

Wilkinson, Donna MTIC:EX

From: Acheson, Steven FLNR:EX
Sent: Thursday, September 4, 2014 12:08 PM
To: Batten, Justine FLNR:EX
Subject: Grace Islet Site Visits
Attachments: Grace Islet alterations - July 9 site visit summary and next steps; Re: Grace Island Amended and Extended Permit; RE: Grace Islet new dock ?; Grace Islet site inspection report.pdf

Justine, branch staff have been on site on four occasions:

Branch Personnel	Date	Comments
Ewan Anderson	July 09, 2012	Initial inspection was prompted with the reported breach of the terms and conditions of permit. See attached July 9 email.
S. Acheson & D. Glaum	May 10, 2013	Inspection conducted with the owner's agent, Paul Pasutto, and the owner's archaeological consultant, Bjorn Simonsen, in attendance. See attached <i>Grace Island Amended and Extended Permit</i> and <i>Grace Islet new dock</i> emails, which remark on the findings of the site visit.
S. Acheson	May 26, 2013	Field inspection undertaken with Dr. Darcy Mathews, a recognized burial cairn/ Salishan funerary expert. Darcy was convinced, as with the branch, that the majority of the rock features are burial cairns. He recommended a more thorough non-intrusive examination by clearing the overlying vegetation and litter mat to better determine the nature of a small number of the less distinct features.
S. Acheson	July 29, 2014	report attached

I included the July 29 report to complete the package.

Steven Acheson, D.Phil. | Supervisor, Permitting and Assessment
Archaeology Branch | Ministry of Forests, Lands and Natural Resource Operations
Phone: 250-953-3306 | Fax: 250-953-3340 | e-mail: archpermitapp@gov.bc.ca
Unit 3 - 1250 Quadra Street, Victoria BC V8W 2K7 | PO Box 9816 Stn Prov Govt, Victoria, BC V8W 9W3

Visit our website at: <http://www.for.gov.bc.ca/archaeology/>

Wilkinson, Donna MTIC:EX

From: Anderson, Ewan FLNR:EX
Sent: Tuesday, July 10, 2012 4:54 PM
To: 'ppasutto@innocept.ca'
Cc: 'kjt@terraarchaeology.com'
Subject: Grace Islet alterations - July 9 site visit summary and next steps
Attachments: RE: Grace Island

Hi Paul,

This is a note to summarise our inspection and meetings in Ganges yesterday. I'll also take the opportunity to provide you with some additional instructions (items #6, 7 and 8).

1. A construction-related activity (site preparation) has occurred in breach of Site Alteration Permit 2011-0343. Specifically, the conditions listed on page 3 of the Permit application that were not met are:
 - a. "A pre-development orientation meeting with project construction-crew members to make them aware of the presence of cultural heritage features and the presence of human remains. This will include information about local First Nations burial practices and the importance of such places in the spiritual life of local First Nations." No such orientation meeting took place.
 - b. "Any excavation or other ground preparation work that might be required in the immediate vicinity of a rock feature will be closely monitored by the Archaeological Monitoring Team on site to ensure no damage to cultural features." AND "All ground-disturbing activities on the subject property will be monitored by a qualified archaeologist." No qualified person was present to monitor ground excavations on the property.
 - c. "Access paths and walkways (such as access between the house construction site and the wharf area) will be routed around rock features and a non-disturbance buffer of two meters will be imposed." An access road, presumably for a mechanical excavator, has been constructed within 2 m of several marked rock features.
 - a. Additionally, on page 1 of the application it states that "Two areas on the island where human skeletal remains have been previously discovered will not be impacted in any way by the proposed construction work as they are not within the permitted development zone. These two areas will be cordoned off to ensure there is no access during the course of construction." The recently constructed access road is located in the vicinity of "Burial #2" as depicted on page 16 of the final report for Permit 2007-0041 (the AIA Permit) – the area was not flagged or fenced for avoidance.
2. No further work may occur on this property until First Nations have been informed of the extent of ground disturbances on the property and the Archaeology Branch has decided if or when development construction is to proceed. As I mentioned on Monday, some remedial archaeological work will be required, if development is to proceed.
3. The Permit indicates that First Nations communities will be contacted to determine how human remains are to be managed and there is the significant potential that human remains have been disturbed and will require management. Therefore, in making its decision the Archaeology Branch will take into account the comments received from First Nations communities. To that end, I will send a letter to the First Nations communities with an interest in the Grace Islet/Ganges locality (see attached list), indicating that ground preparation has taken place without an archaeological monitor present in an area with the potential for human remains. The letter will invite them to offer their comments by July 31. I anticipate that some, but not all First Nations other than Penelakut and Tsartlip will have an opinion which the Branch will consider.
4. I understand that it is your intention to meet with First Nations, especially Tsartlip and Penelakut, as soon as possible to describe your development activities to date and hear their recommendations on how to move forward.

5. Kevin Twohig and Bjorn Simonsen will prepare a report which describes the ground surface alterations we observed on our site visit. I understand that I will receive a copy of this report to review.
6. Until the Branch makes its decision, you should take direction from the co-permittee, Kevin Twohig. Kevin has a significant stake in the outcome of your discussions with First Nations and is qualified to make recommendations which you may act on (as long as they do not conflict with item #2).
7. The idea that any of the rock features may be preserved by "encapsulating" them in concrete (or similar material) is not standard and was not envisioned in the Permit. The idea that one or more of the rock features may be investigated further (by dismantling and recording) was also not considered in the Permit application. Since there is likely little scientific value in a destructive study of any of these features as opposed to their preservation, a decision by the Archaeology Branch to allow for further investigation of these features may rely heavily on the wishes of the First Nations in this regard. Either one of these options would require an amendment to the Permit (which takes 6-8 weeks).
8. Prior to development construction proceeding on this property, final development plans must be submitted to the Archaeology Branch.

Please let me know if you wish to discuss any of these points or offer corrections, if you think I have made errors. Whenever it is most convenient, provide me with an update on your First Nations meetings and development planning as you make progress (phone or e-mail is fine).

Sincerely,

Ewan Anderson | Archaeologist
Archaeology Branch | Ministry of Natural Resource Operations
Unit 3 - 1250 Quadra St, Victoria BC V8W 2K7 | PO Box 9816 Sta Prov Govt, Victoria BC V8W 9W3
Phone: 250-953-3341 | Fax: 250-953-3340

Wilkinson, Donna MTIC:EX

From: Anderson, Ewan FLNR:EX
Sent: Friday, July 6, 2012 5:09 PM
To: 'danielle@innocept.ca'
Cc: Warner, Jane FLNR:EX; 'ppasutto@innocept.ca'
Subject: RE: Grace Island

Hi Danielle,

The Penelakut Tribe (an HTG member nation from the Chemainus area) and the Tsartlip First Nation (a nation from the north Saanich peninsula) have recently expressed concerns about the alleged development activities on Grace Islet:

For Penelakut:

Chief Earl Jack

P: (250) 246-2321

&

Eric McLay, Archaeologist

P: (250) 325-1400

For Tsartlip:

Simon Smith

P: (250) 652-36988

However, the following additional groups have an "interest" (asserted territorial overlap) in Grace Islet and were invited to comment on the Alteration Permit application (but we haven't heard from them about the current issues):

Hul'qumi'num Treaty Group (HTG): (250) 245-4660 and their member nations,

- Cowichan Tribes: (250) 748-3196
- Halalt First Nation: (250) 246-4736
- Lake Cowichan First Nation: (250) 749-3301
- Lyackson First Nation: (250) 246-5019
- Stz'uminus First Nation: (250) 245-7155

North Saanich nations:

Pauquachin First Nation: (250) 656-0191

Tsawout First Nation: (250) 652-9101

Tseycum First Nation: (250) 656-0858

Mainland nations (these are likely to defer to the "local" nations regarding Grace Islet):

Semiahmoo First Nation: (250) 536-3101 (attn: Don Welsh)

Tsawwassen Nation: (250) 943-2112 (attn: Andrew Bak)

Also, I think Paul was looking for a copy of Penelakut's recent letter to the Archaeology Branch – a scanned copy is attached and I will bring a paper copy with me to our meeting on Monday.

Please let me know if you need anything else.

Kind regards,

Ewan Anderson | Archaeologist
Archaeology Branch | Ministry of Natural Resource Operations

From: Warner, Jane FLNR:EX
Sent: Friday, July 6, 2012 3:46 PM
To: Anderson, Ewan FLNR:EX
Subject: FW: Grace Island

Jane Warner | Heritage Resource Specialist
Archaeology Branch | Ministry of Forests, Lands and Natural Resource Operations
Phone: 250.953.3307 | Fax: 250.953.3340

From: Danielle Gour [<mailto:danielle@innoccept.ca>]
Sent: Friday, July 6, 2012 3:44 PM
To: Warner, Jane FLNR:EX
Cc: Paul Pasutto
Subject: Grace Island

Hi Jane,

Thank you speaking with Paul and I today.

To confirm, we will await your response with all correspondence relating to the statement from Eric McClay that construction activity has taken place on the island as well as any relevant correspondence from the First Nations Group. We would also appreciate the appropriate contact information so we can coordinate a meeting with the First Nations Group next week. Please identify the Stakeholders relative to the Archaeological permit on the island and their role relative to the permit.

Thank you for your help.

Danielle Gour
#200, 3505 - 14 Street SW
Calgary, AB T2T 3W2
Direct: 403-716-3158
danielle@innoccept.ca



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Wilkinson, Donna MTIC:EX

From: Paul Pasutto <ppasutto@innocept.ca>
Sent: Thursday, May 16, 2013 9:50 AM
To: Acheson, Steven FLNR:EX
Cc: 'Bjorn Simonsen'; 'Jonathan Sectar'; Glaum, Doug FLNR:EX
Subject: Re: Grace Island Amended and Extended Permit
Attachments: Letter Penelakut Indian Band Draft 3 - Final.docx; Letter Tsartlip First Nation Draft 3 final.docx; Re_ Grace Island Development Project.eml; Grace Islet.eml; Grace Islet.eml; Fwd_ Grace Islet.eml; Prelim Schematic Design Archaeology Aug 8 2012.PDF

Thanks Steve appreciate the update. We are very happy that the application for permit amendment has been sent out and anxious to see the 30 day period come to a close.

In relation to the history of the "approach" I did get access to our photos and reviewed them, but we do not have a good photo of the "approach" area. I have spoken to the contractor and A) he may have photos of the approach prior to the excavator going on to the upper portion of the island and B) he confirmed that they did not place or relocate any dirt on the approach - machine came from the beach area and there was no dirt available or required to gain access to the upper flat portion of the island. He is prepared to speak to you however he is concerned that due to the Penelakut involving the RCMP was concerned as to his name being associated with this overall issue. If he speaks to you is there some way the his name can be kept confidential as his contact information has not been provided to First Nations and we would like assurances that his name will not be disclosed to First Nations. Please confirm if you speaking to him will be sufficient.

In relation to the attempt to contact First Nations we provided the following:

We provided letters to only Penelakut and Tsartlip as directed by Ewan due to the fact they were the only First Nations Tribes involved at that time on July 25th 2012. We have summarized the calls specifically relating to Penelakut however we mirrored activities for both Penelakut and Tsartlip.

July 25th - Letter sent to Penelakut - Chief Earl Jack

July 25th - Message Left

July 26th - Message Left

July 27th - Message Left

July 30th - Message Left

July 30th - another e-mail sent to Chief Earl Jack copy attached.

July 30th - Returned call from Dianne Hinkley requesting copy of letter sent to Chief Earl Jack - Letter provided - email after the call attached

August 2nd - Paul spoke to Diane Hinkley - s.22 and she indicated Chief Earl Jack was very busy and they would get back to us when he had time. This never happened.

August 8th Article in the Gulf Islands Driftwood - it appears that Chief Earl Jack was not calling us back as he was visiting the Island with no permission. You will also notice the last two statements in the article are not accurate.

Since we made a serious attempt to make contact with Penelakut and Tsartlip prior to their trespassing on the Island when the article was posted which contained self serving false statements and the RCMP was now introduced into the disturbed soil error we decided to stop any further efforts. We notified Ewan at that time. We also provided Ewan a letter which was e-mailed to him on August 8th at 11:52 MST summarizing in general terms the items noted above. This is also attached.

I hope to connect with the contractor today or tomorrow to see what photos he has. Please confirm you can protect his name and then we will ask him to contact you directly. Thanks for your work on this file and let us know if you need anything more. Good luck with Penelakut. Let us know when you plan on meeting with them. Thanks

[see attached file: Letter Penelakut Indian Band Draft 3 - Final.docx] [see attached file: Letter Tsartlip First Nation Draft 3 final.docx]

[see attached file: Re_Grace Island Development Project.eml] [see attached file: Grace Islet.eml] [see attached file: Grace Islet.eml] [see attached file: Fwd_Grace Islet.eml] [see attached file: __www.gulfislandsdriftwood.com_news_165450436.pdf] [see attached file: Prelim Schematic Design Archaeology Aug 8 2012.PDF]

Paul Pasutto
President
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Calgary, AB T2T 3W2
Direct: 403-716-3150
ppasutto@innoccept.ca



Assistant: Chris Kotelmach
chris@innoccept.ca
Direct: 403-716-3159

On 2013-05-15, at 4:54 PM, "Acheson, Steven FLNR:EX" <Steve.Acheson@gov.bc.ca> wrote:

Paul, thank you for the opportunity to view the property, both Doug and I felt it was time well spent. And thanks also for the offer to provide us with an updated log of your attempts to contact First Nations, it could prove useful in the coming days.

To follow-up on the matter regarding the "approach," I did speak with Ewan Anderson today regarding his field observations from last summer. He recalled that some material was placed at the highest point of the approach, in his words to "build up a trail prism," which was located alongside and in effect formed part of the spoil pile later processed by Madrone. That said and to cover all the bases, we would also like to speak directly to the contractor who did the work if you can provide us with a contact name as I'm fairly sure the matter about what if any soils were placed along the approach will be raised when we meet with First Nations.

And finally what you've been waiting for, the application for the permit amendment has gone out today for First Nation review.

Steven

Steven Acheson, D.Phil. | Archaeologist
Archaeology Branch | Ministry of Forests, Lands and Natural Resource Operations
Phone: 250-953-3306 | Fax: 250-953-3340 | e-mail: archpermitapp@gov.bc.ca
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Visit our website at: <http://www.for.gov.bc.ca/archaeology/>

From: Paul Pasutto [<mailto:ppasutto@innoccept.ca>]
Sent: Tuesday, May 14, 2013 2:53 PM
To: Acheson, Steven FLNR:EX; Glaum, Doug FLNR:EX
Cc: Bjorn Simonsen; Jonathan Sector
Subject: Grace Island Amended and Extended Permit

Hi Gentlemen

Thanks for your time on Friday and trust the Island tour was productive for both of you. I certainly learned a few things. We are looking for confirmation that the amended permit has been approved by Doug and circulated as we discussed on Friday. Please confirm as soon as you have a moment. Thanks

We have changed our computers recently and I am still trying to find the photos of the approach to the top portion of the site. Will send those along with the summary of attempted contacts with the First Nations groups. Hope to have this to you later today or tomorrow as I am gone for a week after tomorrow at noon.

Paul Pasutto
President
#200, 3505 - 14 Street SW
Calgary, AB T2T 3W2
Direct: 403-716-3150
ppasutto@innocept.ca

<image001.jpg>

Assistant: Chris Kotelmach
chris@innocept.ca
Direct: 403-716-3159

Barry N. Slawsky

2 Laurier Place
Edmonton, AB
Canada T5R 5P4
Email: s.22

Phone (780) 486-1111
Fax (780) 486-7535
Mobile s.22

=====

Wednesday July 25, 2012

Via Fax (250) 246-2725
Original Via Mail

Chief Earl Jack
Penelakut Tribe
Box 360 Chemanius, BC
V0R 1K0

Re: Grace Islet – Alteration Permit No. 2011-0343

Dear Chief Earl Jack,

We received a copy of your letter of July 3, 2012 on the noted topic from Ewan Anderson of the Archaeology Branch on July 9th.

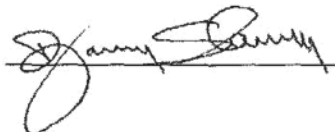
While the overall process that we followed to develop a residence on this property has been very challenging, I am truly sorry that our lack of experience resulting in our inadvertently not adhering strictly to the Alteration Permit during our preliminary preparatory activity on Grace Islet, has caused you and the Penelakut First Nation concern. We certainly meant no disrespect to the Penelakut First Nation.

Immediately after being contacted by the Archaeology Branch in relation to activities on the Islet, I arranged a site inspection by Ewan Anderson, in the company of Bjorn Simonsen, Kevin Twohig, Paul Pasutto and myself, which took place on July 9th. I have attached a copy of the On Site Inspection Report that was prepared by Bjorn as a result of this site examination. Paul Pasutto and Kevin Twohig also met with Ewan Anderson on July 17th to review the report and obtain direction as to how we should proceed. I understand that Ewan provided a letter to you in this regard dated July 10th, 2012. I have also attached a commentary to Justine Batten in response to your July 3rd 2012 letter and as instructed by Ewan Anderson, have provided this commentary to you. As you will note, all the rock features on the Islet have been carefully and clearly marked out and none have been disturbed or damaged. Furthermore, the two documented locations which contained human skeletal remains have not been disturbed and remain intact.

It has always been my intention to meet with the Penelakut leadership at an early point in our preparations for construction. Accordingly, I would like to arrange a meeting with you as soon as possible at your offices to discuss the recent events and establish a process to proceed. In this regard, I would request that you please contact Paul Pasutto at s.22 at your earliest convenience. I have also asked him to contact you to confirm a meeting date, time and location.

It is my desire to meet with you and other Penelakut members prior to a possible second meeting with the respective Archaeologists as I believe that our establishing a relationship and open and direct dialog with you and your members is of significant importance. I look forward to our meeting at the earliest possible date available to you.

Yours sincerely,



Barry Slawsky

cc. Paul Pasutto
Kevin Twohig
Bjorn Simonsen
Ewan Anderson, BC Archaeology Branch

**COMMENTARY ON THE LETTER
OF July 3,2012
From the Penelakut Nation to Director BC Archeology Branch**

**On the subject of
HCA 2011-343 Alleged Violations of Permit Conditions – Grace Islet**

Prepared July 10,2012

GENERAL COMMENT

It is noted that upon referral to the Penelakut of the subject application by the BC Archaeology Branch in the course of its consultative obligations, the Penelakut did not respond in any way to the prospect of pending residential development on Grace Islet.

Specific Comments

Paragraph 1

- No land clearance occurred "atop the burial site at Grace Islet, DfRu-009, Salstpring Island". Nor were any trees felled atop the burial site'. And no pathways were constructed for shoreline access.
- The effects of activities and actions which in fact took place are summarized below with reference to Paragraph 4.

Paragraph 2

- Site Alteration Permit HCA 2011-343 in no way "proposes to desecrate the burial site and historic cemetery" recorded on Grace Islet. In fact, the property owner, throughout the course of his ownership, and through his preparatory activities has and continues to respect and acknowledge the traditions of the First Nations of the area and has gone to great lengths to protect both known and potential rock features at Grace Islet.

Paragraph 3

- Three key points with respect to protecting the dead from disturbance and respecting the sanctity of ancestral burial places are
 - a) the extent to which the owner has gone to protect the identified rock features during the course of his planning via siting and design measures,
 - b) the conduct of a thorough Archeological Impact Assessment on Grace Islet as a part of this file; and
 - c) the fact that the rock features on Grace Islet are much better safeguarded by the plans of the present owner than they have been at any time in the recent past and/or would be if the Islet remains as it has been.

Paragraph 4

With respect to the possible violation of the terms of the permit, the following is noted based on the site inspection of July 9, 2012

- recent pre-construction site alteration work that had been carried out on the island by a local contractor hired by the agent of the Owner exceeded what was expected based on the instructions given to the contractor by the property owner and the agent on site.
- The nature and extent of observed site alteration work, as reported to the B.C. Archaeology Branch and to the Penelakut Tribe was somewhat exaggerated and incorrect;
- It is acknowledged that the pre-construction work conducted was done without any archaeological monitoring, as required under the conditions of the BC Archeological Branch Site Alteration Permit issued in 2011. Arrangements will be made to ensure the presence of an archeological monitor during key construction activities;
- All 15 Rock Features had been located and well marked out by the contractor. None had been disturbed or damaged. As well, the two documented locations containing human skeletal remains had not been disturbed and remain intact.
- The track path inadvertently created by the movement of an excavator is acknowledged while noting that this caused no damage to burial remains or rock features.
- The removal of soil from several areas is also acknowledged while noting that it was piled in manner to avoid all rock features on the site
- It was agreed that no further development related work should occur until authorized by the B.C. Archaeology Branch.
- Possible mitigative measures include screening of all backdirt from the recent soil removal work;
- a pre-construction meeting of the property owner, his representatives will be arranged with the Tsartlip Nation – the only one of 13 First Nations with overlapping interest in the subject area to respond to referral of the subject Permit application with concerns of any sort. This will take place as soon as possible. No further development work will take place on the island until this meeting has occurred

Paragraphs 5&6

- The Archeological Branch investigated this matter on site on July 9, 2012 in the company of the Permit Holders. It was confirmed that no human remains or rock features were disturbed by the noted actions, and that the deviations from permit conditions occurred in the course of identifying and flagging the recorded burial features for the purpose of ensuring their protection and avoidance.

Barry N. Slawsky

2 Laurier Place
Edmonton, AB
Canada T5R 5P4
Email: s.22

Phone (780) 486-1111
Fax (780) 486-7535
Mobile s.22

=====

Wednesday July 25, 2012

=====

Via Fax (250) 652-3788
Original Via Mail

Chief Wayne Morris
Tsartlip First Nation
PO Box 70 Brentwood Bay, BC
V8M 1N9

Re: Grace Islet – Alteration Permit No. 2011-0343

Dear Chief Wayne Morris,

Ewan Anderson from the Archaeology Branch has indicated that you and Simon Smith have recently expressed concern in relation to the recent activities on Grace Islet.

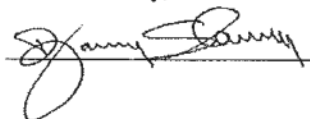
While the overall process that we followed to develop a residence on this property has been very challenging, I am truly sorry that our lack of experience resulting in our inadvertently not adhering strictly to the Alteration Permit during our preliminary preparatory activity on Grace Islet, has caused you and the Tsartlip First Nation concern. We certainly meant no disrespect to the Tsartlip First Nation.

Immediately after being contacted by the Archaeology Branch in relation to activities on the Islet, I arranged a site inspection by Ewan Anderson, in the company of Bjorn Simonsen, Kevin Twohig, Paul Pasutto and myself, which took place on July 9th. I have attached a copy of the On Site Inspection Report that was prepared by Bjorn as a result of this site examination. Paul Pasutto and Kevin Twohig also met with Ewan Anderson on July 17th to review the report and obtain direction as to how we should proceed. I understand that Ewan provided a letter to you in this regard dated July 10th, 2012. As you will note, all the rock features on the Islet have been carefully and clearly marked out and none have been disturbed or damaged. Furthermore, the two documented locations which contained human skeletal remains have not been disturbed and remain intact.

It has always been my intention to meet with the Tsartlip leadership at an early point in our preparations for construction. Accordingly, I would like to arrange a meeting with you as soon as possible at your offices to discuss the recent events and establish a process to proceed. In this regard, I would request that you please contact Paul Pasutto at s.22 at your earliest convenience. I have also asked him to contact you to confirm a meeting date, time and location.

It is my desire to meet with you and other Tsartlip members prior to a possible second meeting with the respective Archaeologists as I believe that our establishing a relationship and open and direct dialog with you and your members is of significant importance. I look forward to our meeting at the earliest possible date available to you.

Yours sincerely,



Barry Slawsky

cc. Paul Pasutto
Kevin Twohig
Bjorn Simonsen
Ewan Anderson, BC Archaeology Branch

Wilkinson, Donna MTIC:EX

From: Susan Brown <sbrown@innocept.ca>
Sent: Thursday, July 26, 2012 3:39 PM
To: Anderson, Ewan FLNR:EX
Cc: 'Paul Pasutto'; 'Danielle Gour'
Subject: Re: Grace Island Development Project

Fantastic - thanks so much for your help Ewan. We'll follow up tomorrow morning.
Have a good night.
Susan

Susan Brown



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On 2012-07-26, at 4:30 PM, Anderson, Ewan FLNR:EX wrote:

Advice from Penelakut's archaeologist for how/when to get in touch with the Band:

"Hi Ewan

Just got your message, I called the Penelakut Tribe office and spoke with reception. Their office is open from 8:30am-4pm Monday to Thursday, and 8:30am to 11:30am Friday. She related that Chief Jack is out today but will be in the office tomorrow morning. I'd suggest the property owner try back tomorrow, perhaps? It is summertime, mind you.

If Chief Jack is unavailable, Robert Sam is generally the staff person who's perhaps the best contact person to set up any meetings. Robert is back in the office Monday morning. He can also be reached by email at: robert@penelakut.ca

Hope this helps for now, Ewan. Cheers, Eric"

Ewan

From: Susan Brown [mailto:sbrown@innoccept.ca]
Sent: Thursday, July 26, 2012 7:04 AM
To: Anderson, Ewan FLNR:EX
Cc: 'Paul Pasutto'; 'Danielle Gour'
Subject: Re: Grace Island Development Project

that's great, thanks Ewan - I appreciate your assistance.
Susan

Susan Brown

<image001.jpg>

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On 2012-07-25, at 5:28 PM, Anderson, Ewan FLNR:EX wrote:

Hi Susan,

That's the only number I can dig up for Penelakut. I've just left a message with their archaeologist asking for his assistance in getting Paul and the Penelakut in touch. I'll let you know more once I hear from him.

Ewan

From: Susan Brown [mailto:sbrown@innoccept.ca]
Sent: Wednesday, July 25, 2012 3:52 PM
To: Anderson, Ewan FLNR:EX
Cc: Paul Pasutto; Danielle Gour
Subject: Grace Island Development Project

Dear Ewan,

I'm new to the Grace Island project - working with Danielle and Paul. I was following up to see if you have received any correspondence from Tsartlip and if you have, could you please forward the information on to us. Also, Paul has tried to call Chief Earl Jack Sr. with Penelakut today but there was no answer and also no voice message in place. Can you confirm the number you gave us is correct - 250-246-2321.

Thanks very much for your help.

Susan

Susan Brown

<image001.jpg>

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Wilkinson, Donna MTIC:EX

From: Susan Brown <sbrown@innocept.ca>
Sent: Monday, July 30, 2012 1:58 PM
To: earlj@penlakut.ca
Cc: Paul Pasutto; Ewan Anderson; Bjorn Simonsen
Subject: Grace Islet

Dear Chief Earl Jack Sr.,

I am following up from the letter that Barry Slawksy forwarded to you on July 25th. We are having a difficult time reaching you. Paul Pasutto has been contacting your office, leaving messages - last Wednesday, Friday and again today Monday.

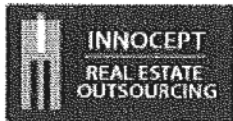
Would you be able to call Paul Pasutto at your earliest convenience on his cell; s.22 and we can arrange a time that works with you to meet.

We look forward to hearing from you.

Thank you very much.

Susan

Susan Brown



Innocept Real Estate Outsourcing Ltd.

#200, 3505 - 14 Street SW

Calgary, AB T2T 3W2

403-716-3152 direct

sbrown@innocept.ca

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Wilkinson, Donna MTIC:EX

From: Susan Brown <sbrown@innocept.ca>
Sent: Monday, July 30, 2012 2:02 PM
To: admin@tsartlip.com
Cc: Paul Pasutto; Bjorn Simonsen; Ewan Anderson
Subject: Grace Islet

Dear Chief Wayne Morris,

I am following up from the letter that Barry Slawksy forwarded to you on July 25th. We are having a difficult time reaching you. Paul Pasutto has been contacting your office, leaving messages - last Wednesday, Friday and again today Monday.

Would you be able to call Paul Pasutto at your earliest convenience on his cell; s.22 and we can arrange a time that works with you to meet.

We look forward to hearing from you.

Thank you very much.

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Wilkinson, Donna MTIC:EX

From: Susan Brown <innocept@server.innocept.ca>
Sent: Wednesday, September 5, 2012 2:10 PM
To: Paul Pasutto
Subject: Fwd: Grace Islet
Attachments: Letter Penelakut Indian Band Draft 3 - Final.docx

Here is one of the letters that you need to forward to Robert G. thanks.

Begin forwarded message:

Barry N. Slawsky

2 Laurier Place
Edmonton, AB
Canada T5R 5P4
Email: s.22

Phone (780) 486-1111
Fax (780) 486-7535
Mobile s.22

=====

Wednesday July 25, 2012

Via Fax (250) 246-2725
Original Via Mail

Chief Earl Jack
Penelakut Tribe
Box 360 Chemanius, BC
V0R 1K0

Re: Grace Islet – Alteration Permit No. 2011-0343

Dear Chief Earl Jack,

We received a copy of your letter of July 3, 2012 on the noted topic from Ewan Anderson of the Archaeology Branch on July 9th.

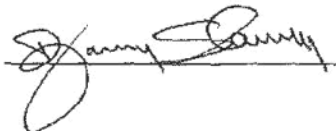
While the overall process that we followed to develop a residence on this property has been very challenging, I am truly sorry that our lack of experience resulting in our inadvertently not adhering strictly to the Alteration Permit during our preliminary preparatory activity on Grace Islet, has caused you and the Penelakut First Nation concern. We certainly meant no disrespect to the Penelakut First Nation.

Immediately after being contacted by the Archaeology Branch in relation to activities on the Islet, I arranged a site inspection by Ewan Anderson, in the company of Bjorn Simonsen, Kevin Twohig, Paul Pasutto and myself, which took place on July 9th. I have attached a copy of the On Site Inspection Report that was prepared by Bjorn as a result of this site examination. Paul Pasutto and Kevin Twohig also met with Ewan Anderson on July 17th to review the report and obtain direction as to how we should proceed. I understand that Ewan provided a letter to you in this regard dated July 10th, 2012. I have also attached a commentary to Justine Batten in response to your July 3rd 2012 letter and as instructed by Ewan Anderson, have provided this commentary to you. As you will note, all the rock features on the Islet have been carefully and clearly marked out and none have been disturbed or damaged. Furthermore, the two documented locations which contained human skeletal remains have not been disturbed and remain intact.

It has always been my intention to meet with the Penelakut leadership at an early point in our preparations for construction. Accordingly, I would like to arrange a meeting with you as soon as possible at your offices to discuss the recent events and establish a process to proceed. In this regard, I would request that you please contact Paul Pasutto at s.22 at your earliest convenience. I have also asked him to contact you to confirm a meeting date, time and location.

It is my desire to meet with you and other Penelakut members prior to a possible second meeting with the respective Archaeologists as I believe that our establishing a relationship and open and direct dialog with you and your members is of significant importance. I look forward to our meeting at the earliest possible date available to you.

Yours sincerely,



Barry Slawsky

cc. Paul Pasutto
Kevin Twohig
Bjorn Simonsen
Ewan Anderson, BC Archaeology Branch

**COMMENTARY ON THE LETTER
OF July 3,2012
From the Penelakut Nation to Director BC Archeology Branch**

**On the subject of
HCA 2011-343 Alleged Violations of Permit Conditions – Grace Islet**

Prepared July 10,2012

GENERAL COMMENT

It is noted that upon referral to the Penelakut of the subject application by the BC Archaeology Branch in the course of its consultative obligations, the Penelakut did not respond in any way to the prospect of pending residential development on Grace Islet.

Specific Comments

Paragraph 1

- No land clearance occurred "atop the burial site at Grace Islet, DfRu-009, Salstpring Island". Nor were any trees felled atop the burial site'. And no pathways were constructed for shoreline access.
- The effects of activities and actions which in fact took place are summarized below with reference to Paragraph 4.

Paragraph 2

- Site Alteration Permit HCA 2011-343 in no way "proposes to desecrate the burial site and historic cemetery" recorded on Grace Islet. In fact, the property owner, throughout the course of his ownership, and through his preparatory activities has and continues to respect and acknowledge the traditions of the First Nations of the area and has gone to great lengths to protect both known and potential rock features at Grace Islet.

Paragraph 3

- Three key points with respect to protecting the dead from disturbance and respecting the sanctity of ancestral burial places are
 - a) the extent to which the owner has gone to protect the identified rock features during the course of his planning via siting and design measures,
 - b) the conduct of a thorough Archeological Impact Assessment on Grace Islet as a part of this file; and
 - c) the fact that the rock features on Grace Islet are much better safeguarded by the plans of the present owner than they have been at any time in the recent past and/or would be if the Islet remains as it has been.

Paragraph 4

With respect to the possible violation of the terms of the permit, the following is noted based on the site inspection of July 9, 2012

- recent pre-construction site alteration work that had been carried out on the island by a local contractor hired by the agent of the Owner exceeded what was expected based on the instructions given to the contractor by the property owner and the agent on site.
- The nature and extent of observed site alteration work, as reported to the B.C. Archaeology Branch and to the Penelakut Tribe was somewhat exaggerated and incorrect;
- It is acknowledged that the pre-construction work conducted was done without any archaeological monitoring, as required under the conditions of the BC Archeological Branch Site Alteration Permit issued in 2011. Arrangements will be made to ensure the presence of an archeological monitor during key construction activities;
- All 15 Rock Features had been located and well marked out by the contractor. None had been disturbed or damaged. As well, the two documented locations containing human skeletal remains had not been disturbed and remain intact.
- The track path inadvertently created by the movement of an excavator is acknowledged while noting that this caused no damage to burial remains or rock features.
- The removal of soil from several areas is also acknowledged while noting that it was piled in manner to avoid all rock features on the site
- It was agreed that no further development related work should occur until authorized by the B.C. Archaeology Branch.
- Possible mitigative measures include screening of all backdirt from the recent soil removal work;
- a pre-construction meeting of the property owner, his representatives will be arranged with the Tsartlip Nation – the only one of 13 First Nations with overlapping interest in the subject area to respond to referral of the subject Permit application with concerns of any sort. This will take place as soon as possible. No further development work will take place on the island until this meeting has occurred

Paragraphs 5&6

- The Archeological Branch investigated this matter on site on July 9, 2012 in the company of the Permit Holders. It was confirmed that no human remains or rock features were disturbed by the noted actions, and that the deviations from permit conditions occurred in the course of identifying and flagging the recorded burial features for the purpose of ensuring their protection and avoidance.

August 8, 2012



Ewan Anderson, Archaeologist
BC Archeology Branch
Ministry of Forests, Lands and Natural Resource Operations
3 – 1250 Quadra Street
Victoria, B.C, V8W 2K7

Subject: Alteration Permit No. 2011-0343

Dear Sir:

As you are aware, we provided letters to each, Chief Wayne Morris of the Tsartlip First Nation and Chief Earl Jack of the Penelakut Nation on Wednesday July 25th, we then contacted both by telephone and e-mail every second day thereafter.

On Monday July 30th, we heard from the Penlekut's representative, who while asked to contact us was neither aware of, nor in receipt of the letters and related information that we had provided on this matter. We then forwarded the pertinent information and were told that they would respond back to us within a day or two. This has not happened.

I note that your letter to the First Nations had a deadline for response of July 31st. As we have not been provided any further correspondence from you in this regard, we assume that your only response to this was that of the Tsawwassen conveyed to us earlier.

As we have not received any response to repeated requests to set a meeting time with the Penelakut and the Tsartlip in our concerted effort to attain the desired meaningful dialog in relation to the respective First Nations concerns, we at this time respectfully request that you advise us of the steps required to remove the hold on Alteration Permit No. 2011-0343. Despite our efforts, and our understanding of the sensitivities, we are in the final stages of project design. We would like to be in a position to proceed with access to the site and to commence construction in the next few weeks. Therefore if your department requires any action taken on site we would appreciate confirming same as soon as possible. We would like to finalize the steps remaining to enable the reinstatement of the Permit, thus enabling us to proceed in the manner expected.

As noted earlier, we now have a clear understanding as to all the Alteration Permit requirements and are now able to proceed as required. We will thus ensure that no errors are made during the course of our activities.

We look forward to your response today or tomorrow.

Yours truly,

A handwritten signature in black ink, appearing to read "P. Pasutto".

Paul Pasutto, President
Innocept Real Estate Outsourcing Ltd.
#200, 3505 - 14 Street SW
Calgary, AB T2T 3W2
Direct: 403-716-3150
ppasutto@innocept.ca

cc: Kevin Twohig
Barry Slawsky

Wilkinson, Donna MTIC:EX

From: Eric McLay s.22
Sent: Sunday, May 26, 2013 10:05 PM
To: Acheson, Steven FLNR:EX
Subject: RE: Grace Islet new dock ?

I saw those pilings, there old. Sorry to bother you about that Steven. Glad you could make it to the Salt Spring forum on a Sunday, thanks again. Eric

----- Original Message -----

From: Steven FLNR Acheson:EX <Steve.Acheson@gov.bc.ca>
To: 'Eric McLay' <s.22>
Sent: Tue, 21 May 2013 12:04:57 -0600 (MDT)
Subject: RE: Grace Islet new dock ?

Hi Eric, I've seen the pilings and they're hardly new - I've been told they were installed 10+ years ago. As for the cable, it was installed when the condos were built at Grace Point so it dates back to at least 15 years. I believe the owner already has a foreshore lease for a dock, but that I can't swear to.

Steven

Steven Acheson, D.Phil. | Archaeologist
Archaeology Branch | Ministry of Forests, Lands and Natural Resource Operations
Phone: 250-953-3306 | Fax: 250-953-3340 | e-mail: archpermitapp@gov.bc.ca Unit 3 - 1250 Quadra Street, Victoria BC
V8W 2K7 | PO Box 9816 Stn Prov Govt, Victoria, BC V8W 9W3

Visit our website at: <http://www.for.gov.bc.ca/archaeology/>

-----Original Message-----

From: Eric McLay s.22
Sent: Tuesday, May 21, 2013 8:45 AM
To: Acheson, Steven FLNR:EX
Subject: Grace Islet new dock ?

Hi Steven

I saw a grainy cell phone photo of what appears to be four new pilings for a dock development at Grace Islet ? I've been told these pilings on the foreshore are located on the northeast side of the islet, although it is hard to tell from the photo. A local resident also indicated that there is a large Black cable that has been recently installed crossing over from Ganges into the proposed house footprint. It was my understanding that under the terms of the existing permit that no developments were allowed? Wondering if the Archaeology Branch is aware of these developments? If not, I will try to obtain a better photo for reference. Thanks Steven, Eric

PS I looked online last night or a recent foreshore application for private moorage but didn't see any. Its possible its already been granted?



To: Justine Batten, Director

Date: August 06, 2014

File No.: 11200-30/11-0343

Re: Grace Islet Site Inspection Report

Below is a summary of my findings based on a site inspection conducted July 29, 2014 of the construction ongoing on Grace Islet and of the reported possible breach of *Heritage Conservation Act* Alteration Permit 2011-0343. Specific concerns centred on reported changes in house design and the house construction site plan, and other alleged violations of permit conditions. In attendance were the owner's agent, Paul Pasutto, in addition to Bruce Ball and Bjorn Simonson, archaeological consultants to the owner, and Darryl Janyk, Building Inspector for the Capital Regional District.

All the identified cairns, including a recently added feature designated Rock Feature #16, were inspected.

Discrepancies in the numbering of the cairns in relation to the house footprint, as presented in both the original permit application and subsequent amendment, were found (Figures 1 through 4). These discrepancies aside, the cairn locations are accurately plotted on the site plans and all 16 recorded features, in addition to the two outlying burials, remain undisturbed.

All the cairns located within the construction zone, and delineated by the 10 metre building setback from the high water mark, are enclosed in protective plywood boxes. There has, however, been some modification in the development footprint since the permit amendment was issued where two of the cairns (RF # 3 & 10) are now straddled by the foundation wall and lie partially within the interior of the house footprint (see Plates 1, 2 & 3). The two cairns remain accessible from the exterior of the foundation wall with the interior portion enclosed in a protective concrete casing. Rock Feature #14, as reported, is situated within the house footprint and presently enclosed in a protective plywood octagonal box (Plate 4). Contrary to our previous understanding, however, this feature will not be directly accessible from outside the house in future.

With respect to the observed graffiti painted on the octagonal box encasing Rock Feature #14, the Branch was assured that it definitely wasn't done by anyone associated with the development, but on its discovery, the image was removed (Plate 3).

Modification of the house design has changed the scope of the *Planned Protective Measures*, as described in the application for the permit amendment, to the extent that:

- (a) as described above, the foundation wall now straddles Rock Feature #3. Features #11 and 12 remain in an open area;
- (b) Rock Feature #14 will now be enclosed within the house footprint; and,
- (c) again as described above, the foundation wall now straddles Rock Feature #10.

With respect to several other reported violations, I noted the following:

- (a) all ground altering activity of previously undisturbed soils was monitored by an archaeologist. Work involving the redistribution of previously stockpiled and examined soil, notably preparation of a landing for two storage containers, was not monitored;
- (b) the access walkway to the wharf is safely routed around the nearest rock feature (RF #15); and,
- (c) the use of some of the protective boxes for placing tools, construction materials, and/or scrap wood was drawn to the attention of the construction foremen and the owner's agent as being viewed as disrespectful and was addressed forthwith.

On locating reported RF #16, situated along the 10 metre building setback, this feature has since been enclosed in a box.

All the cairns, with the exception of recently listed Rock Feature #16, have now been legally surveyed and a restrictive covenant is being prepared for registration as required as a condition of permit. Feature #16 will be added at a later point.

In summary, I observed some discrepancies in building design and oversights occurred, but that the proponent has also expended considerable effort in protecting the features consistent with the intent of the Alteration Permit. I also note that the *Application for the Site Alteration Permit Amendment* dated May 15, 2013, did raise the possibility of having to modify the development plans from what was originally proposed, but that the applicant remained committed to ensuring the cairns would be preserved. At this time none of the features have been damaged by the development and care is being taken to ensure no such damage or transgressions occur in future.

Steven Acheson, D.Phil.
Supervisor, Permitting and Assessment

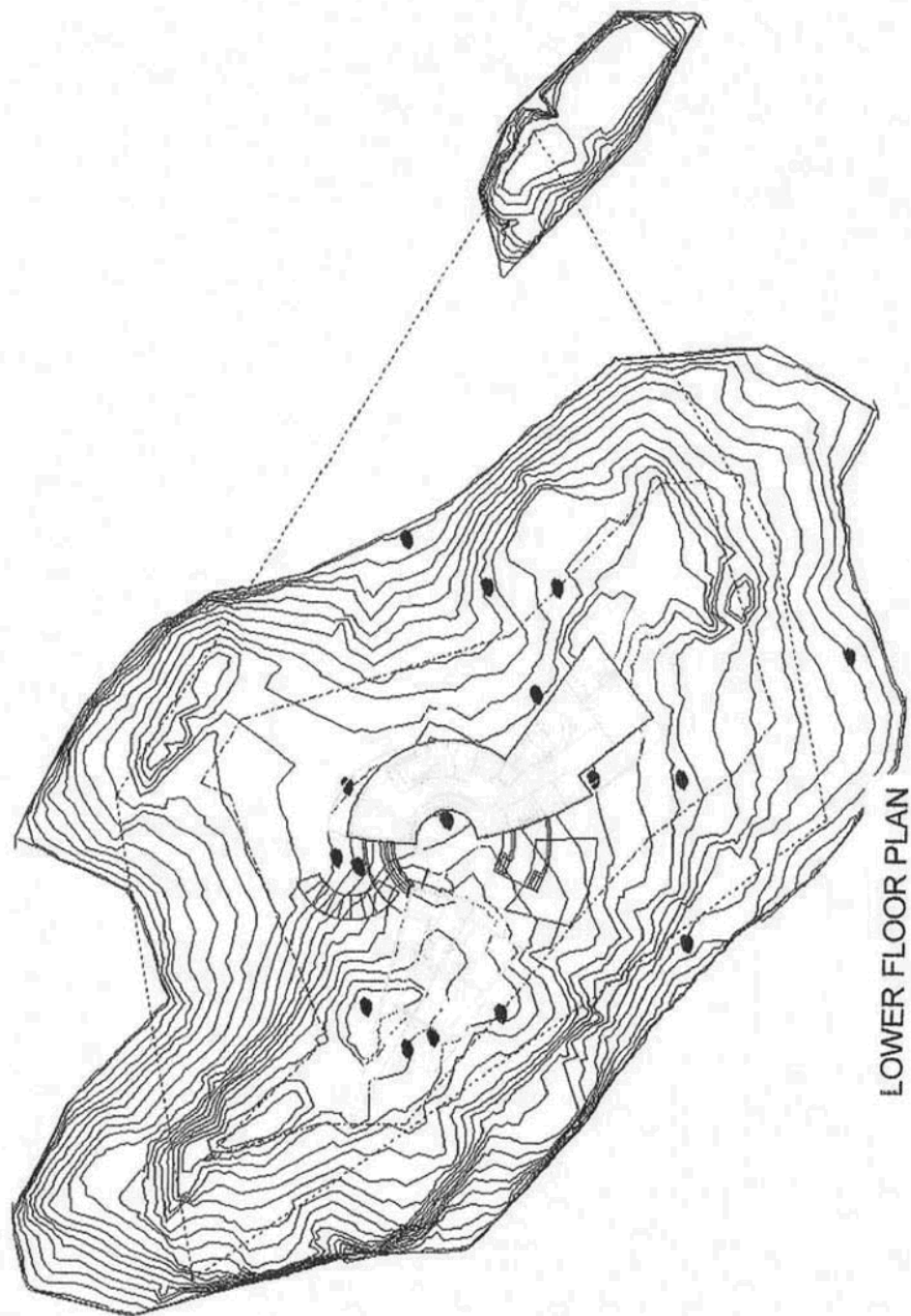


Figure 1: Original site plan submitted with the application for permit dated May 2011.

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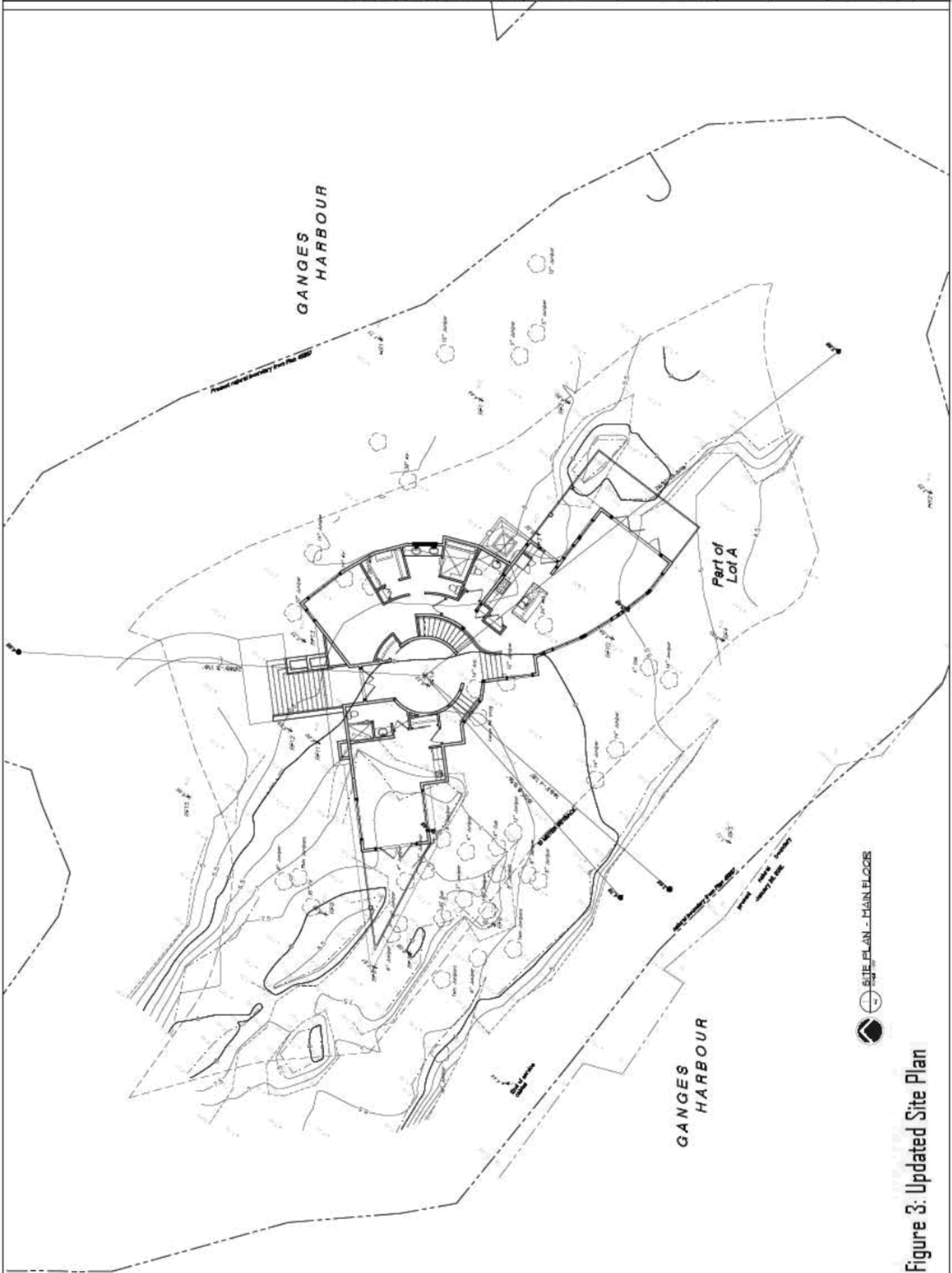


Figure 3: Updated Site Plan



Plate 1: View of Rock Feature #10 housed within a plywood box. The interior portion of this feature is enclosed in concrete.



Plate 2: View east of the interior of the house foundation showing the concrete casing for Rock Feature #3 in the centre of the photograph. Visible behind are the boxes housing features #1 and #2.



Plate 3: View west of the east wall straddling the protective plywood box housing Rock Feature #3. Visible in the background is the 'octagonal-shaped' box housing Feature #14.



Plate 4: View east showing the protective covering for the centrally located Rock Feature #14. Visible along the interior of the back walls are the concrete casings housing features #3 and #10.