



**REPORT TO JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, SEPTEMBER 16, 2014**

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**SUBJECT**      **PROPOSED AMENDMENTS TO THE MALAHAT LAND USE BYLAW, 1981, BYLAW NO. 980 (AMENDMENT BYLAW NO. 3960)**

**ISSUE**

An amendment to the Malahat Land Use Bylaw is proposed to revise the bylaw map to incorporate the Chatham and Discovery Islands which were inadvertently deleted, and to delete the zoning from the First Nation and Crown lands.

**BACKGROUND**

Bylaw No. 980 was first adopted in 1982 as the "Zoning Bylaw, Planning Area No. 2" and applied to lands within the Colwood and Langford Electoral Areas, part of the View Royal Electoral Area, and the Chatham and Discovery Islands located off Oak Bay. With the incorporation of Colwood, Langford and View Royal this bylaw was revised and adopted as the "Langford Electoral Area Zoning Bylaw, 1981" and continues to apply to portions of the Juan de Fuca Electoral Area, specifically the Malahat area and the Chatham and Discovery Islands.

In a recent amendment (Bylaw No. 3874) to Bylaw No. 980, now known as the Malahat Land Use Bylaw, the zoning map was updated to meet Capital Regional District (CRD) corporate mapping standards; however, the new map did not identify the Chatham and Discovery Islands. Proposed Bylaw No. 3960 deletes the zoning from the First Nation and Crown lands and incorporates the revised Schedule "B" map which includes the islands (Appendix 1).

**ALTERNATIVES**

1. Recommend to the CRD Board that proposed Bylaw No. 3960, "Malahat Land Use Bylaw, 1981, Amendment Bylaw No. 145, 2014", as included in Appendix 1, be referred to appropriate CRD departments and agencies for comment.
2. Recommend that the CRD Board not refer proposed Bylaw No. 3960, "Malahat Land Use Bylaw, 1981, Amendment Bylaw No. 145, 2014".
3. Request more information be provided by staff.

**LEGISLATIVE IMPLICATIONS**

Pursuant to Section 879 of the *Local Government Act (LGA)*, an amendment to a zoning bylaw requires that the local government provide one or more opportunities for consultation it considers appropriate to the persons, organizations and authorities the local government considers may be affected by the adoption, repeal or amendment of a zoning bylaw.

Pursuant to Section 881 of the *LGA*, a proposed amendment to a zoning bylaw must be referred to the school district. Where an amendment or new land use and subdivision bylaw will apply to land within 800 m of a controlled access highway, the bylaw must be referred to the Ministry of Transportation and Infrastructure.

**PUBLIC CONSULTATION IMPLICATIONS**

The Advisory Planning Commissions were established to make recommendations to the Land Use Committee (LUC) on land use planning matters referred to them relating to Part 26 of the *LGA*; however, the Malahat Advisory Planning Commission is inactive. Further, as this is an administrative amendment, a public information meeting is not proposed.

Should the amendment to the Malahat Land Use Bylaw, Bylaw No. 980, proceed, it will be considered pursuant to the bylaw amendment process outlined in the Juan de Fuca Electoral Area Development Procedures Bylaw, Bylaw No. 3110. A public hearing pursuant to Section 890 of the *LGA* would be required subsequent to the amendments passing second reading by the CRD Board. A notice of the proposed bylaw amendment will be advertised in the local paper and on the website.

## **REGIONAL GROWTH STRATEGY AND OFFICIAL COMMUNITY PLAN IMPLICATIONS**

The Chatham and Discovery Islands are not included within the Malahat Official Community Plan, Bylaw No. 3721. These islands are addressed in the Regional Growth Strategy (RGS) and are designated as Rural/Rural Residential and Capital Green Lands.

### **PLANNING ANALYSIS**

The Chatham Islands including Chatham, Vantreight and Strongtide Islands (Chatham Islands IR #4) and a portion of Discovery Island (Discovery Island IR #3) are Songhees First Nation Reserve Lands. The remainder of Section 1, Discovery Island is a provincial park, "Discovery Island Marine Park". A small area (PID: 009-379-461, That Part of Section 1, Discovery Island, Victoria District, as shown outlined in red on Plan 1315 OS) remains private land (Appendix 2). In addition, Lot A, Section 1, Discovery Island, Victoria District, Plan VIP65904 is Department of Fisheries and Oceans (DFO) Lighthouse property (Appendix 3). The Great Chain Island and Islets, Jemmy Jones Island and Alpha Islet are designated as a provincial ecological reserve, the "Oak Bay Islands Ecological Reserve" (Appendix 4).

All of the islands were zoned Rural A1 under Bylaw No. 980 (Appendix 5). However, local government bylaws do not apply to First Nation lands or to provincial or federal Crown lands. The proposed bylaw amendment will retain the Rural A1 zoning on the private parcel only (Appendix 2). As the proposed amendment retains the zoning on the private parcel which is a very small portion of Discovery Island, and the zoning never applied to the First Nation and Crown lands, there are no actual changes to the existing situation.

Staff recommends referring proposed Bylaw No. 3960 to agencies for comment.

### **CONCLUSION**

The purpose of this bylaw amendment is to revise the bylaw map to incorporate the Chatham and Discovery Islands which were inadvertently deleted in a previous bylaw amendment. The amendment does not change the existing zoning.

### **RECOMMENDATION**

That the Land Use Committee recommends to the CRD Board that:

Proposed Bylaw No. 3960, "Malahat Land Use Bylaw, 1981, Amendment Bylaw No. 145, 2014", as included in Appendix 1, be referred to appropriate CRD departments and the following agencies for comment: BC Parks, Fisheries and Oceans Canada, District of Oak Bay, Corporation of the District of Saanich, Islands Trust, Ministry of Transportation and Infrastructure, School District #79 and Songhees First Nation.

**\*\*ORIGINAL SIGNED\*\***

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June Klassen, MCIP, RPP  
Manager, Local Area Planning

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Kevin Lorette, P.Eng., MBA  
General Manager,  
Planning and Protective Services  
Concurrence

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Robert Lapham, MCIP, RPP  
Chief Administrative Officer  
Concurrence

#### Appendices:

1. Proposed Bylaw No. 3960
2. Private Land
3. DFO Lighthouse Property
4. Oak Bay Islands Ecological Reserve
5. Existing Zoning Map and Rural A1 Zone

**CAPITAL REGIONAL DISTRICT  
BYLAW NO. 3960**

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**A BYLAW TO AMEND  
BYLAW NO. 980, "MALAHAT LAND USE BYLAW, 1981"**

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The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 980 being the "Malahat Land Use Bylaw, 1981" is hereby amended:

**A. RURAL A1 ZONE**

- a) Amend the Rural A1 zone by deleting the zone from the Songhees First Nation Reserve Lands on Chatham Islands (Chatham IR #4) and a portion of Discovery Island (Discovery Island IR #3);
- b) Amend the Rural A1 zone by deleting the zone from the Department of Fisheries and Oceans Lighthouse property on Discovery Island Lot A, Section 1, Discovery Island, Victoria District, Plan VIP65904; and
- c) Amend the Rural A1 zone by deleting the zone from the islands within BC Parks Oak Bay Ecological Reserve (Jemmy Jones Island, Great Chain Island, the Chain Islets and Alpha Islet) and Discovery Island Marine Park (remainder Section 1, Discovery Island).

**B. SCHEDULE "B" ZONING MAP**

Amend Schedule "B" by deleting the map titled "Malahat Land Use Bylaw, 1981, Bylaw No. 980, Map 1: Malahat Zoning" and replacing with the new map titled "Malahat Land Use Bylaw, 980, Map 1: Malahat Zoning" as shown on Schedule "B" attached to and forming part of this bylaw.

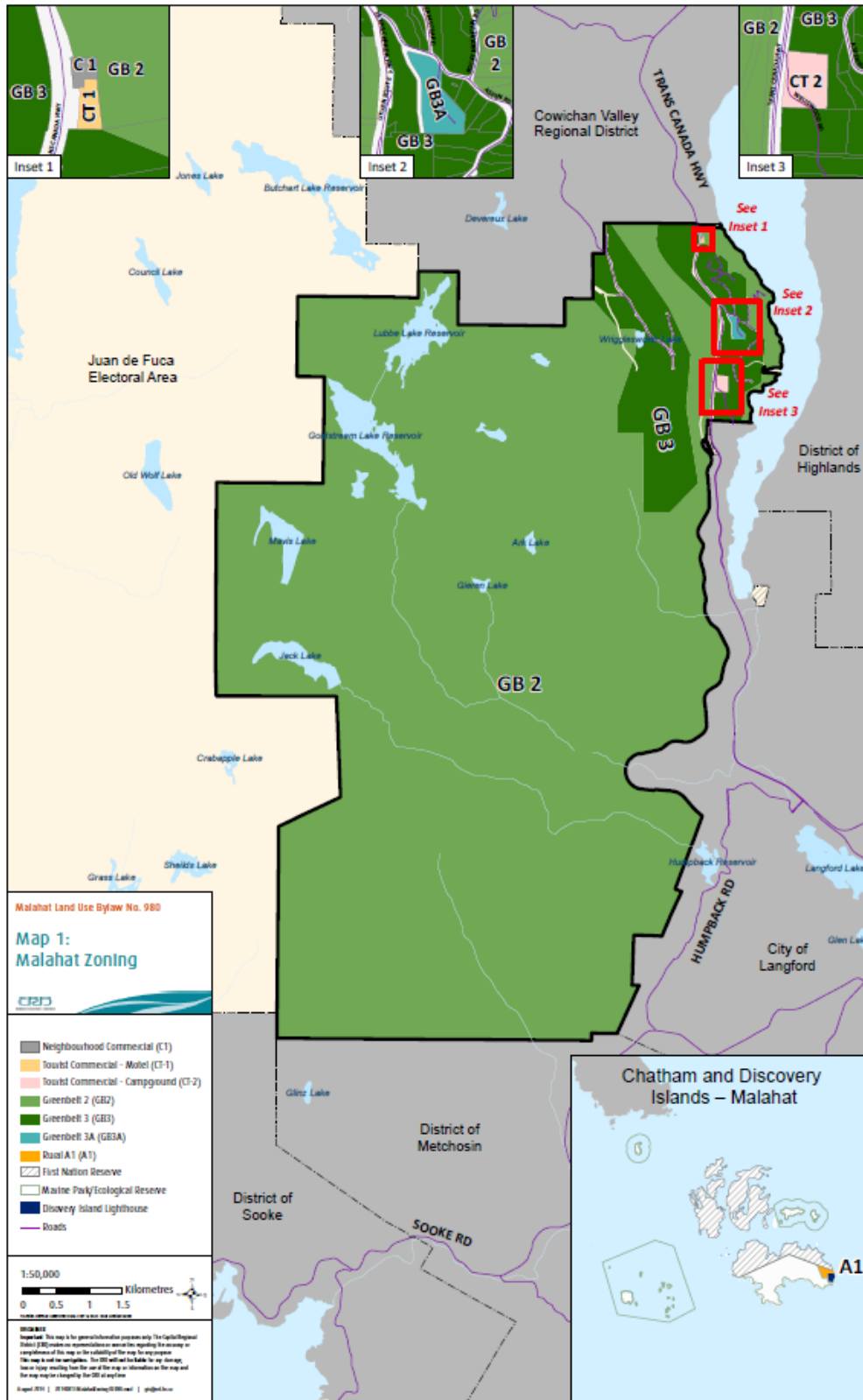
2. This bylaw may be cited as Bylaw No. 3960, "Malahat Land Use Bylaw, 1981, Amendment Bylaw No. 145, 2014".

READ A FIRST TIME	THIS	DAY OF	2014
READ A SECOND TIME	THIS	DAY OF	2014
READ A THIRD TIME	THIS	DAY OF	2014
APPROVED by the Minister of Transportation and Infrastructure			
	THIS	DAY OF	2014
ADOPTED	THIS	DAY OF	2014

\_\_\_\_\_  
CHAIR

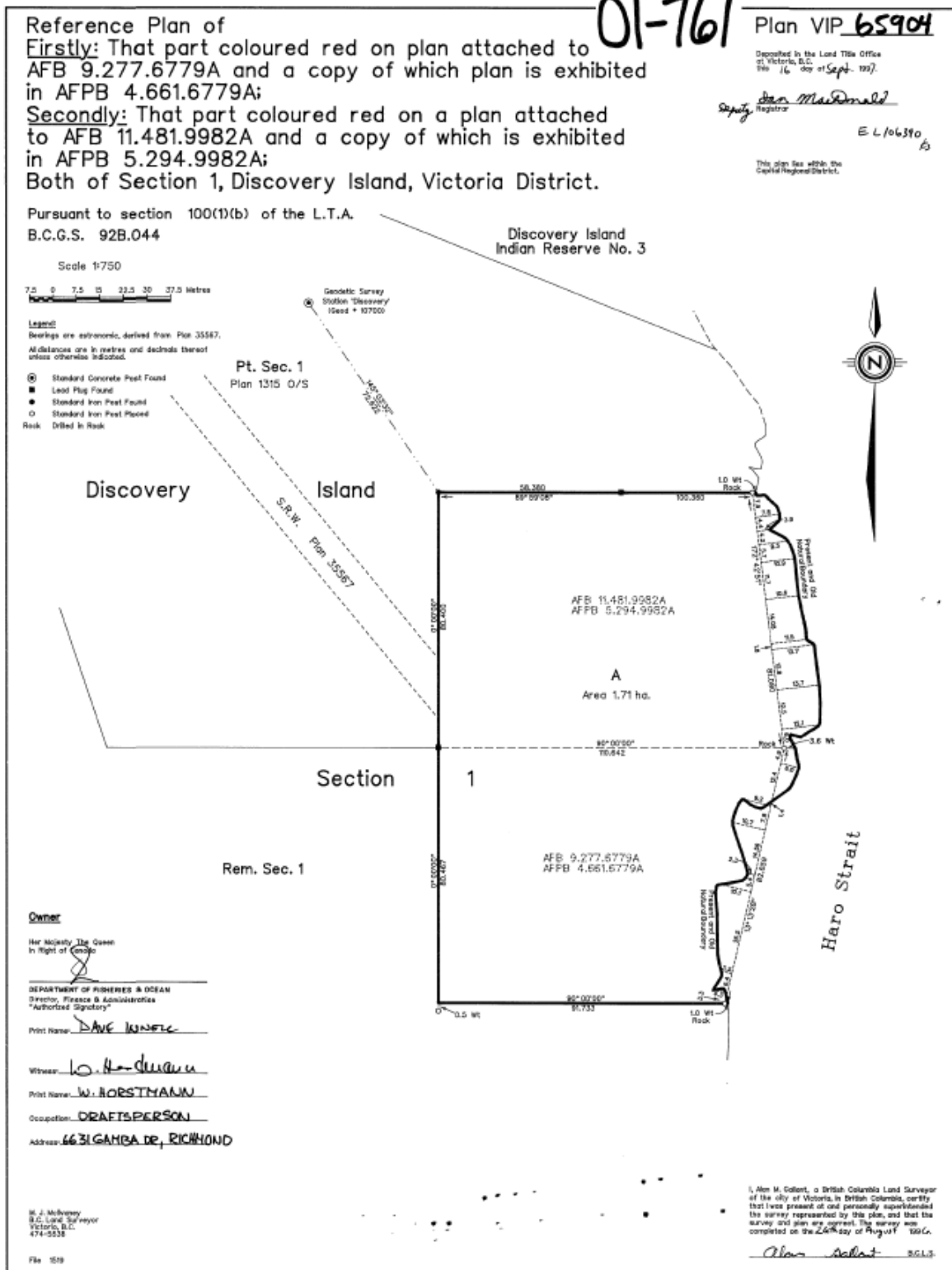
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CORPORATE OFFICER

Schedule "B" – Map 1: Malahat Zoning

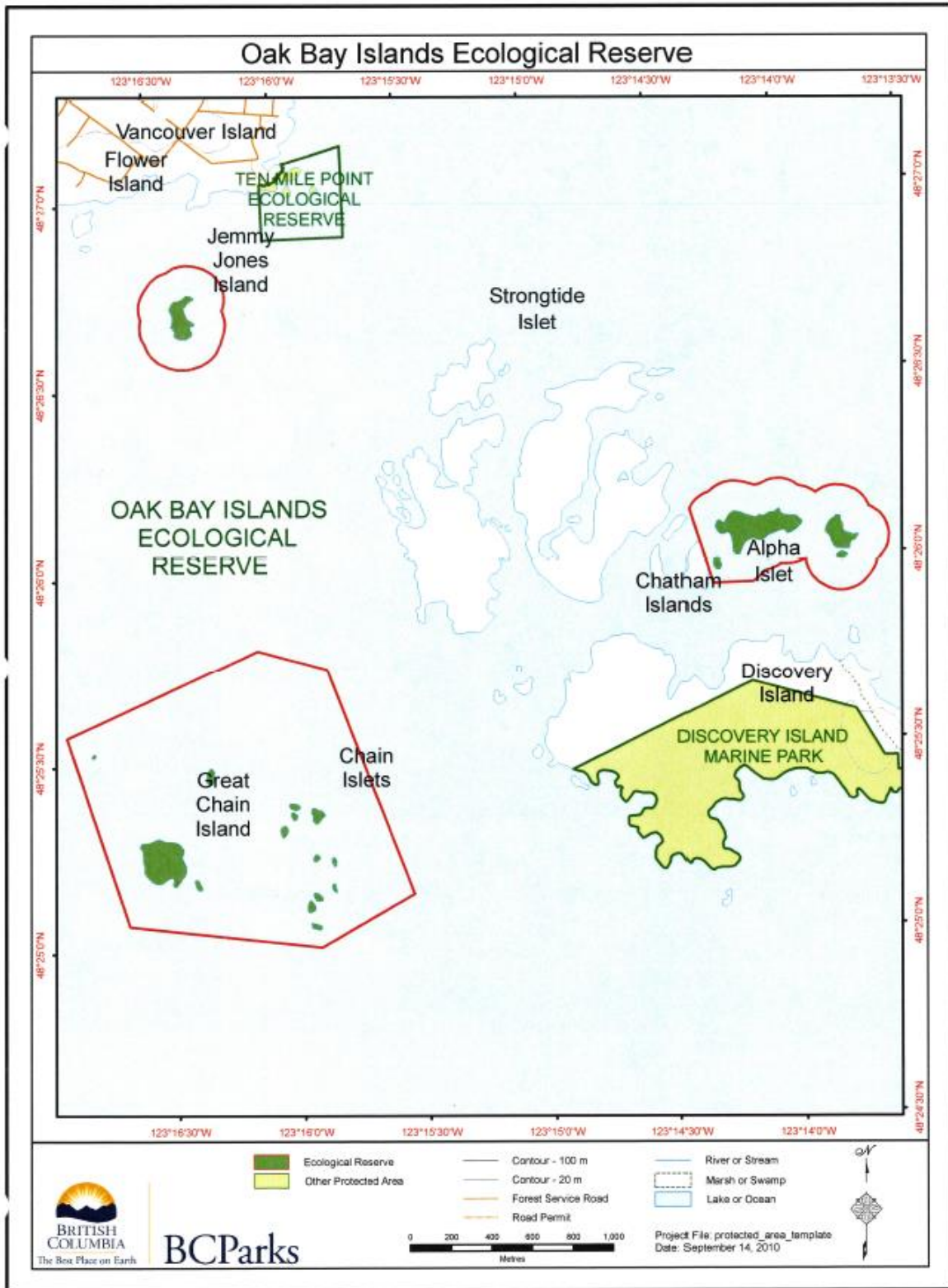




Appendix 3: DFO Lighthouse Property



Appendix 4: Oak Bay Islands Ecological Reserve



Appendix 5: Existing Zoning Map and Rural A1 Zone

**Section 5.1**                      **Rural 1**    **A1**

**5.1.01 Permitted Uses**

In addition to the *uses* permitted by Section 2.1.10 of this Bylaw, the following *uses* and no others shall be permitted in the Rural 1 (A1) Zone:

- (1) *Agriculture*
- (2) *Intensive agriculture*
- (3) Dog boarding and breeding kennel (BL 1146)
- (4) Cemeteries
- (5) *Community care facility*
- (6) Golf course
- (7) *One-family dwelling and two-family dwelling*
- (8) Not more than 4 *boarders or lodgers* in a *dwelling unit*
- (9) Riding academies, riding stables
- (10) *Home occupation*
- (11) Silviculture
- (12) *Accessory buildings and uses*

**5.1.02 Number of Residential Buildings**

- (1) There shall be not more than one *one-family* or one *two-family dwelling* on a *lot*.
- (2) Notwithstanding Subsection (1), one additional *one-family dwelling* of the sole purpose of housing employees may be located on a *lot* classified as a farm pursuant to the **Assessment Act**, where such *lot* is 4 ha or more.

**5.1.03 Height of Buildings**

- (1) The *height of a building* shall not exceed 10.5 m.
- (2) Notwithstanding Subsection (1), the *height of a building* for an *agriculture use* or an *intensive agriculture use* shall not exceed 12 m.

**5.1.04 Yard Requirements**

- (1) A *front yard* shall be provided of not less than 7.5 m in depth.
- (2) *Side yards* shall be provided of not less than 3 m in width.
- (3) A *rear yard* shall be provided of not less than 10 m in depth.
- (4) Notwithstanding Subsections (1), (2) and (3), *buildings and structures* for an *agriculture use* shall be not less than 30 m from the *front lot line* and not less than 15 m from any other *lot line*.
- (5) Notwithstanding Subsections (1), (2) and (3), *buildings and structures* for an *intensive agriculture use* shall not be less than 90 m from the *front lot line* and not less than 30 m from any other *lot line*.
- (6) Notwithstanding Section 2.1.05 (1)(a)(i) and Subsection (3), *buildings* shall not be located less than 60 m from the *natural boundary* of the sea.

**5.1.05 Minimum Lot Area for Intensive Agriculture and Dog Boarding and Breeding Kennels**

The minimum *lot* area required for an *intensive agriculture* and dog boarding and breeding kennel *use* is 4 ha. (BL 1146)

**5.1.06 Lot Coverage**



The maximum coverage shall be 10% of the *lot*.

**5.1.06A Minimum Parcel Requirement**

The minimum parcel size shall be 4 ha. (BL 1660)

**5.1.06B Two-Family Dwellings**

(1)

- (a) The minimum *lot* size for the development of a *two-family dwelling* shall be 1,300 m<sup>2</sup>.
- (b) The minimum *frontage* for development of a *two-family dwelling* shall be 18 m.

(2)

- (a) The minimum ground *floor area* excluding *garage, carport*, for a “side-by-side” *two-family dwelling* is 60 m<sup>2</sup> per *dwelling unit*.
- (b) The minimum *floor area* excluding *garage, carport*, for an “up-and-down” *two-family dwelling* is 60 m<sup>2</sup> per *dwelling unit*.

(3)

- (a) The minimum average distance between two opposing exterior walls of a “side-by-side” *two-family dwelling* shall be 12 m.
- (b) The minimum average width of an “up-and-down” *two-family dwelling* is 7 m for each *dwelling unit*.

(4)

- In all cases, *two-family dwellings* shall meet health protection and building code requirements. (BL 2113)

**5.1.07 General**

The relevant provisions of Section 2.1 of this Bylaw shall apply.

