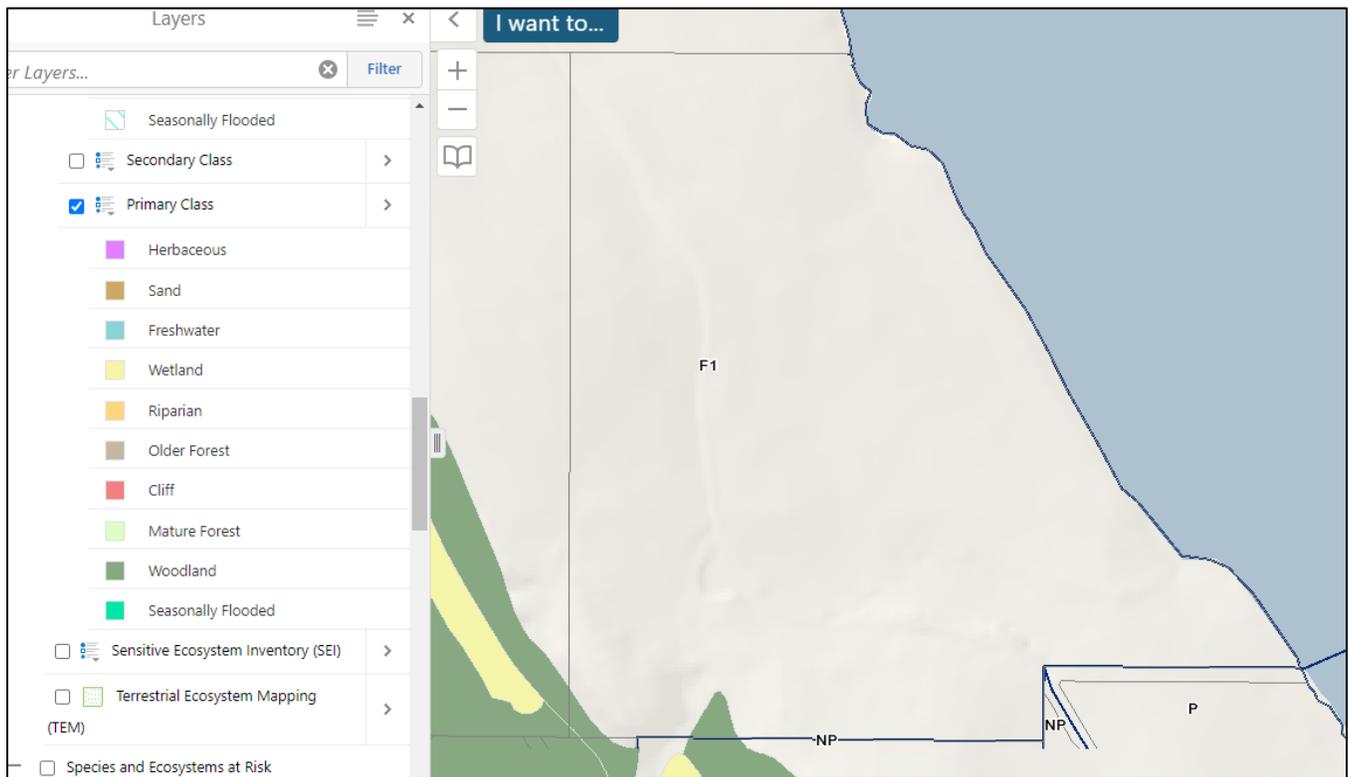


## 2.4 DEVELOPMENT PERMIT AREAS

DPA 2 (Shoreline and Marine), DPA 5 Sensitive Ecosystem and DPA 7 (Steep Slope Moderate)



## 2.5 SENSITIVE ECOSYSTEM MAPPING



March 22, 2022

Islands Trust (Southern Office)  
200 – 1627 Fort Street  
Victoria, BC  
V8R1H8

Attention: Brad Smith, PAg, Island Planner

## Application to Rezone – D.L. 85 (Galiano Island)

On behalf of my clients, I am pleased to submit this application to rezone the 59.6 ha subject property, D.L.85, on Galiano Island. The purpose of this rezoning application is to rezone the lands from their current Forest 1 (F1) Zone to the following:

Proposed Zone	Area (ha / acres)*	% of gross total land base
Forest 3	20.0 ha	34%
Rural Residential	10.0 ha	17%
Parkland	22.3 ha	37%
Road Dedication	3.6 ha	2%
Resource	2.8 ha	4%
Amenity	0.9 ha	2%
<b>Total</b>	<b>59.6 ha (147.3 acres)</b>	<b>100%</b>

\*These figures are approximate, with further refinement to occur at later stages of development.

The purpose of this application is to recognize the role that forestry and timber harvesting has played in the evolution of Galiano Island while allowing the creation of five (5) Rural Residential Zoned properties. Rezoning the majority (71%) of the subject lands to a combination of Forest 3 (34%) and Parkland (37%)

will ensure that forestry remains the primary use of the subject lands. We have engaged the services of both a Qualified Environmental Professional (QEP) and Professional Forester to prepare a Forest Management Plan and we are fully committed to working with a third-party conservation group and register a Sustainable Forestry Covenant on property title as a condition of zoning approval.

Following similar precedents set in areas near the subject property, it is proposed that 5, Rural Residential properties, averaging 2.0 in parcel size, parcels be permitted, with the remainder of the subject property being dedicated as both parkland and public roads. Establishing a 20.0m road right-of-way through the subject property is in recognition of the fact that the current and only access into Dionisio Point Park is via an easement road not accessible to the public. It should be noted that full public access to the Park will be conveyed should both this rezoning application and the concurrent proposed rezoning of DL86 be adopted. Related, as shown on the submitted concept plan, proposed parkland both at the north and south ends of the site will allow public access to the foreshore.

The proposed concept has been developed to align with the “Forest” objectives contained within Galiano’s Official Community Plan. For example, the proposal “*preserves the forest land base*” by ensuring that 72% of the property area will be used for sustainable forestry practices and parkland. Registration of a sustainable forestry covenant and parkland dedication will also ensure that the forest’s “*biodiversity, integrity and ecological services*” remain protected.

Recognizing that Islands Trust planning staff will provide detailed project terms of reference outlining the required development approval information in order for this rezoning application to move forward, this submission also includes submission of a preliminary sewerage and water report indicating that potable water can likely be provided, and soils are generally conducive for septic disposal.

In short, we believe that this proposal successfully balances the OCP’s goal of promoting sustainable forestry with providing additional public parkland opportunities, access to Dionisio Point Park, alongside some limited residential uses.

Thank you for considering our application and we look forward to working with you.

Sincerely,  
McElhanney Ltd.



Andy Gaylor, MPA, MCIP, RPP  
[agaylor@mcelhanney.com](mailto:agaylor@mcelhanney.com) 250-718-7274

cc: Fleming Larsen, Client

