Islands Trust

STAFF REPORT

File No.: PLBOV20250248

DATE OF MEETING:	August 6, 2025
TO:	Salt Spring Island Board of Variance
FROM:	Rob Pingle, Planning Technician Salt Spring Island Team
SUBJECT:	Siting Variances for Single Family Dwelling, Accessory Building and Retaining Wall Applicant: Stuart Black Location: 365 Isabella Point Road, Salt Spring Island

REPORT SUMMARY

The purpose of the report is for an appeal to the Board of Variance (BOV) to vary the Salt Spring Island Land Use Bylaw No. 355, 1999 (LUB) to reduce setbacks from lot lines and access easements as well as setbacks from water bodies to permit the historical siting of a single-family dwelling (SFD), accessory building and sewage disposal field.

In order for the variances to be granted, the Board members must be satisfied that the owner would experience hardship if forced to comply with the regulations of the LUB.

This application is being made under Section 540 (a) (i) of the *Local Government Act* for a variance to a bylaw respecting the siting, size or dimensions of a building or other structure.

BACKGROUND

This BOV application results from a bylaw enforcement file (SS-BE-2023.23) regarding work within the setback from the natural boundary of the sea and within a development permit area without a permit. The lack of compliance was the result of the applicant conducting emergency repairs to the property to avoid subsidence of the dwelling into the sea.

The 0.14 hectare (0.35 acre) property is located at 365 Isabella Point Road (Figure 1) on the South end of Salt Spring Island. It is zoned Rural (R) in the Land Use Bylaw No. 355 and within the Rural Neighbourhood designation of the Official Community Plan Bylaw No. 434. Additional site context is included in Attachments 1 and 2.

The applicant has obtained the required Development Permit SS-DP-2023.8 (Attachment 3) for the remedial work to the SFD as well as permission from the Ministry of Transportation (Attachment 4) for structures within the Right-of-Way of a Provincial Public Highway. If the BOV is granted, the variance would legalize the siting of the existing structures on the subject property (Figure 2). The applicant worked to establish legal non-conforming status but records were not forthcoming and so a variance is required. Approval of this variance will bring the buildings into compliance with the LUB regulations.

Figure 1 – Subject Property

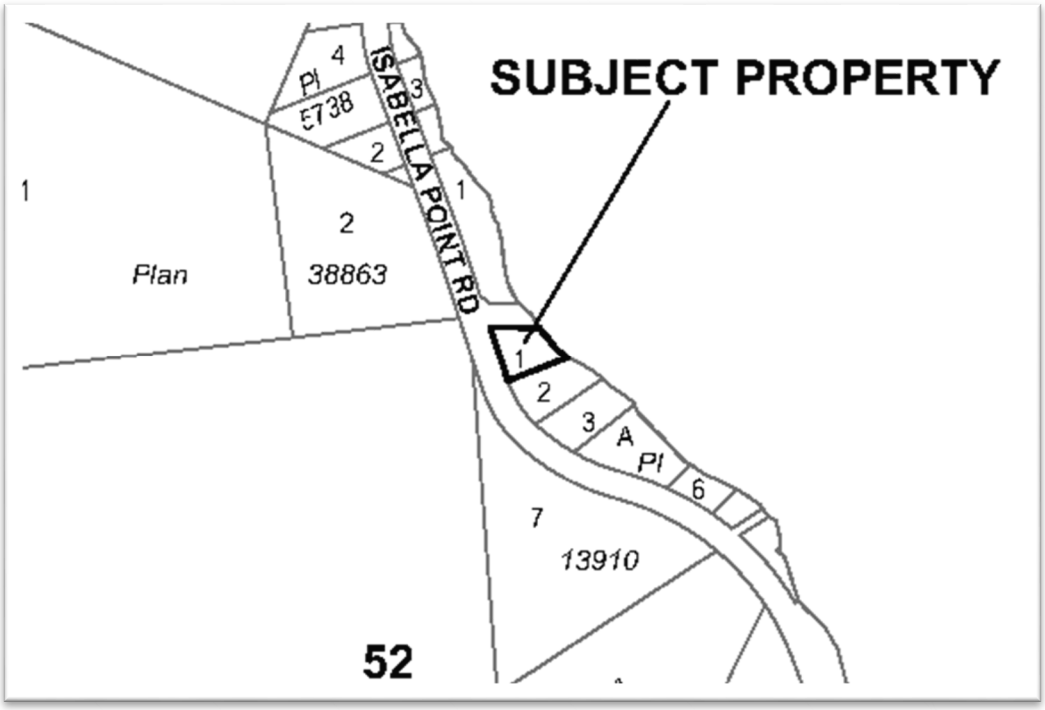
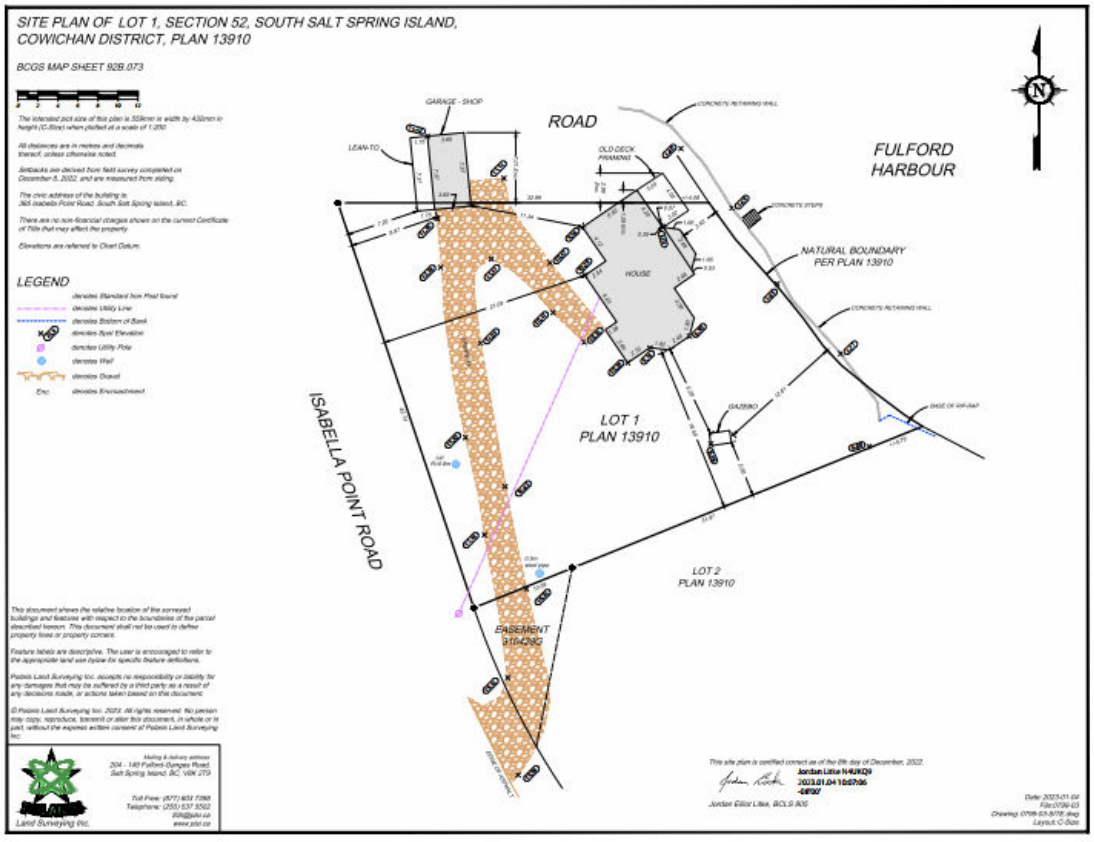


Figure 2 – Site Plan



The application seeks to vary the LUB specifically for the following items:

1) Subsection 4.3.1 which states that unless otherwise specified, no building or structure except a fence, pumphouse, public utility structure or underground utility may be constructed within the following setbacks from lot lines or road access easements:
   (1) Setback from front lot line: 7.5 m,
   (2) Setback from rear lot line: 7.5 m,
   (3) Setback from interior side lot line: 3.0 m and
   (4) Setback from exterior side lot line: 4.5 m,

   is varied to permit:
   (1) an existing accessory building 0 m away from the exterior side lot line
   (2) an existing single-family dwelling with exterior stairs and cistern 0 m away from the exterior side lot line and 2 m away from the rear lot line

2) Subsection 4.4.1 which states no building or structure except a fence, pumphouse or boathouse may be sited within 15 m of the natural boundary of any water body,

   is varied to permit an existing single-family dwelling with exterior stairs and cistern 2 m from the natural boundary of the sea.

3) Subsection 4.5.1 which states no sewage disposal field or septage pit may be located within 30 m of the natural boundary of the sea,

   is varied to permit a sewage disposal field 14.32 meters from the natural boundary of the sea.

4) Subsection 3.11.4 All rooms in a dwelling unit are to be contiguous and accessible from within the dwelling unit; a dwelling unit may not consist of two or more separate suites of rooms joined only by unenclosed space, a passageway, a garage or by any structure that does not function as an enclosed room of the dwelling unit,

   is varied to permit a full height basement not connected to the dwelling above as shown in building plans.

Analysis:

Official Community Plan:

The property is designated as Rural Neighbourhoods (RN) in the Salt Spring Island Official Community Plan (OCP) Bylaw No. 434, 2008. The subject property is also within the Development Permit Area 3 - Shoreline and recently was issued permit SS-DP-2023.8 to permit remedial work within the permit area.

Land Use Bylaw

The property is zoned Rural (R) in the LUB. The SFD, accessory building and retaining wall are permitted uses in this zone.

The subject property does not comply with the LUB siting and setback regulations; hence a variance is being sought to bring the development into compliance. The use of the subject property is in compliance with the permitted uses in the zone. The approval of the variance regarding siting and setback will bring the property into compliance with the LUB.

It is noted that the Concrete Retaining Wall and Concrete Steps identified on the site plan are not on the property. As they are located on the Crown foreshore any issues related to these structures would be addressed by the province. There was no alteration of these structures during the work to prevent subsidence of the dwelling.

ISSUES AND OPPORTUNITIES

Impact in Neighbouring Properties

As the existing structures encroach onto an undeveloped, dedicated roadway, and is located approximately 30 metres from the nearest dwelling unit, staff are of the opinion that the proposed variances would have minimal impacts to site lines or other enjoyment and use of the adjacent properties.

Undue Hardship

The *Local Government Act* (LGA) establishes that a Board of Variance may order that a *minor* variance be permitted provided that the Board finds that *undue hardship* would be caused to the applicant if the variance is not granted (see 'Legislative Context' – below).

The applicant's rationale with respect to hardship is explained in Attachment 5. The applicant is seeking the approval of variances to the LUB regarding the setback from the lot lines and natural boundary of the sea in order to enable them to complete the remediation work required to maintain the house as built.

The Intent of the Regulation being Varied

Section 542 (c) (v) of the LGA states that the Board may grant a minor variance if the Board is of the opinion that the variance does not defeat the intent of the bylaw. Although the Board must form its own opinion, the following assessment of the intent of the regulation may assist:

- Limiting the visual impact of development on adjacent properties and the public realm.
- Establishing a consistent development pattern within a local area.
- Protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
- Maintaining a rural character.
- Establishing certainty with respect to residential development by maintaining consistent siting regulations.

Potential Impacts of Granting the Variance

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

Consultation

Notices were circulated to all adjacent properties (Attachment 6). In addition, copies have been posted on island bulletin boards and the Islands Trust website. At the time of writing no correspondence has been received in response to notification. Any submissions received after the agenda is published will be forwarded directly to the Board of Variance members and presented by staff at the August 6, 2025 meeting.

First Nations

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. As reviewed, the application is consistent with respect to LTC Standing Resolutions on reconciliation. Notwithstanding, staff has also forwarded the Islands Trust Chance Find Protocol to the applicant.

Statutory Requirements

Legislative Context

Section 536 of the LGA stipulates that any local government that has adopted a zoning bylaw must establish a Board of Variance. Each LTC has a Board of Variance.

A person may apply to the Board of Variance for an order to vary certain zoning bylaw provisions where an applicant can adequately demonstrate, to the satisfaction of the Board, that compliance with the bylaw provisions would cause the applicant undue hardship.

It is up to the Board of Variance to determine what constitutes a minor variance and whether or not undue hardship has been proven.

This application is being made under Section 540 (a) (i) of the LGA where*:*

> *A person may apply to a board of variance for an order under Section 542 if the person alleges that compliance with any of the following would cause the person hardship:*
>
> *(a) a bylaw respecting*
> *(i) the siting, dimensions or size of a building or structure*

Section 542 establishes that the board of variance may only order that a minor variance be permitted from the requirements of the bylaw, if the board of variance:

(a) has heard from the applicant and any person notified any person notified under section 541,
(b) finds that undue hardship would be caused to the applicant if the bylaw or 531 (1) is complied with, and
(c) is of the opinion that the variance or exemption does not do any of the following:
i. result in inappropriate development of the site;
ii. adversely affect the natural environment;
iii. substantially affect the use and enjoyment of adjacent land;
iv. vary permitted uses and densities under the applicable bylaw;
v. defeat the intent of the bylaw;
vi. vary the application of an applicable bylaw in relation to residential rental tenure.

Further, Section 542 (2) establishes that the board of variance must not make an order that would:

(a) *be in conflict with a covenant registered under section 219 of the Land Title Act or section 24A of the Land Registry Act, R.S.B.C., c. 208;*
(b) *deal with a matter that is covered in a land use permit or covered in a land use contract*
(c) *to (e) deal with matters covered by a phased development agreement; a floodplain specification; or apply to a property with heritage protection applies.*

Staff confirm that the following requirements set out in LGA section 542 (1) and (2) have been met. Specifically:

1. The statutory notification has been undertaken.
2. The variance would not vary permitted uses or densities.
3. The variance would not defeat the intent of the bylaw.
4. The variance would not vary residential rental tenure.
5. The variance would not be in conflict with any covenants, permits, land use contract, phased development agreement, floodplain, or heritage protection provisions.

In considering the appeal, the Board should be satisfied that the following requirements under LGA Section 542 are met:

1. That the proposed variance is of a minor nature.
2. That the owner would experience a hardship if the appeal is not granted
3. That the variance would not result in inappropriate development of the site;
4. That the variance would not adversely affect the natural environment;
5. That the variance would not substantially affect the use and enjoyment of adjacent land; and
6. That the variance would not defeat the intent of the bylaw.

Draft motion for consideration:

That, having considered the matters set out in s.542 (1)(c) of the Local Government Act, and having found that undue hardship would be caused to the applicant if s.531 (1) of the Local Government Act is complied with, the Salt Spring Island Board of Variance approve application PLBOV20250248 as presented and shown on Schedule A, B and C of the Notice of Hearing.

Submitted By:	Rob Pingle, Planning Technician	July 28, 2025
Concurrence:	Chris Hutton, Regional Planning Manager	July 28, 2025

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. SS-DP-2023.8
4. Ministry of Transportation permission letter
5. Applicant Summary Letter
6. Notice of Hearing

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	LOT 1, SECTION 52, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 13910
PID	002-735-971
Civic Address	365 ISABELLA POINT RD, SALT SPRING ISLAND, BC V8K 1V4
Lot Size	0.14 ha (0.35 ac)

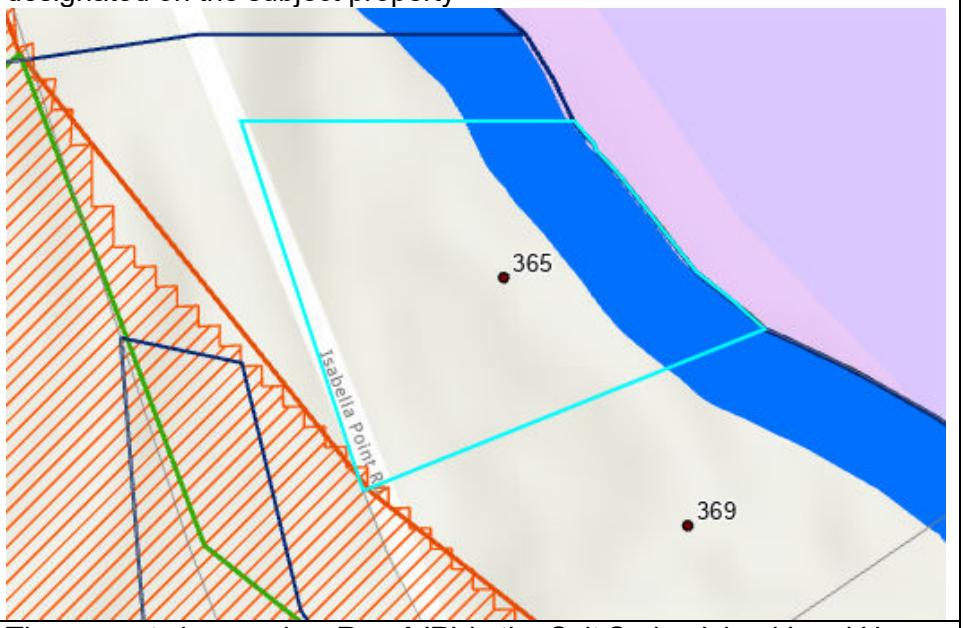
LAND USE

Current Land Use	Rural (R)
Surrounding Land Use	Rural Neigbourhoods

HISTORICAL ACTIVITY

File No.	**Purpose**
SS-DP-2023.8	DP approved for the siting of the existing dwelling

POLICY/REGULATORY

Official Community Plan Designations	The property is designated **R – Rural Neighbourhoods** in the Salt Spring Island Official Community Plan No. 434 **Development Permit Area 3- Shoreline - On-land portion (Map 20)** designated on the subject property 
Land Use Bylaw	The property is zoned as **Rural (R)** in the Salt Spring Island Land Use Bylaw No. 355

	 *Ortho/Zoning Map*

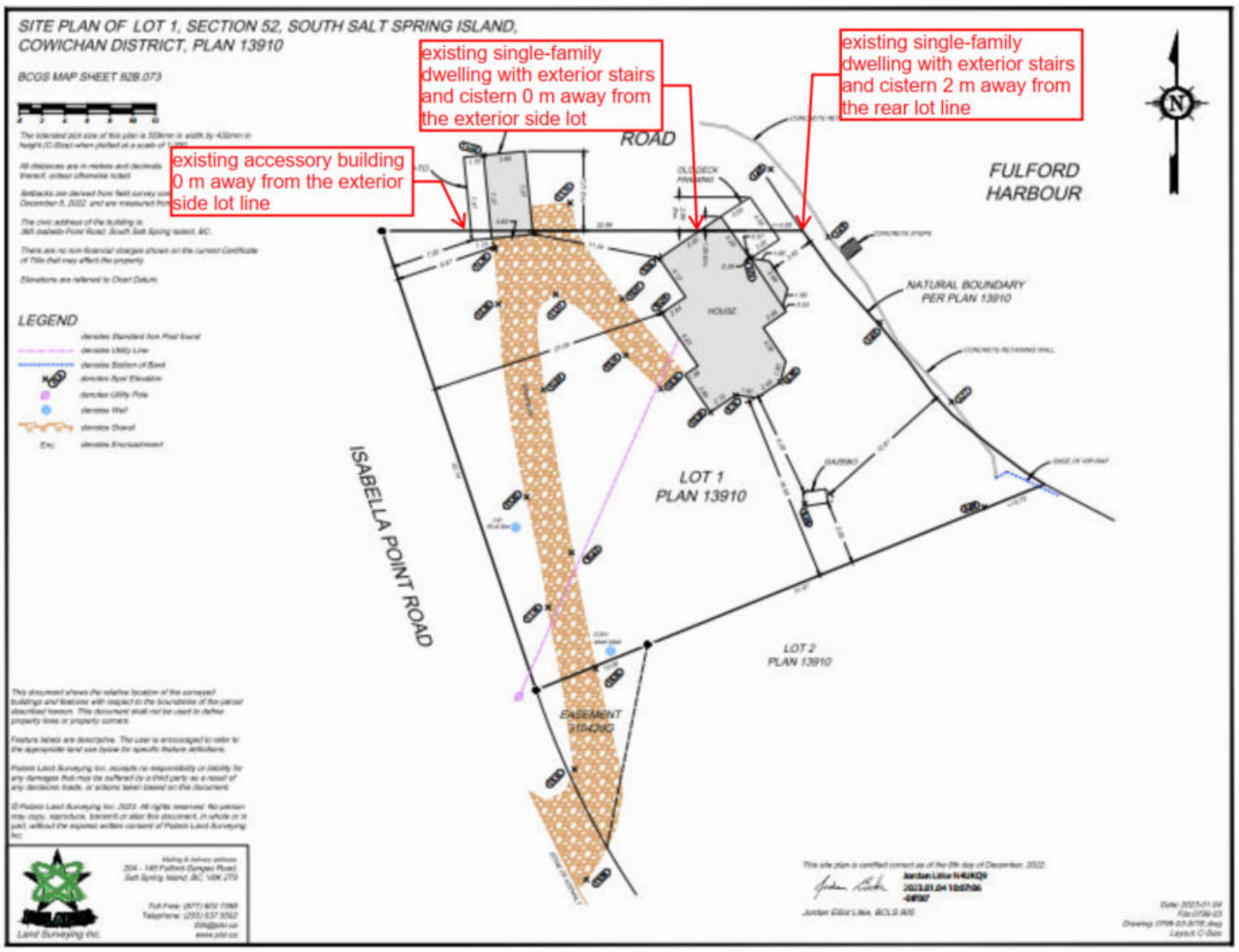
Other Regulations	N/A
Covenants	N/A
Bylaw Enforcement	SS-BE-2023.23 – work within setbacks and development permit area

SITE INFLUENCES

Islands Trust Conservancy	The application has no considerations for the Islands Trust Conservancy
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	None
Sensitive Ecosystems	None
Hazard Areas	
Archaeological Sites	Archaeological site on property (See report under 'First Nations' in staff report)
Climate Change Adaptation and Mitigation	GHG emission changes are linked to allowable density on the property and will not change with approval of the BOV.

ATTACHMENT 2 – PLANS & PHOTOGRAPHS

2.1 SURVEY PLAN (AREA WITH VARIANCES)



2.2 PHOTOGRAPHS

Figure 2.2.1 Existing accessory building, and undeveloped road (Looking North)

Figure 2.2.2 Existing house and cistern (Looking East)

Figure 2.2.3 Existing house deck and stairs (Looking North-East)

Figure 2.2.4 Existing sewage disposal system (Looking South)

Land Title Act

Local Government Filing

Attachment 3

VICTORIA LAND TITLE OFFICE
FEB 25 2025 09:18:33.001
CB1890434

1. Application

Document Fees: $32.51

Rob Pingle on behalf of Islands Trust
4-121 McPhillips Ave
Salt Spring Island BC V8K 2T6
250-537-9144

2. Description of Land

PID/Plan Number	Legal Description
002-735-971	**LOT 1, SECTION 52, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 13910**

3. Nature of Interest

Type

NOTICE OF PERMIT

4. Name of Local Government

Salt Spring Island Local Trust Committee

Additional Information

5. Notice Details

TAKE NOTICE that the land described above is subject to a Permit.

(a) Type of Notice: Development Permit
(b) Statutory authority: Local Government Act, Section 490

Issue Date: 2025-Feb-25

Further particulars of the permit may be obtained from the issuing authority.

AND FURTHER TAKE NOTICE that in the case of a Temporary Commercial or Industrial Permit, the Registrar is hereby authorized to cancel the notation of the filing of this notice against the title to the land affected by it on or after the expiry date specified above without further application from us and we consent to a cancellation of the notation on the basis of effluxion of time.

Authorized Signatory (If Applicable)

Rob Pingle, Legislative Clerk - Deputy Secretary

Electronic Signature

Your electronic signature is a representation that you are a subscriber under section 168.6 of the *Land Title Act*, RSBC 1996 c.250, and that you are authorized to electronically sign this document by an e-filing direction made under section 168.22(2) of the act.

Robert Pingle WHQSRG

Digitally signed by Robert Pingle WHQSRG
Date: 2025-02-25 09:18:14 -08:00

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT
SS-DP-2023.8

To: Peter James Black, Sharyn Dawn Black, Takako Black and Stuart Anthony Black

1. This Development Permit (the "Permit") applies to the land described below:

   LOT 1, SECTION 52, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 13910
   (PID: 002-735-971)

2. This Development Permit SS-DP-2023.8 authorizes the restoration/reconstruction of a dwelling unit within the Development Permit Area 3 (DPA 3) – [Shoreline], in accordance with the following schedules attached to and forming part of this permit as signed and dated by the Deputy Secretary of Islands Trust:

Schedule 'A'	Site plan (Litke, January 4th, 2023)
Schedule 'B'	OSWT Hydrologic Risk Assessment for Reduction of Horizontal Setback to Drinking Water Well & Sensitive Environmental Receptor (Elliot, March 22nd, 2023)
Schedule 'C'	Ryzuk Geotechnical Report File No: 10709-1 (Jackson, September 26th, 2022 & September 21st, 2021)

3. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.

4. The area described herein shall be developed in accordance with the following terms and conditions:

   4.1 Geotechnical guidance on site at the time of excavation must be anticipated to maintain workers safety.

   4.2 A structural engineer review the building conditions.

   4.3 Helical piles must be installed around the building's perimeter with minimal disruption and angled to counteract sideways movement caused by slope-induced shifts under static conditions.

   4.4 Helical piles shall be installed in accordance with the recommendations outlined in the 2022 Ryzuk geotechnical report.

   4.5 Installation process for the underpinning must follow this general sequence:

      4.5.1 Removal of the deck: Removing the deck and possibly demolishing part or all of the rock and mortar retaining wall below the house, while leaving the soil and debris in place.

      4.5.2 Helical Pile Installation: Installation of Helical piles in specific locations, with geotechnical supervision to ensure proper depth and support.

      4.5.3 Excavating the Grade Beam: Excavation for the grade beam while providing temporary supports specified by a structural consultant.

4.5.4 Installing the Grade Beam: Completion of landscaping around the building after the grade beam was in place. Without the rock and mortar wall, the ground can be sloped at 2H:1V or flatter. Surface should be protected from erosion with plants or rockfill.

4.6 Rotating section of the rock and mortar below the building must be remediated.

4.7 Thickness of retaining wall and the subgrade soils below should be examined.

4.8 For the reconstruction of the deck, new supports must be placed in similar spots to the current ones. (supports should reach stable soil and can be done with helical piles or excavated during landscaping.)

4.9 Given the proximity to the shoreline and in accordance with the guidelines and objectives of DPA-3, the inclusion of silt fences must be implemented as necessary. Additionally, proper permitting must be obtained prior to the initiation of earthworks.

5. Monitoring:

5.1 The cracks on Isabella Point Road must be monitored for signs of movement. The Ministry of Highways and Infrastructure should be contacted to inform them of the situation in this regard.

5.2 In the first two years of operation, applicant should conduct sampling at the observation port and analyze for fecal coliform yearly. (starting within 12 months of install, but no less than 6 months after start of operation)

5.3 If elevated fecal coliform levels are detected, further mitigation measures must be taken, with consultation from a QP hydrogeologist.

5.4 If the results meet the standard of 200 CFU/100mL, sampling can be reduced to once every five years.

6. This permit does not relieve the applicant from complying with the provisions of the Salt Spring Island Land Use Bylaw unless varied by this Permit.

This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of Salt Spring Island Land Use Bylaw No. 355, 1999 and to obtain other approvals necessary for completion of the proposed development.

AUTHORIZED FOR ISSUANCE BY THE DIRECTOR OF PLANNING SERVICES, THIS 24th DAY OF FEBRUARY, 2025.

Deputy Secretary, Islands Trust

25 FEBRUARY 2025
Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE 25th DAY OF FEBRUARY, 2027, THIS PERMIT AUTOMATICALLY LAPSES.

SALT SPRING ISLAND LOCAL TRUST COMMITTEE

SS-DP-2023.8

SCHEDULE 'A'

SITE PLAN OF LOT 1, SECTION 52, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 13910

BCGS MAP SHEET 92B.073

The intended plot size of this plan is 559mm in width by 432mm in height (C-Size) when plotted at a scale of 1:200.

All distances are in metres and decimals thereof, unless otherwise noted.

Setbacks are derived from field survey completed on December 8, 2022, and are measured from siding.

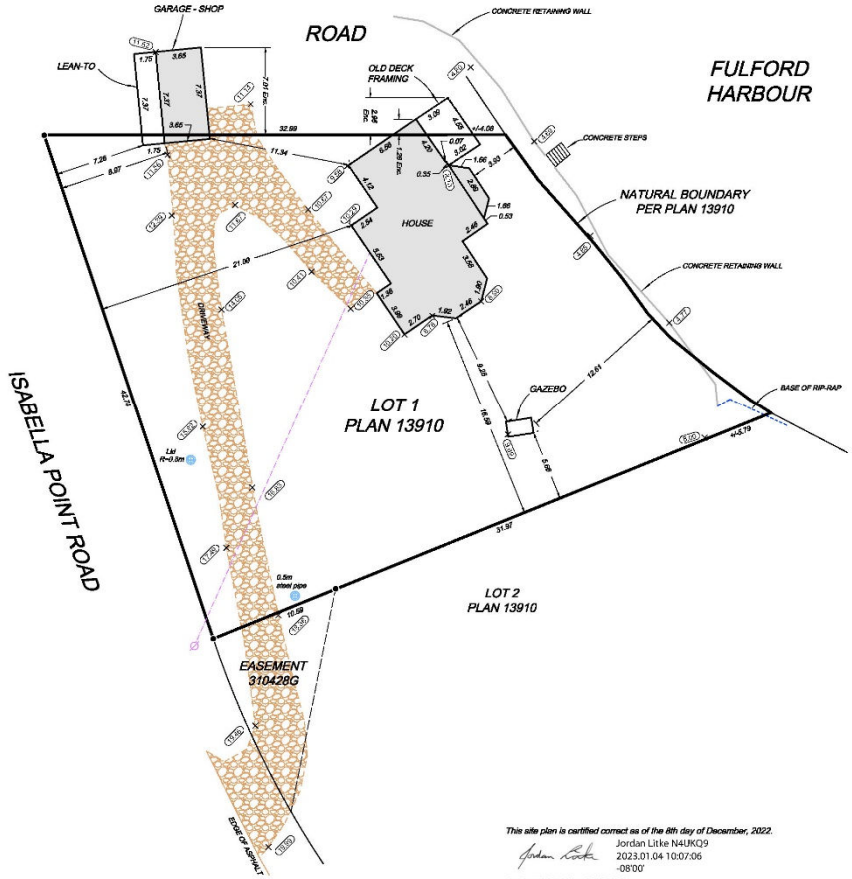
The civic address of the building is: 365 Isabella Point Road, South Salt Spring Island, BC.

There are no non-financial charges shown on the current Certificate of Title that may affect the property.

Elevations are referred to Chart Datum.

LEGEND

- denotes Standard Iron Post found
- denotes Utility Line
- denotes Bottom of Bank
- denotes Spot Elevation
- denotes Utility Pole
- denotes Well
- denotes Gravel
- Enc. denotes Encroachment



This document shows the relative location of the surveyed buildings and features with respect to the boundaries of the parcel described hereon. This document shall not be used to define property lines or property corners.

Feature labels are descriptive. The user is encouraged to refer to the appropriate land use bylaw for specific feature definitions.

Polaris Land Surveying Inc. accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decisions made, or actions taken based on this document.

POLARIS Land Surveying Inc.

Mailing & delivery address:
204 - 149 Fulford-Ganges Road, Salt Spring Island, BC, V8K 2T9

Toll Free: (877) 603 7398
Telephone: (250) 537 5502
SSI@pisi.ca
www.pisi.ca

This site plan is certified correct as of the 8th day of December, 2022.

Jordan Litke N4UKQ9
2023.01.04 10:07:06 -08'00'

Jordan Elliot Litke, BCLS 905

Date: 2023-01-04
File:0799-03
Drawing: 0799-03-SITE.dwg
Layout: C-Size

I hereby certify this to be Schedule 'A' attached to and forming part of Development Permit SS-DP-2023.8

Deputy Secretary, Islands Trust

25 February 2025

Date Issued

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
SS-DP-2023.8

SCHEDULE 'B'

(Attached)

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
SS-DP-2023.8
SCHEDULE 'B'

TRE Environmental Services

365 ISABELLA POINT ROAD

ON-SITE WASTEWATER TREATMENT

HYDROGEOLOGIC RISK ASSESSMENT

For

REDUCTION OF HORIZONTAL SETBACK

To

DRINKING WATER WELL &

SENSITIVE ENVIRONMENTAL RECEPTOR

Summary

At request of the Client, Stuart Black – representing familial landowners, I have prepared this risk assessment for proximal Drinking Water Wells (DWW) and Sensitive Environmental Receptors (SER) subjected to inherent hazards associated with an On-Site Wastewater Treatment (OSWT) system that requires horizontal and vertical setback from one (1) DWW and one (1) SER [Marine Environment] receptors.

This document is valid only for the subject parcel (the 'Site'): 365 Isabella Point Road [PID 002-735-971], Salt Spring Island (SSI) within the Capitol Regional District, as governed by the Islands Trust.

I, Thomas R Elliot PhD P.Geo P.Ag, am a suitably Qualified Professional (QP) capable of conducting these works, in part due to an extensive background in surface/subsurface water flow and transport of colloids and aqueous contaminants; and as someone who maintains good standing with the following Qualified Professional Associations: Engineers and Geoscientists of BC (EGBC), with declared competency in Hydrogeology; and the BC Institute of Agrologists (BCIA), with declared competency in Water Resource Planning and Management.

As detailed in this report, my risk assessment has determined that there is an acceptable LOW Risk to the DWW; and an acceptable LOW Risk – post mitigation measures, which are also contained in this report – to the SER.

Table 1 – Summary of Works

Project ID.	2023.202	**Project Name:**	365 Isabella Point Road
Site Type:	☐New Construction ☒Replacement ☒Repair / Alteration	**Prepared by:**	Thomas R Elliot PhD
Owners / Client:		**Jurisdiction:**	Islands Trust
Site Legal Description	Lot 1 VIP13910, Islands Trust BC	**Site PID # *(Parcel Identifier Number)***	002-735-971
Site Common Address	365 Isabella Point Road, Salt Spring Island V8K 1V4	***Registered Installer***	Darryl Saam/Drain Doctors Septic Installations & Repair
System Designer	Darryl Saam	**Project Stage:**	Existing
Owner Declaration Completed:	☒Yes ☐No	**Required Daily Design Flow:**	1300 L/day
Influent Type	☒Typical Residential ☐Other:	**Water Source:**	Drinking Water Well
Equipment Used	☐Auger (7 cm) ☒Clinometer ☒Compass ☒Engineer's Tape ☐Excavator ☒Field Soils Kit ☐Infrared Camera ☐Line Locator ☐Pipe camera	☐Permeameter (Pask, 101.6 mm) ☒Range Finder ☐Rotary Laser ☐Survey Disto ☐Sampling Kit ☐Scale ☐Sieve (10 mesh) ☒Shovel and Hand Tools ☒Soil Probe (4 ft)	
Summary of Activities:	• Site and Soils Assessments • Desktop Review and Data Assessments • Analysis and Report Writing		

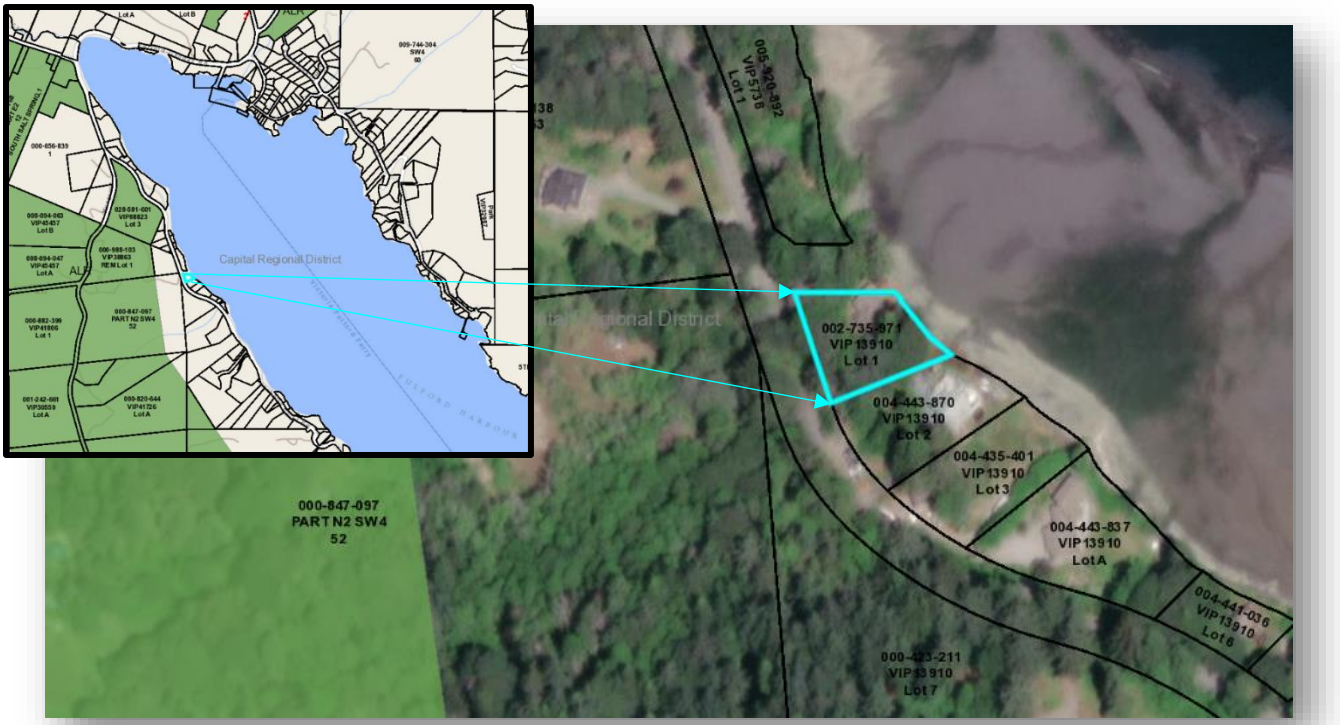


Figure 1 – Location of Site (blue outline) with aerial imagery of local area, wherein green shading indicates lands within the Agricultural Land Reserve. Inset map shows Fulford Harbour on SSI.

1 Introduction

A single family dwelling (SFD) exists on Site, for which a replacement OSWT is required to meet the Sewerage System Regulation (the 'SSR')[1]. A suitable OSWT design and installation (the 'System') was developed by a Registered On-Site Wastewater Practitioner (ROWP), Darryl Saam #0863 PL/IN. The ROWP designed system is intended to meet Site-dictated configuration & layout constraints, as well as operation & maintenance and effluent discharge characteristics defined within the SSR by meeting or exceeding the Sewerage System Standard Practice Manual Volume 3 (SPM)[2].

However, due to Site constraints, there is deviation from the SPM Horizontal setback requirements to all components of the OSWT. Therefore, the suitability of proposed setback reduction will be evaluated in this document through Risk Assessment, which will determine mitigation requirements and level of independent review necessary.

[1] Sewerage System Regulation. BC Reg. 76/2022
https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/326_2004/
[2] Sewerage System Standard Practice Manual Version 3.
https://www2.gov.bc.ca/assets/gov/environment/waste-management/sewage/spmv3-24september2014.pdf

2 Site Description

General

An existing SFD is situated near the marine interface, accessed via a driveway descending ~14m from Isabella Point Road. On the up-slope side of the access driveway is a shallow (~4m) dug DWW which supplies the SFD, and therefore the OSWT. It is assumed that this well is considered Groundwater At Risk of Pathogens (GARP) due to source. While the GARP DWW is ~28m horizontal distance to the OSWT – triggering this risk assessment as the horizontal setback is less than the SPM 30m requirement, it is also ~12m higher than the OSWT.

The OSWT was installed at 14.32m distance to the marine natural boundary, where the SER is legislatively established, which is less than the SPM required 15m horizontal setback.

Geomorphic, Groundwater and Surface Water

The Site is a moderate (~15%) to steep (~25%) sloped east aspect land parcel consisting of a series of marine benches that have been augmented by residential land use and retaining structures.

The surficial material is a gravelly sandy loam to gravelly silty loam podzolic (limited area and extent) deposits consequent to marine deposition and turbidity admixing. The resulting soil profile has been classified as Trincomali Soil[3], which typically has a limiting layer at depths of ~140cm below ground surface. Critical to working with the Trincomali Soil is the high degree of variability due to turbidity-based deposition method, resulting in semi-contiguous transport pathways for near-surface groundwater which preferentially conduct waters from inland to the marine interface.

The consistence of Trincomali Soil within these preferential flow paths is highly dependent on moisture content, with samples on Site transitioning from a plastic limit to a fluid limit within a narrow range of moisture content with no, or highly limited, mechanical disturbance.

These challenging subsurface soil and groundwater conditions were avoided by identifying a well-draining sandy loam podzol (limited area), to which the OSWT was installed.

There was no surface water noted on Site or transiting adjacent land parcels.

[3] Trincomali Soil, Soils of the Gulf Islands of British Columbia, Volume 1 – Soils of Saltspring Island. Rpt No. 43, British Columbia Soil Survey, 1987. https://www.env.gov.bc.ca/esd/distdata/ecosystems/Soils_Reports/bc43-1_report.pdf#page=145 Accessed March 20, 2023.

3 Risk Assessment

The below risk assessment shall serve as a project risk assessment and will supercede any other global risk assessments that may have been completed before this report. The methodology is based on EGBC, "Guide to the Standard for Documented Independent Review of High-Risk Professional Activities or Work"[4] (the "Guide"). Should the risk assessment indicate a "High" or "Extreme" level, then an independent (external) professional review shall be required.

The participation of a Qualified Professional Hydrogeologist (EGBC registrant with declared Hydrogeology competency) in the design process may necessitate an External Review of Project Risk, based on results of the following Risk Assessment.

Table 1: Type of Risk Assessment

TYPE OF RISK ASSESSMENT	
☒ Project-Specific	☐ Not Applicable – Global Risk Assessment Applies

Table 2: Considerations for Risk Assessment

CONSIDERATIONS FOR RISK ASSESSMENT	REMARKS (INITIAL CONDITION)
Expertise of Qualified Professional (QP)	The QP has now performed sixteen environmental setback reduction memos prior to this one. The QP has now performed in excess of 40 environmental hazard risk assessments prior to this one.
Experience of subordinates	N/A
Previous experience with similar projects	This project is similar to previous projects.
Level of complexity	This project is of similar or lesser complexity to previous projects.
Innovative features	No innovative features are required.
Departures from previous practice	No departures from previous practice are required.
Applicable codes, standards, and regulations that define Risk tolerance	• Public Health Act Sewerage System Regulation, BC Reg. 326/2004 with amendments up to BC Reg. 191/2018

[4] EGBC. (2021). Guide to the Standard for Documented Independent Review of High-Risk Professional Activities or Work. In Quality Management Guides (1st ed.). https://www.egbc.ca/getmedia/ef5d5b68-115d-4d5c-80b8-b47d278823f6/EGBC-Documented-Indep-Rev-of-HRPAW-V1-0.pdf.aspx

CONSIDERATIONS FOR RISK ASSESSMENT	REMARKS (INITIAL CONDITION)
	• Water Sustainability Act Groundwater Protection Regulation, BC Reg. 39/2016 with amendments up to BC Reg. 75/2021 • EGBC. (2018). Onsite Sewerage Systems. In EGBC Professional Practice Guidelines - Civil and TransQPtation Infrastructure (Version 1). • EGBC. (2021). Guide to the Standard for Documented Independent Review of High-Risk Professional Activities or Work. In Quality Management Guides (1st ed.). https://www.egbc.ca/getmedia/ef5d5b68-115d-4d5c-80b8-b47d278823f6/EGBC-Documented-Indep-Rev-of-HRPAW-V1-0.pdf.aspx
Formal Hazard identification techniques used (i.e.,FMEA, FTA, ETA, HAZOP, STPA, SWIFT)	As per (EGBC, 2021) and below Table 4: Individual Hazard and Overall Risk Assessment – Classification **Matrix**

Table 3: Hazard Identification with Consequence and Likelihood Classes

HAZARD NUMBER	HAZARD IDENTIFICATION	CONSEQUENCE	SEVERITY OF CONSEQUENCE[5]	LIKELIHOOD OF CONSEQUENCE[6]	LEVEL OF RISK[7]
1.	Contamination of DWW at less than 30m as per SPM setback. No other DWW within 30m.	Health hazard (BC Working and Approved Water Quality Guidelines);	**Moderate** [3]	**Improbable** [1]	**Low** [3]
2.	Contamination of SER – Marine – at less than 15m as per SPM setback.	Health hazard (Recreational use); Environmental hazard	**Moderate** [3]	**Remote** [2]	**Moderate** [6]

[5] See Appendix B, Section B2 of the Guide to the Standard for Independent Review of High-Risk Professional Activities or Work (Guide), and Table 4 of this Risk Assessment.
[6] See Appendix B, Section B2 of the Guide to the Standard for Independent Review of High-Risk Professional Activities or Work (Guide), and Table 4 of this Risk Assessment.
[7] See Appendix B, Section B2 of the Guide to the Standard for Independent Review of High-Risk Professional Activities or Work (Guide), and Table 4 of this Risk Assessment.

Table 4: Individual Hazard and Overall Risk Assessment – Classification Matrix

Likelihood of Consequence							
	5	Frequent	5	10	15	20	25
	4	Probable	4	8	12	16	20
	3	Occasional	3	6	9	12	15
	2	Remote	2	4	6	8	10
	1	Improbable	1	2	3	4	5
Severity of Consequence			Insignificant	Minor	Moderate	Critical	Catastrophic
			1	2	3	4	5

Legend – Risk resulting from Likelihood and Consequence

Extreme [15+]	Notes on Risk:
High [10 – 12]	1. The acceptable level of risk is normally **LOW** or less;
Moderate [5 – 9]	2. Mitigation of likelihood or consequence will reduce overall risk.
Low [3 – 4]	
Minimal [1 – 2]	

Table 5: Type of Independent Review required for On-Site Sewerage System Design – Completed by Qualified Professional

TYPE OF INDEPENDENT REVIEW REQUIRED[8]		
☐ None	☒ Type 1 (Internal Review)	☐ Type 2 (Independent, External Review)
Classification Completed by:	Thomas R Elliot PhD P.Geo P.Ag	
Comments:	Due to the **MODERATE** project-specific risk (See Table 4), a Qualified Professional with Hydrogeology competency is recommended to conduct a review of the System design, and Project implementation, which will function as a mitigation measure to reduce likelihood of hazard occurrence.	

[8] The type of Independent Review must be determined after the initial Risk Assessment, thereby allowing any mitigation measures applied to the Professional Activity or Work to be part of the scope of the Independent Review. Type 1 is generally a simple review that can be completed within the organization. Type 2 is the requirement for an external reviewer, where external experience is either lacking or developing or if the risk assessment deems its necessary due to complexity or the level of risk.

Table 6: Applying Mitigation Measures – Completed by Qualified Professional

HAZARD NUMBER[9]	MITIGATION MEASURES PROPOSED/IMPLEMENTED	REMARKS/JUSTIFICATION	REVISED LEVEL OF RISK[10]
1.	None	The DWW is situated such that the water source is restricted to upgradient and a limited cross-gradient areas – meaning that any hydraulic communication from the OSWT to the DWW is improbable.	Low
2.	i. Ensure the sewerage system meets SSR requirements and where any departures from the SPM are made, that risk-assessment demonstrate normal or lower Risk is consequent. ii. Establish a monitoring port ~3m distant to OSWT dispersal and between the OSWT dispersal and the SER. a. Submit samples from this monitoring port for Fecal Coliform quantitative analysis within each of the first two years of operation; and b. Every five years thereafter with analytic results which do not exceed the applicable standards.	The horizontal setback is nominally less than the SPM recommendation with intact native soil within the interceding space at greater than a 2H:1V overall slope – limiting the likelihood of insufficient treatment and breakout. **Should analytic testing indicate a chronic underperformance, then further mitigative measures are required.**	Low

Table 7: Risk Review Final Remarks – Completed by Qualified Professional

Remarks from QP:	
When applicable, this risk review shall be reviewed and signed by an independent reviewer, meeting the requirements of the Guide. We note here that a review of this risk assessment is not applicable due to the degree of Risk involved and collaborative (Internal) review of the Registered On-Site Wastewater Practitioner (ROWP) design. This memo, including its risk assessment, should be reviewed should site conditions or the development plan substantially change.	
Is a Risk Review Required?	☐ Applicable ☒ Not Applicable

[9] See Table 4 of this Risk Assessment.

[10] See Appendix B, Section B4 of the Guide and Table 4 of this Risk Assessment.

Table 8: Independent Review of System Design – Completed by Qualified Professional

INDEPENDENT REVIEWER – TYPE OF INDEPENDENT REVIEW REQUIRED[11]		
☐ None	☒ Type 1 (Internal Review)	☐ Type 2 (Independent, External Review)
Classification Completed by:	Thomas Elliot, PhD P.Geo P.Ag	
Comments on Risk Review:	An independent review may not be warranted by the Guide. However, we proceeded with an Internal Review of the system design as suggested by the Risk matrix (Table 5. above) MODERATE classification of risk to SER. Monitoring is being used as a mitigation measure to reduce likelihood of hazard occurrence.	
Has or will the System Design undergo an Independent Review at this time?	☒ No ☐ Yes	

4 Recommendations

Through this OSWT Hydrogeologic Risk Assessment for Setback Reduction, the QP (Hydrogeologist) has determined that there is a LOW risk to proximal (within 30m) DWW, for which there are no recommendations.

It was also determined that the ~14.32m horizontal setback to SER (Marine) is less than the SPM 15m requirement. While the *in situ* native soils are likely sufficient to treat effluent within that distance, the challenging subsurface conditions results in an elevated risk to the SER, and that mitigation of likelihood is warranted.

To mitigate this risk by decreasing likelihood of prolonged discharge of effluent to the SER, it is recommended that monitoring be conducted under the following schedule:

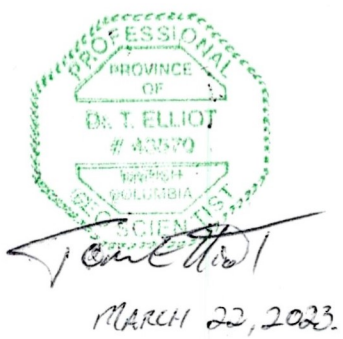
- Once in each of the first two years of operation, sampling at the installed observation port, and submission for fecal coliform quantitative analysis.
- If no analytic findings exceed the applicable standard of **200 CFU/100mL**, as per the BC Working and Approved Water Quality Guidelines, then reduce sampling frequency to once every five years.

[11] The type of Independent Review must be determined after the initial Risk Assessment, thereby allowing any mitigation measures applied to the Professional Activity or Work to be part of the scope of the Independent Review. Type 1 is generally a simple review that can be completed within the organization. Type 2 is the requirement for an external reviewer, where external experience is either lacking or developing or if the risk assessment deems such action necessary due to complexity or the level of risk.

- If analytic results demonstrate an elevated fecal coliform count which exceeds the applicable standard, then additional mitigation may be necessary and a QP (Hydrogeologist) should be consulted.

5 Risk Review Sign-off

The undersigned hereby records that a risk review was completed based on the information provided within Sections 1 and 2 of this document.

Qualified Professional:
Thomas R Elliot, PhD P.Geo P.Ag

Sign or Seal
EGBC Licence to Practice: #43570
BCIA Registrant ID: #3039

I hereby certify this to be Schedule 'B' attached to and forming part of Development Permit SS-DP-2023.8

Deputy Secretary, Islands Trust

25 February 2025

Date Issued

SALT SPRING ISLAND LOCAL TRUST COMMITTEE
SS-DP-2023.8

SCHEDULE 'C'

(Attached)

RYZUK GEOTECHNICAL
Engineering & Materials Testing

6-40 Cadillac Ave, Victoria, BC, V8Z 1T2 Tel: 250-475-3131 E-mail: mail@ryzuk.com www.ryzuk.com

September 26, 2022
File No: 10709-1

Stuart Black
936 Stardale Ave
Coquitlam, BC
V3J 4W2
Stuartblack90@hotmail.com

Re: Proposed Foundation Improvements
365 Isabella Point Road – Salt Spring Island, BC

As requested, and further to our report of September 21, 2022, we visited the referenced site on September 13, 2022, to review recently exposed shallow subsurface soil conditions in the vicinity of the residence proposed for foundation improvements. Our associated observations, comments, and recommendations in this regard are contained herein. Our work has been carried out in accordance with, and is subject to, the accepted Terms of Engagement.

Four local test pits had been advanced by the contractor by hand and with a mini-excavator prior to our arrival. Two hand dug excavations were located adjacent to the northeast (slope) side of the foundation, and one at the toe of the slope above. A machine excavated pit was located in the yard about 2 m to the southeast of the mid-point of the building. A machine dug trench had been attempted at the toe of the slope to the southwest in the yard but had mostly caved in due to saturated conditions.

Soils observed in the excavations generally consisted of topsoils and/or mixed sandy fills overlying native loose to compact sand with variable silt and gravel. The fills were noted to be in the order of 1 m deep around the low side of the building. Fill thickness appears to be generally limited to the line of northeastern half of the building. The native soils were inferred to be of glaciofluvial origin with local surface colluvium. Native soil density is expected to rapidly increase with depth, and based on local experience becomes very dense silty gravelly sand or sand and gravel with variable silts below a colluvium or weathered veneer.

Groundwater was ponding generally at the surface along the toe of the slope above the yard, while noted at a depth of 1.2 m mid building line, and estimated at 1.8 m depth by probing the base of the pit along the low side. The shallow groundwater is typical year round and is expected to be influenced by a significant lateral aquifer.

Further to our previous report, we noted the building to be settling differentially, with vertical and horizontal components estimated to be in the order of 50 - 75 mm and 25 - 30 mm

respectively, based on visual review. Accordingly, underpinning of the building was recommended to arrest the movements.

Given the loose fill soils and marginally dense saturated transitional layer of native soils we consider that conventional concrete underpinning with open cutslopes would be infeasible due to the depth required for achieving proper support while maintaining worker safety. Shoring installations to achieve the cuts would also be problematic. We therefore consider that the underpinning could be achieved by the use of piles supporting concrete grade beams. Helical piles can be installed around the building perimeter with limited access/site disturbance and can also be configured as battered piles to resist lateral effects due to slope induced movements under static conditions.

Typical readily available helical piles generally comprise of a single 300 mm diameter helix at the tip of a 75 mm diameter, 2.1 m long hollow steel pipe shafts. Based on the geologic conditions, we expect that piles would refuse within less than 6 m depth, however, if pile material quantity/costs are required to be better defined, a test pile could be advanced at a currently accessible area immediately adjacent to the building, ahead of the installation program.

Based on the commonly available helical piles, assuming a minimum burial depth of 3 m and that the refusal soils will afford end bearing or better, we consider that each helical pile would be capable of supporting 42 kN. This is based on a geotechnical resistance factor of 0.4. Given the potential lateral influence of the adjacent slope we consider that installation of battered piles would be beneficial to provide lateral resistance to the supporting piles and to limit horizontal movements in the long term. Each battered pile installed at 45 degrees could provide lateral resistance of 5 kN based on a resistance factor of 0.3.

While the spacing of the vertical supports would be specified by the structural consultant, the battered component would be controlled by the potential static slope conditions. Given the slope conditions as such, we recommend including a minimum of four battered piles along the slope side of the building to provide lateral resistance. This is based on a conservative assumption that the fill soils along the slope crest will continue to settle and therefore the lateral support of the in situ soils cannot be exclusively relied upon in the long term. Inclusion of these piles would also provide improvement of seismic performance, however, it is noted that the underpinning design is only assured for static conditions as a foundation improvement of an existing habited dwelling.

Installation process for the underpinning would be anticipated in the following general sequence.

- The perimeter around the building would be prepared for equipment access to install the piles. This would require removal of the deck and temporary construction of a fill bench,

likely with partial or full demolition of the rock and mortar retaining wall below the house, with soils/debris left in place.

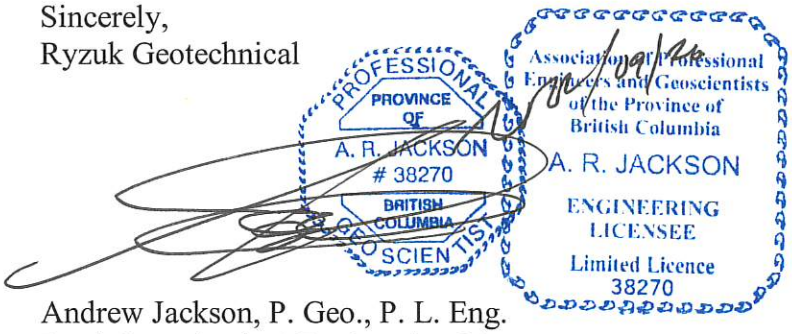
- Installation of helical piles and the specified locations under geotechnical supervision to confirm embedment and refusal/seating conditions.
- Excavation of the gradebeam which would include provision of temporary sacrificial and possible internal supports to be specified by the structural consultant.
- Installation of the gradebeam followed by completion of the landscaping around the building. With deletion of the rock and mortar wall the ground can be sloped at 2H:1V or flatter and the surface protected from erosion with plantings or a rockfill surface.

We understand that reconstruction of the existing deck is also desired. Support elements may be desired to be located in similar areas as the existing, which currently bear on the failing rock and mortar wall. New supports should be extended to native soils within this location and could also be realized with helical piles, or could be potentially excavated once the landscaping work is being carried out within the sloped location.

Given the proximity of the shoreline and pursuant to the Guidelines and Objectives of DPA-3 (Shoreline), the work should be carried out such that no sediment ingress occurs to the foreshore areas. Therefore, inclusion of silt fences should be applied as necessary, and proper permitting in place before initiation of earthworks.

We trust that the preceding is suitable for your purposes at present, and we expect to work with the structural consultant to review the proposed pile configuration and we will need to attend site to monitor the installation and confirm embedment / refusal conditions. Please don't hesitate to contact our office if we can be of further assistance.

Sincerely,
Ryzuk Geotechnical



Andrew Jackson, P. Geo., P. L. Eng.
Lead Geoscientist / Engineering Licensee
PN1002996

Reviewed by:
Greg Moorhouse, P.Eng.
Intermediate Engineer

cc: Jonathan Reiter, MIStructE., PEng., Struct.Eng., LEED AP (jreiter@seng.ca)

RYZUK GEOTECHNICAL
Engineering & Materials Testing
6-40 Cadillac Ave, Victoria, BC, V8Z 1T2 Tel: 250-475-3131 E-mail: mail@ryzuk.com www.ryzuk.com

September 21, 2021
File No: 10709-1

Stuart Black
936 Stardale Ave
Coquitlam, BC
V3J 4W2
Stuartblack90@hotmail.com

Re: Retaining Wall Assessment
365 Isabella Point Road – Salt Spring Island, BC

As requested, we visited the referenced site on August 20, 2021, to review the existing geotechnical conditions within the property. There are indications of settlement and lateral movement within portions of the existing residence and adjacent retaining walls and a visual assessment of such, as well as the general conditions of the property, was undertaken. It is noted that the portion of the property within 10 m of the Present Natural Boundary (PNB) is defined as Development Permit Area 3 (DPA-3 Shoreline) within the Salt Spring Island Official Community Plan (OCP - Bylaw 434) and therefore any work undertaken within this area would be subject to the Guidelines of the OCP. Our associated observations, comments, and recommendations in this regard are contained herein. Our work has been carried out in accordance with, and is subject to, the accepted Terms of Engagement.

The site is located within the southern portion of Salt Spring Island along the southern shore of Fulford Harbour. The property is bounded by Isabella Point Road to the north and west, a developed residential lot to the south, and the foreshore to the east. The lot slopes down to the east from the road at a moderately steep to steep inclination transected by a driveway. The slope leads down to a gently sloped bench where the residence and detached garage are located, beyond/below which a series of tiered retaining walls step down to the PNB. The lot is mostly surfaced by vegetated areas consisting of mature trees and natural landscaping.

The retaining walls along the low side of the residence consist of rock and mortar construction within the upper tiers and cast concrete along the shoreline. The overall global tier geometry of the lower slope is up to approximately 45 degrees. The rock and mortar walls are between approximately 1.5 and 2.0 m high and display local indications of rotation/cracks and surface settlement of the backfill behind. The settlement and associated lateral movements appear to extend into the periphery of the residence where sloped floors in the main level and cracks in the basement slab are evident. The lower foundations adjacent to the wall were observed to be

undermined locally and the soils supporting the footing was noted to be loose to a depth in the order of 0.5 m by probing with a steel rod. The foundation of the residence at the closest point is set back approximately 5 m horizontally from the 2 m high retaining wall. Furthermore, a post of the deck above bears atop the crest of the middle retaining wall in an area where cracks and rotation are apparent. The lowest cast concrete wall appeared to be relatively stable and was noted to include active weep holes at 3 - 4 m spacing. It was noted that possible fines migration from behind the walls was being deposited out of the weeps. The general conditions of the shoreline and subject retaining walls are shown in the photos below.

Figure 1. Looking northwest along the shoreline

Figure 2. Looking northwest along the first tier towards the rotating retaining walls below the deck and residence

We also observed there to be arcuate cracks within the asphalt of the road surface above the site which suggest that settlement of the slope crest along the property frontage has occurred. The vegetated slope below this area is inclined at approximately 40 degrees from horizontal and is up to approximately 7 m high above the driveway. The stability of this slope with respect to risk of failure is unknown, however, these types of settlement along rural roadway corridors are often controlled by long term consolidation of historic fills. The presence of shallow groundwater can reduce the stability of the slope and we note that failure of the slope would likely result in blockage of the driveway by slumped materials and possible collateral effects of fallen trees. A photograph of this area is shown below looking southeast along Isabella Point Road.

Figure 3. Looking southeast along the slope crest and road shoulder of Isabella Point Road

Based on our observations, we consider that the retaining walls may be at local risk of toppling in the long term or as a result of seismic ground motions. Toppling of the walls may also result in reduced support of the building and deck foundations above which could potentially have adverse structural implications to the building. The mechanism of failure of the walls may be due to insufficient thickness of the gravity wall section, settlement of weak/loose subgrade and backfill soils, as well as possible hydraulic pressure due to shallow groundwater, or a combination of these conditions.

We consider that there would be several options with respect to remediation of the retaining walls and foundation settlement of the residence. Such could include underpinning of the foundations and reconstruction of the retaining walls to various degrees depending on the desired level of repair. However, at a minimum, we recommend that the foundation of the residence be

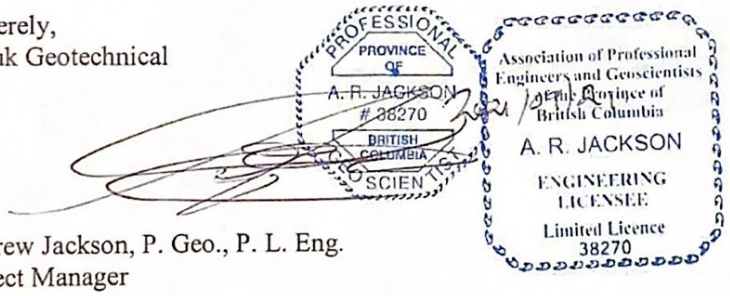
underpinned and the rotating sections of rock and mortar below the building be remediated to ensure safe occupancy of the residential site is maintained. It was also noted that the mature coniferous tree present at the west end of the walls should be considered for removal as toppling of this tree would likely result in collateral damage to the walls and possibly the residence.

At this point additional information with respect to the depth of bearing soils below the residence would allow for a design to be produced in conjunction with a structural engineer to arrest the foundation settlement. During this investigation work we suggest it would also be beneficial to examine the thickness of the retaining wall and the subgrade soils below if possible. Such work would involve hand excavation of local test pits at select locations below the foundation of the residence and behind the retaining wall. Extending the cut behind the retaining wall to a depth in the order of 2.5 m may require internally braced shoring to be installed and geotechnical guidance on site at the time of excavation should be anticipated to maintain worker safety. We recommend that a structural engineer review the building conditions and subsequently we can discuss appropriate/optimized locations for test pits below the foundations.

With respect to the noted cracking of Isabella Point Road which suggests potential for slope instability, we recommend that this crack be monitored for signs of movement and that the Ministry of Highways and Infrastructure be contacted to advise of the situation in this regard.

We trust that the preceding is suitable for your purposes at present. Please don't hesitate to contact our office if we can be of further assistance.

Sincerely,
Ryzuk Geotechnical



Andrew Jackson, P. Geo., P. L. Eng.
Project Manager

I hereby certify this to be Schedule 'C' attached to and forming part of Development Permit SS-DP-2023.8

Deputy Secretary, Islands Trust

25 February 2025

Date Issued

Attachment 4

BRITISH COLUMBIA | Ministry of Transportation

Permit/File Number: 2024-03323
Office: Southern Vancouver Island Area

PERMIT TO AUTHORIZE EXISTING STRUCTURES CONSTRUCTED WITHIN THE RIGHT-OF-WAY OF A PROVINCIAL PUBLIC HIGHWAY

PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE NISGA'A FINAL AGREEMENT ACT.

BETWEEN:

The Minister of Transportation and Infrastructure

Southern Vancouver Island Area
240-4460 Chatterton Way
Victoria, British Columbia V8X 5J2
Canada

("The Minister")

AND:

Stuart A Black
936 Stardale Avenue
Coquitlam , British Columbia V3J4W2
Canada

("The Permittee")

WHEREAS:

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

To use and maintain the structure comprising of a vacation home and a garage, in so far as they relate to the use of that portion (the "Encroachment Area") of the public highway, described as and located at 365 Isabella Point Road, Salt Spring Island, as shown on the plan prepared by Polaris Land Surveying Inc British Columbia Surveyor certified correct on the 4th of July, 2023. The structure is part of a legal lot described as Lot 1, Section 52, South Salt Spring Island, Cowichan District, Plan 13901 (the "Property") adjacent to the Encroachment Area.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. Except to the extent permitted herein, the Permittee will ensure that the Structure at all times conforms with all legislation applicable to the Structure with respect to the construction and maintenance of the Structure and all specifications by regulatory bodies having jurisdiction over the Structure.
2. The Regional Executive Director, as appointed from time to time by the Minister, having jurisdiction with respect to the Encroachment Area, or such person as the Minister may from time to time designate must have full and free access at any and all times to inspect the Structure or for such other purposes as the Regional Executive Director may consider necessary.
3. Where the Structure comes in contact with any bridge, culvert, ditch or other existing work (the "Existing Works") the Permittee will ensure that the Structure is properly maintained and supported in such manner as not to interfere with the proper functions of the Existing Works during the existence of the Structure.
4. The Permittee will at all times take every possible precaution to ensure the safety of the public, and if requested by the Regional Executive Director ensure that the Structure and all excavations, materials, or other obstructions in connection with the Structure

are fenced, illuminated, and guarded.

5. The Permittee acknowledges that this Permit is granted only for such times as the Encroachment Area is within the jurisdiction of the Minister. This permit must not be construed as being granted for all time, and does not vest in the Permittee any right, title, or interest in or to the Encroachment Area. If the Encroachment Area becomes included within an incorporated municipality or city, this Permit is terminated unless the Highway on which the Structure is located is classified as an Arterial Highway pursuant to Section 45 of the Transportation Act.

6. This Permit may be cancelled at any time without recourse at the discretion of the Regional Executive Director by 30 days notice in writing in the manner herein provided. Not later than 90 days after the date on which this notice has been given by or on behalf of the Minister, the Permittee must ensure that all work has been completed in connection the removal, moving or alteration of the structure in the manner required by any notice. All costs of removing, moving of altering the Structure must be borne by the Permittee.

7. Where any public works are contemplated the Permittee will cooperate with any person designated by the Regional Executive Director in connection with any construction, extension, alteration or improvement of the public works involving the Encroachment Area.

8. The Permittee acknowledges that the Minister and any employees, agents or contractors of the Minister will not be responsible for any damage to the Structure or any property of the Permittee and the Permittee hereby expressly waives any claim for damages and forever releases and discharges all such persons with respect thereto.

9. The permission herein granted to the Permittee will be in force only during such time as the Structure is used, maintained and owned by the Permittee in strict compliance with this Permit. The Permittee will notify the Minister if the Property is offered for sale and inform any purchasers of the Property of this Permit prior to sale. The Permittee will remain liable to the Minister hereunder until such time as a subsequent permittee has agreed to assume the same liabilities and obligations with respect to the Structure.

10. This Permit is valid only for the Structure as described herein. The Permittee acknowledges that routine maintenance of the Structure is permitted but the Structure must not be expanded, increased, or its use changed in any way except as provided for in section 4 of this permit.

11. The Permittee will provide:

    (a) the location of the Structure in relation to the Encroachment Area and the Property on Schedule A; and

    (b) a written description of the Structure both in form and content satisfactory to the Regional Executive Director, Ministry of Transportation and Infrastructure for the Region in which the Structure is located.

12. The attached plan, indicated as Schedule A, showing location or position of the Structure constitutes a part of this Permit and any change without prior consent of the Regional Executive Director will forthwith render this Permit terminated subject to section 18 of this Permit.

13. The Permittee will notify the Regional Executive Director of any damage done to the Structure. If in the opinion of the Regional Executive Director the Structure is destroyed or damaged such that reconstruction within the encroachment area is unwarranted this permit is terminated. The Structure must not be replaced or reconstructed on the Highway or in the Encroachment Area.

14. The Permittee shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times, whether before or after the expiration or termination of this permit, where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the permit.

15. The Permittee will not interfere with any Highway or public works without separate written permission issued by the Regional Executive Director.

16. All notices required to be given hereunder by the Minister will be effectively given if sent by mail to the address of the Permittee shown below and must be deemed to have been given at 12:00 noon on the third day after mailing. Notices to be given to the Minister by the Permittee will be effectively given if delivered to the Regional Executive Director and must be effectively given upon delivery.

17. No termination or cancellation of this Permit will relieve or abate the obligations of the Permittee contained herein arising prior to such termination or cancellation all of which must survive the termination or cancellation of the Permit and must constitute continuing obligations of the Permittee.

18. No variation or alteration of the Permit will be effective unless in writing signed by or with the authority of the Minister.

19. The Permittee shall obtain and maintain during the term of this Permit and at the Permittee's own expense, liability insurance against third party claims arising as a result of the Permittee's possession, use, control and/or custody of the Encroachment Area shown in Schedule A.

Such liability insurance shall have coverage limits of not less than ONE MILLION DOLLARS ($1,000,000) for bodily injury, including death, and property damage and shall be endorsed as follows:

It is understood and agreed that His Majesty the King in Right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure, together with the employees, agents and servants of the Minister, hereinafter referred to as the Additional Named Insured, is added as an Additional Named Insured.

The policy shall contain a cross liability clause and a clause giving notice of cancellation or material alteration to the Minister.

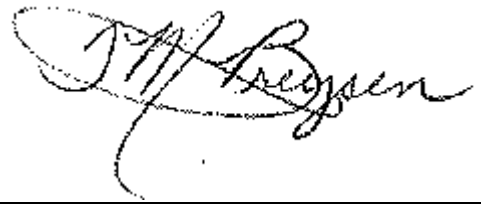
The Permittee shall submit evidence satisfactory to the Minister that the above insurance has been obtained and remains in force and effect.

20. This permit is subject to any other terms or conditions as specified on the attached Schedule B.

21. Any reference to a party includes heirs, executors, administrators and assigns.

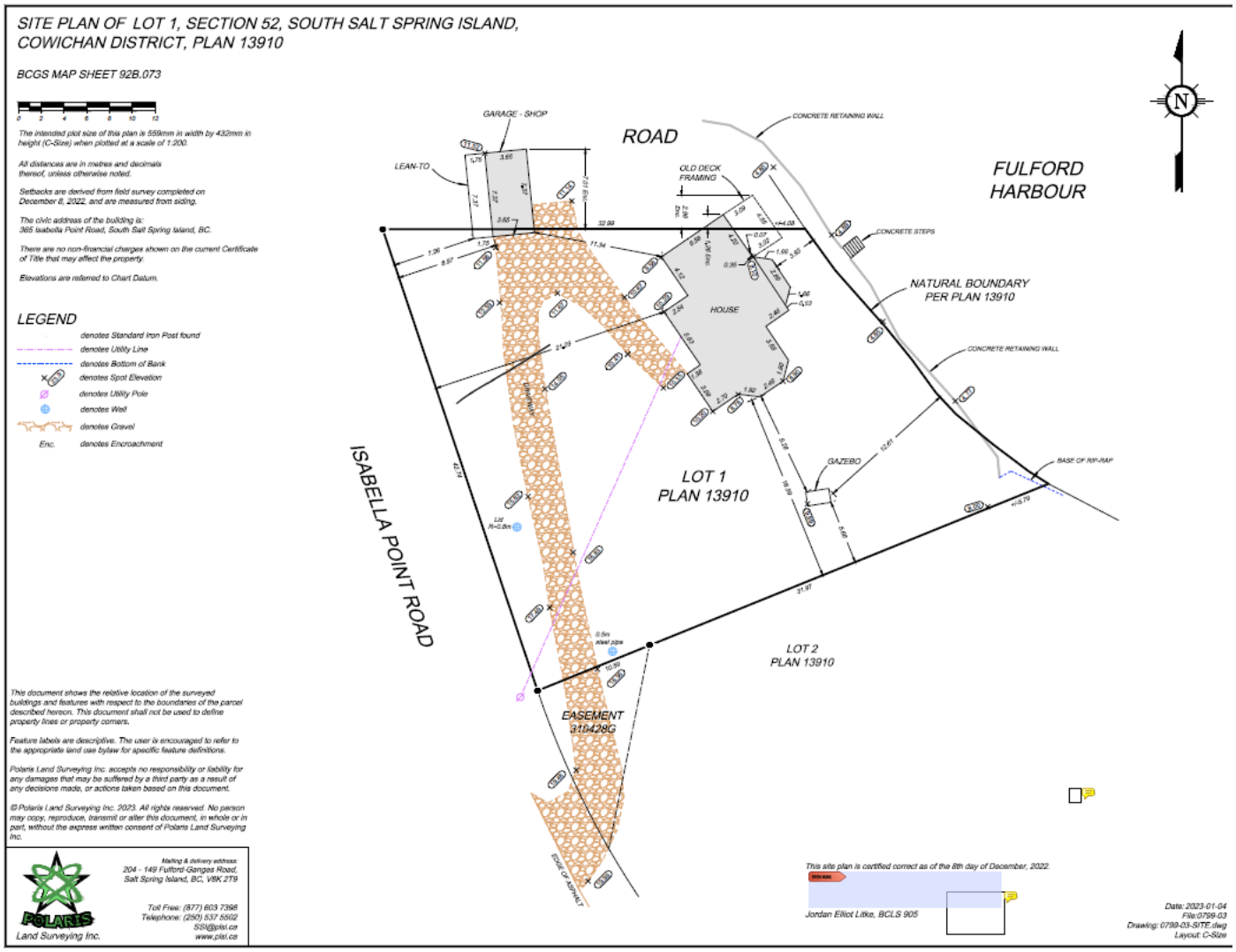
The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Victoria, British Columbia, this 6 day of September, 2024



On Behalf of the Minister

SCHEDULE A


SITE PLAN OF LOT 1, SECTION 52, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 13910
BCGS MAP SHEET 92B.073
The intended plot size of this plan is 559mm in width by 432mm in height (C-Size) when plotted at a scale of 1:200.
All distances are in metres and decimals thereof, unless otherwise noted.
Setbacks are derived from field survey completed on December 8, 2022, and are measured from siding.
The civic address of the building is: 365 Isabella Point Road, South Salt Spring Island, BC.
There are no non-financial charges shown on the current Certificate of Title that may affect the property.
Elevations are referred to Chart Datum.
LEGEND
denotes Standard Iron Post found
denotes Utility Line
denotes Bottom of Bank
denotes Spot Elevation
denotes Utility Pole
denotes Well
denotes Gravel
Enc. denotes Encroachment
GARAGE - SHOP
LEAN-TO
ROAD
OLD DECK FRAMING
CONCRETE RETAINING WALL
CONCRETE STEPS
FULFORD HARBOUR
NATURAL BOUNDARY PER PLAN 13910
HOUSE
GAZEBO
BASE OF RIP-RAP
LOT 1 PLAN 13910
LOT 2 PLAN 13910
ISABELLA POINT ROAD
EASEMENT 316428G
EDGE OF ASPHALT
N
This document shows the relative location of the surveyed buildings and features with respect to the boundaries of the parcel described hereon. This document shall not be used to define property lines or property corners.
Feature labels are descriptive. The user is encouraged to refer to the appropriate land use bylaw for specific feature definitions.
Polaris Land Surveying Inc. accepts no responsibility or liability for any damages that may be suffered by a third party as a result of any decisions made, or actions taken based on this document.
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Mailing & delivery address:
204 - 149 Fulford-Ganges Road,
Salt Spring Island, BC, V8K 2T9
Toll Free: (877) 603 7398
Telephone: (250) 537 5502
SSI@pisl.ca
www.pisl.ca
POLARIS
Land Surveying Inc.
This site plan is certified correct as of the 8th day of December, 2022.
Jordan Elliot Litke, BCLS 905
Date: 2023-01-04
File:0799-03
Drawing: 0799-03-SITE.dwg
Layout: C-Size

Attachment 5

27 July 2025

Re: 365 Isabella Point Road

Members of the SSI Board of Variance and Fulford Harbour neighbours

We had vacationed on SSI and in 2013 decided to look for a cabin or vacation home to buy on this beautiful island. We enlisted Pemberton Realty to assist us in our search for a family cabin where we could step away from the busy Vancouver area and holiday together as an extended family. Our real estate agent took us to 365 Isabella Point Road and we fell in love with the view and the rustic cabin. He walked us around what he said was the property line which included the area where the garage had been built. He said it had been build in the late '60s. We also enlisted the services of a building inspector who found no serious building faults. And so we bought the cabin.

We enjoyed the property and aside from bringing the wood stove, plumbing, and electrical up to code, we had no plans to change the cabin.

Over the years we noticed some cracks in the foundation and retaining walls. Then the cabin started to slope toward the ocean. In 2021 we hired Ryzuk Geotechnical Engineers to do an inspection. They advised us the foundation needed to be repaired.

We applied and received permits from the CRD and they requested a voluntary land survey because they did not have anything on file. We complied.

During the repairs the following issues were identified:

1. From the land survey we discovered the property was in non-compliance with most of the garage and a small piece of the cabin was built on Ministry of Transportation property. When we were purchasing the cabin our real estate agent told us the property line was from the back of the garage to the end of the retaining walls. We were horrified to find this was not the case.
2. We repaired the existing stairs to the retaining wall that had been covered to allow access to the foundation while the repairs were on-going. (See 4) And the cistern was put outside the cabin as a prudent way to protect the cabin from floods. (Schedule A)
3. We installed a new septic system (Schedule B) This was done under the supervision of a Hydro Engineer.
4. Initially we were only planning on underpinning the cabin to repair the foundation. But during the work it was discovered the main building was built over blue clay (which expands and contracts seasonally with moisture) Our Structural Engineers and Geotechnical Engineers advised us to install Helix Piles. This meant we had to remove the deck (which had not previously been planned) and cover the stairs to get the machinery in. At that time we decided to lower the basement 8-12 inches so that Stuart, who is 6'4", would not hit his head. We were unaware that would be problematic. (Schedule C)

In conclusion, we would like you to know we have acted in good faith and have always done what has been asked of us. A little more head-room just seemed reasonable and we were not aware it would be a problem. Also, we were told by our realtor that the structures on the property were on our land. We hired Profession Engineers and followed their expert advice. We have reached out for permits and guidance from the CRD and the Island Trust along the way and have done our best to conform.

Thank you for your consideration.

Dawn & Peter Black
Stuart & Takako Black

Attachment 6

SALT SPRING ISLAND BOARD OF VARIANCE
NOTICE OF HEARING
PLBOV20250162

NOTICE is hereby given pursuant to Section 541 of the *Local Government Act* to the persons who deem that their interest in property is affected that there will be a hearing of the Galiano Island Board of Variance at the United Church Upper Hall, 111 Hereford Ave, Salt Spring Island on **August 6, 2025 starting at 2:00 p.m**.

The Board will consider the following appeal for the subject property described as:

- 365 Isabella Point Road, Salt Spring Island
- PID: 002-735-971
- LOT 1, SECTION 52, SOUTH SALT SPRING ISLAND, COWICHAN DISTRICT, PLAN 13910
- Application PLBOV20250248

The purpose of the appeal is to vary the Salt Spring Island Land Use Bylaw No. 355, 1999 as shown on the attached schedules, and specifically to vary the following:

1) Subsection 4.3.1 which states that unless otherwise specified, no building or structure except a fence, pumphouse, public utility structure or underground utility may be constructed within the following setbacks from lot lines or road access easements:
   (1) Setback from front lot line: 7.5 m,
   (2) Setback from rear lot line: 7.5 m,
   (3) Setback from interior side lot line: 3.0 m and
   (4) Setback from exterior side lot line: 4.5 m,

   is varied, as shown in Schedule A, to permit:
   (1) an existing accessory building 0 m away from the exterior side lot line
   (2) an existing single-family dwelling with exterior stairs and cistern 0 m away from the exterior side lot line and 2 m away from the rear lot line

2) Subsection 4.4.1 which states no building or structure except a fence, pumphouse or boathouse may be sited within 15 m of the natural boundary of any water body,

   is varied, as shown in Schedule A, to permit an existing single-family dwelling with exterior stairs and cistern 2 m from the natural boundary of the sea.

3) Subsection 4.5.1 which states no sewage disposal field or septage pit may be located within 30 m of the natural boundary of the sea,

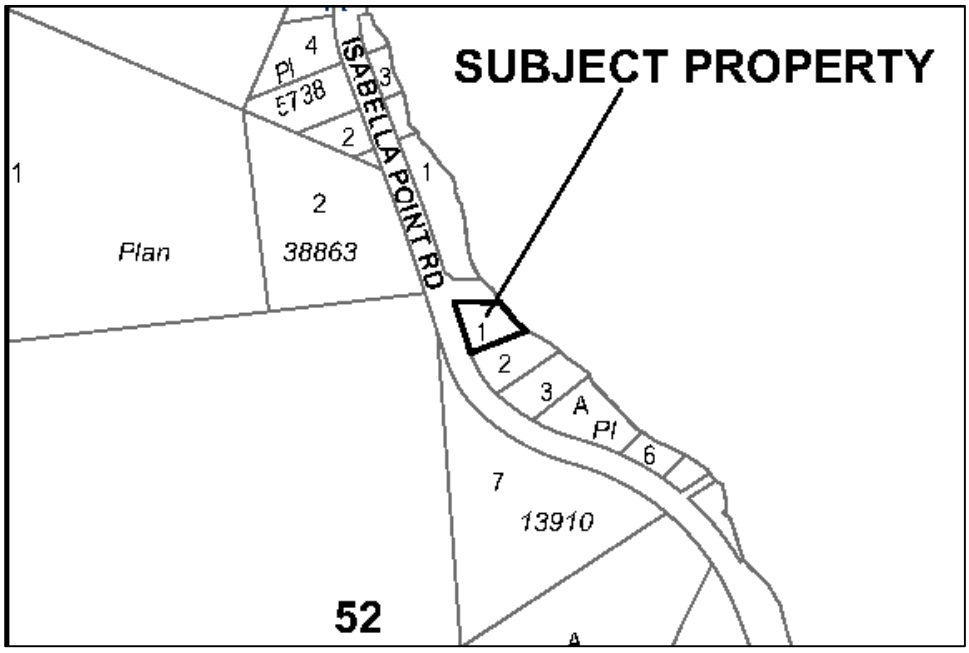
   is varied, as shown in Schedule B, to permit a sewage disposal field 14.32 meters from the natural boundary of the sea.

4) Subsection 3.11.4 All rooms in a dwelling unit are to be contiguous and accessible from within the dwelling unit; a dwelling unit may not consist of two or more separate suites of rooms joined only by unenclosed space, a passageway, a garage or by any structure that does not function as an enclosed room of the dwelling unit,

   is varied, as shown in Schedule C, to permit a full height basement not connected to the dwelling above as shown in building plans.

SALT SPRING ISLAND BOARD OF VARIANCE
NOTICE OF HEARING
PLBOV20250162

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



Any person whose property may be affected by an appeal to a Board of Variance has the right to be heard and give evidence at the hearing, or to be represented by some other person authorized by them in writing to do so.

Written submissions may be delivered as follows:

1. To the Secretary to the Salt Spring Island Board of Variance, at the office of Islands Trust 4 - 121 McPhillips Ave, Salt Spring Island, BC, V8K 2T6, or by email to ssiinfo@islandstrust.bc.ca, before **4:30 p.m. Monday, August 4, 2025**.

2. After **4:30 p.m. Monday, August 4, 2025** by attending the hearing on **August 6, 2025** and making a representation to the Salt Spring Island Board of Variance.

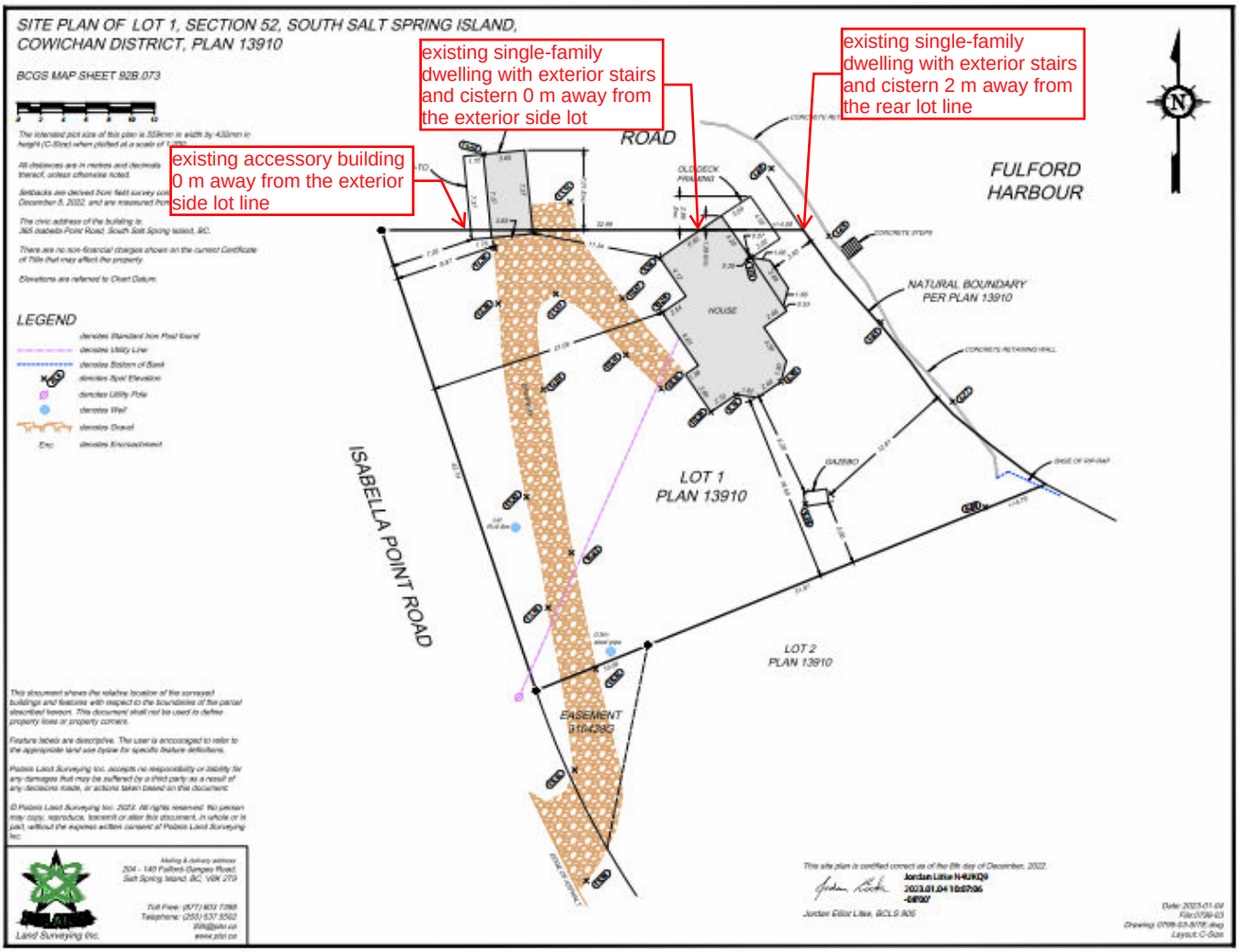
Enquiries or questions should be directed to: Rob Pingle, Planning Technician at (250) 537-9144, for Toll Free Access, request a transfer via Enquiry BC: In Vancouver 604-660-2421 and elsewhere in BC 1-800-663-7867; or by email to: ssiinfo@islandstrust.bc.ca.

All applications are available for review by the public. Written comments made in response to this notice will also be available for public review. A copy of the notice and additional information can also be viewed on the Islands Trust webpage www.islandstrust.bc.ca by following the links to the Salt Spring Island LTC applications webpage.

Rob Pingle
Secretary to the Salt Spring Island Board of Variance

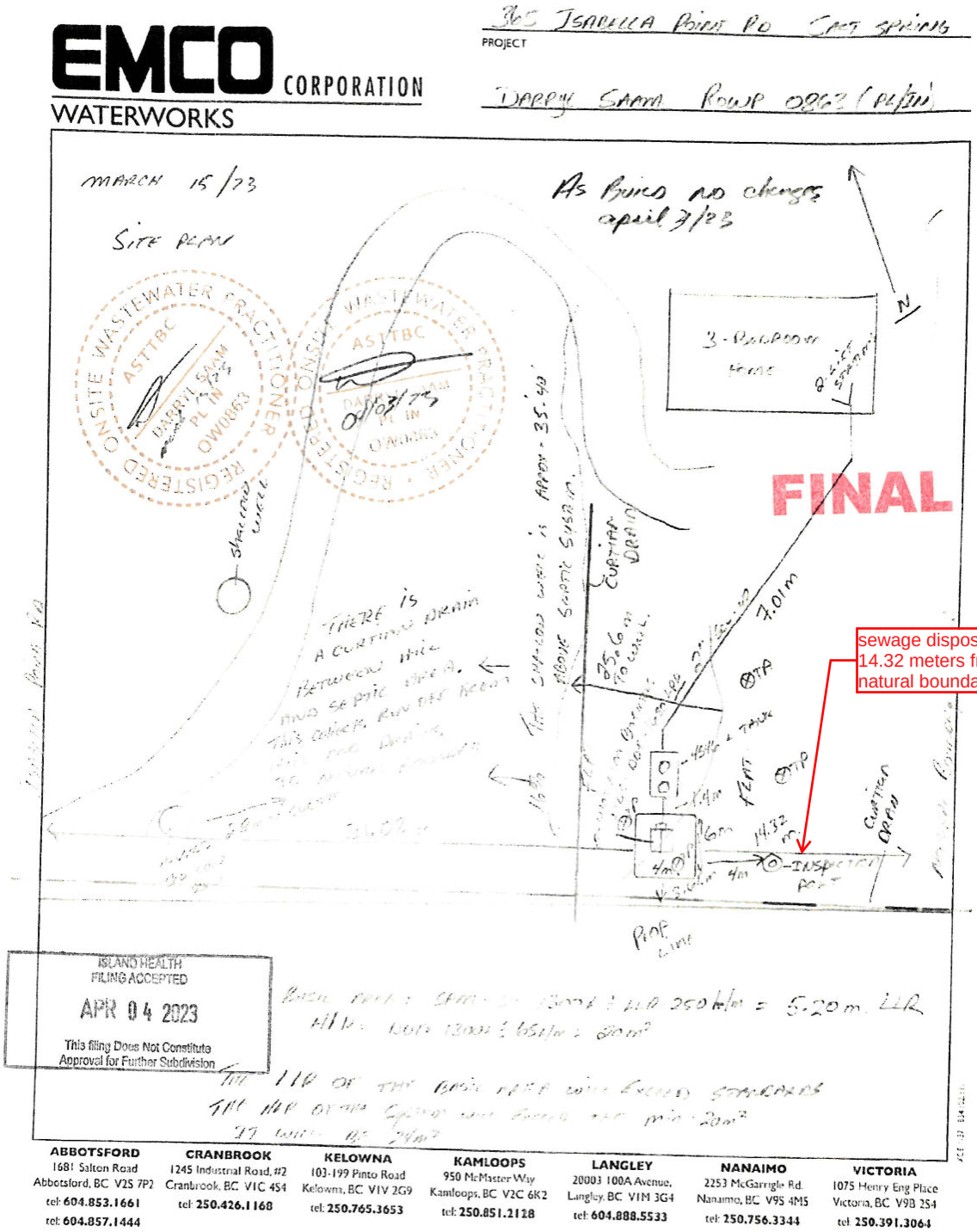
SALT SPRING ISLAND BOARD OF VARIANCE
NOTICE OF HEARING
PLBOV20250162

Schedule A
Site Plan



SALT SPRING ISLAND BOARD OF VARIANCE
NOTICE OF HEARING
PLBOV20250162

Schedule B
Septic Plan



SALT SPRING ISLAND BOARD OF VARIANCE
NOTICE OF HEARING
PLBOV20250162

Schedule C
Building Plan