

DATE OF MEETING [January 17, 2022]

AUTHORED BY [CALEB HORN, PLANNER, CURRENT PLANNING]

**SUBJECT [DEVELOPMENT PERMIT APPLICATION NO. DP001204 –  
25 SPYGLASS LOOKOUT]**

## **OVERVIEW**

### **Purpose of Report**

[To present for Council’s consideration, a development permit application for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout. ]

### **Recommendation**

[That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:

- reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;
- reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
- reduce the minimum required number of off-street parking spaces from 2 to 0.]

## **BACKGROUND**

[A development permit application, DP1204, was received from Alfredo and Armando Tura to permit a single residential dwelling within the aquatic setback at 25 Spyglass Lookout. This application was previously considered by Council on 2021-DEC-06 and was deferred to a future Council meeting.

An earlier development permit, DP274, for a larger dwelling 0m from the sea was denied by Council in November 2004. A more recent development permit application, DP1121, from the current owners was denied by Council in April 2019. Compared to the 2019 proposal, the current proposal has a consistent setback and comparable building footprint with more sensitive design.

### **Subject Property and Site Context**

<i>Location</i>	The subject property is located on the west side of Protection Island at the end of Spyglass Lookout, a no-exit lane on the west side of Colvilleton Trail.
<i>Lot Area</i>	2,401m <sup>2</sup>
<i>Zoning</i>	R3 – Island Residential
<i>Official Community Plan (OCP)</i>	Map 1 – Future Land Use Designation – Neighbourhood Map 3 – Development Permit Area DPA No. 2 – Environmentally Sensitive Areas

The subject property is currently undeveloped and consists of an islet in the Nanaimo Harbour attached by a sandy spit (a tombolo) to Protection Island. The property is primarily in a natural state with native trees and meadows. The current property boundaries were created when Protection Island was surveyed and subdivided in 1960. A more recent survey (see Attachment D) has established the present natural boundary of the sea and demonstrates the nature of the property as an islet cut off from Protection Island at the highest tides.

Surrounding land uses on Protection Island are existing single residential dwellings with both seasonal and permanent residents, parks (including Captain Morgan Park and Captain Flint Park), and a small number of undeveloped lots.

## **DISCUSSION**

### **Proposed Development**

The applicant is proposing to construct a single-storey residential dwelling approximately 78m<sup>2</sup> in floor area on the lot as a cabin for seasonal use. The proposed dwelling would be located on the height of land (approximately 3m above sea level) on the south portion of the lot to minimize impacts on natural ecosystems and to avoid any tree removal. The dwelling will be elevated on pilings above the height of land in order to account for the future Flood Construction Level (FCL), and the underside of the dwelling will be screened with lattice. Further information through a geotechnical assessment will be required at the detailed design stage to confirm the necessary FCL, and the applicant has demonstrated that the proposed design will follow the Provincial guidelines for sea level rise.

Pedestrian access to the property would be provided by a 1.2m-wide elevated walkway across the bay separating the islet from the end of Spyglass Lookout, and is proposed to connect to an existing footpath on the island that will lead to the proposed dwelling. No access would be provided across the tombolo, which would be left in a natural state. The elevated walkway will require approval from the Nanaimo Port Authority (NPA) for a water lot lease. The application was referred to the NPA and no concerns have been identified. The elevated walkway will function similarly to existing walkways connected to floating docks on Protection Island.

Site servicing (water and sanitary sewer) is required by BC Building Code for the proposed dwelling. A sanitary effluent pump is proposed below the dwelling. All servicing will be provided above ground on pipe supports and attached to the elevated walkway across the bay to connect with existing services at the end of Spyglass Lookout. Preliminary servicing plans have been reviewed and deemed acceptable by City Staff, with the plans to be finalized at the detailed design stage.

The subject property is zoned R3 – Island Residential, which allows a single residential dwelling. Servicing is provided within the Spyglass Lookout road dedication to the eastern property line, and the lot was originally created for the purpose of developing a seasonal dwelling; however, the lot has remained vacant to date. The maximum permitted Floor Area Ratio (FAR) in the R3 zone is 0.55, and the proposed FAR equals 0.03. Notwithstanding the variances identified in the following section of this report, the proposed development meets all other requirements in the R3 zone.

The applicant has identified a number of changes that have been made to the proposal since the previous development concept (DP1121) considered by Council, as summarized in the table below:

	<b>Current Proposal (DP1204)</b>	<b>Previous Proposal (DP1121)</b>
<i>Size of Dwelling</i>	The proposed dwelling has a footprint of 78m <sup>2</sup> and is sited 6.4m from the natural boundary of the sea. The current building plans are more informed and detailed than the previous concept, and a slight increase in footprint will create a viable dwelling unit floor area.	The proposed dwelling had an approximate footprint of 50m <sup>2</sup> and was sited 6.4m from the natural boundary of the sea.
<i>Access</i>	Pedestrian-only access to the property is proposed via a 1.2m-wide elevated walkway. This proposed access is less intrusive on existing natural ecosystems and avoids the tombolo.	Pedestrian-only access to the property was proposed via an at-grade walkway across the tombolo, which could have had localized impacts on vegetation.
<i>Servicing</i>	Site servicing is proposed above ground, with supports spaced 3m apart on the islet, and attached to the side of the elevated walkway. This proposal does not require trenching.	Site servicing was proposed through a trench across the bay from Protection Island and across the islet.
<i>Protected Area</i>	A Section 219 covenant is proposed to protect a portion of the property. The covenant will ensure that no disturbance occurs to the existing natural ecosystems within the +/- 593m <sup>2</sup> area identified on Attachment D.	No additional protected area was proposed.
<i>Vegetation Management</i>	A vegetation management plan will be secured as a condition of the development permit, with bonding held for a three-year maintenance period after construction has completed, during which time natural area restoration will occur.	No vegetation management was proposed.

#### *Development Permit Area for Environmentally Sensitive Areas*

The subject property falls within the Development Permit Area for Environmentally Sensitive Areas (DPA2) and a development permit is required prior to any development on site. In order to address the DPA2 guidelines, an environmental assessment is required to be prepared by a Qualified Environmental Professional (QEP) to identify the environmentally-sensitive areas and determine the appropriate buffers to maintain them. The environmental assessment report submitted in support of this application has been reviewed and accepted by Staff.

The QEP identified two natural ecosystems existing on site: a coastal saltmarsh ecosystem on the tombolo and the northern portion of the lot, and a Garry oak ecosystem in the centre of the

lot (see Attachment G). A previously disturbed area and grass meadow occupy the southern portion of the lot where the dwelling is proposed. To ensure the proposal meets the DPA2 guidelines and does not negatively impact the environmentally-sensitive areas, the QEP provided a number of recommendations that will be secured as conditions of the development permit (see Attachment A). The proposed conditions include a rare plant survey, restrictions on the storage of construction materials, and requirements for construction methods.

In addition to these conditions, the applicant is proposing to protect the northern portion of the lot through a Section 219 covenant registered on title prior to building permit issuance. No disturbance would be permitted in the covenanted area, except for habitat restoration, and this area will be delineated by permanent fencing.

A vegetation management plan prepared by the QEP has also been submitted by the applicant. As a condition of the development permit, the applicant will be required to maintain the property in accordance with the vegetation management plan, including the restoration of natural areas and removal of invasive species. Security will be held for a three-year maintenance period.

### **Proposed Variances**

#### *Minimum Watercourse Setback*

The minimum watercourse (aquatic) setback is 15.0m from the natural boundary of the sea. The applicant is proposing to construct a structure 6.4m from the natural boundary of the sea; a requested variance of 8.6m. The applicant is also requesting to provide servicing to the elevated walkway at 0m from the natural boundary of the sea; a requested variance of 15m. No variance is required for the elevated walkway below the present natural boundary of the sea.

Given the irregular shape of the subject property, there is no opportunity for a building envelope outside of the aquatic setback. A number of design measures have been proposed to ensure minimal impacts within the aquatic setback, including but not limited to, limiting the size of the proposed dwelling; raising the floor elevation above the ground to minimize impacts on existing root systems; providing pedestrian-only access via an elevated walkway across the bay to avoid foot traffic walking through natural ecosystems on site; and installing above-ground servicing to minimize soil disturbance on site.

The proposed development addresses the DPA2 guidelines and Staff support the proposed aquatic setback variances with the conditions that the site be developed in accordance with the QEP recommendations. In the two years since the previous development permit proposal, the applicant has worked with the QEP and professional engineer to further minimize impacts within the aquatic setback and disturb only a small portion of the lot (<15%). The current proposal has been determined to be the most sensitive option and would allow limited development of the property under the existing R3 zoning for a dwelling unit with minimal impact.

### *Minimum Required Parking*

The minimum required off-street parking for a single residential dwelling is two parking spaces. The applicant is proposing to provide no off-street parking; a requested variance of two parking spaces.

Private vehicles are not prevalent on Protection Island, and most residents commute on foot or by golf cart around the island, and by boat to access Downtown Nanaimo. Providing parking on site would not be viable given the environmental and physical constraints, and any proposal to provide vehicle parking would have an unnecessary impact on existing natural ecosystems. Parking demand is not anticipated given the size of the dwelling, the intended use for a seasonal cabin, and accessibility of the site by boat. While the property is not easily accessible by private vehicle, off-site parking is also available within the Spyglass Lookout right-of-way.

Staff support the proposed parking variance.

### **OPTIONS**

1. That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:
  - a) reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;
  - b) reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
  - c) reduce the minimum required number of off-street parking spaces from 2 to 0.
    - Advantages: The property owners will be permitted to construct a cabin on the property under the existing R3 zoning while minimizing impacts to the natural environment, and the City will be able to enforce conditions through the development permit.
    - Disadvantages: A small portion of the lot will be developed within the aquatic setback.
  
2. That Council deny Development Permit Application No. DP1204 for a single residential dwelling at 25 Spyglass Lookout.
  - Advantages: The entire lot will remain undeveloped until such time that another development permit application or another use is proposed.
  - Disadvantages: The property owners will have incurred further expenses for professional assessments of the development potential of their property and will not be permitted to construct a cabin on the property. Any further proposal would require another development permit application before proceeding with realizing the intended use of the lot.

### **SUMMARY POINTS**

- Development Permit Application No. DP1204 is for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout.
- Variances are requested to reduce the minimum required aquatic setback from 15.0m to 6.4m for the proposed dwelling and from 15.0m to 0.0m for the proposed servicing, and to reduce the minimum required parking from 2 to 0 parking spaces.
- The environmental assessment report prepared by a Qualified Environmental Professional and submitted in support of this application has been reviewed and accepted by Staff.
- The current proposal has been determined to be the most sensitive option and would allow limited development of the property under the existing R3 zoning for a dwelling unit with minimal impact.
- Staff support the proposed variances.

### **ATTACHMENTS**

ATTACHMENT A: Permit Terms and Conditions  
ATTACHMENT B: Context Map  
ATTACHMENT C: Location Plan  
ATTACHMENT D: Site Survey  
ATTACHMENT E: Proposed Site Servicing Plan and Sections  
ATTACHMENT F: Biophysical Map  
ATTACHMENT G: Aerial Photo

#### **Submitted by:**

Lainya Rowett  
Manager, Current Planning

#### **Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
GM, Development Services/Deputy CAO

# ATTACHMENT A

## PERMIT TERMS AND CONDITIONS

### TERMS OF PERMIT

“City of Nanaimo Zoning Bylaw 2011 No. 4500” is varied as follows:

- *Section 6.3.1.2 Location and Siting of Buildings and Structures to Watercourses* – to reduce the minimum required watercourse leave strip as measured from the natural boundary of the sea from 15.0m to 6.4m for a single residential dwelling, and from 15.0m to 0.0m for above-ground servicing.

City of Nanaimo “Off-Street Parking Regulations Bylaw 2018 No. 7266” is varied as follows:

- *Section 7.2 All Other Uses Parking Table* – to reduce the minimum number of required off-street parking spaces from 2 to 0 spaces.

### CONDITIONS OF PERMIT

1. The subject property is developed in accordance with the proposed Site Survey prepared by McElhanney Associates Land Surveying Ltd., dated 2021-OCT-22, as shown on Attachment D.
2. The subject property is developed in accordance with the proposed Site Servicing Plan and Sections prepared by McElhanney, dated 2021-OCT-27, as shown on Attachment E.
3. A legal plan for the subject property is registered with the Surveyor General prior to building permit issuance in accordance with the proposed Site Survey prepared by McElhanney Associates Land Surveying Ltd., dated 2021-OCT-22, as shown on Attachment D.
4. The subject property is developed and maintained in substantial compliance with the Vegetation Management Plan prepared by Aquaparian Environmental Consulting Ltd., dated 2021-AUG-10.
5. Security is to be submitted prior to building permit issuance and held for three years from the date of completion, to ensure the lot is developed in accordance with the Vegetation Management Plan.
6. A no-build and no-disturbance Section 219 Covenant is to be registered on title prior to building permit issuance to protect the natural habitat in the area marked “Covenant Area” on the Site Survey prepared by McElhanney Associates Land Surveying Ltd., dated 2021-OCT-13, as shown on Attachment D.
7. Permanent fencing and signage built to the City of Nanaimo aquatic setback fence standards or to a standard accepted by the Director of Development Approvals, to be installed prior to building permit issuance and located at the southern edge of the “Covenant Area” as shown on Attachment D.



8. The subject property is developed in accordance with the following recommendations by Aquaparian Environmental Consulting Ltd. as outlined in the Environmental Investigation date 2021-JAN-10:
- A rare plant survey is to be conducted on the property and submitted to the City in late spring or early summer, prior to issuance of a building permit, to confirm the absence or presence of rare plants.
  - Any staging area on-site for construction materials, including pre-fabricated building materials for the cabin and boardwalk and servicing pipes, is to be identified and agreed upon by a Qualified Environmental Professional prior to start of construction.
  - No trees are to be removed on the property.
  - All existing anthropogenic materials (e.g. tents, tarps, carpets, planter pots) are to be removed from site prior to building permit issuance.
  - Transport of building materials is to be completed by a landing craft during high tide.
  - The amount of soil disturbance (e.g. excavations) is to be limited during the installation of the cabin and supporting structure where possible.
  - All concrete works for the development shall include containment of concrete mixing and pouring of concrete, including concrete-laden wastewater. Due to its alkaline toxicity, no concrete wastewater is to drain to the ocean to avoid tidal inundation. All concrete waste shall be properly disposed off-site. Development will avoid any exposure of uncured concrete to tidal inundation.
  - The use of heavy equipment on-site is to be limited, including the use of mini-excavators and front loaders, and all equipment should be free of soil or hydraulic / hydrocarbon leaks.
  - Waste materials are to be removed from the site as soon as possible.
  - Final foundation works and construction works are to be inspected by a professional biologist.



# ATTACHMENT B CONTEXT MAP

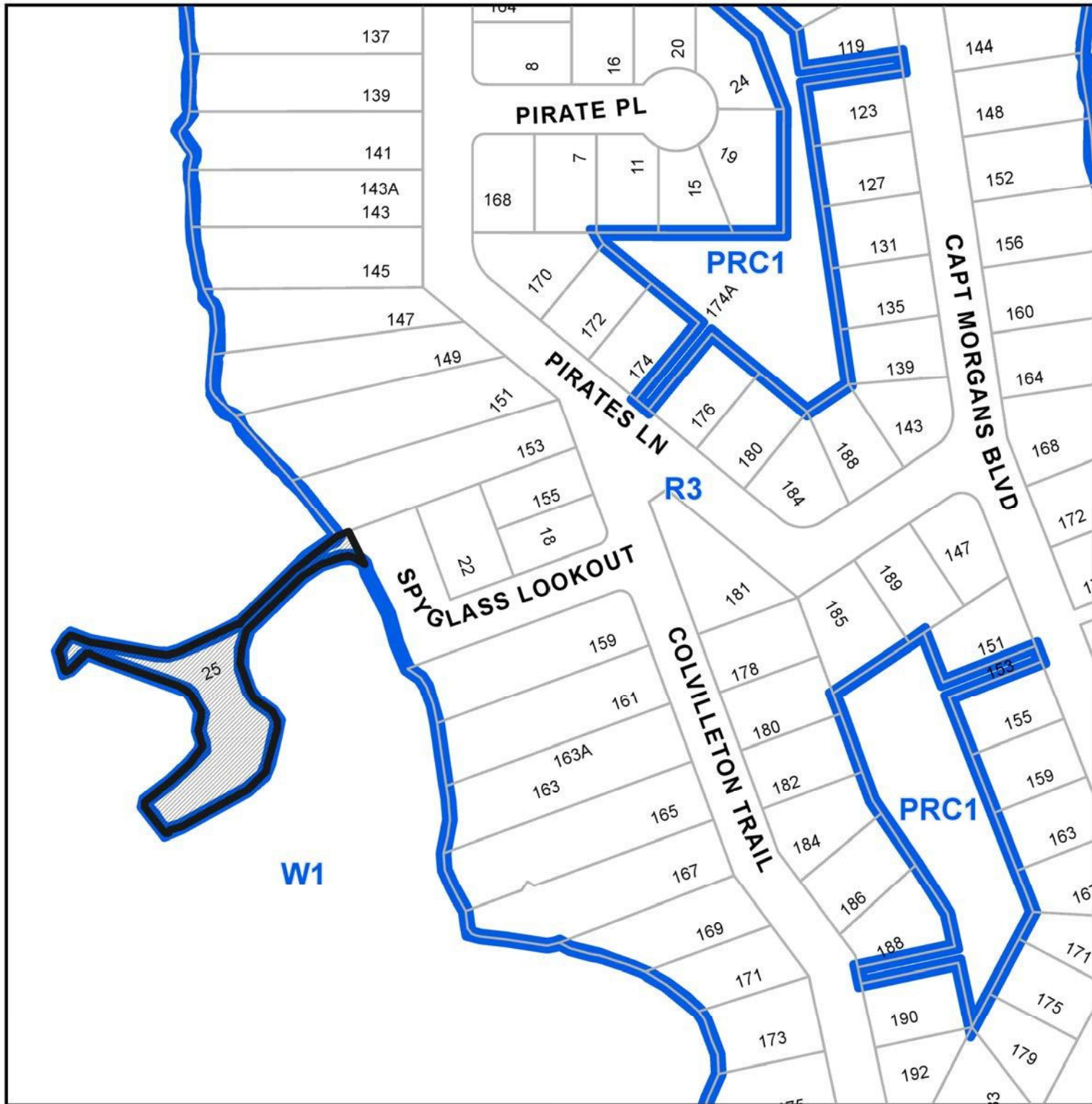


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25 SPYGLASS LOOKOUT

# ATTACHMENT C LOCATION PLAN

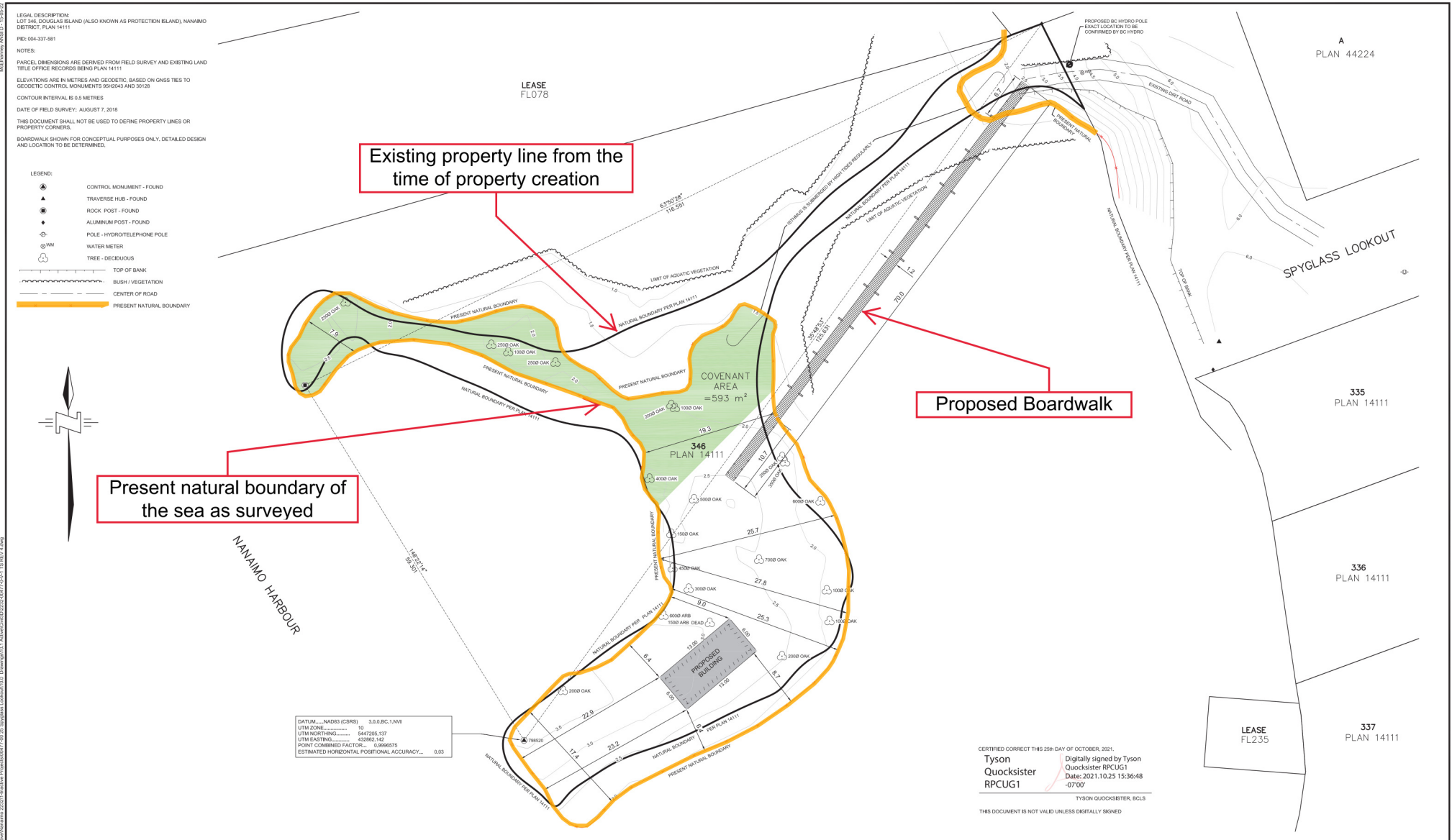


## DEVELOPMENT PERMIT NO. DP001204

CIVIC: 25 SPYGLASS LOOKOUT  
LEGAL: LOT 346, DOUGLAS ISLAND (ALSO KNOWN AS PROTECTION ISLAND), NANAIMO DISTRICT, PLAN 14111



# ATTACHMENT D SITE SURVEY



LEGAL DESCRIPTION:  
LOT 346, DOUGLASS ISLAND (ALSO KNOWN AS PROTECTION ISLAND), NANAIMO DISTRICT, PLAN 14111  
PRC: 004-337-581

NOTES:  
PARCEL DIMENSIONS ARE DERIVED FROM FIELD SURVEY AND EXISTING LAND TITLE OFFICE RECORDS BEING PLAN 14111  
ELEVATIONS ARE IN METRES AND GEODETIC, BASED ON GNSS TIES TO GEOCENTRIC CONTROL MONUMENTS 9542043 AND 30128  
CONTOUR INTERVAL IS 0.5 METRES  
DATE OF FIELD SURVEY: AUGUST 7, 2018  
THIS DOCUMENT SHALL NOT BE USED TO DEFINE PROPERTY LINES OR PROPERTY CORNERS.  
BOARDWALK SHOWN FOR CONCEPTUAL PURPOSES ONLY. DETAILED DESIGN AND LOCATION TO BE DETERMINED.

- LEGEND:
- ▲ CONTROL MONUMENT - FOUND
  - ▲ TRAVERSE HUB - FOUND
  - ROCK POST - FOUND
  - ALUMINUM POST - FOUND
  - POLE - HYDROTELEPHONE POLE
  - WATER METER
  - TREE - DECIDUOUS
  - TOP OF BANK
  - BUSH / VEGETATION
  - CENTER OF ROAD
  - PRESENT NATURAL BOUNDARY

DATUM: NAD83 (CSRS) 3.0,0,BCS 1,NW  
UTM ZONE: 18 Q  
UTM NORTHING: 5447206.137  
UTM EASTING: 429862.142  
POINT COMBINED FACTOR: 0.0000075  
ESTIMATED HORIZONTAL POSITIONAL ACCURACY: 0.03

CERTIFIED CORRECT THIS 25th DAY OF OCTOBER, 2021.  
Tyson Quocksister  
RPCUG1  
Digitally signed by Tyson Quocksister RPCUG1  
Date: 2021.10.25 15:36:48 -07'00'  
TYSON QUOCKSISTER, BCLS  
THIS DOCUMENT IS NOT VALID UNLESS DIGITALLY SIGNED

Rev	Date	Description	Sum	Drawn	App'd
4	2021-10-22	REVISED BUILDING SIZE	TQ	TQ	TQ
3	2021-10-13	REVISED BUILDING LOCATION	TQ	TQ	TQ
2	2019-02-07	REVISED PRESENT NATURAL BOUNDARY	TQ	TQ	TQ
1	2018-09-06	PROPOSED BUILDING LOCATION	WP	TQ	TQ
0	2018-08-08	TOPOGRAPHIC SURVEY	TQ	TQ	TQ

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ORIGINAL DWG. SIZE: ANSI D (22" x 34")  
ALL DIMENSIONS ARE IN METRES



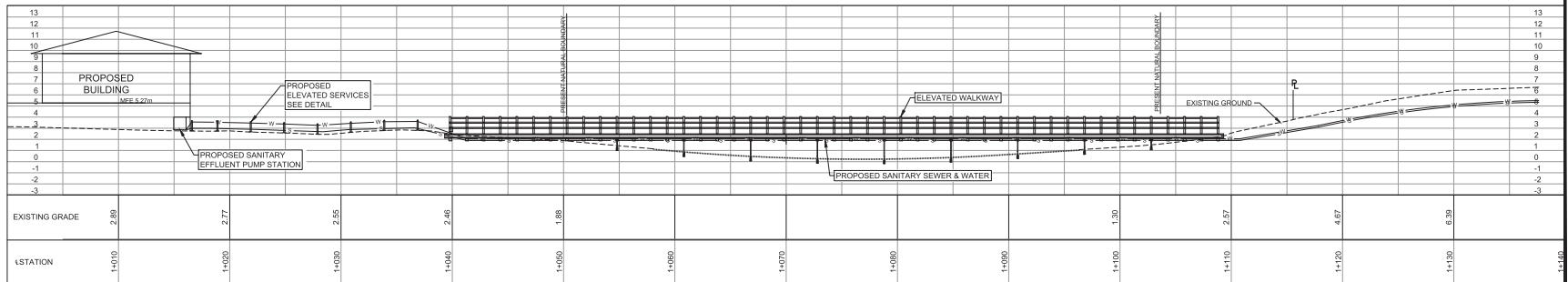
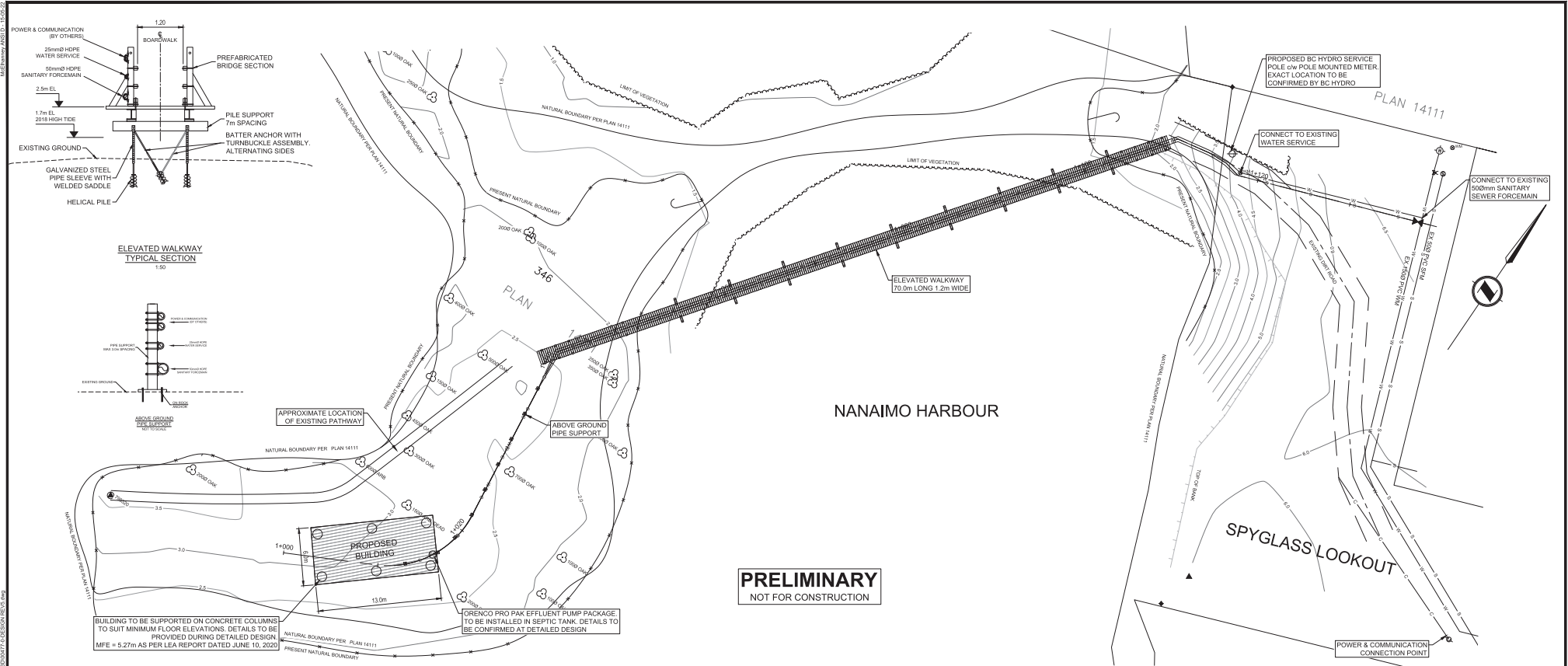
**McEilhanney**  
McEilhanney Associates Land Surveying Ltd.  
RECEIVED  
DP 1204  
2021-NOV-10  
Suite 1  
1351 Esplanan Road  
Nanaimo BC  
Canada V9S 3Y3  
Tel 250 716 3338

**ALFREDO TURA**  
25 SPYGLASS LOOKOUT  
TOPOGRAPHIC SURVEY  
PROTECTION ISLAND  
NANAIMO, BC

Drawing No. **00477-0-V-1**  
Project Number 2232-00477-00  
Rev. 4

Approved Sealed

# ATTACHMENT E PROPOSED SITE SERVICING PLAN AND SECTIONS



PH	2021-10-27	ISSUED FOR APPROVAL	TO	TE	CP
PD	2021-09-21	ISSUED FOR DISCUSSION	TO	TE	CP
PF	2021-01-29	ISSUED FOR DISCUSSION	KB	TO	TD
PE	2021-01-08	ISSUED FOR DISCUSSION	KB	TO	TD
PO	2020-12-03	ISSUED FOR DISCUSSION	KB	TO	TD
PC	2020-11-26	ISSUED FOR DISCUSSION	TO	TO	TD
PB	2018-02-14	ISSUED FOR DISCUSSION	TO	HTC	CP
PA	2018-10-22	ISSUED FOR DISCUSSION	TO	HTC	CP
Rev	Date	Description	Drawn	Checked	App'd

TO	TE	CP	KB	TO	TD	HTC	CP
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**McElhannay**

**RECEIVED  
DP1204  
2021-NOV-10  
CITY OF NANAIMO**

Suite 1  
1351 Estevan Road  
Nanaimo BC  
Canada V9S 3Y3  
Tel 250 718 3336

Approved Sealed

**ALFREDO TURA**  
25 SPYGLASS LOOKOUT

**PLAN, PROFILE &  
DETAIL**  
PROTECTION ISLAND  
NANAIMO, BC

Drawing No. **101**  
Project Number 2232-00477-00  
Rev. PH



**ATTACHMENT F  
BIOPHYSICAL MAP**

**25 Spyglass Lookout – Biophysical Map of Property**



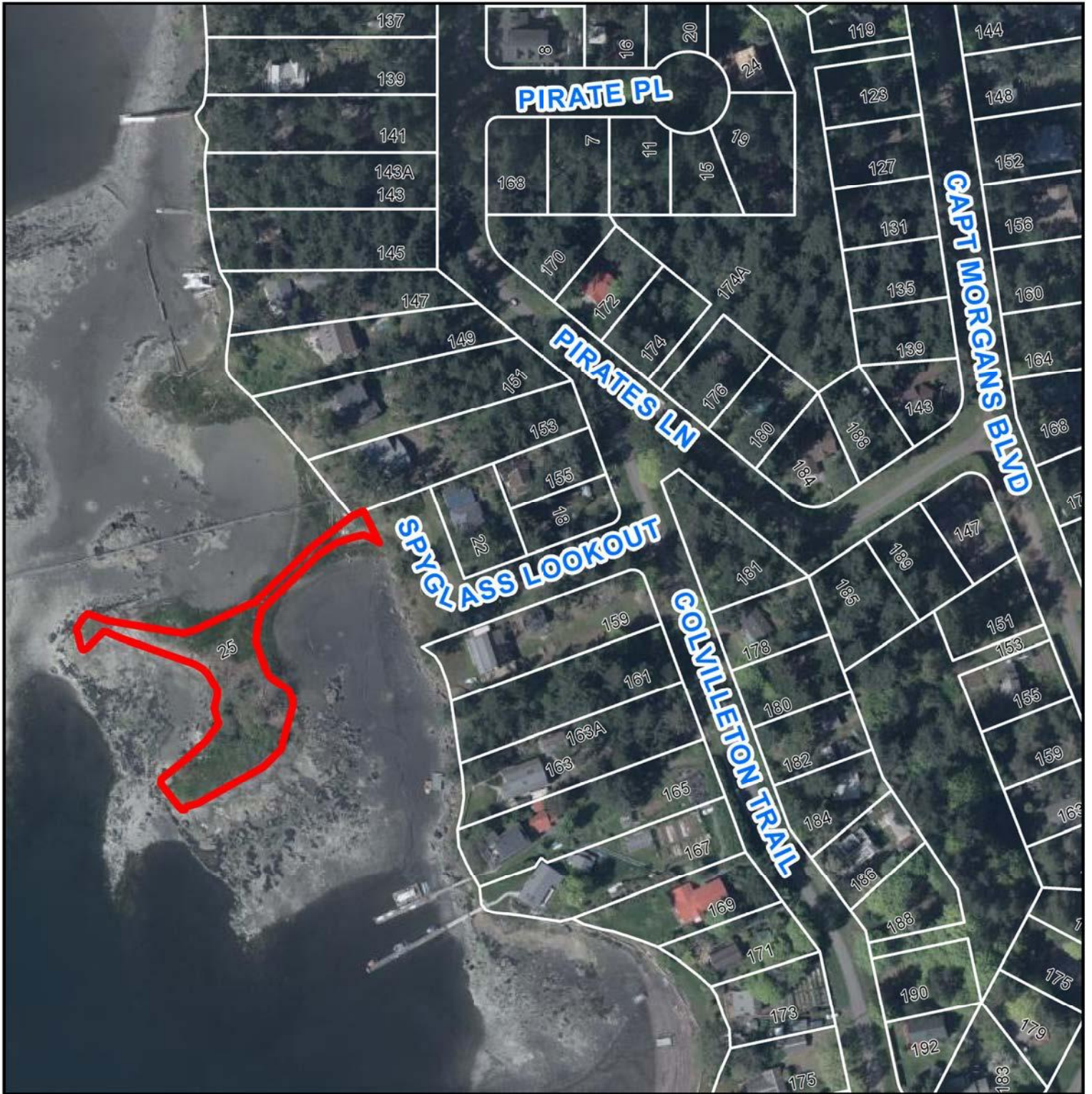
Legend

- Salt Marsh ———
- Garry Oak Meadow ———
- Grass Meadow - - - - -

**Figure 3**



ATTACHMENT G  
AERIAL PHOTO



**DEVELOPMENT PERMIT NO. DP001204**

 25 SPYGLASS LOOKOUT