



**GALIANO ISLAND
LOCAL TRUST COMMITTEE
BUSINESS MEETING AGENDA
TO COMMENCE AT 12:30 PM, JULY 15, 2013
AT THE SOUTH COMMUNITY HALL
141 STURDIES BAY ROAD, GALIANO ISLAND, B.C**

LATE ITEMS

8. CORRESPONDENCE

- 8.2 Email Dated July 8, 2013, from Parks & Rec Commission re:
Bike Trails & Camping (attached)**

9. APPLICATIONS, PERMITS, BYLAWS AND REFERRALS

- 9.5 GL-DP-2013.3 (Stewart c/o Cochrane) (attached)**
- 9.6 Memo Re: Chair Signing Authority for Covenant (attached)**

From: [Elizabeth Kennedy](#)
Sent: Monday, July 08, 2013 11:09 AM
To: [Louise Decario](#)
Cc: [Sandy Pottle](#)
Subject: Bicycle trails



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July 8, 2013

Trustees, Louise Decario and Sandy Pottle

Dear Louise and Sandy ,

The members of the Parks and Recreation commission attended the North Island Jamboree on July 1, 2013. We were soliciting opinions about what the Commission should do in the next five years – part of the process of producing a new Master Plan.

Because we were asking people for their opinions about a list of seven items, we, in addition, received a number of comments and suggestions about a number of items which are not part of our responsibility. Of these, there were two that impact your role as trustees. The first was a request for places to camp – in general are you in favour of some basic camping (not commercial campgrounds) being established provided maintenance and appropriate sanitary arrangement etc. can be made? The second was for bike trails. Interestingly enough, this was made by both potential users and by motorists who were concerned about the safety issues.

We realize that bike trails are not something you can fund, but we are aware of funds – \$1.2 million – being granted to Saltspring for a trail that would be used by both pedestrians and bicycle riders. I understand that the money came from the CRD who received it from the federal gasoline tax revenues.

After the comments we have received and from our own observations, large groups of cyclists travelling on our narrow roads especially the portion of the Sturdies Bay Road from the wharf to the Corner Store are a danger to themselves and also to motor traffic attempting to pass or overtake them. We note in passing that you have adopted transportation advocacy policies (Policy U of Transportation section 1.1) that provide quite strong instruction in this respect.

"The LTC supports the development of a bicycle path network, and the Ministry of Transportation and Infrastructure should consider the creation of bicycle paths within existing highway dedications. As a priority, particular focus should be placed on the Sturdies Bay road. "

We therefore would like to offer you our support should you decide to pursue with the CRD the establishment of trails and in the application for a special grant.

Yours sincerely,

Betty Kennedy, Chair GIPRC.



STAFF REPORT

July 11, 2013

File No.: GL-DP-2013.3
(Stewart co Cochrane)

To: Galiano Island Local Trust Committee

From: Kim Farris, Planner 1

CC: Robert Kojima, Regional Planning Manager
Kris Nichols, Island Planner

Re: Development Permit with Variance

Owner: Donald Stewart & Marilyn Stewart
Applicant: Rob Cochrane, Fraser River Pile & Dredge (GP) Inc.
Location: Gossip Island

THE PROPOSAL:

This application is for development within the Shoreline and Marine Development Permit Area (DPA) for the purpose of constructing a rock revetment structure as a shoreline erosion control measure. The 50 lineal metres of rock revetment structure will be located above the natural boundary of the sea and within the 7.5 metre setback from the natural boundary of the sea. The rock revetment structure will consist of soft and hard materials due to the high energy wave action along the shoreline. The structure will consist of clean rock, topsoil, a non-woven geotextile (filter cloth), and planting of native vegetation. The revetment will help to stabilize the shoreline and support vulnerable mature trees.

The applicant proposes to barge in an excavator and all materials required to construct the rock revetment structure. The rocks will be offloaded from the barge and located on specific storage areas along the foreshore during high tide. During low tide, the rocks will then be placed by an excavator between the toe of the slope and extend towards the top of the slope. The excavator will be located in the foreshore on large pads to avoid negative impacts to the surrounding environment. The applicants propose to line the gap between the top of the rock revetment and the existing natural vegetation with filter cloth and topsoil to maintain and protect the existing vegetation and to facilitate drainage.

The 5 metre wide rock revetment work will be completed during low tides and will follow the DFO best management practices for shoreline erosion control measures. The placement of the rock is expected to take 2 to 3 days and all materials used will be clean to eliminate any sediment dispersal. Beach logs will be temporarily removed along the shoreline and will be replaced in front of the seawall once complete. The applicant has provided a professional report to satisfy the requirements of the Shoreline and Marine Development Permit Area. The professional report is attached to the staff report and will be available online. A draft development permit is also attached.

SITE CONTEXT:

The subject property is located on the eastern tip of Gossip Island, to the east of Galiano Island. The lot is approximately 0.43 ha (1.07 acres) in area and is zoned Single Lot Residential (SLR). Similar SLR zoned parcels border the subject property to the west and a majority of the property is bordered by shoreline. The property contains a log house and multiple out buildings. The property is vegetated with mature forest and blue-listed Juniper plants have been identified on the property. A rocky point extends eastward off the property which is fully submerged during high tide.

Figure 1: Subject Property Map

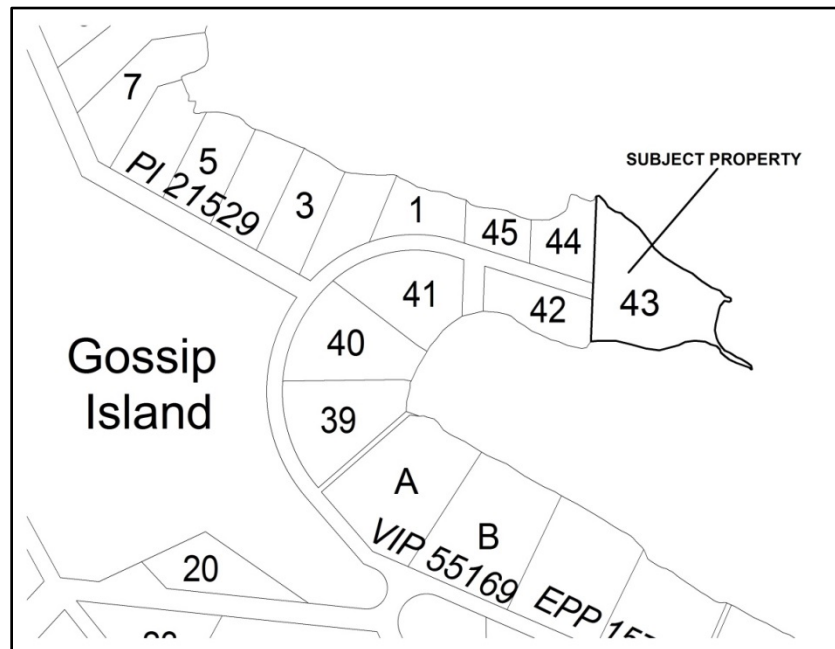
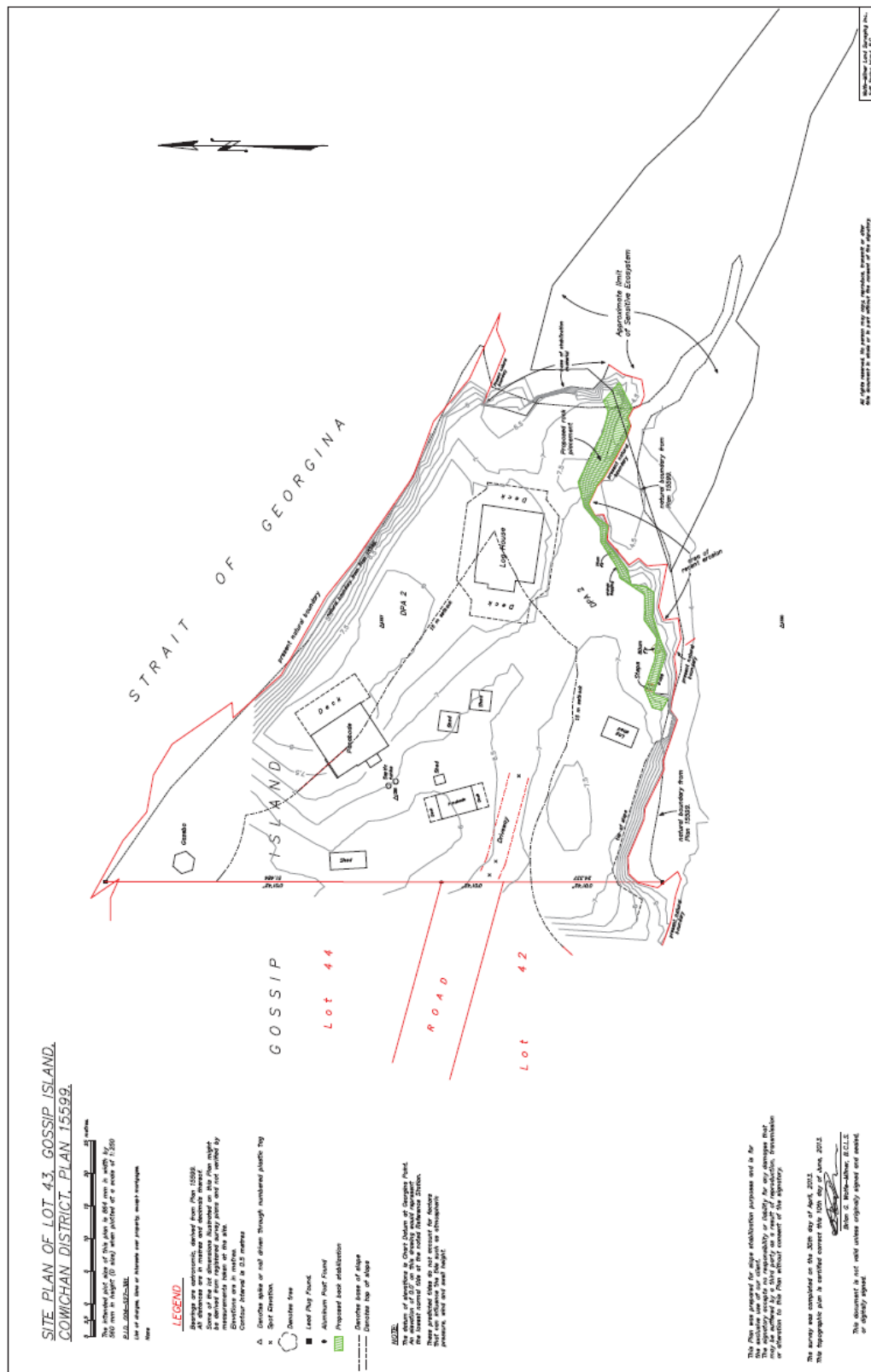


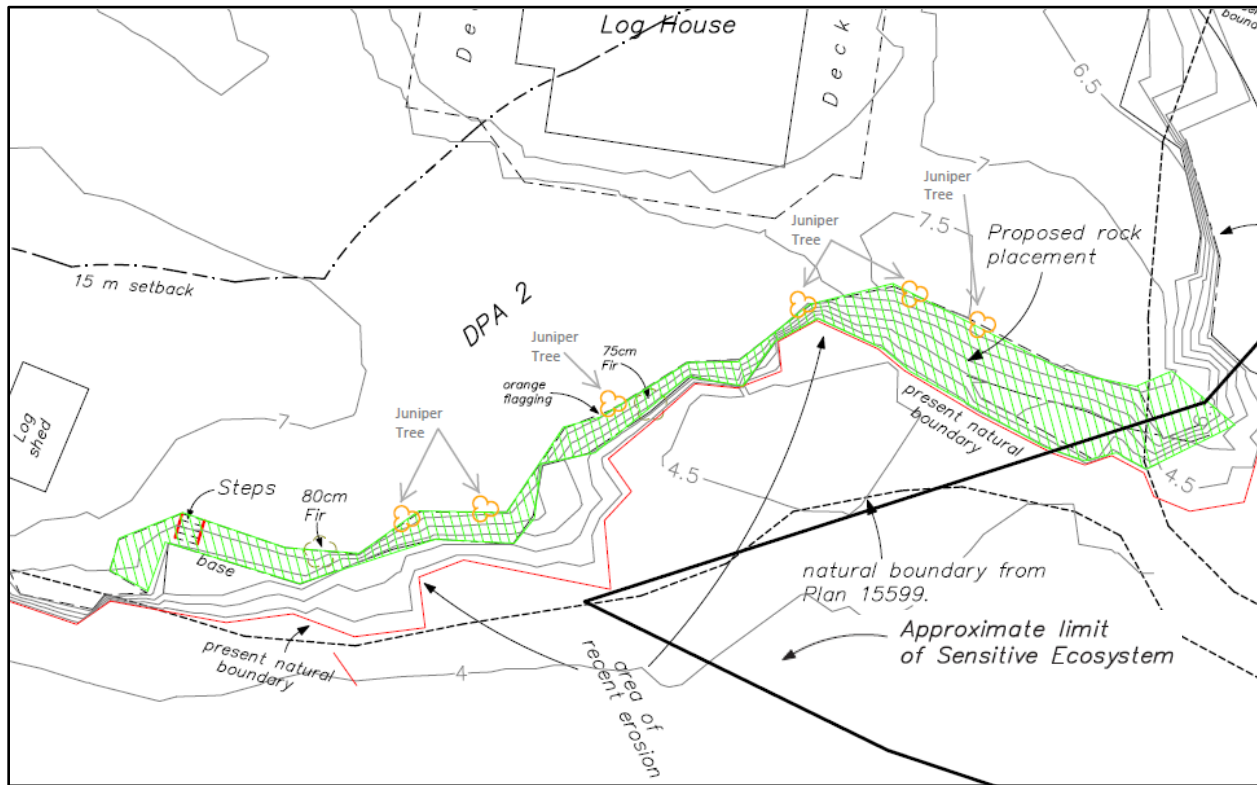
Figure 2: Orthophoto and 2 metre Contour Lines



Figure 3: Subject Property Survey



**Figure 4: Location of Proposed Rock Revetment & Juniper Trees
(rock revetment in green and Juniper trees in yellow)**



Picture 1: Shoreline Erosion



Picture 2: Section of Shoreline where Rock Revetment will be located



Picture 3: Temporary Rock Storage Area



Picture 4: Juniper Tree on Eroding Bank



CURRENT PLANNING STATUS OF LANDS:

Trust Policy Statement:

There are two directive policies relevant to this application:

- 3.4.4 – Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.
- 3.4.5 – Local trust committees and island municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

Official Community Plan

The property is designated Small Lot Residential in the Official Community Plan (OCP). An objective of a residential designation is to maintain the rural character, minimize impacts to ecosystems and services they provided and support social diversity of the Galiano Island Local Trust Area.

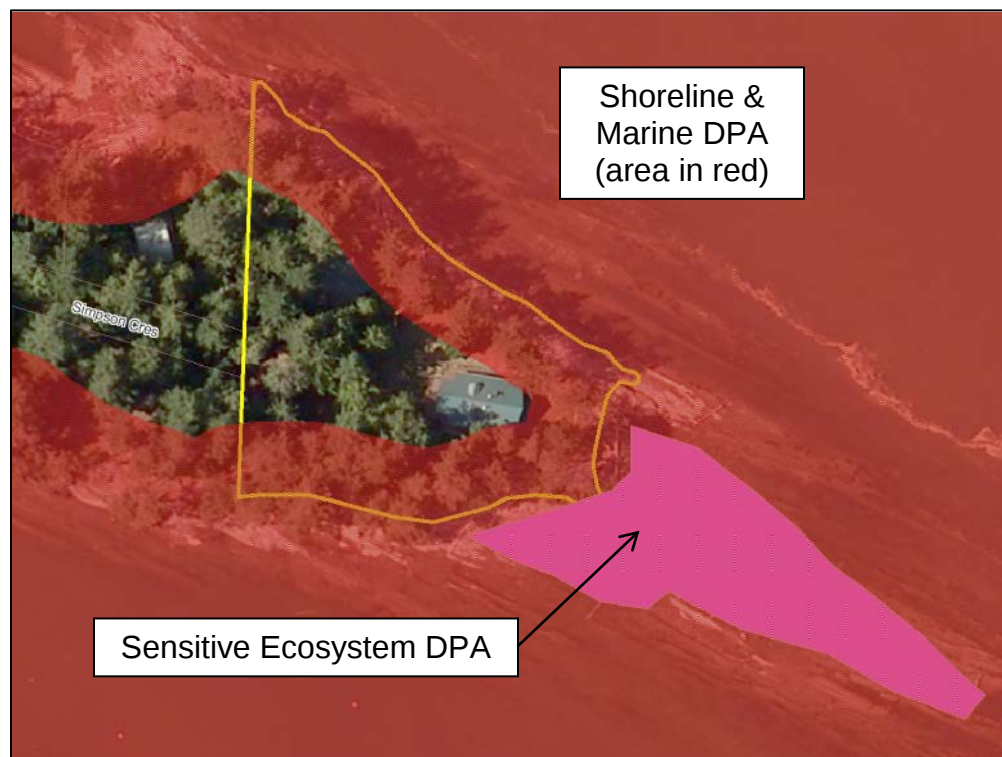
A portion of the subject property is also located within the Shoreline and Marine DPA and the Sensitive Ecosystem DPA. To satisfy the requirements of the Shoreline and Marine DPA, the applicant provided a Fish Habitat Assessment to address the DPA guidelines. Staff completed the DPA checklist to ensure all guidelines were addressed. This checklist is attached to the staff report.

A small portion of the rock revetment structure is located within the Herbaceous Sensitive Ecosystem DPA (see Figure 4). During the biologists' inspection of the property they identified manicured lawn and exposed rock in the Sensitive Ecosystem DPA and noted the herbaceous cover that likely existed has eroded. It was discovered by staff that the DPAs were based from the ITEM mapping that was completed in 2005 by the use of air photos taken at low tide to identify sensitive ecosystems. Unfortunately in this case, the ITEM mapping did not provide an accurate sensitive ecosystem snapshot of the property as the rocky point located on the eastern tip of the subject property as it is visible at low tide but also fully submerged at high tide. Staff have made the assumption that the mapper at that time was not aware the eastern point can be fully submerged at high tide and therefore it's not an appropriate habitat for an herbaceous ecosystem.

The development therefore meets the following exemptions for the Sensitive Ecosystem DPA:

- 5.6a) – Activities on land in respect of 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.
- 5.6b) – 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.

Figure 5: DPA Map



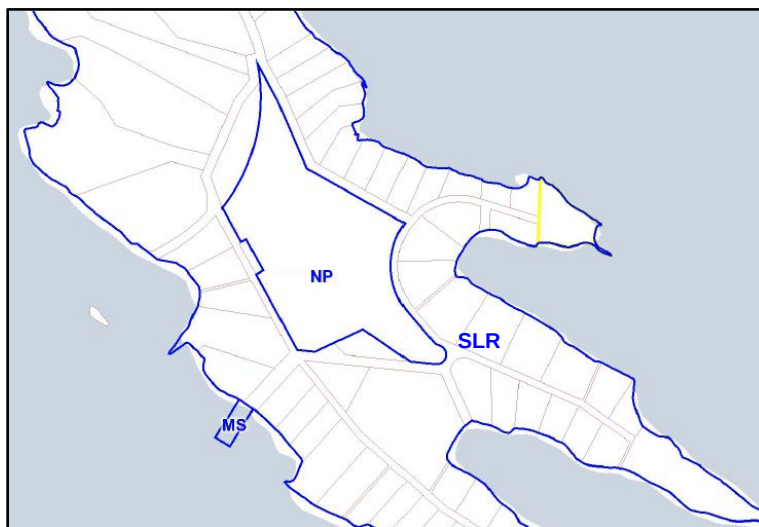
Picture 5: Herbaceous Sensitive Ecosystem DP Area at Low Tide looking east



Land Use Bylaw

The subject property is zoned Single Lot Residential (SLR) pursuant to the Galiano Island Land Use Bylaw No. 127, 1999. The specific zoning regulation relevant to this application is Section 2.14 which states that buildings and structures must be sited at least 7.5 metres from the natural boundary of the sea, and at least 15 metres from any lake, a swamp and any other natural watercourse. Section 2.14 is required to be varied as the rock revetment structure will be sited within the 7.5 metres setback from the natural boundary of the sea.

Figure 6: Zoning Map



Islands Trust Fund:

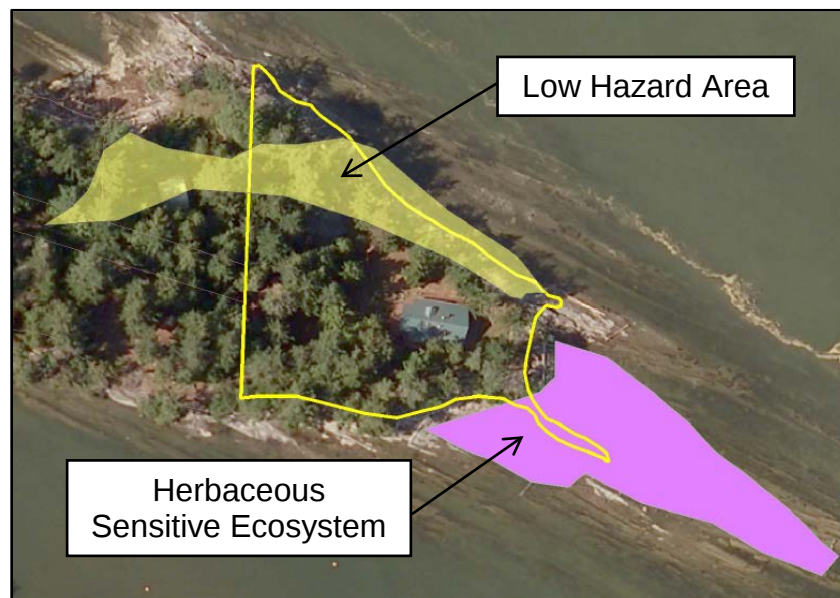
This application has no considerations for the Islands Trust Fund.

Sensitive Ecosystems and Hazard Areas:

The Islands Trust Sensitive Ecosystem Mapping (SEM) identifies an herbaceous sensitive ecosystem on the subject property. While conducting a site visit, the biologists identified only exposed bedrock and noted that any herbaceous cover which may have formerly existed has likely been eroded since the SEI inventory was conducted. As mentioned previously, staff believe the herbaceous ecosystem was a mapping error and therefore the herbaceous sensitive ecosystem is not a concern. During the site visit staff noted that the upland portion of the property shows some characteristics of a woodland ecosystem (Douglas-fir, Garry Oak, Arbutus and Juniper); the presence of the house and modified area likely resulted in this area being mapped as a modified rather than a sensitive ecosystem.

There is a low hazard steep slope identified on the property. The rock revetment structure is not located within the hazard area and it will not be impacted by the slope.

Figure 7: Sensitive Ecosystems and Hazard Areas Map



Archaeological Sites:

Based on information from the Provincial Remote Access to Archaeological Data (RAAD), there are no archaeological sites on the property. Notwithstanding the foregoing, and by copy of this report, the owners are advised that the unearthing of any archaeological resource should be reported to the Archaeology Branch.

Covenants:

There are no covenants registered on the subject property.

Bylaw Enforcement:

There are no bylaw enforcement files associated with this property.

Climate Change Mitigation and Adaption

Increased storm activity along British Columbia's coast associated with climate change has facilitated an increase in wave action and contributes to shoreline erosion. Rising sea levels will also expose new areas of coast to wave action. The proposed rock revetment works will help to stabilize the eroding bank and will help to protect the sensitive vegetation.

Shoreline Type

The shoreline is classified as a Low Rock / Boulder Shoreline in Islands Trust shoreline mapping. The biologist report describes the upper intertidal substrates where the rock revetment will be located as dominated by sandstone bedrock and occasional large sandstone boulders. There is also an area of sand and a small gravel beach surrounded by sandstone rock outcrops. The riparian zone has mature Douglas fir, Arbutus, Juniper, and Garry Oak trees. The trees are surrounded by grasses and moss. This particular shoreline is eroding in areas due to storm activity and increased wave activity.

Other:

Professional Report: A Fish Habitat Assessment report prepared by Castor Consultants Ltd. (Rob Waters, R.P.Bio and Rob Russell, R.P.Bio) was submitted to address the Shoreline and Marine DPA guidelines. During the site visit, the biologist noted an extensive eelgrass bed in the bay adjacent to the area where the barge will be moored. The report stated that the mooring of marine equipment should not occur within the eelgrass habitat and that confirmation of the eelgrass location should be made by direct observation prior to mooring the equipment. If the eelgrass habitat is avoided, the marine equipment will not harmfully alter, disrupt or destroy fish habitat at the site.

Based on field observations, the biologists recommended an alternate area for the temporary rock storage area. The rock storage site originally suggested by the applicant exhibits a flat bedrock habitat which supports Pacific oyster and other intertidal biota. The biologists recommend using a secondary site which consists of a flat bedrock area higher up on the shore with minimal biota. Furthermore they recommend the material used to construct the revetment must be clean with no silt or associated fine matters and the rocks stacked as compactly as practical to limit the footprint on the intertidal area. If the temporary rock storage area suggested by the biologists is used, the construction will have minimal effect on the habitat and will not harmfully alter, disrupt, or destroy fish habitat at the site.

During the sensitive ecosystem inventory, the biologists noted Juniper plants (*Juniperus maritima*) within the work zone at the development site. The juniper is a blue listed species which should be protected. The biologist report notes that the root systems of the Juniper plants are being eroded and the proposed rock revetment works will help stabilize the habitat.

If all recommendations are followed in the Fish Habitat Assessment report, there will be no anticipated harmful alteration, disruption or destruction of the marine riparian fish habitat at the site.

COMMUNITY INFORMATION MEETING(S):

A community information meeting is not required for Development Permit applications.

RESULTS OF CIRCULATION:

Development Permit applications do not require circulation, nor do variances where they are being considered within a Development Permit application.

STAFF COMMENTS:

This application is for development within the Shoreline and Marine DPA for the purpose of constructing a rock revetment structure as a shoreline erosion control measure. The development is exempt from the Herbaceous Sensitive Ecosystem DPA; planning staff consulted with the Islands Trust Fund Ecosystem Protection Specialist, and have determined that an error was made when the ecosystem was originally mapped. The 50 metre rock revetment structure will be located above the natural boundary of the sea although the temporary storage of rock material and an excavator will be below the natural boundary of the sea. All works conducted will also be in accordance with the Department of Fisheries and Oceans best management practices.

Section 2.14 of the Galiano Island Land Use Bylaw No. 127, 1999 is required to be varied as the rock revetment structure will be sited within the 7.5 metres setback from the natural boundary of the sea. To ensure the rock revetment structure will amalgamate with the surrounding environment, the structure must exceed 0.3 metres in height above the natural grade of the adjacent subject property.

Applicant Rationale:

The applicant is proposing to construct a rock revetment structure to protect and maintain the upland subject property area, the structures, and sensitive vegetation. Wave action during high tides and storm events has eroded the shoreline bank along the southern portion of subject property. The applicant has stated that the erosion to a point where the loss of mature trees along the shoreline is imminent along with potentially compromising a log house. To support the application and satisfy the requirements of the Shoreline and Marine DPA, the applicant supplied a Fish Habitat Assessment Report completed by a professional biologist.

The applicant stated that a mix of hard and soft engineering solutions was chosen for the site given the high energy wave action along the specific section of shoreline. Using solely softer engineering solutions could be vulnerable to wave action which could be washed away. It would also be difficult for vegetation to establish within the lower portions of the bank. The proposed sloped rock revetment would facilitate wave energy dissipation, allowing for free drainage from the slope and would permit vegetation to establish in the spaces between the rocks along the top of slope.

Professional Report Recommendations:

As stated in the Fish Habitat report, eelgrass and Juniper trees (a blue listed species) are located on or within the vicinity of the proposed work and subject property. In order to ensure there will be no harmful alteration, disruption or destruction of the marine riparian fish habitat and vegetation at the site, all recommendations in the assessment report must be followed. Furthermore, staff will require the applicant to construct temporary fencing around each Juniper

tree located within 10 metres of the work site. The temporary fencing must surround the dripline of each tree. The fencing will help notify workers on site that the plants must be protected. If works are proposed within the dripline of the tree, it must be done by hand or by machine only if there is strict monitoring by the Project Manager.

DPA Guidelines:

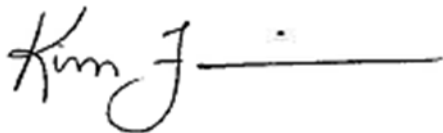
To ensure the Shoreline and Marine DPA Guidelines were addressed in the application and accompanying professional assessment report, a DPA checklist was completed (attached to staff report). The relevant guidelines addressed the rationale for purpose and design of the revetment, protection measures for sensitive species, and vegetation management, restoration and enhancement. The applicant, as a condition of the development permit, will be required to plant native species between the rock revetment structure and the existing vegetation (on top of the new topsoil). The property owner must maintain the native plants for two years from the date of completion of the planting to ensure survival.

Staff is of the opinion that the rock revetment structure, associated works, and requested variance are consistent with the relevant DPA guidelines, with the intent of the Galiano Official Community Plan and recommends the development permit to be approved.

RECOMMENDATIONS:

THAT Development Permit GL-DP-2013.3 (Stewart co Cochrane) BE APPROVED.

Prepared and Submitted by:



Kim Farris, Planner 1

July 11, 2013

Date

Concurred in by:



Robert Kojima, RPM

July 11, 2013

Date



GALIANO ISLAND LOCAL TRUST COMMITTEE

DEVELOPMENT PERMIT GL-DP-2013.3

To: Donald Stewart & Marilyn Stewart

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

Lot 43, Gossip Island, Cowichan District, Plan 15599
PID: 004-527-381
2. "Galiano Island Land Use Bylaw No. 127, 1999" is varied to permit the siting of a rock revetment structure within the setback from the sea:
 - (a) Section 2.14 is varied to permit the siting of a rock revetment structure from 7.5 metres to 0.0 metres from the natural boundary of the sea.
3. This Development Permit authorizes the construction of rock revetment structure within a sensitive shoreline and marine ecosystem development permit area subject to the following conditions:
 - (a) Siting of the rock revetment structure shall be consistent with Schedule "A" and Schedule "B" attached to and forming part of this permit.
 - (b) The rock revetment structure may only consist of clean rock, topsoil, a non-woven geotextile (filter cloth), and native vegetation.
 - (c) All work must be in compliance with the Fish Habitat Assessment report prepared by Castor Consultants Ltd. and dated January 3, 2013 and the following recommendations:
 - a. Location of eelgrass beds must be confirmed by direct observation prior to mooring marine equipment.
 - b. Eelgrass beds must avoided during moorage of marine equipment and must not be impacted by the development.
 - c. The temporary rock storage area as suggested by Castor Consultants Ltd. must be used as shown on Schedule "B".
 - d. The rock material must be stacked as compactly as practical to limit the footprint on the intertidal area.
 - e. All materials used for the rock revetment structure must be clean and not contaminated.
 - (d) The rock revetment structure must exceed 0.3 metres in height above the natural grade of the adjacent subject property.

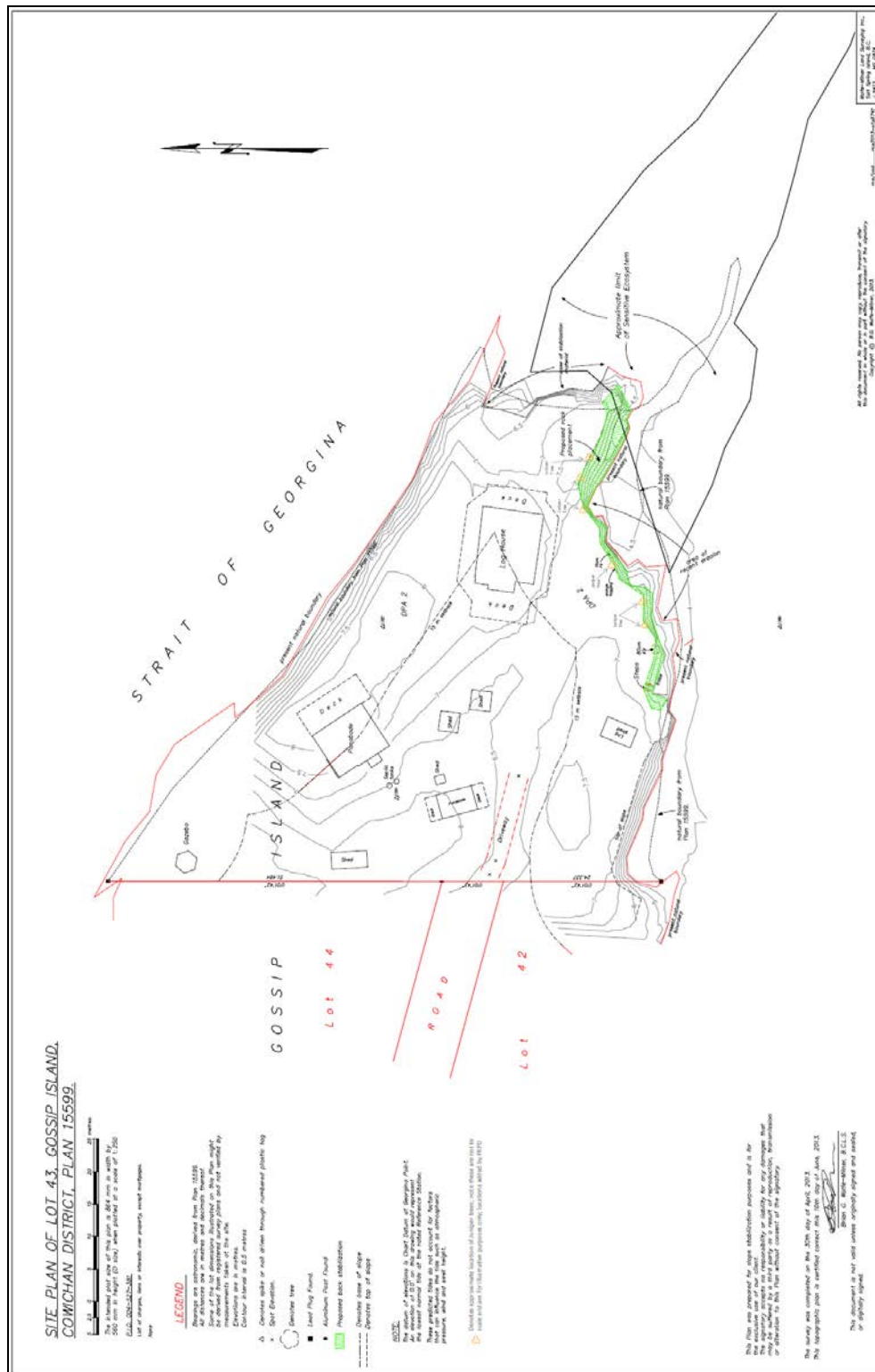
- (e) All Juniper plants located within 10.0 metres of the work site must have temporary fencing surrounding the dripline of the tree.
 - (f) If works are within the Juniper plant dripline, it must be completed by hand. If machine works are proposed, the Project Manager must strictly monitor the activity.
 - (g) If native beach materials is removed from the site it must be replaced in the exact location it was found.
 - (h) No fill introduced into the foreshore area.
 - (i) Native vegetation must be planted between the rock revetment structure and the existing vegetation (on top of the new topsoil). The property owner must maintain the native plans for two years from the date of completion of the planting to ensure survival.
 - (j) All work must be in accordance with Fisheries and Oceans Canada Best Management Practices.
4. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of Galiano Island Land Use Bylaw No. 127, 1999 and to obtain other approvals necessary for completion of the proposed development.

AUTHORIZING RESOLUTION PASSED BY THE GALIANO ISLAND LOCAL TRUST COMMITTEE THIS ___th day of ____, 201__

Deputy Secretary, Islands Trust

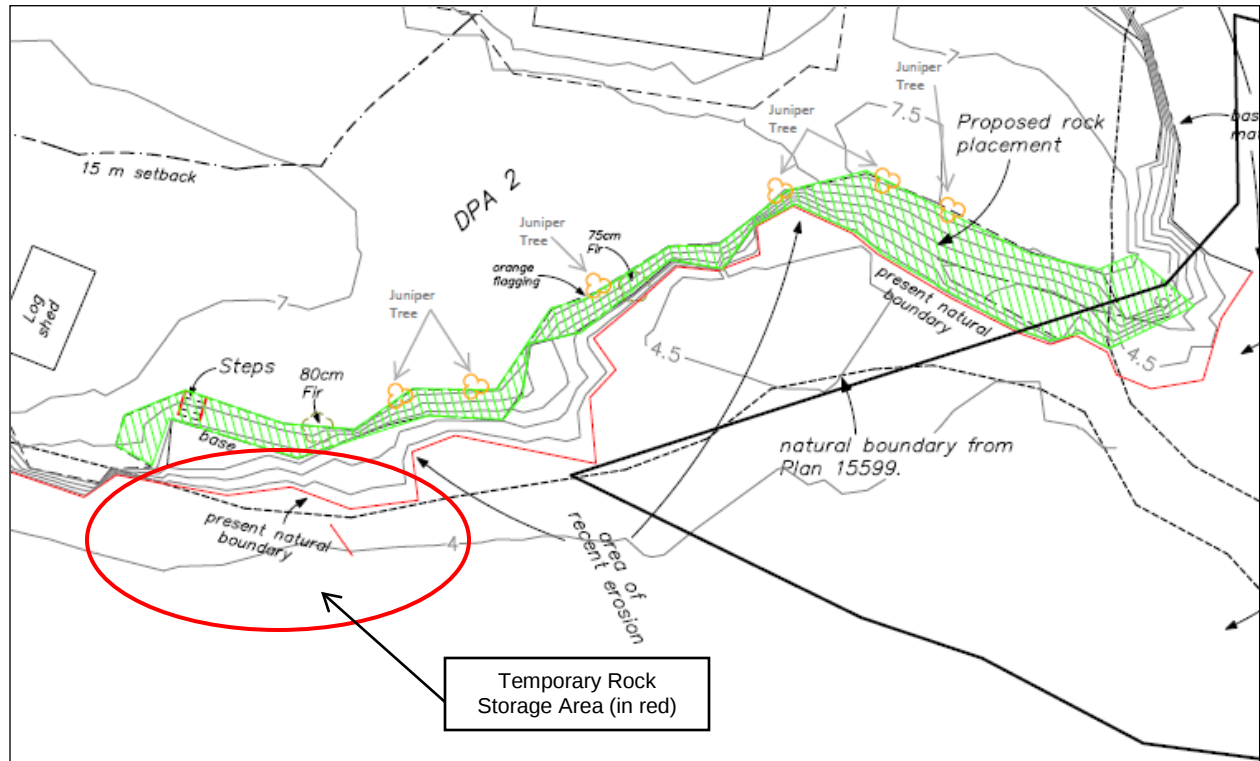
Date Issued

IF THE DEVELOPMENT HEREIN IS NOT COMMENCED BY THE ____th DAY OF _____, 201__ THIS PERMIT AUTOMATICALLY LAPSES.



**GALIANO ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT GL-DP-2013.3
Schedule "B"**

Site Plan – Rock Revetment and Temporary Rock Storage Location



Galiano Island
OCP Bylaw No. 108, 1995
Shoreline and Marine Development Permit Area (DPA 2)
Guideline Checklist

Guideline	Complies			Comments
	Yes	No	N/A	
1. In general, development of the shoreline area should be limited, should minimize negative impacts on the ecological health of the immediate area, and should not impede public access.	☒	☐	☐	The purpose of the rock revetment is to minimize further erosion along a specific section of shoreline on the subject property to protect the natural, sensitive vegetation (such as the Juniper plants). The rock revetment structure will be located only along those sections of shoreline that require further protection as identified on the survey site plan.
2. Shoreline protection measures should be limited to those necessary to prevent damage to existing structures or established uses on the adjacent upland. Softer shore protection measures should be considered first, and only if all options to locate and design without the need for shore protection works are exhausted should such works be considered.	☒	☐	☐	The rock revetment structure includes a mix of soft and hard materials to increase efficiency and longevity of the structure.
3. Sea level rise, storm surges, and other anticipated effects of climate change should be addressed in all applications.	☒	☐	☐	The rock revetment structure will help to mitigate the anticipated effects of climate change by protecting the shoreline and vegetation from erosion.
4. The Local Trust Committee may consider variances to subdivision or building and structure siting or size regulations to meet the objectives of the development permit area.	☒	☐	☐	A variance is required to permit the siting of the rock revetment structure within the setback from the natural boundary of the sea.
5. New upland structures or additions to existing structures should be located and designed to avoid the need for shore protection works.	☐	☐	☒	
6. When required, shore protection measures should:				
a. Apply the 'softest' possible shore protection measure that will still provide satisfactory protection; and	☒	☐	☐	There will be a mix of soft and hard shoreline protection measures.
b. Limit the size of shore protection works to the minimum necessary.	☒	☐	☐	The rock revetment structure will only be constructed where there has been the greatest impact of erosion. The applicants will be required to build as shown on the site plan.
7. 'Hard' structural shore protection measures (e.g. concrete walls, lock block, stacked rock) may be considered in support of existing development only when a geotechnical and biophysical analysis demonstrates that:				
a. an existing structure is at immediate risk from shoreline erosion caused by tidal action, currents, or waves. Evidence of normal sloughing, erosion or steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not sufficient demonstration of need;	☐	☐	☒	
b. the erosion is not being caused by upland conditions, such as the loss of vegetation and uncontrolled drainage. The geotechnical analysis should evaluate on-site drainage problems and investigate drainage solutions away from the shoreline edge before considering structural shoreline stabilization;	☐	☐	☒	

Guideline	Complies			Comments
	Yes	No	N/A	
c. non-structural measures, such as locating new buildings and structures further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or sufficient to address the stabilization issues; and	☐	☐	☒	
d. unavoidable damage to shoreline ecological function is mitigated as much as feasible and restoration is undertaken when feasible.	☐	☐	☒	
8. All structural shore protection measures should be installed within the property line or upland of the natural boundary of the sea, whichever is further inland. 'Soft' shoreline protection measures that provide restoration of previously damaged ecological functions may be permitted seaward of the natural boundary subject to obtaining necessary approvals from the provincial and federal governments.	☒	☐	☐	The rock revetment structure will be above the natural boundary of the sea.
9. New development on steep slopes or bluffs shall be set back sufficiently from the top of the bluff to ensure that shore protection measures will not become necessary during the life of the structure, as demonstrated by a geotechnical assessment of the site.	☐	☐	☒	There are no steep slopes or bluffs where the rock revetment structure is proposed to be located.
10. Shore protection measures that are likely to cause erosion or other physical damage to adjacent or down-current properties shall not be supported.	☒	☐	☐	It is expected that adjacent and/or down-current properties will not be affected by the shoreline protection.
11. Shore protection measures should not be considered for solely the purpose of providing a sufficient setback to meet other land use bylaw requirements.	☐	☐	☒	
12. New driveways and sewage disposal systems should not be located in the development permit area. If such a location cannot be avoided, the encroachment into the development permit area must be minimized, and the development permit may require that the assessment, design and construction of the road or sewage disposal system be supervised by a qualified professional to ensure that the objectives and guidelines of the development permit area are met.	☐	☐	☒	
13. Where this development permit area includes native plant species or plant communities dependent on a marine shoreline habitat that are identified locally, provincially, or federally as sensitive, rare, threatened or endangered, or have been identified by a qualified professional as worthy of particular protection, their habitat areas should be left undisturbed. If disturbance cannot be entirely avoided, development and mitigation / compensation measures shall be undertaken only under the supervisions of a qualified professional with advice from provincial and federal environmental agencies.	☒	☐	☐	Juniper plants have been identified on the property and the Environmental Assessment noted they are Blue Listed species and should be protected. As a condition of the Development Permit, the applicant must install temporary fencing around all Juniper plants to ensure they are left undisturbed. Furthermore, the placement of the rock revetment will be strictly monitored by the project manager.
14. Shore protection measures should not be allowed for the purpose of extending lawns or gardens, or to provide space for additions to existing structures or new outbuildings.	☒	☐	☐	The shoreline protection measure is solely for the purpose of stabilizing the bank and to minimize further damage to the shoreline, structures, and vegetation from storm and wave activity. The proposed works would not 'recapture lost land' by building out the top-of-bank.
15. Existing shore protection works may be replaced if the existing works can no longer adequately serve their purpose provided that:				

Guideline	Complies			Comments
	Yes	No	N/A	
a. The replacement shore protection works are of the same size and footprint as the existing works, unless required to prevent shoreline erosion as determined by a qualified professional;	☐	☐	☒	
b. The replacement shore protection works are designed, located, sized, and constructed to mitigate the loss of ecological functions, and include habitat restoration measures when feasible;	☐	☐	☒	
c. Replacement walls or bulkheads do not encroach seaward of the natural boundary or the seaward limit of the existing shore protection works unless there are significant safety or environmental concerns that could only be addressed via such an encroachment. In such cases, the replacement of shore protection works should utilize the 'softest' approach possible and should abut the existing shore protection works; and	☐	☐	☒	
d. Where impacts to critical marine habitats would occur by leaving the existing works in place, they can be removed as part of the replacement measure.	☐	☐	☒	
Guidelines for Subdivisions:				
16. All lots in a proposed subdivision must be configured to have sufficient area for permitted principal and accessory uses without encroaching into land use bylaw setbacks, the Development Permit Area, or creating a likelihood of shoreline protection measures for the permitted level of development.	☐	☐	☒	
Guidelines for Commercial and Industrial Development:				
17. Boat maintenance and repair facilities shall be designed and sited in a manner that minimizes the potential for the discharge of toxic materials from boats (e.g. fuels, oils, maintenance by-products).	☐	☐	☒	
18. Lighting of commercial and industrial developments built over the water surface should be kept to the minimum necessary for safety and visibility. Light fixtures on such sites should focus light on the area to be illuminated and avoid spillage of light into other areas. Fixtures should not result in glare when viewed from areas that overlook the sea. Low-glare fixtures with a high-cut off angle should be used. Full-spectrum fixtures are preferred. Neon lighting should not be used outside buildings.	☐	☐	☒	
19. Signs on commercial and industrial developments built over the water surface should not move or be audible and should not incorporate lighting that moves or flashes or gives the impression of doing so.	☐	☐	☒	
20. Offshore log storage should be located such that natural flushing and water circulation will disperse waste materials, and log dumping facilities should be designed and operated to prevent bark and other debris from accumulating on the sea bed.	☐	☐	☒	
Guidelines for Specific Shoreline Types:				

Guideline	Complies			Comments
	Yes	No	N/A	
21. Because of their extreme sensitivity to disturbance and slow rate of recovery, dredging or filling of estuaries should not be permitted, sea walls and rip rap embankments should not be permitted in estuaries, and when shore protection measures are necessary "beach nourishment" designs are preferred, which add appropriately sized material to the upper beach, creating a natural beach slope and beach armour.	☒	☐	☐	The rock revetment will be appropriately sized for its purpose and to blend in with the existing shoreline to create a natural beach slope.
22. New structures on steep slopes or bluffs shall be set back sufficiently from the top of the bluff to ensure that shore protection measures will not become necessary during the life of the structure, as demonstrated by a geotechnical analysis for the structure.	☐	☐	☒	
23. Removal of trees or other vegetation from steep slopes or bluffs should only be allowed where necessary and where replacement vegetation / erosion control measures are established. If possible, stumps should be left in place to provide some soil stabilizing influence until replacement vegetation is established. Plans delineating extent of vegetation / tree removal (location, species and diameter of trees) and location of proposed construction, excavation and / or blasting, may be required.	☐	☐	☒	
Guidelines for Construction Practices:				
Erosion Control:				
24. All development within this development permit area should be undertaken and completed in such a manner as to prevent the release of sediment to the shore or to any watercourse or storm sewer that flows to the marine shore. An erosion and sediment control plan, including actions to be taken prior to land clearing and site preparation and the proposed timing of development activities to reduce the risk of erosion, may be required as part of the development permit application.	☒	☐	☐	All proposed materials will be clean to prevent the release of sediment. The development will be conducted in accordance with the recommendations made in the Environmental/Fish Habitat Assessment and in accordance with DFO Best Practices to reduce the risk of further erosion. An erosion plan is not required.
Monitoring:				
25. A development permit may require monitoring by a qualified professional of the implementation of environmental mitigation, restoration or enhancement planting or other measures required by a development permit, until all such measures have been completed and the professional has provided a report confirming completion to the standard specified in the permit.	☒	☐	☐	Monitoring will be completed by Islands Trust Staff as necessary. Project Manager must be on site during construction activity.
Guidelines for Vegetation Management, Restoration and Enhancement:				
26. Existing, native vegetation should be retained wherever possible to minimize disruption to habitat and to protect against erosion and slope failure.	☒	☐	☐	
27. Existing trees and shrubs to be retained should be clearly marked prior to development, and temporary fencing installed at the drip line to protect them during clearing, grading and other development activities.	☒	☐	☐	Juniper plants will be marked with protective fencing around the drip-line of the plant. The fencing will act as a warning to all workers on site that the plants are in need of protection. If works are required within the fencing, it should be done by hand at the supervision of the Project Manager. Limited machine activity is permitted.

Guideline	Complies			Comments
	Yes	No	N/A	
28. If the area has been previously cleared of native vegetation, or is cleared during the process of development, replanting requirements may be specified in the development permit. Areas of undisturbed bedrock exposed to the surface or natural sparsely vegetated areas should not require planting.	☒	☐	☐	Planting of native species between the rock revetment structure and the existing vegetation (on top of new topsoil) is required as a condition of the Permit.
29. Vegetation species used in replanting, restoration or enhancement should be selected to suit the soil, light and groundwater conditions of the site, should preferably be native to the area, and should be selected for erosion control and/or fish and wildlife habitat values as needed. Suitably adapted, non-invasive, non-native vegetation may also be considered acceptable.	☒	☐	☐	Only native species may be used.
30. All replanting should be maintained by the property owner for a minimum of 2 years from the date of completion of the planting to ensure survival. This may require removal of invasive, non-native weeds (e.g., Himalayan blackberry, Scotch broom, English ivy) and irrigation. Unhealthy, dying or dead stock should be replaced at the owner's expense in the next regular planting season. Permits may include, as a condition, the provision of security to guarantee the performance of terms of the permit.	☒	☐	☐	The property owner must maintain the native plants required by this permit.
Guidelines for Shore Protection Measures Design:				
31. Materials used for shoreline stabilization should be inert. Stabilization materials should not consist of debris or contaminated material that could result in pollution of tidal water.	☒	☐	☐	All stabilization materials will be clean.
32. Revetments (rip rap slopes) and bulkheads (retaining walls) should only be constructed if no other alternative exists.	☒	☐	☐	The rock revetment structure includes a mix of soft and hard materials to increase efficiency and longevity of the structure.
33. Where revetments are proposed:				
a. They should not result in the loss of shoreline vegetation or fish habitat;	☒	☐	☐	As per the biologist, the construction of the revetment will not harm shoreline vegetation nor fish habitat if the recommendations in the biologist's report are followed.
b. The size and quantity of materials used should be limited to that necessary to withstand the estimated energy of the location's hydraulic action and prevent collapse; and	☒	☐	☐	Large boulders are proposed as they will withstand the estimated energy and hydraulic action of storm events and increased wave energy.
c. Filter cloth should be used to aid drainage.	☒	☐	☐	Filter cloth will be used to aid drainage and to keep the added soil in place.
34. Where bulkheads are proposed:				
a. They should not be located where geomorphic and hydrologic processes are critical to shoreline conservation. Feeder bluffs, marshes, wetlands, spits and hooks should be avoided;	☐	☐	☒	
b. They should be located parallel to and landward of the natural boundary of the sea, as close to any natural bank as possible;	☐	☐	☒	
c. They should allow the passage of surface or groundwater without causing ponding or saturation; and	☐	☐	☒	

Guideline	Complies			Comments
	Yes	No	N/A	
d. They should be constructed of stable, non-erodible materials that preserve natural shoreline characteristics. Adequate toe protection including proper footings and retention mesh should be included. Beach materials should not be used for fill behind bulkheads.	☐	☐	☒	
Guidelines for Beach Nourishment and Fill:				
35. Fill upland of the natural boundary greater than 10 cubic metres in volume should be considered only when necessary to assist in the enhancement of the natural shoreline's stability and ecological function. Such fills should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.	☒	☐	☐	The fill proposed for the site will only be used when necessary to fill the void/basin between the rock revetment and the existing shoreline. The fill will also help to maintain and protect the existing vegetation.
36. Fill below (seaward of) the natural boundary should be considered only when necessary to assist in the enhancement of the natural shoreline's stability and ecological function, typically as part of a beach nourishment design.	☐	☐	☒	
37. Fill should not be placed at or below the natural boundary for the purposes of providing a trail or walkway.	☐	☐	☒	
38. All upland fill and beach nourishment materials should be clean and free of debris and contaminated material. All fill and beach nourishment proposals are subject to review and approval by provincial and federal authorities having jurisdiction.	☒	☐	☐	Fill will be free of contaminants.
Guidelines for Shore Access and Parking:				
39. Roads, driveways, trails and pathways should follow the contours of the land, appropriately manage drainage, not require retaining walls, and only use stairs as a last resort.	☐	☐	☒	
40. Accesses in extremely sensitive areas or hazardous areas should be restricted or prohibited.	☐	☐	☒	
41. Parking areas should be located away from the shore, buffered or landscaped, and constructed so as to minimize erosion and water pollution by controlling storm runoff. Structural measures such as catch basins, oil separators, filtration trenches or swales, unpaved or permeable all weather surfaces should be considered for this purpose.	☐	☐	☒	
Guidelines for the Construction and Replacement of Docks and Boat Launch Facilities:				
42. For residential properties, preference is to be given to the placement of mooring buoys and floats instead of docks.	☐	☐	☒	
43. Docks and wharves should be designed to ensure that public access along the shore is maintained except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.	☐	☐	☒	
44. Docks and wharves should be sited to minimize impacts on sensitive ecosystems such as eelgrass beds, fish habitat and natural processes such as currents and littoral drift.	☐	☐	☒	
45. Docks should be constructed in a manner that permits the free flow of water beneath. Supports should be located on a hard substrate.	☐	☐	☒	

Guideline	Complies			Comments
	Yes	No	N/A	
46. Floating docks should not rest on the sea bed at any time and a minimal, moveable ramp rather than a fixed wharf or pier should be utilized to connect the dock with the shore.	☐	☐	☒	
47. Piers and pilings and floating docks are preferred over solid-core piers.	☐	☐	☒	
48. Docks should not use unenclosed plastic foam or other non-biodegradable materials that have the potential to degrade over time. Docks should be constructed of stable materials that will not degrade water quality. The use of creosote-treated pilings is discouraged.	☐	☐	☒	
49. Boat launch ramps are the least desirable of all water access structures and should be located on stable, non-erosional banks where a minimum amount of substrate disturbance or stabilization is necessary. Ramps should be kept flush with the slope of the foreshore to minimize interruption of natural geo-hydraulic processes.	☐	☐	☒	
50. Construction of a private ramp on an individual residential lot or parcel is discouraged. Owners are urged to seek opportunities to use public ramps or to share existing private ramps.	☐	☐	☒	
51. Residential docks should be located and designed to avoid the need for shore defence works or breakwaters.	☐	☐	☒	
52. Residential docks should not extend from shore any further than necessary to accommodate a small pleasure craft. Residential docks should not be designed to accommodate boats with a draft greater than 2.2 metres or have floats more than 35 square metres total surface area unless more than two parcels have legal access to the dock, in which case permitted total surface area should be a multiple of the number of lots the dock serves.	☐	☐	☒	

Fish Habitat Assessment of a Proposed Marine Access and Shoreline Erosion Control Measure on Gossip Island, BC – January 3, 2013

Introduction

Fraser River Pile & Dredge (GP) Inc. (FRPD) advised that the owners, Mr. & Mrs. D. Stewart, are proposing to carry out shoreline erosion control measures along approximately 50 m of the south shore of their property on the southeast tip of Gossip Island, BC (Figure 1.). The site is located in DFO Management Area 29-4 at 48°53'26.77"N by 123°19'1.48"W.

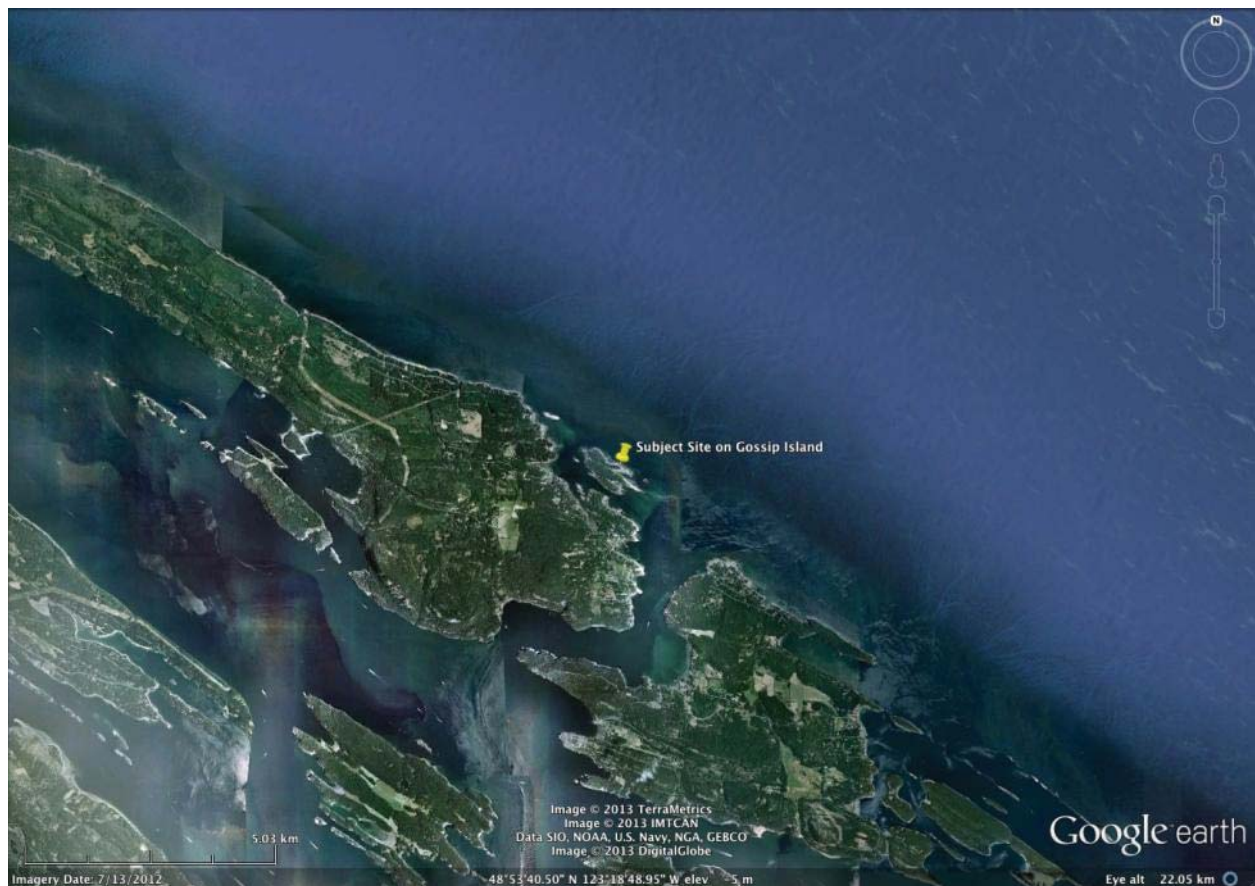


Figure 1. Location of Gossip Island and Subject Site

The work plan, as proposed by FRPD, is to supply suitably sized riprap rock to the site by barge and side cast it onto the bedrock in the upper intertidal zone by clamshell rig for subsequent placement in the eroded area by excavator (Figure 1a).



Figure 1a. Fraser River Pile and Dredge Inc. Proposed Moorage and Riprap Storage for Shoreline Erosion Control at Gossip Island Site.

Methods

Castor Consultants Ltd. was retained by FRPD to conduct an intertidal and shallow subtidal fish habitat assessment of the marine foreshore area proposed for the marine access and shoreline erosion control. Two intertidal and two subtidal transects were established as shown on Figure 2. The transects were located based on information provided by FRPD which indicated the approximate locations of the proposed barge and crane derrick, and the proposed rock stock pile area in the adjacent upper intertidal zone.

Two transects were established along the foreshore to assist with the determination of the fish habitat characteristics of the existing intertidal shoreline slope. At the time of the inspection on January 3, 2013 (1000 – 1130 hr.), the tide (based on Whaler Bay, Galiano Island) was high at 0938 hr. (4.2 m) and slowly falling to a height of 2.1 m at 1630 hr. Inspections were made at intervals along each intertidal transect measured off a fibreglass tape. Shoreline biotic and substrate composition were recorded along each transect.

Subtidal transects (Figure 2) were established by setting the T-1 to start at the orange buoy and then running seaward. T-2 was run parallel to T-1 transect on the return run of the boat, approximately 20 m to the west, toward and terminating at the yellow buoy. The drop camera was deployed from the Gulf Islands Water Taxi boat, videotaping the subtidal habitat between approximately 138 and 270 metres offshore from the HWM (based on distances determined from referenced targets with the laser ranger). The main references for laser ranger targets included the house with the green windows at the head of the bay and the satellite dish on the subject property site.

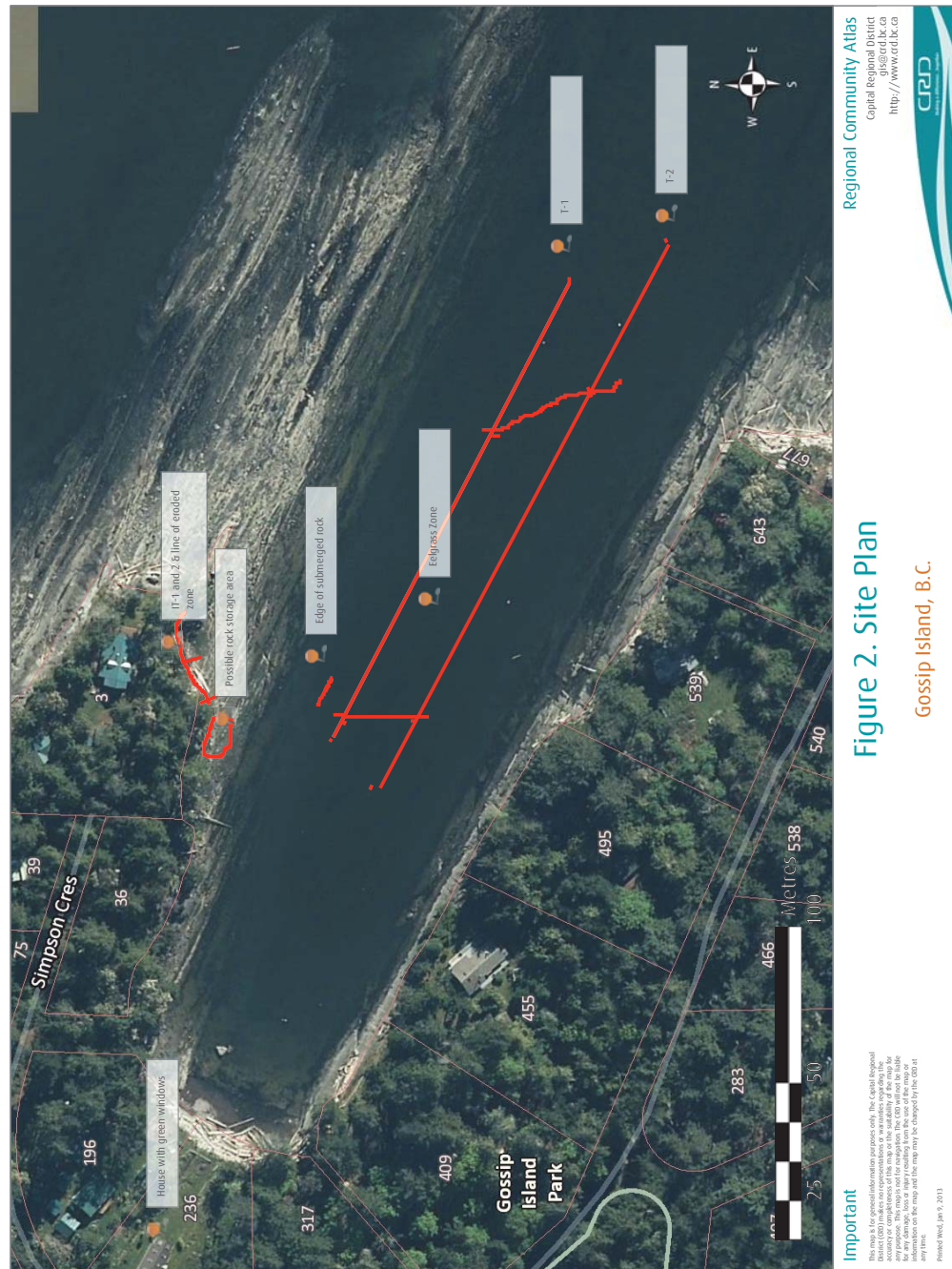


Figure 2. Fraser River Pile and Dredge Inc. Proposed Moorage and Riprap Storage for Shoreline Erosion Control at Gossip Island Site – Intertidal and Subtidal Transects.

Results

The following observations include a description of the riparian, intertidal and subtidal zones at the subject site.

Riparian Observations

The view from the orange buoy in the bay looking toward the subject property provides a perspective of the riparian and shoreline character. The subject area of proposed works is in the centre right of the following photo. Some of the bank can be seen just below the handrail visible against the blue sky through the gap in the trees. The concrete steps referenced below are at the foot of the large arbutus tree to the right of the storage shed on the centre left.

The orange buoy is 66 m from the satellite dish (Sat Dish) on the fir tree in line with the corner of the house and 165 m from the house at the head of the bay with the green windows.



Photo 1. A view of the subject property shoreline from the orange mooring buoy in the bay.

The riparian zone supports mature Douglas fir and arbutus, as well as a few maritime juniper and small Garry oak trees. There is no understory as the area is primarily lawn consisting of grasses and moss.

The juniper (*Juniperus maritima*) is a blue listed species.

Intertidal Observations

Detailed information from intertidal transects and representative photos are provided in Table 1 below.

Table 1. Detailed Intertidal Transect Results – Gossip Is., BC, January 3, 2013

Transect	Distance seaward (m) from HWM	Sediment	Biota	Photo and Comments
IT #1 Located 17 m west of the fir tree with the sat. dish	0 - 0.5	soil	N/O	
	0.5 - 7.5	bedrock	Some <i>Enteromorpha</i>	Bedrock exposures and sandy veneer continue below the tide line.

IT #2 Located directly off the tree with the sat. dish.	0 - 0.5	soil	N/O	
Transect	Distance seaward (m) from HWM	Sediment	Biota	Photo and Comments
	0.5 - 5	bedrock	NO	
	5 – 7.8	sandy veneer on bedrock	NO	Bedrock exposures and shallow sediment veneer continue beyond tide line.

N/O = none observed; HWM = High Water Mark

As indicated in Table 1, the upper intertidal substrate at the site is dominated by sandstone bedrock and occasional large sandstone boulders that have cleaved off the bedrock. The sandstone bedrock is ridged and typically oriented NW to SE with some areas of shallow coarse sand and gravelly veneer between ridges.

An area of sand and sand and small gravel beach occurred in a pocket (along T-2) surrounded by sandstone rock outcrops. The beach measured 15 m across at the HWM, but the sandiest portion of the beach measured 9 m across.

There were no invertebrates noted in the erosion control work zone in the upper intertidal area. The only biota in the higher intertidal area was *Enteromorpha intestinalis*, (Table 1). *Ulva lactuca* and some bladderwrack (*Fucus sp.*) were noted down gradient below tidewater at the time (1130).

Off shore in the proposed FRPD rock storage area (see figure 1a), invertebrates were observed on the bedrock outcrop and in rock crevices. These appeared to be predominated by the acorn barnacle (*Balanus glandula*) and the Japanese oyster (*Crassostrea japonica*). This area also supported *Ulva lactuca* (see photograph below).



Photo 2. Typical substrate with oysters and associated biota at the proposed FRPD rock deposit area.

In addition to the proposed rock storage area noted in the FRPD plan in Appendix 1, an adjacent intertidal area to the north was inspected as a potential rock storage site (Figure 2) and is depicted in the following photograph.



Photo 3. Rock shelf where riprap rock could be temporarily stored.

Based on field observations and as indicated in the photograph, the alternate site exhibited relatively consistent bench area with fewer wide voids and much less biota on the exposed rock outcrop.

Subtidal Observations

As indicated in Tables 2 and 3 below, the subtidal zone was inspected in the proposed equipment mooring area in the bay. Table 2 depicts the general site features along each of the transects supported by selected photographs in Table 3. The following photograph (Photo 4) depicts a view up the bay toward the house with the green windows used as a reference target to determine location along the transects.



Photo 4. A view up the bay toward the house with the green windows used as a reference target to determine location along the transects.

The photograph also shows the private moorage buoys referenced in this report. The subject orange buoy referenced in the notes is located in the centre, with the yellow buoy on far left. The buoy in the centre was not used as a reference.

Pictorial records of the two subtidal drop camera transects are presented in Table 3 below.

Table 2. Gossip Island Drop Camera Record January 3, 2013

Transect	Time	Camera time	Distance (m)	comments
1	1030	0:51	at orange buoy 165	sand, algal detritus, a few eelgrass fronds noted bedrock exposures adjacent to N distances measured to house with green windows at the head of the bay
		1:26	170	very sparse eelgrass, sand
		2:00	210	sparse eelgrass gives way to denser fronds, sand, few shell fragments and detritus
		2:26	220	sparse eelgrass, fine rippled sand, few shell fragments
		2:55	222	sparse eelgrass, fine rippled sand
		3:11	233	sparse eelgrass, fine rippled sand
	1035	3:27	238	sparse eelgrass, fine rippled sand
		3:56	275	eelgrass ends
		4:25	165	on line and measured to satellite dish (Sat Dish) on tree fine rippled sand
		4:55	193	sand and detrital algae.
2	1040	5:40	194	on T-2 and measured to satellite dish (Sat Dish) on tree gravel, sand substrate, detrital and some attached algae
		6:10	181	sand, gravel substrate, detrital and some attached algae
		6:20	173	sand, shell fragments
		6:50	162	pink buoy at left , detrital green and red algae
		7:05	154	seaward edge of very sparse eelgrass, sand, few shell fragments, near outer edge of eelgrass

Transect	Time	Camera time	Distance (m)	comments
		7:50	269	Distance Ref target - measured to house with green windows sparse eelgrass, sand, very few shell fragments
		8:25	241	very sparse eelgrass, sand with very few shell fragments
		8:50	230	sparse eelgrass, rippled sand, few shell fragments
		9:00	219	very sparse eelgrass, sand, 3 shell fragments
		9:30	210	sparse eelgrass, sand
		9:50	196	sparse eelgrass, rippled sand
		10:10	186	sparse eelgrass, rippled sand with detritus
		10:24	176	edge of eelgrass

Table 3. Subtidal Photo Record

Transect 1.



Photo 1. Bedrock/sand E of orange buoy.



Photo 1a. Still cam view at orange buoy.



Photo 2. 170m



Photo 3. 220 m



Photo 4. 222 m

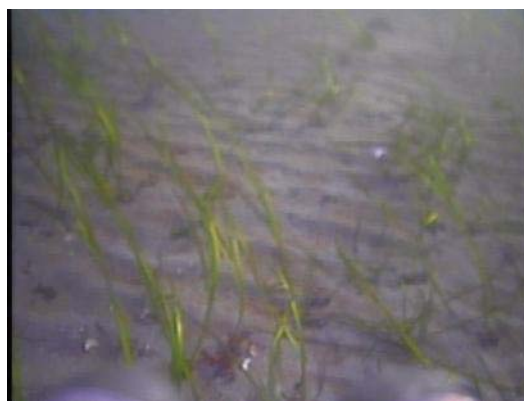


Photo 5. 233 m



Photo 6. 165 m from Sat Dish



Photo 7. View on line 193 m from Sat Dish

Transect 2.

[note photos in same order as Transect 1 (from shore to seaward)]



Photo 8. 176 m edge of eelgrass



Photo 9. 186 m eelgrass



Photo 10. 210 m eelgrass



Photo 11. 230 m eelgrass



Photo 12. 269 m eelgrass



Photo 13. 154 m from Sat Dish – sparse eelgrass



Photo 14. 173 m from Sat Dish

The subtidal habitat characteristics observed indicate that a sandy substrate forms a major habitat feature within the bay, which supports an extensive eelgrass bed. It is also apparent that bedrock exposures form a good portion of the subtidal habitat in the bay. As indicated in Figure 2, the eelgrass extends from the vicinity of the moorage buoys, near the start of the transects in the north end of the bay, to a point about 100 m away in the outer bay. No siphon shows, indicative of clams, or bottom fish or associated biota were observed in the inspection. Minor amounts of shell fragments and algal detritus were noted in the areas inspected.

It was noted that the eelgrass bed exhibits a relatively low shoot density but this could in part be a reflection of the season (winter). It is anticipated that the eelgrass bed may develop and that the defined edges could change (expand from those indicated) as the season progresses into spring and summer.

Discussion

Effect of Equipment Mooring and Shoreline Erosion Control Measures on Fish and Fish Habitats

This discussion focuses on the main project elements relative to the habitat types and potential impacts. The project elements include marine equipment mooring, which includes towing and positioning by tugboats; rock storage; and riprap installation.

Marine Equipment Mooring

In order to get materials and equipment to the site, marine access will be required for one tidal cycle, using a crane with a suitable reach. Based on the subtidal information as depicted in Figure 2, there is an extensive eelgrass bed in the bay adjacent to the subject site. This habitat should be avoided and protected from disturbance as a result of prop wash from tugs positioning the equipment during deployment and retrieval. As well, spudding down or mooring of the marine equipment should not occur within the eelgrass habitat. This assessment indicates that the spudding down could occur inside (or landward toward the head of the bay) of the orange buoy as noted on January 3, 2013 without impacting the eelgrass. Confirmation of the eelgrass edge should be made by direct observation prior to spudding down. Given the temporary duration of the moorage of the marine equipment at the site, it is considered that shading will not be an issue. Provided the eelgrass meadow can be avoided, it is considered that the marine equipment mooring will not harmfully alter, disrupt or destroy fish habitat at the site.

Rock Storage

In order to facilitate the erosion control measures proposed, rock is required to be stored along the shore at the subject site. As there is no other means of access for equipment and materials on Gossip Island, this appears to be the only option if riprap rock is to be used to correct shoreline erosion. The rock storage area originally suggested by FRPD provides a near shore access point for the derrick to cast the material ashore. The proposed site exhibits a flat bedrock habitat, which supports Pacific oyster and other intertidal biota. This site could be used to temporarily store the rock, however the oysters would have to be salvaged. A second potential site, to the north near the end of the eroded area, was identified by Castor personnel, consisting of a flat bedrock area higher up the shore and nearly devoid of biota. This site appears to be nearer the deeper water for easier access by the derrick and should be considered as a rock storage area. Because of the draught requirements for the barge equipment, the rock will have to be placed at high tide. The riprap will have to be clean with no silt or associated fines and it is suggested that the rock be stacked as compactly as practical to limit the footprint on the intertidal area. It is considered that the temporary placement of clean rock at the alternate site will have minimal effect on the habitat and will not harmfully alter, disrupt or destroy fish habitat at the site.

Shoreline Erosion Control Measures

As noted above, the proposed plan is to riprap some 50 lineal metres of the shore to prevent further erosion. It is understood that the proposed work will be done by swinging an excavator to shore via

crane, then using the excavator to transport the riprap along the bedrock shore in the upper intertidal zone for installation in the eroded area. It is understood that the riprap will be placed in a 5 m wide strip along the eroded zone. The predominant riparian vegetation at the site is mature Douglas fir and arbutus, with some marine juniper, Garry oak and lawn, composed of an assortment of mosses and grasses. It is understood that the rock seawall structure will be placed by an excavator through the upper intertidal zone and will avoid disturbing the riparian zone directly. Access along the shore will be mainly over bedrock within 8 m seaward of the HWM. Beach logs extant will be temporarily moved along or down shore, and replaced in front of the seawall once complete. All the riprap placement work will be done during low tides and follow the DFO best management practices for shoreline erosion control measures on the DFO South Coast Area website. The placement is expected to take 2 to 3 days.

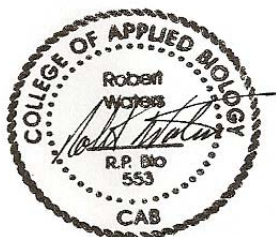
Based on this information, and provided the precautions indicated are followed and the DFO BMP for erosion control measures are adhered to, there will be no anticipated harmful alteration, disruption or destruction of the marine riparian fish habitat at the site.

Sensitive Ecosystem Inventory (SEI) and BC Conservation Data Centre (CDC) Considerations

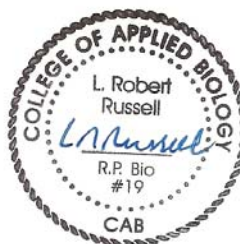
There are species or habitats of special significance or species at risk within the work zone at the development site. The juniper (*Juniperus maritima*) is considered a blue listed species, which should be protected. Since the works are primarily at or immediately below the HWM it is anticipated that these shrubs can be avoided. In fact, some of the root systems are being eroded and the proposed works will help stabilize the habitat. As well, for reference, nearby to the immediate south, the SEI indicates that there is an herbaceous polygon on the exposed rock outcrop point. Inspection of the site identified only manicured lawn beyond which was exposed bedrock, so the herbaceous cover formerly existing has likely been eroded since the SEI inventory was conducted.

Conclusion

It is considered that there will be no harmful effects to fish habitat caused by the proposed works at the Stewart residence on Gossip Island, and as such Fisheries and Oceans Canada will require only a Notification of Project via their on-line application process (www.pac.dfo.gc.ca/habitat/steps/praf).



Rob Waters, R.B. Bio.



Rob Russell, R.P. Bio.



Photograph 1: Approximate northeast view of location of proposed bank stabilization works.



Photograph 2: Approximate north view of western extent of proposed bank stabilization works.

Ms. Kim Farris, Islands Trust

RE: LOT 43 GOSSIP ISLAND - APPLICATION FOR DEVELOPMENT PERMIT AREA REVIEW
Bank Stabilization Works

Site Photographs

June 19, 2013



Photograph 3: Approximate southwest view along the top-of-bank of proposed bank stabilization works.



Photograph 4: Approximate northwest view of the central portion of proposed bank stabilization works.

Ms. Kim Farris, Islands Trust

RE: LOT 43 GOSSIP ISLAND - APPLICATION FOR DEVELOPMENT PERMIT AREA REVIEW

Bank Stabilization Works

Site Photographs

June 19, 2013



Photograph 5: Approximate northwest view of the eastern extent of proposed bank stabilization works.



Photograph 6: Approximate east view along the top-of-bank of proposed bank stabilization works.

Ms. Kim Farris, Islands Trust

RE: LOT 43 GOSSIP ISLAND - APPLICATION FOR DEVELOPMENT PERMIT AREA REVIEW
Bank Stabilization Works

Site Photographs

June 19, 2013



Memorandum

Date July 10, 2013

File Numbers: GL-SUB-2007.5/Bylaw 227 (LandPlan Group) and GL-RZ-2011.3/GL-SUB-2012.2/Bylaws 235/236 (Winmark))

To Galiano Local Trust Committee
For the July 15, 2013 Meeting

From Kris Nichols
Island Planner

Re Granting Galiano Local Trust Committee Chair Signing Authority for Covenants

Two applications GL-SUB-2007.5/Bylaw 227 (LandPlan Group) and GL-RZ-2011.3/GL-SUB-2012.2/Bylaws 235/236 (Winmark)) are coming to conclusion in the next few weeks. Staff are recommending that the required covenants be registered prior to final adoption of the bylaws rather than rely on undertakings. As the covenants are required to be registered prior to subdivision, the covenants will also be registered on title to lots subsequently being transferred to BC Parks. Consequently, at the time the subdivision plans registered at the LTO there will be a requirement to discharge the covenants from the BC Parks portion of the lands. Therefore, staff are recommending that the LTC adopt two resolutions, authorizing the Chair to:

1. sign the covenants to be registered prior to adoption of the bylaws; and
2. sign the discharge of the covenants from the portions of the lands being transferred to BC Parks once the subdivisions plans are ready for registration.

Copies of the draft covenants are attached (the LTC has reviewed earlier versions of these documents). Confirmation of registration of the covenants will be confirmed prior consideration of final adoption of the bylaws. However, given there is no meeting in August and the bylaws are post-public hearing, staff may be recommending the bylaws be adopted by RWM. Once the bylaws are adopted, the provisions of the zoning and the restrictions in the covenants will preclude subdivision or development from proceeding prior to transfer of the lands to BC Parks.

Recommendation:

1. THAT the Galiano Local Trust Committee appoint the Chair to sign the s. 219 covenants for GL-SUB-2007.5 (Landplan) and GL-RZ-2011.3 (Winmark Capital Inc.) for registration prior to consideration of final adoption of Bylaws 227, 235 and 236.

2. THAT the Galiano Local Trust Committee appoint the Chair to sign the discharge of s.219 covenants from lands being transferred to the provincial crown as conditions of completion of subdivisions GL-SUB-2007.5 (Landplan) and GL-SUB-2012.2 (Winmark Capital Inc.).

Pc Robert Kojima, RPM

Attachment 1: GL-SUB-2007.5/Bylaw 227 (LandPlan Group) Draft Covenant

Attachment 2: GL-RZ-2011.3/GL-SUB-2012.2/Bylaws 235/236 (Winmark)) Draft Covenants
(Donation Covenant, Wetlands Covenant)

LAND TITLE ACT
FORM C
 (Section 233)
 Province of British Columbia

GENERAL INSTRUMENT - PART 1 (This area for Land Title Office use) PAGE 1 of 7 pages

1. APPLICATION:

 Signature of Agent for Applicant

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:*

(PID)

(LEGAL DESCRIPTION)

009-625-089

District Lot 72, Galiano Island, Cowichan District except that Part in Plan VIP75373

023-042-303

Lot 15 District Lots 71 and 77 Galiano Island Cowichan District Plan VIP61007

3. NATURE OF INTEREST:*

Description

Document
Reference

Person Entitled to Interest

S.219 Covenant

Entire Document

Transferee

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

☐

D.F. No. ST

(b) Express Charge Terms

☒

Annexed as Part 2

(c) Release

☐

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.
 If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):*

J 12 FREECORP HOLDINGS LTD., Inc. No. 406353 (as to Covenant)

6. TRANSFEREE(S): (Including occupation, postal address(es) and postal code(s))*

GALIANO ISLAND LOCAL TRUST COMMITTEE, Suite 200, 1627 Fort Street,
 Victoria, B.C. V8R 1H8

7. ADDITIONAL OR MODIFIED TERMS:*

NOT APPLICABLE

8. EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

EXECUTION DATE

OFFICER SIGNATURE(S)

(as to both signatures)

Y	M	D

PARTY(IES) SIGNATURE(S)

J 12 FREECORP HOLDINGS LTD. by its
authorized signatories:

Name:

Name:

GALIANO ISLAND LOCAL TRUST
COMMITTEE by its authorized
signatory:

Trustee:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

PART 2 – TERMS OF INSTRUMENT

SECTION 219 COVENANT

This Agreement dated for reference _____, is

BETWEEN:

J 12 FREECORP HOLDINGS LTD., Inc. No. 406353, of 528 Saville
Crescent, North Vancouver, British Columbia, V7N 3B1

("Owner")

AND:

GALIANO ISLAND LOCAL TRUST COMMITTEE, a Corporation
under the *Islands Trust Act*, R.S.B.C. 1996, c.239, with an office at
Suite 200, 1627 Fort Street, Victoria, British Columbia, V8R 1H8

("Local Trust Committee")

GIVEN THAT:

- A. The Owner is the registered owner of the land on Galiano Island legally described as Parcel Identifier: 009-625-089, District Lot 72, Galiano Island, Cowichan District except that part in Plan VIP75373 and Parcel Identifier: 023-042-303. Lot 15 District Lot 71 and 77 Galiano Island Cowichan District Plan VIP61007 (the "Land") and the Land is designated as Forest Land by the Galiano Island Official Community Plan;
- B. The Owner has applied to the Local Trust Committee to rezone the Land to permit a subdivision of the land for residential development, by means of Galiano Island Land Use Bylaw No. 127, 1999 Amendment No. 2, 2011 (the "Rezoning Bylaw");
- C. The policies in the Galiano Island Official Community Plan dealing with the Land require that an owner of the Land seeking a zoning amendment to permit subdivision, provide portions of the parent parcel to be used for conservation, ecosystem protection, public parkland, community forest or trails;
- D. The owner wishes to grant to the Local Trust Committee a covenant under s. 219 of the *Land Title Act* that permits the Owner to subdivide the Land and occupy the Land for residential purposes only in accordance with the plan of subdivision that was presented to the Local Trust Committee in connection with the Owner's application to rezone the Land, and only if the Owner provides portions of the Land as park land;

This Agreement is evidence that in consideration of the payment of \$2.00 by the Local Trust Committee to the Owner (the receipt and sufficiency of which are acknowledged by the

Owner), and in consideration of the promises exchanged below, the Owner covenants and agrees as follows with the Local Trust Committee in accordance with s.219 of the *Land Title Act*;

No Subdivision Except in Accordance with Plan

1. The Owner shall not subdivide the Land except by means of a plan of subdivision that creates 6 parcels substantially as shown in the proposed plan of subdivision attached to and forming part of this Agreement as Schedule A (the "New Residential Parcels").

Use of New Residential Parcels

2. The Owner shall not occupy for residential purposes any building on the New Residential Parcels or any of them until the Owner has transferred to the Crown in Right of British Columbia for public park purposes, substantially that portion of the Land shown as "Nature Protection" on Schedule A and zoned as "Nature Protection (NP)" by the Rezoning Bylaw.

Access to New Residential Parcels

3. The Owner shall not use any portion of the Easement Area shown on Schedule A for the installation or operation of any gate or similar structure that prevents vehicular access from Bodega Beach Drive, whether or not such gate or similar structure is equipped with a lock or other device by means of which vehicular access may occur. For certainty, nothing in this Agreement prohibits the installation or operation of any such gate or similar structure on any portion of a New Residential Parcel that is not within the Easement Area shown on Schedule A.

No Effect On Laws or Powers

4. This Agreement does not
 - (a) affect or limit the discretion, rights, duties or powers of the Local Trust Committee under any enactment or at common law, including in relation to the use or subdivision of the Land except as expressly set out herein;
 - (b) impose on the Local Trust Committee any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement except as expressly set out herein;
 - (c) affect or limit any enactment relating to the use or subdivision of the Land; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Land.

Limitation on Obligations

5. The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner or which the Owner permits or allows. The Owner is not liable for the consequences of the requirements of any enactments or law or any order, directive, ruling or government action thereunder. The Owner is liable only for breaches of this Agreement which occur while the Owner is the registered owner of any interest in the Land and then only to the extent of that interest.

No Liability in Tort

6. The parties agree that this agreement creates only contractual obligations. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract.

Covenant Runs With the Land

7. Unless it is otherwise expressly provided in this Agreement, every obligation and covenant of the Owner in this Agreement constitutes a personal covenant and also a covenant granted under s.219 of the *Land Title Act* (British Columbia) in respect of the Land. This Agreement burdens the Land and runs with it and binds the successors in title to the Land. This Agreement burdens and charges all of the Land and any parcel into which it is subdivided by any means.

Registration and Discharge

8. The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement is registered against title to the Land with priority over all financial charges, liens and encumbrances registered or pending registration in the Land Title Office at the time of application for registration of this Agreement.
9. The Owner shall be entitled to a discharge of this Agreement from title to the Land in the event that the Rezoning Bylaw is not adopted by ____, 2012.
10. The Owner shall, having subdivided the Land in accordance with this Agreement and transferred to the Crown the land described in Section 2 of this Agreement, be entitled to a discharge of Section 2 of this Agreement from title to the New Residential Parcels.
11. The Owner may obtain a discharge under Section 9 or Section 10 by presenting a registrable discharge document to the Local Trust Committee for execution, and the preparation and registration of the document shall be for the Owner's account.

Waiver

12. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

Severance

13. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

No Other Agreements

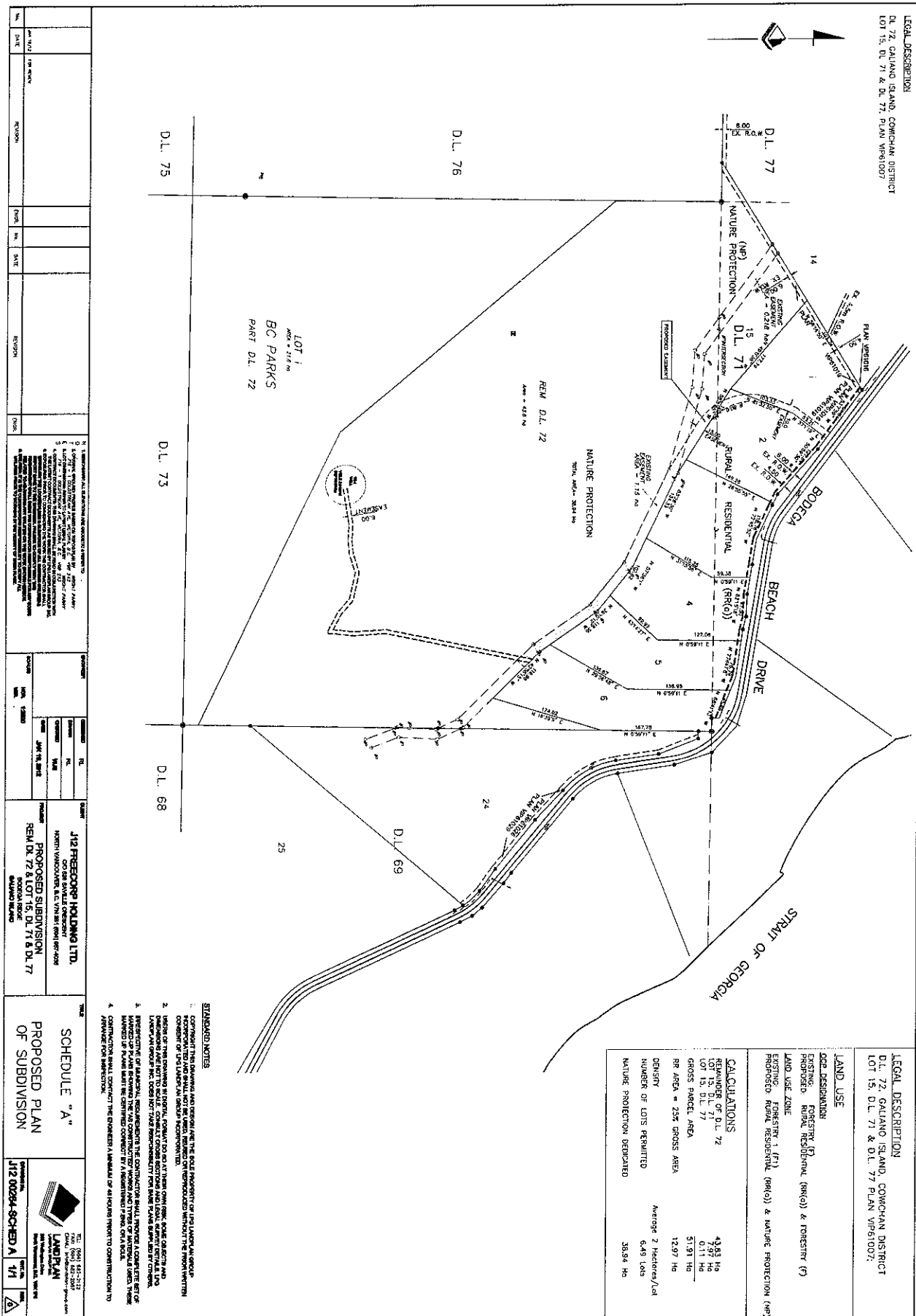
14. This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.

Binding of Successors

15. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

Execution Using Form C

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



END OF DOCUMENT

LAND TITLE ACT
FORM E

SCHEDULE

PAGE OF PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

PART 2- TERMS OF INSTRUMENT

SECTION 219 COVENANT

This Agreement dated for reference the ____ day of _____, 20 ____ is

BETWEEN:

WINMARK CAPITAL INC., INC. NO. 299688, of
402-15050 Prospect Avenue,
White Rock, BC V4B 2B4

(the "Owner")

AND:

GALIANO ISLAND LOCAL TRUST COMMITTEE,
a corporation under the Islands Trust Act, R.S.B.C. 1996, c.239,
with an office at Suite 200, 1627 Fort Street,
Victoria, BC V8R 1H8

(the "Local Trust Committee")

GIVEN THAT:

- A. The Owner is the registered owner of the land on Galiano Island legally described as and with Parcel Identifiers as follows:

(PID)	(LEGAL DESCRIPTION)
023-042-699	Lot 25 District Lot 69 Galiano Island Cowichan District Plan VIP61020
023-042-869	Lot 32 District Lot 65 and 68 Galiano Island Cowichan District Plan VIP61030
009-624-996	District Lot 68 Galiano Island Cowichan District Except Parts in Plans VIP61030 and VIP76636
023-042-630	Lot 20 District Lot 69 and 71 Galiano Island Cowichan District Plan VIP61020
023-042-648	Lot 21 District Lot 69 Galiano Island Cowichan District Plan VIP61020

023-042-681 Lot 24 District Lot 69 Galiano Island Cowichan District Plan
VIP61020

(the "Lands") and the Lands are designated as Forest Land by the Galiano Island Official Community Plan.

- B. The Owner has applied to the Local Trust Committee to rezone the Lands to permit a subdivision of the land for residential development, by means of Galiano Island Land Use Bylaw No. 127, 1999 Amendment No. 2, 2011 (the "Rezoning Bylaw");
- C. The policies in the Galiano Island Official Community Plan dealing with the Lands require that an owner of land seeking a zoning amendment to permit subdivision, provide portions of the parent parcel to be used for conservation, ecosystem protection, public parkland, community forest or trails;
- D. The Owner wishes to grant to the Local Trust Committee a covenant under s. 219 of the Land Title Act that permits the Owner to subdivide the Lands and occupy the Lands for residential purposes only in accordance with the plan of subdivision that was presented to the Local Trust Committee in connection with the Owner's application to rezone the Lands, and only if the Owner provides portions of the Lands as park land;

This Agreement is evidence that in consideration of the payment of \$2.00 by the Local Trust Committee to the Owner (the receipt and sufficiency of which are acknowledged by the Owner), and in consideration of the promises exchanged below, the Owner covenants and agrees as follows with the Local Trust Committee in accordance with s.219 of the Land Title Act;

No Subdivision Except in Accordance with Plan

- 1. The Owner shall not subdivide the Lands except by means of a plan of subdivision that creates 12 residential parcels substantially as shown, and numbered 1 through 12 inclusive, in the proposed plan of subdivision attached to and forming part of this Agreement as "Schedule A" (the "New Residential Parcels").

Use of New Residential Parcels

- 2. The Owner shall not occupy for residential purposes any building on the New Residential Parcels until the Owner has transferred to the Crown in Right of British Columbia for public park purposes, substantially that portion of the Lands to be zoned as "Nature Protection (NP)" by the Rezoning Bylaw and shown as "proposed park" on Schedule A.

Access to New Parcels

3. The Owner shall not use any portion of the access easement, noted as "common driveway (easement)", on Schedule A for the installation or operation of any gate or similar structure that prevents vehicular access from Vineyard Way, whether or not such gate or similar structure is equipped with a lock or other device by means of which vehicular access may occur. Notwithstanding the forgoing, for certainty, gates are permitted on those portions of the New Residential Parcels noted as "individual driveways" on Schedule A.

No Effect On Laws or Powers

4. This Agreement does not
 - (a) affect or limit the discretion, rights, duties or powers of the Local Trust Committee under any enactment or at common law, including in relation to the use or subdivision of the Lands except as expressly set out herein;
 - (b) impose on the Local Trust Committee any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement except as expressly set out herein;
 - (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
 - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

Limitation on Obligations

5. The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner or which the Owner permits or allows. The Owner is not liable for the consequences of the requirements of any enactments or law or any order, directive, ruling or government action thereunder. The Owner is liable only for breaches of this Agreement which occur while the Owner is the registered owner of any interest in the Lands and then only to the extent of that interest.

No Liability in Tort

6. The parties agree that this agreement creates only contractual obligations. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of or any default under or in respect of, this Agreement. The intent of this section is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract.

Covenant Runs With the Land

7. Unless it is otherwise expressly provided in this Agreement, every obligation and covenant of the Owner in this Agreement constitutes a personal covenant and also a covenant granted under s.219 of the Land Title Act (British Columbia) in respect of the Lands. This Agreement burdens the Lands and runs with them and binds the successors in title to the Lands. This Agreement burdens and charges all of the Lands and any parcel into which it is subdivided by any means.

Registration and Discharge

8. The Owner agrees to do everything necessary at the Owner's expense to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens or other financial encumbrances registered or pending registration in the Land Title Office at the time of application for registration of this Agreement.
9. The Owner shall be entitled to a discharge of this Agreement from title to the Land in the event that the Rezoning Bylaw is not adopted by December 31, 2013.
10. The Owner, having subdivided the Land in accordance with this Agreement and transferred to the Crown the lands described in Section 2 of this Agreement, shall be entitled to a discharge of this Agreement from title to the New Residential Parcels.
11. The Owner may obtain a discharge under Section 9 or Section 10 by presenting a registrable discharge document to the Local Trust Committee for execution, and the preparation and registration of the document shall be for the Owner's account.

Waiver

12. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

Severance

13. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this

Agreement remains in force unaffected by that holding or by the severance of that part.

No Other Agreements

14. This Agreement is the entire agreement between the parties regarding its subject matter and it terminates and supersedes all other agreements and arrangements between the parties regarding its subject matter.

Binding of Successors

15. This Agreement binds the parties to it and their respective successors, heirs, executors and administrators.

Execution Using Form C

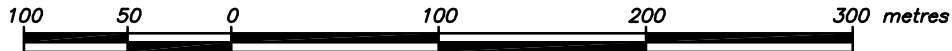
16. As evidence of their agreement to be bound by the above terms, the parties each have executed and delivered this Agreement by executing Part I of the Land Title Act Form C to which this Agreement is attached and which forms part of this Agreement.

(next page is "Schedule A")

SCHEDULE "A"

PLAN TO ACCOMPANY COVENANT OVER
LOT 20, DISTRICT LOTS 69 AND 70, PLAN VIP61020,
LOTS 21, 24 AND 25, DISTRICT LOT 69 PLAN VIP61020,
LOT 32, DISTRICT LOTS 65 AND 68 PLAN VIP61030, AND
DISTRICT LOT 68 EXCEPT PLANS VIP61030 AND VIP76636,
GALIANO ISLAND, COWICHAN DISTRICT

BCGS 92B.093
Scale 1:2500



LEGEND:

- Proposed Park (existing survey) [diagonal lines]
- Proposed Park (new survey) [diagonal lines]
- Wetlands [horizontal lines]
- Proposed RR Zone [thick solid line]
- Common driveway (easement) [dashed line]
- Individual driveways [dotted line]

PRESENT AREAS

LOT 20	8.52 ha
LOT 21	8.16 ha
LOT 24	8.10 ha
LOT 25	13.46 ha
LOT 32	8.27 ha
DL 68 REM	43.08 ha
TOTAL:	89.59 ha

PROPOSED AREAS

LOT 20	8.52 ha
LOT 21	8.16 ha
LOT 24	8.10 ha
LOT A	42.47 ha
TOTAL PARK	65.24 ha
RR ZONE	24.34 ha
TOTAL:	89.59 ha

NOTES:

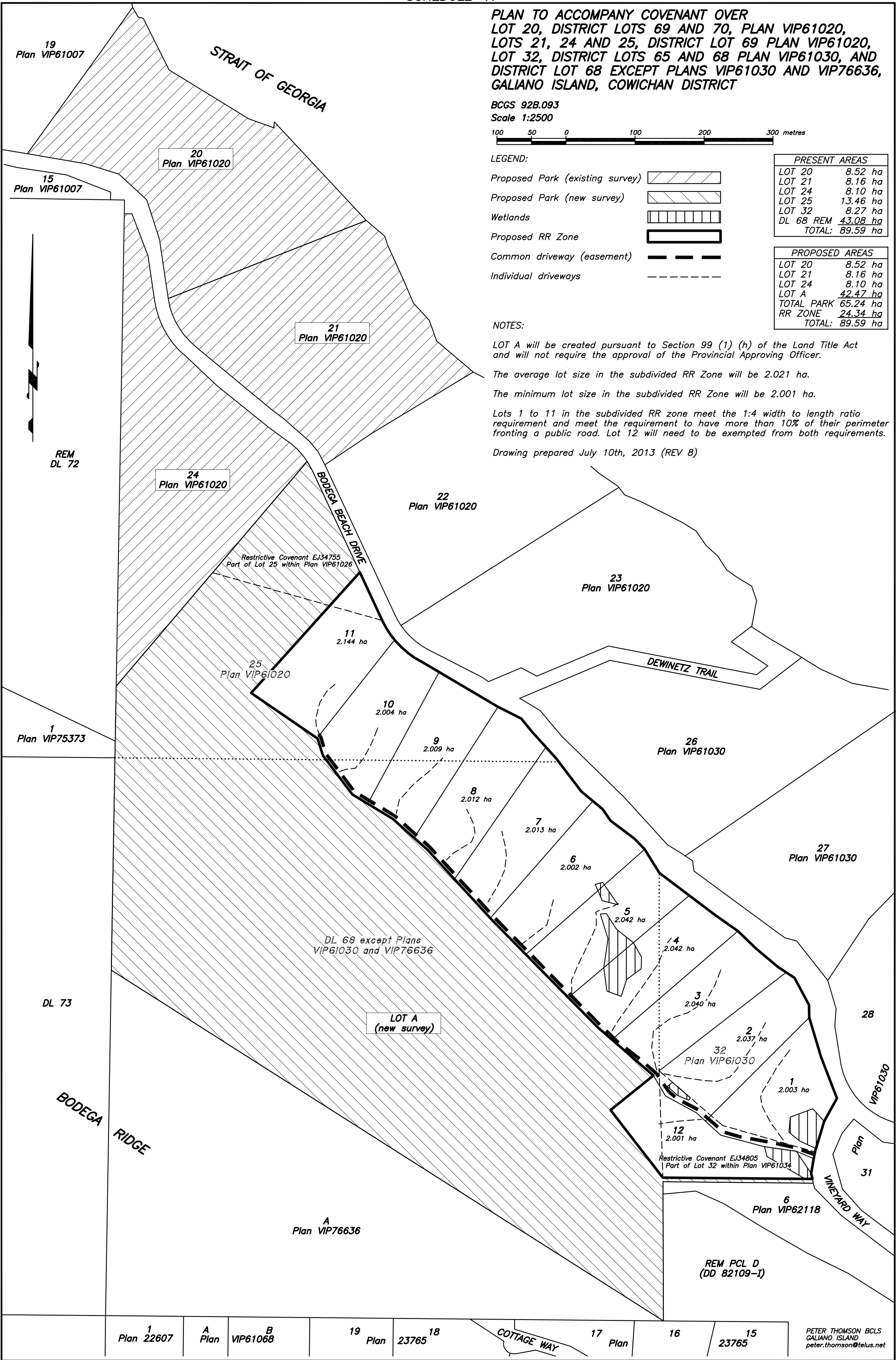
LOT A will be created pursuant to Section 99 (1) (h) of the Land Title Act and will not require the approval of the Provincial Approving Officer.

The average lot size in the subdivided RR Zone will be 2.021 ha.

The minimum lot size in the subdivided RR Zone will be 2.001 ha.

Lots 1 to 11 in the subdivided RR zone meet the 1:4 width to length ratio requirement and meet the requirement to have more than 10% of their perimeter fronting a public road. Lot 12 will need to be exempted from both requirements.

Drawing prepared July 10th, 2013 (REV 8)



PETER THOMSON BCLS
GALIANO ISLAND
peter.thomson@telus.net

LAND TITLE ACT
FORM E

SCHEDULE

PAGE OF PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

PART 2— TERMS OF INSTRUMENT

SECTION 219 COVENANT

This Agreement dated for reference the ____ day of _____, 20____ is

BETWEEN:

WINMARK CAPITAL INC., INC. NO. 299688, of
402-15050 Prospect Avenue,
White Rock, BC V4B 2B4

(the "Owner")

AND:

GALIANO ISLAND LOCAL TRUST COMMITTEE,
a corporation under the Islands Trust Act, R.S.B.C. 1996, c.239,
with an office at Suite 200, 1627 Fort Street,
Victoria, BC V8R 1H8

(the "Local Trust Committee")

GIVEN THAT:

- A. The Owner is the registered owner in fee simple of those parcels of land located on Galiano Island, British Columbia which is legally described and with Parcel Identifier as follows:

(PID)	(LEGAL DESCRIPTION)
023-042-699	Lot 25 District Lot 69 Galiano Island Cowichan District Plan VIP61020
023-042-869	Lot 32 District Lot 65 and 68 Galiano Island Cowichan District Plan VIP61030
009-624-996	District Lot 68 Galiano Island Cowichan District except Parts in Plans VIP61030 and VIP76636
023-042-630	Lot 20 District Lot 69 and 71 Galiano Island Cowichan District Plan VIP61020
023-042-648	Lot 21 District Lot 69 Galiano Island Cowichan District Plan VIP61020

023-042-681

Lot 24 District Lot 69 Galiano Island Cowichan District
Plan VIP61020

(the "Lands");

- B. The Owner proposes to subdivide the Lands, according to a proposed plan of subdivision, to create, inter alia, 12 residential parcels substantially as shown and numbered 1 through 12 inclusive in the proposed plan of subdivision attached to and forming part of this Agreement as Schedule "A" (the "New Residential Parcels");
- C. The proposed plan of subdivision includes five (5) areas identified as "Wetlands", as shown on Schedule "A" (the "Wetland Areas") within the boundaries of certain of the New Residential Parcels;
- D. The Wetland Areas contain significant natural area values including surface water bodies, flora, fauna and natural features of importance to the Owner, the Local Trust Committee and the public;
- E. The Owner intends to grant and the Local Trust Committee wish to accept a covenant under s.219 of the Land Title Act (British Columbia) to regulate the use of the Wetland Areas in the interests of ensuring the preservation and protection of the natural state of the Wetland Areas;
- F. The Local Trust Committee is authorized to accept covenants under section 219 of the Land Title Act (British Columbia); and
- G. Section 219 of the Land Title Act (British Columbia) provides that there may be registered as a charge against the title to land a covenant, whether of a negative or positive nature, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specified feature on the land.

In consideration of the payment of two dollars (\$2.00) now paid by the Local Trust Committee to the Owner, the receipt and sufficiency of which is hereby acknowledged by the Owner, and in consideration of the promises exchanged below, the parties covenant and agree as follows, in accordance with section 219 of the Land Title Act (British Columbia):

1. Interpretation

1.1 In this Agreement

- (a) **"Covenant Area Lot"** means a New Residential Parcel within which a Wetland Area is located;

- (b) **“Wetland Areas”** has the meaning described in Recital C and includes any part or parts of the Wetland Areas;
- (c) **“Lands”** has the meaning described in Recital A;
- (d) **“Local Trust Committee”** means Galiano Island Local Trust Committee, a corporation under the Islands Trust Act. R.S.B.C. 1996, c.239;
- (e) **“Notice of Breach”** means a notice of breach given under Section 5.2 of this Agreement.

2. Restriction on Use

- 2.1 Except as expressly permitted in this Agreement, the Owner shall not do anything, or allow anything to be done, that does or could reasonably be expected to destroy, impair, diminish, negatively affect, or alter the Wetland Areas from their natural state.
- 2.2 Without restricting the generality of Section 2.1, the Owner shall not, except with the prior written approval of the Local Trust Committee, cause or allow:
 - (a) silts, leachates, fills or other deleterious substances to be released as a result of human activity into any watercourse on the Wetland Areas;
 - (b) soil, gravel or rock to be disturbed, explored for minerals, moved or removed from or deposited in or on the Wetland Areas;
 - (c) the alteration or interference with the hydrology of the Wetland Areas as a result of human activity, including the diversion of natural drainage or flow of water in, on or through the Wetland Areas;
 - (d) fill, rubbish, ashes, garbage, waste or other material foreign to the Wetland Areas to be deposited in, on or under the Wetland Areas;
 - (e) pesticides, herbicides, fungicides or insecticides to be applied to or introduced onto the Wetland Areas;
 - (f) native plants, including trees and shrubs, to be cut down, destroyed, damaged, defoliated, or removed from the any part of the Wetland Areas;

- (g) the construction, building, or affixing of any buildings, structures, fixtures or improvements on the Wetland Areas;
- (h) fishing, hunting, gathering, or grazing domestic animals, to be carried out on the Wetland Areas;
- (l) the construction of any new roads or trails on the Wetland Areas; or
- j) fires to be ignited in or on the Wetland Areas.

The Local Trust Committee will not unreasonably withhold or delay any such prior written approval. In particular and without limiting the generality of the foregoing, if the Owner presents a plan intended to improve the health, vigour or regeneration of the Wetland Areas or to abate the hazard of fire, harmful insects or disease, the Local Trust Committee will give due consideration to such plan and will not unreasonably withhold approval.

3. Owner's Reserved Rights

- 3.1 Subject to Part 2, the Owner reserves all of its rights with respect to the Wetland Areas, including the right to use, occupy and maintain the Wetland Areas in any way that is not expressly restricted or prohibited by this Agreement, so long as the use, occupation or maintenance is consistent with the intent of this Agreement.
- 3.2 The Owner may trim, prune, cut down, or remove any non-native invasive plants from the Wetland Areas.
- 3.3 Nothing in this Agreement restricts or affects the right of the Owner or any other party to do anything reasonably necessary to:
 - (a) prevent potential injury or death to any individual; or
 - (b) prevent, abate or mitigate any damage or loss to any real or personal property,

provided that the Owner shall send notice of such action to the Local Trust Committee within 30 days after taking any such action.

4. No Effect On Laws or Powers

- 4.1 This Agreement does not:

- (a) affect or limit the discretion, rights, duties or powers of the Local Trust Committee under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the Local Trust Committee any duty of care or other legal duty of any kind to the Owner or to anyone else; or
- (c) oblige the Local Trust Committee to enforce this Agreement

5. Enforcement

- 5.1 The Owner agrees that the public interest in the preservation and protection of the natural state of the Wetland Areas favours an order for specific performance of the Owner's obligations in this Agreement, and that damages are not an adequate remedy for the Local Trust Committee in the event of any breach by the Owner.
- 5.2 If the Local Trust Committee, in its sole discretion, believes that the Owner has neglected or refused to perform any of the obligations set out in this Agreement or is in breach of any term of this Agreement, the Local Trust Committee may give a Notice of Breach to the Owner setting out particulars of the breach, including the Local Trust Committee's estimated maximum costs of remedying the breach.
- 5.3 On receipt of a Notice of Breach, the Owner must:
 - (a) immediately cease all activities giving rise to the breach; and
 - (b) within 60 days remedy the breach or make arrangements satisfactory to the Local Trust Committee to remedy the breach, including with respect to the time within which the breach must be remedied

provided that the Owner will not be considered to be in default under Section 5.3(b) if the nature of the breach is one that cannot be readily remedied within the 60-day remedy period and the Owner is diligently working towards remedying the breach.

- 5.4 For clarity, the requirement in Section 5.3 to remedy a breach requires the Owner to undertake such rehabilitation or restoration necessary to remedy any damage done to the Wetland Areas contrary this Agreement, at the Owner's sole expense.
- 5.5 If the Owner does not comply with the requirements of Section 5.3 within the time required or agreed upon, the Local Trust Committee may enter

upon the Land and take any required actions to cease any activities giving rise to the breach, and to remedy the breach or carry out the arrangements referred to in Section 5.3. The Owner must reimburse the Local Trust Committee for any reasonable expenses incurred in taking any action under this Section 5.5, up to the estimated maximum costs of remedying the breach as set out in the Notice of Breach.

6. Indemnity

The Owner hereby indemnifies and saves harmless the Local Trust Committee, and their employees and agents, from and against all loss, damage, cost, actions, suits, debts, expenses and harm of any kind whatsoever which the Local Trust Committee may at any time suffer or incur arising out of or related to this Agreement or any breach of it, except to the extent that any such arises due to the negligence or breach of this agreement by an indemnified party.

7. Limitation on Obligations

- 7.1 The Owner is only liable for breaches of this Agreement caused or contributed to by the Owner, or which the Owner specifically permits or allows, in respect of such registered interest in the Lands as the Owner may hold from time to time and such limitation applies to the Indemnity granted under Section 6 hereof. The Owner is liable only for breaches of this Agreement which occur while the Owner is the registered owner of any interest in the Lands and then only to the extent of that interest.
- 7.2 The Owner is not liable for:
 - (a) alterations to the Wetland Areas resulting from acts of nature, or causes beyond the Owner's reasonable control, including accidental fire, flood, or storm, and trespass and vandalism;
 - (b) any prudent action taken by the Owner under emergency conditions to prevent, abate, or mitigate significant injury to the Wetland Areas resulting from acts of nature, including accidental fire, flood, or storm; or
 - (c) injury or alteration to the Wetland Areas caused by the Local Trust Committee.

8. No Liability in Tort

The parties agree that this Agreement creates only contractual obligations. The parties agree that no tort obligations or liabilities of any kind exist between the parties in connection with the performance of or any default under or in respect of this Agreement. The intent of this Section 8 is to exclude tort liability of any kind and to limit the parties to their rights and remedies under the law of contract.

9. Covenant Runs With the Land

- 9.1 Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted under section 219 of the Land Title Act (British Columbia) in respect of the Lands. This Agreement burdens the Lands and runs with the Lands and binds the successors in title to the Lands. This Agreement burdens and charges all of the Lands and any parcels into which they are subdivided by any means and any parcel into which the Land are consolidated.
- 9.2 Notwithstanding the provisions of Section 9.1 of this Agreement, in the event that the Lands are subdivided then the Owner or an owner for the time being of any New Residential Parcel which is not a Covenant Area Lot may require the Local Trust Committee to provide a registrable discharge of this Agreement with respect to such New Residential Parcel only and the Local Trust Committee hereby agrees to provide such discharge upon request.
- 9.3 A discharge may be obtained under Section 9.2 by presenting a registrable discharge document to the Local Trust Committee for execution and the cost of preparation and registration of the document shall be for the account of the parties requiring the discharge.

10. Registration

The Owner agrees to do everything reasonably necessary, at the Owner's expense, to ensure that this Agreement is registered against title to the Lands with priority over all financial charges, liens and other financial encumbrances registered or pending registration in the Victoria Land Title Office at the time of application for registration of this Agreement.

11. Waiver

An alleged waiver of any breach of the Agreement is effective only if it is an express waiver in writing of the breach. A waiver by the Local Trust

Committee of a breach of this Agreement by the Owner does not operate as a waiver of any other breach of this Agreement.

12. Severance

If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force and unaffected by that holding or by the severance of that part.

13. No Other Agreements

This Agreement is the entire agreement between the parties regarding its subject matter and it terminates and supersedes all other agreements and arrangements between the parties regarding its subject matter.

14. Binding of Successors

This Agreement binds the parties to it and their respective successors, assigns, heirs, executors and administrators.

15. Further Acts

The Owner will do everything reasonably necessary to give effect to the intent of the Agreement, including execution of further instruments.

16. Deed and Contract

By executing and delivering this Agreement the Owner intends to create both a contract and a deed executed and delivered under seal.

17. Execution Using Form C

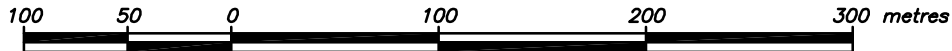
As evidence of their agreement to be bound by the terms of this instrument, the parties each have executed the Land Title Act (British Columbia) Form C which is attached hereto and which forms part of this Agreement.

(next page is Schedule "A")

SCHEDULE "A"

PLAN TO ACCOMPANY COVENANT OVER
LOT 20, DISTRICT LOTS 69 AND 70, PLAN VIP61020,
LOTS 21, 24 AND 25, DISTRICT LOT 69 PLAN VIP61020,
LOT 32, DISTRICT LOTS 65 AND 68 PLAN VIP61030, AND
DISTRICT LOT 68 EXCEPT PLANS VIP61030 AND VIP76636,
GALIANO ISLAND, COWICHAN DISTRICT

BCGS 92B.093
Scale 1:2500



LEGEND:

- Proposed Park (existing survey) [diagonal lines]
- Proposed Park (new survey) [diagonal lines]
- Wetlands [horizontal lines]
- Proposed RR Zone [thick solid line]
- Common driveway (easement) [dashed line]
- Individual driveways [dotted line]

PRESENT AREAS	
LOT 20	8.52 ha
LOT 21	8.16 ha
LOT 24	8.10 ha
LOT 25	13.46 ha
LOT 32	8.27 ha
DL 68 REM	43.08 ha
TOTAL:	89.59 ha

PROPOSED AREAS	
LOT 20	8.52 ha
LOT 21	8.16 ha
LOT 24	8.10 ha
LOT A	42.47 ha
TOTAL PARK	65.24 ha
RR ZONE	24.34 ha
TOTAL:	89.59 ha

NOTES:

LOT A will be created pursuant to Section 99 (1) (h) of the Land Title Act and will not require the approval of the Provincial Approving Officer.

The average lot size in the subdivided RR Zone will be 2.021 ha.

The minimum lot size in the subdivided RR Zone will be 2.001 ha.

Lots 1 to 11 in the subdivided RR zone meet the 1:4 width to length ratio requirement and meet the requirement to have more than 10% of their perimeter fronting a public road. Lot 12 will need to be exempted from both requirements.

Drawing prepared July 10th, 2013 (REV 8)

