

Gabriola Island Local Trust Committee

Special Meeting Revised Agenda

Date: December 10, 2020
 Time: 6:00 pm
 Location: Electronic Meeting

		Pages
1.	CALL TO ORDER	6:00 PM - 6:10 PM
	"Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change."	
2.	CONSIDERATION OF BYLAW AMENDMENT MOTION(S)	6:10 PM - 6:40 PM
2.1.	<i>Gabriola Housing Societiy (GHS) Letter dated December 4, 2020 and Track Changes Version of Housing Agreement regarding Amendments</i>	2 - 12
2.2.	<i>Motion regarding Submission from Trustee Langereis - attached</i>	13 - 14
2.3.	<i>Ministry of Forests, Lands, Natural Resource Operations and Rural Devlepmnt (FLNRORD) letter dated November 30, 2020 to Sarah Hardy, Water Authorizations Specialist</i>	15 - 36
3.	COMMUNITY INFORMATION MEETING	6:40 PM - 8:00 PM
3.1.	GB-RZ-2020.1 (Gabriola Housing Society (GHS))	37 - 57
	Presentation of Bylaw Nos. 306, 307 and 308	
3.1.1.	Bylaw No. 306 (Official Community Plan - OCP)	58 - 65
3.1.2.	Bylaw No. 307 (Land Use Bylaw - LUB)	66 - 75
3.1.3.	Bylaw No. 308 (Housing Agreement - HA)	76 - 85
4.	QUESTION AND ANSWER SESSION	
5.	ADJOURNMENT	8:00 PM - 8:00 PM

December 4, 2020

Hello Jaime,

This letter is to provide the GHS response to the suggested changes to the draft Housing Agreement for Paisley Place that I have received from Trustee Langereis (November 30) and Trustee Colbourne (December 2).

GHS requests the following actions:

- **that this letter and attached draft Housing Agreement with track changes are included in the material available for the December 10th Community Information Meeting (CIM). In this way, I can refer to this information and/or respond to questions if needed;**
- **that the recommended amendments to the draft Housing Agreement (see below) are forwarded to the Islands Trust lawyer as soon as possible for review, after which the result of the legal review is forwarded to GHS for agreement, all in time for the amended version to be in the agenda package for the Public Hearing and Special Meeting on January 7, 2021, for consideration for 2nd and 3rd Reading.**

Amendment #1: In Section a. Definitions, delete the definition of “Maximum Monthly Rent”.

Amendment #2: In Section b. Agreement over the Lands, add as b.iv.:

“it will design and construct only triplexes unless an Affordable Housing Funder requires a different configuration the Affordable Housing Units”

Amendment #3: In Section b. Agreement over the Lands, add as b.v.:

“the buildings are constructed to meet the BC Energy Step Code 3 unless an Affordable Housing Funder requires a different energy performance target.”

Amendment #4: In Section b. Agreement over the Lands, add as b.vi.:

“the property will be constructed with a Type 3 sewerage system or an alternative, as approved by the Affordable Housing Funder, that meets similar performance criteria.”

Amendment #5: In Section d. Rental Rates, delete d.i. and replace with:

“the rent payable by a Qualified Renter for an Affordable Housing Unit, exclusive of utilities, must not exceed 30% of the gross monthly household income of the Qualified Renter, except in the case of an Affordable Market Unit; and”

Amendment #6: In Section e. Affordable Housing Units, delete and replace with the following:

Affordable Housing Units – The owner covenants and agrees that it will:

- i. *not rent an Affordable Market Unit unless the Affordable Market Unit is approved by an Affordable Housing Funder and there are also other Affordable Housing Units occupied by households whose income does not exceed the Housing Income Limits, and*
- ii. *not include more than 30% of the Affordable Housing Units as Affordable Market Units unless necessary to meet the requirements of an Affordable Housing Funder, and not before informing*



the Local Trust Committee and providing the Local Trust Committee and the Gabriola public an opportunity to assist the Owner in limiting the number of Affordable Market Units to 30%.

Amendment #7: To replace the first bullet iii) of Schedule B, Qualified Occupant with the following clause and related footnote:

- iii) *“Is registered or is eligible to be a registered member of Snuneymuxw First Nation, or is considered by the Snuneymuxw First Nation community to be part of the Snuneymuxw First Nation but prevented from being a registered member due to particular rules in the Indian Act¹, regardless of current location of residence or work,*

¹ The Owner and the Local Trust Committee recognize that the Islands Trust Council endorsed a Reconciliation Declaration in March 2019 and, as has been highlighted by the Missing and Murdered Indigenous Women and Girls Calls for Justice Report and elsewhere, there are particular limitations with the Indian Act, itself a colonial legacy, and using the Indian Act to define who is part of the Snuneymuxw First Nation.”

GHS is targeting funding under the BC Housing Community Housing Fund (CHF), which specifies certain requirements such as meeting the BC Energy Step Code 3 and a rent structure that is 20% Deep Subsidy, 50% Rent-Geared-to-Income and 30% Affordable Market Units. However, there is no guarantee that GHS will be funded, whether partially or fully, under the CHF program. Moreover, there are other funding programs – such as the CMHC Co-Investment Program – with somewhat different requirements, and new programs and opportunities are being released all the time.

GHS understands the concerns in the community about the number of Affordable Market Units in the Paisley Place project. At the same time, GHS needs significant funding from Affordable Housing Funders in order to provide affordable housing at Paisley Place. Therefore, GHS trusts that Amendment #6 would address the concerns and serve the need of the Gabriola community to have new affordable housing as soon as possible.

Cordially,

Nancy Hetherington Peirce
President, Gabriola Housing Society

Cc: Heather Kauer, Wil Cottingham, Local Trust Committee, Ian Scott

Housing Agreement and Section 219 Covenant
(Section 438 Local Government Act and Section 219 Land Title Act)

THIS AGREEMENT DATED FOR REFERENCE THE [day] OF [month], 2020 is BETWEEN:

GABRIOLA HOUSING SOCIETY, a society incorporated under the laws of the province of British Columbia under number [S-0060928] and having its office at P.O. Box 76, Gabriola Island, B.C., V0R 1X0

(the "Owner");

AND:

GABRIOLA ISLAND LOCAL TRUST COMMITTEE, a corporation under the *Islands Trust Act*, having an office at 2nd Floor, 1627 Fort Street, Victoria, B.C., V8R 1H8

(the "Trust Committee")

WHEREAS:

- A. The Owner is the registered owner of the Lands situated at Lot 1 and Lot 2 Paisley Place on Gabriola Island, British Columbia and legally described as:

PID 028-580-095

LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544

and

PID 028-580-109

LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544

(collectively, the "Lands");

- B. The Owner intends to construct on the Lands a residential development that will include Affordable Rental Housing Units (hereinafter defined) to rent, by way of a Tenancy Agreement, at an affordable rate to Qualified Occupants (hereinafter defined);
- C. The Trust Committee may, pursuant to Section 29 of the *Islands Trust Act* and Section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure and availability to specified classes of persons of dwelling units located on those lands;

- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the Trust Committee in respect of the use of land or construction on land;
- E. As a condition of rezoning the Lands, the Owner and the Trust Committee wish to enter into this Agreement to provide affordable housing on the Lands on the terms and conditions of this Agreement and to restrict the use of, and construction on, the Lands and the use of the Affordable Housing Units constructed on the Lands, on the terms and conditions of this Agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*; and
- F. The Trust Committee has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement.

THIS AGREEMENT is evidence that in consideration of \$1.00 paid by the Trust Committee to the owner (the receipt of which is acknowledged by the owner), and in consideration of the promises exchanged below, the Trust Committee and the owner agree, as covenants granted by the owner to the Trust Committee under Section 219 of the *Land Title Act*, and as a housing agreement between the owner and the Trust Committee under Section 483 of the *Local Government Act*, as follows:

Article 1: Definitions and Interpretation

a. Definitions – In this Agreement:

“Acceptable Accommodation” means accommodation that is affordable, suitable and adequate according to family income, size and composition;

“Affordable Housing Funder” means BC Housing, Canada Mortgage and Housing Corporation or other agency that provides a grant or preferential rate loan to support the development of Affordable Housing Units on the Lands;

“Affordable Housing Unit” means a studio, 1 bedroom, 2 bedroom or 3 bedroom Dwelling Unit on the Lands in respect of which the construction, tenure, rental and occupancy are restricted in accordance with sections b through e of this Agreement;

“Affordable Market Unit” means an Affordable Housing Unit on the Lands where the rental price is linked to market conditions on Gabriola Island or the Regional District of Nanaimo region, the rental rate is approved by an Affordable Housing Funder, and meets the occupancy criteria set out in section c;

“Annual Household Income” means the combined gross income of all adult members of a Household, as shown on line 150 of the preceding year’s T1 General Income Tax and Benefit return;

“BC Housing” means the British Columbia Housing Management Commission;

“Dwelling Unit” means a dwelling unit as defined in the Gabriola Island Land Use Bylaw No. 177, 1999, as amended or replaced from time to time;

“Household” means one or more individuals;

"Housing Income Limits" means the maximum gross household income for eligibility in an affordable housing program (for each category of dwelling unit), based on figures established by CMHC, and are intended to reflect the minimum income required to afford appropriate accommodation in the private market, as published by BC Housing from time to time;

"Lands" means those parcels of land legally described as PID 028-580-095, LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 and PID 028-580-109, LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544;

"Qualified Occupant" means a person who meets the eligibility criteria for tenancy as set out in Schedule "B";

"Qualified Renter" means a Household which meets the eligibility criteria for a residential tenancy of an Affordable Housing Unit, as set out in section c of this Agreement;

"Residential Tenancy Act" means the *Residential Tenancy Act* (British Columbia); And

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

b. Agreement over the Lands – Pursuant to section 219 of the *Land Title Act* and section 483 of the *Local Government Act*, the Owner covenants and agrees that the Lands may be used only in accordance with the following conditions:

i. the Lands must not be used and no building or structure may be constructed on the Lands except in accordance with any development permit issued by the Local Trust Committee, and any building permit issued by the Regional District of Nanaimo and this Agreement;

ii. the Lands must at all times be used and occupied in compliance with all statutes, laws, regulations, orders of any authority having jurisdiction, and this Agreement;

iii. it will design, construct and maintain in a reasonable state of repair the Affordable Housing Units on the Lands, including Affordable Market Units in accordance with the terms of this Agreement;

iv. it will design and construct only triplexes unless an Affordable Housing Funder requires a different configuration the Affordable Housing Units"

v. the buildings are constructed to meet the BC Energy Step Code 3 unless an Affordable Housing Funder requires a different energy performance target, and

vi. the development will be constructed with a Type 3 sewerage system or an alternative, as approved by the Affordable Housing Funder, that meets similar performance criteria.

c. Affordable rental housing eligibility - The Owner covenants and agrees that the Affordable Housing Units on the Lands will only be occupied under all of the following criteria:

Deleted: "Maximum Monthly Rent" means the monthly rent agreed to by the Owner and a Qualified Renter to rent an Affordable Housing Unit which shall not exceed 30% of the total combined monthly gross household income of the Qualified Renter(s) at the time the Affordable Housing Unit is occupied by the Qualified Renter(s), except in the case of an Affordable Market Unit;¶

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- i. the household's Annual Household Income does not exceed BC Housing's Housing Income Limits, or other criteria specified by an Affordable Housing Funder;
- ii. the household will occupy the Affordable Housing Unit as their permanent, principal, and sole residence; and
- iii. the household is comprised of at least one Qualified Occupant.

and The Owner covenants and agrees to:

- iv. include in every Tenancy Agreement a prohibition on subletting, including short-term vacation rentals, and a provision entitling the Owner to terminate the Tenancy Agreement in accordance with the *Residential Tenancy Act* in the event of any breach of that prohibition;
- v. deliver to the Trust Committee a true copy of every Tenancy Agreement entered into in respect of any Affordable Housing Unit within 10 days of any request to do so;
- vi. specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to the Affordable Housing Unit, and provide to each tenant, upon their request, a copy of this Agreement; and
- vii. if one of the individuals comprising a Qualified Renter who rents an Affordable Housing Unit dies, that individual's spouse or adult child residing in the Affordable Housing Unit at the time of the Qualified Renter's death may continue to rent the Affordable Housing Unit for the longer of:
 - a. the balance of the fixed term under the Tenancy Agreement; or
 - b. twelve (12) months on the same terms, including monthly rent, set out in the Tenancy Agreement.

d. **Rental rates** - The Owner covenants and agrees that:

- i. the rent payable by a Qualified Renter for an Affordable Housing Unit, exclusive of utilities, must not exceed 30% of the gross monthly Household Income of the Qualified Renter, except in the case of an Affordable Market Unit; and
- ii. it will not require any tenant under a Tenancy Agreement to pay any extra charges or fees for use of any well or septic system, or property taxes. For clarity, this limitation does not apply to parking, cablevision, telecommunications, laundry, or gas or electricity utility fees or charges.

e. **Affordable Housing Units** - The owner covenants and agrees that it will:

- i. not rent an Affordable Market Unit unless the Affordable Market Unit is approved by an Affordable Housing Funder and there also other Affordable Housing Units occupied by households whose income does not exceed the Housing Income Limits, and
- ii. will not include more than 30% of the Affordable Housing Units as Affordable Market Units unless necessary to meet the requirements of an Affordable Housing Funder, and not before informing the Trust Committee and providing the Trust Committee and the Gabriola public an opportunity to assist the Owner in limiting the number of Affordable Market Units to 30%.

f. **Order to Comply** - If the Owner is in default of the performance or observance of this Agreement, the Trust Committee may give the Owner a notice of default requiring the Owner to comply with this

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Agreement within the time stated in the notice. The Owner agrees that any breach or default in the performance of this Agreement on its part must be corrected, to the satisfaction of the Trust Committee, within the time stated on the notice of default provided to the Owner by the Trust Committee.

- g. Statutory Declaration from Owner** – The Owner shall deliver to the Trust Committee by the end of January of each year, a completed statutory declaration, substantially in the form attached as Schedule “A”, sworn by the Owner, in relation to the Affordable Housing Units. The Owner irrevocably authorizes the Trust Committee to make inquiries it considers necessary and reasonable in order to confirm compliance with this Agreement.
- h. Management** – The Owner covenants and agrees to furnish good and efficient management of the Lands. If and when the Trust Committee has reasonable grounds to believe that a continuing breach of this Agreement exists, the Trust Committee may authorize its representatives to inspect the Lands at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act* and subject to the concurrent delivery of such a notice to the Owner.
- i. No Transfer** – The Owner must not transfer the Lands, other than to another non-profit organization or society incorporated under the *Societies Act*, having as its objective the management of affordable housing. The Local Trust Committee must approve any transfer prior to its finalization.
- j. Society Standing** – The Owner must maintain its standing as a society under the *Societies Act*, and must not amend its Constitution in any manner that would prevent, or adversely affect, the ability of the Owner to perform its obligations under this Agreement.
- k. Specific Performance of Agreement** – The Owner agrees that the Trust Committee is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement, in view of the public interest in restricting the occupancy of the Affordable Housing Unit. The Owner further acknowledges that a breach of this Agreement may constitute a breach of the Trust Committee’s Land Use Bylaw, as amended from time to time.
- l. Assignment** – The Owner acknowledges that the Trust Committee may delegate or assign the administration and management of this Agreement to a third party, and, in that event, any reference in this Agreement to the Trust Committee shall be interpreted as a reference to that party provided that the Trust Committee has so advised the Owner.
- m. Indemnity** – The Owner shall indemnify and save harmless the Trust Committee and each of its elected officials, officers, directors, employees, and agents from and against all claims, demands, actions, loss, damage, costs, and liabilities for which any of them may be liable by reason of any act or omission of the Owner or its officers, directors, employees, agents or contractors or any other person for whom the Owner is at law responsible, including breaches of this Agreement.
- n. Release** – The Owner releases and forever discharges the Trust Committee and each of its elected officials, officers, directors, employees, and agents and each of their heir, executors, administrators, personal representatives, successors and assigns from all claims, demands, damages, actions, or causes of action arising out of the performance by the Owner of its obligations under this Agreement, or the enforcement of this Agreement.

- o. Trust Committee Powers Unaffected** – This Agreement does not limit the discretion, rights, duties or powers of the Trust Committee under any enactment or the common law, impose on the Trust Committee any duty or obligation, affect or limit any enactment relating to the use or subdivision of the Lands, or relieve the Owner from complying with any enactment.
- p. No Public Law Duty** – Wherever in this Agreement an act, determination, consent, approval or agreement of the Trust Committee is provided for, such act, determination, consent, approval or agreement may be done or made in accordance with the terms of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice shall have any application.
- q. No Waiver** – No condoning, excusing or overlooking by the Trust Committee of any default under this Agreement, nor any consent, approval, or agreement whether written or otherwise shall be taken to operate as a waiver by the Trust Committee of any subsequent default or of the necessity for further consent, approval or agreement in respect of a subsequent matter requiring it under this Agreement, or in any way to defeat or affect the rights or remedies of the Trust Committee.
- r. Arbitration** – Any matter in dispute between the parties under this Agreement, including any disputes as to whether a particular individual is eligible to occupy a Affordable Housing Unit, must be referred to a single arbitrator if the parties can agree on one, and otherwise to three arbitrators, one to be appointed by each of the parties and the third by those two so appointed, and the matter must be resolved in accordance with the provisions of the *Arbitration Act* of British Columbia.
- s. Notice on Title** – The Owner acknowledges and agrees that this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*, and agrees that the Owner will register a notice of this Agreement against title to the Lands.
- t. Covenant Runs with the Land** – Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the Trust Committee in accordance with section 219 of the *Land Title Act* in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including, by subdivision or by strata plan.
- u. Limitation on Owner's Obligations** – The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.
- v. Amendment and Termination** – This Agreement may not be modified or amended except by bylaw of the Trust Committee, upon an agreement in writing between the Trust Committee and the Owner.
- w. Notices** – Any notice required to be given pursuant to this Agreement shall be in writing and shall be given to the Owner or the Trust Committee, as the case may be, at the address first above written, or to any other address of which either the Owner or the Trust Committee may advise the others in writing in accordance with this paragraph. Notice to the Trust Committee must be addressed to the Secretary of the Islands Trust. If given in person or by facsimile transmission, such notice will be deemed to be received when delivered and, if mailed, such notice will be deemed to be received only when actually received by the party to whom it is addressed.

- x. **Enurement** – This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns.
- y. **Remedies Cumulative** – The remedies of the Trust Committee specified in this Agreement are cumulative and are in addition to any remedies of the Trust Committee at law or in equity. No remedy shall be deemed to be exclusive, and the Trust Committee may from time to time have recourse to one or more or all of the available remedies specified herein or at law or in equity.
- z. **Severability** – Each covenant and agreement contained in this Agreement is, and shall be construed to be, a separate and independent covenant or agreement and the breach of any such covenant or agreement by the Owner shall not discharge or relieve the Owner from its obligations to perform. If any term or provision of this Agreement, or its application to any person or circumstance shall to any extent be found to be invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
- aa. **Joint and Several** – In the case of more than one owner, the grants, covenants, conditions, provisions, agreements, rights, powers, privileges and liabilities of the Owner shall be construed and held to be several as well as joint.
- bb. **Included Words** – Wherever the singular or the masculine is used in this Agreement, it shall be deemed to include the plural or the feminine, or the body politic or corporate, where the context or the parties so require.
- cc. **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.
- dd. **Joint Venture** – Nothing in this Agreement shall constitute the Owner as an agent, joint venture or partner of the Trust Committee or give the Society any authority or power to bind the Trust Committee in any way.
- ee. **Time of Essence** – Time is of the essence in this Agreement.
- ff. **Further Assurances** – The parties shall execute and do all such further deeds, acts, things and assurances as they reasonably require to carry out the intent of this Agreement.
- gg. **Priority** – The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered or pending at the time of application for registration of this Agreement.
- hh. **Deed and Contract** – By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

SCHEDULE "A"

OWNER STATUTORY DECLARATION

CANADA

IN THE MATTER OF A HOUSING AGREEMENT

PROVINCE OF BRITISH COLUMBIA

WITH THE GABRIOLA ISLAND LOCAL TRUST
COMMITTEE ("Housing Agreement")

I, _____

declare that:

1. I am the _____ [director, officer, employee] of the [Owner], the owner of the land known as _____, XXX Island, legally described as: _____ (the "Lands")
2. I make this declaration to the best of my personal knowledge.
3. This declaration is made pursuant to the Housing Agreement registered against the Lands.
4. For the period from _____ to _____, the Affordable Housing Units were used only by Qualified Renters (as defined in the Housing Agreement).
5. At no time during the last year were any of the Affordable Housing Units used as a short-term vacation rental.
6. The rental payments charged for the Affordable Housing Unit were in compliance with the Housing Agreement and are listed in the attached list.
7. No subletting of the Lands has been permitted.
8. I acknowledge and agree to comply with all of the Owner's obligations under the Housing Agreement, and other charges registered against the Lands and confirm that the Owner has complied with all of its obligations under these Agreements.
9. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at _____, British Columbia, this ____ day of _____.

A Commissioner for taking Affidavits
in British Columbia

Signature of person making declaration

SCHEDULE "B"

Definition of a Qualified Occupant

A Qualified Occupant means a person aged 19 years or older who fits into at least one of the following categories, which are not listed in any particular priority order:

- i) Has been living on Gabriola Island for a minimum of one year; or
- ii) Has been commuting to Gabriola Island for at least half-time work (20 hours per week) for a minimum of one year; or
- iii) Is registered or is eligible to be a registered member of Snuneymuxw First Nation, or is considered by the Snuneymuxw First Nation community to be part of the Snuneymuxw First Nation community but prevented from being a registered member due to the particular rules of the Indian Act¹, regardless of current location of residence or work,

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except that where there are no persons meeting the categories specified above in clause i, ii or iii of this Schedule who make an application to rent an available Affordable Housing Unit and the lack of applications would result in the Affordable Housing Unit being vacant for more than one month, then a Qualified Occupant may be a person aged 19 years or older who fits into at least one of the following categories, which are not listed in any particular priority order:

- a. Previous resident of Gabriola Island who has lived away from the Gabriola Island for a maximum of three consecutive years; or
- b. Non-resident who is hired to begin at least half-time work (20 hours per week) on Gabriola Island; or
- c. A person who has worked at least half-time on Gabriola Island (20 hours per week) for less than one year; or
- d. A person with an immediate family member whose principal residence is in Gabriola Island. "Immediate family member" means a daughter/son or parent or sibling, to whom the person is related by blood, or by marriage or common-law relationship, or by adoption,

except that where there are no persons meeting the categories specified in clause i, ii or iii nor a, b, c or d of this Schedule who make an application to rent an available Affordable Housing Unit and the lack of applications would result in an Affordable Housing Unit being vacant for more than one month, then a Qualified Occupant may be any person permitted by an Affordable Housing Funder.

¹ The Owner and Trust Committee recognize that the Island Trust Council endorsed a Reconciliation Declaration in March 2019 and as has been highlighted by the *Missing and Murdered Indigenous Women and Girls Calls for Justice Report* and elsewhere, there are particular limitations with the *Indian Act*, itself a colonial legacy, and it being used to define who is part of the Snuneymukw First Nation. The Owner will work with a spirit of reconciliation to house individuals and households from the Snuneymukw First Nation.

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Item 2.2 - Submission from Trustee Langereis, Special Meeting December 10, 2020

That the Gabriola Island Local request staff forward to Islands Trust legal counsel for review and comment on the following possible amendments to the draft Housing Agreement:

Proposed amendments to the Housing Agreement

That the draft Housing Agreement appended to Gabriola Island Local Trust Committee BYLAW NO. 308 be amended by:

- (a) Adding in a provision that indicates the form of housing will only be triplexes or duplexes.
- (b) Adding in a provision that indicates the approximate number or percentage of affordable housing units that will be market rent units.
- (c) Deleting the definition of “Maximum Monthly Rent”
- (d) Replacing section d.i wording with the following:

“the rent payable by a Qualified Renter for an Affordable Housing Unit must not exceed 30% of the total combined monthly gross household income of the Qualified Renter, except in the case of an Affordable Market Unit;”

- (e) Adding a new provision in section b that states “the residential buildings are constructed to at least BC Energy Step 3 Code energy efficiency standards”;
- (f) Adding a new provision in section b that states “the residential buildings will incorporate a Type 3 advanced secondary sewage treatment system”.

Other comments/queries:

Section i. No Transfer – *The Owner must not transfer the Lands, other than to another non-profit organization or society incorporated under the Societies Act, having as its objective the management of affordable housing. The Local Trust Committee must approve any transfer prior to its finalization.*

Question: I understand that BC Housing requires the housing provider, as a condition of funding, to enter into a section 219 agreement whereby the property may transfer to BC Housing in certain circumstances. Would BC Housing be captured here as a society? If not, how would this section operate vis-à-vis the required BC Housing 219 covenant?

Section v. Amendment and Termination – *This Agreement may not be modified or amended except by bylaw of the Trust Committee, upon an agreement in writing between the Trust Committee and the Owner.*

Question: does modify or amend include termination? Should this heading just read “Amendment”? There is no specific provision in the text related to “termination”.

Section dd. Joint Venture – *Nothing in this Agreement shall constitute the Owner as an agent, joint venture or partner of the Trust Committee or give the **Society** any authority or power to bind the Trust Committee in any way.*

Comment: I believe this should be “Owner”, not “Society”.

Comments on SCHEDULE “A” OWNER STATUTORY DECLARATION sections

Declaration: 1. I am the [director, officer, employee] of the [Owner], the owner of the land known as, XXX Island, legally described as:

Comment: section g of the agreement refers to the Owner providing a statutory declaration. However, the Schedule A form allows for the Owner or ‘director, officer or employee’ to do the declaration. Is a director the Owner? Is an officer the Owner? An employee would presumably not be an Owner.

Should the Schedule A form be amended striking out or does the phrase “substantially in the form of” allow for this. Presumably if the housing operator inadvertently has someone other than an “owner” complete the form, the Local Trust Committee recourse would be to not accept the declaration. Just a risk of error.

Schedule A Section 5. At no time during the last year were any of the Affordable Housing Units used as a short-term vacation rental.

Comment: missing subletting of unit as per section c.iv (see below extract). Add words “or sublet” after the word “rental”. “Short-term vacation rental” would seem to be a subset of “subletting”. Adds “sublet” to the statutory declaration affirming that the no subletting condition has been met.

c. iv. include in every Tenancy Agreement a prohibition on subletting, including short-term vacation rentals, and a provision entitling the Owner to terminate the Tenancy Agreement in accordance with the Residential Tenancy Act in the event of any breach of that prohibition;



Memorandum

Ministry of Forests, Lands,
Natural Resource Operations and Rural
Development
Water Protection, Nanaimo

November 30, 2020

To: Sarah Hardy, Water Authorizations Specialist

File: 58000-38-21/20013567 Gabriola Housing Society

On request, a review was completed of the hydrogeologic assessments and data submitted in support of the application for a groundwater licence for a water supply system for an affordable housing development on Paisley Place, Gabriola Island.

The review consisted of evaluating available documentation related to this application (File 20013567) and the subject aquifer (AQ709) and undertaking additional analysis to assess the primary aspects of concern including: long-term well capacity, potential adverse impacts to adjacent groundwater users, potential hydraulic connection between the aquifer and adjacent surface water bodies in the area of the subject well(s), and well susceptibility to intrusion of saline water or sea water. No field assessment component was completed.

The following information was provided:

- Average daily volume (15.55 m³/day); and
- Purpose use (waterworks for 24-unit housing complex, 3.24 ha land area);
- Period of use (year-round);
- Well Tag Number (WTN) of the primary production well (WTN 104473; ID 33795).

To formulate my recommendations, I reviewed:

- Available information regarding the application, including technical assessments completed by the applicant's hydrogeologic consultant (listed at the end of this document);
- Hydrogeologic data for the area from Groundwater Wells and Aquifers (GWELLS) database;
- DataBC spatial files in ArcGIS including: Wells, Aquifers, Stream Networks, Water Allocation Restrictions, and Water Rights;
- Preliminary analyses completed by Sarah Hardy, including cross-sections, safe available drawdown calculations, distance-drawdown estimations; and
- Literature including hydrogeologic studies completed for the subject area (aquifer characterization and water budget reports).

1. Site description

The subject property is located at on Paisley Place, Gabriola Island, Lot 1 (PID 028-580-095), lot 2 (PID 028-580-109), and lot 4 (028-580-125), SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP11544. The 3.24 ha (8 acre) property is within an area of mixed rural

residential, institutional and commercial land use near the Gabriola Island Village, where each lot is supplied by an individual well. A map of the subject site and elements discussed in this review is included in Figure 1.

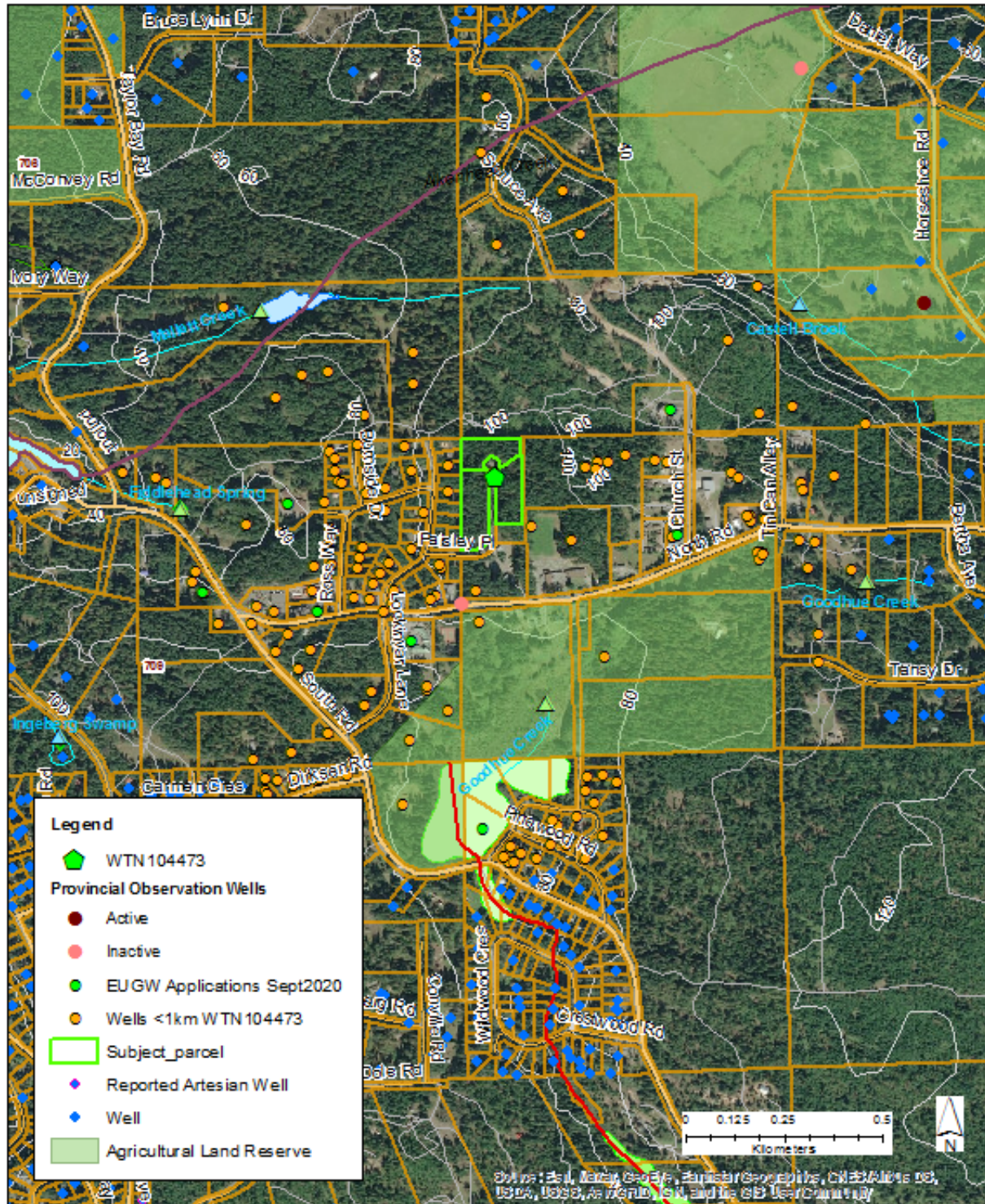


Figure 1: Map of subject area

2. Well and aquifer description

Four wells were drilled to service potential development of the subject properties, initially with the intent to establish one well per parcel, but due to low water-bearing fracture density of aquifer in this area, only one well was determined to be viable to provide water through a shared system. This primary production well is WTN 104473 (ID33728), referred to as Well 73. The well is constructed in sandstone with shale seams, and the principal water-bearing fracture is at 54.86 meters below ground surface (mbgs).

The subject well is constructed in Aquifer 709 (AQ709), a fractured sedimentary bedrock (5a) aquifer composed of sandstone, shale and minor conglomerate of the Nanaimo Group, with a total mapped areal extent of 46.8 km² (Province of B.C., 2020). Soil and sedimentary overburden is generally shallow therefore the aquifer has a high vulnerability to infiltration of contaminants from the land surface, geometric mean overburden thickness is 2.4 m for reported wells in the aquifer summarized in the aquifer worksheet (Province of B.C., 2004), and the median depth to bedrock was 1.9 m for wells in the area of the subject parcel as reported in Elanco, 2019. Aquifer productivity is considered low and there is an overall moderate level of well density, with localized areas of higher development.

3. Long-term well capacity

Assessment of Well 73 included completion of a 90-minute step test on September 18, 2019, followed by a 3.9 day (5655 minute) long-term pumping test beginning on September 19, 2019, and sampling of the well for geochemical quality near the end of the long-term test. During the pumping test, three additional wells were monitored, including the three other onsite wells, and a former provincial observation well located at the adjacent road maintenance yard (OW194, WTN26710).

The long-term well capacity of Well 73 was estimated as 2.9 USgpm (11.0 L/min, 15.8 m³/d), based on the curve of drawdown response during the test period from 400 to 1440 minutes (during period of pumping at a constant rate of approximately 4.75 USgpm) projected to 100-days. I independently calculated the weighted average pumping test rate, safe available drawdown, and long-term well capacity, and obtained results that were consistent with values reported by Elanco (2019). Characteristics of the wells used for the pumping test are included in Appendix A, Table A1, and the well capacity assessment for WTN 104473 is summarized in Table 1 below.

Table 1: Long-term well capacity rating for WTN 104473

Estimated long-term well capacity*, Q (FLNFR)	Elanco reported long-term well capacity, Q					
	L/min	USgpm	L/s	L/min	USgpm	m ³ /d
Q _{calc}	11.8	3.1	0.18	11.0	2.9	15.8
Q _{pump (average)}	19.8	5.2				

There were two different phases of pumping response in Well 73, based on the semi-log plot of drawdown versus time, Elanco (2019, Figure 13). Elanco calculated transmissivity of the aquifer for two three test periods, phase 1 and 2 during well pumping, well recovery. I have verified the calculated transmissivity, both manually using well response interpreted from Figure 13, and using commercially available software Aqtesolv (v. 4.5, HydroSOLVE, Inc.) and drawdown data included in Elanco, 2019, Appendix A2, and obtain consistent values. Storativity was not calculated (not valid) for the pumping well, and continuous drawdown data for Well 72 (observation well) were not provided in the hydrogeologic report. An empirical value of storativity, S=0.0003 is reported from

other tests in fractured sedimentary bedrock (Lepitre & Beebe, 2019). Properties of AQ709 determined from the 2019 pumping test, and other sources indicated are summarized in Table 2.

Table 2: Aquifer 709 properties based on pumping test of WTN 104473 and literature values obtained from testing of other wells in Nanaimo Group sedimentary bedrock (5a) aquifers

	Well	WTN	Transmissivity T (m2/s)	T (m2/d)		S (no units)	Comment	Reference
Study well								
Sandstone	73	104473	3.8E-05	3.28		nc	First leg (pumping)	1
	73	104473	2.3E-05	1.99		nc	First leg (recovery)	1
	73	104473	5.2E-06	0.45		nc	Second leg (pumping)	1
	73	104473	2.0E-06	0.17		nc	Second leg (recovery)	1
			9.8E-06	0.84		nc		
Nanaimo Group studies								
			Transmissivity T (m2/s)	T (m2/d)		S (no units)	Specific storage (m ⁻¹)	
Sandstone -dominant	Geometric mean		1.30E-05	1.12	Min	2.8E-09	3E-06	2,3,4
					Max	1.8E+01		2,3,4
Mudstone- dominant	Geometric mean		9.50E-06	0.82			2E-06	2,3,4
Average compiled sedimentary bedrock (5a aquifer) well tests						0.0003		5
Geometric mean (literature and 2019 test)				0.92 ⁽⁶⁾				
Literature value (used for analyses)						1.00E-03		7

Notes and references

nc=not calculated

¹(Elanco, 2019)

² (Burgess & Allen, 2016)

³ (Laroque, Allen, & Kirste, 2015)

⁴ (Allen, Liteanu, Bishop, & Mackie, 2003)

⁵ (Lepitre & Beebe, 2019)

⁶Geometric mean from Elanco (2019) and Nanaimo Group studies listed.

⁷ (Freeze & Cherry, 1979)

4. Groundwater availability and potential impacts to adjacent groundwater users

Elanco (2019) estimated the potential recharge within a 40,000 m² elongate capture zone extending upslope from a NW/SE oriented fault that intersects the subject parcel in the vicinity of the subject well (Elanco, Fig 2 & 3, shown in Figure 2 below). He concluded that available storage in the soil and aquifer fractures (1568 m³) is greater than water use at a rate of 15.21 m³/day for 100 days (total water demand for 100 days, 1521 m³, and assuming no additional recharge occurs during that period). I have reviewed the assumptions used for estimation of recharge and water storage in overburden materials, and bedrock fractures, and find the methods consistent with existing literature for Gabriola Island and Nanaimo Group aquifers (Burgess & Allen, 2016; SRK Consulting (Canada)

Inc., 2013). Present estimate of use for application is 15.55 m³/d (Sarah Hardy, personal communication, November 4, 2020); estimated storage indicated is greater than higher demand level. One possible addition to the water balance methodology could have been to consider current and future climate change related impacts, for example evaluating the water balance with a longer duration of the period with low precipitation (e.g. 180 days).

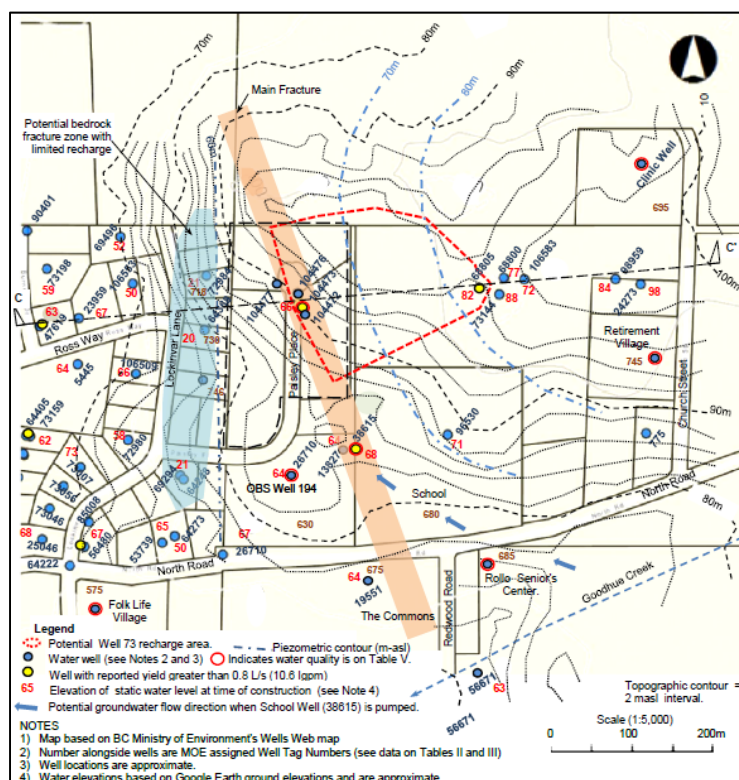


Figure 2: Inferred recharge zone for subject well (from Elanco, 2019, Fig. 3)

There is no active observation well in the Gabriola Village area. Historical conditions in comparison to groundwater development in the village during the period when OW194 was in operation (1973-2007) were evaluated in Elanco, 2019, Fig. 8 and 9, reproduced in Figure 3, below. I concur with Elanco's assertion that the long-term trends in groundwater levels in OW194 are linked to patterns of precipitation and recharge, illustrated by the cumulative deviation from monthly mean, whereby dry season water levels deepen during periods of decreased precipitation (negative departure from the mean), and become shallower during periods of increased precipitation (positive departure from the mean). I note that the overall trend in winter (maximum elevation) water levels appears to be declining over time (green dashed line), and that during latter part of the record starting around 2002, summer groundwater levels are deepening substantially (by approximately 2 m), and that this trend to deeper summer levels continued beyond 2005, despite an interpretation of a wetter phase beginning around that time. A pattern of deepening of summer water levels is being observed in several areas of B.C. and in the Gulf Islands (Allen, Stahl, Whitfield, & Moore, 2014; Lapcevic, Kenny, & Wei, 2006), and may be a result of longer duration dry season, increased rainfall intensity in fall/winter periods or other factors affecting the relative proportions of runoff and infiltration, and due to increases in groundwater demand from new or existing wells.

The closest active provincial observation well is OW385 (Gabriola Island, Horseshoe Road) 1.2 km northeast of the subject site. Groundwater levels in OW385 fluctuate by approximately 3 m annually

(Figure 4) (Province of B.C., 2020). Within the RDN State of Our Aquifers report the long-term trend for this well was rated as declining at a moderate rate -0.045 m per year from 2012-2016, and -0.05 m per year since the well was established in 2010. This decline is attributed primarily to climatic factors (GW Solutions Inc., 2017).

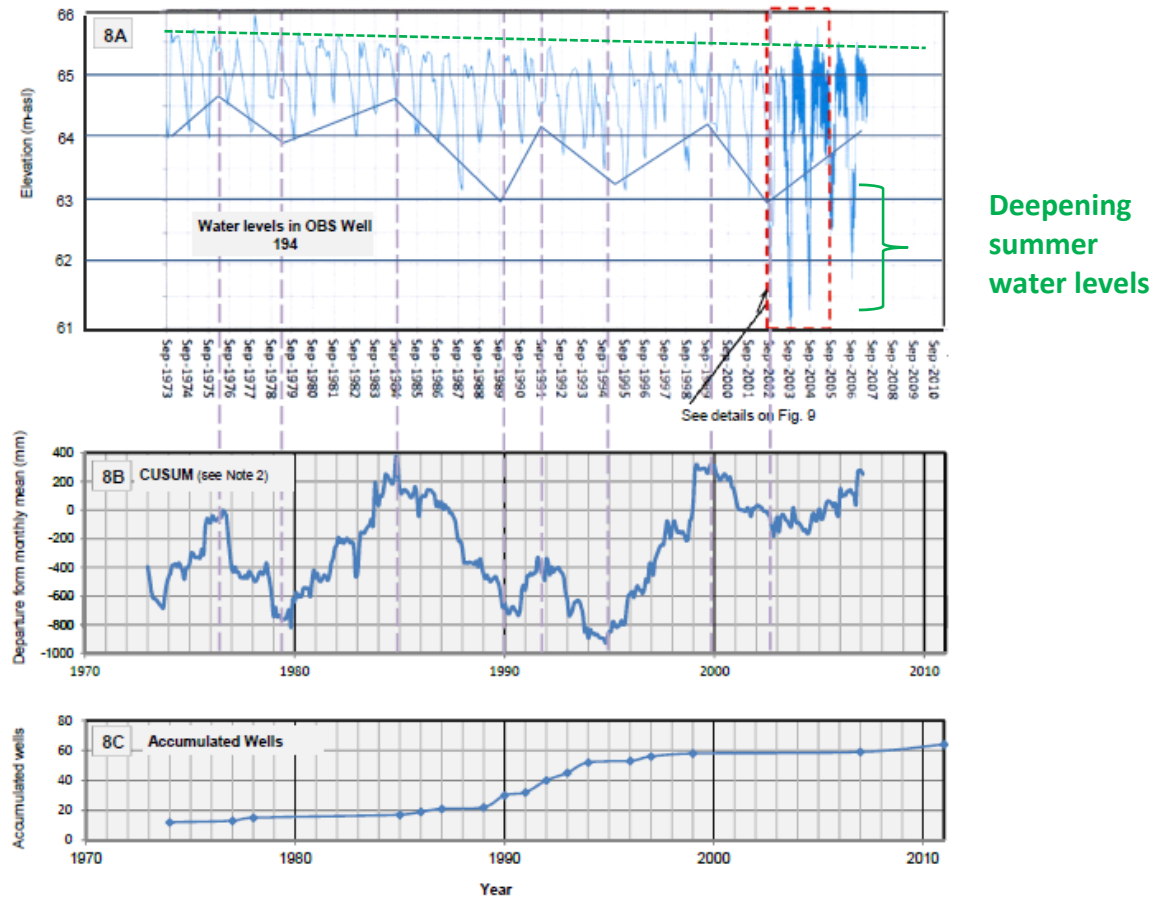


Figure 3: OW194 hydrograph (1973-2010), compared to cumulative deviation from monthly mean (from Elanco, 2019, Fig. 8). Green dashed line illustrates overall downward trend in winter (maximum) water elevation, and highlighted area shows deepening summer water levels.

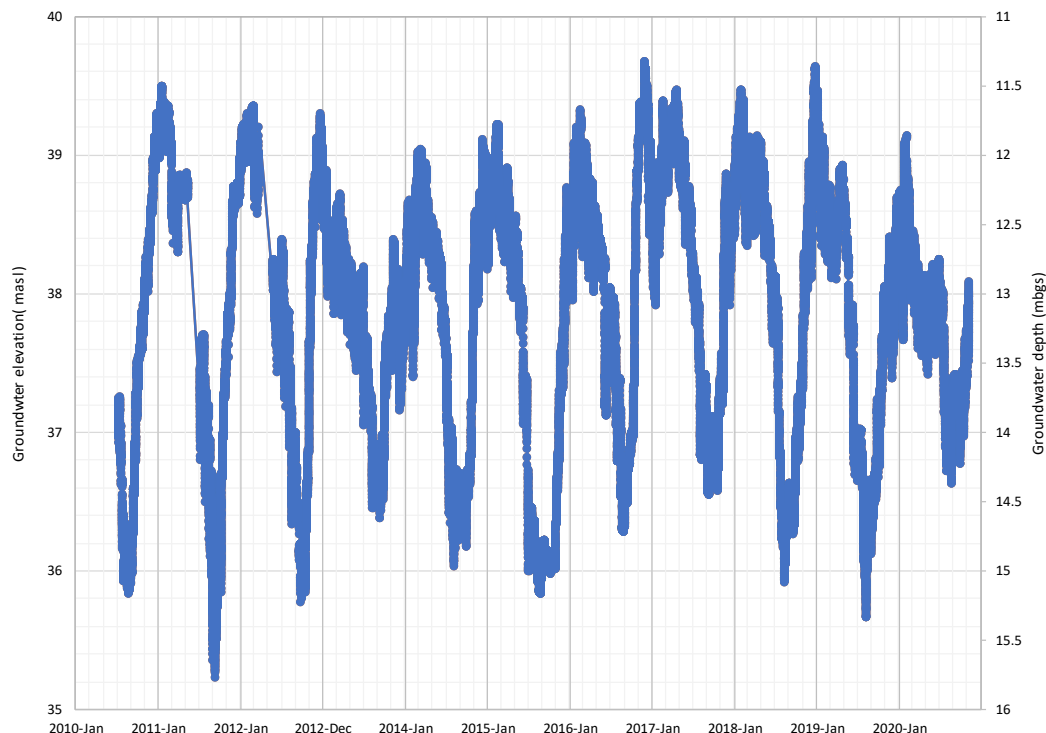


Figure 3: OW385 hydrograph (2010-2020)

A Phase 1 water budget study completed for Gabriola Island in 2013 (SRK Consulting (Canada) Inc., 2013) evaluated the relative seasonal water stress (groundwater demand/recharge) within water sub-regions. The subject parcel is near the eastern boundary within the Descanso Bay water management sub-region, delimited based on the watershed boundary for small (zero- and first-order) streams such as Mallet Creek, which drain toward the Georgia Strait on the northwest end of Gabriola Island. The Phase 1 water budget indicated that water demand in the Descanso Bay sub-region ranged from 1% (winter season) to 9% (summer season) of potential recharge, indicating a low level of water stress. In comparison to the Descanso Bay sub-region as overall, water demand in the Gabriola Village area is likely greater due to the high density of wells and commercial, industrial and domestic groundwater use in that area.

There are 152 registered wells within 1 km of WTN104473, equivalent to a well density of 48 wells/km² which is considered high. Well interference and potential for adverse impacts between the subject well and adjacent wells was evaluated within the well testing report (Elanco, 2019), a secondary report (Elanco, 2020), and calculations made by FLNR staff.

The most direct information we have on drawdown with distance from WTN104473 is from the response in adjacent wells during the September 18, 2019 pumping test. The rate of pumping was higher than the projected demand for the proposed water system and ranged from 13.63 to 54.51 m³/d (2.5 to 10 USgpm), with a weighted average of 28.53 m³/d, compared to the rate of 15.55 m³/d (2.9 USgpm) for the application. During the test, drawdown was measured in the pumping well, and three additional wells from 4 m up to approximately 230 m away. The drawdown measured in the pumping and observation wells during the period of maximum pumping rate is tabulated in Appendix A, Table A1. The maximum observed drawdown due to well interference occurred during the period of highest pumping rate, and in wells that were closest to the subject well. The observed maximum drawdown with distance in the observation wells is shown in Figure 4. The observed response at

distance from Well 73 is likely indicative of projected interference of pumping between the maximum rate and the weighted average rate, which is significantly higher than the rate being applied for in the application. For this reason, under the design rate for the well, drawdown in adjacent wells in the aquifer is anticipated to be less than observed during the pumping test.

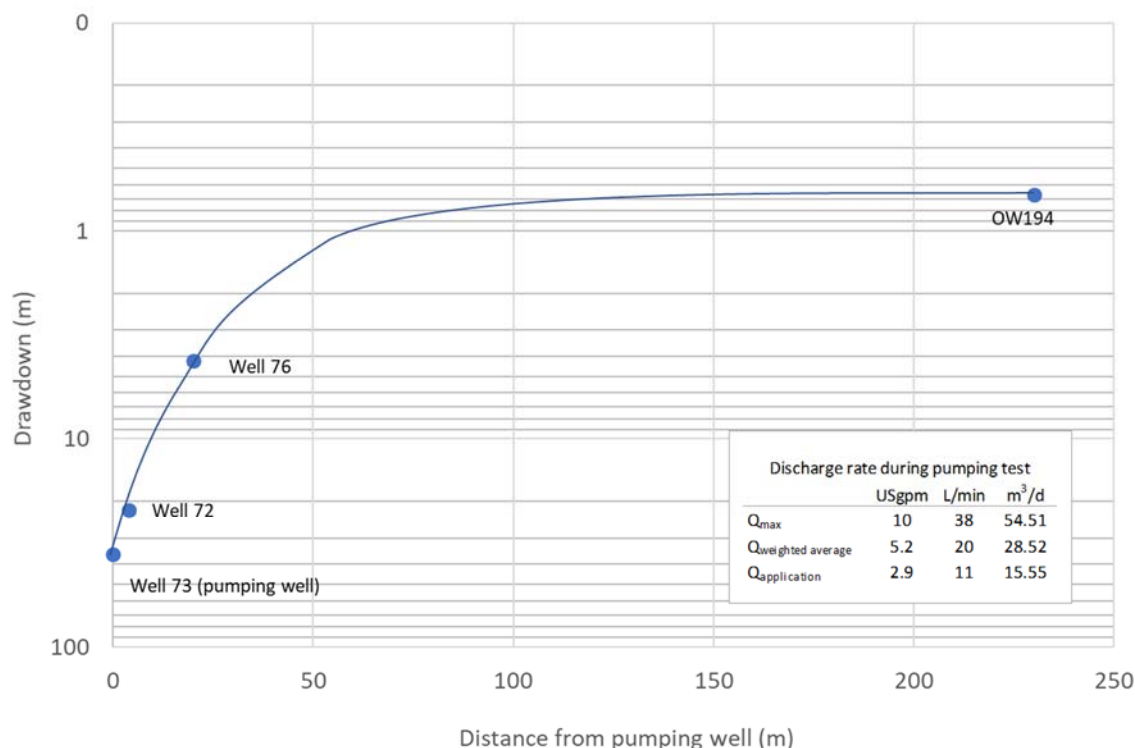


Figure 4: Drawdown with distance from Well 73, based on results of September 19, 2020 pumping test

The degree of potential interference between Well 73 and the well at Gabriola Island School (WTN 96530), reported by Elanco as 200 m to the NNE, was considered by observing the response in Well 73 and Well 72 during a car-wash event at the school in October 2019. Available drawdown in Well 73 and Well 72 was found to decline by approximately 1 m due to pumping of the school well during the car wash event. The rate and duration of the school well pumping during the event was not measured. Under the design pumping scenario total interference from pumping of the School well on Well 73 was estimated by Elanco (2019, Table IV) as 1.5 m, while the potential interference of Well 73 on the School well was estimated as 1.2 m, the latter being equivalent to approximately 3% of estimated safe available drawdown, based on the depth between the historic static water level and the depth of the primary water producing fracture (minus a 30% safety factor). While pumping of Well 73 is not anticipated to adversely affect water availability to the well at Gabriola Island School (WTN96530), monitoring within Well 73, Well 72, and former OW194 (WTN 26710) in comparison to operational information from the school indicates that water levels in these wells are closely linked and that the fracture networks intersected by the wells are interconnected. Well 73 may intersect some deeper fractures, as illustrated by significant difference in water chemistry compared to the school well (see section 6 below). Ongoing monitoring of groundwater levels is recommended understand conditions within the aquifer in this area, to mitigate any adverse impacts as a result of well interference, if they occur, and to evaluate changes over time.

In comparison to unconsolidated (sand and gravel) aquifers, within a fractured rock aquifer the magnitude and direction of interference between adjacent wells can exhibit directionality, dependent on orientation and interconnectivity of heterogeneous fracture networks (Allen D. A., 1999). Elanco indicated that the magnitude of drawdown in adjacent wells as a result of Well 73 pumping is likely greatest for wells oriented along the NNW-SSW oriented fault system (red line in Figure 2), whereas wells situated perpendicular to that fault system will likely be less impacted. For example, Well 77, located west of Well 73 which has limited fractures and was hydrofractured to produce a small amount of water, exhibited a dampened response to Well 73 pumping (maximum 3 cm drawdown, approximately 40 m away), compared to Well 76, 20 m from the pumping well which had a maximum drawdown of 4.22 m. OW 194 located approximately 230 m south of Well 73 on the N-S trending fault line, exhibited a maximum of 0.67 m drawdown (Figure 4). Due to the low overall permeability of the bedrock aquifer, the area of drawdown influence around Well 72 is anticipated to be elongated and greater for wells sited directionally along the fault zone, with a lower magnitude of response in wells sited perpendicular to the fault zone.

In response to concerns expressed by residents in the Lockinvar Lane subdivision regarding potential impacts of Well 73 on sustainable water supply in their area, a subsequent technical report was prepared by Elanco (2020). FLNR has received reports from residents within this subdivision of wells with low yields, wells that may go dry seasonally, or that have had to be deepened in response to declining groundwater levels, necessitating use of alternate water sources such as rainwater collection, while other property owners have indicated that they have not experienced problems with water supply but are concerned that increasing groundwater development in this area might cause future problems.

In general wells in fractured sedimentary bedrock aquifers have lower yields in comparison to other aquifer types (Wei, et al., 2009). The productivity of an individual well depends on the number of water-bearing fractures intersected by the well bore, and the connectivity of those fractures with regional fracture networks, through which groundwater is recharged from precipitation events. Groundwater levels tend to be deeper within higher elevation recharge zones and exhibit a greater seasonal range or fluctuation, compared to groundwater levels within discharge zones, which exhibit less seasonal variability, and tend to be closer to the ground surface.

The Lockinvar Lane subdivision, with typical lot sizes in the range of 2000 to 4000 m², each with an individual well, is already heavily developed in terms of groundwater use; this area is also at slightly higher elevation and is identified as an aquifer recharge zone in a groundwater flow model that was developed for the island (Burgess & Allen, 2016). Elanco (2019 and 2020) report that wells the elevation of the groundwater table in the wells on the east side of Lochinvar Lane (e.g. WTN72984 and WTN764368) differ significantly from groundwater levels in the wells on the subject parcel(s) and exhibit large seasonal fluctuations (up to 40 m); these Lochinvar wells are believed to intersect a distinct fracture network from Well 73, and therefore are unlikely to be impacted by its pumping.

The Gabriola Village area is an area of high groundwater usage for domestic and non-domestic purposes; for this reason, a preliminary summary of water demand and availability was developed for the 1 km² area surrounding the subject well. Annual recharge was estimated as 15% of precipitation over the 1 km² area, consistent with previous studies (Burgess & Allen, 2016; SRK Consulting (Canada) Inc., 2013). Precipitation data was based on records from the Gabriola Island (climate normals from 1981-2010) (Environment Canada, 2020). Using zoning maps and BC Assessment Data (B.C. Assessment Authority, 2018a) the land use associated with each parcel was determined. Water demand associated with different land use categories (domestic, industrial & commercial and

agriculture) or parcel was estimated based on license applications for existing use groundwater, information on water use on the island from the Phase 1 Water Budget, effluent discharge volume standards from public health, and the BC Agricultural Water Calculator (SRK Consulting (Canada) Inc., 2013; Province of B.C., 2020; Ministry of Health, Health Protection Branch, 2014). Table 3 provides a summary of the water demand analysis. Figure 5 includes the summary of land use categories in the area. Locations of inferred non-domestic water use are shown in blue, domestic parcels in yellow, agricultural parcels cross-hatching. Although it is estimated that there are approximately 51 parcels associated with non-domestic groundwater use, to date FLNR has received 7 applications for existing groundwater use in this area, indicating more education and outreach is needed to ensure these users are able to apply for water rights under the transitioning provisions of the *Water Sustainability Act* (Province of B.C., 2014). Current estimated groundwater demand represents approximately 21% of annual recharge, while the subject application would increase annual demand in the Gabriola Village to approximately 22% of recharge. Based on this preliminary analysis the current water balance (demand vs availability) is considered sustainable.

Table 3: Water demand analysis, Gabriola Island Village

Water Use Type	Number of Parcels	Volume (m ³ /d)
Domestic	115	97
Industrial & Commercial	40	102
Agriculture	11	54
TOTAL	166	253

	Without Application Pumping Demand	With Application Pumping Demand
Total Annual Recharge (m ³ /yr)	434906	434906
Total Annual Pumping Demand (m ³ /yr)	92401	98077
Demand as % of Recharge	21.2	22.6

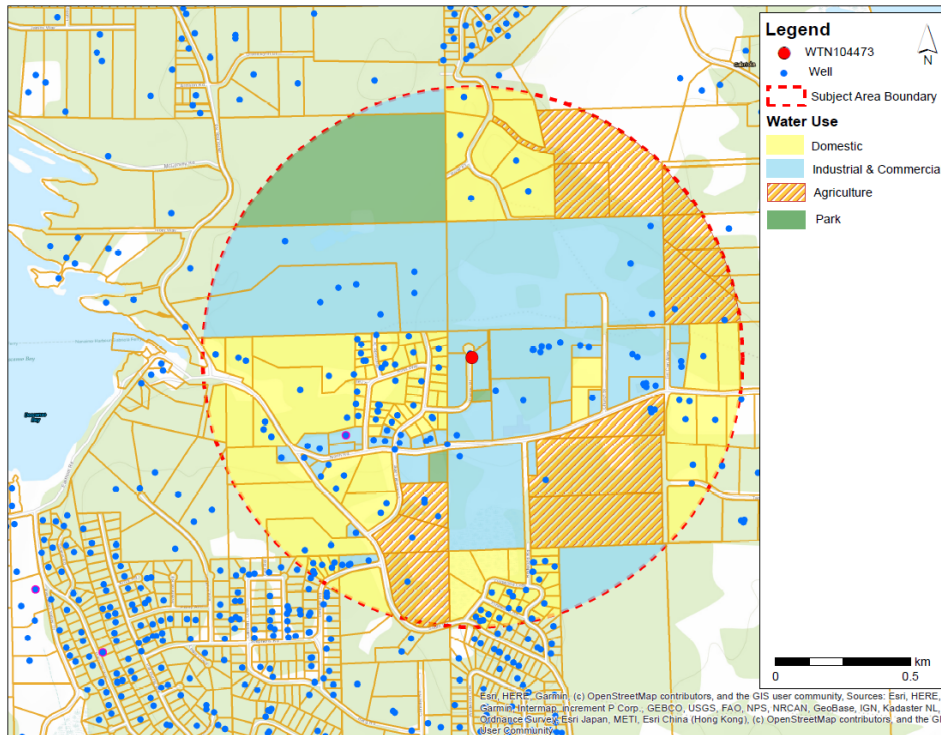


Figure 5: Land-use in the Gabriola Village area, within 1 km of subject well

5. Hydraulic connection to surface water bodies

The guidance document “Determining the Likelihood of Hydraulic Connection” (Province of B.C., 2016), defines hydraulic connection as being: “for the purpose of water allocation and use,... the reasonable likelihood that pumping of groundwater from a well will eventually result in a change in the flow of a stream or spring or change in the level of a lake, pond, wetland that overlies or borders the aquifer, over a time period and to an extent that the decision maker must take into account in considering the environmental flow needs of the stream or whether the rights of other authorized users on the stream are likely to be detrimentally affected.”

Aquifers of subtype 5a—made up of fractured sedimentary bedrock—may be hydraulically connected to adjacent surface water bodies if there is no continuous confining layer overlying the aquifer in the area of the stream, or if there is a correlation between water levels in the stream and adjacent wells.

The associated technical assessments and review of wells for this area indicate that overburden sediments are shallow (median <2 m thick) or absent (Elanco, 2019, Province of B.C., 2004). Groundwater levels (static water level at time of drilling) are a median of 6 m bgs within bedrock wells within 1 km of the area. Elanco (2019), Table I and Figure 2, listed surface water licenses associated with streams in proximity to the subject parcel including Castell Brook, Fiddlehead Spring, Goodhue Creek, Ingeberg Swamp, Lucas Spring, and Mallet Creek (Figure 6). Potential hydraulic connection between groundwater and surface water was not explicitly evaluated or described by Elanco. A preliminary determination of the likelihood of hydraulic connection for adjacent surface sources is provided in Table 4, based on information provided in the hydrogeologic reports (Elanco 2019 and 2020), cross-sections of the subject area prepared by Sarah Hardy (Water

Authorization Specialist), and other references as indicated, including surface water mapping available in RDN Map (Regional District of Nanaimo, 2020). Based on the described information, hydraulic connection between the subject well and adjacent streams, and adverse impacts on environmental flows from this application are considered unlikely.

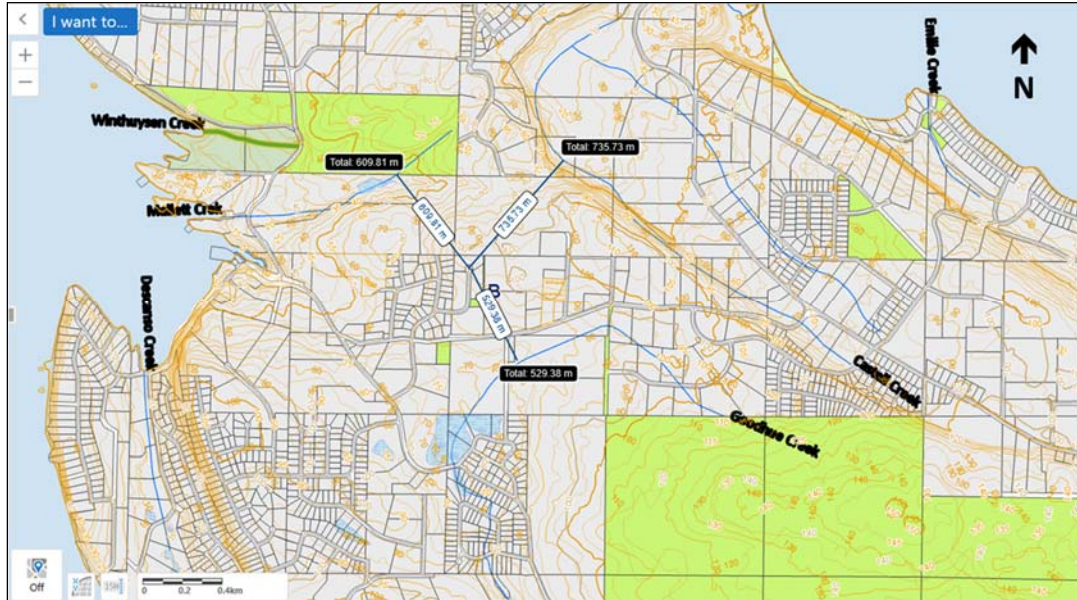


Figure 6: Locations and distance of streams in the vicinity of the subject parcel (excerpted from RDN Map)(Fiddlehead Spring not shown, see Figure 1).

Table 4: Adjacent surface water bodies and preliminary assessment of hydraulic connection

Stream or water body	Minimum distance (direction) from subject well	Likelihood of hydraulic connection to subject wells	Rationale
Castell Brook	736 m (NE)	Hydraulic connection unlikely	Located north of subject property, and flows (direction) into Cox Bay (Descanso Bay). Reported as perennial in lower reaches, while upper reaches are ephemeral and lacking well defined channel. Stream likely perched in comparison to groundwater elevation. Groundwater level in subject wells > 20 m below ground surface.
Fiddlehead Spring	808 m (W)	Unlikely	Sited west and on opposite side of a topographic rise and low permeability zone, away from the subject well. Spring may be present due to topographically driven discharge via shallow soils overlying bedrock which come to the surface at the toe of the slope. Due to distance of well from the spring, deeper groundwater levels in the well and low permeability of the bedrock aquifer, hydraulic connection is considered unlikely.
Goodhue Creek	529 m (SE)	Unlikely	Well 73 is located in a recharge zone for the Goodhue Creek Valley. Provincial mapping suggests creek channel is poorly defined along parts of its course closest to North Road. Due to distance of well from the stream, and low

Stream or water body	Minimum distance (direction) from subject well	Likelihood of hydraulic connection to subject wells	Rationale
			permeability of the bedrock aquifer, hydraulic connection is considered unlikely.
Mallet Creek	610 m (NW)	Unlikely	Well 73 is located in a recharge zone for the Mallet Creek Valley. Due to distance of well from the stream, and low permeability of the bedrock aquifer, hydraulic connection is considered unlikely.

References:

1. Elanco, 2019.
2. BC Freshwater Atlas (2020).
3. Regional District of Nanaimo Public Map Viewer (Regional District of Nanaimo, 2020).
4. Burgess, R., & Allen, D. M. (2016).

6. Groundwater quality and assessment of saltwater intrusion risk

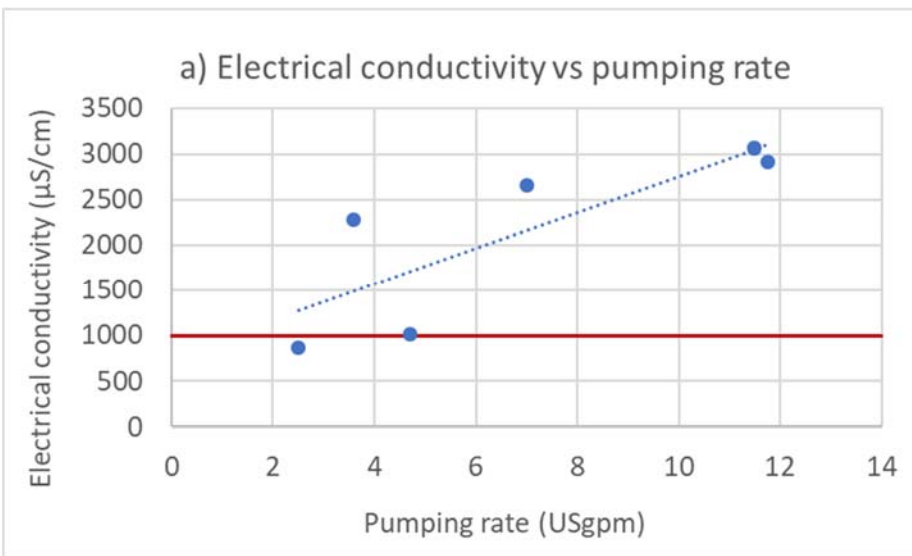
During the step-test of the well, beginning on September 18, 2019 specific electrical conductivity (EC) of the discharge measured in the field was as high as 3058 $\mu\text{S}/\text{cm}$ indicating that the groundwater from the well was initially brackish. For this reason, a more detailed analysis of aquifer susceptibility and risk of saltwater intrusion at the location was completed using the information provided within Elanco (2019).

Operation of wells while maintaining groundwater quality below established thresholds (EC 1000 $\mu\text{S}/\text{cm}$, TDS 700 mg/L and chloride 150 mg/L) is a best practice promoted by FLNR for protection of fresh groundwater supplies from intrusion of salt water or sea water into fresh aquifers; operation of a well causing intrusion is a violation of the WSA, s. 58, and can cause long-lasting or semi-permanent changes in groundwater quality affecting multiple wells within an aquifer or area. S. 58 applies to saline water that enters the well via fractures interconnected with the brackish transition zone or saline zones of marine water in the subsurface below the island. Mature groundwater with a higher mineral content, or connate, relict sea water from geologic periods of higher sea level may also be present in deeper aquifer formations and produce groundwater with higher salinity. Wells that are constructed in bedrock aquifers are not screened over a specific depth interval but typically intercept multiple fracture zones, therefore the pumping of a well that intersects both fresh and saline fractures may cause mixing and salinization of shallower fracture zones, potentially affecting the quality of water in nearby wells that intersect the same fracture networks. Saline groundwater may also be associated with zones of enhanced weathering and mobilization of minerals such as boron, fluoride and arsenic (SRK Consulting (Canada) Inc., 2013). For these reasons, FLNR evaluates groundwater quality in pumping wells in comparison to the operational thresholds and promotes utilization of best practices to prevent and mitigate the potential effects of intrusion.

A comparison of the well characteristics and physiographic conditions at the site in comparison to saltwater intrusion susceptibility criteria is included in Appendix B, Table B1. From this assessment it is noted that many of the criteria for elevated saltwater intrusion susceptibility are not present at the subject site. For example, the static groundwater level, principle water-bearing fracture and bottom of the wellbore are more than 20 m above sea level, the well is sited inland approximately 1050 m from the coastline.

From the pumping test field parameter measurements and using EC as an indicator of relative salinity within the discharge water, it is noted that the conductivity initially rose during the step test with each increasing pumping rate but diminished toward the end of the long-term test (Figure 7a,b). No correlation was observed between groundwater depth during pumping and electrical conductivity Figure 7c. Chloride and EC exceeded operational thresholds based on laboratory analysis of a sample taken toward the end of the test (4000 minutes). The ionic balance of the groundwater illustrated within a Piper plot (Figure 8), is interpreted to be consistent with mature groundwater.

Elanco (2019) stated that based on the observed decline in EC during the test, and “experience from pumping groundwater in other areas in the Gulf Islands... that the TDS, chloride and the sodium concentrations will decline as fresher water is flushed into the fracture zone.” During the test pumping of Well 73, it is estimated that water equivalent to over 100 well volumes was purged from the well prior to sampling. Saline water has a higher well density and stratifies naturally within the well bore but is flushed out during pumping so that following sufficient purging the water quality within the sample is considered representative of water within the aquifer formation. Groundwater quality varies in wells in this area. Water from the Gabriola Island School well is very fresh (median chloride 24 mg/L in samples from 2019-2020), while the well for the Clinic on Church Road which is deeper, has more saline water (median chloride 172 mg/L in samples from 2011-2020, and possibly increasing over time)(data in Elanco, 2019, and obtained from Island Health (Jill Lucko, personal communication, November 22, 2020). Based on this review, while there may be some seasonal variation in groundwater quality, I believe it is unlikely that Well 73 will freshen significantly from the values observed during the end of the long-term test (chloride 176 mg/L) and is likely to continue to have a concentration in the range of the threshold for chloride during well operation.



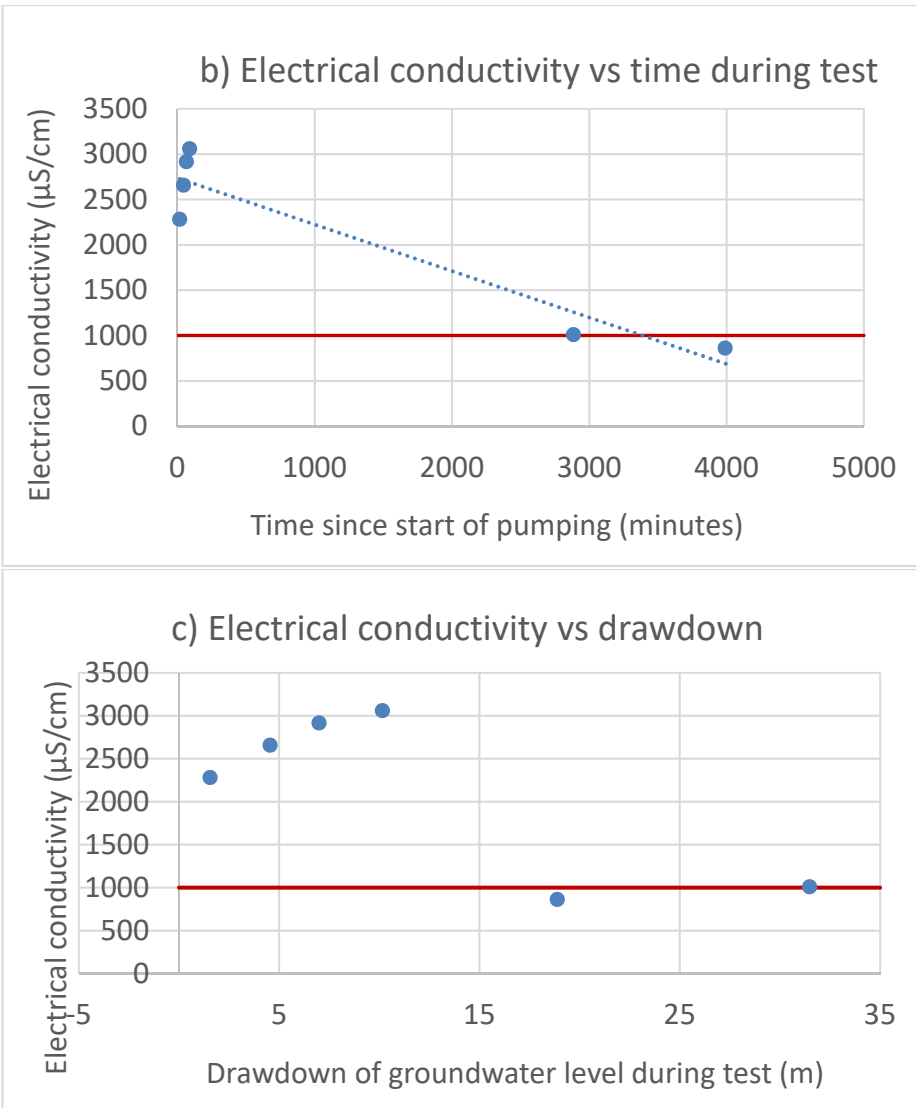


Figure 7: Electrical conductivity vs pumping test conditions (pumping rate, duration, and drawdown)

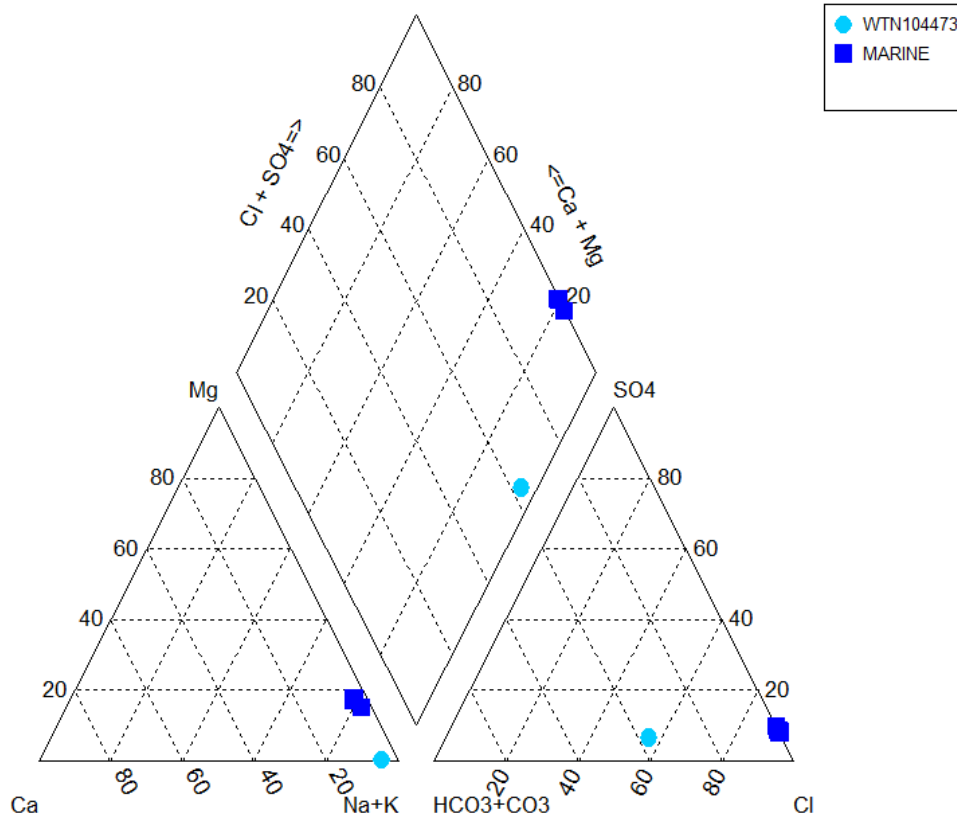


Figure 8: Piper plot showing ion balance in subject well (WTN 104473) compared to sea water

Based on limited available information, groundwater quality from Well 73 is consistent with mature groundwater, that is naturally present at depth within the aquifer in this area. While field parameters (EC) and chloride exceed operational thresholds, it is not believed that operation of the well is causing intrusion, as defined in the WSA. However careful management of water demand, utilizing best practices including deploying the well pump at a shallower depth, regulating maximum discharge rates during pumping, metering usage, utilizing water conservation strategies, developing alternate water supplies and utilizing storage, and sampling of groundwater quality bi-annually (wet and dry season) during the first years of operation to observe if and how groundwater quality changes over time, are recommended to ensure protection of fresh groundwater resources in this area.

Closure and recommendations

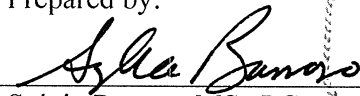
Based on a long-term (3.9 day) pumping test completed on Well 73 (WTN 104473) in September 2020, the well was rated to produce 15.8 m³/d (2.9 USgpm). Based on observations during and following the pumping test, groundwater levels in the well fluctuate in response to adjacent well pumping (e.g. WTN at Gabriola Elementary School), however potential pumping interference from operation of Well 73 is not anticipated to have adverse impacts on adjacent users. Groundwater levels in AQ709 are closely linked to climate conditions and recharge from precipitation, and several provincial monitoring wells in AQ709 have shown long-term declines in annual water elevation or deepening of summer water levels due likely due to influences of climate inputs and groundwater demand. Utilizing one of the unused wells (e.g. Well 72, or former OW194) to measure groundwater levels is recommended to monitor aquifer conditions over time in this area of AQ709.

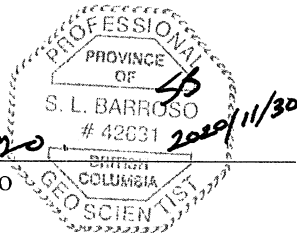
Due to relatively deep groundwater levels in the subject well, low permeability of the aquifer, and distance from the well, hydraulic connection and adverse impacts of well pumping on surface water licensees and environmental flows in adjacent streams is considered unlikely.

Groundwater quality in the well exceeds operational threshold for chloride, and groundwater quality in the well is consistent with mature groundwater that is naturally present in the aquifer formation at depth. While the water quality in the well freshened from much higher salinity (initial EC >3000 $\mu\text{S}/\text{cm}$) during the pumping test, groundwater sampled from the well had a chloride concentration of 176 mg/L after three days of pumping and is likely to continue to exceed the chloride threshold of 150 mg/L under conditions of normal well operation. Water quality should be monitored during the initial period of well operation, and best practices for prevention of well operation causing intrusion should be implemented, including water conservation, and augmenting water supplies with water from other sources if possible (e.g. rainwater collection).

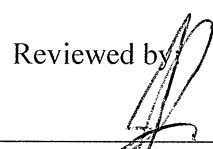
Respectfully submitted,

Prepared by:


Sylvia Barroso MSc PGeo
Regional hydrogeologist



Reviewed by:


Jessica Doyle MSc PGeo
Section Head, Water Protection Section

Reviewed technical assessments:

Elanco Enterprises Ltd. December 30, 2019. Re: Assessment of Well Yields on Proposed Housing Development Property, Paisley Place, Gabriola Island, B.C. Prepared for Gabriola Housing Society.

Elanco Enterprises Ltd. August 6, 2020. Re: Concern that Housing Development Well on Paisley Place may have an impact on wells in the vicinity of Lockinvar Lane, Gabriola Island, B.C. Prepared for Gabriola Housing Society.

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Appendix A: Data tables

Table A1: Test well properties

Well	WTN	Description	Distance from pumping well (m) ^{2,3,4}	Well depth (m) (mbs)	Static water level (mbs) ¹	Maximum depth to water during pumping test (mbs)	Estimated max. drawdown during test (m)	Depth of principal fracture (mbs)	Available drawdown (m) ⁵	Safe available drawdown 30% safety factor (m)	%SAD used during test	Elevation at well head (masl) ²	Bottom of well (masl) ²
73	104473	Pumping well	0	62.5	24.60	60.49	35.89	54.9	30.3	21.2	See capacity rating	89.4	26.9
72	104472	Observation well	4	99.1	24.38	46.33	21.95	nr	69.7	48.8	45%	88.5	-10.6
76	104476	Observation well	20	123.4	25.94	30.16	4.22	92.0	66.1	46.2	9%	91.3	-32.1
77	104477	Observation well	40	177.1	27.44	27.47	0.03	nr	nc	nc	nc	91.2	-85.9
OW194	26710	Observation well	230	76.2	21.35	22.02	0.67	nr	49.85	34.9	2%	84	7.8

¹At start of pumping test September 18, 2019

²Reported in Elanco (2019) estimated from well coordinates on Google Earth

³Distance between wells estimated from GWELLS coordinates if not reported in Elanco (2019).

⁴OW194 incorrectly located in GWELLS, distance estimated based on approximate well location from Elanco (2019) Fig 3.

⁵Estimated as depth between static water level and principal fracture, or to 5 m above bottom of well, if no fracture reported

nr=not reported

Appendix B – Table B1 Saltwater Intrusion Vulnerability Assessment Criteria

	Criteria associated with increased saltwater intrusion hazard	Well characteristic	Observations
		WTN 104472	
Assessment criteria			
A. Well construction and siting			
Well depth (mbgs)	Deeper well that is close to drill into fresh-saltwater transition zone, or saline zone	62.5	
Well head elevation (masl)		89.4	
Bottom of well (masl)	Wells drilled below sea level, with static or pumping water level below sea level	26.9	Bottom of hole above sea level
Static water level (lowest reported) (masl)	Static water level at or below sea level	63.0	Static water level above sea level (date)
Elevation of principal fracture (masl)	Elevation of principal fracture at or below sea level	34.5	Principal fracture above sea level
Distance of well from coast (m)	Wells within <1 km from the coast (close proximity to coast)	1050	Approximately 1 km inland
B. Aquifer and physiographic criteria			
Aquifer lithology (subtype)	Properties of aquifer influence potential mechanism of intrusion, e.g. through upconing or inland migration of seawater-freshwater interface during well pumping, or interception of well with and mixing of water from saline fractures	sedimentary bedrock (5a)	Sandstone with shale seams
Hydraulic connection between aquifer and marine coast	Water levels can be tidally influenced, indicating likelihood of hydraulic connection between aquifer and sea		Not indicated (e.g. no tidal signal during pumping test or on long-term hydrograph)
Physiographic indicators	Areas of low topographic gradient, peninsulas, small islands have greater intrinsic susceptibility		Located in upland area, in central part of island
Other comments			Area identified as receiving limited recharge (low yielding wells including dry holes, or wells that were hydrofractured to increase yield)

	Criteria associated with increased saltwater intrusion hazard	Well characteristic	Observations
C. Water quality criteria compared to operational threshold [OT]*	Water quality during well operation in comparison to operational thresholds		
Chloride (mg/L)[150 mg/L]		176	Exceeds operational threshold
Electrical conductivity (µS/cm) (1000 µS/cm)		906	Field measurements of conductivity ranged from a max. 3058 µS/cm to min. 861 µS/cm during test
Total dissolved solids, TDS (mg/L)(700 mg/L)		534	Below operational threshold
Change in water quality during well operation	Increase in salinity during pumping (correlated to increase in pumping rate, or increased duration of pumping)		Variable. Increased with increased rate of pumping during step test, declined overall during test
Change in water quality long-term	Increase in salinity over long-term		Appears to have freshened during test
Comparison of water quality to marine source (Piper-plot analysis)	Water quality on piper plot in the range of values for marine source, or mix of marine with other (fresh or mature) gw source		Consistent with properties of mature groundwater
Water quality general observations	Comments related to when and how well sampling was completed, other observations		Sample collected after decrease in well pumping rate, after 4000 minutes of pumping
*Water quality from sample collected near end of pumping test on September 21, 2019, values from laboratory results. See also field parameters comparison in section 6.			

References: (Province of B.C., 2017; Klassen & Allen, 2016; Werner, et al., 2013; United States Environmental Protection Agency, 1992).

Gabriola Housing Society

Vision For Paisley Place

Affordable, comfortable, secure rental housing for Gabriolans of all ages who have low to modest incomes.

Principles

1. Build healthy and efficient homes
2. Build homes near services and public transportation routes
3. Respect the natural settings and limits of the development sites
4. Provide affordable housing for a mix of Gabriolans to encourage a sense of community
5. Keep rents affordable with modest development and operational costs
6. Consider residents' living experience in site and building design

Key Messages

- Paisley Place recommended location for Affordable Housing
- Project design minimizes forest impact
- Water Licence Review: well can be used sustainably without an impact on neighbours and larger Gabriola Village area
- Principal impediment to providing affordable housing is cost → secure sufficient funding so that revenues from rents cover GHS costs
- Proposed Housing Agreement ensures property is used for affordable housing in perpetuity and enables Gabriola Housing Society to be eligible for current BC Housing Community Housing Fund and other affordable housing funding programs

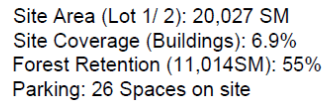
Paisley Place; within 500m of Village Core



Paisley Place



- Modified clusters – pulled further east
- Reconfigured parking areas
- Central commons buildings (funding dependent)
- Fire department pull-in with water storage, standpipe to feed dry hydrants, FDC (for building sprinklers)
- Forest conservation at 55%
- Type 3 sewerage system in the south
- Water treatment and greywater treatment utility buildings



Water License

- Pump test with concurrent monitoring of adjacent wells, review of area well data and hydrogeology, monitoring of well levels to see rainfall impact
- Technical Review by FLNROD Water Authorizations received November 30, 2020
- Information from Review forms basis for issuing Water Licence
- 3.1 GPM is sustainable extraction level
 - Licence application for 0.18 L/s / 2.85 GPM (15,552 Litres per day)
- Extraction rate will have only negligible impact on neighbours, including school
 - Wells on properties to the west (Lochinvar, etc) = no impact on yield, imperceptible interference
 - School well = approximately 1m drawdown impact (but well is 40+m deep), no impact on yield
- Gabriola Village area estimated to currently use 21% of available aquifer recharge; Paisley Place housing will only change use to 22%

Water Management Plan

- Plan for operational component of managing water resources: well water, rainwater, wastewater
- Water use
 - Up to 65 people using 160 L per day for indoor uses = 10,400 L
 - Greywater treatment and reuse = 3120
 - Available water per day = 18,672 L
 - 44% excess capacity with no irrigation
- 2 to 3 year landscape establishment period most critical; following establishment minimal irrigation needs
- Monitor use, monitor system, monitor project well and another well, monitor school well
- Water conservation to tenants
- Rainwater directed to forest areas, to infiltration raingardens and receiving area with no outlet (100% recharge to aquifer)
- Water treatment including filtration, UV and residual chlorine
- Water storage for potable water, for fire fighting and for greywater treatment

What is affordable housing?

Definition = housing that costs 30% of household gross income

Housing costs = monthly rent/mortgage plus basic utilities and property tax (if you own)

Yearly Income	Monthly Income	Affordable Monthly Housing Costs
\$ 20,000	\$1,667	\$500
\$ 37,000	\$3,083	\$925
\$ 56,000	\$4,667	\$1400

Why



4.0 Gabriola Island Housing Needs

4.0 Gabriola Island Housing Needs

Gabriola is the largest and most populated island of the Northern Region Islands Trust Region. Accessed by a vehicle ferry from downtown Nanaimo, there is potential for viable off island employment. This, along with the commercial development on the island and various institutional uses (school, library, etc.), provides significant employment on the island. Gabriola has the highest percentage of permanent residents of the islands of the Northern Region and the largest number of permanently occupied

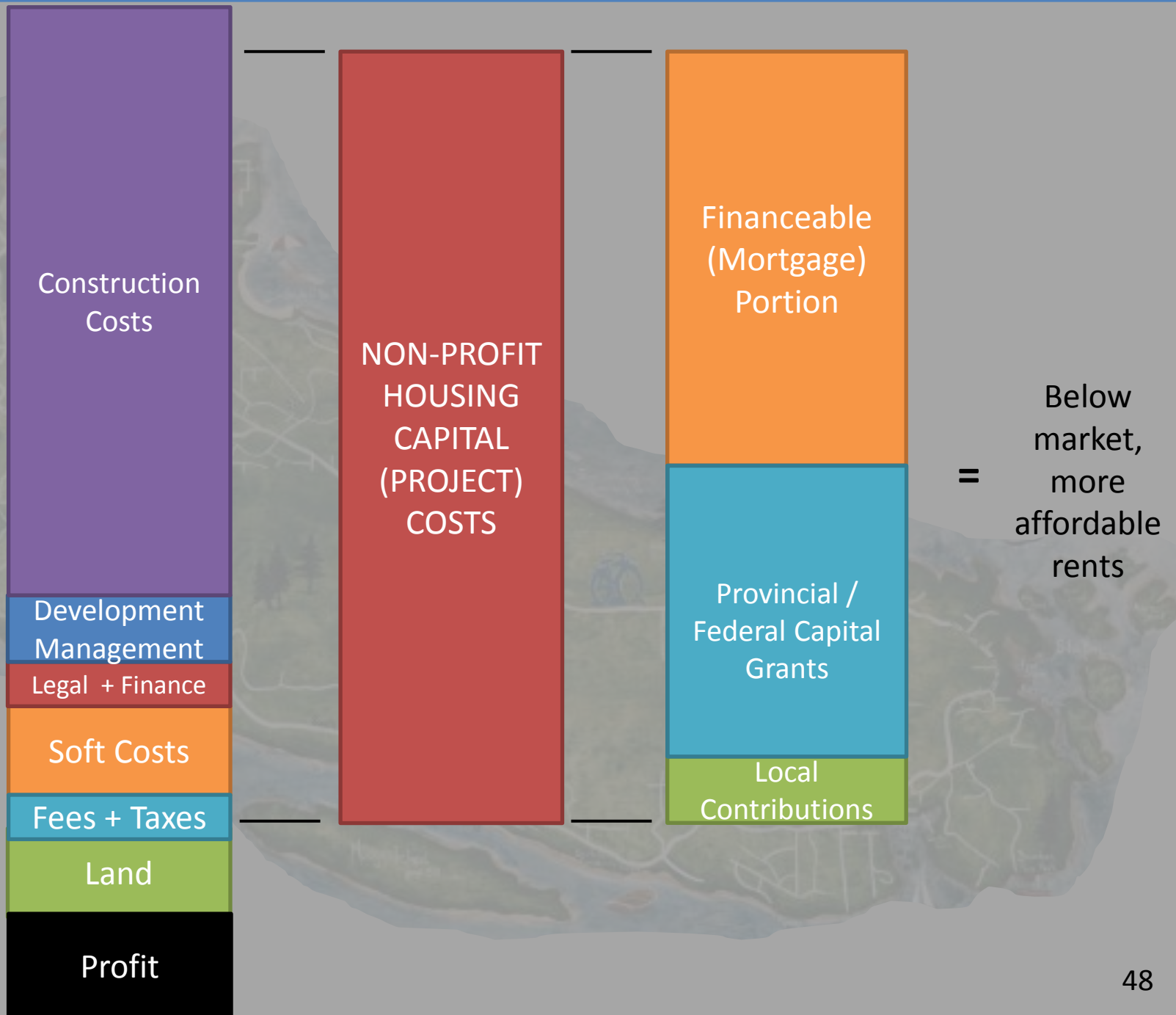
Why – Housing Needs Assessment

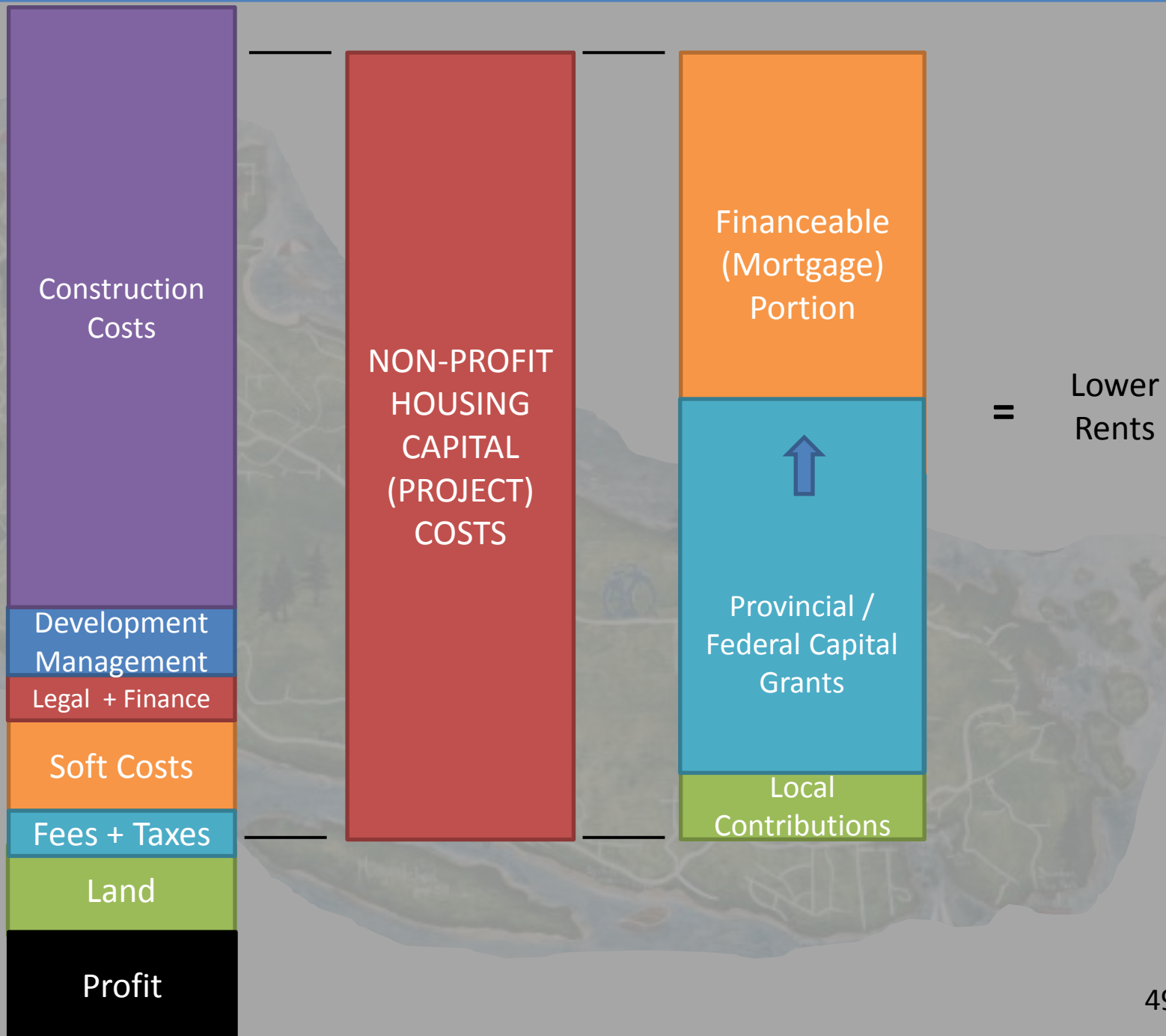
- 150 people per week use the food bank
- Unaffordable rental housing – 52% (190 households) pay more than 30% of income
- Renters: not adequate, suitable or affordable – 57.5% (210 households)

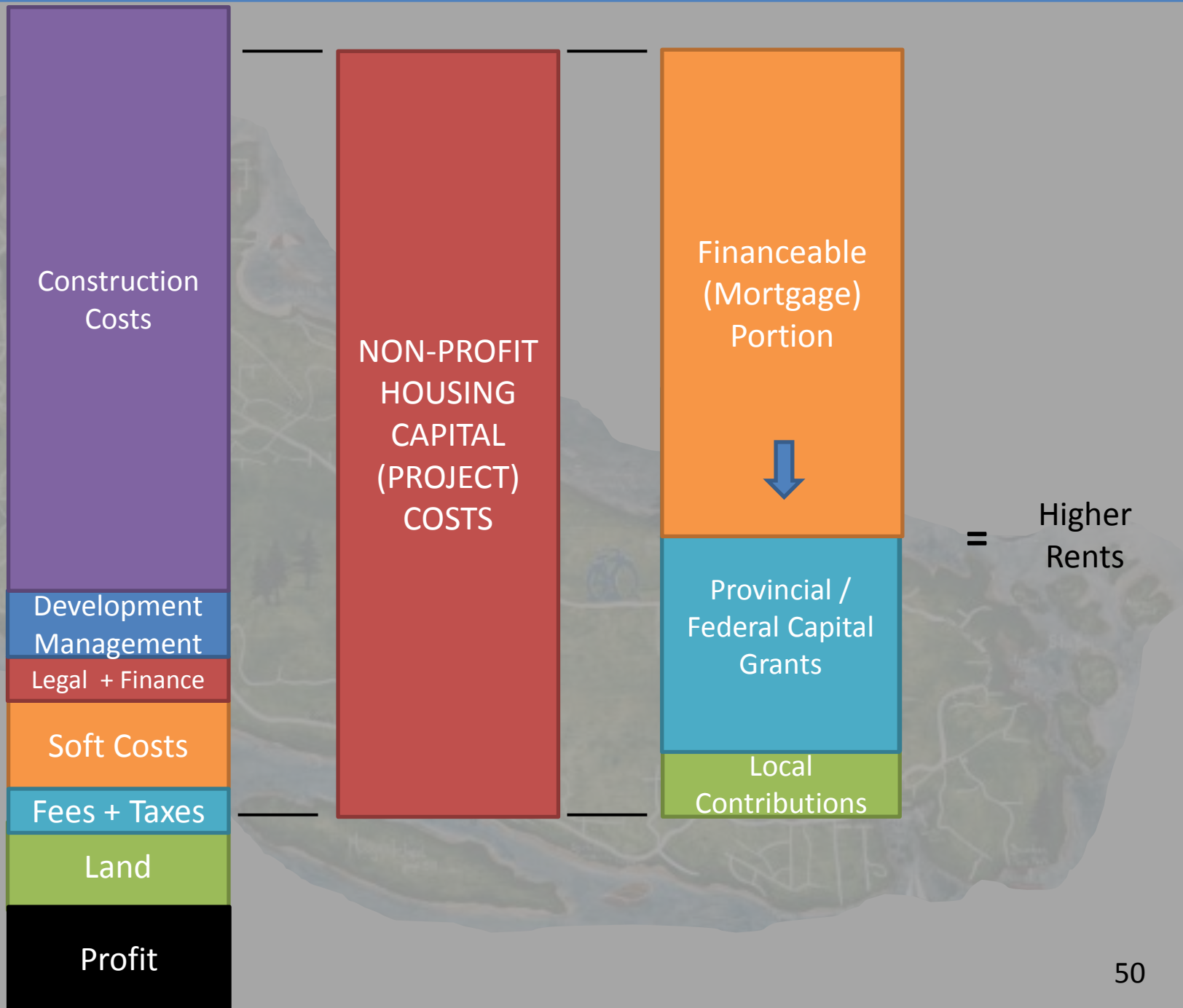
How

Affordable, comfortable, secure rental housing for Gabriolans of all ages who have low to modest incomes.

- Organisation with interest and capacity = GHS
- Acquire land – property donated!
- Determine feasibility
 - Location, servicing capacity, cost to develop, zoning
- Rezone ←
- Secure funding and financing (BC Housing / CMHC / private donation)
- Construct
- Operate for the long-term = money to operate, pay the mortgage and save for major repairs







Principle Target Funding – BC Housing Community Housing Fund

	Studio	1 bedroom	2 bedrooms	3 bedrooms
Deep Subsidy (5 units) Example Incomes	\$ 12,700 and less	\$ 12,700 and less	\$ 20,600 and less	\$ 22,800 and less
Rent-Geared-Income (12 units) – Expected average Income	Average \$ 18,000	Average \$ 25,600	Average \$ 30,600	Average \$ 38,900
Housing Income Limit Maximum (2021)	\$37,000	\$37,000	\$47,500	\$ 56,000
Affordable “Market” Rents [Preliminary] – (7 units)	\$ 850	\$ 975	\$ 1200	\$ 1500
Affordable Income	\$ 34,000 and more	\$39,000 and more	\$ 48,000 and more	\$ 60,000 and more
Maximum Eligibility	\$ 74,150		\$113,040	

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Maximum Eligibility		\$ 74,150	\$113,040	

Housing Agreement For Paisley Place

- Tool of Local Trust Committee to ensure affordable housing on this property only is for households with low to moderate income
- Gabriola Island OCP policy → Multi-family development **only if affordable housing**
- Rezoning permitting higher density of housing = Housing Agreement commitment to delivering community benefit of affordable housing

Proposed Housing Agreement for Paisley Place

- Modification of Islands Trust template for an HA
- Defines priority tenants
 - Priority 1 → living or working on Gabriola, Snuneymuxw First Nation community member
 - Priority 2 → Recently hired, working for less than a year, previous resident, family connections
- Housing to be no more than 30% of income and affordable to households making no more than the Housing Income Limits (HILs) published yearly by BC Housing (17 units)
- Exception for Affordable Market units when approved by Affordable Housing Funder AND linked to delivery of units meeting the 30% and HILS requirements (7 units)

Proposed Substantive Revisions to Housing Agreement

1. Meet the Step 3 BC Energy Code (current BC Housing policy)
2. Provide Type 3 or equivalent sewerage system
3. Limit Affordable Market Units to 30% unless otherwise required by Affordable Housing Funder; need to provide notice to Islands Trust to see if Islands Trust or public might step in to assist (e.g. provide funding) to maintain 30% goal

Conclusion

- Strong evidence of need
- Paisley Place recommended location
- Site can support proposed 24 units
- Design conserves over 50% of forest
- Water Licence Technical Review:
 - Proposed extraction is sustainable
- GHS type of non-profit organisation required to deliver affordable housing
 - Successful rezoning important step
 - Securing funding and financing from BC Housing and CMHC critical to deliver substantially below-market (“affordable”) rental housing

PROPOSED

GABRIOLA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 306

A BYLAW TO AMEND GABRIOLA ISLAND OFFICIAL COMMUNITY PLAN, 1997

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

1. Citation

This bylaw may be cited for all purposes as “Gabriola Island Official Community Plan (Gabriola) Bylaw, 1997, Amendment No. 1, 2020”.

2. Gabriola Island Local Trust Committee Bylaw No. 166, cited as “Gabriola Island Official Community Plan (Gabriola) Bylaw, 1997,” is amended as per Schedules “1” and “2” attached to and forming part of this bylaw.

READ A FIRST TIME THIS 25TH DAY OF JUNE , 2020

READ A SECOND TIME THIS 22ND DAY OF OCTOBER , 2020

PUBLIC HEARING HELD THIS _____ DAY OF _____ , 202x

READ A THIRD TIME THIS _____ DAY OF _____ , 202x

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS

_____ DAY OF _____ , 202x

APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING THIS

_____ DAY OF _____ , 202x

ADOPTED THIS

_____ DAY OF _____ , 202x

Chair

Secretary

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306
Schedule "1"

1. **Schedule "A"** of Gabriola Island Official Community Plan (Gabriola) Bylaw, 1997 is amended as follows:
 - 1.1 **Schedule A - Preface, Map Schedules**, III. Schedule D is amended by replacing the words "and 9" with ", and 11".
 - 1.2 **Section 2 - General Land Use and Residential Development**, Subsection **2.0 General Land Use, General Land Use Policies**, clause "k)" is amended by replacing the words "Special Needs residents and Seniors" with "Special Needs residents, Seniors and multiple-dwelling affordable housing."
 - 1.3 **Section 2 - General Land Use and Residential Development**, Subsection **2.1 Residential Land Use, General Residential Policies**, clause "a)" is amended by replacing the words "Special Needs and Seniors' affordable housing" with "Special Needs, Seniors and multiple-dwelling affordable housing."
 - 1.4 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Background**, is amended by removing the third bullet text "Low-income families" and replacing it with "Low to moderate income families, as set out in a housing agreement."
 - 1.5 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Background**, is amended by removing the following:

"Affordable housing means housing that costs no more than 30% of a household's gross income applied to those households with incomes at or below 60% of the median household income for Gabriola Island (using Canada Census information)."
 - 1.6 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Background**, is amended by removing "Currently there are two Seniors' housing developments on Gabriola (designated as Seniors and Special Needs (SSN) in Schedule B of this Plan), and no other types of Multi-dwelling Affordable Housing development", and replacing it with, "Currently there are two Seniors' housing developments on Gabriola (designated as Seniors and Special Needs (SSN) in Schedule B of this Plan), and one Multi-dwelling Affordable Housing development (designated as Multi-dwelling Affordable Housing (MAH) in Schedule B of this Plan)."
 - 1.7 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Objectives**, Objective "1" is amended by deleting "Low-income families" and replacing it with "low to moderate income families".
 - 1.8 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies**, clause "a)" is amended by removing "9.3" and replacing it with "9.4".

- 1.9 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies**, clause “c)” is amended by removing “Section 904” and replacing it with “Section 482”.
- 1.10 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies**, clause “c)” is amended by deleting the words “for seniors and Special Needs residents”.
- 1.11 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies**, clause “d)” text is deleted and replaced with the following text:
- “Densities for the creation of Multi-dwelling Affordable Housing for low to moderate income families shall come only from:
- i. banked densities as noted in Appendix 2 (Density Bank) of this plan, or
 - ii. if there are insufficient densities in the Density Bank, the shortfall in densities may be provided based on the merits of the proposal, using the following criteria:
 - lot size;
 - proximity to the Village Core, public transportation and community amenities;
 - availability of sufficient water supply for the proposed number of dwelling units;
 - availability of an area of sufficient size and appropriate characteristics to meet provincial health authority requirements for an on-site sewage treatment system capable of servicing the proposed number of dwelling units;
 - demonstrated community need; and
 - provided that a housing agreement is in place to ensure affordability is maintained in perpetuity.”
- 1.12 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies**, clause “h)” is amended by removing “Section 905” and replacing it with “Section 483”.
- 1.13 **Section 2 – General Land Use and Residential Development**, Subsection **2.7 Home Occupational Use, Home Occupational Policies**, clause “a)” is amended by adding “or Multi-dwelling Affordable Housing as identified in Schedule B of this Plan” after “a single-dwelling residential use”.
- 1.14 **Section 9 – Development Permit Areas**, Subsection **9.1 Development Permits for Protection of the Natural Environment**, is amended by adding a new development permit area “**DP-11 Environmental Protection**” after “**DP-5 Gabriola Pass Area**”:

“DP-11 Environmental Protection

Development Permit Area 11 (Schedule D) is designated according to Section 488(1)(a) of the *Local Government Act* for the protection of the natural environment, its ecosystems and biological diversity. The area is also designated as an area for which development approval information may be required as authorized by Section 485 of the *Local Government Act*. Development approval information in the form of

a report from a registered professional biologist and/or another qualified professional may be required due to the special conditions and objectives described below. The Development Permit Area should not be interpreted as a prohibition on development activity but as identification of areas where professional assessment and specific development adaptation measures are required.

Justification

Gabriola Island has significant natural areas that support important plants and animal habitats. This development permit area is intended for the protection of sensitive ecosystems that are generally classified as mature forest, woodland, herbaceous, cliff, wetland and freshwater. These ecosystems are sensitive to development due to their rarity and potential vulnerability to disturbance.

Objective

The objectives of this development permit area are as follows:

- a. To preserve, protect, restore or enhance environmental features and sensitive ecosystems on Gabriola Island.
- b. To manage development in environmentally sensitive areas.
- c. To minimize the loss of sensitive ecosystems.
- d. To increase protection for species at risk.
- e. To encourage retention of Coastal Douglas-fir and associated ecosystems.

Information Note: Development Permit Area Guidelines for DP-11 Environmental Protection are in the Gabriola Island Land Use Bylaw."

1.15 **Appendix, Appendix 1 Definitions**, is amended by adding a new definition of "affordable housing":

"affordable housing" residential dwelling units that may be rented or owned under the terms of a housing agreement registered on title in favour of the Local Trust Committee."

1.16 **Appendix, Appendix 1 Definitions**, by adding the words "(or multi-dwelling affordable housing)" after "housing" in the term "multiple-dwelling affordable housing".

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306
Schedule “2”

1. **Schedule “B” – Land Use Designations – North Sheet** of the Gabriola Official Community Plan (Gabriola) Bylaw No. 166, 1997 is amended as follows:
 - 1.1. On those lands described as LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-095) the land use designation is changed from “Institutional” to “Multi-dwelling Affordable Housing” as shown on Plan No. 1 attached to and forming part of this bylaw and by making such alterations to Schedule “B” of Bylaw No. 166 as are required to effect this change.
 - 1.2. On those lands described as LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-109) the land use designation is changed from “Institutional” to “Multi-dwelling Affordable Housing” as shown on Plan No. 1 attached to and forming part of this bylaw and by making such alterations to Schedule “B” of Bylaw No. 166 as are required to effect this change.
2. **Schedule “D” – Development Permit Areas – OCP D North Sheet** of the Gabriola Official Community Plan (Gabriola) Bylaw No. 166, 1997 is amended as follows:
 - 2.1. **Schedule “D” – Development Permit Areas – OCP D North Sheet**, is amended by designating within Development Permit Area “DP-8 – Multi-dwelling Affordable Housing” on those lands described as LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-095) and LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-109) and in those areas as shown on Plan No. 2 attached to and forming part of this bylaw and by making such alterations to Schedule “D” of Bylaw No. 166 as are required to effect this change.
 - 2.2. **Schedule “D” – Development Permit Areas - OCP D North Sheet**, is amended by designating a new Development Permit Area “DP 11 – Environmental Protection” on those lands described as LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-095) and LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-109) and in those areas as shown on Plan No. 3 attached to and forming part of this bylaw and by making such alterations to Schedule “D” of Bylaw No. 166 as are required to effect this change.

PROPOSED

GABRIOLA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 307

A BYLAW TO AMEND GABRIOLA ISLAND LAND USE BYLAW, 1999

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

1. Citation

This bylaw may be cited for all purposes as “Gabriola Island Land Use Bylaw, 1999, Amendment No. 1, 2020”.

2. Gabriola Island Local Trust Committee Bylaw No. 177, cited as “Gabriola Island Land Use Bylaw, 1999,” is amended as per Schedule “1” attached to and forming part of this bylaw.

READ A FIRST TIME THIS	21 ST	DAY OF	JUNE	2020
READ A SECOND TIME THIS	22 ND	DAY OF	OCTOBER	2020
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	202x
READ A THIRD TIME THIS	_____	DAY OF	_____	202x
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS				
	_____	DAY OF	_____	202x
ADOPTED THIS	_____	DAY OF	_____	202x

Chair

Secretary

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 307**

Schedule “1”

1. **Schedule “A”** of Gabriola Island Land Use Bylaw, 1999 is amended as follows:

1.1 **Part B - GENERAL REGULATIONS, Section B.1 USES, BUILDINGS AND STRUCTURES**, is amended by inserting a new Subsection “B.1.4 Site-Specific Zones” after Subsection “B.1.3 Use of Undersized Lots”, as follows:

- “B.1.4.1** The Multi-dwelling Affordable Housing 1 (MAH1) zone is only applicable to the following lots:
- a. LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-095); and
 - b. LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-109).”

1.2 **Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.2 Permitted Home Occupations Uses**, is amended by adding the following Article:

- “B.3.1.3** *Home occupation* uses in the Multi-dwelling Affordable Housing 1 (MAH1) zone may only occur within the dwelling unit of the principal operator.”

1.3 **Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.2 Permitted Home Occupations Uses**, is amended by adding the following Article:

- “B.3.2.2** Despite Article B.3.2.1, the following *home occupation* uses and no other are permitted in the Multi-dwelling Affordable Housing 1 (MAH1) zone:
- a. Business and professional offices that receive no clients or visitors to the *lot*;
 - b. Catering and food preparation for sale elsewhere or delivery, with delivery occurring between the hours of 8 a.m. and 6 p.m.;
 - c. Production of art and craft goods for sale elsewhere, provided no open flame is required in making the art or craft goods and no toxic fumes are produced during their creation.”

1.4 **Part B – GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3 General Provisions, Article B.3.3.1, Clause “b)”** is amended by adding the words “except in the Multi-dwelling Affordable Housing 1 (MAH1) zone,” immediately after the opening words “Home occupations”.

1.5 **Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3 General Provisions, Article B.3.3.1, Clause “i)”** is amended by adding the following after “Signage is permitted for all home occupations in accordance with Section B.4 of this Bylaw”:

“, except for those home occupation uses that occur on a lot within the Multi-dwelling Affordable Housing 1 (MAH1) zone, and then no signage is permitted.”

- 1.6 **Part B – GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3 General Provisions, Article B.3.3.1, Clause “I)”** is amended by adding the words “permitted in the zone” immediately after the word “stand”.

- 1.7 **Part B – GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3 General Provisions, Article B.3.3.1,** is amended by inserting new clause “m” as follows:

“m. In the Multi-dwelling Affordable Housing 1 (MAH1) zone, the total floor area for *home occupation* use must not exceed 30% of the total floor area of the *dwelling unit* in which the *home occupation* occurs.”

- 1.8 **Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.5 Employees,** is amended by adding the following:

“**B.3.5.2** Despite Article B.3.5.1, in the Multi-dwelling Affordable Housing 1 (MAH1) zone, home occupations must be operated solely by residents of the dwelling unit in which the home occupation occurs.”

- 1.9 **Part B - GENERAL REGULATIONS, Section B.4 SIGNS, Subsection B.4.1 Number and Total Sign Area, Article B.4.1.1** is amended by adding the following:

Column 1	Column 2	Column 3
<i>Zone</i>	Maximum Number of Signs Permitted	Maximum Total Sign Area Permitted
Residential Zones		
MAH1	2 per lot	4.0 sq.m. (43.0 sq.ft.) per lot

- 1.10 **Part B - GENERAL REGULATIONS, Section B.5 PARKING, Subsection B.5.1 Minimum Number of Parking Spaces for Automobiles and Bicycles, Article B.5.1.1, Table 2: Parking Requirements** is amended by adding the following:

Column 1	Column 2	Column 3	Column 4
Use	Standard Parking Requirements	Accessible Parking Requirements	Bicycle parking requirements
RESIDENTIAL			
two family dwelling	1.25 per unit	Greater of 1 or 1 per 10 units	1 per unit without a garage

- 1.11 **Part C - ESTABLISHMENT OF ZONES**, Section **C.1 DIVISION INTO ZONES**, Subsection **C.1.1 Land Based Zones**, Article **C.1.1.1 Residential Zones**, insert new zone “MAH1 Multi-dwelling Affordable Housing 1” after “SSN Seniors and Special Needs”.
- 1.12 **Part D - ZONES**, Section **D.1 RESIDENTIAL ZONES**, insert new Subsection D.1.4 Multi-dwelling Affordable Housing 1 (MAH1) after Subsection **D.1.3 Seniors and Special Needs (SSN)** as shown on **Appendix 1** attached to and forming part of this bylaw.
- 1.13 **Part F - DEVELOPMENT PERMIT AREA GUIDELINES** is amended by adding a new Subsection **F.11 DP 11-Environmental Protection** as shown on **Appendix 2** attached to and forming part of this bylaw.
- 1.14 **Part G - DEFINITIONS**, Section **G.1 DEFINITIONS**, “*dwelling – multiple family*” is amended by adding the word “principal” after “more” and before “dwelling units”.
- 1.15 **Part G - DEFINITIONS**, Section **G.1 DEFINITIONS**, is amended by adding the following definitions in alphabetical order:

<i>“dwelling, two family</i>	<i>a principal building consisting of two dwelling units;</i>
<i>residential rental tenure</i>	means the granting of a right to occupy a <i>dwelling unit</i> as living accommodation where the minimum occupancy period is thirty consecutive days, and where the <i>dwelling unit</i> is not owned by a <i>dwelling unit</i> occupant, but where regular payments are made to the owner for the use of the <i>dwelling unit</i> ;

2. **Schedule “B”** of Gabriola Island Land Use Bylaw, 177 is amended as follows:
 - 2.1 Schedule “B” – North Sheet, is amended by changing the zoning classification of LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-095) as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “B” of Bylaw No. 177 as are required to effect this change.
 - 2.2 Schedule “B” – North Sheet, is amended by changing the zoning classification of LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-109) as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “B” of Bylaw No. 177 as are required to effect this change.

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 307

Appendix 1

D.1.4 Multi-dwelling Affordable Housing 1 (MAH1)

D.1.4.1 Permitted Uses

The uses permitted in Article B.1.1.1, plus the following uses and no others are permitted in the Multi-dwelling Affordable Housing 1 (MAH1) zone:

a. Permitted *Principal* Uses

- i *multiple family* residential
- ii *two family* residential

b. Permitted *Accessory* Uses

- i *home occupations*, subject to Section B.3

D.1.4.2 Buildings and Structures

The *buildings* and *structures* permitted in Article B.1.1.2, plus the following *buildings* and *structures* and no others are permitted in the Multi-dwelling Affordable Housing 1 (MAH1) zone:

a. Permitted *Buildings* and *Structures*

- i *Multiple family dwellings* and *two family dwellings*, to a maximum of 12 *dwelling units* per hectare (4.85 units per acre) and a maximum of 24 *dwelling units* per *lot*.
- ii Three *buildings* per *lot* that exclude a *pump/utility house*, woodshed and garden shed, and that are *accessory* to all *dwelling units*.
- iii The average size of all *dwelling units* on a *lot* must not be greater than 83 square metres (900 sq.ft.).

D.1.4.3 Regulations

The general regulations in Part B, plus the following regulations apply in the Multi-dwelling Affordable Housing 1 (MAH1) zone:

a. *Building* and *Structure* Height Limitations

- i The maximum *height* of *buildings* or *structures* is 9.0 metres (29.5 feet).

b. *Building* and *Structure* Siting Requirements

- i Except for a sign, *fence*, or *pump/utility house*, the minimum *setback* for *buildings* and *structure* is:
 - 3.0 metres (9.8 feet) from the *front lot line*;
 - 10.0 metres (32.8 feet) from any *lot line* that is not a *front lot line*.
- ii Despite item D.1.4.3.b.i, the minimum *setback* of *buildings* and *structures* from a *lot line* that coincides with a *lot* in the same zone is 0.0 metres.

c. Lot Coverage Limitations

- i The maximum combined *lot coverage* by *buildings* and *structures* is 20 percent of the *lot* area.

d. Subdivision Requirements

- i The minimum lot area is 1.0 hectares (2.47 acres).

e. Form of Tenure

- i One hundred percent (100%) of the *dwelling units* in the Multi-dwelling Affordable Housing 1 (MAH1) zone shall be limited to *residential rental tenure*.

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 307**

Appendix 2

F.11 DP-11 Environmental Protection

F.11.1 Applicability

- F.11.1.1** The following activities shall require a development permit whenever they occur within the DPA, unless specifically exempted under Policy F.11.2.1:
- a. subdivision of land;
 - b. construction of, addition to, or alteration of a building or other structure;
 - c. alteration of land.
- F.11.1.2** In the event that a parcel of land is subject to more than one development permit area, all development permit area guidelines shall apply and only one development permit, containing conditions based on guidelines in all applicable development permit areas, is required.

F.11.2 Exemptions

- F.11.2.1** The following activities are exempt from any requirement for a development permit. Despite these exemption provisions, property owners must meet any other local, provincial or federal requirements:
- a. Activities on land in respect of which the Islands Trust has received a written statement from a registered professional biologist with relevant experience certifying the absence of a sensitive ecosystem within the area that would be affected by the proposed work;
 - b. Gardening and yard maintenance activities, not involving the application of artificial fertilizer, pesticides or herbicides, within a pre-existing landscaped area, including mowing, pruning, planting and minor soil disturbance that does not alter the general contours of the land;
 - c. Manual removal of invasive species in accordance with best management practices;
 - d. Manual planting of native vegetation conducted in accordance with best management practices;
 - e. The construction of a trail if all of the following apply:
 - i. The trail is 1 metre wide or less;
 - ii. No native trees are removed;
 - iii. The surface of the trail is pervious (for example, soil, gravel or wood chips);
 - iv. The trail is designed to prevent soil erosion where slopes occur; and
 - v. Where the trail parallels a stream, the trail is more than 5 metres away from the high water mark of the stream.

- f. The construction of a fence if no native trees are removed and the disturbance of native vegetation is restricted to 0.5 metres on either side of the fence;
- g. Ecological restoration and enhancement projects undertaken or authorized by a public body;
- h. The reconstruction, repair or maintenance of a pre-existing permanent structure on its existing foundation, including general repair or replacement of a septic field on the same spot;
- i. Pruning or topping that is conducted in accordance with the standards and recommendations of the International Society of Arboriculture, and that does not involve: the lift pruning of lower limbs to the extent that the live crown ratio is less than 50%, the removal of more than 25% of the crown, or the pruning or removal of a structural root within the critical root zone;
- j. The removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property;
- k. The repair and maintenance of existing roads, driveways, paths and trails provided there is no expansion of the width or length of the road, driveway, path or trail, and no creation of additional impervious surfacing, including paving, asphaltting or similar surfaces;
- l. Works undertaken by a local government or a body established by a local government;
- m. An application resulting in a lot consolidation.

F.11.3 Guidelines

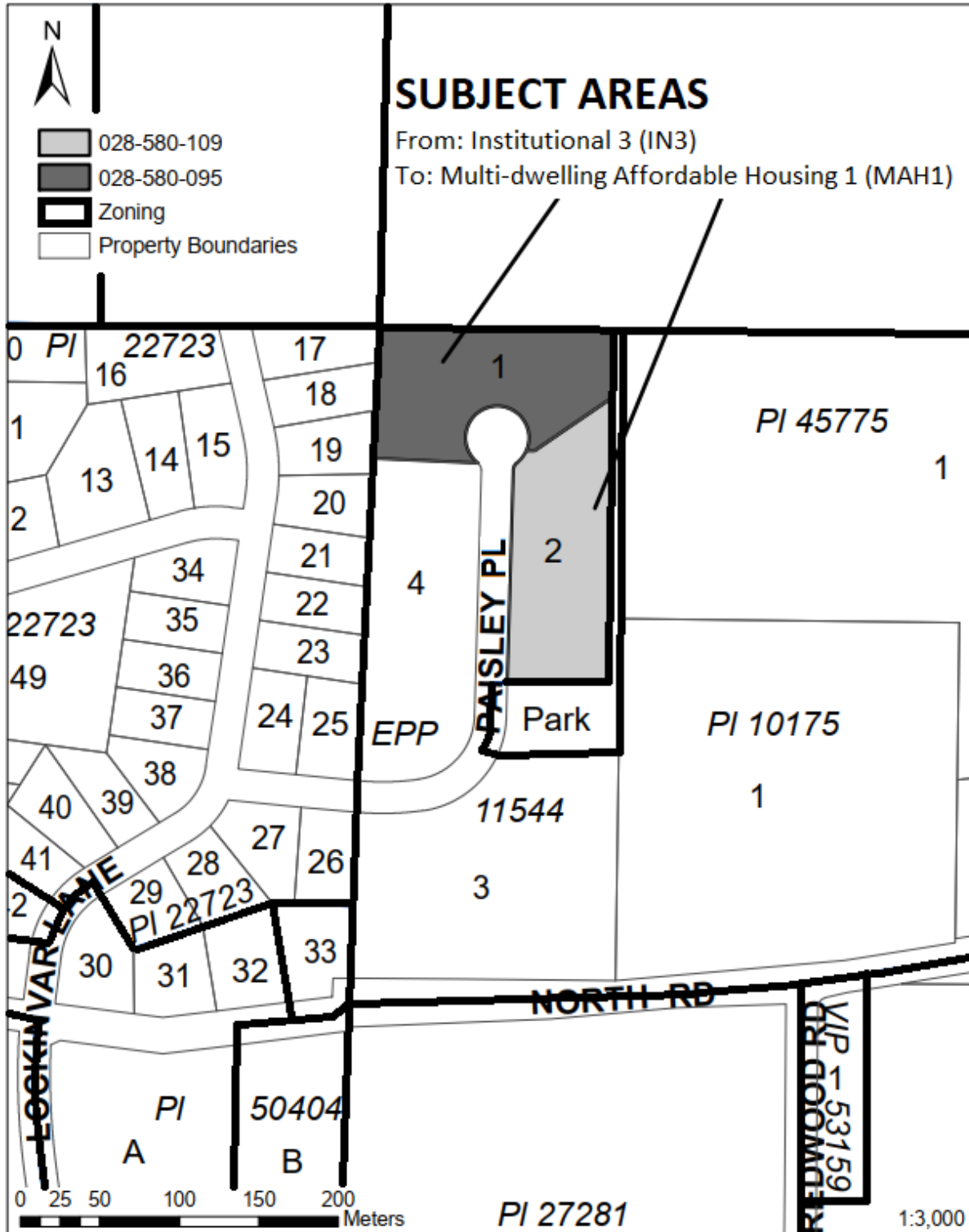
Prior to undertaking any development activities within DP-11 that are not exempted by F.11.2.1, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- F.11.3.1 Minimize the area cleared and disturbed for development within the context of the permitted use and density.
- F.11.3.2 Site buildings and associated infrastructure to minimize removal of vegetation and to allow sufficient undisturbed space around retained significant mature or established trees to protect root systems.
- F.11.3.3 Native vegetation and trees should be retained wherever possible.
- F.11.3.4 Vegetation clearing should occur during the least risk timing window for bird species as recommended by a qualified professional. If works cannot be completed during this window, a qualified professional should be retained to survey the area prior to clearing to rule out the presence of nesting birds or other species.
- F.11.3.5 Where this area includes trees that bear the nest of eagles or other species of birds, a buffer area around each nest tree should be left undisturbed. The size of the buffer should be determined prior to development by a qualified professional, with advice from the provincial ministry responsible for the environment and wildlife or the Canadian Wildlife Service.

- F.11.3.6 Avoid removal of mature and old Douglas-fir and western red cedar trees to the extent possible. Trees with unique identified wildlife habitat or unique habitat potential should be retained and incorporated into the design.
- F.11.3.7 Where species at risk or critical habitat for species at risk have been observed, requirements to protect species at risk and mitigation measures shall be in accordance with the federal *Species At Risk Act* (SARA) and with the provincial *Wildlife Act*.
- F.11.3.8 An assessment of the environmental impact, including mitigation measures required, prepared by a qualified professional, shall be required prior to any new developments or the expansion of existing development.
- F.11.3.9 Additional conditions will be included in a development permit to incorporate any qualified professional recommendations within an environmental assessment.

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 307

Plan No. 1



PROPOSED

GABRIOLA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 308

A BYLAW TO AUTHORIZE A HOUSING AGREEMENT

WHEREAS the Gabriola Island Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the Gabriola Island Local Trust Area, pursuant to the *Islands Trust Act*;

AND WHEREAS Section 483 of the Local Government Act and Section 29 of the *Islands Trust Act* permit the Local Trust Committee to enter into a housing agreement;

AND WHEREAS the Gabriola Island Local Trust Committee wishes to enter into a Housing Agreement;

NOW THEREFORE the Gabriola Island Local Trust Committee enacts in open meeting assembled as follows:

1. This Bylaw may be cited for all purposes as "Gabriola Island Housing Agreement Bylaw No. 308, 2020".
2. The Chairperson and one other member of the Gabriola Island Local Trust Committee are authorized to execute an agreement in the form attached to this Bylaw with the Gabriola Housing Society (GHS).

READ A FIRST TIME this 26TH day of NOVEMBER, 2020

READ A SECOND TIME this _____TH day of _____, 20XX

EAD A THIRD TIME this _____TH day of _____, 20XX

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST this

_____TH day of _____, 20XX

ADOPTED this _____TH day of _____, 20XX

SECRETARY

CHAIRPERSON

PROPOSED

LAND TITLE ACT

TERMS OF INSTRUMENT – PART 2

Housing Agreement and Section 219 Covenant
(Section 438 Local Government Act and Section 219 Land Title Act)

THIS AGREEMENT DATED FOR REFERENCE THE [day] OF [month], 2020 is BETWEEN:

GABRIOLA HOUSING SOCIETY, a society incorporated under the laws of the province of British Columbia under number [S-0060928] and having its office at P.O. Box 76, Gabriola Island, B.C., V0R 1X0

(the “Owner”);

AND:

GABRIOLA ISLAND LOCAL TRUST COMMITTEE, a corporation under the *Islands Trust Act*, having an office at 2nd Floor, 1627 Fort Street, Victoria, B.C., V8R 1H8

(the “Trust Committee”)

WHEREAS:

- A. The Owner is the registered owner of the Lands situated at Lot 1 and Lot 2 Paisley Place on Gabriola Island, British Columbia and legally described as:

PID 028-580-095
LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544

and

PID 028-580-109
LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544

(collectively, the “Lands”);

- B. The Owner intends to construct on the Lands a residential development that will include Affordable Rental Housing Units (hereinafter defined) to rent, by way of a Tenancy Agreement, at an affordable rate to Qualified Occupants (hereinafter defined);
- C. The Trust Committee may, pursuant to Section 29 of the *Islands Trust Act* and Section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure and availability to specified classes of persons of dwelling units located on those lands;

PROPOSED

- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of the Trust Committee in respect of the use of land or construction on land;
- E. As a condition of rezoning the Lands, the Owner and the Trust Committee wish to enter into this Agreement to provide affordable housing on the Lands on the terms and conditions of this Agreement and to restrict the use of, and construction on, the Lands and the use of the Affordable Housing Units constructed on the Lands, on the terms and conditions of this Agreement, to have effect as both a covenant under section 219 of the *Land Title Act* and a housing agreement under section 483 of the *Local Government Act*; and
- F. The Trust Committee has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement.

THIS AGREEMENT is evidence that in consideration of \$1.00 paid by the Trust Committee to the owner (the receipt of which is acknowledged by the owner), and in consideration of the promises exchanged below, the Trust Committee and the owner agree, as covenants granted by the owner to the Trust Committee under Section 219 of the *Land Title Act*, and as a housing agreement between the owner and the Trust Committee under Section 483 of the *Local Government Act*, as follows:

Article 1: Definitions and Interpretation

a. **Definitions** – In this Agreement:

“Acceptable Accommodation” means accommodation that is affordable, suitable and adequate according to family income, size and composition;

“Affordable Housing Funder” means BC Housing, Canada Mortgage and Housing Corporation or other agency that provides a grant or preferential rate loan to support the development of Affordable Housing Units on the Lands;

“Affordable Housing Unit” means a studio, 1 bedroom, 2 bedroom or 3 bedroom Dwelling Unit on the Lands in respect of which the construction, tenure, rental and occupancy are restricted in accordance with sections b through e of this Agreement;

“Affordable Market Unit” means an Affordable Housing Unit on the Lands where the rental price is linked to market conditions on Gabriola Island or the Regional District of Nanaimo region, the rental rate is approved by an Affordable Housing Funder, and meets the occupancy criteria set out in section c;

“Annual Household Income” means the combined gross income of all adult members of a Household, as shown on line 150 of the preceding year’s T1 General Income Tax and Benefit return;

“BC Housing” means the British Columbia Housing Management Commission;

“Dwelling Unit” means a dwelling unit as defined in the Gabriola Island Land Use Bylaw No. 177, 1999, as amended or replaced from time to time;

PROPOSED

“Household” means one or more individuals;

“Housing Income Limits” means the maximum gross household income for eligibility in an affordable housing program (for each category of dwelling unit), based on figures established by CMHC, and are intended to reflect the minimum income required to afford appropriate accommodation in the private market, as published by BC Housing from time to time;

“Lands” means those parcels of land legally described as PID 028-580-095, LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 and PID 028-580-109, LOT 2, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544;

“Maximum Monthly Rent” means the monthly rent agreed to by the Owner and a Qualified Renter to rent an Affordable Housing Unit which shall not exceed 30% of the total combined monthly gross household income of the Qualified Renter(s) at the time the Affordable Housing Unit is occupied by the Qualified Renter(s), except in the case of an Affordable Market Unit;

“Qualified Occupant” means a person who meets the eligibility criteria for tenancy as set out in Schedule “B”;

“Qualified Renter” means a Household which meets the eligibility criteria for a residential tenancy of an Affordable Housing Unit, as set out in section c of this Agreement;

“Residential Tenancy Act” means the *Residential Tenancy Act* (British Columbia); and

“Tenancy Agreement” means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

b. Agreement over the Lands – Pursuant to section 219 of the *Land Title Act* and section 483 of the *Local Government Act*, the Owner covenants and agrees that the Lands may be used only in accordance with the following conditions:

- i. the Lands must not be used and no building or structure may be constructed on the Lands except in accordance with any development permit issued by the Local Trust Committee, and any building permit issued by the Regional District of Nanaimo and this Agreement;
- ii. the Lands must at all times be used and occupied in compliance with all statutes, laws, regulations, orders of any authority having jurisdiction, and this Agreement;
- iii. it will design, construct and maintain in a reasonable state of repair the Affordable Housing Units on the Lands, including Affordable Market Units in accordance with the terms of this Agreement.

c. Affordable rental housing eligibility - The Owner covenants and agrees that the Affordable Housing Units on the Lands will only be occupied under all of the following criteria:

- i. the household’s Annual Household Income does not exceed BC Housing’s Housing Income Limits, or other criteria specified by an Affordable Housing Funder;
- ii. the household will occupy the Affordable Housing Unit as their permanent, principal, and sole

PROPOSED

- residence; and
- iii. the household is comprised of at least one Qualified Occupant.

and The Owner covenants and agrees to:

- iv. include in every Tenancy Agreement a prohibition on subletting, including short-term vacation rentals, and a provision entitling the Owner to terminate the Tenancy Agreement in accordance with the *Residential Tenancy Act* in the event of any breach of that prohibition;
- v. deliver to the Trust Committee a true copy of every Tenancy Agreement entered into in respect of any Affordable Housing Unit within 10 days of any request to do so;
- vi. specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to the Affordable Housing Unit, and provide to each tenant, upon their request, a copy of this Agreement; and
- vii. if one of the individuals comprising a Qualified Renter who rents an Affordable Housing Unit dies, that individual's spouse or adult child residing in the Affordable Housing Unit at the time of the Qualified Renter's death may continue to rent the Affordable Housing Unit for the longer of:
 - a. the balance of the fixed term under the Tenancy Agreement; or
 - b. twelve (12) months on the same terms, including monthly rent, set out in the Tenancy Agreement.

d. Rental rates - The Owner covenants and agrees that it will:

- i. not charge any tenant a monthly rent, exclusive of utilities, that is greater than 30% of the monthly Household Income of all occupants of the Affordable Housing Unit, except in the case of an Affordable Market Unit; and
- ii. not require any tenant under a Tenancy Agreement to pay any extra charges or fees for use of any well or septic, or property taxes. For clarity, this limitation does not apply to parking, cablevision, telecommunications, laundry, or gas or electricity utility fees or charges.

e. Affordable Market Unit – The owner covenants and agrees that it will not rent an Affordable Market Unit unless the Affordable Market Unit is approved by an Affordable Housing Funder and there are other Affordable Housing Units occupied by households whose income does not exceed the Housing Income Limits.

f. Order to Comply – If the Owner is in default of the performance or observance of this Agreement, the Trust Committee may give the Owner a notice of default requiring the Owner to comply with this Agreement within the time stated in the notice. The Owner agrees that any breach or default in the performance of this Agreement on its part must be corrected, to the satisfaction of the Trust Committee, within the time stated on the notice of default provided to the Owner by the Trust Committee.

g. Statutory Declaration from Owner – The Owner shall deliver to the Trust Committee by the end of January of each year, a completed statutory declaration, substantially in the form attached as Schedule "A", sworn by the Owner, in relation to the Affordable Housing Units. The Owner irrevocably authorizes the Trust Committee to make inquiries it considers necessary and reasonable in order to

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confirm compliance with this Agreement.

- h. **Management** – The Owner covenants and agrees to furnish good and efficient management of the Lands. If and when the Trust Committee has reasonable grounds to believe that a continuing breach of this Agreement exists, the Trust Committee may authorize its representatives to inspect the Lands at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act* and subject to the concurrent delivery of such a notice to the Owner.
- i. **No Transfer** – The Owner must not transfer the Lands, other than to another non-profit organization or society incorporated under the *Societies Act*, having as its objective the management of affordable housing. The Local Trust Committee must approve any transfer prior to its finalization.
- j. **Society Standing** – The Owner must maintain its standing as a society under the *Societies Act*, and must not amend its Constitution in any manner that would prevent, or adversely affect, the ability of the Owner to perform its obligations under this Agreement.
- k. **Specific Performance of Agreement** – The Owner agrees that the Trust Committee is entitled to obtain an order for specific performance of this Agreement and a prohibitory or mandatory injunction in respect of any breach by the Owner of this Agreement, in view of the public interest in restricting the occupancy of the Affordable Housing Unit. The Owner further acknowledges that a breach of this Agreement may constitute a breach of the Trust Committee's Land Use Bylaw, as amended from time to time.
- l. **Assignment** – The Owner acknowledges that the Trust Committee may delegate or assign the administration and management of this Agreement to a third party, and, in that event, any reference in this Agreement to the Trust Committee shall be interpreted as a reference to that party provided that the Trust Committee has so advised the Owner.
- m. **Indemnity** – The Owner shall indemnify and save harmless the Trust Committee and each of its elected officials, officers, directors, employees, and agents from and against all claims, demands, actions, loss, damage, costs, and liabilities for which any of them may be liable by reason of any act or omission of the Owner or its officers, directors, employees, agents or contractors or any other person for whom the Owner is at law responsible, including breaches of this Agreement.
- n. **Release** – The Owner releases and forever discharges the Trust Committee and each of its elected officials, officers, directors, employees, and agents and each of their heir, executors, administrators, personal representatives, successors and assigns from all claims, demands, damages, actions, or causes of action arising out of the performance by the Owner of its obligations under this Agreement, or the enforcement of this Agreement.
- o. **Trust Committee Powers Unaffected** – This Agreement does not limit the discretion, rights, duties or powers of the Trust Committee under any enactment or the common law, impose on the Trust Committee any duty or obligation, affect or limit any enactment relating to the use or subdivision of the Lands, or relieve the Owner from complying with any enactment.
- p. **No Public Law Duty** – Wherever in this Agreement an act, determination, consent, approval or agreement of the Trust Committee is provided for, such act, determination, consent, approval or agreement may be done or made in accordance with the terms of this Agreement and no public law

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duty, whether arising from the principles of procedural fairness or the rules of natural justice shall have any application.

- q. **No Waiver** – No condoning, excusing or overlooking by the Trust Committee of any default under this Agreement, nor any consent, approval, or agreement whether written or otherwise shall be taken to operate as a waiver by the Trust Committee of any subsequent default or of the necessity for further consent, approval or agreement in respect of a subsequent matter requiring it under this Agreement, or in any way to defeat or affect the rights or remedies of the Trust Committee.
- r. **Arbitration** – Any matter in dispute between the parties under this Agreement, including any disputes as to whether a particular individual is eligible to occupy a Affordable Housing Unit, must be referred to a single arbitrator if the parties can agree on one, and otherwise to three arbitrators, one to be appointed by each of the parties and the third by those two so appointed, and the matter must be resolved in accordance with the provisions of the *Arbitration Act* of British Columbia.
- s. **Notice on Title** – The Owner acknowledges and agrees that this Agreement constitutes both a covenant under Section 219 of the *Land Title Act* and a housing agreement under Section 483 of the *Local Government Act*, and agrees that the Owner will register a notice of this Agreement against title to the Lands.
- t. **Covenant Runs with the Land** – Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the Trust Committee in accordance with section 219 of the *Land Title Act* in respect of the Lands and this Agreement burdens the Lands and runs with it and binds the Owner’s successors in title and binds every parcel into which it is consolidated or subdivided by any means, including, by subdivision or by strata plan.
- u. **Limitation on Owner’s Obligations** – The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.
- v. **Amendment and Termination** – This Agreement may not be modified or amended except by bylaw of the Trust Committee, upon an agreement in writing between the Trust Committee and the Owner.
- w. **Notices** – Any notice required to be given pursuant to this Agreement shall be in writing and shall be given to the Owner or the Trust Committee, as the case may be, at the address first above written, or to any other address of which either the Owner or the Trust Committee may advise the others in writing in accordance with this paragraph. Notice to the Trust Committee must be addressed to the Secretary of the Islands Trust. If given in person or by facsimile transmission, such notice will be deemed to be received when delivered and, if mailed, such notice will be deemed to be received only when actually received by the party to whom it is addressed.
- x. **Enurement** – This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns.
- y. **Remedies Cumulative** – The remedies of the Trust Committee specified in this Agreement are cumulative and are in addition to any remedies of the Trust Committee at law or in equity. No remedy shall be deemed to be exclusive, and the Trust Committee may from time to time have recourse to one

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or more or all of the available remedies specified herein or at law or in equity.

- z. Severability** – Each covenant and agreement contained in this Agreement is, and shall be construed to be, a separate and independent covenant or agreement and the breach of any such covenant or agreement by the Owner shall not discharge or relieve the Owner from its obligations to perform. If any term or provision of this Agreement, or its application to any person or circumstance shall to any extent be found to be invalid and unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
- aa. Joint and Several** – In the case of more than one owner, the grants, covenants, conditions, provisions, agreements, rights, powers, privileges and liabilities of the Owner shall be construed and held to be several as well as joint.
- bb. Included Words** – Wherever the singular or the masculine is used in this Agreement, it shall be deemed to include the plural or the feminine, or the body politic or corporate, where the context or the parties so require.
- cc. Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.
- dd. Joint Venture** – Nothing in this Agreement shall constitute the Owner as an agent, joint venture or partner of the Trust Committee or give the Society any authority or power to bind the Trust Committee in any way.
- ee. Time of Essence** – Time is of the essence in this Agreement.
- ff. Further Assurances** – The parties shall execute and do all such further deeds, acts, things and assurances as they reasonably require to carry out the intent of this Agreement.
- gg. Priority** – The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and encumbrances registered or pending at the time of application for registration of this Agreement.
- hh. Deed and Contract** – By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement under seal by executing Part 1 of the *Land Title Act* Form C to which this Agreement is attached and which forms part of this Agreement.

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SCHEDULE "A"

OWNER STATUTORY DECLARATION

CANADA

PROVINCE OF BRITISH COLUMBIA

IN THE MATTER OF A HOUSING AGREEMENT
WITH THE GABRIOLA ISLAND LOCAL TRUST
COMMITTEE ("Housing Agreement")

I, _____

declare that:

1. I am the _____ [director, officer, employee] of the [Owner], the owner of the land known as _____, XXX Island, legally described as: _____ (the "Lands")
2. I make this declaration to the best of my personal knowledge.
3. This declaration is made pursuant to the Housing Agreement registered against the Lands.
4. For the period from _____ to _____, the Affordable Housing Units were used only by Qualified Renters (as defined in the Housing Agreement).
5. At no time during the last year were any of the Affordable Housing Units used as a short-term vacation rental.
6. The rental payments charged for the Affordable Housing Unit were in compliance with the Housing Agreement and are listed in the attached list.
7. No subletting of the Lands has been permitted.
8. I acknowledge and agree to comply with all of the Owner's obligations under the Housing Agreement, and other charges registered against the Lands and confirm that the Owner has complied with all of its obligations under these Agreements.
9. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

DECLARED BEFORE ME at _____, British Columbia, this ____ day of _____.

A Commissioner for taking Affidavits
in British Columbia

Signature of person making declaration

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SCHEDULE “B”

Definition of a Qualified Occupant

A Qualified Occupant means a person aged 19 years or older who fits into at least one of the following categories, which are not listed in any particular priority order:

- i) Has been living on Gabriola Island for a minimum of one year; or
- ii) Has been commuting to Gabriola Island for at least half-time work (20 hours per week) for a minimum of one year; or
- iii) Is a registered member of Snuneymuxw First Nation, regardless of current location of residence or work,

except that where there are no persons meeting the categories specified above in clause i, ii or iii of this Schedule who make an application to rent an available Affordable Housing Unit and the lack of applications would result in the Affordable Housing Unit being vacant for more than one month, then a Qualified Occupant may be a person aged 19 years or older who fits into at least one of the following categories, which are not listed in any particular priority order:

- a. Previous resident of Gabriola Island who has lived away from the Gabriola Island for a maximum of three consecutive years; or
- b. Non-resident who is hired to begin at least half-time work (20 hours per week) on Gabriola Island; or
- c. A person who has worked at least half-time on Gabriola Island (20 hours per week) for less than one year; or
- d. A person with an immediate family member whose principal residence is on Gabriola Island. “Immediate family member” means a daughter/son or parent or sibling, to whom the person is related by blood, or by marriage or common-law relationship, or by adoption,

except that where there are no persons meeting the categories specified in clause i, ii or iii nor a, b, c or d of this Schedule who make an application to rent an available Affordable Housing Unit and the lack of applications would result in an Affordable Housing Unit being vacant for more than one month, then a Qualified Occupant may be any person permitted by an Affordable Housing Funder.