

DATE OF MEETING: June 21, 2021

TO: Mayne Island Local Trust Committee

FROM: Narissa Chadwick, Island Planner
Southern Team

COPY: Robert Kojima, Regional Planning Manager

SUBJECT: Report subject: Rezoning Application
Applicant: Mayne Island Housing Society (MIHS)
Location: 375 Village Bay Road

RECOMMENDATION

1. That the Mayne Island Local Trust Committee request that the owner of Lot B, Plan 27091 grant to the Local Trust Committee a suitably worded Section 219 covenant which would restrict development on proposed Lot 2 until the construction of rental housing on proposed Lot 3 proceeds, and that the S.219 covenant be registered on title as a condition of rezoning
2. That the Mayne Island Local Trust Committee request that the owner of Lot B, Plan 27091 include in the S.219 covenant the location of permitted building sites on proposed lot 2 and the areas to be preserved.
3. That the Mayne Island Local Trust Committee Bylaw No. 181, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2021” be read for a first time.
4. That the Mayne Island Local Trust Committee Bylaw No. 183, cited as as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2021” be read for a first time.
5. That the Mayne Island Local Trust Committee request staff to schedule a Public Hearing for Bylaw No. 181, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2021” and Bylaw No. 183, cited as as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2021”.

REPORT SUMMARY

The purpose of this report is to:

- 1) Provide an update on the process
- 2) Present the MIHS’s proposal for the building site on the proposed Lot 2 for discussion
- 3) Present options for restricting building on lot 2 prior to confirmation of housing development moving forward
- 4) Identify next steps.

BACKGROUND/UPDATE

As indicated in the May 10th staff report, the Mayne Island Housing Society (MIHS) has provided all of the information requested by the LTC to date.

Other steps requested by the LTC have been addressed as follows:

Housing Agreement

At the November LTC meeting the LTC passed a resolution to require that a housing agreement related to the use of Lot B, Section 7, Mayne Island, Cowichan District, Plan 27091 be adopted prior to the adoption of the rezoning bylaws.

Update: A draft housing agreement was sent for legal review. Initial comments were received and discussed with staff and further revisions were provided to staff. Staff have forwarded the revisions and to the MIHS for their review. The housing agreement will be with the current owner of the property, Sean McHugh, until such time that the ownership of the property is transferred to the MIHS.

Covenant

At the November LTC meeting, the LTC passed a resolution requesting that a Section 219 covenant be granted by the owner of Lot B that would identify the location of development, require water treatment and monitoring, and areas to be preserved, on proposed Lot 2 as a condition of adoption of the bylaws.

Update: Staff are working on covenant language to address water treatment. Identifying the building location(s) on proposed lot 2 is a key step in identifying areas to be preserved on proposed lot 2. The map in Attachment 1 identifies building sites proposed by the owner of the property in collaboration with the MIHS. These options are presented to the LTC for discussion. The MIHS indicates that the property owner would like there to be two options for building areas.

Bylaws

At the November 2020 LTC meeting, the LTC requested staff prepare draft bylaws to amend Land Use Bylaw and Official Community Plan.

The draft bylaws include:

1. **An amendment to the Land Use Bylaw** (Bylaw No.183) which would:
 - Create a new zone (Comprehensive Development Three (CD3) Zone) to support multi-family rental housing.
 - Introduce additional definitions
 - Create a split zoned lot
 - Rezone the portion of the property being contemplated for multi-family rental from Rural (R) to Comprehensive Development Three (CD3)
 - Rezone the parent portion of the property to R(f) to enable the subdivision of the lot into two (in concurrence with amenity zoning provisions in the OCP)
 - Remove the new CD3 zone from the area permitted to have secondary suites
2. **An amendment to the Official Community Plan** (Bylaw No.181) which:
 - Designates the proposed multi-family rental housing portion of the parent property from Rural designation to Rural – Multi-family residential (R-MR) designation.

At the January 25th LTC meeting the LTC passed a resolution asking staff to include a definition of affordable housing in draft Bylaws.

Update: The current draft bylaws do not contain a definition of affordable housing. Staff suggest that as the housing agreement specifically identifies the type of housing to be provided providing a definition of affordable housing is not necessary and is problematic given that this housing is only 70% is what is considered to be affordable rental housing. As well, providing a definition to suit this project will constrain the ability to use the term in other contexts.

At the January 25th LTC meeting the LTC passed a resolution that the Mayne Island Local Trust Committee ask staff to amend the draft bylaws to account for a buffer zone.

Update: Staff have revised the bylaw to include an 8 metre setback from interior lot lines (see Attachment 1).

Early Referral to First Nations

At the May 10th LTC meeting the LTC requested staff send relevant application materials and related to MA-RZ-2020.1(MIHS) to First Nations for early referral.

Update: This has been done. No response has been received at this time.

Legal Opinions

At the May 10th LTC meeting the LTC requested staff to obtain a legal opinion and clarification of Official Community Plan amenity definition. Staff also obtained legal advice regarding the LTC's request for options on mechanisms to ensure that density increase is not provided in the absence of the amenity.

Update: The legal opinion received has informed the options identified in the following section of this report.

ITEMS FOR DISCUSSION

Location of building area on proposed lot 2 – As indicated above, identifying the location of the building area(s) on the proposed lot 2 is a key step in identifying areas to be preserved on proposed lot 2. The plan in Attachment 1 identifies two potential building locations for proposed lot 2 proposed by the property owner in collaboration with the MIHS. Trustees need to confirm whether they support the proposal to have two potential building areas to allow flexibility and if they support the proposed locations. Staff are supportive of the proposed building areas as they consider the recommendations of the wetland specialist and are focused on areas on the lot that are more disturbed and accessible by previously cleared access roads. The proposal for two potential building sites will allow for the building of a primary dwelling and a cottage either in close proximity or separated.

Options for restricting building on lot 2 until provision of housing is guaranteed – While provision of land for housing would likely be consistent with the OCP, if the LTC wishes to have assurance of the provision of housing as the amenity, staff recommend that the S.219 covenant also restrict building on lot 2 until the development of the housing proceeds. This could include: confirmation of a specific amount of funding; confirmation of total funding as related to building cost projections; build out to a certain extent, or other measurable outcomes.

Other options include:

- Not approving the rezoning amendment until the LTC has evidence housing will be provided.
- Restricting subdivision until the LTC has evidence housing will be provided.
- Restricting subdivision of Lot 2 until affordable housing has been built or has commenced.

- Granting Trust Council or the CRD an option to purchase the land for a small amount if the affordable housing is not completed by a certain deadline or interim deadlines are not met.

Staff support the option of having a S.219 restrict building on lot 2 until the LTC is confident the development of the housing will proceed as it will provide assurance of the provision of housing as the amenity. This approach will also not hold up the rezoning or subdivision processes which, upon approval, will put the MIHS in a better position to receive funding.

Consultation

Statutory Requirements

In accordance with regular statutory requirements, a public hearing is required and it is normal practice to hold at least one Community Information Meeting (CIM) prior to that. The first Community Information Meeting was held on April 26th 2021. There were between 15- 25 community members in attendance during the duration of the meeting. Presentations were made by Planner Chadwick, the MIHS and a number of their consultants: the biologist, the wetland specialist and the hydrogeologist. A representative from BC Housing was in attendance and answered a number of questions related to their funding structure and requirements.

The Public Hearing will be scheduled after First Reading of the bylaws. The LTC will need to provide direction to staff to schedule the Public Hearing. Public Hearing notice would be posted as per statutory and bylaw requirements in advance of any public hearing. Another CIM may be held prior to public hearing as per the interests of the LTC.

Agencies

The following agencies have been identified for referring draft bylaws for comment; the LTC may also direct staff to include other agencies not listed. Additionally, the LTC may choose to refer the proposal to the Mayne Island Advisory Planning Commission.

- Ministry of Transportation and Infrastructure (MOTI)
- Water Management Branch, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD)
- BC Housing
- Island Health
- CRD, Building Inspection Services
- Mayne Island Fire Rescue
- Saturna Island Local Trust Committee
- Galiano Island Local Trust Committee
- North Pender Island Local Trust Committee
- Saltspring Island Local Trust Committee

The bylaws will be sent to referral agencies after first reading.

First Nations

As identified in the provincial Consultative Area Database (CAD), the area of proposed rezoning lies within the traditional territories of the following First Nations:

- Stz'uminus First Nation
- Lake Cowichan First Nation
- Halalt First Nation

- Lyackson First Nation
- Penelakut Tribe
- Malahat Nation
- Semiahmoo First Nation
- Te'mexw Treaty Association
- Pauquachin First Nation
- Tsartlip First Nation
- Tseycum First Nation
- Cowichan Tribes
- Tsawwassen First Nation
- Tsawout First Nation

Meaningful engagement between the Island's Trust and these First Nations will be required. The Province will also be required to meet their consultative obligations as a decision to rezone includes an OCP bylaw amendment which will need ministerial approval.

While staff have initiated early engagement, additional engagement will be undertaken after first reading of the bylaws.

At this time staff have conducted a desktop review that indicates there are potential archaeological sites within 100 m of the proposed development area. Therefore, land owners should seek clarification on the location of the sites in relation to development, review the provincial archaeological branch website, and be guided by the Islands Trust Chance Find Protocol.

Rationale for Recommendation

- 1. That the Mayne Island Local Trust Committee require that a Section 219 Covenant restricting building on the proposed Lot 2, until such time that the LTC is satisfied that the building of the rental housing will begin, be registered on title as a condition of subdivision.***
 - Based on legal review staff suggest that it would be prudent for the LTC to have assurance of the provision of housing in order to grant the amenity.
 - This approach will not impact the rezoning. The MIHS has indicated that having zoning in place will put them in a better position to receive funding.
 - This is a viable option from a legal perspective
- 2. That the Mayne Island Local Trust Committee read Bylaw 181 and 183 for the first time***
 - Requested changes to date have been made
 - The MIHS has provided all the information requested of them to date.

ALTERNATIVES

Re: Section 219 Covenant

- 1. The LTC could decide that they are comfortable with the zoned land being enough to provide the amenity and not require any kind of proof that the housing will be provided before the proposed Lot 2 can be built on.** While this may be consistent with the OCP staff suggest that the most prudent approach is to have some assurance as to the provision of the housing.
- 2. The LTC identify a different option.** Staff have indicated a number of other options in this report.

Re: First Reading of Bylaws

1. **The LTC receive the proposed bylaws for information.** The LTC may choose to receive the draft bylaws and wait until the process has moved further along before suggesting changes to the bylaws.

That the Mayne Island Local Trust Committee receive for information Bylaw No. 181, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2021”.

That the Mayne Island Local Trust Committee receive for information Bylaw No. 183, cited as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2021”.

2. **The LTC wait until the housing agreement has been finalized before moving to first reading.** As indicated in this report, the housing agreement has gone through legal review and will be forwarded to the MIHS for review before being shared back with the LTC.

That the Mayne Island Local Trust Committee Bylaw 181, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2021” and Mayne Island Local Trust Committee Bylaw No. 183, cited as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2021”, be brought back for first reading once the housing agreement has been finalized.

3. **The LTC may decide to send the draft bylaws to the APC**

That the Mayne Island Local Trust Committee request staff to send the Mayne Island Local Trust Committee Bylaw 181, cited as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2021” and Mayne Island Local Trust Committee Bylaw No. 183, cited as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2021”, to the Advisory Planning Committee for review.

NEXT STEPS

- If bylaws are read for the first time staff will schedule public hearing.
- Housing Agreement will be reviewed by the MIHS, brought to the LTC for review and adopted before adoption of rezoning bylaws.
- Section 219 Covenant will be drafted, brought to the LTC for endorsement prior to public hearing and registered before adoption of rezoning bylaws

Submitted By:	Narissa Chadwick, Island Planner	June 8, 2021
Concurrence:	Robert Kojima, Regional Planning Manager	June 9, 2021

ATTACHMENTS

1. Proposed Building Locations on Lot 1
2. Proposed Site Plan
3. Draft Bylaw 181
4. Draft Bylaw 183

**Proposed Subdivision Of:
Lot B, Section 7, Wayne Island,
Cowichan District, Plan 27091,
P.I.D. 002-552-256**

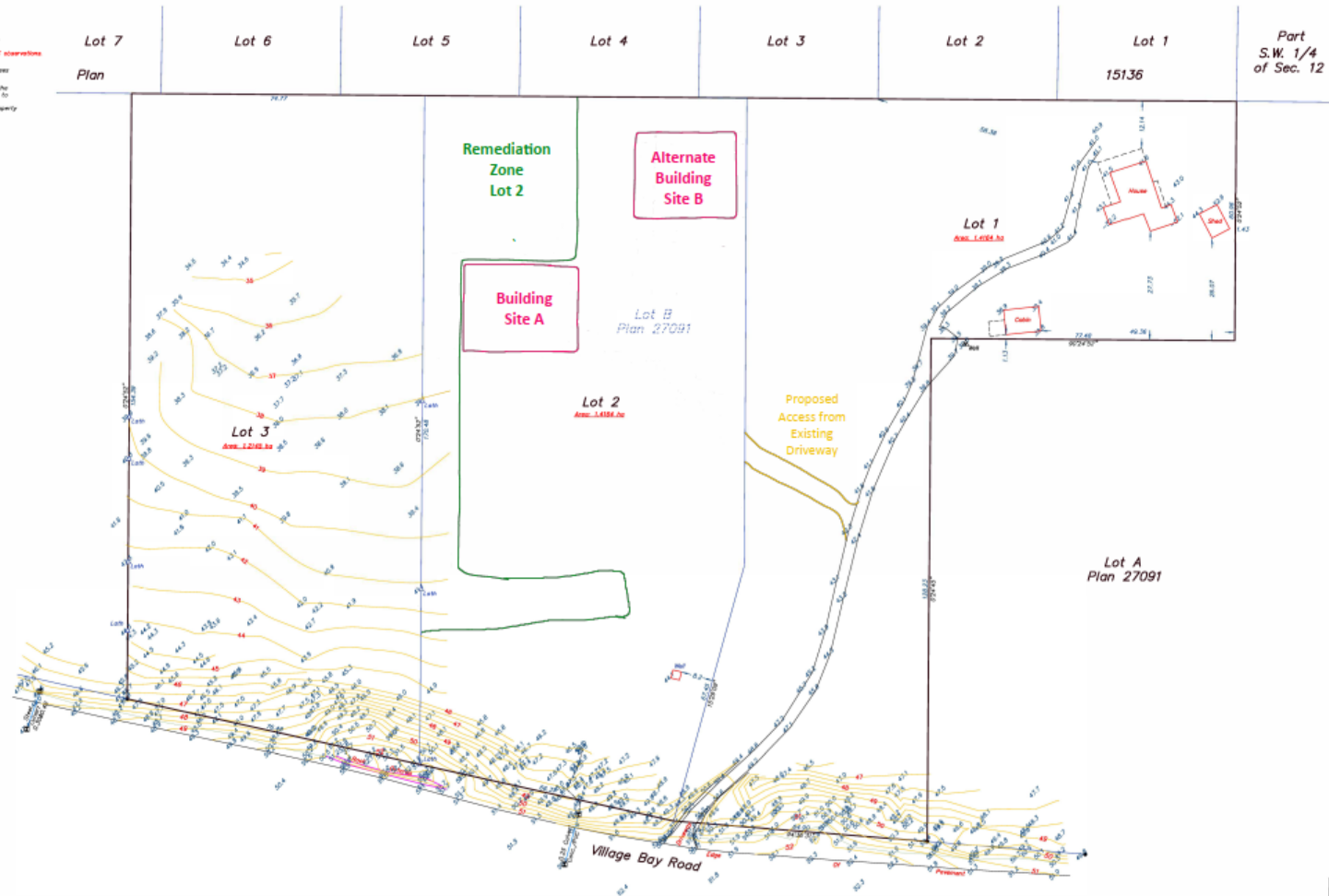
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Dated this 15th day of July, 2020

Distances and bearings shown are in metres.

Directions are given to, based upon ATN QMS elevations.

This site plan is for building and design purposes
and is for the exclusive use of our client.
This document shows the relative location of the
proposed structures and features with respect to
the boundaries of the parcel described above.
This document shall not be used to define property
lines or property corners.



The subject property is affected by
the following registered document:
2001830

Way Mayenburg Land Surveying Inc.
www.waymaynburg.com
#4-2027 James White Road
Sidney BC V8L 2T2
Telephone (250) 858-8155
Fax (250) 858-8156

No.	Date	Appr	Revision Notes

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Main Island Housing Society

Subdivision Plan

NAME	NAME
DATE	DATE
Subject/Topic	Subject/Topic
Student/Teacher	A-105
Worksheet	
Page No.	
Reviewed by	
Signature	

DRAFT

MAYNE ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 181

A BYLAW TO AMEND MAYNE ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 144, 2007

The Mayne Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “Mayne Island Official Community Plan Bylaw No. 144, 2007, Amendment No. 1, 2021”.

2. SCHEDULES

Mayne Island Official Community Plan No. 144, 2007 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS _____ DAY OF _____ 2021.

READ A SECOND TIME THIS _____ DAY OF _____ 2021.

READ A THIRD TIME THIS _____ DAY OF _____ 2021.

PUBLIC HEARING HELD THIS _____ DAY OF _____ 2021.

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS _____ DAY OF _____ 20__

APPROVED BY THE MINISTER MUNICIPAL AFFAIRS AND HOUSING
THIS _____ DAY OF _____ 20__

ADOPTED THIS _____ DAY OF _____ 20__

Chair

Secretary

**MAYNE ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 181**

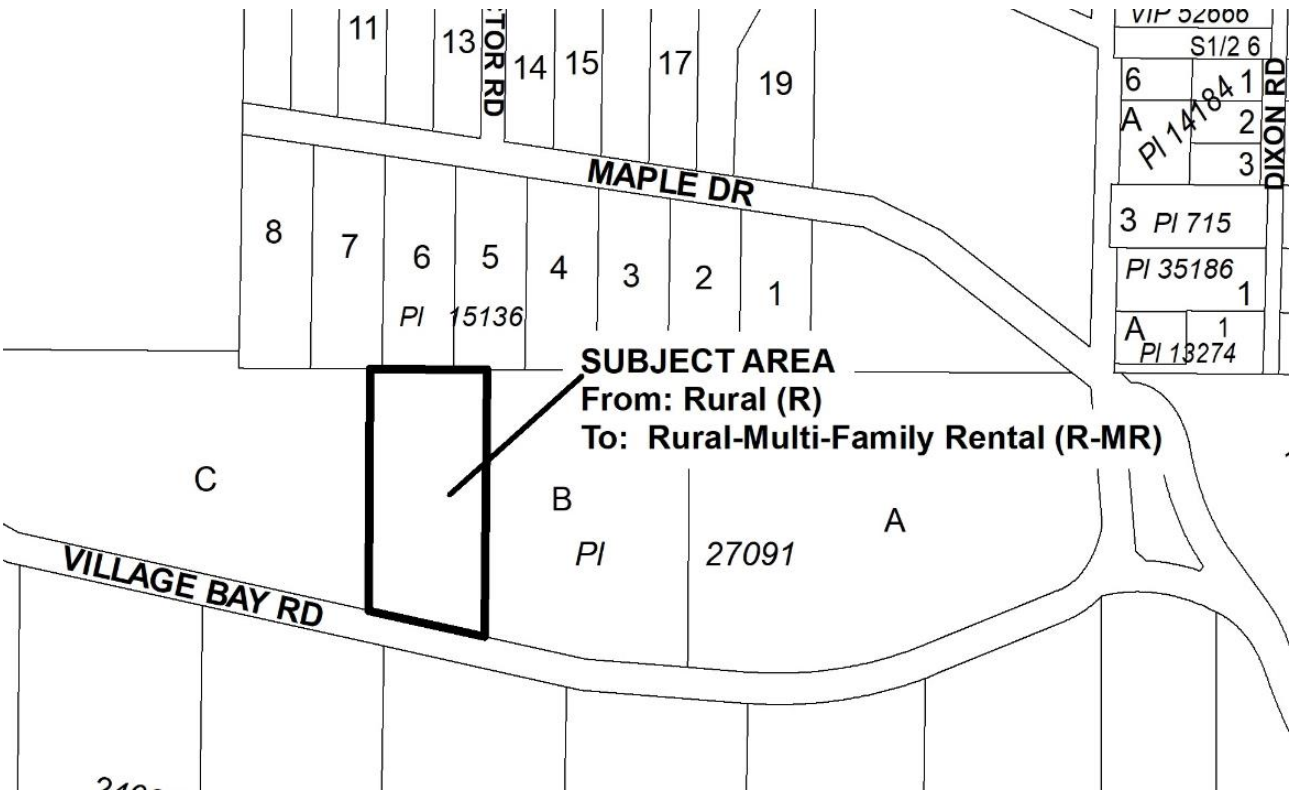
SCHEDULE 1

The Mayne Island Official Community Plan No. 144, 2007, is amended as follows:

1. By amending Schedule B by changing the land use designation on a portion of Lot B, Section 7, Mayne Island, Cowichan District Plan 27091 from Rural (R) to Rural – Multi-Family Residential (R-MR) as shown on Plan No. 1, which is attached to and forms part of this bylaw.

MAYNE ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 181

Plan No.1



DRAFT

MAYNE ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 183

A BYLAW TO AMEND MAYNE ISLAND LAND USE BYLAW NO. 146, 2008

The Mayne Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Mayne Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Mayne Island Land Use Bylaw No. 146, 2008, Amendment No. 1, 2021”.

2. Mayne Island Local Trust Committee Bylaw No. 146, cited as “Mayne Island Land Use Bylaw No. 146, 2008,” is amended as follows:

2.1 By adding to Definitions ““Multi-family rental housing” means residential use of attached dwelling units that are limited to residential rental tenure.’

2.2 By adding to the definition of Dwelling unit “multi-family housing” after “secondary suite”

2.3 By adding to Definitions ““Residential rental tenure” means the granting of a right to occupy a dwelling unit as living accommodation where the minimum occupancy period is thirty consecutive days, and where the dwelling unit is not owned by a dwelling unit occupant, but where regular payments are made to the owner for the use of the dwelling unit.’

2.4 By inserting a new row in the table in subsection to 5.5 (14) in the Rural (R) zone as follows:

Column 1	Column 2	Column 3
Site-Specific Zone	Location Description	Site Specific Regulations
R (f)	A portion of Lot B, Section 7, Mayne Island, Cowichan District Plan 27091	(1) Despite 5.5(13) above the average lot area must not be less than 1.3 hectares (3.3 acres).

2.5 By adding “5.28 Comprehensive Development Three (CD3) Zone” as a new zone following subsection 5.27:

“The purpose of the Comprehensive Development Three Zone is to provide for and regulate the development of multi-family rental housing.

Permitted Uses

(1) The following uses are permitted, subject to the regulations set out in this Section and the general regulations, and all other uses are prohibited:

- (a) Multi-family rental housing
- (b) Accessory uses, buildings and structures

Density

- (2) The maximum number of dwelling units in the CD3 zone is 10
- (3) The maximum lot coverage is 20%.

Size and Siting

- (4) The minimum setback for any building or structure is:
 - (a) 8 metres (26 feet) from any front, rear or exterior side lot line;
 - (b) ~~83~~ metres (~~2640~~ feet) from any interior side lot line;
- (5) The maximum height for any dwelling unit is 9 metres (29.5 feet).
- (6) The maximum height for any accessory building or structure is 5 metres (16.5 feet).

Subdivision Lot Area Requirements

- (7) The minimum lot area is 1.3 hectares (3.3 acres).

Form of Tenure

- (8) All dwelling units in the Comprehensive Development Three (CD3) Zone shall be limited to residential rental tenure.”

- 2.6 By adding “Comprehensive Development Three CD3” to 4.1(1) (Division into Zones) following “Comprehensive Development Two CD2”
- 2.7 Schedule “B” – Zoning Map, is amended by changing the zoning classification of a portion of Lot B, Section 7, Mayne Island, Cowichan District Plan 27091, from Rural (R) to Comprehensive Development Three (CD3) as shown on Plan No.1, which is attached to and forms part of this bylaw, and by making such alterations to Schedule “B” to Bylaw No. 146 as required to effect this change.
- 2.8 Schedule “B” – Zoning Map, is amended by changing the zoning classification of a portion of Lot B, Section 7, Mayne Island, Cowichan District Plan 27091, from Rural (R) to (R(f) as shown on Plan No.1, which is attached to and forms part of this bylaw, and by making such alterations to Schedule “B” to Bylaw No. 146 as required to effect this change.
- 2.9 Schedule “D” – Zoning Map, is amended by removing a portion of Lot B, Section 7, Mayne Island, Cowichan District Plan 27091 from “ areas where secondary suites are permitted” as shown on Plan No.2, which is attached to and forms part of this bylaw, and the making of such alterations to Schedule “D” to Bylaw No.146 as required to effect this change.

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

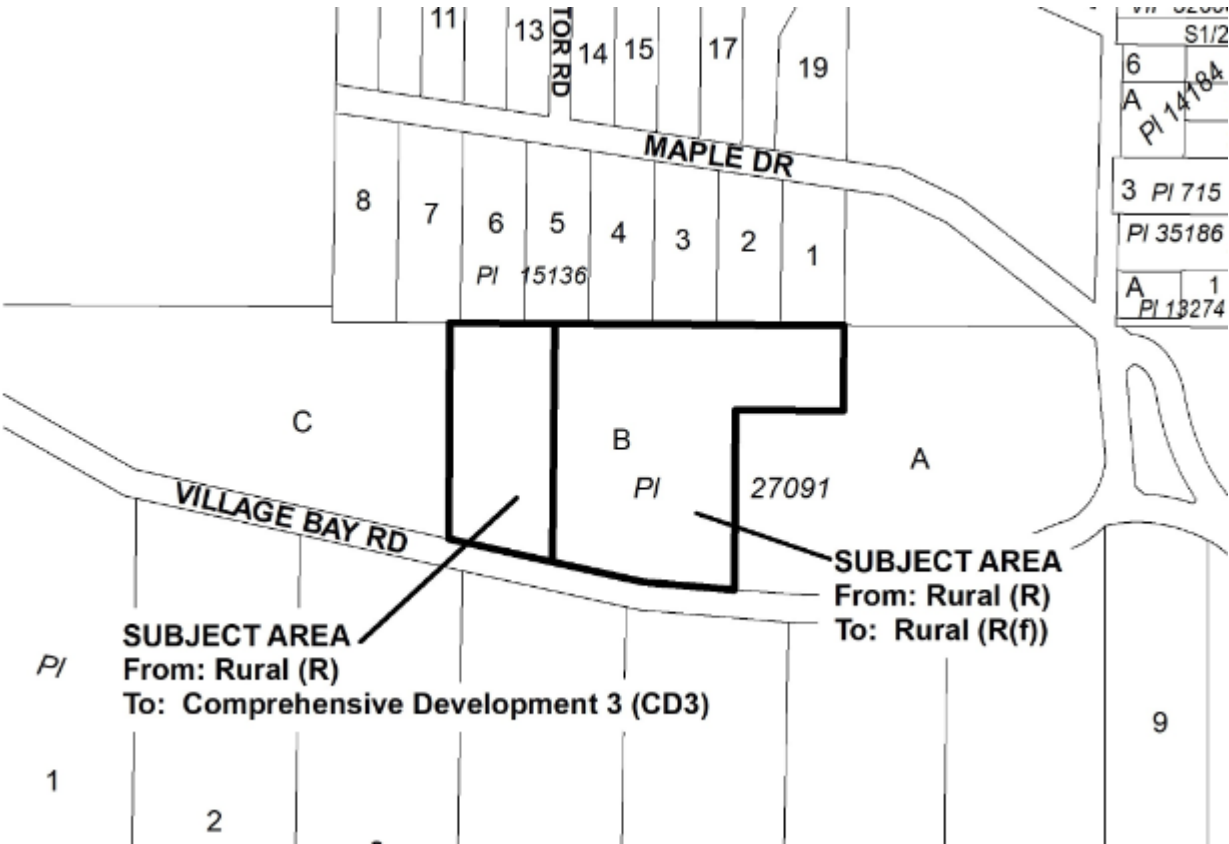
READ A FIRST TIME THIS	DAY OF	2021.
READ A SECOND TIME THIS	DAY OF	2021.
READ A THIRD TIME THIS	DAY OF	2021.
PUBLIC HEARING HELD THIS	DAY OF	2021.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	DAY OF	20__
ADOPTED THIS	DAY OF	20__

Chair

Secretary

MAYNE ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 183

Plan No. 1



MAYNE ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 183

Plan No. 2

