



Salt Spring Island Local Trust Committee

Regular Meeting Addendum

Date: Tuesday, November 10, 2020
Time: 9:30 a.m.
Location: Electronic Meeting

Pages

10. APPLICATIONS AND REFERRALS 10:30 AM - 12:30 PM

10.9. *SS-TUP-2020.4 - M. Cahill, Charlie's Excavating - 570 Blackburn Road, SSI*

2

Request to Temporarily Cease Bylaw Enforcement Action for a Continuing
Use While Processing an Application in Consideration of a Community Need



MEMORANDUM

File No.: SS-TUP-2020.4

(Cross Ref. No. SS-BE-2019.62)

DATE OF MEETING: November 10, 2020
TO: Salt Spring Island Local Trust Committee
FROM: Kristine Mayes, Planner 1, Salt Spring Island Team
COPY: Stefan Cermak, Regional Planning Manager, Salt Spring Island Team
SUBJECT: Request to Temporarily Cease Bylaw Enforcement Action for a Continuing Use While Processing an Application in Consideration of a Community Need
Applicant: Gosco Holdings dba Charlie's Excavating (M. Cahill)
Location: 570 Blackburn Road, Salt Spring Island, BC (PID: 002-718-596)

PURPOSE

The applicant for SS-TUP-2020.4 is requesting that the Salt Spring Island Local Trust Community deem there to be a community need to process SS-TUP2020.4 while prohibited uses continue on the subject property (570 Blackburn road) in accordance with [Salt Spring Island Standing Resolution](#) SS-2020-045.

BACKGROUND

Standing Resolution SS-2020-045

At the meeting of April 28, 2020, the Salt Spring Island Local Trust Committee (LTC) passed the following resolution:

SS-2020-045

It was MOVED and SECONDED, that the Salt Spring Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications:

- Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and that staff are directed to continue with enforcement until the use is ceased.
- The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, temporarily cease.
- Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee; bylaw enforcement actions, including the issuing of notices, will continue.
- In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.

CARRIED

Application

The subject property (Figure No. 1 & 2) is located in south-central Salt Spring Island on the corner of Cranberry Road and Blackburn Road. The 4.03-hectare (9.95-acre) lot is zoned Rural Watershed 1 (RW1). A comprehensive analysis of the subject property and surrounding area can be found in Appendix No. 1.

The applicant has submitted a TUP application as a result of bylaw enforcement action to operate a home-based commercial excavating business on the subject property. The business – Charlie's Excavating – has operated on Salt Spring Island since 2003, offering excavating and septic services and comprises of 8 employees and a fleet of 11 machines. Prior to occupying the subject property, the business operated from an industrial zoned property recently rezoned to General Employment 1 variant b (GE1(b)) following the adoption of Bylaw No. 489.

Application SS-TUP-2020.4 was opened on October 22, 2020. The applicant submitted a letter dated October 16, 2020 (Appendix No. 2) requesting the LTC deem the use occurring on the subject property a “community need” in accordance with Standing Resolution SS-2020-045 to temporarily cease bylaw enforcement action until consideration of the TUP application. The applicant seeks to utilize 2-acres of the subject property including 2 existing accessory buildings, 3 seacans, storage, office space and onsite fuel storage, staff requested clarity in respect to the commercial uses the applicant is seeking and the applicant has provided an amended site plan showing where the interim uses are proposed to occur (Figure No. 3). The applicant has provided the following list indicating the interim uses they wish to occur on the subject property prior to consideration of the application (Appendix No. 3):

- Administrative Office (*note this use is permitted under Article 3.132.6(i) subject to compliance with Section 3.13 (Home Based Businesses) of [Salt Spring Island Land Use Bylaw No. 355](#)*)
- Outdoor Storage of 4 Trucks, 1 Machine (Backhoe) and 1 Office Employee Vehicle
- Indoor repair and service of equipment, machinery, and vehicles
- Storage of Bulk Fuel Products for Use on Salt Spring Island
- Storage of Materials in 3 Sea Cans
- During the Hours of Operation: 7:30am to 5:00pm

Note the above list is not inclusive of uses to be considered for the proposed permit.

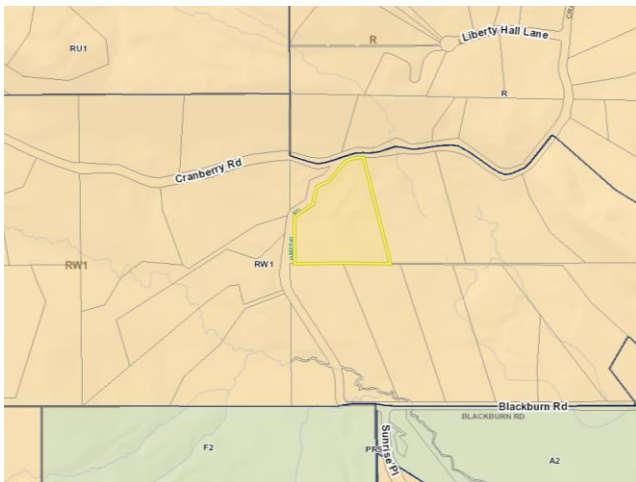


Figure 1: Zoning Map of Subject Property



Figure 2: 2017 Orthophoto of Subject Property

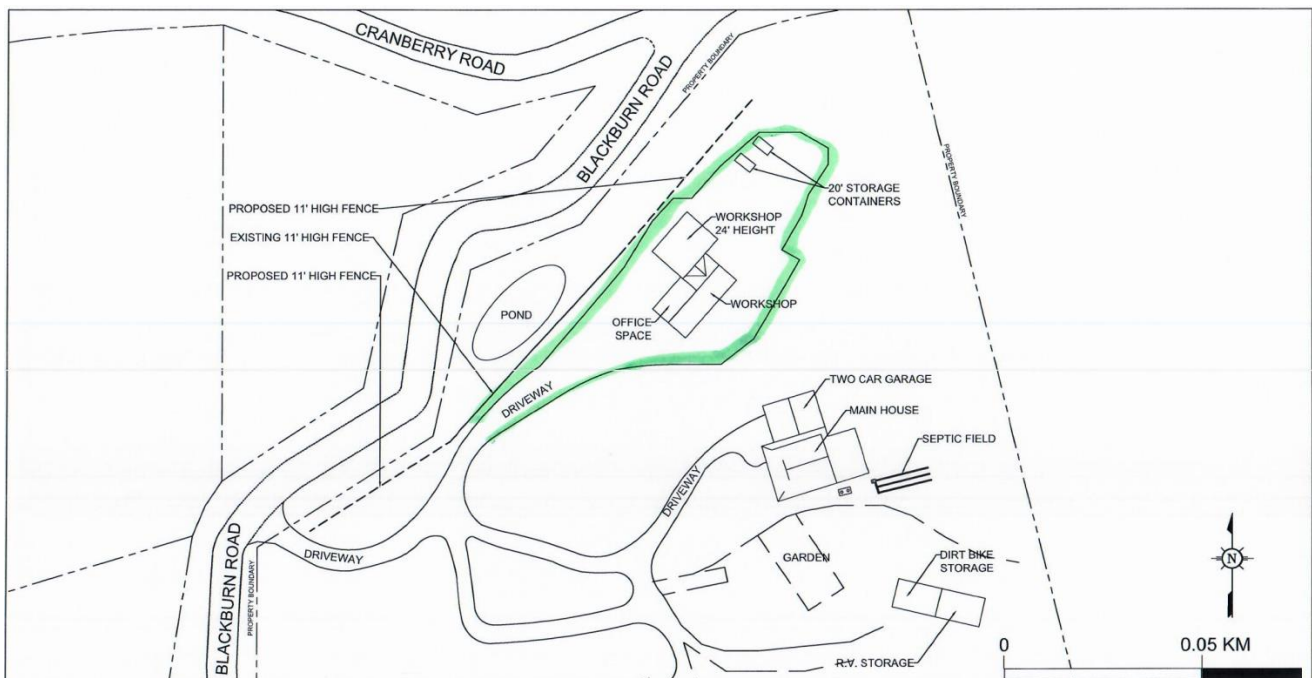


Figure 3: Site Plan for Subject Property

DISCUSSION

Community need is generally a gap between what a community has and what a community should have. A clear example is affordable or attainable housing. To assess community need, a Housing Needs Assessment is conducted. Ideally, these needs are reflected in an Official Community Plan to assist elected officials make decisions towards addressing the gap between what is and what should be. Defining when there is a community need “to process an application” implies that discontinuing the unpermitted use while processing an application would result in a gap between what the community has and what the community should have.

Is there a community need to process the application?

- There are no community need assessments or related policies for excavating services in the [Salt Spring Island Official Community Plan No. 434](#);
- The LTC identified “Commercial Truck Parking and Storage” as an issue not satisfactorily addressed upon conclusion of the Industrial Lands project and placed the issue on the long projects list in July 2020. This suggests that there is a need to address components of the issue;
- The Salt Spring Island Lions Club Directory (2020-2021) identifies approximately 14 excavating contractors on Salt Spring Island, including the applicant which suggests these particular services are valued, but are not unique and that a temporary ceasing of bylaw enforcement action of the unpermitted uses on the subject property would not create a gap for the community;
- Staff note the applicant has provided evidence that they have suspended some prohibited land uses on the subject property (Appendix No. 2).

NEXT STEPS

The LTC may consider the following resolutions in response to the request received on October 16, 2020:

1. Deem that there is a community need to process the application while the prohibited use is continuing.

The LTC may determine that there is a community need to process the application while the prohibited use is continuing and thus direct staff to temporarily cease bylaw enforcement action in accordance with Standing Resolution SS-2020-045 until consideration of the application. Recommended wording for resolution:

That the Salt Spring Island Local Trust Committee determine that there is a community need to process SS-TUP-2020.4 (570 Blackburn Road) while the prohibited use is continuing and direct staff, per standing resolution SS-2020-045, to temporarily cease bylaw enforcement action for the following commercial and general employment uses until consideration of SS-TUP-2020.4:

- *Administrative Office;*
- *Outdoor Storage of 4 Trucks, 1 Machine (Backhoe) and 1 Office Employee Vehicle;*
- *Indoor repair and service of equipment, machinery, and vehicles;*
- *Storage of Bulk Fuel Products for Use on Salt Spring Island; and*
- *Storage of Materials in 3 Sea Cans;*
- *During Hours of Operation: 7:30am to 5:00pm.*

2. Deem that there is not a community need to process the application while the prohibited use is continuing.

The LTC may determine that there is not a community need to process the application while the prohibited use is continuing. Recommended wording for resolution:

That the Salt Spring Island Local Trust Committee determine that there is not a community need to process SS-TUP-2020.4 while the prohibited use is continuing and direct staff, per standing resolution SS-2020-045, to request that the applicant cease the use, and that staff are directed to continue with enforcement until the use is ceased.

The applicant will be notified of the LTC’s decision accordingly.

Submitted By:	Kristine Mayes, Planner 1	November 6, 2020
Concurrence:	Stefan Cermak, Regional Planning Manager	November 6, 2020

APPENDICES

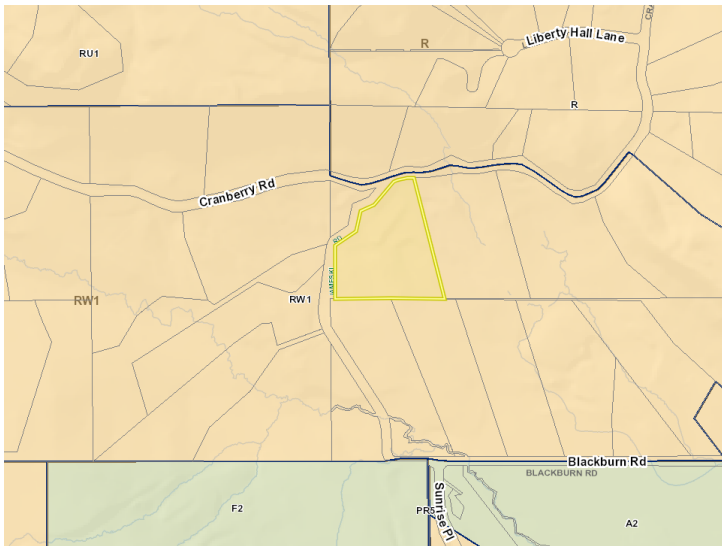
1. Site Context
2. Letter to LTC Requesting Bylaw Enforcement Action Cease in Respect to a Community dated October 16, 2020
3. Email to Staff Regarding Interim Uses dated October 16, 2020

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 1, Section 15, Range 4 East, North Salt Spring Island, Cowichan District, Plan 26098, Except Part in Plan 35742
PID	002-718-596
Civic Address	570 Blackburn Road, Salt Spring Island

LAND USE

Current Land Use	Residential – Dwelling Unit, Recreational Vehicle and Several Accessory Buildings
Surrounding Land Use	Residential  <i>Islands Trust Zoning Map (subject property indicated in yellow)</i>  <i>Islands Trust Orthophoto (subject property indicated in yellow)</i>

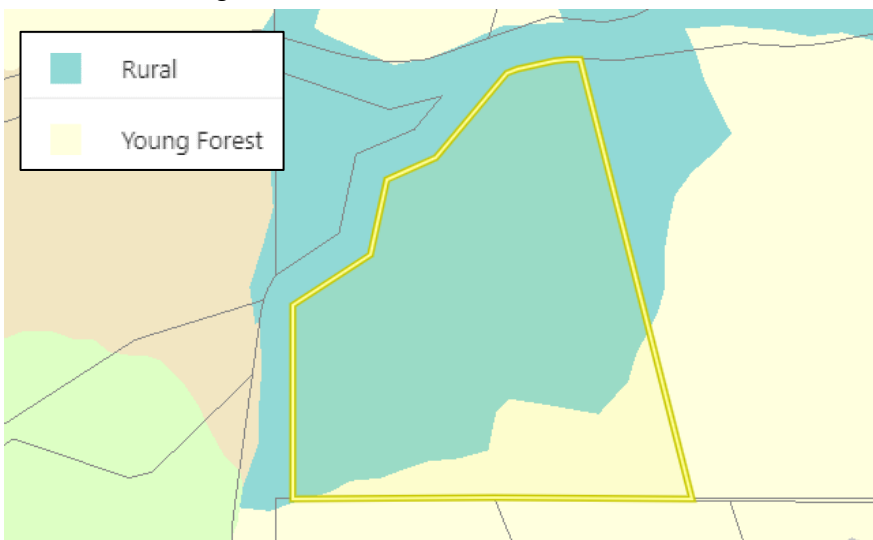
HISTORICAL ACTIVITY

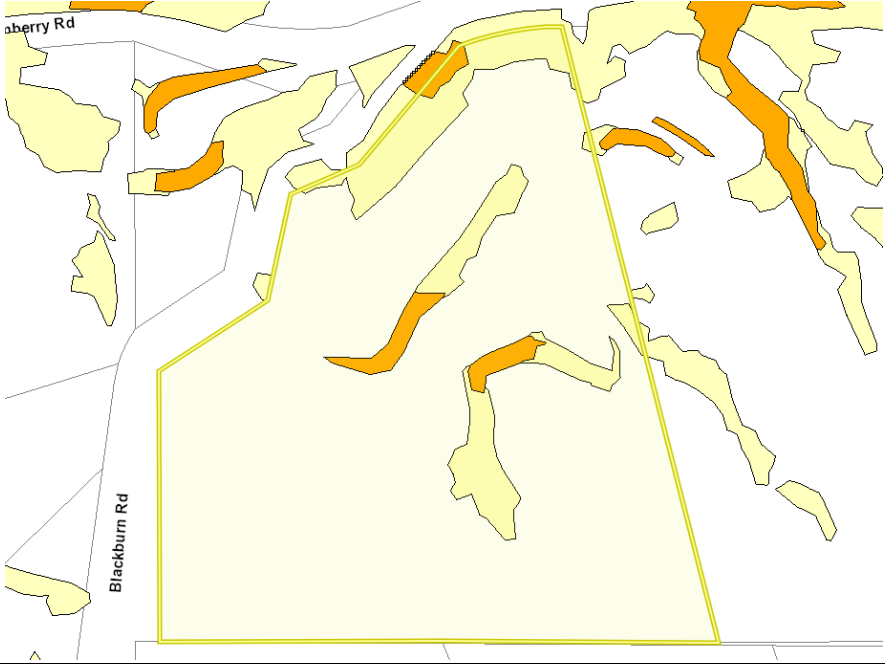
File No.	Purpose
None	

POLICY/REGULATORY

Official Community Plan Designations	Watershed & Islet Residential (WIR)
Land Use Bylaw	Rural Watershed 1 (RW1)
Other Regulations	None
Water Service Area	North Salt Spring Waterworks District
Title Charges	E67498: Right of Way (BC Hydro) EN3809: Easement (to Lot A) EN3810: Easement (to Lot B) EN3811: Easement (to Lot C) EN3812: Easement (to Lot A)
Bylaw Enforcement	SS-BE-2019.62 – Industrial/Commercial Use of Land in Rural Watershed Zone

SITE INFLUENCES

Islands Trust Conservancy	The Islands Trust Conservancy does not have an interest in any properties within 100 metres of the property subject of this application.
Regional Conservation Strategy	The subject property is primarily within the MEDIUM to LOW relative value area for important natural areas in the Salt Spring Island Local Trust Area. 
Species at Risk	SAR (Public) Species: None Currently Mapped SAR (Public) Ecological Community: None Currently Mapped
Sensitive Ecosystems	SEI: None Currently Mapped Heron Rookery/Raptor Nest/Sea Bird Colony: None Currently Mapped RAR Watercourse: None Currently Mapped ITEM: Rural & Young Forest  <i>Islands Trust Ecosystem Mapping (ITEM)</i> Islands Trust Protected Areas mapping indicates no protected areas surrounding or in close proximity to subject property.

Hazard Areas	Moderate to Low Risk Steep Slopes are mapped throughout the property. Yellow = Low Risk Orange = Moderate Red = High 
Archaeological Sites/Potential	Archeological Potential within 100m of the subject property. Notwithstanding the foregoing, and by copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected under the <i>Heritage Conservation Act</i>. If such material is encountered during development, all work should cease and Archaeology Branch should be contacted immediately as a <i>Heritage Conservation Act</i> permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	The subject property ranges in elevation from approximately 143 metres to 176 metres above sea level and is located approximately 1.3km from the nearest bus route.
Shoreline Classification	<i>Not Applicable</i>
Shoreline Data in TAPIS	<i>Not Applicable</i>



Gosco Holdings Inc. dba Charlie's Excavating
 570 Blackburn Road
 Salt Spring Island BC V8K 2H2
 250-537-2692 email: chxssi@gmail.com

October 19, 2020

Local Trust Counsel

Re: Request for Permission to Operate Pending Review of Temporary Use Permit – 570 Blackburn Road

To whom it may concern,

This letter is provided to you in support of Charlie's Excavating's request for permission to continue operation from 570 Blackburn Road during the period while its application for a Temporary Use Permit is being considered.

Charlie's Excavating has been operating on Salt Spring Island since 2003. It is a residential and commercial excavating business with the owner, Charles Gosset, also being a certified septic field installer. Charlie's Excavating is the largest excavating company on Salt Spring and runs a sizeable fleet of vehicles and equipment (detailed below). Our team is comprised of 7 fulltime employees and 1 fulltime contractor, 5 of which are born and bred islanders with Charles having moved to Salt Spring as a teenager. The 3 core members of our team have a combined total of 60 years of expertise and experience in this business. Charlie's also uses numerous subcontractors on the island including businesses such as Akerman Trucking, Salt Spring Island Services and Salt Spring Slinger, each of which relies on Charlie's for more than 50% of their income.

Charlie's activities on Salt Spring are consistently aligned with and supportive of the objects of the Islands Trust. Some of those activities are as follows:

- Presently working on the following 2 low cost housing projects for Salt Spring - Croftonbrook (IWAV) and Salt Spring Commons (Salt Spring Community Services)
- CRD projects
 - Centennial Park redevelopment
 - Bike Park construction

- Burgoyne Bay Septage Receiving Upgrades – Excavation and civil works
- Library – Excavation and civil works
- Providing affordable septic systems for persons and organizations. Recently installed septic system for Salt Spring Community Services housing.
- One of the few companies that is able to respond to septic emergencies, such as effluent contaminating water systems
- Snow removal - we provide plowing services to numerous businesses and individuals, including the Mt. Tuam - Skywater areas. We have the largest private snow removal service on Salt Spring and are called upon during significant snow events to provide people with clear access out of their residences for personal and medical reasons.

Charlie's is also at the forefront in contributions for a healthy island community. Donated work includes:

- Basketball Court – High School – prepped, graded, packed
- Skate Park prep – earthworks
- Parking lot – Early Learning Centre – earthworks, grading, drainage, crushing, provided all material at no cost
- Gardens – Elementary School – terraced garden beds, provided material (community award received for this contribution)
- Constructed 2 rock seating areas – Elementary School – donated all rock
- Constructed 3 rock seating areas – Fernwood School – donated all rock
- Yearly cash donation to IWAV (2018, 2019, 2020)

Charlie's Excavating moved from a rental space at 319 Upper Ganges Road to 570 Blackburn Road in October 2018. Charles Gosset was long interested in acquiring the Blackburn Road property () as this would allow him to not only live rurally, but also operate his business as had done for several years.

Charlie's Excavating has utilized a 2 acre portion of the 10 acre property that had two existing workshops, one that is 24' high used to service equipment, and the other smaller workshop that is used for storage of septic pipe and for office space. Two storage containers located at the back of the property are used for storage of septic pipe fittings and small tools/machines.

Charlie's presently has in its fleet the following: 11 machines including excavators, 2 dump trucks, 1 dump truck with a flat deck, 1 flat deck truck, and 3 - 1 T trucks.

Having been advised that Charlie's Excavating is currently not in compliance with bylaws for the operation of its business on the Blackburn Road property, Charlie's has taken the following interim steps to attempt to comply with the bylaws:

- Commenced storing/ parking machines on site at our two construction projects. This is an interim solution as those projects will eventually be completed
- Minimize our equipment and machine moves from our property by moving machines from one jobsite directly to the next site.
- Constructed an eleven foot high fence as a sightline barrier between Blackburn Road and the work area

- Morning meetings with staff are now held at a central location downtown to reduce early morning traffic noise on Blackburn Road and Cranberry Road
- Rescheduled fuel deliveries from early morning to later in the day in order to reduce early morning noise
- Discontinued the storage of bulk granular material on site to minimize truck movements on Blackburn Road and Cranberry Road

In addition to Charlie's operations activities on the property, the remaining 8 of the 10 acres are used by Charles Gosset, [REDACTED] as their residence. That area contains [REDACTED], all for the personal use and enjoyment of the family, and therefore it is Charlie's intention to operate the business in a manner that won't unduly interfere with the enjoyment of his home and family, and those of his neighbours.

While these measures may not make Charlie's operation fully compliant with the bylaws, they represent a significant effort by Charlie's to minimize any inconvenience that may be caused to, or felt by, homes and businesses operating in the immediate area.

If you have any questions about the above, please feel free to contact me.

Yours truly,

Charlie's Excavating



Mia Cahill
Business Manager

Kristine Mayes

From: Charles Gosset <chxssi@gmail.com>
Sent: Friday, November 6, 2020 11:07 AM
To: Kristine Mayes
Subject: 570 Blackburn Road
Attachments: 570 Blackburn site plan - business area.pdf

Hi Kristine,

Proposed interim uses at 570 Blackburn Road for the period in which TUP is being reviewed are as follows:

Hours of operation 7:45 – 5:00.

Use of Administration Office.

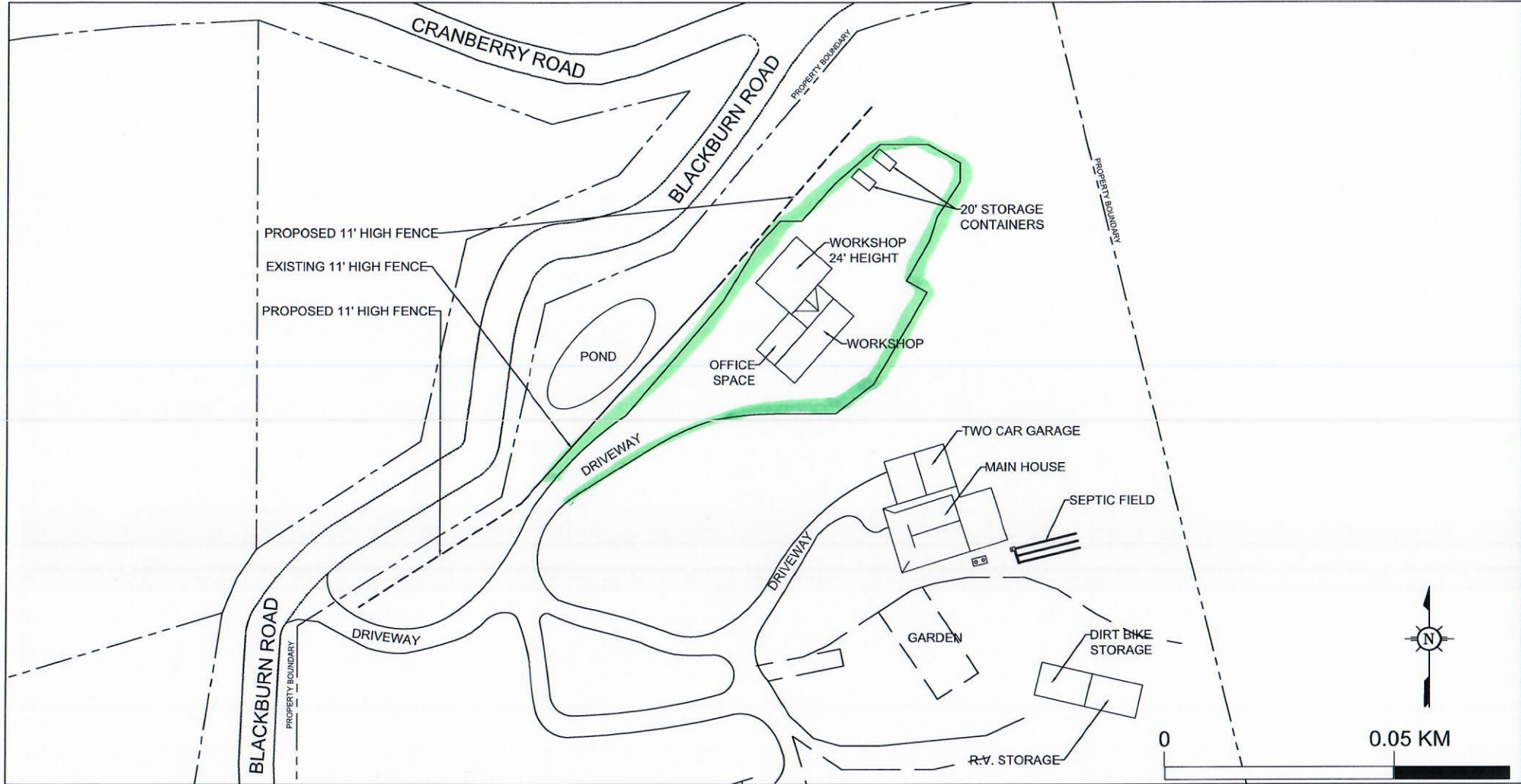
Parking: 5Ton flat deck (stored in workshop) 2Ton Dump Truck, two 1Ton trucks, one car (office employee). Remaining trucks infleet are presently stored on construction sites.

Excavator Parking: 1 Backhoe. Remaining machines in our fleet presently stored on job sites.

Material Storage: 3 seacans, presently have 2 seacans and we have 1 seacan on a construction site that we would like to move back to the property as that project will soon be at completion.

Please see attached site plan with business area highlighted in green.

Thank you
Mia



Notes 1) Size and location of lot and buildings are approximate. 2) This drawing is not a legal boundary survey and should be used only for reference purposes. 3) In the case of discrepancies between plans and specifications, specifications will govern. 4) All measurements are in meters unless otherwise noted.			PID LOT VIP Folio	Address 570 BLACKBURN ROAD SALT SPRING ISLAND		Drawing title NORTH END OF PROPERTY SITE MAP	
				Client CHARLES GOSSET	Date 2020-09-21	Drawn By MB	Sheet No. 1 of 2
SHEET SIZE A3 - 17x11		SCALE 1:20					