

Special Meeting Revised Agenda

Date: October 2, 2020
 Time: 10:00 am
 Location: Electronic Meeting

	Pages
1. CALL TO ORDER	10:00 AM - 11:30 AM
<p>"Please note, the order of agenda items may be modified during the meeting. Times are provided for convenience only and are subject to change."</p>	
2. APPROVAL OF AGENDA	
3. BUSINESS ITEMS	
3.1. GB-RZ-2019.1 Gabriola Housing Society (GHS) - for discussion	
3.1.1. Bylaw Nos. 306 (OCP) & 307 (LUB)	2 - 18
3.2. <i>Suggested Amendments to Bylaw No. 306 (OCP)</i>	
3.2.1. <i>Trustee Colbourne</i>	19 - 26
3.2.2. <i>Trustee Langereis</i>	27 - 43
3.3. <i>Suggested Amendments to Bylaw No. 307 (LUB)</i>	
3.3.1. <i>Trustee Colburne</i>	44 - 52
3.3.2. <i>Trustee Langereis</i>	53 - 77
3.4. <i>Housing Agreement</i>	
3.4.1. <i>Letter dated September 9, 2020 from Gabriola Housing Society</i>	78 - 82
3.4.2. <i>Draft Housing Agreement</i>	83 - 91
4. ADJOURNMENT	11:30 AM - 11:30 AM

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 _____ DAY OF _____ , 202x

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 adding the following after "Low-income families":

"; and

 - Other households needing affordable housing."
 - 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 Policies**, clause "c)" is amended by removing "Section 904" and replacing it with "Section 482".

1.8 **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”.

1.9 **Section 2 – General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies**, clause “d)” is amended by adding the following after “...of this Plan.”:

“If no banked densities exist, consideration will be made based on the merits of the proposal using the following criteria:

- i. lot size;
- ii. proximity to the Village Core, public transportation and community amenities;
- iii. availability of sufficient water supply for the proposed number of dwelling units;
- iv. 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;
- v. demonstrated community need.

1.10 **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”.

1.11 **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”.

1.12 **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."

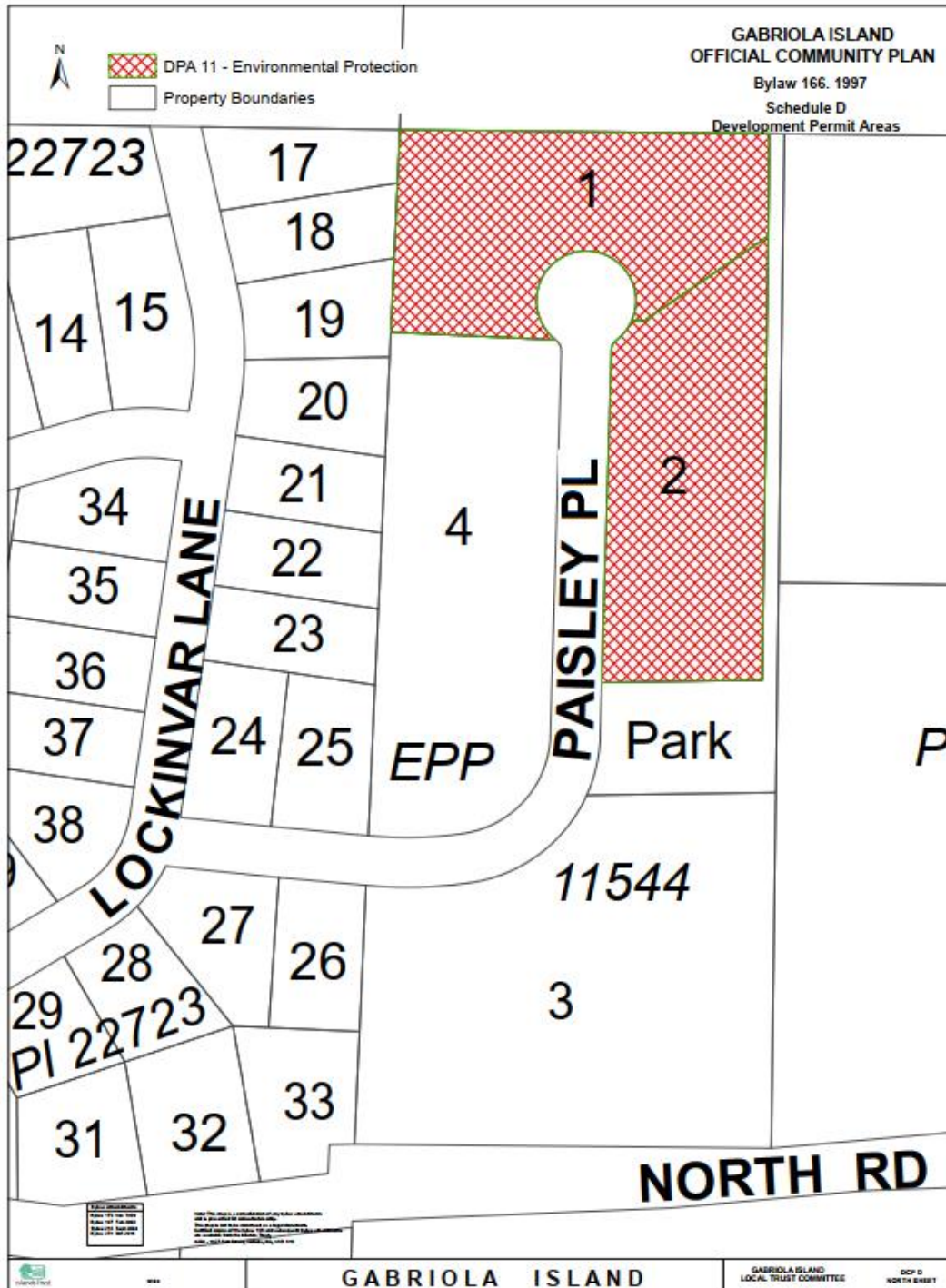
- 1.13 **Appendix, Appendix 1 Definitions**, is amended by removing the definition for "affordable housing" in its entirety.

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.

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306**

Plan No. 3



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	_____	DAY OF	_____	202x
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.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 (MAH) zone:

- a. Business and professional offices that receive no clients or visitors to the *lot*;
- b. Catering and food preparation for sale or delivery elsewhere, 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."

- 1.2 **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 (MAH) zone, and then no signage is permitted."

- 1.3 **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 (MAH) zone, home occupations must be operated solely by residents of the dwelling unit in which the home occupation occurs."

- 1.4 **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		
MAH	2 per <i>lot</i>	4.0 sq.m. (43.0 sq.ft.) per <i>lot</i>

- 1.5 **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 “MAH Multi-dwelling Affordable Housing” after “SSN Seniors and Special Needs”.
- 1.6 **Part D - ZONES**, Section **D.1 RESIDENTIAL ZONES**, insert new Subsection D.1.4 Multi-dwelling Affordable Housing (MAH) after Subsection **D.1.3 Seniors and Special Needs (SSN)** as shown on **Appendix 1** attached to and forming part of this bylaw.
- 1.7 **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.
- 1.8 **Part G - DEFINITIONS**, Section **G.1 DEFINITIONS**, is amended by adding the following definitions in alphabetical order:

<i>“affordable housing</i>	is a deed restricted and/or rent controlled dwelling unit that is secured by a housing agreement registered on title;
<i>dwelling, two family</i>	a <i>building</i> consisting of two <i>dwelling units</i> ;
<i>residential rental tenure</i>	means the granting of a right to occupant 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.
 - 2.3 Schedule “B” – North Sheet, is amended by changing the zoning classification on those land areas 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 (MAH)

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 (MAH) zone:

a. Permitted *Principal* Uses

- i *multiple family dwelling affordable housing*
- ii *two family dwelling affordable housing*

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 (MAH) zone:

a. Permitted Land-Based *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*.

D.1.4.3 Regulations

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

a. *Building* and *Structure* Height Limitations

- i The maximum *height* of land-based *buildings* or *structures* is 12.0 metres (39.4 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 With the exception of consolidation of two or more *lots* into a single *lot*, subdivision of lands within the Multi-dwelling Affordable Housing (MAH) zone is prohibited.

e. Form of Tenure

- i One hundred percent (100%) of the *dwelling units* in the Multi-dwelling Affordable Housing (MAH) 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. Activities on land in respect of which there has been a determination by Islands Trust staff upon site inspection that the land subject to the proposed work does not contain a sensitive ecosystem;
 - c. 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;
 - d. Manual removal of invasive species;
 - e. Manual planting of native vegetation conducted in accordance with best management practices;
 - f. 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.
- g. 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;
- h. Ecological restoration and enhancement projects undertaken or authorized by a public body;
- i. 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;
- j. Tree limbing or tree topping, unless the work can reasonably be expected to result in the death and removal of the tree and root system;
- k. The removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property;
- l. 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;
- m. Works undertaken by a local government or a body established by a local government;
- n. An application resulting in a lot consolidation.

F.11.3 Guidelines

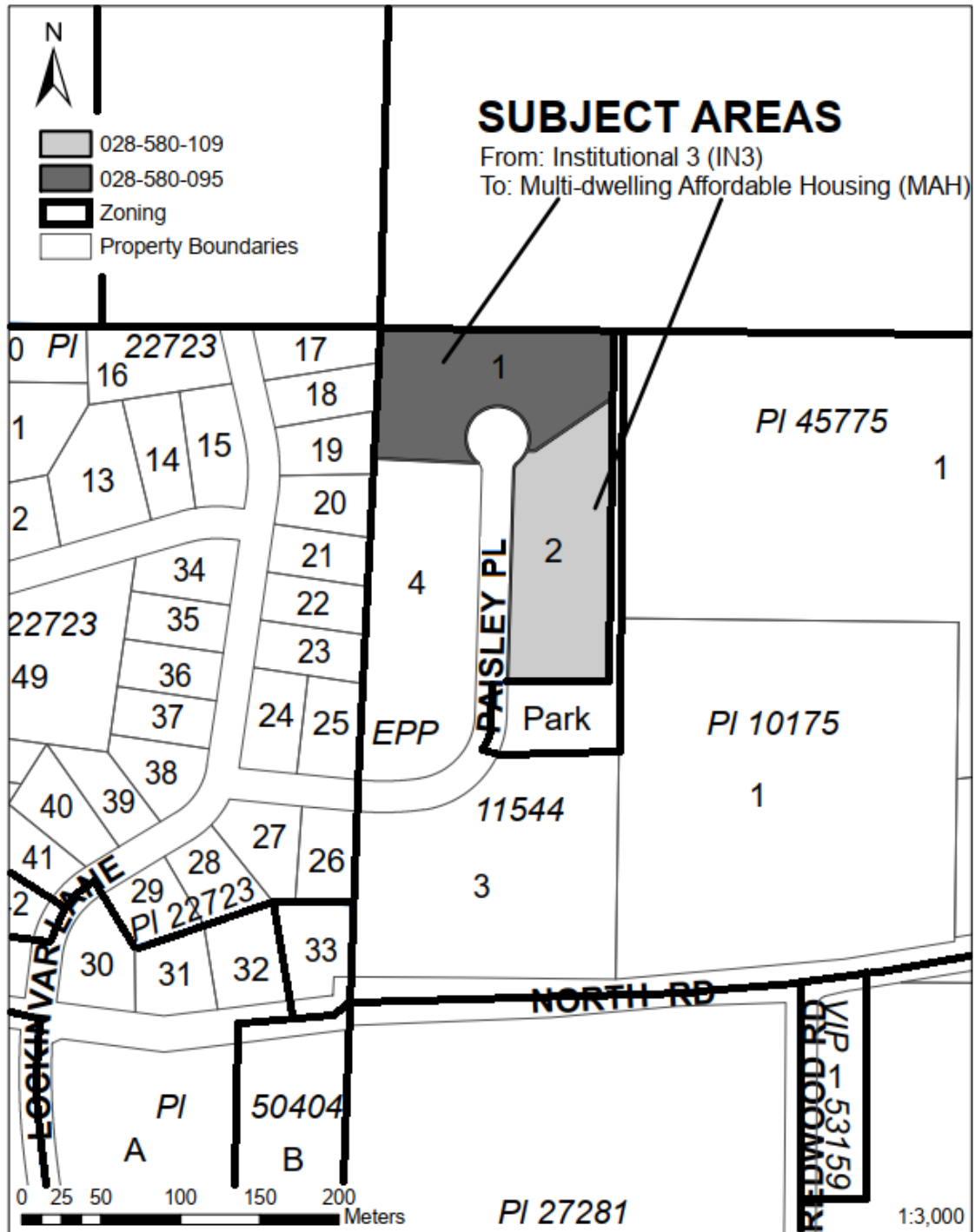
Prior to undertaking any development activities within DP-11 that are not exempted by F.11.2.1, an owner of property shall apply to the Local Trust Committee for a development permit, and the following guidelines apply:

- 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



DRAFT

GABRIOLA ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 306

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ADOPTED THIS _____ DAY OF _____, 202x

Chair

Secretary

DRAFT BYLAW NO. 306 (OCP)

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

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- i. lot size;
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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 and alteration 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 of alterations 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,

Commented [SC1]: Reference here to housing needs assessments / reports mandated by Section 473 of the Local Government Act?

Deleted: .

Commented [SC2]: Legislation references: DP-11 (draft) F.11.1.1 c: Alteration of land; also Local Government Act Division 6 — Development Approval Information Requirement, Section 484 “(e) the natural environment of the area affected.”

cliff, wetland and freshwater. These ecosystems are sensitive to development and alteration 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."

- 1.13 **Appendix, Appendix 1 Definitions**, is amended by removing the definition for "affordable housing" in its entirety.

GABRIOLA ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 306

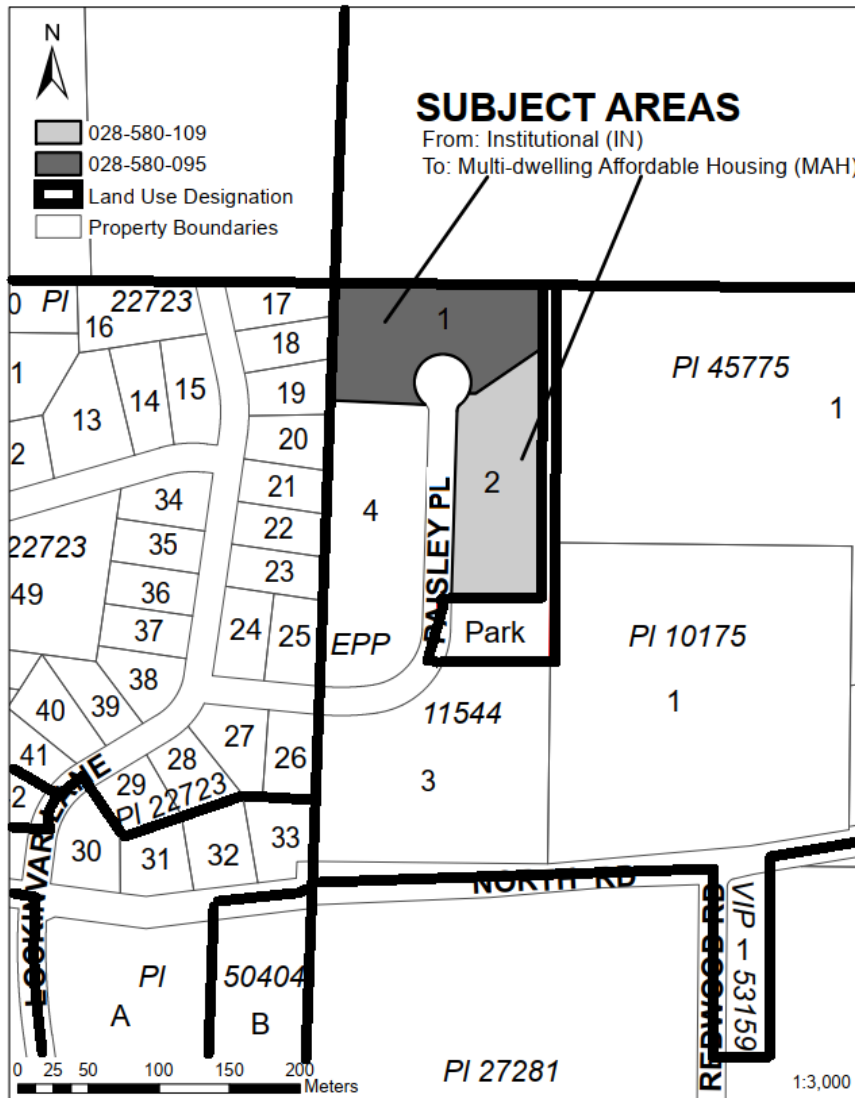
Schedule "2"

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.

DRAFT BYLAW NO. 306 (OCP)

GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306

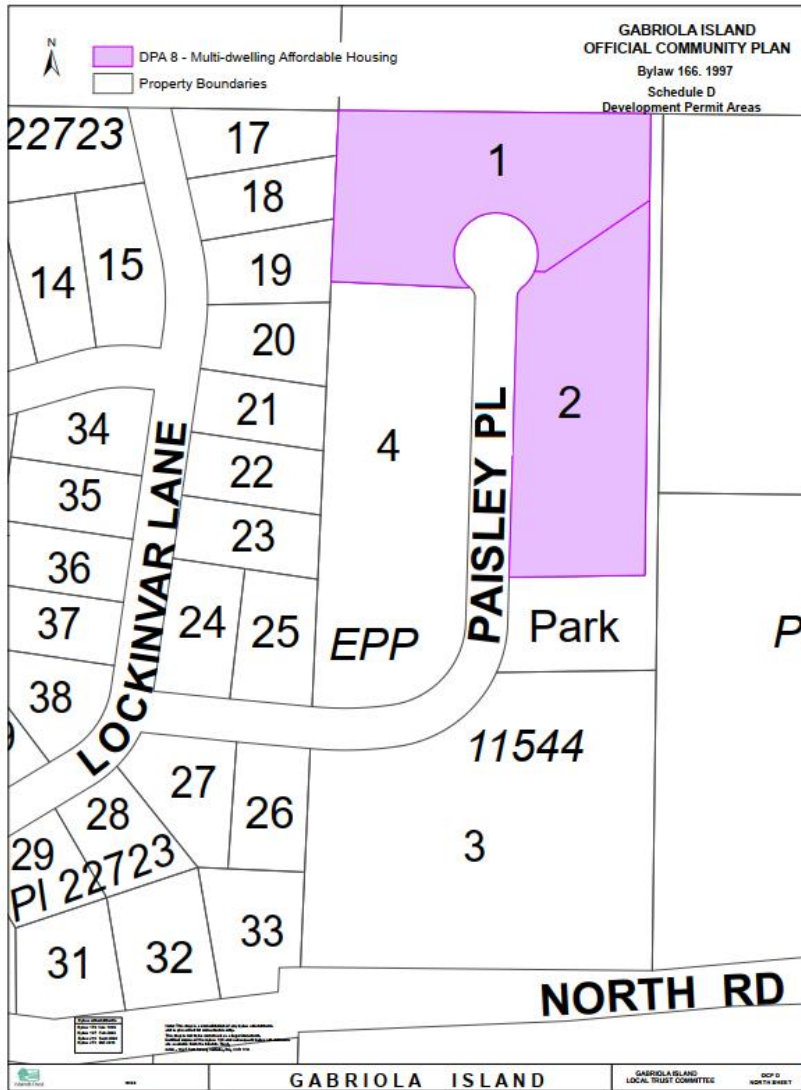
Plan No. 1



DRAFT BYLAW NO. 306 (OCP)

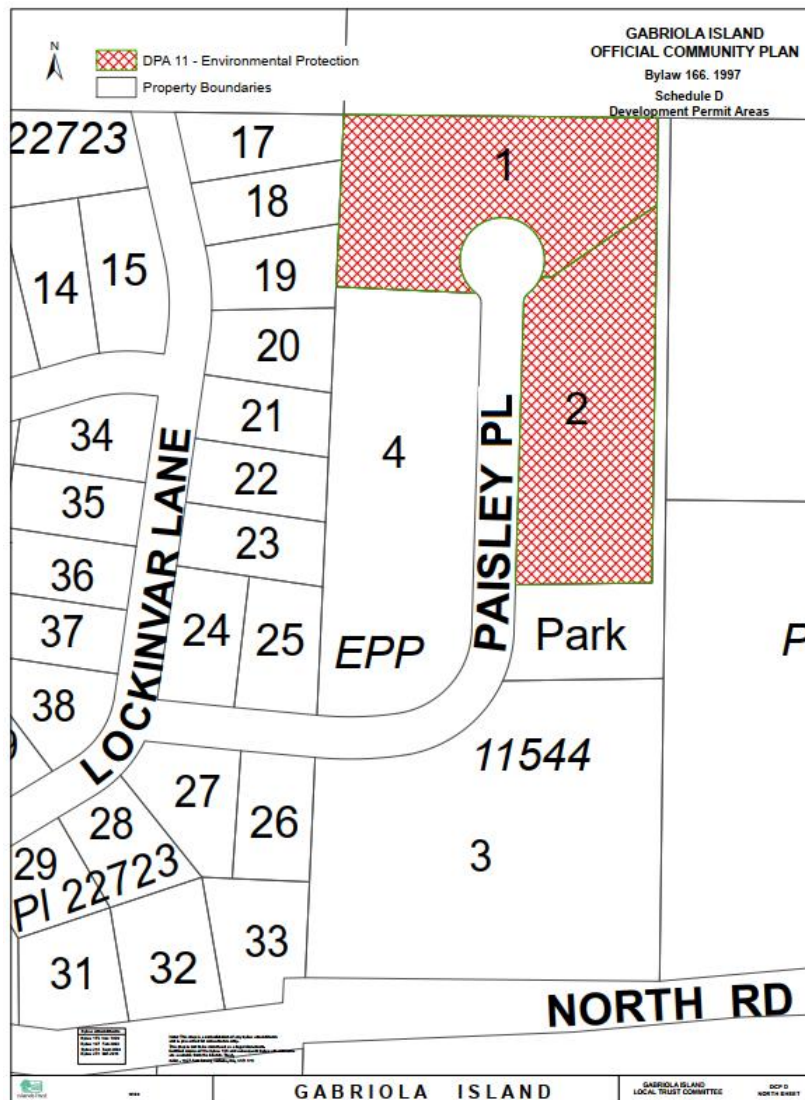
GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306

Plan No. 2



DRAFT BYLAW NO. 306 (OCP)

Plan No. 3



TO: Gabriola Island Local Trust Committee (LTC)

From: Kees Langereis, Trustee

Re: Special LTC meeting on October 2, 2020

The purpose of this document (and the accompanying separate document related to the Gabriola Land Use Bylaw) is to give advance notice to the Local Trust Committee on motions to amend Bylaws 306 and 307 respectively.

I worked from 4 premises when reviewing the housing application and Bylaws 306 and 307. These were:

1. That proposed changes to the bylaws respond to and reflect as best as possible the affordable housing application request.
2. That the proposed changes to the bylaws establish a site-specific zone for the housing development.
3. That the only policy changes to the Official Community Plan (OCP) and Land Use Bylaw (LUB) are those necessary to respond to the housing application.
4. That there is consistency between OCP and Land Use Bylaw changes.

This document and the accompanying LUB document are in two parts. The first part provides the motions for the LTC to consider and includes reasons as to why they are proposed. The second part provides a view of how the amended portions of the Bylaws would read along with other unchanged but relevant portions of the Bylaw. The intent is to facilitate understanding of how all the changes interact and possibly identify any issues arising. Advance notice of these motions is also intended to provide time for all parties to consider these motions carefully.

Respectively submitted,

Kees Langereis

PART ONE: OCP BYLAW AMENDMENTS

Motion: that the “Gabriola Island Official Community Plan (Gabriola) Bylaw, 1997, Amendment No. 1, 2020” be amended as follows:

Motions:

1. **Motion:** Instruction 1.2 is deleted and replaced with an amended Instruction 1.2 as follows:

- 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 “**Multi-dwelling Affordable Housing**.”

Rationale: *Multi-dwelling affordable housing as set out in the Section 2.4 is described as including Seniors, Special Needs residents and low-income families. Replacing with Multi-dwelling Affordable Housing captures all three criteria. Note too that the Land Use Bylaw amendments proposed provide that definition in the Zone.*

2. **Motion:** Instruction 1.3 is deleted and replaced with an amended Instruction 1.3 as follows:

- 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 “**Multi-dwelling Affordable Housing**.”

Rationale: *see above for Instruction 1.3 amendment rationale.*

3. **Motion:** Instruction 1.4 is deleted and replaced with an amended Instruction 1.4 as follows:

- 1.4 Section 2 – **General Land Use and Residential Development**, Subsection **2.4 Multi-dwelling Affordable Housing, Background**, is amended by replacing the third bullet words “**Low-income families**” with “**low to moderate income families, as set out in a housing agreement**.”

Rationale: *low to moderate income would capture the range of income levels which is consistent with the Gabriola Housing society application. As well “low income” is not defined in the OCP or Land Use Bylaw so income ranges would fall to the housing agreement and the definition of affordable housing.*

4. **Motion:** Instruction 1.8 is deleted in its entirety and replaced with a new Instruction 1.8 as follows:

- 1.8 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” and replacing them with “for Multi-dwelling Affordable Housing”.

Rationale: *Multi-dwelling affordable housing captures seniors, Special Needs and low to moderate income families. If no group cited here, the amenity provisions are expanded beyond what is needed for the housing application to proceed.*

5. Motion: Instruction 1.9 is deleted and replaced with an amended Instruction 1.9 as follows:

1.9 Section 2 – General Land Use and Residential Development, Subsection 2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Policies, Clause d) is repealed and replaced with new Clause d) as follows:

1.9 “d) *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 over time.”*

Rationale: *enables the provision of densities for low to moderate income families if there are insufficient densities. Item (i) provides low income family densities from the Density Bank. Item (ii) provides densities for any shortfall in low to moderate income family densities as per the Housing Society application.*

6. Motion: Instruction 1.13 is deleted and replaced with an amended 1.13 as follows:

1.13 Appendix, Appendix 1 Definitions, is amended by deleting the definition of “**affordable housing**” in its entirety and replacing with new definition of affordable housing as follows:

“affordable housing	housing that costs no more than 30% of a household’s total gross income applied to those households with incomes at or below the median household income for Gabriola Island (using Canada Census information);”
---------------------	--

Rationale: the removal of the 60% of median income rule in the current definition brings the definition in line with other trust area bylaws (eg Salt Spring) and is consistent with the housing society request to remove the 60% rule. This definition is not site specific and would apply to future applications. Amending as proposed in Bylaw 307 is a policy change not necessary for the Housing Society application. That proposed change moves the test for affordable housing (eg income level and the affordability test) from the Gabriola Bylaws to housing agreements. Such a policy change should entail consultation and further discussion.

7. Motion: Add new Instruction 1.14 as follows:

- 1.14 **Section 2 – General Land Use and Residential Development, Subsection 2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Objectives, 1.** is amended by deleting “**Low-income families**” with “**low to moderate income families**”.

Rationale: consequential to inclusion of moderate-income families.

PART TWO: OCP BYLAW AS AMENDED

Section 2 – General Land Use and Residential Development

2.0 General Land Use

General Land Use Policies

- k) This Plan only supports the realization of additional residential density without subdivision when used for **Multi-dwelling Affordable Housing**.

2.1 Residential Land Use

General Residential Policies

- a) Increasing residential density through redesignation/rezoning shall not be permitted with the exception of **Multi-dwelling Affordable Housing**.
- b) With the exception of affordable housing, no provision shall be made for multi-dwelling residential use in the Planning Area.

2.4 Multi-dwelling Affordable Housing

Background: In recognition of the desirability of encouraging Gabriola Residents to continue living in the Planning Area, provision is made for Multi-dwelling Affordable Housing opportunities to meet the needs of a diverse, full-time population. For the purposes of this Plan, Multi-dwelling Affordable Housing shall only be permitted for:

- Special Needs residents living with physical and / or mental disabilities;
- Seniors 60 years of age or older; and
- **low to moderate income families, as set out in a housing agreement.**

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).

Future applications to designate a site for Multi-dwelling Affordable Housing shall be evaluated in terms of their compliance with the objectives and policies of this section and will require a new land use designation and zone at that time.

Multi-dwelling Affordable Housing Objectives

1. *To ensure that provision is made for Multi-dwelling Affordable Housing in a manner which responds adequately to the needs of Special Needs residents, Seniors and **low to moderate income families**; and*
2. *To provide for affordable housing in a location which is accessible to appropriate services and acceptable to the overall community without compromising protection of the natural environment and while minimizing greenhouse gas emissions.*

Multi-dwelling Affordable Housing Policies

- a) Any lands designated for Multi-dwelling Affordable Housing in this Plan shall also be designated as part of DP-8 on Schedule C and the development permit guidelines as outlined in Section 9.3 shall apply.
- b) Any land currently designated Seniors and Special Needs (SSN) in Schedule B of this Plan shall remain under this designation until future application to designate a site for multi-dwelling affordable housing amends this Plan.
- c) The amenity zoning provisions of Section 482 of the *Local Government Act* shall only be permitted to be used on Gabriola to facilitate the provision of Multi-dwelling Affordable Housing.
- d) *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 over time.*
- e) Multi-dwelling affordable housing developments with mixes of Special Needs residents, seniors and low-income families are encouraged.
- f) An application to re-zone a parcel for Multi-dwelling Affordable Housing shall be permitted only if the application complies with the following:
 - i. the maximum density shall not exceed 12 units per hectare;

- ii. the maximum number of dwelling units per development shall not exceed 24;
 - iii. the average size of a dwelling unit shall be not greater than 83 square metres (900 sq.ft);
 - iv. the site shall be within 0.5 kilometres of the Village Core bounded by North, South, and Lockinvar Roads or a 2 kilometre walking distance from the Village Core along public access routes only, and shall provide access to any existing adjacent pedestrian and cycling pathways to the village and ferry services;
 - v. where practical, in the opinion of the Gabriola Island Local Trust Committee, the site's main access shall be off a main road and not through an existing residential neighbourhood;
 - vi. common area amenities, such as kitchen and recreation facilities, shall be provided for prior to occupancy;
 - vii. where practical, in the opinion of the Gabriola Island Local Trust Committee, no parcel re-designated for Multi-dwelling Affordable Housing shall be contiguous to another parcel so designated;
 - viii. the provisions of the Gabriola Island zoning bylaw may contain other general regulations pertaining to siting, height, lot coverage, servicing and other requirements which would also be applicable to a parcel in this land use designation;
 - ix. the proposal shall include an adequate fire suppression water supply which shall be maintained and be available for use on site; and
 - x. the minimum lot size shall be 1 ha (2.4 acres).
- g) In considering applications for the rezoning of lands to permit multi-dwelling affordable housing, the applicant shall be required to:
- i. identify the anticipated costs of the proposed land and housing to purchasers or occupants which are not meant to be marketed off-island;
 - ii. establish the basis of the housing need of existing residents;
 - iii. specify affordability in keeping with the provisions of this Plan;
 - iv. specify Special Needs housing requirements.
- h) As a condition of rezoning for Multi-dwelling Affordable Housing, a housing agreement pursuant to s. 483 of the *Local Government Act* shall be required and shall include provisions that:
- i. ensure the maintenance and stability of affordability in perpetuity;
 - ii. specify how the housing project will be managed and administered including, if deemed applicable, that it be operated on a not-for-profit basis;
 - iii. specify the manner in which the housing units will be made available to the identified class of persons at the time the housing units are first occupied and with respect to subsequent occupancy; and
 - iv. specify the mix of rental and ownership housing units permitted.
- i) In addition to 2.4 g), a housing agreement for Multi-dwelling Affordable Housing for seniors only shall also:
- i. specify that at least one individual who has attained 60 years of age shall reside in each dwelling unit; and
 - ii. specify that not more than three individuals may reside in each dwelling unit.
- j) Multi-dwelling Affordable Housing applications must demonstrate the lowest possible net water, waste, green house gas emissions and energy use.

- k) The Density Bank in this Plan shall be amended from time to time such that any unused residential densities that result from rezoning for parks are added to the Density Bank for use as Multi-dwelling Affordable Housing for low-income families.

2.5 Gabriola Island Density Bank

Background: In this Plan, density banking refers to a process wherein unused residential densities are held by the Local Trust Committee for an unlimited time and for the purpose of enabling affordable multi-dwelling housing for low-income families and without any net increase to the allowed density on Gabriola Island. The deposit of one or more densities to the density bank takes place through bylaw amendments resulting from the rezoning of the property from which the density was removed for deposit into the density bank. Withdrawal of one or more densities from the density bank requires a similar amending bylaw and rezoning process. These transactions are recorded in Appendix 2.

Gabriola Island Density Bank Objectives

1. *To identify and deposit unused residential densities into the Density Bank based upon the following eligibility criteria:*
 - i. *from the lands that are rezoned as parks; and*
 - ii. *from the voluntary donation of residential densities.*
2. *To consider applications for the withdrawal of banked densities in accordance with the rezoning requirements in Section 2.4 provided that a Housing Agreement is in place to ensure affordability is maintained over time.*

Gabriola Island Density Bank Policies

- a) Residential densities resulting from a rezoning pursuant to Objective 1 will be deposited to the Density Bank as an amendment to the Official Community Plan.
- b) Residential densities from the Residential Density Bank in Appendix 2 that are withdrawn pursuant to Objective 2 will be deleted from the Residential Density Bank in Appendix 2 by an amendment to the Official Community Plan.
- c) Residential densities listed in the Residential Density Bank in Appendix 2 are principal dwelling units and do not include accessory cottages until related policies are developed by the Local Trust Committee.
- d) All land that receives density from the density bank shall be rezoned to permit the added density and that density shall not exceed the density of the parent parcel plus the density granted from the density bank.
- e) Parcels that have density allocated to or from the density bank shall be noted in both text and maps.

2.7 Home Occupational Use

Home Occupational Policies

- a) A home occupational use is permitted in all land use designations where a single-dwelling residential use or multi-dwelling affordable housing as identified in Schedule B of this Plan is permitted.

DP-11 Environmental Protection

“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.”

Definitions

“affordable housing”

housing that costs no more than 30% of a household’s gross income applied to those households with incomes at or below the median household income for Gabriola Island (using Canada Census information);

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 _____ DAY OF _____ , 202x

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- Multi-dwelling Affordable Housing 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 Multi-dwelling Affordable Housing 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 replacing the third bullet text with "low to moderate income families, as set out in a housing agreement" adding the following after "Low income families":

“; and
—Other households needing affordable housing.”
 - 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 Policies,** clause "c)" is amended by removing "Section 904" and replacing it with "Section 482".

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306**

~~1.8 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”.~~

1.8 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” and replacing them with “for Multi-dwelling Affordable Housing”.

1.9 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 in its entirety and replaced with the following text~~ is amended by adding the following after “...of this Plan.”:

~~“If no banked densities exist, consideration will be made based on the merits of the proposal using the following criteria:~~

- ~~i. lot size;~~
- ~~ii. proximity to the Village Core, public transportation and community amenities;~~
- ~~iii. availability of sufficient water supply for the proposed number of dwelling units;~~
- ~~iv. 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;~~
- ~~v. demonstrated community need.~~

“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 over time.”

1.10 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”.

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306**

1.11 **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”.

1.12 **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.”

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306**

~~1.13 Appendix, Appendix 1 Definitions, is amended by removing the definition for “affordable housing” in its entirety.~~

1.13 Appendix, Appendix 1 Definitions, is amended by deleting the definition of “affordable housing” in its entirety and replacing with new definition

“affordable housing”

housing that costs no more than 30% of a household’s total gross income applied to those households with incomes at or below the median household income for Gabriola Island (using Canada Census information);”

1.14 Section 2 – General Land Use and Residential Development, Subsection 2.4 Multi-dwelling Affordable Housing, Multi-dwelling Affordable Housing Objectives, 1. is amended by deleting “Low-income families” with “low to moderate income families”.

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:

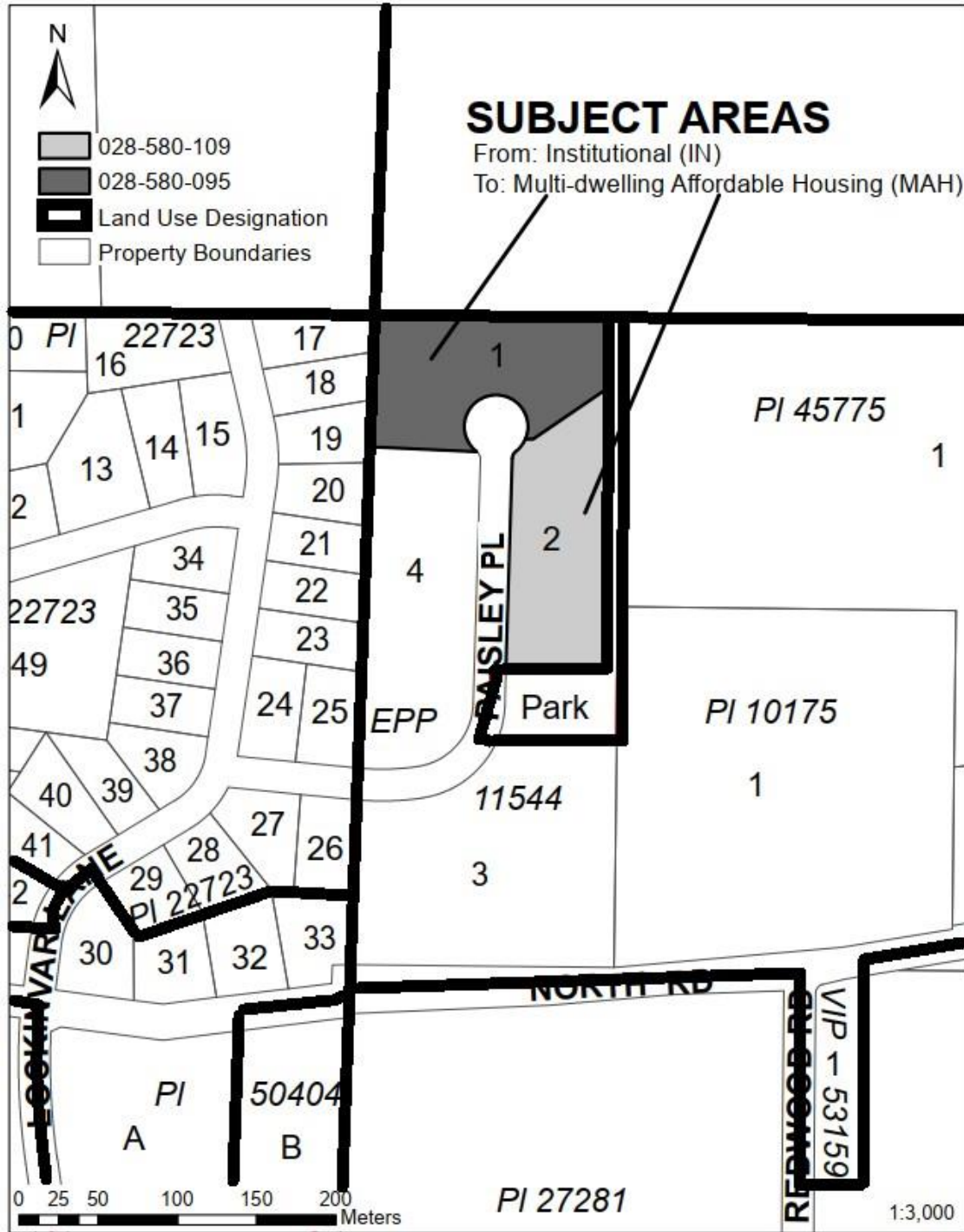
2.1. **Schedule “D” – Development Permit Areas – OCP D North Sheet**, is amended by designating within Development Permit Area “DP-8 – Multi-dwelling Affordable Housing” on those lands described as LOT 1, SECTION 19, GABRIOLA ISLAND, NANAIMO DISTRICT, PLAN EPP11544 (PID 028-580-095) and LOT 2, SECTION 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.

**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
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- 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.

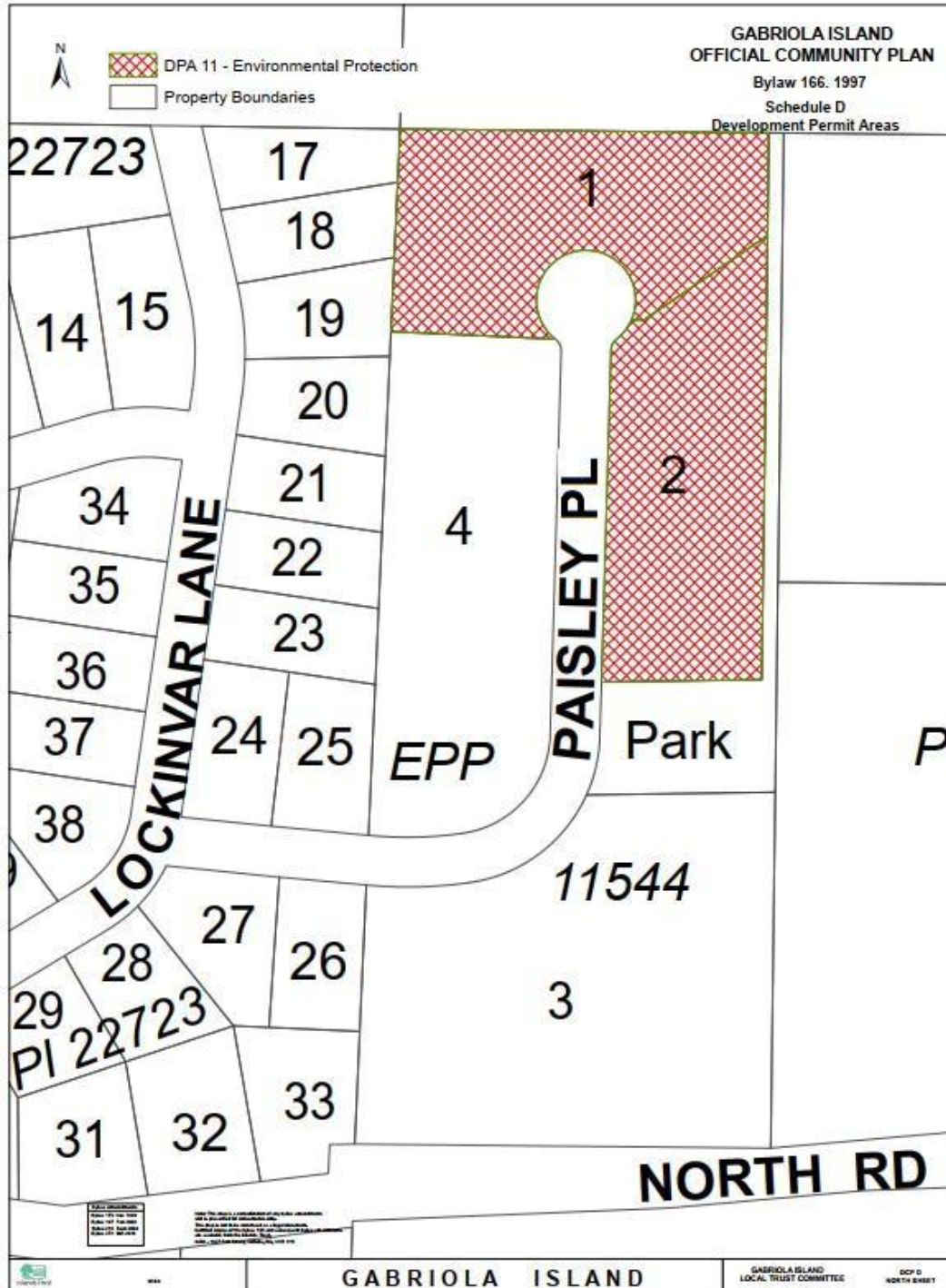
GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306

Plan No. 1



**GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 306**

Plan No. 3



DRAFT

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 _____ DAY OF _____ 202x

READ A SECOND TIME THIS _____ DAY OF _____ 202x

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

DRAFT BYLAW NO. 307 (LUB)
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.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 (MAH) zone:

- a. Business and professional offices that receive no clients or visitors to the *lot*;
- b. Catering and food preparation for sale or delivery elsewhere, 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."

1.2 **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 (MAH) zone, and then no signage is permitted."

1.3 **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 (MAH) zone, home occupations must be operated solely by residents of the dwelling unit in which the home occupation occurs."

1.4 **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 <i>Signs</i> Permitted	Maximum Total <i>Sign Area</i> Permitted
Residential Zones		
MAH	2 per <i>lot</i>	4.0 sq.m. (43.0 sq.ft.) per <i>lot</i>

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- 1.5 **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 "MAH Multi-dwelling Affordable Housing" after "SSN Seniors and Special Needs".
- 1.6 **Part D - ZONES**, Section **D.1 RESIDENTIAL ZONES**, insert new Subsection D.1.4 Multi-dwelling Affordable Housing (MAH) after Subsection **D.1.3 Seniors and Special Needs (SSN)** as shown on **Appendix 1** attached to and forming part of this bylaw.
- 1.7 **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.
- 1.8 **Part G - DEFINITIONS**, Section **G.1 DEFINITIONS**, is amended by adding the following definitions in alphabetical order:

<i>"affordable housing</i>	is a deed-restricted and/or rent-controlled dwelling unit that is secured by a housing agreement registered on title in perpetuity;
<i>dwelling, two family</i>	<i>a building consisting of two dwelling units;</i>
<i>residential rental tenure</i>	means the granting of a right to occupant a <i>dwelling unit</i> as living accommodation where the minimum occupancy period is thirty (30) 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.
- 2.3 Schedule "B" – North Sheet, is amended by changing the zoning classification on those land areas 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.

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Deleted:

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GABRIOLA ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 307

Appendix 1

D.1.4 Multi-dwelling Affordable Housing (MAH)

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 (MAH) zone:

a. Permitted *Principal* Uses

- i *multiple family dwelling affordable housing*
- ii *two family dwelling affordable housing*

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 (MAH) zone:

a. Permitted Land-Based *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*.

D.1.4.3 Regulations

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

a. *Building* and *Structure* Height Limitations

- i The maximum *height* of land-based *buildings* or *structures* is 12.0 metres (39.4 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.

Commented [SC1]: Is this being updated by staff for this draft/reading? Maximum building height in the current Official Community Plan is "15.0 metres (49 feet) for buildings in the Agricultural Land Reserve used exclusively for a Medical Marihuana Production Facility licenced under the Marihuana for Medical Purposes Regulation," but residential nature of use and fire safety considerations here argue for reduced maximum height.

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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 With the exception of consolidation of two or more *lots* into a single *lot*, subdivision of lands within the Multi-dwelling Affordable Housing (MAH) zone is prohibited.

e. Form of Tenure

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

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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. Activities on land in respect of which there has been a determination by Islands Trust staff upon site inspection that the land subject to the proposed work does not contain a sensitive ecosystem;
 - c. 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;
 - d. Manual removal of invasive species;
 - e. Manual planting of native vegetation conducted in accordance with best management practices;
 - f. 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

Commented [SC2]: Is there an example of an area where there is an "absence of a sensitive ecosystem?"

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Commented [SC3]: Is manual to be interpreted as solely by-hand means?

DRAFT BYLAW NO. 307 (LUB)

- v. Where the trail parallels a stream, the trail is more than 5 metres away from the high water mark of the stream.
- g. 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;
- h. Ecological restoration and enhancement projects undertaken or authorized by a public body;
- i. 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;
- j. Tree limbing or tree topping, unless the work can reasonably be expected to result in the death and removal of the tree and root system;
- k. The removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property;
- l. 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;
- m. Works undertaken by a local government or a body established by a local government;
- n. An application resulting in a lot consolidation.

F.11.3 Guidelines

Prior to undertaking any development and alteration 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, disturbed or otherwise altered 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.

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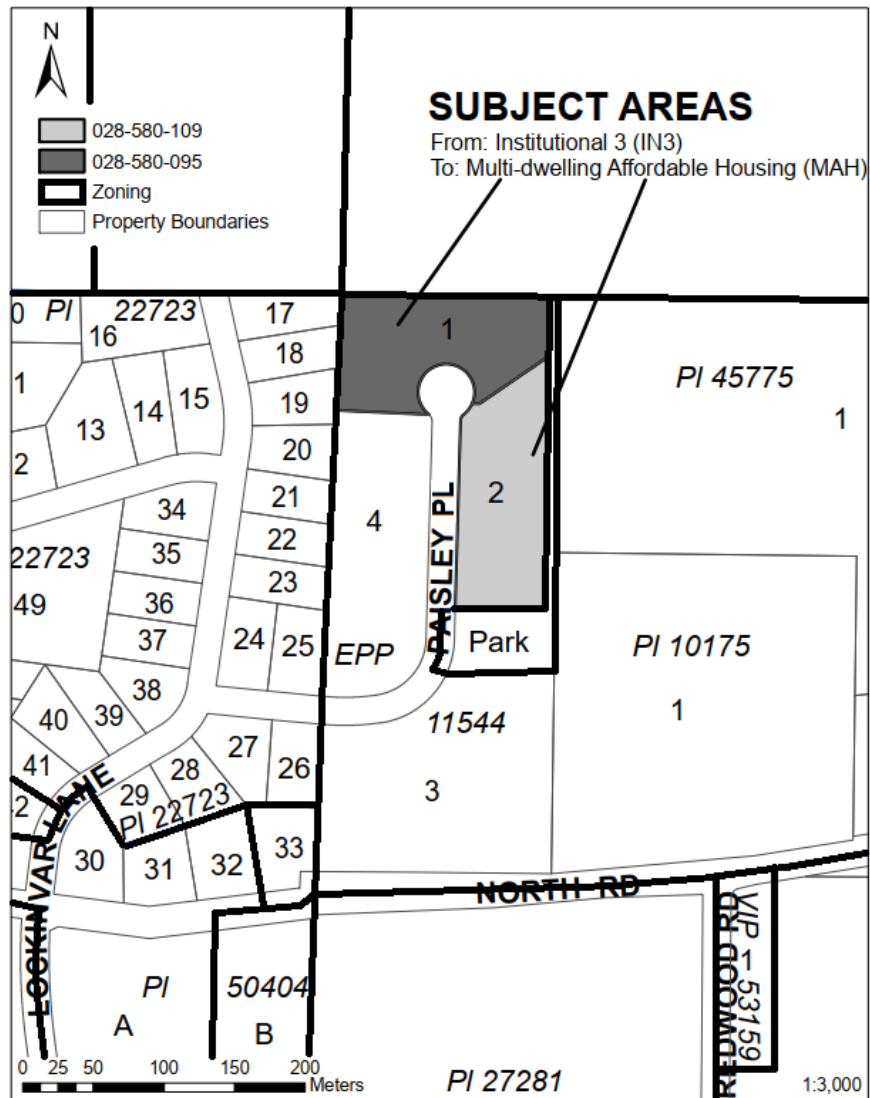
- F.11.3.6 Avoid removal of mature and old Douglas-fir and western red cedar trees to the extent possible. Trees with unique identified wildlife habitat or unique habitat potential should be retained and incorporated into the design.
- F.11.3.7 Where species at risk or critical habitat for species at 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.

DRAFT BYLAW NO. 307 (LUB)

GABRIOLA ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 307

Plan No. 1



PART ONE: LAND USE BYLAW AMENDMENTS

Section 1: motions to amend bylaw 307 instructions

1. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Instruction 1.1 is amended as follows:

Part B - GENERAL REGULATIONS, Section **B.3 HOME OCCUPATIONS**, Subsection **B.3.2 Permitted Home Occupations Uses**, Article **B.3.2.2, Clause b.** is deleted and replaced with a new **Clause b.** as follows:

“b Catering and food preparation for sale elsewhere or delivery, with delivery occurring between the hours of 8 a.m. and 6 p.m.,”

Rationale: to clarify that “sales” can only occur offsite. This mirrors the wording in B.3.2.2.c (ie for sale elsewhere).

2. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Instruction 1.8 is amended as follows:

Part G - DEFINITIONS, Section **G.1 DEFINITIONS**, is amended by

- (a) deleting the definition of “**affordable housing**” in its entirety and replacing it with the following:

“affordable housing housing that costs no more than 30% of a household’s total gross income applied to those households with incomes at or below the median household income for Gabriola Island (using Canada Census information);”

Rationale: the revised definition removes the 60% of median income rule which the Gabriola housing Society was seeking and brings the definition in line with other trust area bylaws (eg Salt Spring). Staff had proposed a new definition which limited it to rental housing under a housing agreement and removed the affordability test (30% of income used for housing) and the income level test (ie 30% of median income). These changes are not, I believe, required for the Gabriola Housing application to proceed.

- (b) deleting “dwelling, two family” and its definition.

Rationale: definitions apply to the entire Bylaw not just the Affordable Housing application. Adding a new definition needs to consider implications elsewhere in the bylaw. The GHS application proposes triplexes, so a definition of duplexes is not required, and the proposed definition captures secondary suites in building. If, as the application proceeds, duplexes are required, it could be re-added with modification to exclude secondary suites.

(c) Amending the definition of “residential rental tenure” by:

- Deleting the term “**occupant**” and replacing it with “**occupy**”, and
- Deleting the words “**thirty consecutive days**” and replacing them with “**monthly**”.

Rationale: *correct term and “monthly” is more consistent with the Residential Tenancy Act which refers to periodic tenancies of weekly, monthly or other periodic basis. Monthly tenancy is the norm, but 30 consecutive days is possible. Whether that affects when rents must be paid may be a factor.*

3. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1, Subsection **D.1.4 Multi-dwelling Affordable Housing (MAH)**, Article **D.1.4.1**, Clause “a.”, Item “i” is amended by deleting the words “**multiple family dwelling affordable housing**” and replacing with “**multi-family residential**”

Rationale: *replace with term focused on use rather than the building.*

4. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1, Subsection **D.1.4 Multi-dwelling Affordable Housing (MAH)**, Article **D.1.4.1 Permitted Uses**, Clause “a.”, Item “ii” is deleted in its entirety.

Rationale: *is consequential to amendment as per Motion 3 above. Also, the term describes a building, not a use.*

5. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1, Subsection **D.1.4 Multi-dwelling Affordable Housing (MAH)**, article **D.1.4.2**, Item a. is amended by deleting the words “**Land-Based**”.

Rationale: *removed unnecessary words in heading. This is a land-based zone.*

6. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1, Subsection **D.1.4 Multi-dwelling Affordable Housing (MAH)**, Article **D.1.4.2 Buildings and Structures**, Clause “a.”, item “i” is amended by:

- (a) Deleting the words “**and two family dwellings**”, and
- (b) Deleting the words “**per lot**” and replacing them with “**per development**”.

Rationale: *Amendment under (a) is consequential to removal of the definition in Motion #3. Amendment under (b) is consistent with the OCP Section 2.4, Multi-dwelling Affordable Housing*

Policies, Clause f), item ii which states “per development” which would apply to development on 2 lots.

7. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1, Subsection D.1.4 Multi-dwelling Affordable Housing (MAH), Article D.1.4.2 Buildings and Structures, Clause “a.” is amended by adding new item “iii” as follows:

“iii the average size of all dwelling units on a lot must not be greater than 83 square metres (900 sq. ft.);”

Rationale: *Amendment adds provision that is consistent with the OCP Section 2.4, Multi-dwelling Affordable Housing Policies, Clause f), item iii which requires the average dwelling unit size to be 83 square metres.*

8. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1 Subsection D.1.4 Multi-dwelling Affordable Housing (MAH), Article D.1.4.3 Regulations, Clause “a.”, item “i” is deleted in its entirety and replaced with a new item “i” as follows:

“i The maximum height of buildings and structures is 9 metres (29.5 feet).”.

Rationale: *Amendment adds provision that reflects the Gabriola Housing application for 2 storey buildings whereas 12 metres would allow for a 3-storey building. The height of 9 metres is the standard height for residential building in the land use bylaw. The phrase “land-based” is also deleted.*

9. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 1 Subsection D.1.4 Multi-dwelling Affordable Housing (MAH), Article D.1.4.3 Regulations, Clause “d.” is amended by adding new item “ii” as follows:

“ii the minimum lot area is 1.0 hectares (2.47 acres).”

Rationale: *Amendment adds provision that is consistent with the OCP Section 2.4, Multi-dwelling Affordable Housing Policies, Clause f), item “x” which requires a minimum lot size of 1 hectare for this zone.*

10. Motion:

That the “Gabriola Island Land Use Bylaw, 1989, Amendment No. 1, 2020”, Schedule “1”, Appendix 2 Section F.11 DP-11 Environmental Protection, Subsection F.11.2 Exemptions, Article F.11.2.1 is amended by deleting “Clause b.” in its entirety and renumbering the clauses accordingly.

Rationale: *The provisions under F.11.2.1 establish exemptions from the need for a development permit. Clause “a” requires a biologist to certify the absence of a sensitive ecosystem for the area of development. Clause “b” establishes a similar exemption if staff perform a site visit. As such, why would a proponent contract with a biologist if staff can do a similar assessment? It seems unusual to have staff perform an assessment comparable to one that would normally be done by a biologist.*

=====

Section 2: motions to add new instructions to bylaw 307

Motions: that “Gabriola Island Land Use Bylaw, 1999, Amendment No. 1, 2020” is amended as follows:

11. Motion:

Add new Instruction 1.9 as follows:

1.9 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 Site Specific Zones

B.1.4.1 The Multi-dwelling Affordable Housing (MAH) zone is only applicable to the following lots:

- a. LOT 1 SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP 11544 (PID 028-580-095); and
- b. LOT 2 SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP11544 (PID 028-580-109).

B.1.4.2 In the Multi-dwelling Affordable Housing zone, subject to Article B.1.4.3, multi-dwelling affordable housing means three or more residential dwelling units on a parcel that are:

- a. owned by a not-for-profit society or government,
- b. restricted to affordable housing,
- c. governed by a housing agreement, and
- d. occupied by one or more of the following groups:
 - i. Special Needs residents.
 - ii. Seniors,
 - iii. Low to moderate income families.

B.1.4.3 A Multi-dwelling Affordable Housing development housing agreement may include a specified number of market rental housing units, as set out in the housing agreement to that development.”

Rationale: *Article B.1.4.1 establishes the new zone as specific to the lots as per the April 13, 2020 Resolution without meeting (RWM) Motion that directed staff to establish a “site-specific” zone for the Housing Society application. Article B.1.4.2 provides a site-specific definition of multi-dwelling affordable housing for the zone. Article B.1.4.3 allows for market rental housing in the*

zone as per the Gabriola Housing Society proposal. In addition, the Background section of section 2.4 of the OCP as amended (see below) anticipates any future Multi-dwelling Affordable Housing developments will require a new designation and zone.

OCP 2.4 extract as amended:

“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). Future applications to designate a site for Multi-dwelling Affordable Housing shall be evaluated in terms of their compliance with the objectives and policies of this section and will require a new land use designation and zone at that time.”

12. Motion:

Add new Instruction 1.10 as follows:

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

Rationale: *Clause B.3.3.1.b permits home occupations in accessory building. This section overrides all other provisions in the Bylaw, hence the exclusion of its application to the MAH zone is necessary to permit the new Article B.3.1.3 established under Motion #16 below to operate. The Housing Society has indicated home occupation uses would be limited to occurring in dwellings.*

13. Motion:

Add new Instruction 1.11 as follows:

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

“m. In the Multi-dwelling Affordable Housing zone, the total floor area for home occupation use must not exceed **10%** of the total floor area of the dwelling unit in which the home occupation occurs.”

NOTE: “10%” adequacy still to be determined.

Rationale: *Clause B.3.3.1.b establishes a maximum floor area for home occupations based on lot size and does not address floor areas for multiple dwellings on a lot. If unchanged the maximum floor area for all dwellings on a lot are capped at 95 square metres. Providing a lot maximum would be difficult for the Housing Society to monitor overall or uphold. Providing a maximum per dwelling is easier to monitor and would avoid issues of priority for each operator, changes to size of operations etc.*

14. Motion:

Add new instruction 1.12 as follows:

- 1.12 Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.1 Home**

Occupations is amended by adding the following Article:

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

Rationale: *Amendment provides clarity that home occupations may only occur within the dwelling unit.*

15. Add new Instruction 1.13:

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**”.

Rationale: *Amendment is consequential to Motion #14. As all of B.3.3.1 overrides all other provisions of the Bylaw, if unchanged, arts and crafts may be sold on site despite the new provision B.3.2.2 which precludes sales on site. By adding in “permitted in the zone” the zone must specifically allow for produce stands which the MAH zone does not include.*

B.3.3.1 uses the phrase “despite any other provision in this Bylaw”. This is a broad power to override any other provision that addresses a topic under B.3.3.1.

PART TWO: LAND USE BYLAW WITH AMENDMENTS INCORPORATED

The following is a selection of provisions affected by amendments and include other related provisions in order to indicate how the provisions would read and operate.

LUB as it would read if amendments are implemented:

B.1.4 Site Specific Zones

B.1.4.1 The Multi-dwelling Affordable Housing (MAH) zone is only applicable to the following

lots:

- a. LOT 1 SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP 11544 (PID 028-580-095); and
- b. LOT 2 SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP11544 (PID 028-580-109).

B.1.4.2 In the Multi-dwelling Affordable Housing zone, subject to Article B.1.4.3, multi-dwelling affordable housing means three or more residential *dwelling units* on a *lot* that are:

- a. owned by a not-for-profit society or government,
- b. restricted to *affordable housing*,
- c. governed by a housing agreement, and
- d. occupied by one or more of the following groups:
- e. Special Needs residents.
- f. Seniors,
- g. Low to moderate income families.

B.1.4.3 A Multi-dwelling Affordable Housing development housing agreement may include a specified number of market rental housing units, as set out in the housing agreement to that development.”

B.3 HOME OCCUPATIONS

B.3.1 Home Occupations

- B.3.1.1** *Home occupation* uses must be carried out by at least one permanent resident of the premises in which the *home occupation* is located;
- B.3.1.2** A permanent resident of the premises where the *home occupation* is located must be the principal worker and operator of the *home occupation*.
- B.3.1.3** *Home occupation* uses in the Multi-dwelling Affordable Housing (MAH) zone may only occur within the *dwelling unit* of the principal operator.

B.3.2 Permitted Home Occupations Uses

B.3.2.1. The following uses and no others are permitted as *home occupations*

- a. Bed and Breakfast;

- b. Personal service, and limited associated product sales provided that not more than 5 square metres (53.8 square feet) of floor area is used for the storage and display of such products not produced on the same lot;
- c. Construction and repair of electronic equipment, instruments, furniture, bicycles, engines and mechanical parts, small appliances and machinery, and apparel;
- d. Business and professional offices;
- e. Child care, with a maximum of 12 children on the lot at any given time;
- f. Cabinet making, upholstering, picture framing, and related repairing;
- g. Catering and food preparation for delivery elsewhere, with delivery occurring between the hours of 8 a.m. and 6 p.m.;
- h. Animal training and grooming, not including kennels;
- i. Veterinary clinic on lots larger than 2.0 ha (4.94 acres);
- j. Non-motorized personal water craft rentals and bicycle rentals;
- k. Instructional classes in personal skills such as art, music, exercise or sport with a maximum of 12 students on the lot at any given time;
- l. Sale and production of art and craft goods produced or processed on the lot, for clarity this excludes the sale of water;
- m. Sale of art and crafts not produced or processed on the lot is permitted in a studio or gallery, provided that not more than 9.3 square metres (100 square feet) of floor area may be used for the storage and display of such art and crafts that have not been produced on the same lot;
- n. Sale of all other goods not produced or processed on the lot is permitted through a sales distributorship, provided persons employed in the home occupation carry out all distribution of such products off site;
- o. Small scale wood working, shed construction and boat building, which does not involve or require the use of cranes or other heavy equipment;
- p. Live theatre, on Lot 5, Plan 29233, Section 6, Gabriola Island, Nanaimo District [*Theatre Centre*]; and,
- q. Home industry.

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 (MAH) 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.

B.3.3 General Provisions

B.3.3.1. Despite the uses permitted in Article B.3.2.1, or any other provision in this Bylaw, the following must be complied with for a *home occupation* to be permitted:

- a. *Home occupations* must be accessory to the *residential* use of the property;
- b. *Home occupations, except in the Multi-dwelling Affordable Housing (MAH) zone*, must be entirely enclosed within a *building*, providing the combined total floor area for *home occupation* uses on a lot do not exceed 95 square metres (1,023 square feet), except on lots greater than 2.0 hectares (4.95 acres), where the total combined floor area of *home occupation* uses may not exceed 150 square metres (1,615 square feet),
- c. There must be no exterior indication of the existence of a *home occupation*, either by stored materials, displays, lighting or by any other variation from the customary residential character of the lot, dwelling unit, or *accessory* building, with the exception of signs permitted by this Bylaw;
- d. No *home occupations* may produce vibration, smoke, dust, odour, litter, electrical interference, fire hazard, effluent or glare detectable outside the boundaries of the lot;
- e. No *home occupation* may create or permit noise which disturbs persons, or is clearly audible, off the lot on which the home occupation is conducted;
- f. No *home occupation* may result in contamination of any soil or surface water by solvents, glues, chemicals or other substances deleterious to human and environmental health and safety;
- g. Any paved areas used for vehicle, engine, equipment, appliance and vessel construction or repairs must have appropriate and maintained drainage and catchment mechanisms, such as oil-water separators. Any unpaved areas used for vehicle, engine, equipment, appliance and vessel construction or repairs must be protected by an impervious barrier or container to prevent any spill onto or contamination of the unpaved area.
- h. On site parking must be: (i) provided for all *home occupations* in accordance with Section B.5 of this Bylaw; (ii) located on the lot where the home occupation is located; and (iii) visually buffered from neighbouring properties and the road;
- i. 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 (MAH) zone, and then no signage is permitted.;
- j. Child care *home occupations* may use outdoor space for play areas, provided that the maximum combined areas of all *home occupations* on the lot are in accordance with Clause B.3.3.1.b.;
- k. Kilns are permitted outside of a building; and
- l. Despite B.3.3.1.b. and c., agricultural, horticultural, arts and crafts products may be sold in a produce stand **permitted in the zone**.
- m. In the Multi-dwelling Affordable Housing zone, the total floor area for *home occupation* uses must not exceed **10%** of the total floor area of the *dwelling unit* in which the *home occupation* occurs.

B.3.5 Employees

B.3.5.1 In addition to residents participating in the *home occupation*, on lots:

- a. less than 2.0 hectares (4.94 acres), a maximum of two people employed or otherwise engaged in the *home occupation* at any given time are permitted per lot; and
- b. 2.0 hectares (4.94 acres) or larger, a maximum of four people employed or otherwise engaged in the *home occupation* at any given time are permitted per lot.

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

D.1.4 Multi-dwelling Affordable Housing (MAH)

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 (MAH) zone:

a. Permitted *Principal* Uses

- i multi-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 (MAH) zone:

a. Permitted *Buildings* and *Structures*

- i *Multiple family dwellings* to a maximum of 12 *dwelling units* per hectare (4.85 units per acre) and a maximum of 24 *dwelling units* per development.
- 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 a *dwelling unit* 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 (MAH) zone:

a. *Building* and *Structure* Height Limitations

- i The maximum *height* of *buildings* and *structures* is 9 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 structures 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 With the exception of consolidation of two or more *lots* into a single *lot*, subdivision of lands within the Multi-dwelling Affordable Housing (MAH) zone is prohibited.
- ii 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 (MAH) zone shall be limited to *residential rental tenure*.

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;
- 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. Tree limbing or tree topping, unless the work can reasonably be expected to result in the death and removal of the tree and root system;
- 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.

Definitions:

<i>dwelling – single family</i>	a detached <i>building</i> consisting of one <i>dwelling unit</i> ;
<i>dwelling - multiple family</i>	a <i>building</i> consisting of three or more <i>dwelling units</i> with common or individual cooking facilities;
<i>single family</i>	one or more persons living as a single household;

affordable housing	housing that costs no more than 30% of a household's total gross income applied to those households with incomes at or below the median household income for Gabriola Island (using Canada Census information);"
residential rental tenure	means the granting of a right to occupy a <i>dwelling unit</i> as living accommodation where the minimum occupancy period is monthly, 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> ;"

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	_____	DAY OF	_____	202x
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.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 (MAH) 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 *elsewhere*, 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.”

1.2 **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 (MAH) zone, and then no signage is permitted.”

1.3 **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 (MAH) zone, home occupations must be operated solely by residents of the dwelling unit in which the home occupation occurs.”

1.4 **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 <i>Signs</i> Permitted	Maximum Total <i>Sign Area</i> Permitted
Residential Zones		
MAH	2 per <i>lot</i>	4.0 sq.m. (43.0 sq.ft.) per <i>lot</i>

- 1.5 **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 "MAH Multi-dwelling Affordable Housing" after "SSN Seniors and Special Needs".
- 1.6 **Part D - ZONES**, Section **D.1 RESIDENTIAL ZONES**, insert new Subsection D.1.4 Multi-dwelling Affordable Housing (MAH) after Subsection **D.1.3 Seniors and Special Needs (SSN)** as shown on **Appendix 1** attached to and forming part of this bylaw.
- 1.7 **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.
- 1.8 **Part G - DEFINITIONS**, Section **G.1 DEFINITIONS**, is amended by adding the following definitions in alphabetical order:

"affordable housing housing that costs no more than 30% of a household's total gross income applied to those households with incomes at or below the median household income for Gabriola Island (using Canada Census information is a deed restricted and/or rent controlled dwelling unit that is secured by a housing agreement registered on title;

~~*dwelling, two family*~~ ~~*a building consisting of two dwelling units;*~~

residential rental tenure means the granting of a right to ~~occupant~~ occupy a dwelling unit as living accommodation where the minimum occupancy period is ~~thirty consecutive days~~ monthly, and where the dwelling unit is not owned by a dwelling unit occupant, but where regular payments are made to the owner for the use of the dwelling unit;"

- 1.9 **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 Site Specific Zones

B.1.4.1 The Multi-dwelling Affordable Housing (MAH) zone is only applicable to the following lots:

- a. LOT 1 SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP 11544 (PID 028-580-095); and
- b. LOT 2 SECTION 19 GABRIOLA ISLAND NANAIMO DISTRICT PLAN EPP11544 (PID 028-580-109).

B.1.4.2 In the Multi-dwelling Affordable Housing zone, subject to Article B.1.4.3, multi-dwelling affordable housing means three or more residential dwelling units on a parcel that are:

- a. owned by a not-for-profit society or government,

- b. restricted to affordable housing,
- c. governed by a housing agreement, and
- d. occupied by one or more of the following groups:
 - i. Special Needs residents.
 - ii. Seniors,
 - iii. Low to moderate income families.

B.1.4.3 A Multi-dwelling Affordable Housing development housing agreement may include a specified number of market rental housing units, as set out in the housing agreement to that development."

1.10 Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3 General Provisions, Clause B.3.3.1.b. is amended by adding the words ", except in the Multi-dwelling Affordable Housing (MAH) zone," immediately after the opening words "Home occupations"

1.11 Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3 General Provisions, Article B.3.3.1 is amended by inserting clause "m" as follows:

"m. In the Multi-dwelling Affordable Housing zone, the total floor area for home occupation use must not exceed 10% of the total floor area of the dwelling unit in which the home occupation occurs."

1.12 Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.1

Home Occupations is amended by adding the following Article:

"B.3.1.3 Home occupation uses in the Multi-dwelling Affordable Housing (MAH) zone may only occur within the dwelling unit of the principal operator."

1.13 Part B - GENERAL REGULATIONS, Section B.3 HOME OCCUPATIONS, Subsection B.3.3

General Provisions, Article B.3.3.1, Clause "l)" is amended by adding the words "permitted in the zone" immediately after the word "stand".

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.

- 2.3 Schedule “B” – North Sheet, is amended by changing the zoning classification on those land areas 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 (MAH)

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 (MAH) zone:

a. Permitted *Principal* Uses

- i ~~multiple family dwelling affordable housing~~ multi-family residential
- ii ~~two family dwelling affordable housing~~

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 (MAH) zone:

a. Permitted ~~Land-Based~~ *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~~ development.
- ii Three *buildings* per lot that exclude a *pump/utility house*, woodshed and garden shed, and that are *accessory* to all *dwelling units*.
- lii 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 (MAH) zone:

a. *Building and Structure Height Limitations*

- i The maximum *height* of land-based *buildings* or *structures* is ~~12.0~~ 9.0 metres (~~39.4~~ 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 With the exception of consolidation of two or more *lots* into a single *lot*, subdivision of lands within the Multi-dwelling Affordable Housing (MAH) zone is prohibited.
- li 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 (MAH) 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. Activities on land in respect of which there has been a determination by Islands Trust staff upon site inspection that the land subject to the proposed work does not contain a sensitive ecosystem;~~
 - c. 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;
 - d. Manual removal of invasive species;
 - e. Manual planting of native vegetation conducted in accordance with best management practices;
 - f. 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.
- g. 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;
- h. Ecological restoration and enhancement projects undertaken or authorized by a public body;
- i. 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;
- j. Tree limbing or tree topping, unless the work can reasonably be expected to result in the death and removal of the tree and root system;
- k. The removal of trees that have been examined by an arborist and certified to pose an immediate threat to life or property;
- l. 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;
- m. Works undertaken by a local government or a body established by a local government;
- n. 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
and Islands Trust Northern Office Staff
700 North Road
Gabriola Island, BC V0R 1X3

September 9, 2020

RE: CORRECTED TABLE 3 - Housing Agreement Background Information

The Gabriola Housing Society (GHS) has proposed to rezoning and concurrent OCP amendment of Lot 1 and Lot 2 on Paisley Place for a 24 unit affordable rental housing development. As per the OCP policies, a Housing Agreement is necessary to specify the affordable housing outcomes – e.g. rents and tenant eligibility. This letter summarizes important background information that is requested by Island Trust's Guide to Housing Agreements.

The Guide indicates that the purpose of a Housing Agreement is to “ensure affordability for current and future renters and owners.” However, it is GHS's responsibility to ensure affordability through obtaining appropriate funding and financing, operating the building effectively and managing its finances prudently over the long term. The Housing Agreement will be an Agreement between the GHS and the Island Trust that specifies the minimum commitments to rents levels and tenant eligibility that GHS is able to make in the context of the financial reality of delivering affordable housing. The Housing Agreement provides the Gabriola Island community and Islands Trust some certainty as to the likely outcomes that will result from OCP amendment, rezoning and Housing Agreement, provided the GHS is successful in attracting the affordable housing investments to the community; without the Islands Trust approvals the GHS cannot attract this investment.

The GHS will also enter into Operating Agreements with BC Housing and CMHC related to their capital funding, the GHS commitment to the rent structure of their programs, reporting requirements and other obligations. These Agreements are linked to forgivable mortgages and foreclosure / takeover options in the case of non-compliance or financial issues. This allows BC Housing (CMHC doesn't have a housing operations branch) to take on ownership and / or find another non-profit entity capable of taking on the project.

Gabriola Housing Society

The GHS was formed in 2013 by members of the Gabriola community as a result of significant community discussion about the increasing challenge for Gabriolans to find and retain housing they could afford. At one time, affordable housing was mostly a challenge for those with quite low incomes. Increasingly, however, this challenge extends to Gabriolans with modest incomes as well. The data is definitive; the lack of affordable housing is getting worse in communities across BC and Canada. GHS efforts are one part of what needs to be a multi-faceted approach to meeting affordable housing needs on Gabriola .

With our knowledge of the needs for affordable rental housing on Gabriola, we established a broad framework for our first affordable housing project:

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

GUIDING PRINCIPLES:

- *Build healthy and efficient homes.*
- *Build homes near services and public transportation routes.*
- *Respect the natural settings and limits of the development sites.*
- *Provide affordable housing for a mix of Gabriolans to encourage a sense of community.*
- *Keep rents affordable with modest development and operational costs.*

Project Context

The proposed use is 24 units of below-market rental housing, the majority of which will be rented to those with low-incomes. Some of the units will be rented as affordable market rent to tenants with more moderate incomes. This mix of units makes sense for a number of reasons:

- Both BC Housing and CMHC affordable housing funding programs include a mixed income approach; the more moderate rents help to balance out the lower revenues associated with lower rents.
- As was documented by the Island Trust Northern Region Housing Needs Assessment there is a need for affordable rental housing – e.g. rents that are no more than 30% of income – for both low and moderate income households
- Mixed-income developments foster a greater diversity of households, strengthen the sense of community within the development and avoids the ghettoization of low-income rentals.

Funding Programs and Target Rent Structure

As is illustrated in the following financial summary, providing affordable housing is not possible simply with private equity and debt financing. Both the BC Government and Federal Government have affordable housing programs that are investing in new affordable housing and these programs are the target of the GHS. With support from these funding programs we are estimating average rents for 24 units to be \$804 per month. Without these funding programs, but with the free land and the same GHS fundraising, average rents would have to be at least \$1710 per month.

BC Housing Community Housing Fund

This program provides capital funding and limited operational subsidy for rental housing focused primarily on seniors and families. The rent structure is based on a household mix that is 20% Deep Subsidy paying 30% of household income (maximum income about \$25,000; BC-wide data), 50% Rent Geared to 30% of household income (maximum income about \$35,000 to \$53,500 depending on unit size; Nanaimo data) and 30% Affordable Market Rent that is set at average market rents (as compared to market rents for new rental housing) (maximum income about \$74,000 to \$113,000 depending on units size).

Table 1. Paisley Place Preliminary Target Rent Structure

	Studio	1 bedroom	2 bedrooms	3 bedrooms
Deep Subsidy	\$375	\$375	\$570	\$630
Rent-Geared-to-Income (expected average)	\$550	\$639	\$765	\$971
Affordable “Market” Rents (preliminary estimate)	\$850	\$975	\$1,200	\$1,500

CMHC Co-Investment Fund

This program provides limited capital funding (likely no more than 2.5% of the Capital Budget) and can be combined with the BC Housing Community Housing Fund. The Co-Investment Fund is designed to be paired with other funding (hence the “Co”), but offers very low interest and long amortization mortgage financing that provide significant financial benefit.

Financial Summary

Table 1 summarises our current Class D budget estimate for an \$8.2 million project budget. As GHS works with the project architect, design team and construction manager Class C, Class B and eventually fully tendered capital budgets will be developed. Through the donation of land and GHS fundraising activities GHS is contributing 12.7% of the capital budget. Capital funding from BC Housing and CMHC is expected to account for 36.5% of the capital budget.

Table 2. Capital Budget and Funding

Capital Costs			Project Capital Funding		
Land Value	\$ 800,000	10%	Donated Land	\$ 800,000	9.7%
Construction Costs	\$ 4,703,250	57%	GHS Fundraising	\$ 250,000	3.0%
Soft Costs	\$ 627,850	8%	BC Housing Contribution	\$ 2,800,000	34.0%
Servicing	\$ 718,000	9%	CMHC Contribution	\$ 206,000	2.5%
Fees	\$ 54,200	1%	Total Contributions	\$ 4,056,000	49.2%
Financing and Legal	\$ 302,500	4%	Total Mortgage	\$ 4,184,500	50.8%
GST	\$ 180,000	2%			
Contingencies	\$ 854,700	10%			
Total	\$ 8,240,500				

Table 3 outlines how with this funding structure, operating expenses and anticipated financing, GHS will require a \$30,000 to \$116,500 annual operating subsidy. If GHS is successful in attracting both BC Housing and CMHC support then the operating subsidy is lower and over the medium to longer term GHS may be in position to either a) lower rents or b) invest in other affordable housing projects. It is worth noting that if a program existed to exclusively support the rent-geared-to-income average rents then we would need *more* capital funding (\$4.4 to \$5.5 million) or similar capital funding and increased operational subsidies to provide these rents.

Table 3. Operational Budget – BC Housing or CMHC Financing Scenarios

BC Housing Financing	Monthly	Yearly	CMHC Financing	Monthly	Yearly
Gross Rents	\$ 19,337	\$ 232,044	Gross Rents	\$ 19,337	\$ 232,044
Operating Expenses	-\$ 9,600	-\$ 115,200	Operating Expenses	-\$ 9,600	-\$ 115,200
Mortgage	-\$ 19,440	-\$ 233,280	Mortgage	-\$ 12,225	-\$ 146,696
Operating Subsidy - BC Housing	\$ 9,703	\$ 116,436	Operating Subsidy - BC Housing	\$ 2,488	\$ 29,852
Net	\$ -	\$ -	Net	\$ -	\$ -
Note: BC Housing Mortgage is 35 years, 4% interest			Note CMHC Mortgage is 50 years, 2.5% interest		
Note: To eliminate the subsidy an additional \$2.190 million in capital funding is required			Note: To eliminate the subsidy an additional \$850,000 in capital funding is required		

Operation Structure

The GHS will employ part time staff or contractors to manage operations. This includes selecting tenants, annual income testing and reporting, collecting rents, managing tenant issues and concerns, maintaining building policies, move-in and move out procedures, building and grounds maintenance, managing the water system and septic system, 24 hour on-call for emergencies, accounting, annual budgeting and BC Housing approvals, and initiating capital refurbishment projects. Operations costs are budgeted to be \$9600 a month and also include property taxes, insurance and utility fees.

Where rents are linked to household income, they will be adjusted on a yearly basis based on the households previous year's tax return and other financial information. Where the rents are Affordable Market Unit rents, rents will be raised on a yearly basis as per the limits imposed by the Residential Tenancy Act. This allows the GHS to keep up with the rising operating costs and is the requirement of BC Housing and CMHC programs.

Housing Agreement Summary

The intent of the proposed amendments to the Islands Trust Housing Agreement template is to provide a base commitment to affordable housing outcomes. At the same time, linking aspects of tenant eligibility to Affordable Housing Funder requirements allows those requirements to be imposed without upsetting the Housing Agreement. Given the substantial level of financial support and provincial or national scale of the programs, the GHS is not in a position to negotiate a Gabriola Island specific set of requirements.

Specifically the Housing Agreement amendments,

- Link certain items to “Affordable Housing Funders”, like BC Housing and CMHC, who will not vary their requirements for a Gabriola Island housing project.
- Link tenant eligibility to the BC Housing Housing Income Limits (HILs). These are defined annually by BC Housing and are used by BC Housing to define who is eligible for much of their affordable housing including the Rent-Geared-to-Income (RGI) units in the Community Housing Fund.

- Specifying that “Affordable Market Units” are allowed only when an Affordable Housing Funder is providing grants or preferential financing to support Affordable Housing. This means that GHS can’t just build a project of market housing, but requires there to be a link between the Affordable Market Units and provision of more deeply affordable housing units.
- Exempts Affordable Market Units from the 30% rule since these unit types will only have income testing at move-in and the rent amount may exceed 30% at some point during a tenancy.
- Specifies that at least one Qualified Occupant must be in each unit, except where no Qualified Occupant can be found then it defaults to the requirements of the Affordable Housing Funder. A Qualified Occupant is defined as:

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 for a minimum of one year; or*
- ii) Has been commuting to Gabriola 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 in clause i, ii or iii who make an application to rent an available unit and the lack of applications would result in the 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:

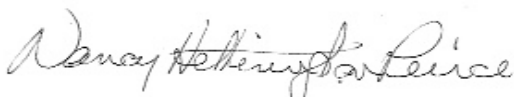
- a. Previous resident of Gabriola who has lived away from the island for a maximum of three consecutive years; or*
- b. Non-resident who is hired to begin at least half-time work (20 hours per week) on Gabriola; or*
- c. A person who has worked at least half-time on Gabriola (20 hours per week) for less than one year; or*
- d. Person with immediate family already living on Gabriola. Immediate family 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 who make an application to rent an available unit and the lack of applications would result in a unit being vacant for more than one month, then a Qualified Occupant may be any person permitted by an Affordable Housing Funder.

Conclusion

The GHS trusts that this letter provides some additional important background, context and explanation of the financial and operational structure of the Paisley Place project, and clarifies the rationale for the proposed Housing Agreement amendments. We look forward to working with Islands Trust staff and Trustees to finalize a mutually acceptable Housing Agreement.

Cordially,



Nancy Hetherington Peirce
Board Chair, Gabriola Housing Society

Housing Agreement and Section 219 Covenant

THIS AGREEMENT DATED FOR REFERENCE THE [day] OF [month], [year] 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

commonly known as Paisley Place, (the "Lands");

- B. The Lands have been rezoned by the Gabriola Island Local Trust Committee by means of Gabriola Island Land Use Bylaw 2020 Amendment No. 1 to permit the development of an affordable rental housing development;
- C. The Gabriola Housing Society ("Owner") intends to rent the units on the Lands, by way of a rental agreement, at an affordable rate to Qualified Occupants (as defined in Section "a");
- D. 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;

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- E. 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;
- F. 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
- G. 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 unit on the Lands in respect of which the construction, tenure, rental and occupancy are restricted in accordance with sections b through hh of this Agreement;

“Affordable Market Unit” means a unit on the Lands where the rental price is linked to market conditions on Gabriola or the Nanaimo region. the rental rate is approved by an Affordable Housing Funder and the provision of Affordable Market Units supports occupancy by households that meet the criteria in section c, bullet i;

“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;

“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;

“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;

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Deleted: [insert unit type here (e.g. Apartment, single family dwelling, suite etc.)]

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Deleted: “CPI” means the All-Items Consumer Price Index for British Columbia as calculated by Statistics Canada, or its successor in function.¶

¶ “Dispose” means to transfer by any method, and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, rent or sublet, divest, release and agree to do any of those things.¶

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“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 a Rental Unit, as set out in Section “c” Affordable Rental Housing Eligibility of this Agreement;

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

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

c. Affordable rental housing eligibility - The Owner covenants and agrees that rental units 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 residence.
- iii. the household is comprised of at least one Qualified Occupant.

and The Owner covenants and agrees to:

- iv. include in every rental agreement a prohibition on subletting, including short-term vacation rentals, and a provision entitling the owner to terminate the rental 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 rental agreement entered into in respect of any Affordable Housing Unit within 10 days of any request to do so;
- vi. specify in every rental 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 a Rental Unit dies, that

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Deleted: “Moderate Income” means an annual income that is less than 90% of the median income of the [area] Electoral Area calculated from the most recent census data published by Statistics Canada and as adjusted annually by the Yearly CPI Change. ¶

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individual's Spouse or adult child residing in the Rental Unit at the time of the Qualified Renter's death may continue to rent the Rental 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;
- ii. not require any tenant under a rental 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. Order to Comply – If the owner is in default of the performance or observance of this Agreement, the Trust Committee may give the Society a notice of default requiring the Society to comply with this Agreement within the time stated in the notice. The Society 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 society by the Trust Committee. .

f. Statutory Declaration from Society – 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 Society, in relation to the affordable rental units. The Society irrevocably authorizes the Trust Committee to make inquiries it considers necessary and reasonable in order to confirm compliance with this Agreement.

g. Management – The Society 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 Society.

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

i. [If applicable – Society Standing] – The Society must maintain its standing as a society under the *Society Act*, and must not amend its Constitution in any manner that would prevent, or adversely affect, the ability of the Society to perform its obligations under this Agreement.]

j. Specific Performance of Agreement – The owner agrees that the Trust Committee is entitled to

Deleted: c. [If applicable: Not allow the monthly payment amounts for a rental unit to exceed those amounts shown in the following table, provided however that the Owner may adjust the maximum monthly payment every year in accordance with prevailing, with notice to the Local Trust Committee of the amount of adjustment:]

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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.

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- k. **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 Society.
- l. **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 Society or its officers, directors, employees, agents or contractors or any other person for whom the Society is at law responsible, including breaches of this Agreement.
- m. **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 Society of its obligations under this Agreement, or the enforcement of this Agreement.
- n. **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 Society from complying with any enactment.
- o. **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.
- p. **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.
- q. **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 *Commercial Arbitration Act* of British Columbia.
- r. **Notice on Title** – The Society 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 housing agreement against title to the Lands.

- s. **Covenant Runs with the Land** – Every obligation and covenant of the Society in this Agreement constitutes both a contractual obligation and a covenant granted by the Society 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 Society'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.
- t. **Limitation on Owner's Obligations** – The Society is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Lands.
- u. **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 Society.
- v. **Notices** – Any notice required to be given pursuant to this Agreement shall be in writing and shall be given to the Society or the Trust Committee, as the case may be, at the address first above written, or to any other address of which either the Society 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.
- w. **Enurement** – This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns.
- x. **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.
- y. **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 Society shall not discharge or relieve the Society 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.
- z. **Joint and Several** – In the case of more than one owner, the grants, covenants, conditions, provisions, agreements, rights, powers, privileges and liabilities of the Society shall be construed and held to be several as well as joint.
- aa. **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.

bb. Governing Law – This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia.

cc. 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.

dd. Time of Essence – Time is of the essence in this Agreement.

ee. 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.

ff. Priority – The Society agrees to do everything necessary at the Society'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.

gg. 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
WITH THE XXX ISLAND LOCAL TRUST
COMMITTEE ("Housing Agreement")

PROVINCE OF BRITISH COLUMBIA

I, _____

declare that:

1. I am the _____ [director, officer, employee] of the [Owner's], 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

Deleted: Maximum Monthly Rent

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 for a minimum of one year; or
- ii) Has been commuting to Gabriola 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 in clause i, ii or iii who make an application to rent an available unit and the lack of applications would result in the 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 who has lived away from the 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; or
- c. A person who has worked at least half-time on Gabriola (20 hours per week) for less than one year; or
- d. Person with immediate family already living on Gabriola. Immediate family 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 who make an application to rent an available unit and the lack of applications would result in a unit being vacant for more than one month, then a Qualified Occupant may be any person permitted by an Affordable Housing Funder.