



# ALBERNI-CLAYOQUOT REGIONAL DISTRICT

3008 Fifth Avenue, Port Alberni BC, CANADA V9Y 2E3 Telephone (250) 720-2700 Fax (250) 723-1327

## Rezoning Application

**MEETING DATE:** October 14, 2020

**ACRD FILE NO.:** RA20005

**APPLICANTS:** AMEDEO CORTESE & JOYCE POOL

### LEGAL

**DESCRIPTION:** STRATA LOT 63 DISTRICT LOT 1630 CLAYOQUOT DISTRICT STRATA PLAN 1238 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM 1

**LOCATION:** Lot 63, Haggard Cove, Barkley Sound

**ELECTORAL AREA:** "A" Bamfield

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### Recommendations:

- THAT Bylaw P1410, Regional District of Alberni-Clayoquot Zoning Atlas Amendment Bylaw be read a first time.
- THAT the public hearing for Bylaw P1410 be delegated to the Director for Electoral Area 'A', the Alternate Director or the Chairperson of the Regional District.
- THAT the Board of Directors confirm that adoption of Bylaw P1410 is subject to:
  - a. Confirmation that the communal sewage disposal and water systems are capable of servicing the proposed lots;
  - b. British Columbia Land Surveyor (BCLS) survey to confirm adequate fire separation between structures and suitable building envelope for existing structures to comply with required building setbacks in the R1 District following subdivision;
  - c. Amending or removing existing restrictive covenants on Strata Lot 63 that permit commercial uses;
  - d. Restrictive covenant registered on the property title to restrict uses to Vacation Home uses not exceeding one hundred and eighty (180) days per calendar year;
  - e. Meeting technical referral agency requirements.

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## RA20005

**Advisory Planning Commission Recommendation:** At the October 1, 2020 Advisory Planning Commission (APC) meeting the APC resolved to support the rezoning application subject to the recommendations outlined in this staff report.

**Applicant's Intention:** The property owner has applied to rezone the property from Tourist Commercial (C6) District to Single Family Residential (R1) District to facilitate a two lot subdivision consisting of two +/- 0.2 ac lots.

**Observations:**

i) **Status of Property:** The 0.163 ha (0.403 ac) subject property is located in Haggard Bay, Trevor Channel an off-shoot of the Alberni Inlet. The property is part of the Haggard Cove Strata Corporation, a 65 lot strata subdivision developed in the 1980's. The property is oriented south east into the bay and includes two seasonal dwellings, one that was previously used as a seasonal fishing lodge, and one shed. There are seasonal dwellings to the north and west, a public right-of-way and a public park beyond to the east, and common property parkland and marina to the south.

ii) **Services**

- a. **Sewage Disposal:** Communal strata system, each residence connected independently. Confirmation from the Strata Corporation that the system is capable of servicing two lots.
- b. **Water Supply:** Communal strata system, each residence connected independently. Confirmation from the Strata Corporation that the system is capable of servicing two lots.
- c. **Fire Protection:** None
- d. **Access:** Water access only.

iii) **Existing Planning Policies Affecting the Site**

- a. **Agricultural Land Reserve:** Not within the Agricultural Land Reserve.
- b. **Official Community Plan:** Not within an OCP area.

**Zoning:** The subject property is zoned Tourist Commercial (C6) District. The applicants intend to rezone the property from Tourist Commercial (C6) District to Single Family Residential (R1) District to allow for a two-lot subdivision creating two (2) +/- 0.2 acre lots.

**Zoning Bulk and Site Regulations**

	<b>C6 District (existing)</b>	<b>R1 District (proposed)</b>
Minimum Lot Area:	0.344 ac (15000 sq. ft.)	0.165 ac (2700 sq. ft.)
Minimum Lot Width:	120 ft.	60 ft.
Lot Coverage:	-	33%
Minimum Setbacks		

**RA20005**

Front:	20 feet	25 feet
Rear:	20 feet	30 feet
Side:	15 feet	5 feet

The property includes two cabins, one +/- 1000 sq. ft., and the other +/- 1700 sq. ft., both of which are in compliance with the R1 zoning. A BCLS will confirm adequate space for building envelopes for both cabins on the proposed lots, as per Section 111.2.

Three restrictive covenants affect this property. The 1982 Covenant, L4302, Section 1 restricts the uses on the subject property to the allowable uses in the Vacation Home (RVH) District. The 1986 Covenant, R73038, amends L4302, Section 1 to exempt the subject property from the restricted uses. Restrictive Covenant FB232147 further modifies L4302 by exempting Lot 64 from the exemptions in R73038, but does not directly affect the subject property, Lot 63. The current covenants on title allow for commercial uses. As part of the rezoning, staff recommend removal or amendment of the covenants to reflect the applicants' desire to use the subject property for seasonal vacation home use.

In 1986 the subject property was rezoned to R1 from C6 and the interior lot line was cancelled to accommodate the construction of a sport fishing lodge. Subsequent construction includes a 2008 construction of a seasonal dwelling and deck addition to the lodge, and a 2010 construction of shed. Each of these structures was placed on the previous lots respectively; however, none of these building permits have been finalized. In effect, this rezoning would allow for subdivision and revert the property back to its 1986 uses.

The remainder of the 60+ lots in Haggard Cove are zoned Single Family Residential (R1) District. Each of the lots has a covenant registered on title restricting use to seasonal dwellings. This zoning amendment would be consistent with the existing uses in the rest of the development.

***The proposal requires a rezoning of the subject property from Tourist Commercial (C6) District to Single Family Residential (R1) District to facilitate a two lot subdivision consisting of two +/- 0.2 ac lots.***

#### **Comments:**

The subject property was rezoned in 1986 from Single Family Residential (R1) District to Commercial (C6) District to accommodate the cancellation of the interior lot line and the development of an 8 person fishing lodge on the east side of the lot. Three subsequent Building Permits were applied for: BF08-05 for a seasonal dwelling on the west side of the lot, BF08-06 to replace the deck on the fishing lodge, and BF10-02 to construct a shed behind the fishing lodge on the east side of the lot.

Survey confirmation will confirm that there is both adequate fire separation between the existing

#### **RA20005**

seasonal dwellings and that there is sufficient space for subdivision to meet the Single Family Residential (R1) District setback requirements. A Development Variance may be required if there is not sufficient space between the two buildings to meet the requirements in the R1 zone.

The seasonal dwellings are located within the Haggard Cove Strata Corporation. The ACRD will require documentation confirming that the communal water and sewer systems are capable of servicing the dwellings.

The registered owners have an undivided 50/100 interest on the fee simple property. Following subdivision they intend to split the properties between the respective owners, Amedeo Cortese and Joyce Pool to be used as recreational properties.

Under normal circumstances planning staff would not be supportive of rezoning to support the subdivision of lots this size in a remote area. However, in this circumstance the owners have proposed downzoning from a more intensive commercial use to a less intensive residential use. Further, lot sizes of the proposed future subdivision are the same as the pre-existing lots and the surrounding residential lots.

Planning staff are supportive of the application, provided that the listed recommendations are met, and recommend that the Board proceed with first reading of the associated bylaw and delegate the public hearing to the area director or alternate director.

Submitted by:   
\_\_\_\_\_  
Sarah Holden  
Junior Planner

Reviewed by:   
\_\_\_\_\_  
Alex Dyer, MCIP, RPP  
Planner

Reviewed by:   
\_\_\_\_\_  
Mike Irg, MCIP, RPP  
General Manager of Planning and Development

Approved by:   
\_\_\_\_\_  
Douglas Holmes, BBA, CPA, CA  
Chief Administrative Officer

**RA20005**



# ALBERNI-CLAYOQUOT REGIONAL DISTRICT

3008 Fifth Avenue, Port Alberni, BC V9Y 2E3

Phone: (250) 720-2700 Fax: (250) 723-1327

## APPLICATION FOR DEVELOPMENT

- |                                                            |                                                          |
|------------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Official Community Plan Amendment | <input type="checkbox"/> Minimum Parcel Frontage Waiver  |
| <input checked="" type="checkbox"/> Zoning Map Amendment   | <input type="checkbox"/> Board of Variance Application   |
| <input type="checkbox"/> Zoning Text Amendment             | <input type="checkbox"/> Temporary Commercial Use Permit |
| <input type="checkbox"/> Development Permit                | <input type="checkbox"/> Temporary Industrial Use Permit |
| <input type="checkbox"/> Development Variance              | <input type="checkbox"/> Other: _____                    |

Applicant/Property Owner Information	Agent Information (if applicable)
Name: AMEDED CORTESE / JOYCE POOL	Name:
Mailing Address: 162 PACIFIC TERRACE NANAIMO BC V9S-3S2	Mailing Address:
Telephone:	Telephone:
Fax:	Fax:
Cell: 250-616-0600	Cell:
Email: JBPOOL@SHAW.CA	Email:

• Legal Description: LOT 63 HASSARD COVE PID 004-960-092

• Particulars of Proposed Development:

- Existing OCP Designation: N/A
- Proposed OCP Designation: N/A
- Text Amendment: N/A
- Existing Zone: C-6
- Proposed Zone: R-1
- Within the Agricultural Land Reserve (ALR)?:  No  Yes
- Within a Development Permit Area?:  No  Yes
- Method of Sewage Disposal:  Community System  Onsite Septic System  Other
- Method of Water Supply:  Community System  Onsite Water System  Other

• Other (explain): COMMUNAL STICATA SYSTEMS BOTH RESIDENCES TIED INTO SEPERATELY

• Describe the existing land use of the subject property: BOTH RESIDENCES ARE USED AS RECREATION/INDEPENDENTLY OF EACH OTHER - TWO SEPERATE OWNERS

- Describe the existing land use of lands adjacent to the subject property:

North: R-1

South: Common Property / Ocean

East: R-1

West: R-1

- Describe the proposed development of the subject property (attach additional pages if necessary):  
REQUESTING TO TURN LOT 63 FROM C-6 BACK TO ~~R-1~~ R-1 AND THEN SUB DIVIDE BACK INTO TWO LOTS #49 #50 AS PER ORIGINAL APPROVAL (SEE ATTACHED MAPS)
- Reasons and comments in support of the application (attach additional pages if necessary):  
FISHING RESORT NO LONGER IN OPERATION AND ~~WATERWAY~~ APPROVAL GIVEN BY ALL OWNERS AT SIMSIA A.S.M. SEE ATTACHED LETTER FROM SIMSIA COUNCIL
- The following information is required. Failure to provide any of the following may delay the application.  
A sketch/plan of the subject property showing:
  - the legal boundaries and dimensions of the subject property;
  - boundaries, dimensions, and area of any proposed lot (if subdivision is being proposed);
  - the location of permanent building and structures on the subject property with distances to property lines;
  - the location of any proposed building, structures, or additions hereto, with distances to property lines;
  - the location of any existing sewage disposal systems and/or property water source; and
  - topographic features (rock outcroppings, etc.).
- Additional or more detailed information may be requested by the Regional District following review or your application.

If the Regional District believes it to be necessary for the property boundaries and the location of buildings and structures to be more accurately defined, a plan prepared by a registered BC Land Surveyor may be required.

I accept responsibility for delays in processing caused by incorrect or insufficient submission. Personal information contained on this form is collected under the *Local Government Act*. Contact the Planning Department if you have any further questions.

I hereby grant Regional District staff full right of access to the subject property, during the hours of 8:00 am until 4:30 pm, Monday to Friday, except statutory holidays, while this application is in effect; and

I/We hereby declare that the information provided in this application is, to the best of my/our knowledge, true and correct in all respects, and I/we enclose the required fee with this application.

NOTE: All items submitted as part of the application will not be returned to the applicant and are subject to the *Freedom of Information and Privacy Act*. All relevant correspondence will be provided to both the applicant and the agent when applicable.

Applicant/Owner Signature: Amedeo Cortese Amedeo CORTESE

Applicant/Owner Signature: Joyce Pool JOYCE POOL

Date: June 22, 2020

**STRATA PLAN OF EXPLANATORY  
 PLAN OF CONSOLIDATION OF  
 STRATA LOTS 46, 47 AND 48  
 AND STRATA LOTS 49 AND 50, D.L. 1630  
 CLAYOQUOT DISTRICT  
 STRATA PLAN 1238  
 PURSUANT TO SEC. 59 OF THE CONDOMINIUM ACT.**

R73036  
 VAB STRATA PLAN **1238**

DEPOSITED AND REGISTERED IN THE LAND  
 TITLE OFFICE AT VICTORIA, B.C.  
 THIS 30 DAY OF September 1986

*M. [Signature]*  
 DEPUTY REGISTRAR

SCALE: 1 : 2500  
  
 ALL DISTANCES ARE IN METRES.

MAILING ADDRESS:  
 GENERAL DELIVERY,  
 KILDONAN, B.C.

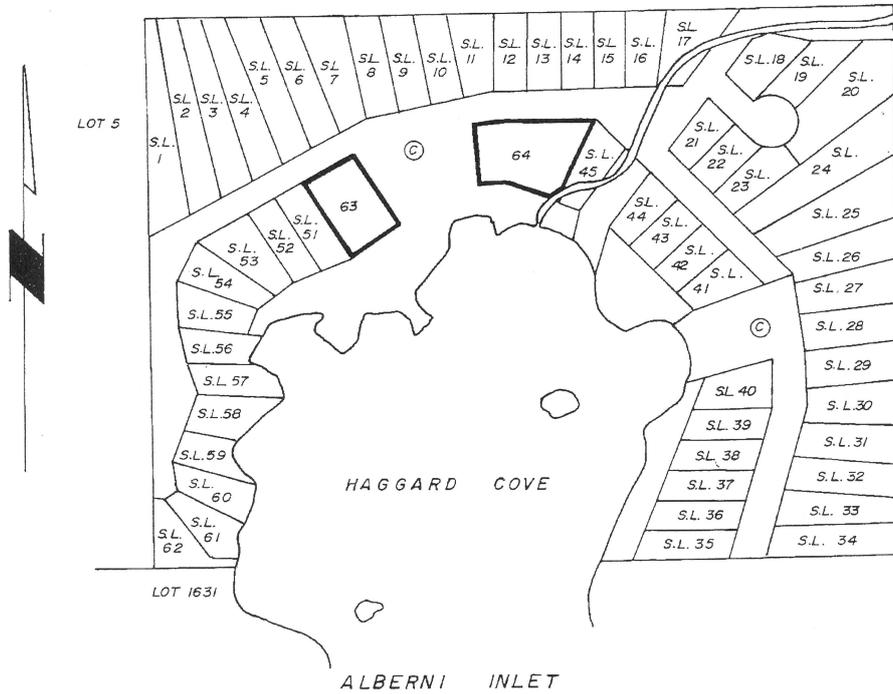
**LEGEND.**

BEARINGS ARE ASTRONOMIC DERIVED FROM STRATA PLAN 1238  
 m<sup>2</sup> DENOTES SQUARE METRES.  
 © DENOTES COMMON PROPERTY.

*Amended pursuant to  
 Section 259, Strata Property  
 Act, this 9th day of  
 December, 2008  
 See Amended Sheet 1*

KEY PLAN

CLAYOQUOT DISTRICT  
 LOT 5



CERTIFIED CORRECT ACCORDING TO  
 LAND TITLE OFFICE RECORDS  
 DATED THIS 27th DAY OF MARCH 1986

*[Signature]*  
 B.C.L.S.

THE ADDRESS FOR SERVICE OF DOCUMENTS  
 ON THE STRATA CORPORATION IS  
 THE OWNERS, STRATA PLAN 1238  
 5169, ARGYLE STREET,  
 PORT ALBERNI, B.C.  
 V9Y 1V3

DYCK AND ASSOCIATES,  
 110-6245, 136th STREET,  
 SURREY, BC. V3W 5E3  
 594-7527

THIS PLAN LIES WITHIN THE ALBERNI CLAYOQUOT REGIONAL DISTRICT  
 AND ALBERNI ASSESSMENT DISTRICT.

FILE: 81-332

# VIS

FIRST SHEET, SHEET 1 OF 9 SHEETS

**BARE LAND STRATA PLAN  
OF LOT 'A', D. L. 1630  
CLAYOQUOT DISTRICT  
PLAN 38798**

STRATA PLAN. 1238

**LEGEND.**

ALL DISTANCES ARE IN METRES.

BEARINGS ARE ASTRONOMIC DERIVED FROM STELLAR OBSERVATION.

m<sup>2</sup> DENOTES SQUARE METRES.

(C) DENOTES COMMON PROPERTY.

281083

*del*

*For resubdivision of Strata  
Lots 46-47-48-49 & 50  
See amended sheets 2 & 3  
deposited and registered  
this 30 day of September 1986*

DEPOSITED AND REGISTERED IN THE TITLES OFFICE AT VICTORIA-B.C.

THIS 30 DAY OF Feb 1982

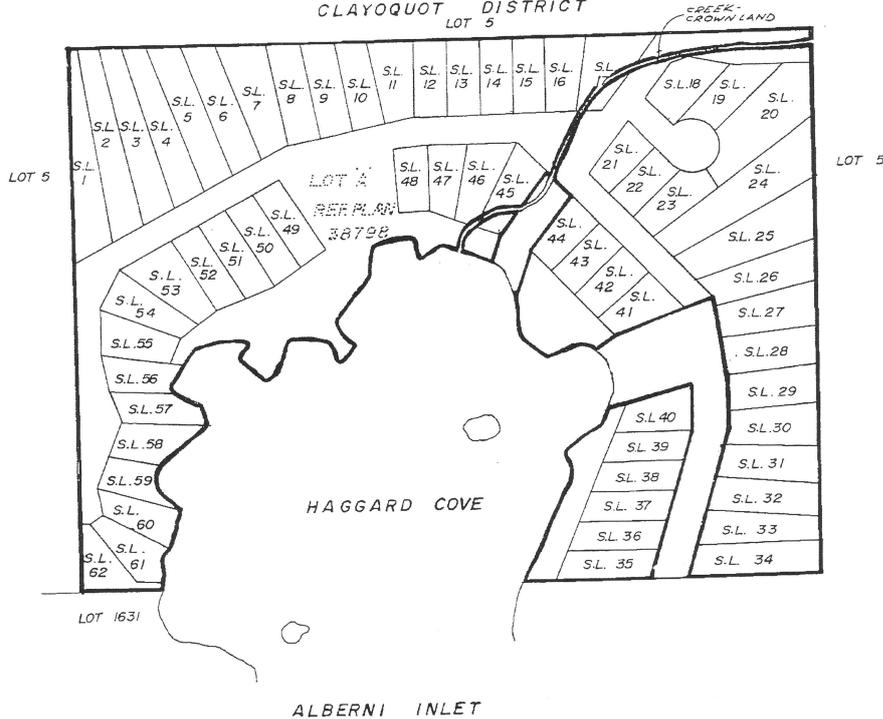
*Deputy David J. Dyck*  
REGISTRAR

**KEY PLAN**

SCALE : - 1 : 2500



CLAYOQUOT DISTRICT  
LOT 5



THIS PLAN NEED NOT COMPLY WITH SECTION 75 (1) (b) OF THE LAND TITLE ACT.  
DATED THIS 30 DAY OF FEB ~~1982~~ 1983

*David A. Ram*  
MINISTER OF TRANSPORTATION AND HIGHWAYS

MAILING ADDRESS:  
GENERAL DELIVERY,  
KILDONAN, B. C.

I D. J. DYCK A BRITISH COLUMBIA LAND SURVEYOR OF LANGLEY IN BRITISH COLUMBIA CERTIFY THAT I WAS PRESENT AT AND PERSONALLY SUPERINTENDED THE SURVEY REPRESENTED BY THIS PLAN AND THAT THE SURVEY AND PLAN ARE CORRECT. THE SURVEY WAS COMPLETED ON THE 24th DAY OF SEPTEMBER 1982

THE ADDRESS FOR SERVICE OF DOCUMENTS ON THE STRATA CORPORATION IS : -  
THE OWNERS STRATA PLAN 1238  
5169 ARGYLE STREET,  
PORT ALBENI, B.C.  
V9Y 1V3

*D. Dyck*  
THIS PLAN LIES WITHIN THE ALBERNI CLAYOQUOT REGIONAL DISTRICT AND ALBERNI ASSESSMENT DISTRICT

B.C.L.S.  
*D. Dyck B.C.L.S.*  
REINSPECTED THIS 27th DAY OF JANUARY, 1983.

DYCK AND ASSOCIATES,  
110-6243, 136 STREET,  
SURREY, B.C. V3W 5E3  
594 - 7527

FILE : 81 - 332

Haggards Cove  
Strata Corporation 1238  
PO Box 1125  
Port Alberni B.C.  
V9Y 7L9

June 22 2020

To Whom it May Concern

This is to advise that during our Annual General meeting of 2018 a motion was put forward by Gary Pool asking for strata owners to support the changing of Lot #63 zoned commercial to be reverted back to Residential Zoning and that the lot be subdivided into two separate lots .The lots were revert back to lots #49 and #50 as in original development plan.

The motion was supported and passed unanimously by all owners.

I have attached a copy of the notification in the AGM published minutes.

I understand there is a large backlog of rezoning applications and if it assists with eliminating the backlog, the owners of the Strata would support the Regional District should it decide it is not necessary to hold a public hearing with regards to the rezoning application.

Yours truly



Mike WILTON  
President  
Haggards Cove Strata

250-710-8681

5. **Financial Statements**

Moved, seconded and carried to adopt the financial statements as presented

6. **Unfinished Business**

1) Review of rules

Owners were reminded that the helicopter landing area is to be kept open for emergency purposes. Keys must be left in any vehicle near the area. Council will look at potentially marking the area off with logs for further clarification.

2) Caretaking

Owners were called upon to submit caretaking availability. Discussed the purpose and responsibilities of the caretaker. List of duties will be sent out with minutes of meeting.

3) Water boiling order

The standing order to boil water was re-emphasized.

4) Email group, owners list

Owners were asked to identify any errors or omissions on the owners list and email list. Gary Wilton volunteered to update the email group as it does not include all owners.

5) Depreciation report

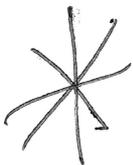
Eli Horton reminded owners of the purpose and requirements of depreciation reports. It was moved, seconded, and carried by a unanimous vote to defer completion of a depreciation report.

6) Propane service

The cove has switched back to Superior Propane. It was noted that Superior Propane has provided different price quotes for different owners. This is believed to be an error and council will follow up with Superior Propane as all owners should be paying the same price. The strata will pay for the Mars Rustler to deliver the propane and this amount will then be invoiced to the owners pro-rata based on volume received. It is expected that there will be a propane delivery once a year and owners will be notified by email prior to the next delivery.

7) Request to restore lot line

Lot 63 was previously two lots (49,50). The owners of lot 63 submitted a request to restore the lot line and revert back to two lots along with removing the commercial zoning. It was moved, seconded, and carried to approve having the lot line restored and the commercial zoning removed.



R a i n y B a y

Subject  
Property

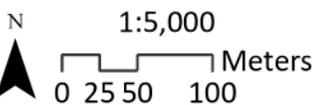
Haggard Cove

A l b e r n i I n l e t

Key Map

City of Port  
Alberni

District of  
Ucluelet



Legal Description: STRATA LOT 63 DISTRICT LOT 1630 CLAYOQUOT DISTRICT STRATA PLAN 1238 TOGETHER WITH AN INTEREST IN THE COMMON PROPERTY IN PROPORTION TO THE UNIT ENTITLEMENT OF THE STRATA LOT AS SHOWN ON FORM 1