

February 22, 2015

Town of Gibsons  
474 South Fletcher Road  
Gibsons, B.C. V0N 1V0

Attention: Emanuel Machado,  
Chief Administrative Officer

Dear Sir:

**RE: TRANSFER OF LICENSE FOR GIBSONS MARINA & HOTEL LIMITED PARTNERSHIP**

I write in response to your letter dated February 17, 2015 which outlined the additional information that the Town requires prior to Council consideration of the transfer of license to Klaus Fuerniss Enterprises Inc. We appreciate your response to our letter, which informed the Town of the pending purchase of the assets of GHMI.

As per your request, the following items are appended to this letter:

1. Attached are two copies of a comprehensive site development plan for the marina. You will note that the plan also includes the area in from of Winegarden Park, which has been proposed as transient moorage for the George Hotel application.
2. At present, there are no immediate plans to alter any of the current uses of the marina. While not a change of use, it is the intent of KFE to computerize the operation and reservation system as well as increase the product selection in the retail store to maximize revenue. In addition to this the proponent will establish an advisory committee of boaters to assist in determining the future needs of the marina users.
3. The comprehensive plan referred to in item one illustrates the severance of slip A from the existing marina and the incorporation of that slip with the day moorage and relocated fuel dock of the proposed George Hotel. You had noted in your letter *"that any decision made by Council will not in any way fetter Council's discretion in respect of its consideration of any development or rezoning applications made by KFE in respect of its proposed hotel development"*. We acknowledge this statement and we confirm that the configuration of the marina will remain unchanged until the approval of the rezoning application is approved by Council.
4. Attached are the financial statements for KFE, for the past three year period, as well as a covering letter from the accountant indicating that the *KFE group of wholly owned subsidiary companies are financially successful and internally self-sustaining businesses*. As this information is extremely sensitive we ask that you and you alone review the statements and that they must be handled in strict confidence.
5. While you have requested a draft assignment and assumption agreement, we believe the enclosed Purchase Agreement addresses the items that would be included in such an assignment.
6. As mentioned in item 5, we have enclosed a copy of the Purchase Agreement which was signed by both parties on the 26<sup>th</sup> day of January, 2015. The financial payments have been deleted from this document.

I trust that you will find the attached information fulfills your request, however, if you do require any additional information, please do not hesitate to contact me at your convenience.

We look forward to working with you and Council on the transfer of the license and to a long term working relationship regarding the continued operation of the Gibsons Marina.

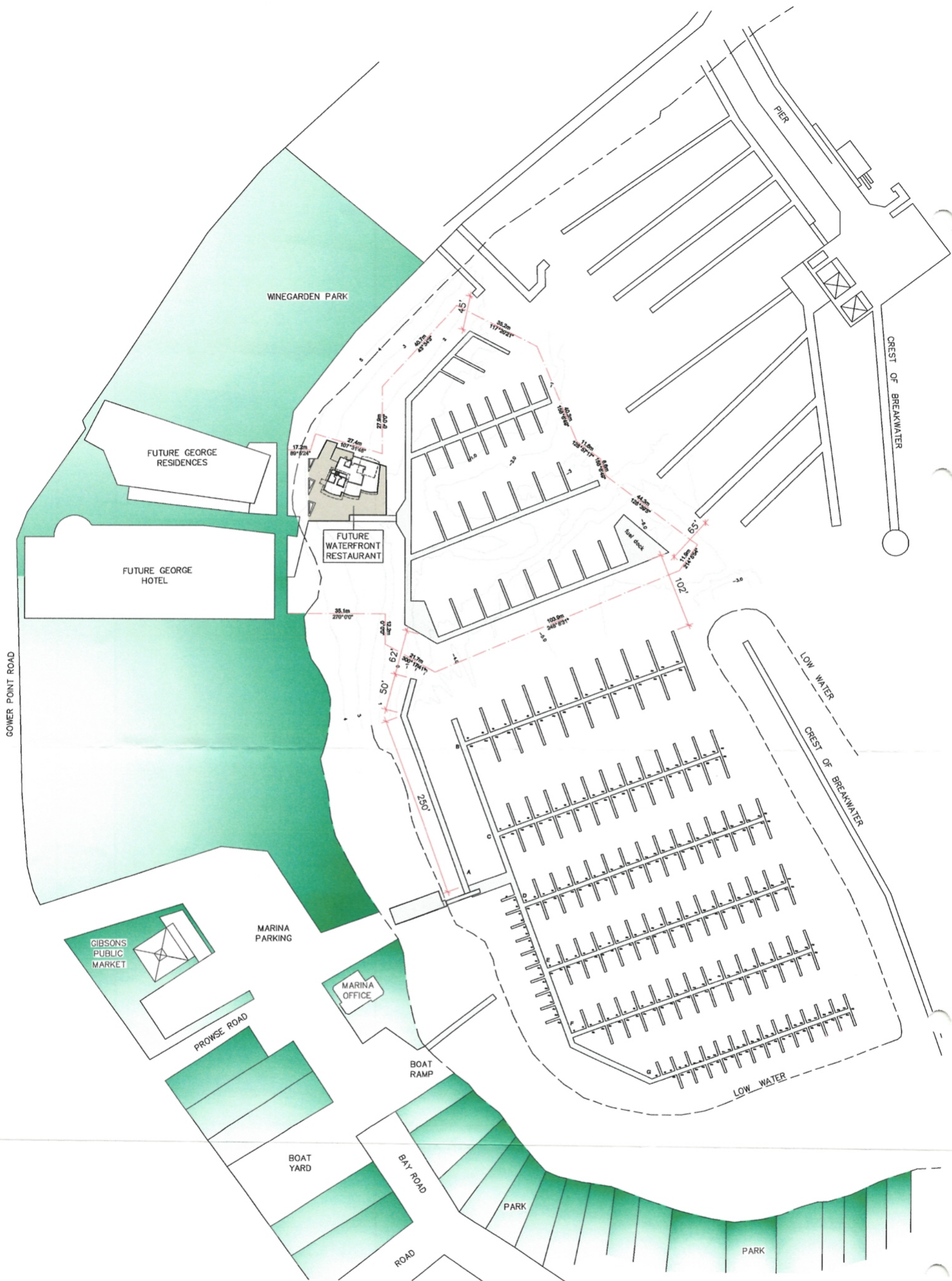
Yours sincerely,

**ART PHILLIPS & ASSOCIATES INC.**



per: Art Phillips  
President

cc: Klaus Fuerniss Enterprises Inc.  
✓ Keith Anderson, Ministry of Forest Lands and Natural Resource Operations



Client:  
Klaus Fuerniss Enterprises, Inc.

Gibsons Marina float layout based on:  
Plan Number 7.500  
by Allen and Company Land Surveyors  
in February, 1984

1/1500  
(11x17)  
**MARINA FLOAT LAYOUT**  
2.20.2015



**Anderson, Keith FLNR:EX**

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**From:** Art Phillips <a.phil@eastlink.ca>  
**Sent:** Wednesday, April 15, 2015 4:56 PM  
**To:** Karen.Carteri@mcmillan.ca  
**Cc:** emachado@gibsons.ca; Anderson, Keith FLNR:E  
**Subject:** FW: navigation waters revised for Gibsons Marina  
**Attachments:** marina\_4.12.2015\_revised.pdf

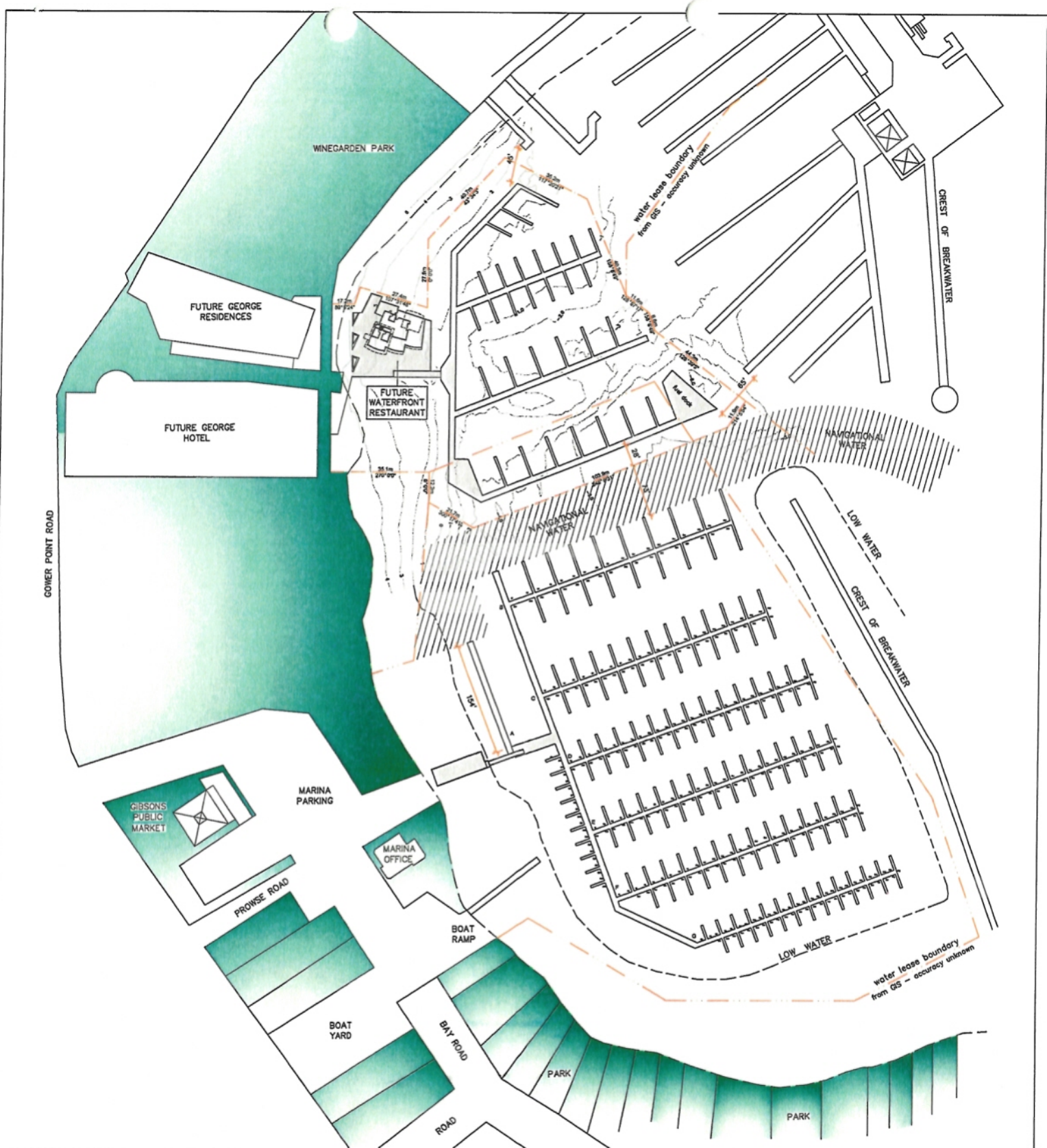
s.22

On behalf of Klaus Fuerniss Enterprises Inc. I am attaching a revised Gibsons Marina layout plan that reflects input from both the Town and the Province. You will note that navigational waters is now being provided to your client's property which has necessitated a change to the overall marina layout.

Please review this plan with your client and if you have any questions, please do not hesitate to contact me.

Art Phillips





Client:  
Klaus Fuerniss Enterprises, Inc.

Gibsons Marina float layout based on:  
Plan Number 7.500  
by Allen and Company Land Surveyors  
in February, 1984

1/2000  
(8.5 x 11)  
**MARINA FLOAT LAYOUT**  
3.30.2015



## **Davie, Maxine E FLNR:EX**

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**From:** Anderson, Keith FLNR:EX  
**Sent:** Tuesday, April 14, 2015 4:16 PM  
**To:** Davie, Maxine E FLNR:EX; Cavill, Jacqueline FLNR:EX  
**Subject:** Re: Town of Gibsons/Shoal Bay Properties

Yes I want to discuss with Jacqueline as well before we get back to the Town with more ideas.  
Keith Anderson from Blackberry

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**From:** Davie, Maxine E FLNR:EX  
**Sent:** Tuesday, April 14, 2015 04:07 PM  
**To:** Anderson, Keith FLNR:EX  
**Subject:** RE: Town of Gibsons/Shoal Bay Properties

Keith, we can add a modification agreement to their Lease – that might be a better way of doing this and showing the area that must be left clear for riparian access purposes.

If the riparian access shown hatched below resolves the problem, there may be some merit in getting the land resurveyed, however, it would be done at the leaseholder's expense.

## **Maxine E. Davie**

### **Senior Portfolio Administrator**

Ministry of Forests, Lands and Natural Resource Operations  
South Coast Natural Resource Region  
(604) 586-4411, Fax (604) 586-4444

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**From:** Anderson, Keith FLNR:EX  
**Sent:** Friday, April 10, 2015 3:21 PM  
**To:** 'a.phil@eastlink.ca'  
**Cc:** Pamela Jefcoat; Emanuel Machado; Cavill, Jacqueline FLNR:EX; Davie, Maxine E FLNR:EX  
**Subject:** RE: Town of Gibsons/Shoal Bay Properties

Good Afternoon Phil

I have reviewed your proposal with Jacqueline Cavill, Section Head, Authorizations

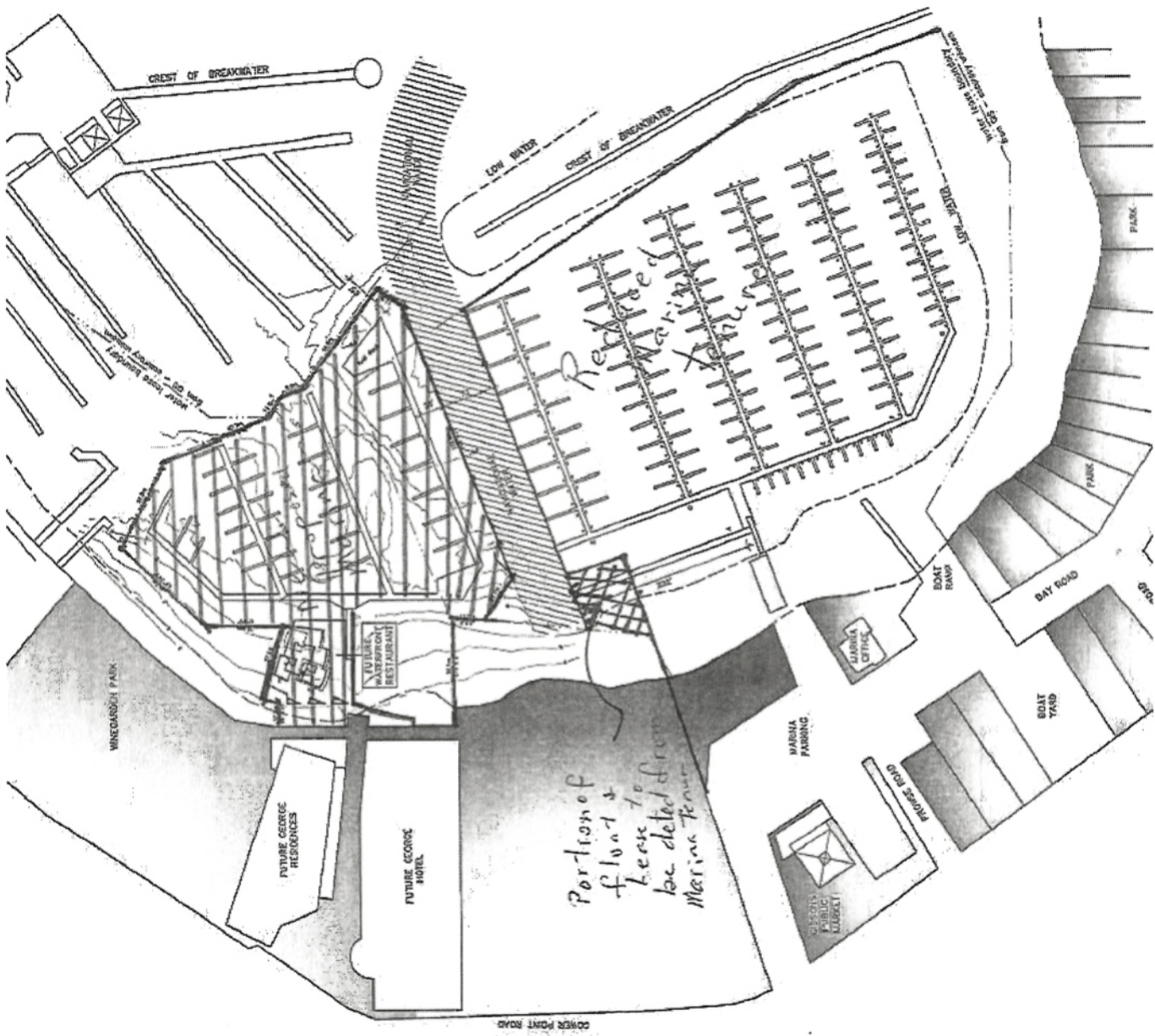
I cannot provide you with a legal opinion on the interpretation of riparian rights as it relates to the Shoal Bay Properties.

However, in reviewing similar situations that FLNR has permitted in other locations where there is a possible impact to riparian rights of upland owners, your proposal for the access corridor appears to provide adequate boat access. But because of the very shallow water, a portion of "Finger A", even if no boats were moored on the landward side of it, may be an infringement on Shoal Bay's riparian rights. Therefore in order to take a conservative position, FLNR will require you to remove that portion of the figure Hatched in Black on the sketch below. This should provide Shoal Bay with the riparian access to every part of their upland property that they are seeking, and it is in keeping with what FLNR has approved in similar situations. FLNR is prepared to let the boat access channel remain as part of your leased area, but the revised lease, when approved, will contain reference to the requirement to maintain the access channel.



However, this arrangement may not be deemed suitable by Shoal Bay Properties, and there is nothing to prevent them from seeking the opinion of the court and getting a judicial ruling which would have to be reflected in FLNR's marina lease to you .

Please make that one change to your proposal and then feel free to discuss it with Shoal Bay.



The second part of your proposal, hatched in red above will require a new application and the written consent of the upland owner as part of the application package. The application will be referred to First Nations and Navigable Waters. The Federal Department of Fisheries and Oceans, no longer participates in FLNR's referral process, so the applicant will be responsible for ensuring that if FLNR approves the application, that all of the requirements of DFO have been addressed, prior to any construction .

FLNR would like to see the physical access to accommodate the riparian rights of Shoal Bay provided as soon as possible. To that end, with the removal of a floats needed to create this access, FLNR will permit the placement of a temporary access float/ramp to the finger on the far side of the boat access channel to accommodate customers

already located on the existing float, from the upland of the George Hotel property, provided that the upland owners have granted permission and that a new application for the area hatched in red has been submitted to Front Counter BC. Again there is some urgency to the submission of the new application and the removal of the floats/fingers that appear to be impeding riparian access to Shoal Bay lands.

Ultimately new surveys will be required if the new and revised tenures are approved by FLNR to replace those already in existence.

Please note that acceptance of an application through Front Counter BC, does not guarantee that a *Land Act* tenure will automatically be issued.

The Town of Gibsons, must also provide new sub tenure documents for the revised areas to FLNR for approval.

We can discuss further if you have any questions.

Thanks

***Keith Anderson***

**Manager, Resource Authorizations**

Ministry of Forests, Lands and Natural Resource Operations

200-10428 153 Street, Surrey BC, V5R 1E1

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**From:** [a.phil@eastlink.ca](mailto:a.phil@eastlink.ca) [mailto:[a.phil@eastlink.ca](mailto:a.phil@eastlink.ca)]

**Sent:** Friday, April 10, 2015 9:41 AM

**To:** Anderson, Keith FLNR:EX

**Cc:** Pamela Jefcoat; Emanuel Machado; Cavill, Jacqueline FLNR:EX; Davie, Maxine E FLNR:EX

**Subject:** Re: Town of Gibsons/Shoal Bay Properties

I have been waiting for a response from your office prior to notifying Shoal Bay.  
Art

Sent from my iPhone

On Apr 10, 2015, at 9:40 AM, "Anderson, Keith FLNR:EX" <[Keith.Anderson@gov.bc.ca](mailto:Keith.Anderson@gov.bc.ca)> wrote:

Thanks Pamela:

Do you know when the proposal will be presented to Shoal Bay Properties?

Thanks

***Keith Anderson***

**Manager, Resource Authorizations**

Ministry of Forests, Lands and Natural Resource Operations

200-10428 153 Street, Surrey BC, V5R 1E1



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**From:** Pamela Jefcoat [<mailto:pjefcoat@valkyrielaw.com>]

**Sent:** Thursday, April 9, 2015 10:18 AM

**To:** 'Emanuel Machado'; Cavill, Jacqueline FLNR:EX; Davie, Maxine E FLNR:EX; [a.phil@eastlink.ca](mailto:a.phil@eastlink.ca); Anderson, Keith FLNR:EX

**Subject:** FW: Town of Gibsons/Shoal Bay Properties

Good morning,

Please see the attached correspondence for your records.

Regards,

Pam

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**From:** Pamela Jefcoat [<mailto:pjefcoat@valkyrielaw.com>]

**Sent:** Thursday, April 09, 2015 10:17 AM

**To:** 'karen.carteri@mcmillan.ca'

**Subject:** Town of Gibsons/Shoal Bay Properties

Good morning, Karen

Please see the attached correspondence.

Regards,

Pam

Pamela Jefcoat

Tel: 604.263.4804

Email: [pjefcoat@valkyrielaw.com](mailto:pjefcoat@valkyrielaw.com)

Web: [www.valkyrielaw.com](http://www.valkyrielaw.com)

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