

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **July 19, 2022 at 7 pm**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of June 21, 2022
4. Chair's Report
5. Planner's Report
6. Development Variance Permit Application
 - a) VA000157 – Lot 1, Section 32, Otter District, Plan 25866 (8015 West Coast Road)
7. Liquor Primary Structural Change for Outdoor Patio Application
 - a) LP000033 – Lot 1, District Lots 17, 899 & 929, Renfrew District, Plan VIP79865 (17310 Parkinson Road)
8. Zoning Amendment Applications
 - a) RZ000275 - Lots A-H, and J and K, District Lot 87, Renfrew District, Plan EPP31225 (Kirby Creek Road)
 - b) RZ000278 - Add Detached Accessory Suite as a Permitted Accessory Use in the Wildwood Terrace 4 (WT-4) Zone
9. Comprehensive Community Development Plan Amendment Application
 - a) RZ000276 - Blocks D and E, District Lots 751 and 911, Renfrew District, Plan EPC2056 (Crown Lease #927321)
10. Adjournment

Please note that during the COVID-19 situation, the public may attend the meeting in-person or electronically through video or teleconference. Should you wish to attend the meeting in-person, please contact the Juan de Fuca Community Planning Office at 250.642.8100. Should you wish to attend electronically, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details. Written submissions continue to be accepted until 4:00 pm the day before the meeting.



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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, June 21, 2022 at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Director Mike Hicks (Chair), Stan Jensen, Vern McConnell (EP), Roy McIntyre (EP), Dale Risvold (EP), Sandy Sinclair
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services; Wendy Miller, Recorder
REGRETS: Ron Ramsay
PUBLIC: 9 in-person; 2 EP

EP – Electronic Participation

The meeting was called to order at 7:00 pm.

The Chair provided a Territorial Acknowledgment.

1. Approval of the Agenda

MOVED by Stan Jensen, **SECONDED** by Sandy Sinclair that the agenda be approved.

CARRIED

2. Approval of the Supplementary Agenda

MOVED by Vern McConnell, **SECONDED** by Stan Jensen that the supplementary agenda be approved.

CARRIED

3. Adoption of Minutes from the Meeting of May 17, 2022

MOVED by Dale Risvold, **SECONDED** by Stan Jensen that the minutes from the meeting of May 17, 2022, be adopted.

CARRIED

4. Chair's Report

The Chair thanked everyone for coming to the meeting.

5. Planner's Report

No report.

6. Development Variance Permit Application

a) VA000155 – Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 (Clark Road & Aythree Way)

Iain Lawrence spoke to the staff report for a variance to reduce the requirement that 10% of a parcel front onto a highway, and to reduce the minimum width of a panhandle access strip for the purpose of creating a seven-lot subdivision.

Iain Lawrence highlighted the subject property and advised that:

- the property is the subject of a zoning amendment application which has gone to public hearing

- adoption of the amendment bylaw was pending *Water Sustainability Act (WSA)* approval for works in and about a watercourse, approval of the *Riparian Areas Protection Regulation (RARP)* assessment by the Province, restoration of the riparian areas on the property and approval of a frontage variance and development permit
- *WSA* and *RARP* approval has been granted and an amended development permit issued

Iain Lawrence highlighted the proposed subdivision layout and outlined the frontage variances requested.

Iain Lawrence directed attention to six submissions received and circulated in the supplementary agenda. In response to the comments received, Iain Lawrence advised that:

- the Ministry of Transportation and Infrastructure (MoTI) is the authority responsible for road safety and public road accesses
- despite the narrow frontages, there appears to be between 50 - 60 m of parcel width at the proposed building site locations
- reports of noise and power generation are outside the scope of the frontage variance request
- noise complaints are overseen by CRD Bylaw Enforcement
- approval from the Province would be required for micro hydro generation

The Chair confirmed that the applicant and application representatives were present.

An application representative stated that:

- three subdivision configurations were presented to MoTI
- MoTI has selected the configuration presented this evening
- the configuration is considered to have the least environmental impact in regards to blasting requirements and water crossings while still providing building envelopes that meet yard setbacks and provide a distance of approximately 50 m between house sites

The applicant responded to questions from the LUC stating that:

- a generator had been used initially to power tools
- a generator has not been required since hydro was installed last fall
- the easement through the property is an old rail line
- the adjacent property to the north, Section 41, is accessed off of Clark Road and not through the development site
- number of campsites on proposed Lot 2 is limited to five sites
- the campsites are not intended for use by RVs
- wells for the proposed lots have been drilled
- the road within the subdivision has been paved and is approximately 15 m wide
- the private driveway for proposed Lot 2 was designed by an engineer and has two pull outs
- the private driveway is currently road base with paving anticipated in 2023

Howard Taylor, Otter Point:

- Lot 2 is subject to a rezoning application to permit a campground
- should rezoning be approved, the campground use will be permitted on the land regardless of who owns the land
- Bylaw Enforcement monitoring will be required to ensure the campground use remains in compliance with the zone

- would support the frontage variance request for proposed Lot 2, if the campground use was withdrawn

In response to a question from the LUC, Iain Lawrence clarified that the number of campsites on proposed Lot 2 was reduced to a total of three prior to the Public Hearing.

Andrew MacKay, Otter Point:

- the development proposal has proceeded through various government agency approvals during COVID when in-person public meeting attendance was limited
- the development has not been finalized as the variance requests have not been approved yet
- the committee still has time to consider public feedback
- the committee is the closest to the people and has regulatory responsibilities
- there are already horses on site and lots being advertised as sold although the development is not complete
- concerns continue to be raised regarding noise, the water table, campground use and width of driveways

MOVED by Sandy Sinclair, **SECONDED** by Stan Jensen that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

That Development Variance Permit VA000155 for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121RW and Except That Part in Plan EPP63580 to vary:

- a) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) by reducing the required frontage for:
 - i. Lot 2 from 231 m (10%) to 15.7 m (0.68%);
 - ii. Lot 3 from 112 m (10%) to 46 m (4.13%);
 - iii. Lot 4 from 116 m (10%) to 100 m (8.61%);
 - iv. Lot 5 from 134 m (10%) to 51.7 m (3.85%);
 - v. Lot 6 from 116 m (10%) to 38.3 m (3.3%);
 - vi. Lot 7 from 124 m (10%) to 49.4 m (3.99%); and
- b) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(5)(b) by reducing the minimum width of a panhandle access strip from 20 m to 15.7 m;

for the purpose of creating a seven-lot subdivision, be approved.

CARRIED

7. Development Permit with Variance Application

a) DV000088 - Lot 12, Section 10, Otter District, Plan VIP77477 (2193 Otter Ridge Drive)

Iain Lawrence spoke to the staff report for a development permit with variance to authorize subdivision (SU000737) for a relative on a parcel designated as a Sensitive Ecosystem Development Permit (DP) area, and to reduce the requirement that 10% of the lot perimeter of a parcel front onto a public highway.

Iain Lawrence highlighted the subject property and directed attention to two submissions received and circulated in the supplementary agenda. In response to the comments received, Iain Lawrence advised that the applicant has provided an environmental report in support of the application. Iain Lawrence highlighted photos from the environmental report which states the trees on the subject property are not mature forest and that the adjacent property pond is not subject to the *Riparian Areas Protection Regulation*.

The Chair confirmed that the applicant was present.

The applicant stated that:

- access to both lots was to be by easement over an existing driveway
- MoTI has approved separate driveways for the two lots
- the covenant that restricted further subdivision was released by the CRD
- the purpose of the subdivision is to provide a residence for his son
- the subject property is on Kemp Lake Water
- septic has been approved by Island Health

Dawn Hobenshield, Otter Point:

- owns the property with the pond referenced in the environmental report
- pond is used by wildlife and by the family's dogs and poultry
- there is a covenant registered on title that states that the property is likely to be subject to flooding/erosion
- ditching was required to direct water across the property during last winter's heavy rains
- concerned about additional water runoff from the proposed new lot
- requested comment on the covenant that is registered on lots created for a relative

Iain Lawrence reported that the *Local Government Act* requires that the new lot be for a residential use for five years after subdivision. It was further reported that MoTI requires the owner to provide an affidavit that the subdivision is for a relative.

The applicant stated that the environmental report provides recommendations to limit impact on adjacent properties.

MOVED by Stan Jensen, **SECONDED** by Sandy Sinclair that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

That Development Permit with Variance DV000088 for Lot 12, Section 10, Otter District, Plan VIP77477, to authorize the subdivision of land designated as a Sensitive Ecosystems Development Permit Area; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10% (31.6 m) of the lot perimeter to 1.93% (6 m) of the lot perimeter for proposed Lot B, as shown on the plans prepared by West Coast Design and Development Services, dated August 3, 2021, be approved.

CARRIED

MOVED by Sandy Sinclair, **SECONDED** by Stan Jensen that staff request the Ministry of Transportation and Infrastructure consider stormwater drainage as part of the subdivision application review.

CARRIED

8. Temporary Use Permit Applications

a) TP000010 Renewal – Lot 4, Section 47, Otter District, Plan 23769 (7822 Tugwell Road)

Iain Lawrence spoke to the staff report for a three year renewal of temporary use permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility in the Rural Residential 2 (RR-2) zone.

Iain Lawrence highlighted the subject property and site plan, identifying the location of the proposed micro facility.

Iain Lawrence outlined permit conditions advising that no activities authorized by the permit have been undertaken as the applicant continues to work to meet Health Canada's requirements for a licensed facility.

The Chair confirmed that the applicant was present.

The applicant responded to questions from the LUC advising that:

- a building permit (BP006599) had been issued for the proposed facility
- COVID and supply costs contributed to the delay in building the facility
- a nursery cannabis licence with Health Canada is currently being pursued
- the nursery would be operated from a shipping container
- the nursery would occupy approximately 200 sq. ft.
- a hydro upgrade is not anticipated
- the nursery would have lower water consumption than micro cannabis cultivation
- a micro cannabis cultivation licence is still desired in the longer term

Iain Lawrence reported that, should the permit be renewed, the permit would be extended for a further three years. After three years, the applicant would need to rezone the subject property or relocate to an appropriately zoned property.

MOVED by Sandy Sinclair, **SECONDED** by Vern McConnell that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board that a three year renewal for Temporary Use Permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility be approved.

CARRIED

b) TP000011 - Lot 4, Section 47, Otter District, Plan VIP52344 (7861 Tugwell Road)

Iain Lawrence spoke to the staff report for a new temporary use permit to allow for the continued operation of a microbrewery with new outdoor patio and expanded food service on land zoned Rural Residential 2 (RR 2).

Iain Lawrence highlighted the subject property and updated site plan, identifying the picnic and patio areas. It was reported that the LUC considered a concurrent CRD liquor licence referral application (LP000031) at its meeting of April 19, 2022. At that meeting the LUC passed a resolution of support for the lounge endorsement subject to issuance of the temporary use permit.

Iain Lawrence directed attention to the referral comment included in the staff report from the Otter Point Fire Volunteer Fire Department, which stated no concerns with the issuance of the permit provided that Tugwell Road does not become blocked by parked vehicles. The referral comment from the Otter Point Advisory Planning Commission (APC) stated support for the application and recommended that the applicant manage parking by designating parking areas through improved signage. The APC comment further stated concern regarding the use of temporary use permits for ongoing uses.

Iain Lawrence highlighted photos and the updated site plan showing the designated parking areas and advised that the permit requires a minimum of thirteen on-site parking spaces.

The Chair confirmed that the applicant was present.

The applicant responded to a question from the LUC reporting that there is one porta-potty on site and that a second wheelchair accessible porta-potty would be ideal.

Iain Lawrence responded to questions from the LUC advising that a new temporary use permit application was recommended rather than renewal of the existing temporary use due to the addition of proposed uses and to allow broader public consultation regarding the expanded service. Should a new temporary use permit be issued, that permit would be for a term of three years with an option to renew for an additional three years.

MOVED by Sandy Sinclair, **SECONDED** by Vern McConnell that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That the referral of Temporary Use Permit TP000011, directed by the Juan de Fuca Land Use Committee on April 19, 2022, to the Otter Point Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, Island Health, Ministry of Transportation and Infrastructure, RCMP and T'Sou-ke First Nation, be approved and comments be received; and
2. That Temporary Use Permit TP000011, to allow for the continued operation of a microbrewery with new outdoor patio and expanded food service, on Lot 4, Section 47, Otter District, Plan VIP52344, be approved.

CARRIED

9. Proposed Bylaw

a) New Bylaw for Juan de Fuca Electoral Area Advisory Planning Commissions, Bylaw No. 4120

Iain Lawrence spoke to the staff report for proposed Bylaw No. 4120, which would establish a single bylaw for the for the Advisory Planning Commissions (APCs) and the Agricultural Advisory Planning Commission (AAPC). Bylaw No. 4120 would reflect the current role of the APCs, have the members appointed rather than elected, align with current CRD Board procedures and meeting practices, and update the AAPC membership.

Iain Lawrence responded to questions from the LUC advising that:

- maintaining five members on each APC has been difficult
- currently, two of the six APCs are active
- the bylaw proposes to reduce the minimum number of APC members from five to three with a maximum of five members
- the APCs and AAPC would remain advisory to the LUC
- an election would still be held for LUC members
- LUC recommendations would still be considered by the Juan de Fuca Director and four members of the CRD Board

The Chair reported that development proposals would still need to be in keeping with the communities' Official Community Plans.

MOVED by Stan Jensen, **SECONDED** by Roy McIntyre that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4120, "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 2022", be read a first time, a second time and a third time; and
2. That Bylaw No. 4120, "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 2022" be adopted.

CARRIED

10. Adjournment

The meeting adjourned at 8:21 pm.

Chair



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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 19, 2022**

**SUBJECT Development Variance Permit for Lot 1, Section 32, Otter District,
Plan 25866 – 8015 West Coast Road**

ISSUE SUMMARY

A request has been made for a development variance to reduce the front yard setback for an accessory building from 7.5 m to 3.8 m, and to allow an accessory building to be located closer to the front lot line than the principle building.

BACKGROUND

The 1,780 m² property is located at 8015 West Coast Road in Otter Point (Appendix A) and is zoned Rural Residential 2 (RR-2) under the Juan de Fuca Land Use Bylaw 1992, Bylaw No. 2040. The shoreline property was created by subdivision in 1972, prior to the adoption of zoning in the Otter Point area, and is less than the minimum parcel size now specified by RR-2 zone. The parcel has an irregular shape and is situated next to Strait of Juan de Fuca (Sooke Bay) with access from West Coast Road. Immediately adjacent parcels are also zoned RR-2. The property has a gradual slope down from West Coast Road towards the shoreline. The existing buildings are established on elevations that are roughly a meter or more below the road grade.

The landowner has constructed an accessory building within the front yard setback area and closer to the front lot line than the principle building. The established accessory building is also located within the Ministry of Transportation and Infrastructure's required setback from a highway right-of-way of 4.5 m.

Following a stop work order that was posted on the property on March 3, 2022, the landowner has obtained approval from the Ministry for placement of the accessory structure within the highway setback area (Appendix B). The landowner is now requesting a variance from the CRD, for the regulations of the Juan de Fuca Land Use Bylaw 1992, Bylaw No. 2040, which specify the front lot line setback and the siting of the accessory building relative to the location of the principle building.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the Capital Regional District Board:

That Development Variance Permit VA000157 for Lot 1, Section 32, Otter District, Plan 25866, to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(a), by reducing the front yard setback from 7.5 m to 3.8 m; and Part 1, Section 4.01(1)(d) by allowing an accessory building to be located closer to the front lot line than the principle building to authorize the siting of a utility building, be approved.

Alternative 2

That the development variance permit be denied and the accessory building be required to comply with zoning requirements.

LEGISLATIVE IMPLICATIONS

The Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(a), specifies that buildings and structures be placed a minimum of 7.5 m from the front lot line. Furthermore, the Juan de Fuca Land Use Bylaw 1992, Bylaw No. 2040, Part 1, Section 4.01(1)(d) specifies that no accessory building shall be located closer to the front lot line than the principal building except that where the principal building is more than 15 m away from the front lot line, the setback for an accessory building is 15 m. The accessory building does not meet this requirement; therefore, a variance is requested.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to Section 499 of the *Local Government Act*, if a local government is proposing to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a given distance as specified by bylaw. Capital Regional District Bylaw No. 3885, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 m. Any responses received from the public will be presented at the July 19, 2022, Land Use Committee meeting.

LAND USE IMPLICATIONS

The RR-2 zone specifies that a minimum setback for buildings and structures and the general regulations for accessory buildings and structures specifies the location of an accessory building relative to the position of the principle building. Bylaw No. 2040 defines front lot line as, “the lot line that divides the lot from the highway, provided that in the case of having more than one lot line abutting a highway, the shortest lot line shall be deemed to be the front lot line.” In this case, the front lot line abuts West Coast Road.

The subject property is located within the Settlement Area 1 land use designation of the Otter Point Official Community Plan. Part 4.0, Section 4.11(3) of the Otter Point OCP requires that the following be considered with respect to development:

- a. The development of the site will have minimal impact on the existing man-made and the natural physical features of the area.
- b. The development is designed to control surface runoff.
- c. The development is designed to prevent the depletion or contamination of existing wells.
- d. All development must respond to the physical constraints of the site and must be consistent with the retention of the visual landscape or natural areas. Especially on or near hilltops and rides.
- e. All residential development should endeavor to protect the natural native vegetation cover.

The accessory building is aligned with the considerations for development within the Settlement Area Land Use designation. The landowner has proposed that the accessory building be located closer to road rather than other possible locations on the property in order to limit potential impacts to the shoreline area of Sooke Bay. Other locations for siting this structure on the property are limited and would likely also require a variance request due to topographic constraints, the shape of the parcel and proximity to the shoreline. Staff have visited the site and are of the opinion that while there are other potential locations that the accessory building could have been located; the present location is less prominent compared to other areas on the property. Moreover, the location of the accessory building clusters existing development to one area, reducing the need to clear vegetation for the purposes of construction. The property’s irregularities and the placement of structures and/or buildings have a minimal impact on West Coast Road; are unimposing on the frontage of the road way, and are consistent with the community’s contextual character (Appendices C - E).

It is not anticipated that the accessory building imposes any hardships on neighboring properties; however, notice of the requested variance will be sent to owner and occupiers of land within 500 m of the subject property and any comments received will be forwarded to the Land Use Committee for consideration.

Staff recommend approval of development variance permit VA000157; subject to public notification and consideration of comments from neighbouring residents.

CONCLUSION

The applicant has requested a variance to reduce the front yard setback and siting of an accessory building regulations within Bylaw No. 2040 for an existing building that was constructed without a permit in the Rural Residential 2 (RR-2) zone, in response to a stop work order that was posted on March 3, 2022. The accessory building has received approval from the Ministry of Transportation regarding the Ministry's required setback from a highway and is sited in a location that is not expected to create hardship on the neighbouring properties. Development variance permit VA000157 is included in Appendix F for consideration.

RECOMMENDATION

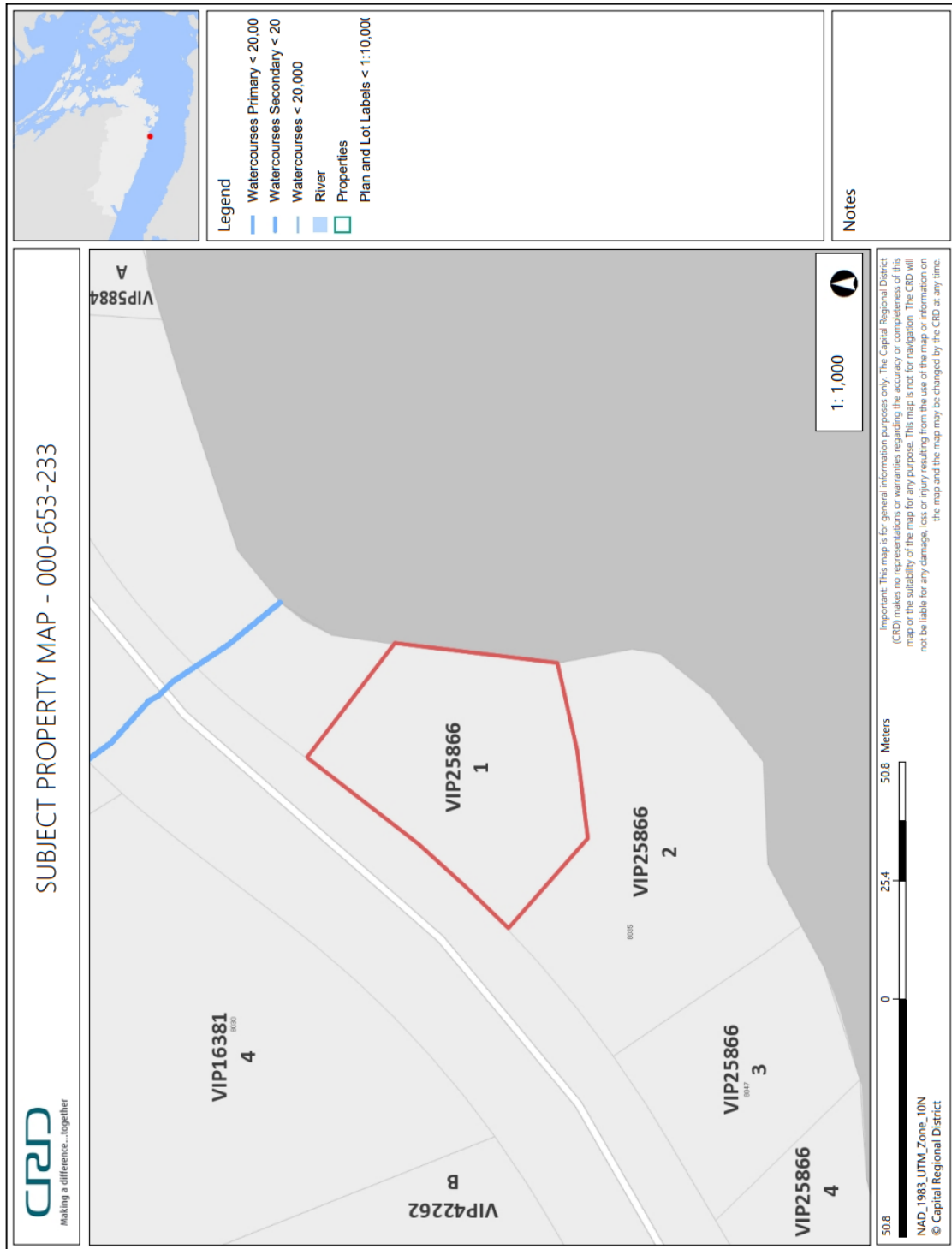
The Land Use Committee recommends to the Capital Regional District Board:
That Development Variance Permit VA000157 for Lot 1, Section 32, Otter District, Plan 25866, to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 6.07(a), by reducing the front yard setback from 7.5 m to 3.8 m; and Part 1, Section 4.01(1)(d) by allowing an accessory building to be located closer to the front lot line than the principle building to authorize the siting of a utility building, be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Ministry of Transportation permit to reduce building setback less than 4.5 metres.
- Appendix C: Site Plan / Land Survey
- Appendix D: Building Elevation Drawings
- Appendix E: Site Photos
- Appendix F: Permit VA000157

Appendix A: Subject Property Map



Appendix B: Ministry of Transportation & Infrastructure Permit



Permit/File Number: 2022-02196
Office: Saanich Area Office

PERMIT TO REDUCE BUILDING SETBACK LESS THAN 4.5 METRES FROM THE PROPERTY LINE FRONTING A PROVINCIAL PUBLIC HIGHWAY

PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE NISGA'A FINAL AGREEMENT ACT.

BETWEEN:

The Minister of Transportation and Infrastructure

Saanich Area Office
240-4460 Chatterton Way
Victoria, British Columbia V8X 5J2
Canada

("The Minister")

AND:



("The Permittee")

WHEREAS:

- A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;
- B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:
The construction of a building, the location of which does not conform with British Columbia Regulation 513/04 made pursuant to section 90 of the Transportation Act, S.B.C. 2004, namely; to allow placement of a shed that is partially within the 4.5m setback from West Coast Road, located at LOT 1, SECTION 32, OTTER DISTRICT, PLAN 25866, as shown on drawing A9 Rev 3, submitted by Daniel Ross.
- C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

- 1. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
- 2. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.
- 3. The Permittee shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times, whether before or after the expiration or termination of this permit, where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the permit.
- 4. Should the said structure be destroyed, removed or dismantled, this permit is automatically cancelled and another permit will not necessarily be granted for a new similar structure.
- 5. This permit is valid only for the specific works stated herein. Any alterations or additions must be covered by a separate permit.



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Ministry of
Transportation

Permit/File Number: 2022-02196

Office: Saanich Area Office

6. The Permittee acknowledges that the issuance of this permit by the Minister is not a representation by the Minister that this permit is the only authority needed to carry out the Use. The Permittee shall give deference to any prior permission given for use of the right of way in the vicinity of the permit area, shall obtain any other permission required by law, and shall comply with all applicable laws regardless of their legislative origin.
7. The Permittee will at all times indemnify and save harmless Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Transportation and Infrastructure, and the employees, servants, and agents of the Minister from and against all claims, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by any of them, at any time or times (whether before or after the expiration or termination of this permit) where the same or any of them are sustained in any way as a result of the Use, which indemnity will survive the expiration or sooner termination of this permit
8. If any BCLS survey posts are removed, moved or damaged during the construction of the said Works they must be replaced by a registered BC Land Surveyor at the expense of the Permittee.
9. Permittee shall supply surveyed "As BUILT" drawings upon completion of the said works. Drawings must include offset from right-of-way boundary.
10. Any damage to the Ministry of Transportation and Infrastructure's right-of-way as a direct result of the permitted works, shall be repaired and maintained by the Permittee in perpetuity.
11. This permit in no way relieves the owner or occupier of the responsibility of adhering to all other legislation, including zoning, and other land use bylaws of a municipality or regional district.
12. The Ministry of Transportation and Infrastructure and/or the Maintenance Contractor shall not be held accountable for any damage(s) to the said structure, however caused.
13. The Permittee may not assign any part of this Agreement without the consent, in writing, of the Minister.
14. The Permittee must ensure that the most current editions of the following standards and specifications, manuals and guides are utilized and complied with during the installation, operation and maintenance of the Works:
 - (a) Ministry Utility Policy Manual
 - (b) Ministry Traffic Control Manual for Work on Roadways
 - (c) Ministry Traffic Management Guidelines for Work on Roadways
 - (d) Ministry Standard Specification for Highway Construction
15. It is the responsibility of the Permittee to ensure that all equipment and vehicles crossing Provincial highways or side roads have the proper approval and insurance as required and issued by the Commercial Vehicle Safety and Enforcement Division. For permits or inquiries please contact the Provincial Permit Centre at 1-800-559-9688.
16. A copy of this permit must be on site at all times during the said works.
17. The Permittee shall determine the location of highway right-of-way to ensure their permitted work is within Ministry jurisdiction. The Permittee is responsible for all trespass issues.
18. This permit in no way grants exclusive use to the Permittee for any portion of the access on right-of-way.
19. That where the said works are in the proximity of any bridge, culvert, ditch or other existing work, such work shall be properly maintained and supported in such manner as not to interfere with its proper function, and on the completion of the said works any bridge, culvert, ditch or other existing work interfered with shall be completely restored to its original condition.
20. No further additions or improvements shall be made to the said structure without prior consent of the Ministry of Transportation and Infrastructure.
21. The Permittee is responsible for ensuring that all works are contained to the highway right of way. Any works located within private property must have the owner's permission.
22. The Permittee will ensure that the works do not, impair, impede or otherwise interfere with; I. public passage on the Highways; II. the provision of highway maintenance services by the Province, or by its servants, contractors, agents or authorized representatives of the Province in connection with the Highways; or III. the operation of the Highways.
23. Permittee to be responsible for all future drainage problems as they pertain to said works.
24. The Ministry, or its contractors, will not be responsible for installation or maintenance of the landscaping.
25. The Permittee to be responsible for any settlement, erosion or other damage caused as a result of this construction for a period of two years from completion of construction.
26. All costs entailed in the construction and maintenance of the works are to be borne by the Permittee.



BRITISH COLUMBIA | Ministry of Transportation

Permit/File Number: 2022-02196
Office: Saanich Area Office

- 27. This permit may be terminated at any time at the discretion of the Minister of Transportation and Infrastructure, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.
- 28. The rights granted under this permit and certificate are for an indefinite period.
- 29. If the Permittee proceeds on this permit, it is deemed they have accepted all terms and conditions.
- 30. The Permittee must contact the Archaeology Branch immediately at (250) 953-3334 if archaeological site deposits are encountered on the subject property. In the event that any item of archaeological, heritage, historical, cultural, or scientific interest is found on the project site, the Permittee shall have a Chance Find Procedure in place and utilize it when required.

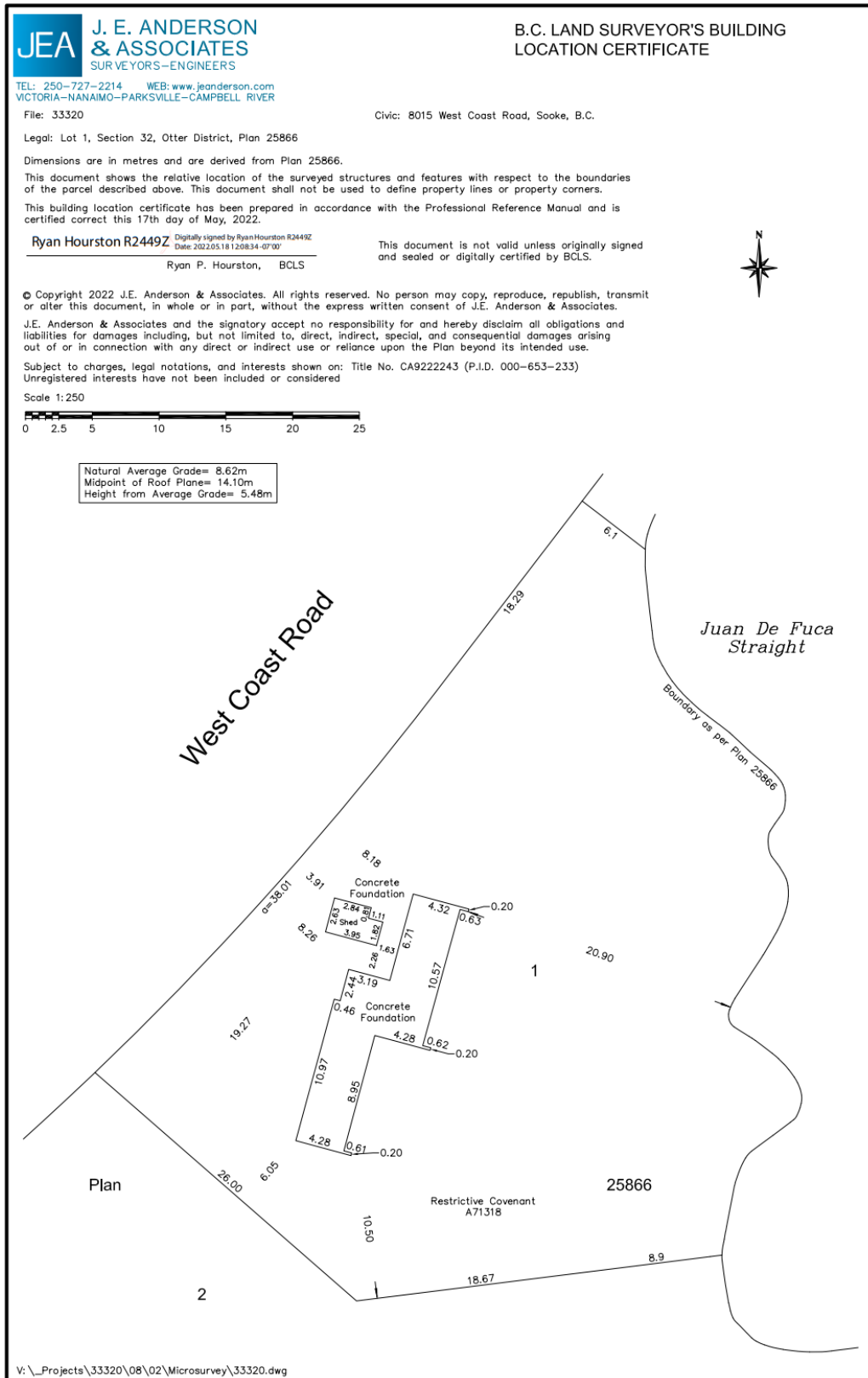
The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Victoria, British Columbia, this 26 day of April, 2022

A handwritten signature in black ink, appearing to be 'JMB', written over a horizontal line.

On Behalf of the Minister

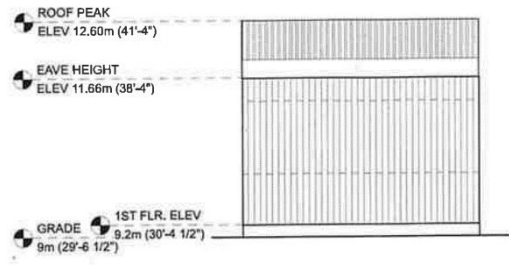
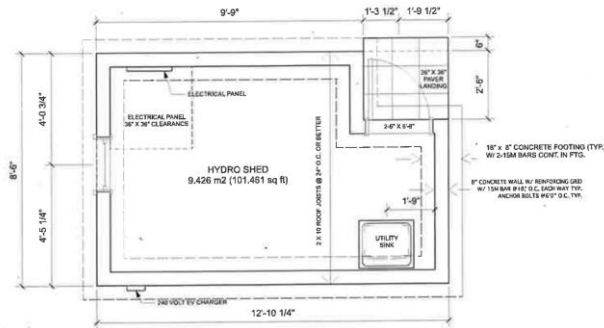
Appendix C: Site Plan / Land Survey



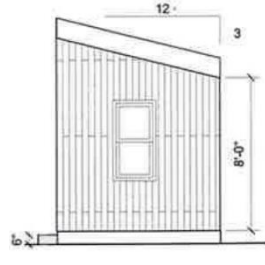
Appendix D: Building Elevation Drawings



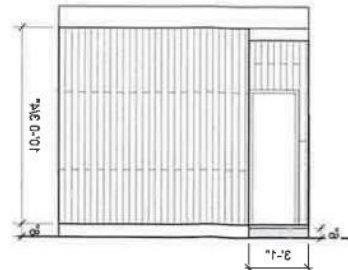
1 SHED CUSTOM VIEW
 Sht-10 Scale: 3/16" = 1'-0"



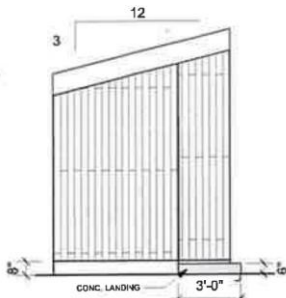
4 NORTH EAST VIEW
 Sht-10 Scale: 1/4" = 1'-0"



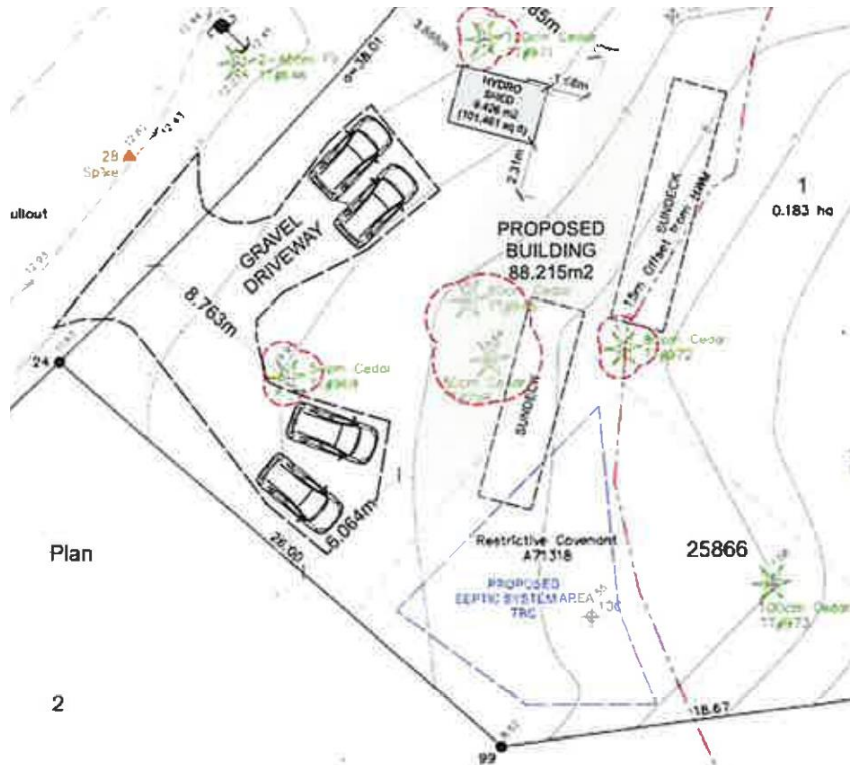
5 SOUTH EAST VIEW
 Sht-10 Scale: 1/4" = 1'-0"



6 SOUTH WEST VIEW
 Sht-10 Scale: 1/4" = 1'-0"



7 NORTH EAST VIEW
 Sht-10 Scale: 1/4" = 1'-0"



Appendix E: Site Photos





CAPITAL REGIONAL DISTRICT

DEVELOPMENT VARIANCE PERMIT NO. VA000157

1. This Development Variance Permit is issued under the authority of Section 498 of the *Local Government Act* and subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically authorized by this Permit.
2. This Development Variance Permit applies to and only to those lands within the Regional District described below (legal description), and any and all buildings, structures, and other development thereon:
PID: 000-653-233;
Legal Description: Lot 1, Section 32, Otter District, Plan 25866
3. The Capital Regional District's **Bylaw No. 2040**, Schedule A, Part 1 and Part 2 is varied under Section 498 of the *Local Government Act* as follows:
 - a. Part 1, section 4.01 (1) (d) is varied to permit an accessory building to be located closer to the front lot line than the principle building for the purpose of permitting the siting of an accessory building as shown on the Site Plan prepared by J. E. Anderson & Associates, dated May 17, 2022.
 - b. Part 2, section 6.07 (a) is varied by reducing the front yard setback from 7.5m to 3.8m from the front lot line for the purpose of permitting the siting of an accessory building as shown on the Site Plan, prepared by J. E. Anderson & Associates, dated May 17, 2022.
4. Notice of this Permit shall be filed in the Land Title Office at Victoria as required by Section 503 of the *Local Government Act*, and the terms of this Permit (VA000157) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
5. If the holder of a permit does not substantially start any construction permitted by this Permit within 2 years of the date it is issued, the permit lapses.
5. The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit, and any plans and specifications attached to this Permit which shall form a part hereof.
6. The following plan and specification is attached:
 - a) Attachment 1: Site Plan prepared by J.E. Anderson & Associates, dated May 17, 2022.
7. This Permit is NOT a Building Permit.

RESOLUTION PASSED BY THE BOARD, THE _____ day of _____, 2022.

ISSUED this _____ day of _____, 2022

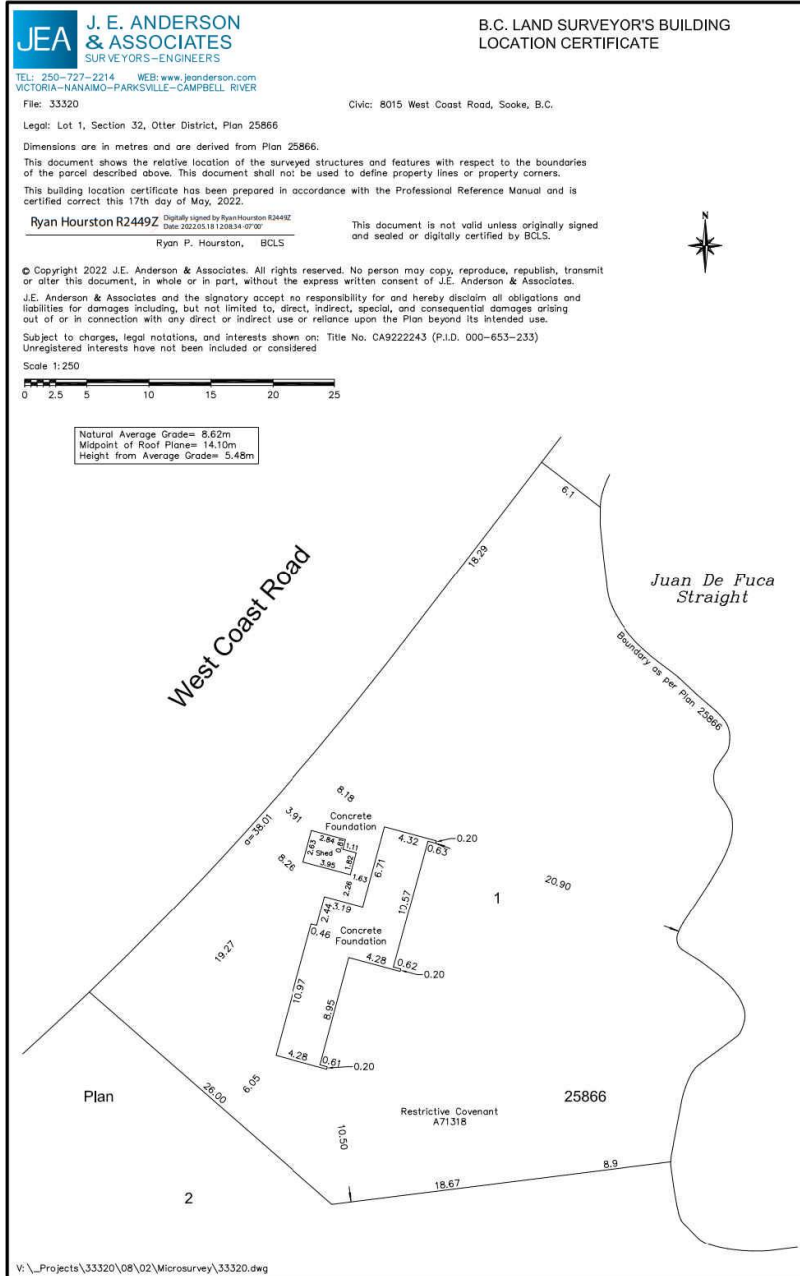
Corporate Officer



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VA000157

Attachment 1: Site Plan by J.E. Anderson & Associates, dated May 17, 2022





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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 19, 2022**

**SUBJECT Liquor Primary Structural Change Application for Outdoor Patio – 17310
Parkinson Road**

ISSUE SUMMARY

An application has been made for a liquor primary structural change for an outdoor patio. A resolution is required from the Land Use Committee either commenting on the application or opting out of the review process.

BACKGROUND

The 0.4 ha property is located at 17310 Parkinson Road in Port Renfrew (Appendix A) and is zoned Tourism Commercial-One (TC-1). Portions of the property are designated as Shoreline Protection, Riparian and Sensitive Ecosystems development permit areas under the Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109. The property fronts onto Parkinson Road and is adjacent to a Tourism Commercial-Two (TC-2) zoned property to the west, provincial Crown holdings and Snuggery Cove to the east and San Juan Port to the north.

The applicant has requested a *structural change* for an existing *outdoor patio* on an existing *liquor primary licence* from the Liquor and Cannabis Regulation Branch (LCRB). Approval of the structural change would permit the serving of liquor for on-premise consumption in the designated area, which is an outdoor patio (Appendix B). In order to participate in the decision-making process, local governments must conduct public consultation and provide comments and a resolution to the LCRB.

The CRD Board has delegated the authority to conduct public consultation and to provide comment on the application or opt out of the review process to the Land Use Committee (LUC).

ALTERNATIVES

Alternative 1

1. That comment be provided to the LCRB confirming that the Land Use Committee has considered the proposed location, person capacity, hours of liquor service, impact of noise, the general impact on the community of the proposed *structural change* for *outdoor patio* application for the Renfrew Pub (LP000033);
2. That public comments received by the Land Use Committee regarding application LP000033 be provided to the LCRB; and
3. That the *structural change* for *outdoor patio* application for the Renfrew Pub (LP000033) be supported.

Alternative 2

That the *structural change* for *outdoor patio* application for the Renfrew Pub (LP000033) not be supported.

Alternative 3

That the Land Use Committee opt out of the review process and the *structural change* for *outdoor patio* application for the Renfrew Pub (LP000033) be forwarded to the LCRB with no comment.

IMPLICATIONS

Legislative

The liquor licensing process is established under the *Liquor Control and Licensing Act* and administered by the LCRB. Local governments are notified by the LCRB of applications for a *structural change* for *outdoor patio* and are provided opportunity to either comment and make recommendations, or to opt out of the review process. A *structural change* is defined by the LCRB as, “a change to an existing establishment resulting in a change to the configuration of space, a change to the floor plan, or a change to the occupant load within a service area.”

Local governments may delegate the authority to provide comment on some or all types of applications that would otherwise require a Board resolution. The Capital Regional District Delegation Bylaw, Bylaw No. 4186, delegates to the LUC the powers, duties and functions of the Board to give comments and recommendations directly to the LCRB on liquor and cannabis licence applications.

Public Consultation

Local governments are to provide comments and recommendations to LCRB within 90 days of receipt of an application unless an extension is requested. An extension has been requested in order to allow time to complete the internal referral and public consultation process. Consideration must be given to the location of the proposed service area, the person capacity and the hours of liquor service. Comments must be provided to the LCRB on the following:

- the impact of noise on the community in the immediate vicinity of the service area;
- the general impact on the community if the application is approved;
- the views of local residents;
- a description of the method used to gather public comments; and
- recommendations on whether the application should be approved or rejected with supporting rationale.

Local government is to conduct public consultation in a manner that is considered fair and equitable to both the residents and the applicant, provides all nearby residents reasonable notice and opportunity to comment, avoids bias, is appropriate to local circumstances, and provides sufficient information regarding the application, type of licence, and the proposed person capacity and hours of service. In advance of the July 19, 2022, LUC meeting, notices were sent to property owners and occupants within 500 m of the subject property advising of the opportunity to provide comment on the application. Any responses received from the public will be presented at the July 19, 2022, LUC meeting.

Land Use

The subject property is zoned Tourism Commercial-One (TC-1) under the Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109, which permits tourist facilities including pubs and restaurants, with or without a liquor licence.

In August 7, 2020, the LCRB granted the Port Renfrew Pub a Temporary Expanded Service Area (TESA) to support compliance with the Provincial Health Officer's orders and guidelines regarding physical distancing due to COVID-19.

Authorized TESAs throughout the province were set to expire on June 1, 2022. The LCRB, through Policy Directive No: 22-05, extended existing TESA authorizations up to March 31, 2023. Licensees who would like to make their current TESA authorization permanent must apply for new outdoor patio permanent structural change.

To continue operation of the expanded service area, the owner has applied to the LCRB for a *structural change* for *outdoor patio*. As part of the LCRB application review, occupant load calculations are required for standalone patios and are generally determined by building and/or fire officials. The LCRB has received comment from the Fire Chief, Port Renfrew Volunteer Fire Department, that the occupancy load for the outdoor patio is twenty-four persons. At the time the outdoor patio was established, it was determined that the at-grade, detached outdoor patio with railings would not require a building permit. A development permit was also not required at that time due to the placement of patio in an existing landscaped area without any land disturbance. CRD Building Inspection reviewed the site in June 2022 and confirmed that the current patio does not require a building permit; however, the exit stairs from the main deck leading to the path and patio will require a building permit. Building Inspection further supported the occupant load analysis provided by the Fire Chief. The Hours of operation for the outdoor patio coincide with the hours of operation of the pub which are currently 11:30 am to 8:00 pm but may vary over the season.

Noise disturbance in the JdF Electoral Area is enforced by CRD Bylaw Enforcement through the regulations of the Noise Suppression Bylaw (Juan de Fuca), Bylaw No. 3341. To date, the Juan de Fuca Planning office has received no complaints from neighbouring residents regarding noise, odour or traffic related to the expanded existing use. The proposed permanent outdoor patio is not expected to conflict with the terms permitted in Bylaw No. 3341.

Based on consideration of the above information and subject to public input received regarding the application, staff recommend that the Land Use Committee provide comments and a resolution of support to the LCRB.

CONCLUSION

An application for a *structural change* and *outdoor patio* has been submitted for the Port Renfrew Pub. A resolution is required from the Juan de Fuca Land Use Committee either commenting on the application or opting out of the review process. Owners and occupants within 500 m of the subject property were notified of the application and provided opportunity to comment in advance of the LUC meeting. Should the LUC opt in to the Provincial review process, comments and a resolution including rationale must be provided to the LCRB.

RECOMMENDATION

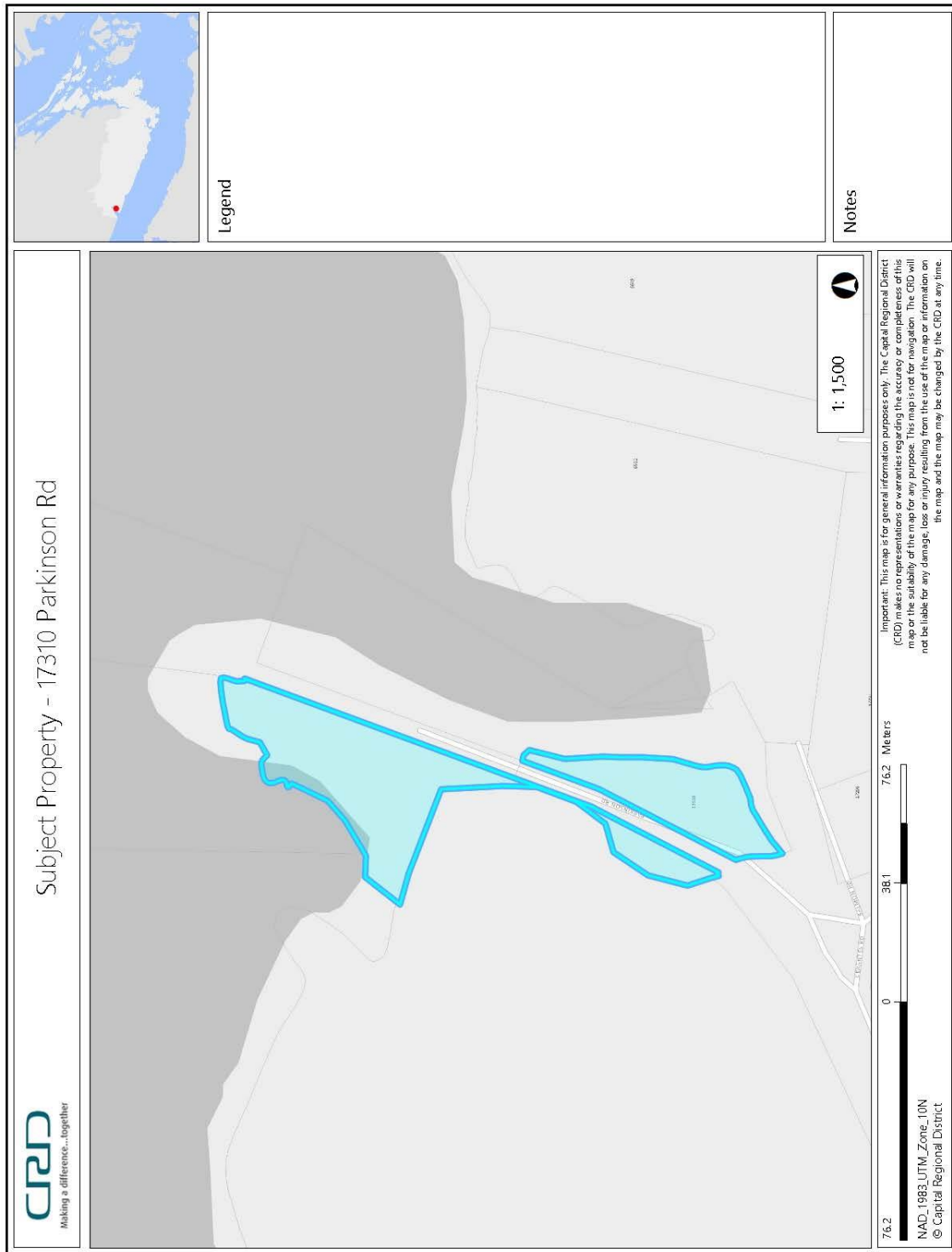
1. That comment be provided to the LCRB confirming that the Land Use Committee has considered the proposed location, person capacity, hours of liquor service, impact of noise, the general impact on the community of the proposed *structural change* for *outdoor patio* application for the Renfrew Pub (LP000033);
2. That public comments received by the Land Use Committee regarding application LP000033 be provided to the LCRB; and
3. That the *structural change* for *outdoor patio* application for the Renfrew Pub (LP000033) be supported.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer

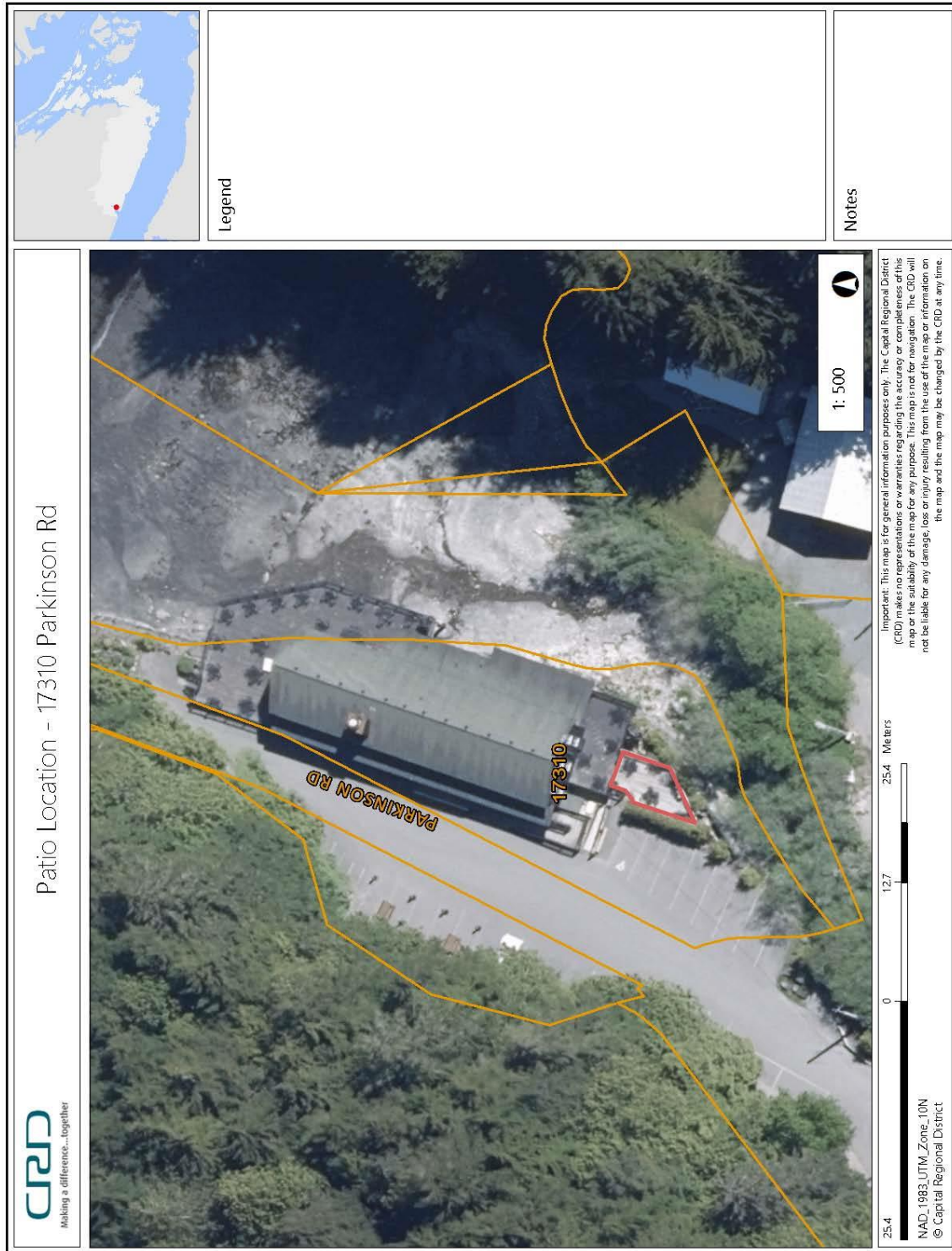
ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Patio Location

Appendix A: Subject Property Map



Appendix B: Patio Location





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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 19, 2022**

SUBJECT **Zoning Amendment Application for Lots A-H, and J and K, District Lot 87,
Renfrew District, Plan EPP31225 – Kirby Creek Road**

ISSUE SUMMARY

Property owners on Kirby Creek Road have submitted a joint application to amend Bylaw No. 2040 by rezoning the subject properties from Forestry (AF) to Rural 2 (RU2) for the purpose of agricultural activities.

BACKGROUND

The ten (10) subject properties are located on Kirby Creek Road in Shirley and include Lots A-H, and J and K in Plan EPP31225, all of which are approximately 4 hectares (ha) in area (Appendix A), and were created through a subdivision in 2015 (Plan EPP31225). Portions of the properties are located within the steep slope, sensitive ecosystems and riparian development permit areas. While the properties are located within the Shirley Fire Protection Area, they are not located within a community water service area.

Residential uses within the subdivision have become well established and a majority of the landowners are expressing an interest in pursuing agricultural activities that are aligned with the community's rural character and Official Community Plan (OCP) policies. The properties are currently zoned Forestry (AF) in Bylaw No. 2040 (Appendix B) and designated as Coastal Upland in the Shirley-Jordan River OCP, Bylaw No. 4001. Agricultural uses are not a permitted use within the AF zone. As a result, the owners of these 10 properties have submitted an application to amend Bylaw No. 2040 to change the zoning of the subject properties from Forestry (AF) to Rural 2 (RU2) for the purpose of permitting agricultural uses and farm buildings (Appendix C). Staff have prepared Bylaw No. 4464 for consideration (Appendix D).

At its meeting of February 15, 2022, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaw to the Shirley/Jordan River Advisory Planning Commission (APC), CRD departments, BC Hydro, District of Sooke, Island Health, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR), FLNR - Archaeology Branch, FLNR - Water Protection Section, Ministry of Agriculture, Ministry of Transportation & Infrastructure, RCMP, Shirley Fire Department, Sooke School District #62, and Pacheedaht and T'Sou-ke First Nations. Comments have been received and are included in Appendix E.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the Capital Regional District (CRD) Board:

1. That the referral of proposed Bylaw No. 4464, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022", to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, FLNR - Archaeology Branch, FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development, FLNR - Water Protection Section, Island Health, Ministry of Agriculture, Ministry of Transportation & Infrastructure, RCMP, Shirley Fire Department, Sooke School District #62, Pacheedaht First Nation and T'Sou-ke First Nation be approved and the comments received;
2. That proposed Bylaw No. 4464 be introduced and read a first time and read a second time; and

3. That in accordance with the provisions of section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4464.

Alternative 2

That the CRD Board not proceed with proposed Bylaw No. 4464.

IMPLICATIONS

Legislative

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 14 of the *Local Government Act (LGA)*. The Shirley/Jordan River APC considered the application at its meeting on March 15, 2022.

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendment passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent notice of the proposed bylaw amendment and a public hearing will be advertised in the local paper and on the CRD website.

Regional Growth Strategy

Section 445 of the *LGA* requires that all bylaws adopted by a regional district board after the board has adopted a regional growth strategy (RGS) be consistent with the RGS. In accordance with CRD policy, where a zoning bylaw amendment that applies to land within the Shirley – Jordan River OCP area is consistent with the OCP, it does not proceed to the full CRD Board for a determination of consistency with the RGS. Staff are of the opinion that the proposed amendment is consistent with the policies of the Shirley – Jordan River OCP.

Referral Comments

Referrals were sent to 13 agencies and CRD departments, and to the Shirley/Jordan APC. Comments received are summarized below and included in Appendix E.

BC Hydro stated they have no issue with the proposed bylaw to rezone the ten properties.

District of Sooke stated that their interests are unaffected by the proposed bylaw amendment.

FLNR - Archaeology Branch stated that there are no known archaeological sites recorded on any of the properties and archaeological potential modelling for the area does not indicate a high potential for previously unidentified archaeological sites to be found on the subject property. Should any suspected archaeological deposits be encountered during land alterations on the property, all work must be halted and the Archaeology Branch contacted.

FLNR – Ecosystem Biologist stated that Kirby Creek Road crosses a stream that is a tributary to Kirby Creek, which is fish-bearing and that the road crossing and existing driveways were paved, and ponds created without approvals as required under the *Water Sustainability Act (WSA)*. The Biologist recommended that if the ponds contain water that is coming from a groundwater source or is being diverted from a stream, or if the water held in the ponds is being used for non-domestic purposes (i.e., agricultural or livestock), a licence is required in accordance with the *WSA*. It was also recommended that the CRD offset the construction of any unauthorized ponds by planting native riparian plants around them. It was recommended unauthorized ponds not be removed since local amphibian populations may have begun using them for breeding. It was further recommended that any development on lots containing streams require a *Riparian Areas Protection Regulation (RAPR)* assessment by a Qualified Environmental Professional to determine the Streamside Protection and Enhancement Area (SPEA) where no disturbance may occur, and that property owners be reminded that any required vegetation clearing be minimized and occur outside the nesting period from March 1 to August 31 to reduce impacts on all bird

species. Any disturbances to nesting birds would be a violation of the provincial *Wildlife Act* and possibly the federal *Migratory Birds Convention Act*.

FLNR - Water Protection Section stated that of the wells drilled on the subject area lots, four are in Aquifer 606 bedrock, which is known to have a very low productivity, and in particular, to wells constructed at higher elevation. Due to the presence of a shallow overburden, the aquifer is also classified as having an overall high vulnerability to contaminants introduced at the land surface. Animal grazing areas, paddocks and locations of manure storage can be a source of nutrients, and setbacks of these contaminant sources from wells and surface water sources is required in accordance with *Health Hazard Regulation* of the *Public Health Act*. It was further stated that a tributary to Kirby Creek flows through the subject area (Lots G, H and J, as well as D-F) and that there are indications of a tributary stream on Lots D, E and F not noted on the subdivision plan. A qualified environmental professional is required to assess building plans to ensure development is compliant with the *RAPR*. Applicants are to be advised of regulatory requirements that could affect development and siting considerations. Applicants are also advised of the requirement for a water licence for surface water and for non-domestic groundwater use in accordance with the *WSA*.

Ministry of Agriculture stated Ministry staff support the rezoning application given that, if approved, agriculture and farm buildings will be permitted on the subject properties.

Ministry of Transportation & Infrastructure stated no objection to the proposed rezoning.

Pacheedaht First Nation provided verbal confirmation that the Nation's interests are unaffected by this application.

RCMP stated that they have no comments to add to this application.

Shirley Fire Department stated that they have no concerns.

The Shirley/Jordan River APC met on March 15, 2022, to consider the application, with approximately eleven members of the public in attendance. The Shirley/Jordan River APC moved the following motion:

MOVED by Fiona McDannold, **SECONDED** by Emily Anderson that the APC recommends to the LUC that it supports the rezoning application.

CARRIED

Land Use

The Shirley-Jordan River OCP, Bylaw No. 4001, designates the subject properties as Coastal Upland. The primary use for the Coastal Upland policy area is to support the continued use of these lands for forestry. Single-family residential and agriculture are also supported in this designation provided the density does not exceed one parcel per 4 ha and one dwelling per parcel. The AF zone permits silviculture and residential uses reflective of the historical use of the lands as working forests. The RU2 zone is considered consistent with the uses and density supported by the Coastal Upland designation and allows for the scale of agricultural activities desired by the applicants. The RU2 zone permits agriculture, farm buildings and residential uses. Density is restricted through a minimum lot size of 4 ha, and an allowance of one dwelling and one suite per parcel (Appendix C). This is in keeping with the density permitted by the AF zone. The RU2 zone incorporates specific definitions for the proposed uses, as follows:

Agriculture means the growing, rearing, producing or harvesting agricultural crops or livestock; apiculture; horticulture; silviculture; the use and storage of associated farm machinery, implements and agricultural supplies; includes the ancillary sale, storage and processing on a parcel of the primary products harvested, reared or produced on that parcel; excludes intensive agriculture, intensive agriculture – medical marihuana, licenced cannabis production

pursuant to the Cannabis Act, kennels, aquaculture, growing of mushrooms within a building and the permanent confinement of livestock or animals of any kind within a building.

Farm Building means a structure which does not contain a residential occupancy and is: i) associated with and located on land devoted to the practice of farming; and ii) used essentially for the housing of agricultural crops or equipment or livestock including storage and processing of agricultural products produced on site; but excludes abattoirs, indoor equestrian riding arenas, and buildings for the permanent confinement of livestock or animals of any kind.

Past proposals to amend the AF zone to permit agriculture have been considered by the CRD Board. Bylaw No. 4179 proposed to add agriculture as a permitted use on all lands zoned AF, but was withdrawn in 2018 in favour of considering zoning amendments to allow agriculture on a case-by-case basis. A site specific rezoning of a split zoned Rural A and AF parcel in Shirley to a new Rural 2 (RU2) zone was completed in 2019 (Bylaw No. 4259). Staff consider the RU2 zone appropriate for properties in the 4 ha range that have been removed from forestry programs, have established rural residential uses, and wish to conduct agricultural activities.

Procedures and Future Development

The proposed bylaw was sent to 13 agencies and CRD departments, and to the Shirley/Jordan River APC. The comments received have been reviewed by staff in conjunction with proposed Bylaw No. 4464.

Staff note that the Ministry of Transportation and Infrastructure approves subdivision layout and road construction and that the CRD has no jurisdiction to require works around road culverts or within the road right-of-way. In addition, there are existing frameworks in place that address development and land alteration adjacent to watercourses, including provincial regulation and local government permitting.

The RU2 zone requires agricultural setbacks, however, additional setbacks stated in provincial regulation would also apply. Land alteration and building construction in areas that are designated as development permit areas will require a development permit, which may also require a professional report prior to issuance, and in particular, development within a riparian development permit area would require a *RAPR* report and approval through the provincial Riparian Areas Regulation Notification System (RARNS). Additional tools such as performance securities may be used to ensure that restoration requirements and buffer areas around wetlands or watercourses are appropriately maintained.

Property owners are advised of requirements under the *WSA* for water licensing; requirements under the *Environmental Management Act: Code of Practice for Agricultural Environmental Management* for setbacks; recommendations that native plant species be planted and maintained around any existing unauthorized ponds; as well as requirements of the *Public Health Act* for setbacks, permits for drinking water and sewerage.

Based on the information provided by the applicant, referral comments received and the policies of the Shirley – Jordan River OCP, staff recommend that proposed Bylaw No. 4464 be introduced, read a first and a second time, and that a public hearing be held.

CONCLUSION

The purpose of this zoning bylaw amendment application is to rezone ten (10) subject properties on Kirby Creek Road from the Forestry (AF) zone to the Rural 2 (RU2) zone for the purpose of permitting agriculture and farm buildings. Staff have prepared proposed Bylaw No. 4464 and recommend receipt of referral comments, first and second reading, and advancement to public hearing.

RECOMMENDATION

Alternative 1

The Land Use Committee recommends to the Capital Regional District (CRD) Board:

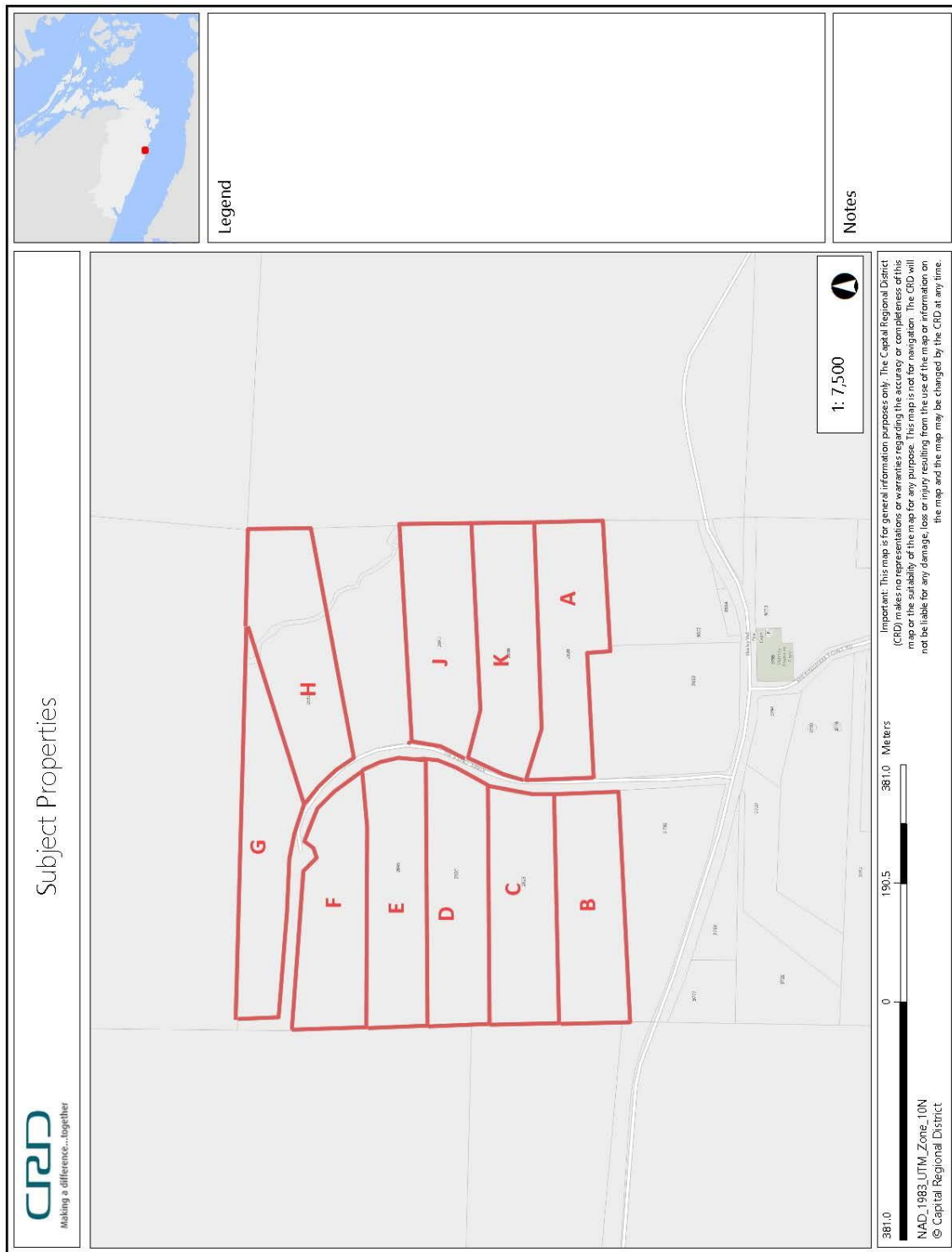
1. That the referral of proposed Bylaw No. 4464, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022”, to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, FLNR - Archaeology Branch, FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development, FLNR - Water Protection Section, Island Health, Ministry of Agriculture, Ministry of Transportation & Infrastructure, RCMP, Shirley Fire Department, Sooke School District #62, Pacheedaht First Nation and T’Sou-ke First Nation be approved and the comments received.
2. That proposed Bylaw No. 4464 be introduced and read a first time and read a second time; and;
3. That in accordance with the provisions of section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4464.

Submitted by:	Iain Lawrence, RPP,MCIP, Senior Manager, Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Properties
- Appendix B: Current Zoning – Forestry AF Zone
- Appendix C: Proposed Zoning – Rural RU2 Zone
- Appendix D: Proposed Bylaw No. 4464
- Appendix E: Referral Comments

Appendix A: Subject Properties



Appendix B: Current Zoning - Forestry AF Zone

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

3.0 **FORESTRY ZONE - AF**

3.01 **Permitted Uses**

In addition to the uses permitted by Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Forestry AF Zone:

- (a) Silviculture except within 300m of a highway;
- (b) Offices, mechanical shops, fuel storage, and storage buildings accessory to mining or silviculture;
- (c) One-family dwelling;
- (d) Home Based Business Categories One, Two and Three; *Bylaw 3705*
- (e) Two Boarders or lodgers;
- (f) Secondary Suite pursuant to Part 1, Subsection 4.19; *Bylaw 3849*
- (g) Detached Accessory Suite pursuant to Part 1, Subsection 4.20. *Bylaw 3849*

3.02 **Minimum Parcel Size for Subdivision Purposes**

The minimum lot size is 4ha;

3.03 **Density**

One one-family dwelling per lot is permitted.

One secondary suite or one detached accessory suite per lot is permitted. *Bylaw 3849*

3.04 **Height**

Maximum height shall be 11m.

3.05 **Lot Coverage**

Maximum lot coverage shall be 10 percent.

3.06 **Maximum Size of for Residential Buildings**

Provided applicants having either met the *Sewerage System Regulation* (e.g., a filing) or acceptance by VIHA via referral. *Bylaw 3705*

- (i) On lots of less than 1ha in area, residential buildings and structures shall not exceed a Floor Area Ratio of 0.45 or a Total Floor Area of 418m², whichever is less;
- (ii) On lots of 1ha or more in size, residential buildings and structures shall not exceed a Floor Area Ratio of 0.45.

3.07 **Yard Requirements**

For all structures, the front, side, rear and flanking yards shall be a minimum of 15m. *Bylaw 3849*

Appendix C: Proposed Zoning - Rural 2 RU2 Zone

3A.0 RURAL 2 ZONE – RU2

Bylaw 4259

3A.01 Permitted Principal Uses & Buildings

In addition to the uses permitted by Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted by the Rural 2 RU2 Zone:

- (a) Agriculture;
- (b) Farm Buildings on Farms;
- (c) Residential;
- (d) One-family Dwelling.

3A.02 Permitted Accessory Uses

- (a) Accessory buildings and structures ancillary to a permitted use pursuant to Part 1, section 4.01;
- (b) Secondary Suite pursuant to Part 1, Subsection 4.19;
- (c) Detached Accessory Suite pursuant to Part 1, Subsection 4.20;
- (d) Home Based Business Categories One, Two and Three;
- (e) Two Boarders or Lodgers;
- (f) One recreation vehicle may be permitted in conjunction with a permitted residential use on a lot, which may be used but not rented for the temporary accommodation of guests or visitors;
- (g) Composting of waste generated on-site.

3A.03 Minimum Parcel Size for Subdivision Purposes

- (a) The minimum lot size is 4 ha.

3A.04 Density

- (a) One one-family dwelling per lot is permitted.
- (b) One secondary suite or one detached accessory suite per lot is permitted.
- (c) Farm buildings and structures shall not exceed a total floor area 1,000m².
- (d) Residential buildings and structures shall not exceed a total floor area of 418 m².

3A.05 Height

- (a) The maximum height of principal buildings is 11 m.

3A.06 Lot Coverage

- (a) The maximum lot coverage shall be 10%.

3A.07 Yard Requirements

- (a) Residential buildings and structures shall be set back a minimum of:
 - a. 7.5 m from the front lot line;
 - b. 6 m from side lot lines;
 - c. 10 m from the rear lot line; and
 - d. 6 m CTS from flanking lot lines.
- (b) Except for grazing of livestock and growing of agricultural crops, agricultural uses and farm buildings shall be set back a minimum of:
 - a. 30 m from the front lot line;
 - b. 15 m from side, rear and flanking lot lines.

3A.08 Watercourse Setbacks

- (a) Agricultural uses and farm buildings and structures shall be a minimum of 15 m from the natural boundary of a watercourse.

3A.09 Definitions

- (a) For the purpose of the RURAL 2 zone – RU2, the following definitions apply:

Agriculture means the growing, rearing, producing or harvesting agricultural crops or livestock; apiculture; horticulture; silviculture; the use and storage of associated farm machinery, implements and agricultural supplies; includes the ancillary sale, storage and processing on a parcel of the primary products harvested, reared or produced on that parcel; excludes intensive agriculture, intensive agriculture – medical marihuana, licenced cannabis production pursuant to the *Cannabis Act*, kennels, aquaculture, growing of mushrooms within a building and the permanent confinement of livestock or animals of any kind within a building.

Farm Building means a structure which does not contain a residential occupancy and is: i) associated with and located on land devoted to the practice of farming; and ii) used essentially for the housing of agricultural crops or equipment or livestock including storage and processing of agricultural products produced on site; but excludes abattoirs, indoor equestrian riding arenas, and buildings for the permanent confinement of livestock or animals of any kind.

Appendix D: Proposed Bylaw No. 4464

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4464**

A BYLAW TO AMEND BYLAW NO. 2040, THE "JUAN DE FUCA LAND USE BYLAW, 1992"

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

1. Bylaw No. 2040 being the "Juan de Fuca Land Use Bylaw, 1992" is hereby amended as follows:

A. SCHEDULE B, Map No. 3 – SHIRLEY JORDAN RIVER ZONING MAP

- (a) By deleting

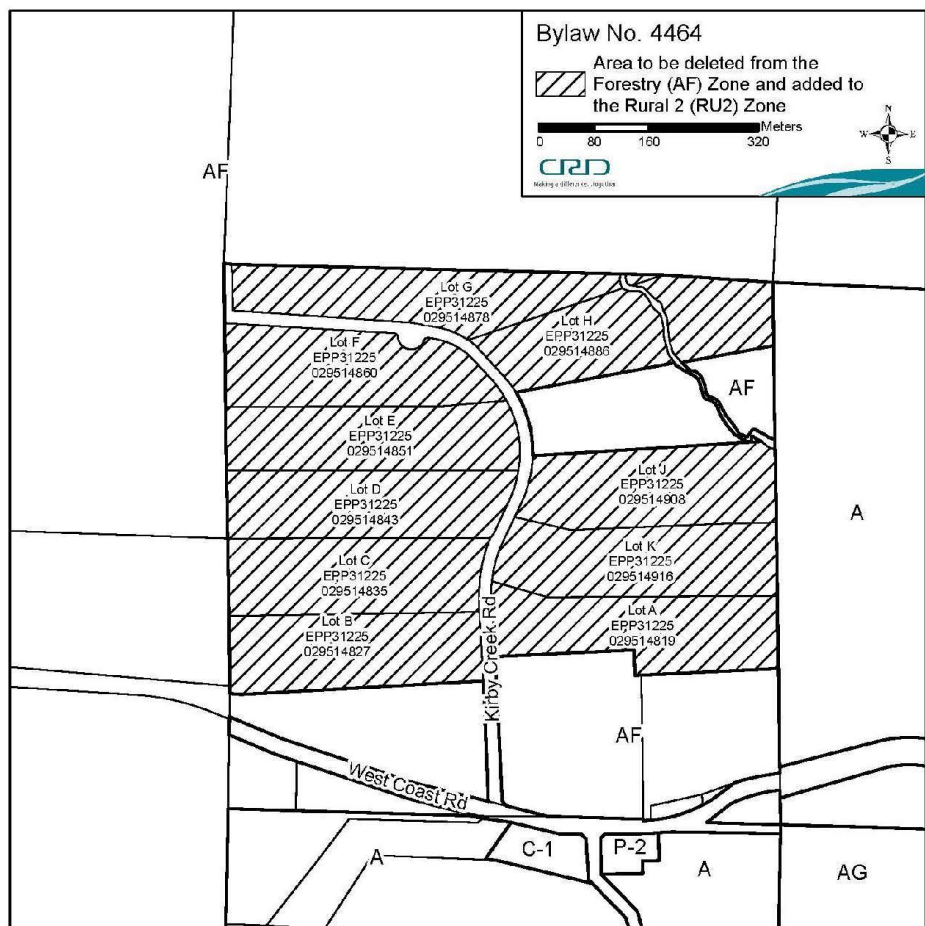
Lot A, District Lot 87, Renfrew District, Plan EPP31225
Lot B, District Lot 87, Renfrew District, Plan EPP31225
Lot C, District Lot 87, Renfrew District, Plan EPP31225
Lot D, District Lot 87, Renfrew District, Plan EPP31225
Lot E, District Lot 87, Renfrew District, Plan EPP31225
Lot F, District Lot 87, Renfrew District, Plan EPP31225
Lot G, District Lot 87, Renfrew District, Plan EPP31225
Lot H, District Lot 87, Renfrew District, Plan EPP31225
Lot J, District Lot 87, Renfrew District, Plan EPP31225
Lot K, District Lot 87, Renfrew District, Plan EPP31225

from the Forestry (AF) zone and adding to the Rural 2 (RU2) zone, as shown on Plan No. 1.

CRD Bylaw No. 4464

2

Plan No. 1 of Bylaw No. 4464, an amendment to Bylaw No. 2040



2. This bylaw may be cited as "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022".

READ A FIRST TIME THIS _____ day of _____, 2022.

READ A SECOND TIME THIS _____ day of _____, 2022.

READ A THIRD TIME THIS _____ day of _____, 2022.

ADOPTED THIS _____ day of _____, 2022.

 CHAIR

 CORPORATE OFFICER

Appendix E: Referral Comments

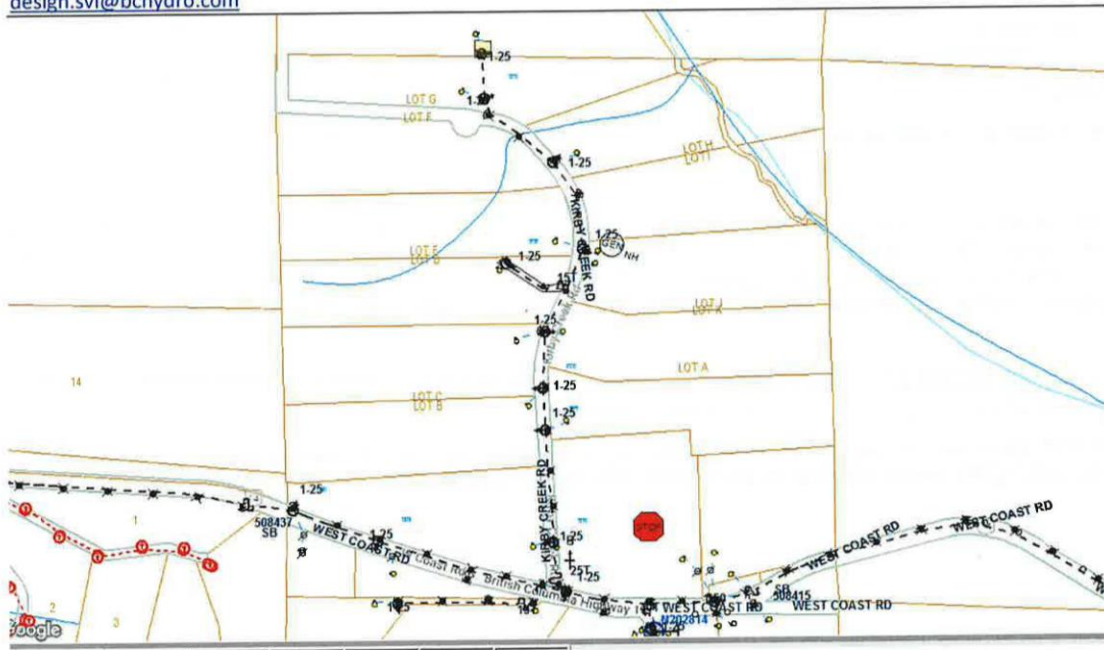
Wendy Miller

To: Wendy Miller
Subject: [External] RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Attachments: REFFERAL-FORM-AGENCIES-RZ000275.pdf; PPS-JDF-2022-02-15-RZ000275-Referral-LUC-Report.pdf

From: Mann, Elaine [<mailto:Elaine.Mann@bchydro.com>]
Sent: Tuesday, March 08, 2022 7:56 AM
To: Wendy Miller <[wmiller@crd.bc.ca](mailto:wmill@crd.bc.ca)>
Cc: Reidy, Drew <Drew.Reidy@bchydro.com>; Design, SVI <design.svi@bchydro.com>
Subject: FW: [External] RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)

Hi Wendy

Property Rights do not have issue with the Proposed Bylaw No. 4464 to amend Bylaw No. 2040 to rezone ten 4 ha properties property on Kirby Creek Road from the Forestry (AF) zone to the Rural 2 (RU2) zone for the purpose of permitting agriculture and farm buildings. If Distribution Design in Victoria have any issue/comments they will provide you with a response under separate cover. If you wish to follow up with that office, please contact them at email design.svi@bchydro.com



Elaine Mann | Property Coordinator, Property Rights Services

BC Hydro
400 Madsen Road, 2nd Floor
Nanaimo, BC V9R 5M3

P 250-755-7169
E elaine.mann@bchydro.com

bchydro.com

Smart about power in all we do.



2205 Otter Point Road, Sooke, British Columbia, Canada V9Z 1J2
Phone: 250-642-1634 Fax: 250-642-0541 Email: info@sooke.ca Website: www.sooke.ca

CRD Rezoning Application Referral to District of Sooke Planning Department

Wednesday, March 2, 2022

DOS File No.: CRD Referral

Juan de Fuca Community Planning
3-7450 Butler Road
Sooke, BC V9Z 1V1

Via Email: wmiller@crd.bc.ca

Dear Iain Lawrence, RPP, MCIP, Manager, Juan de Fuca Community Planning

Re: Referral Comments on rezoning application to amend Bylaw No. 2040 for Lots A-H and J and K, District Lot 87, Renfrew District, Plan EPP31225 – Kirby Creek Road from Forestry (AF) to Rural 2 (RU2) for the purposes of permitting agricultural uses and farm buildings.

Upon review of the proposed bylaw amendment to Bylaw No. 2040, Planning staff have determined that the District of Sooke's interest are unaffected by the proposed bylaw amendment RZ000275.

Thank you for providing the opportunity to comment on the proposed rezoning application.

If you have any further questions, please do not hesitate to contact me at the email provided below.

Yours Truly,

Kasha Janota-Bzowska, Planner I
Planning and Development Department
2205 Otter Point Road
Sooke, BC, V9Z 1J2

Email: kjanotabzowska@sooke.ca
Web: www.sooke.ca

CC: Matthew Pawlow, RPP, MCIP, Director of Planning and Development Services

From: [Cooper, Diana.FLNR:EX](#)
To: [Wendy Miller](#)
Subject: RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Date: Tuesday, March 08, 2022 3:03:25 PM
Attachments: [image002.png](#)
[image003.png](#)

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hello Wendy,

Apologies for the delay. The information inbox is overflowing!

Thank you for your referral regarding a zoning amendment for the following properties:

LOT A DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514819;
LOT B DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514827;
LOT C DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514835;
LOT D DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514843;
LOT E DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514851;
LOT F DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514860;
LOT G DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514878;
LOT H DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514886;
LOT J DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514908; and
LOT K DISTRICT LOT 87 RENFREW DISTRICT PLAN EPP31225, PID 029514916.

Please review the screenshot of the properties below (outlined in yellow) and notify me immediately if it does not represent the properties that are listed in your referral.

Results of Provincial Archaeological Inventory Search

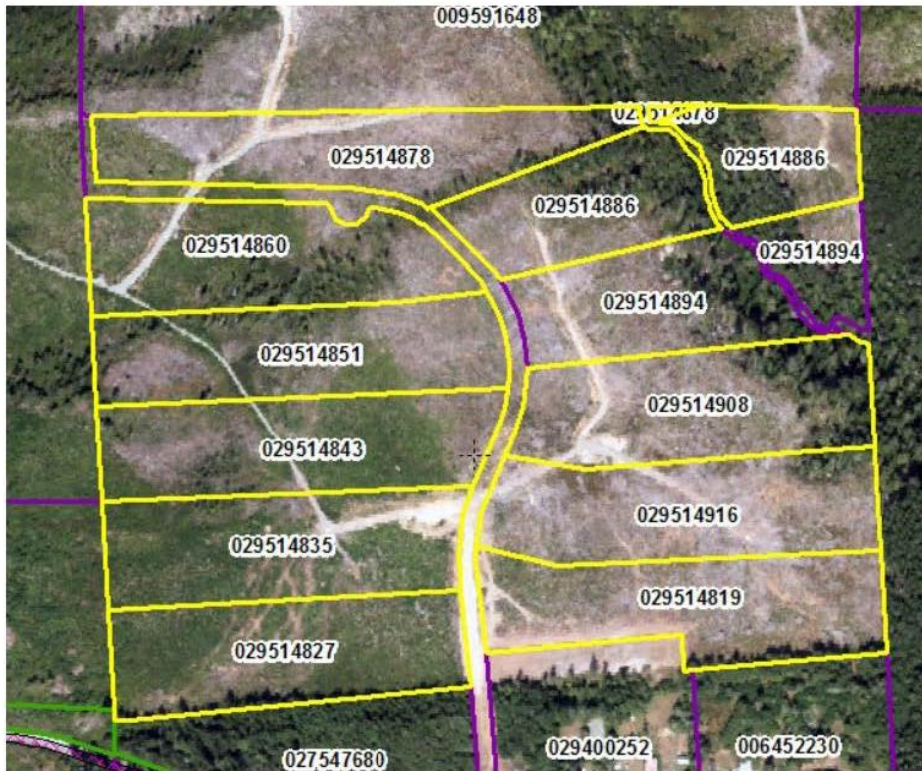
According to Provincial records, there are no known archaeological sites recorded on any of the properties.

Archaeological potential modelling for the area does not indicate a high potential for previously unidentified archaeological sites to be found on the subject properties.

Archaeology Branch Advice

The Archaeology Branch does not identify a need for archaeological study or Provincial heritage permit(s) at the time of this information request.

Please notify all individuals (e.g., owners, developers, equipment operators) involved in land-altering activities (e.g., home renovations, property redevelopment, landscaping, service installation) that if archaeological material is encountered during development, they **must stop all activities immediately** and contact the Archaeology Branch for direction at 250-953-3334.



Please note that subject lot boundaries (yellow) indicated on the enclosed screenshot are based on information obtained by the Archaeology Branch on the date of this communication and may be subject to error or change.

Diana Cooper
Archaeologist/Archaeological Information Administrator
Archaeology Branch|Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Phone: (250) 953-3343|Email: diana.cooper@gov.bc.ca |Web site www.gov.bc.ca/archaeology

RESPONSE SUMMARY – REZONING APPLICATION RZ000275

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

The Ministry of Forests, Lands, Natural Resource Operations and Rural development, Water Protection Section, has received a referral with respect to proposed land-use change of the subject area (lots A-H, and lots J and K, District Lot 87, Renfrew District, Plan EPP31225 – Kirby Creek Road).

Of the wells drilled on the subject area lots, four are in Aquifer 606 bedrock with depths ranging from 104 to 256 m and yields from 0.25 to 8 US gallons per minute (US GPM), and six are in overlying unconsolidated materials with depths from 17 to 29 m and yields from 2 to 10 US GPM. Aquifer 606 (AQ606 Fact Sheet: <https://apps.nrs.gov.bc.ca/gwells/aquifers/606>) consists of fractured volcanic bedrock, known to have a very low productivity, in particular in wells constructed at higher elevation. The median depth of bedrock wells registered in the Groundwater Wells database (GWELLS <https://apps.nrs.gov.bc.ca/gwells>) within 1 km of this site is 39 m, ranging from 17 m to 256 m, and 50% of wells are greater than 60 m deep.

As this area does not have a local water service provider, the applicants should be advised that a water licence (for surface water or for non-domestic groundwater use) is required under the *Water Sustainability Act* (<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/14015>). Information about water application requirements and process can be found here: <https://portal.nrs.gov.bc.ca/web/client/-/water-licence-application>.

A tributary to Kirby Creek flows through the subject area (lots G, H and J as well as lots D, E and F). There is no water allocation restriction on Kirby Creek. For more information on water licensing and rights refer to: <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights>. A groundwater license for domestic use on a single lot is not required for domestic parcels serviced by individual wells.

Due to the presence of a shallow overburden, the aquifer is also classified as having an overall high vulnerability to contaminants introduced at the land surface. Intrinsic vulnerability mapping (<https://catalogue.data.gov.bc.ca/dataset/drastic-aquifer-intrinsic-vulnerability>) indicates that aquifer vulnerability to contamination in the area of the subject parcel may be moderate. Animal grazing areas, paddocks and locations of manure storage can be a source of nutrient and bacterial contamination of surface and groundwater sources, therefore adequate (minimum 30 m) setbacks of these contaminant source from wells and surface water sources is required (in accordance with *Public Health Act*, Health Hazard Regulation https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/216_2011), and agricultural best practices (Code of Practice for Agricultural Environmental Management) https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/8_2019) to reduce runoff of contaminants are recommended to be employed.

The subdivision map identified the boundaries of riparian features on lots G & H. In addition, there are indications of a tributary (ephemeral?) stream on lots D, E and F not noted on the subdivision plan. Development plans should clearly map and identify all water course and the applicants should be advised of regulatory requirements that could affect the development and siting considerations. The site and lot design should identify access considerations to minimize disturbance of the riparian areas, including adequate building site setbacks from the riparian boundaries. For example, it is not clear how landowners of proposed lots G & H would access the portion of the lot on the opposite side of the wetland or stream, without interference with or alteration of the riparian area. A qualified environmental professional is required to assess building

plans to ensure development is compliant with the [Riparian Areas Protection Regulation](https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/fish/aquatic-habitat-management/riparian-areas-regulation) (more information at: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/fish/aquatic-habitat-management/riparian-areas-regulation>) and related local bylaws.

No additional concerns are noted with respect to the proposed bylaw.

David van Everdingen		Regional Hydrogeologist
Signed	_____	Title
February 18, 2022	_____	Ministry of Forests, Lands, Natural Resource Operations & Rural Development Water Protection
Date	_____	Agency

Response Summary – Rezoning Application RZ000275

Response from the Ministry of Forests, Lands, Natural Resource Operations, and Rural Development

✓ **Interest Affected by Proposal for Reasons Outlined Below**

Comments:

We have reviewed the application to rezone ten 4-ha properties on Kirby Creek Road from Forestry to Rural 2 to permit agriculture and farm buildings. It appears that there has been significant development since sometime between 2012 and 2015 when Kirby Creek Road and associated driveways were paved, and ponds were created. It also appears that Kirby Creek Road crosses a stream that is a tributary to Kirby Creek, which is fish-bearing. Based on our records, neither the Kirby Creek Road crossing over the tributary to Kirby Creek, nor the 3+ constructed ponds received approval under the *Water Sustainability Act*, indicating that unauthorized construction has occurred. Based on these findings, we recommend the following:

- If the ponds contain water that is coming from a groundwater source or is being diverted from a stream, or if the water held in the ponds is being used for non-domestic purposes (i.e., agricultural or livestock), a Use Approval or License is required under the *Water Sustainability Act*. Landowners should be aware of these requirements and can find more information at <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights/water-licences-approvals>.
- The CRD offset the construction of any unauthorized ponds by planting native riparian plants around them. It is not recommended to remove unauthorized ponds since local amphibian populations may have begun using the ponds for breeding.
- Any development on lots containing streams (i.e., Kirby Creek tributaries) require a *Riparian Areas Protection Regulation (RAPR)* assessment by a Qualified Environmental Professional to determine the Streamside Protection and Enhancement Area (SPEA) where no disturbance can occur.
- Property owners should be reminded any required vegetation clearing be minimized and occur outside the nesting period from March 1 to August 31 to reduce impacts on all bird species. Any disturbances to nesting birds would be a violation of the provincial *Wildlife Act* and possibly the federal *Migratory Birds Convention Act*.

Please let me know if you have any questions or concerns about the recommendations above.

Sincerely,

Emily Upham-Mills, M.Sc., R.P.Bio.

Ecosystems Biologist
West Coast Region
Ministry of Forests, Lands and Natural Resource Operations and Rural Development
2080 Labieux Road
Nanaimo BC V9T 6J9
ph: 250-736-6974
Email: Emily.Upham-Mills@gov.bc.ca



March 10, 2022

Iain Lawrence
Manager of Community Planning
Capital Regional District

Sent by email

Dear Iain:

Re: File RZ000275 – Rezoning Application for ten 4 ha properties on Kirby Creek Road – The Subject Properties

Thank you for providing the opportunity for the Ministry of Agriculture, Food and Fisheries (Ministry) to comment on File RZ000275 that proposes to rezone ten 4 ha properties to permit agricultural uses and farm buildings. From an agricultural perspective, the Ministry offers the following comments:

- The Subject Properties are not located within the Agricultural Land Reserve (ALR) nor do they border on land in the ALR.
- The Subject Properties are currently zoned Forestry (AF) in the Juan de Fuca Land Use Bylaw, 1992. The AF zone does not allow agriculture as either a permitted use or an accessory use. The applicants propose to rezone the Subject Properties to the Rural 2 (RU2) zone which allows agriculture and farm buildings as permitted uses.
- Ministry staff support the rezoning application given that, if approved, agriculture and farm buildings will be permitted on the Subject Properties.

Please contact Ministry staff if you have any questions regarding the above comments.

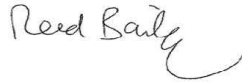
Thank you for the opportunity to provide comments from an agricultural perspective with respect to this file.

Ministry of Agriculture, Extension and Support
Food and Fisheries Services Branch

Mailing Address:
PO Box 9120, Stn Prov Gov
Victoria, BC V8W 9B4

-2-

Sincerely,



Reed Bailey
Land Use Planner
778-698-3455
Reed.Bailey@gov.bc.ca



Emily Carmichael
Regional Agrologist
778 666-2437
Emily.Carmichael@gov.bc.ca

Cc: Shannon Lambie, Regional Planner – Agricultural Land Commission



Our file: 2022-01056
Your file: RZ000275
Date: March 1, 2022

Juan de Fuca Planning
3-7450 Butler Road
Sooke, BC V9Z 1N1

Attn: Ian Lawrence, Manager

The Ministry of Transportation and Infrastructure has received and reviewed your referral of February 16, 2022 to amend Bylaw No. 2040 to rezone ten 4 ha properties property on Kirby Creek Road from the Forestry (AF) zone to the Rural 2 (RU2) zone for the purpose of permitting agriculture and farm buildings. The property does not fall within Section 52 of the Transportation Act and will not require Ministry of Transportation and Infrastructure formal approval.

The Ministry has no objections to the proposed rezoning.

Thank you for the opportunity to comment. If you or the proponent has any questions, please contact Jennifer Dyer at 778-576-1109.

Sincerely,

Jennifer Dyer
Development Services Officer
Vancouver Island District – Saanich

Ministry of
Transportation and
Infrastructure

Vancouver Island District

Mailing Address:
District Office Address:
2100 Labieux Road
Nanaimo, BC V1J 6M7

Area Office Locations:
4460 Chatterton Way
Saanich, BC V8X 5J2

From: [Sinden, Brett](#)
To: [Wendy Miller](#)
Cc: [Shaw, Kevin](#)
Subject: RE: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Date: Wednesday, February 16, 2022 12:08:04 PM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Good afternoon Wendy.

Sooke RCMP have no comments to add to this application.

Additionally, could you please add Sgt Kevin Shaw as the contact for Sooke RCMP. He is the acting detachment commander while I am away at an assignment at our district office. He is cc'd here.

Thanks.

Brett

S/Sgt Brett SINDEN
Detachment Commander
Sooke RCMP
250-642-5241 extension 2227

From: [Marty Gilbertson](#)
To: [Wendy Miller](#)
Subject: Re: Zoning Amendment Application RZ000275 - CRD Referral (Kirby Creek Road - Shirley)
Date: Tuesday, March 08, 2022 4:20:17 PM

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In regards to the zoning change on the property on Kirby Creek road the Fire Department has no concerns with this change. Makes sense on 10 acre lots for the owners to be able to use the land to its full potential.



Making a difference...together

**Minutes of a Meeting of the Shirley/Jordan River Advisory Planning Commission
Held March 15, 2022 at Juan de Fuca Local Area Services Building, 3-7450 Butler Road,
Otter Point, BC**

PRESENT: Fiona McDannold (Chair), Emily Anderson, Vivi Curutchet, Melody Kimmel
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services (EP);
Wendy Miller, Recorder (EP)

ABSENT: Blair Hughes

PUBLIC: Approximately 7 (EP); 4 in-person

EP – Electronic Participation

The meeting was called to order at 7:05 pm.

1. Elections

Iain Lawrence called for nominations for the position of Chair of the Shirley/Jordan River APC for 2022 and Fiona McDannold's name was put forward. Iain Lawrence called two further times for nominations and, as there were none, Fiona McDannold was acclaimed Chair.

Fiona McDannold called for nominations for the position of Vice Chair of the Shirley/Jordan River APC for 2022 and Melody Kimmel's name was put forward. Fiona McDannold called two further times for nominations and, as there were none, Melody Kimmel was acclaimed Vice Chair.

2. Approval of the Agenda

MOVED by Vivi Curutchet, **SECONDED** Emily Anderson by that the agenda be approved. **CARRIED**

3. Approval of the Supplementary Agenda

MOVED by Melody Kimmel, **SECONDED** by Emily Anderson that the supplementary agenda be approved. **CARRIED**

4. Adoption of the Minutes of June 7, 2021

MOVED by Melody Kimmel, **SECONDED** by Vivi Curutchet that the minutes of June 7, 2021, be adopted. **CARRIED**

5. Planner's Report

No report.

6. Zoning Amendment Application

a) RZ000275 - Lots A-H, and J and K, District Lot 87, Renfrew District, Plan EPP31225 (Kirby Creek Road)

Iain Lawrence spoke to the staff report for a joint application to rezone the subject properties from Forestry (AF) to Rural 2 (RU2). It was advised that the Juan de Fuca Land Use Committee (LUC) directed referral of the application to the Shirley/Jordan River APC at its meeting of February 15, 2022.

**Shirley/Jordan River Advisory Planning Commission Meeting Minutes
March 15, 2022**

2

Iain Lawrence highlighted the subject properties and outlined the RU2 zone. It was advised that the RU2 zone requires that agricultural uses and farm buildings/structures be a minimum of 15 m from the natural boundary of a watercourse and that the RU2 zone provides definitions for Agriculture and Farm Building that are specific to the zone.

Iain Lawrence responded to questions from the APC advising that:

- the RU2 zone was created for the rezoning of a split zoned Rural A and AF parcel on Invermuir Road in Shirley in 2019
- the Invermuir Road property is large and would have been able accommodate a sizable indoor equestrian riding arena
- a proposal in Otter Point is currently being considered to permit an equestrian riding facility under a new agriculture zone
- the primary applicant sought out other 4 ha property owners interested in rezoning
- one of the 4 ha properties in the subdivision is not part of the rezoning application and will remain zoned AF with the current list of permitted uses.
- the 15 m setback from the natural boundary of a watercourse required by the RU2 zone is in keeping with the provincial agricultural setbacks from watercourses
- the Official Community Plan Development Permit Area designations include a 30 m assessment area on both sides of a stream/watercourse that applies to any removal of vegetation or other site alteration
- sewerage/septic capacity is confirmed by a certified Wastewater Operator and approved by Island Health and verified through the building permit process
- agricultural runoff is regulated by the Ministry of Agriculture

A member of the public stated that there are existing dwellings in the subject application area without approved septic and that non-compliance has been reported to the CRD.

Iain Lawrence stated that he will contact CRD Bylaw Enforcement regarding the report of non-compliance.

Applicants stated:

- rainwater is being captured for domestic use by some property owners
- property owners are interested in small stock livestock keeping and not large commercial agricultural pursuits

MOVED by Fiona McDannold, **SECONDED** by Emily Anderson that the APC recommends to the LUC that it supports the rezoning application.

CARRIED

7. Adjournment

The meeting adjourned at 7:30 pm.

Chair



Making a difference...together

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 19, 2022**

SUBJECT Zoning Bylaw Amendment to Add Detached Accessory Suite as a Permitted Accessory Use in the Wildwood Terrace 4 (WT-4) Zone

ISSUE SUMMARY

Property owners and consenting pre-sale landowners of land in the Jordan River area have submitted a joint application to amend the Wildwood Terrace 4 (WT-4) zone to allow for either one secondary suite or one detached accessory suite.

BACKGROUND

The subject area is located north of West Coast Road on the west side of Jordan River and includes all properties that are subject to the WT-4 zone (Appendix A). Land in the WT-4 zone is designated as Pacific Acreage in the Shirley-Jordan River Official Community Plan (OCP), Bylaw No. 4001. The area zoned WT-4 is composed of one 144.6 ha parcel and four 1 ha lots located on Timberline Way. The 144.6 ha parcel is under review for a 12-lot subdivision (SU000728) and is currently awaiting registration with Land Title and Survey Authority.

While the subject area is not located within any CRD service areas, Covenant CA5916759 requires that all buildings and structures require an automatic sprinkler system that fully meets the requirements of the National Fire Protection Association (NFPA).

The various property owners and pre-sale contract holders have submitted applications and letters of authorization to amend the WT-4 zone for the purpose of establishing detached accessory suites as a permitted accessory use (Appendix B). Staff have prepared Bylaw No. 4496 for consideration (Appendix C).

ALTERNATIVES

Alternative 1

That staff be directed to refer proposed Bylaw No. 4496, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 156, 2022", to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments and the following external agencies and First Nations for comment:

- BC Hydro
- District of Sooke
- FLNR - Archaeology Branch
- FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development
- FLNR - Water Protection Section
- Island Health
- Ministry of Transportation & Infrastructure
- RCMP
- Sooke School District #62
- Pacheedaht First Nation
- T'Sou-ke First Nation

Alternative 2

That proposed Bylaw No. 4496 not be referred

IMPLICATIONS

Legislative

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them related to Part 14 of the *Local Government Act (LGA)*. Therefore, staff recommend referring the proposed amendment bylaw to the Shirley/Jordan River APC.

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendment passing second reading by the CRD Board. Property owners within 500 m of the subject land will be sent notice of the proposed bylaw amendment and a public hearing will be advertised in the local paper and on the CRD website.

Regional Growth Strategy

Section 445 of the *LGA* requires that all bylaws adopted by a regional district board after the board has adopted a Regional Growth Strategy (RGS) be consistent with the RGS. In accordance with CRD policy, where a zoning bylaw amendment that applies to land within the Shirley-Jordan River OCP area is consistent with the OCP, it does not proceed to the full CRD Board for a determination of consistency with the RGS. The proposed zoning amendment is consistent with the policies of the OCP.

Land Use

The Shirley-Jordan River OCP designates the subject area as Pacific Acreage. The intent of the Pacific Acreage land use designation is to support residential uses. Suites and duplexes are acceptable forms of development to increase the affordability of housing and offer rental accommodation. Permitting detached accessory suites as an accessory use within the WT-4 zone and updating Subsection 6E.03 “Density Provisions”, to allow “One secondary suite or one detached accessory suite pursuant to Part 1, Subsection 4.19 & 4.20”, per parcel is supported by this designation.

The current residential uses permitted within the WT-4 zone (Appendix D), are one single-family dwelling and one secondary suite. The abutting properties are zoned Wildwood Terrace 1, 2 and 3 (WT-1, WT-2, & WT-3). Rather than *detached accessory suites*, these zones permit *secondary dwellings*, which have a maximum floor area of 115 m². Proposed Bylaw No. 4496 does not increase the potential density within the WT-4 zone as it would only allow for a suite to be located within the principle building or to be either freestanding or combined with an accessory building (Appendix E). A *secondary suite* may have a maximum floor area of 90 m² or 40% of the principle dwelling’s floor area, whichever is less, and a detached accessory suite may have a maximum floor area of 90 m².

As the area to be rezoned is outside a fire protection local service area, covenants registered at the time of subdivision require that buildings and structures comply with NFPA standards for dedicated water supply and sprinkler systems.

Based on the information provided by the applicants and the policies of the Shirley-Jordan River OCP, staff recommend referral of the rezoning application to the Shirley/Jordan River APC, appropriate CRD departments, external agencies and First Nations for comment.

CONCLUSION

The area that is the subject of this application includes all parcels that are zoned WT-4 under Bylaw No. 2040. The purpose of Bylaw No. 4496 is to amend the WT-4 zone by adding *detached accessory suites pursuant to part 1 subsection 4.20* as a permitted accessory use, and updating the applicable density provisions. Staff have prepared proposed Bylaw No. 4496 and recommend referral to the Shirley/Jordan River Advisory Planning Commission, First Nations, CRD

departments and external agencies for comment. All comments received will be brought back to the Land Use Committee. At that time, the Committee may consider a recommendation for first and second reading.

RECOMMENDATION

That staff be directed to refer proposed Bylaw No. 4496, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 156, 2022" to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments and the following external agencies and First Nations for comment:

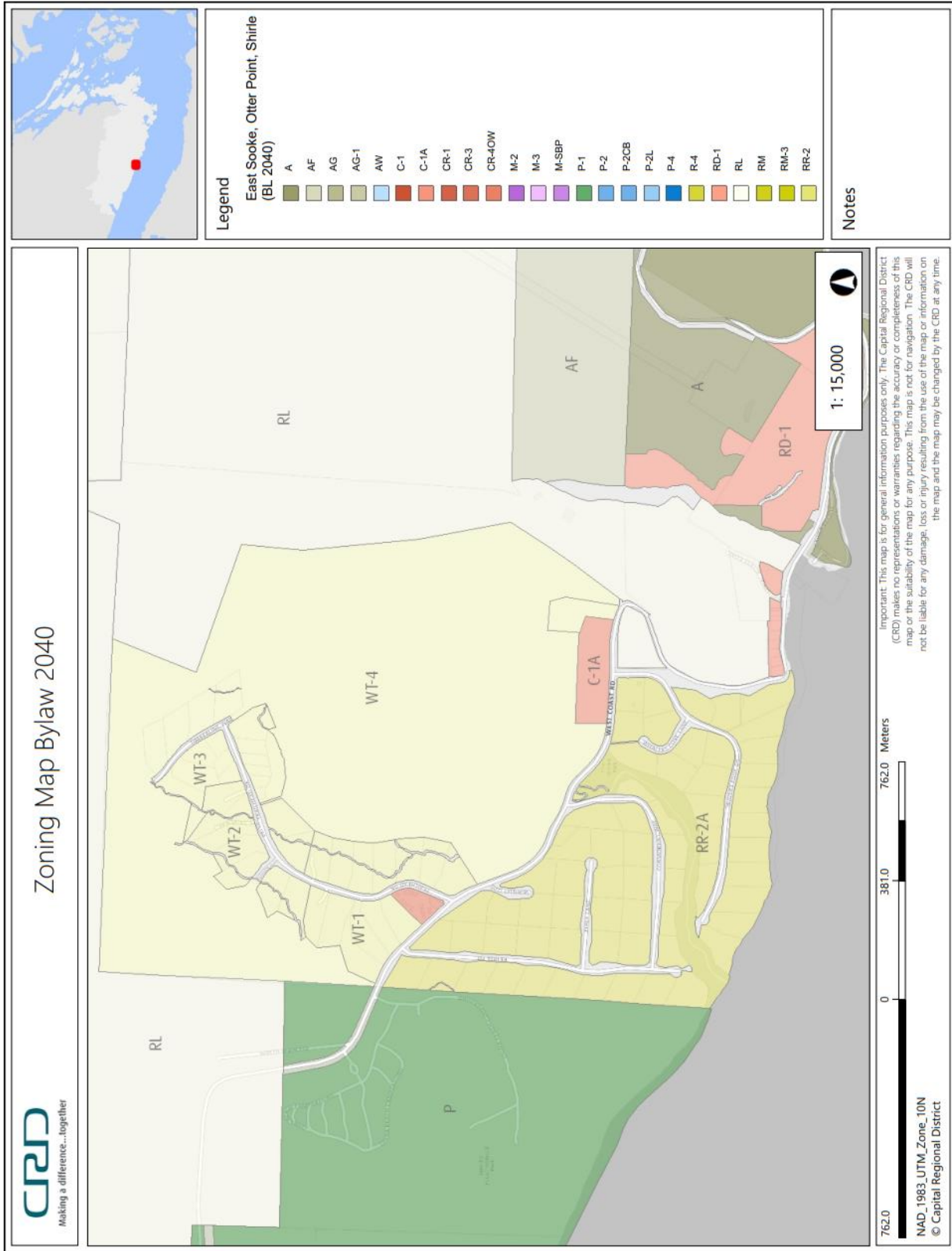
- BC Hydro
- District of Sooke
- FLNR - Archaeology Branch
- FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development
- FLNR - Water Protection Section
- Island Health
- Ministry of Transportation & Infrastructure
- RCMP
- Sooke School District #62
- Pacheedaht First Nation
- T'Sou-ke First Nation

Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Kevin Lorette, P.Eng, MBA, General Manager, Planning & Protective Services

ATTACHMENTS

- Appendix A: Zoning Map
- Appendix B: Detached Accessory Suites
- Appendix C: Proposed Bylaw No. 4496
- Appendix D: Current Wildwood Terrace 4 Zone - WT-4
- Appendix E: Proposed Wildwood Terrace 4 Zone - WT-4

Appendix A: Zoning Map



Appendix B: Detached Accessory Suites

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

4.20 DETACHED ACCESSORY SUITES

Bylaw 3605

- (a) A detached accessory suite shall only be permitted in those zones in this bylaw which allow detached accessory suites, and if the parcel size is 0.4ha or greater;
- (b) Only one detached accessory suite or one secondary suite shall be permitted per lot;
- (c) The detached accessory suite can be freestanding or combined with an accessory building;
- (d) A building permit must be obtained for a detached accessory suite. An assessment of the property's ability to accommodate an increase in onsite sewerage capacity i.e., that the system is capable of supporting the additional effluent flow produced by the suite is required. An Authorized Person as defined in the *Public Health Sewerage System Regulation* is to conduct the assessment and determine whether an expansion of the existing system would be possible and submit a letter either authorizing the existing system is satisfactory or requiring specific upgrades;
- (e) Proof of source of potable water, in addition to the quantity required for the principal dwelling unit, of at least 1400 litres per day;
- (f) The floor area of a detached accessory suite shall not be smaller than 33.4m² and not exceed 90m²;
- (g) The maximum height of an accessory building used for a detached accessory suite shall be 7m to the peak of the roof; *Bylaw 3849*
- (h) Detached accessory suites must be located within the same side and rear yard setbacks as the principal dwelling; *Bylaw 3849*
- (i) One additional on-site parking space shall be provided for a detached accessory suite;
- (j) Access to the detached accessory suite is to be provided from the same road access that provides access to the principal dwelling. In cases where a separate access for the detached accessory suite is required this access must first be approved by the Ministry of Transportation and Infrastructure prior to access construction or final approval by the Capital Regional District; *Bylaw 3705*
- (k) The detached accessory suite may be in the form of manufactured or modular home but shall not exceed a length of 13m, but does not include a Recreation Vehicle or Travel Trailer;
- (l) An owner of the lot must occupy either the detached accessory suite or the principal dwelling;
- (m) The keeping of boarders and lodgers shall not be permitted within a single family dwelling on a lot containing a detached accessory suite;
- (n) A bed and breakfast use shall only be permitted in the principal dwelling unit on a lot containing a detached accessory suite;
- (o) A detached accessory suite is not permitted on a lot with a two-family dwelling; *Bylaw 3705*
- (p) As a detached accessory suite is accessory to a principal dwelling, a detached accessory suite cannot be registered as a building strata. *Bylaw 3973*

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4496**

A BYLAW TO AMEND BYLAW NO. 2040, THE "JUAN DE FUCA LAND USE BYLAW, 1992"

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

1. Bylaw No. 2040 being the "Juan de Fuca Land Use Bylaw, 1992" is hereby amended as follows:

A. SCHEDULE A, PART 2, SECTION 6E.0 WILDWOOD TERRACE 4 ZONE – WT-4

(a) By adding a new paragraph to Section 6E.01 under *Accessory Uses* as follows:

"(g) Detached accessory suite pursuant to Part 1, Subsection 4.20"; and

(b) By replacing the text of the paragraph in Section 6E.03, subsection (b) as follows:

"(b) One secondary suite or one detached accessory suite pursuant to Part 1, Subsection 4.19 & 4.20".

2. This bylaw may be cited as "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 156, 2022".

READ A FIRST TIME THIS _____ day of _____, 2022.

READ A SECOND TIME THIS _____ day of _____, 2022.

READ A THIRD TIME THIS _____ day of _____, 2022.

ADOPTED THIS _____ day of _____, 2022.

CHAIR

CORPORATE OFFICER

Appendix D: Current Wildwood Terrace 4 Zone – WT-4

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

6E.0 WILDWOOD TERRACE 4 ZONE - WT-4

Bylaw 3759

6E.01 Permitted Uses

In addition to the uses permitted in Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Wildwood Terrace 4 WT-4 Zone:

Principal Uses:

- (a) Residential;
- (b) Resource Extraction;
- (c) Processing Facility for gravel and rock material including related shop/office and weigh scale facilities;

Accessory Uses:

- (d) Home Based Business Categories One, Two and Three;
- (e) Buildings or structures accessory to the above uses pursuant to Part 1, Subsection 4.01;
- (f) Secondary suite pursuant to Part 1, Subsection 4.19.

6E.02 Minimum Parcel Size for Subdivision Purposes

- (a) For Section 4, Renfrew District, except those parts in Plans 427R, 23879, VIP68644, VIP79213 and VIP82411, PID:009-573-356, as shown on Map No. 3, an average parcel size is 2 ha with no parcel being less than 1 ha, to a maximum number of 54 parcels;
- (b) For Section 946(4) of the *Local Government Act* purposes, the minimum parcel size of the remainder parcel is 2 ha.

6E.03 Density Provisions

- (a) One single-family dwelling;
- (b) One secondary suite;
- (c) On Section 4, Renfrew District, except those parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549 and VIP82411, PID: 009-573-356, one processing facility is permitted in conjunction with a valid permit issued in compliance with the Ministry of Forests, Mines and Lands and CRD Bylaw No. 3297, A Bylaw to Regulate the Removal or Deposit of Soil on Lands within the Juan de Fuca Electoral Area.

6E.04 Height

Maximum height of principal buildings shall be 9 m.

6E.05 Parcel Coverage

Parcel coverage shall not exceed 25%.

6E.06 Maximum Size of Principal Buildings

Principal buildings and structures shall not exceed a Total Floor Area of 418 m².

6E.07 Yard Requirements

No principal building shall be located within:

- (a) 7.5 m of a front parcel line;
- (b) 6 m of a side parcel line; and
- (c) 10 m of a rear parcel line.

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

6E.08 Setbacks for Processing Facilities

Notwithstanding the above, setbacks for processing facilities are as follows:

- (a) 50 m from parcel boundaries;
- (b) 100 m from residential parcel boundaries.

Appendix E: Proposed Wildwood Terrace 4 Zone – WT-4

Schedule “A” of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

6E.0 WILDWOOD TERRACE 4 ZONE - WT-4

Bylaw 3759

6E.01 Permitted Uses

In addition to the uses permitted in Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Wildwood Terrace 4 WT-4 Zone:

Principal Uses:

- (a) Residential;
- (b) Resource Extraction;
- (c) Processing Facility for gravel and rock material including related shop/office and weigh scale facilities;

Accessory Uses:

- (d) Home Based Business Categories One, Two and Three;
- (e) Buildings or structures accessory to the above uses pursuant to Part 1, Subsection 4.01;
- (f) Secondary suite pursuant to Part 1, Subsection 4.19.
- (g) Detached accessory suite pursuant to Part 1, Subsection 4.20

6E.02 Minimum Parcel Size for Subdivision Purposes

- (a) For Section 4, Renfrew District, except those parts in Plans 427R, 23879, VIP68644, VIP79213 and VIP82411, PID:009-573-356, as shown on Map No. 3, an average parcel size is 2 ha with no parcel being less than 1 ha, to a maximum number of 54 parcels;
- (b) For Section 946(4) of the *Local Government Act* purposes, the minimum parcel size of the remainder parcel is 2 ha.

6E.03 Density Provisions

- (a) One single-family dwelling;
- (b) One secondary suite or one detached accessory suite pursuant to Part 1, Subsection 4.19 & 4.20;
- (c) On Section 4, Renfrew District, except those parts in Plans 427R, 23879, VIP68644, VIP79213, VIP80549 and VIP82411, PID: 009-573-356, one processing facility is permitted in conjunction with a valid permit issued in compliance with the Ministry of Forests, Mines and Lands and CRD Bylaw No. 3297, A Bylaw to Regulate the Removal or Deposit of Soil on Lands within the Juan de Fuca Electoral Area.

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Maximum height of principal buildings shall be 9 m.

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Parcel coverage shall not exceed 25%.

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Principal buildings and structures shall not exceed a Total Floor Area of 418 m².

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No principal building shall be located within:

- (a) 7.5 m of a front parcel line;
- (b) 6 m of a side parcel line; and
- (c) 10 m of a rear parcel line.

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

6E.08 Setbacks for Processing Facilities

Notwithstanding the above, setbacks for processing facilities are as follows:

- (a) 50 m from parcel boundaries;
100 m from residential parcel boundaries.



Making a difference...together

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 19, 2022**

SUBJECT **Comprehensive Community Development Plan Amendment Application for Blocks D and E, District Lots 751 and 911, Renfrew District, Plan EPC2056 (Crown Lease #927321)**

ISSUE SUMMARY

The applicant proposes to rezone the subject property from Marine (M) to a new Commercial Marina (CM-1) zone in order to permit a commercial marina, community use services, food service establishments and retail establishments. An area of foreshore fill in proximity to sea caves is proposed to be zoned as a new Heritage Conservation (HC) zone to protect the integrity of the caves and access to them.

BACKGROUND

The subject property includes the surface of the water and breakwater fill areas within Crown Lease #927321, and is located adjacent to 17110 Parkinson Road in Port Renfrew (Appendices A and B). The property is designated as Marine Protection (M) under Bylaw No. 3109, Schedule 'A', and is currently zoned Marine (M) under Bylaw No. 3109, Schedule 'B' (Appendix C). The property is adjacent to Community Residential – One (CR-1) zoned land to the south and southeast, Tourist Commercial – One (TC-1) zoned land to the southwest, and the waters of Port San Juan, which are zoned M, to the north, west and east.

The area was included in the Port Renfrew Water Supply Local Service Area under Bylaw No. 4442 on December 8, 2021. The adjacent upland property is within the Port Renfrew Fire Protection Local Service Area; however, the lease area that is the subject of this application currently remains outside the fire protection area.

The subject property was initially granted status as a Licence of Occupation area by the Province on February 25, 2016. Temporary Use Permit TP000008 was then issued by the CRD Board on June 28, 2016, to authorize a 60-slip commercial marina, offices, food services, fuel sales, recreation, boat trailer parking and boat storage. The Permit renewal was authorized by the CRD Board on July 10, 2019, and will expire on July 24, 2022. The Provincial Licence of Occupation area has recently been resurveyed and registered as a Crown Lease area.

Staff have drafted Bylaw No. 4473 (Appendix D) in response to the owner's application to rezone the marina lease area in order to allow the marina to continue to operate upon expiry of the temporary use permit.

At its meeting of February 15, 2022, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaw to a Public Information Meeting, CRD departments, BC Hydro, Cowichan Valley Regional District, Department of Fisheries and Oceans, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR), FLNR - Archaeology Branch, Island Health, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, and Sooke School District #62. Comments have been received and are included in Appendix E.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the Capital Regional District (CRD) Board:

1. That the referral of proposed Bylaw No. 4473, “Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 1, 2003, Amendment Bylaw No. 14, 2022”, to a Public Information Meeting, CRD departments, BC Hydro, Cowichan Valley Regional District, Department of Fisheries and Oceans, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR), FLNR - Archaeology Branch, Island Health, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, and Sooke School District #62 be approved and the comments received;
2. That proposed Bylaw No. 4473 be introduced and read a first time and read a second time; and
3. That in accordance with the provisions of section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4473.

Alternative 2

That the CRD Board not proceed with proposed Bylaw No. 4473.

IMPLICATIONS

Legislative

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 14 of the *Local Government Act (LGA)*. At the present time, there is no active APC for Port Renfrew; therefore, a Public Information Meeting was held in person and via video and tele-conference.

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendment passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent notice of the proposed bylaw amendment and a public hearing will be advertised in the local paper and on the CRD website.

Regional Growth Strategy

Section 445 of the *LGA* requires that all bylaws adopted by a regional district board after the board has adopted a Regional Growth Strategy (RGS) be consistent with the RGS. In accordance with CRD policy, where a zoning bylaw amendment that applies to land within the Port Renfrew Comprehensive Community Development Plan area is consistent with the Plan, it does not proceed to the Planning and Protective Services Committee and the CRD Board for a determination of consistency with the RGS. The proposed zoning amendment is consistent with the policies of the Plan.

Referral Comments

Referrals were sent to 13 agencies and CRD departments, and to a Public Information Meeting. Comments received are summarized below and included in Appendix E.

CRD Building Inspection advised that an open gazebo had been approved in 2016, but has since been altered to that of a fully enclosed restaurant. The building should either be returned to an open gazebo or permits obtained upon completion of the rezoning to allow the alterations. Approvals for services to new buildings for water, sewage and stormwater will be required prior to the issuance of building permits.

CRD Integrated Water Services advised that community piped water can be supplied to the lease area by the CRD. They further advised that a value of 13 single-family equivalents (SFEs) has been assigned to the property by agreement and that this is to be monitored by a water meter. As a condition to further development, the owners are to provide a water service application and development site plan.

CRD Protective Services recommended that the zoning amendment be held at third reading until a Fire Service Area amendment process is substantially complete. The process would evaluate code compliance, infrastructure improvements and fire department capacity.

Department of Fisheries and Oceans (DFO) advised that they would not provide detailed comments on the rezoning application, but recommended that land use planning processes consider establishing regulations to meet environmental conservation and protection objectives related to freshwater and marine fish habitat.

FLNR - Archaeology Branch advised that previously recorded archaeological site DdSc-24 is located on the foreshore area within the lease area and that the waterfront location of the area increases the potential for unknown/unrecorded archaeological deposits to exist in the area. The registered site is recorded as a burial cave and is protected under the *Heritage Conservation Act* and must not be damaged or altered without a Provincial heritage permit. Any land activity planned in the vicinity of the site, or of any other site in proximity to the lease area, would also require a Provincial permit.

FLNR – Authorizations (West Coast Region) stated that the rezoning will align with the Province's issuance of the lease for a Commercial Marina and that they had no further comment. During a follow-up conversation between Ministry and CRD staff on May 19, 2022, Ministry staff advised that environmental and archaeological considerations had been part of an extensive approval review process that included both the applicant and First Nations. FLNR staff advised that concerns related to marina infrastructure and operations, environmental conditions or to archaeological sites in proximity to the marina should be brought to the attention of the Resource Manager for enforcement action by the Province.

Ministry of Transportation & Infrastructure stated the rezoning does not require formal approval, but that the applicant is required to apply for a commercial access permit.

Pacheedaht First Nation representatives and JdF Planning staff met on April 1, 2022, to discuss the proposed zoning amendment for a commercial marina. Concerns raised at that time related to the roles that various government agencies play in regulating the marine environment, archaeological sites and grey water discharge. At a follow-up meeting on May 26, 2022, CRD staff relayed information obtained from FLNR advising that issues related to the marina infrastructure and operations, the marine environment, and archaeological sites should be referred directly to the Provincial Resource Manager. In order to protect archaeological features immediately adjacent to the lease area, as well as access to them, a new land use zone was suggested as a potential solution. Formal comment from Pacheedaht on this specific application has not been received as of the writing of this report. Any comments received prior to July 19, 2022, will be brought to the Land Use Committee at that time.

RCMP stated that they have no position on this application.

A Public Information Meeting was held at the Juan de Fuca Local Area Services Building and via video and tele-conference on March 7, 2022, to consider the application. Approximately five members of the public attended in-person and sixteen members of the public attended via electronic participation.

Members of the public asked questions and raised concerns regarding environmental impacts of the marina infrastructure and operations on the surrounding marine environment, septic disposal, water consumption, the scale of the existing food service facility in relation to the temporary use permit, and the siting and condition of fuel services for the facility.

Land Use

Schedule 'A' of the Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109, designates the subject property, which is defined by Crown Lease #927321, as Marine Protection (M). The Marine Protection designation does not support log booming operations, and is silent on other maritime uses. The subject property is currently zoned Marine (M) under Schedule 'B' of Bylaw No. 3109, which only permits private boat docks.

The proposed uses in the Commercial Marina (CM-1) zone include commercial marina, community use services such as government services, food service establishments and retail establishments. These uses are currently authorized under Temporary Use Permit TP000008. The Permit will expire on July 24, 2022, and there is no option to renew the permit for another term.

Construction of the breakwater and dock facilities was approved by the Province through the issuance of the original Licence of Occupation. At that time, the Province required detailed environmental assessments that led to the present location and configuration of the breakwater structures. The marina provides a year-round safe harbour and plays an important economic role for the surrounding community.

Construction of a picnic shelter and the siting of portable washrooms and marina office were permitted under the existing temporary use permit. Modifications to the picnic shelter have been made without a building permit and are to be brought into compliance with the *BC Building Code* in accordance with comments from CRD Building Inspection and Protective Services. The applicant wishes to keep the existing structure and has agreed to provide building inspection staff with a code analysis, detailing any requirements for bringing them into compliance. However, in order to issue building permits, the use must first be permitted under the land use bylaw.

The lease area is currently located outside the Port Renfrew Fire Protection Local Service Area. Inclusion of the parcel in the service area requires a service area bylaw amendment, which would be subject to confirmation from Protective Services that hazards have been identified and that the required resources can be put in place to provide service to the area. The process to review and amend the service area bylaw is currently underway in consultation with the applicant.

CRD staff have had several conversations with representatives of Pacheedaht First Nation regarding the proposal to rezone the marina lease area. Pacheedaht have expressed ongoing concern regarding environmental conditions associated with marina operations and with the location of the marina breakwater structures. Approval of the breakwater location was the subject of the Provincial lease application process and any concerns related to the marine environment are the jurisdiction of the federal and provincial governments.

Pacheedaht expressed additional concern regarding the status of buildings associated with the marina operation and with the impact of the marina on adjacent sea caves that hold significant cultural and archaeological importance to the Nation. This includes potential impact to the cave feature at registered archaeological site DdSc-24, also known as Cave 3. A second cave (Cave 2) is located in close proximity to registered archaeological site DdSc-24. Cave 2 is considered to have high archaeological potential and is of significant importance to Pacheedaht.

CRD staff and Pacheedaht representatives have discussed the option of including a new Heritage Conservation (HC) zone to cover an area of foreshore fill to the north of the caves (Appendix D). The intent of the Heritage Conservation zone is to protect Caves 2 and 3, and to provide access to Cave 3 by Pacheedaht for cultural purposes. Proposed permitted uses are limited to *heritage conservation*, which is defined as, "the conservation of lands that have been identified as an area requiring protection or access for cultural or heritage purposes." At this time, Pacheedaht have not provided formal support for this proposal; however, the application of such a zone is the only means available to the CRD to provide additional protection to the lease area, which is otherwise regulated by the Province.

With regards to environmental impacts of the marina infrastructure and operations, FLNR staff confirmed that an extensive review was conducted during the lease application process, and that concerns related to current impacts should be brought to the attention of the Resource Manager for investigation and action by the Province.

Based on the information provided by the applicant, referral comments received and confirmation from FLNR that it has issued the lease for commercial marina purposes having considered potential environmental and archaeological impacts, staff recommend receipt of referral comments, that proposed Bylaw No. 4473 be read a first and second time, and that a public hearing with respect to the bylaw be held.

CONCLUSION

The purpose of this zoning bylaw amendment application is to rezone the subject property in Port Renfrew from Marine (M) to a new Commercial Marina (CM-1) zone for the purposes of permitting a commercial marina, community use services, food service establishments and retail establishments upon the expiry of Temporary Use Permit TP000008. In addition to the application of the new CM-1 zone, staff recommend that a new Heritage Conservation (HC) zone be applied to the fill area between two sea caves and the natural boundary of the sea within the lease area to address concerns expressed by Pacheedaht First Nation representatives regarding protection of the caves and ongoing access to them. Staff have prepared proposed Bylaw No. 4473 and recommend receipt of referral comments, first and second reading, and advancement to public hearing.

RECOMMENDATION

Alternative 1

The Land Use Committee recommends to the Capital Regional District (CRD) Board:

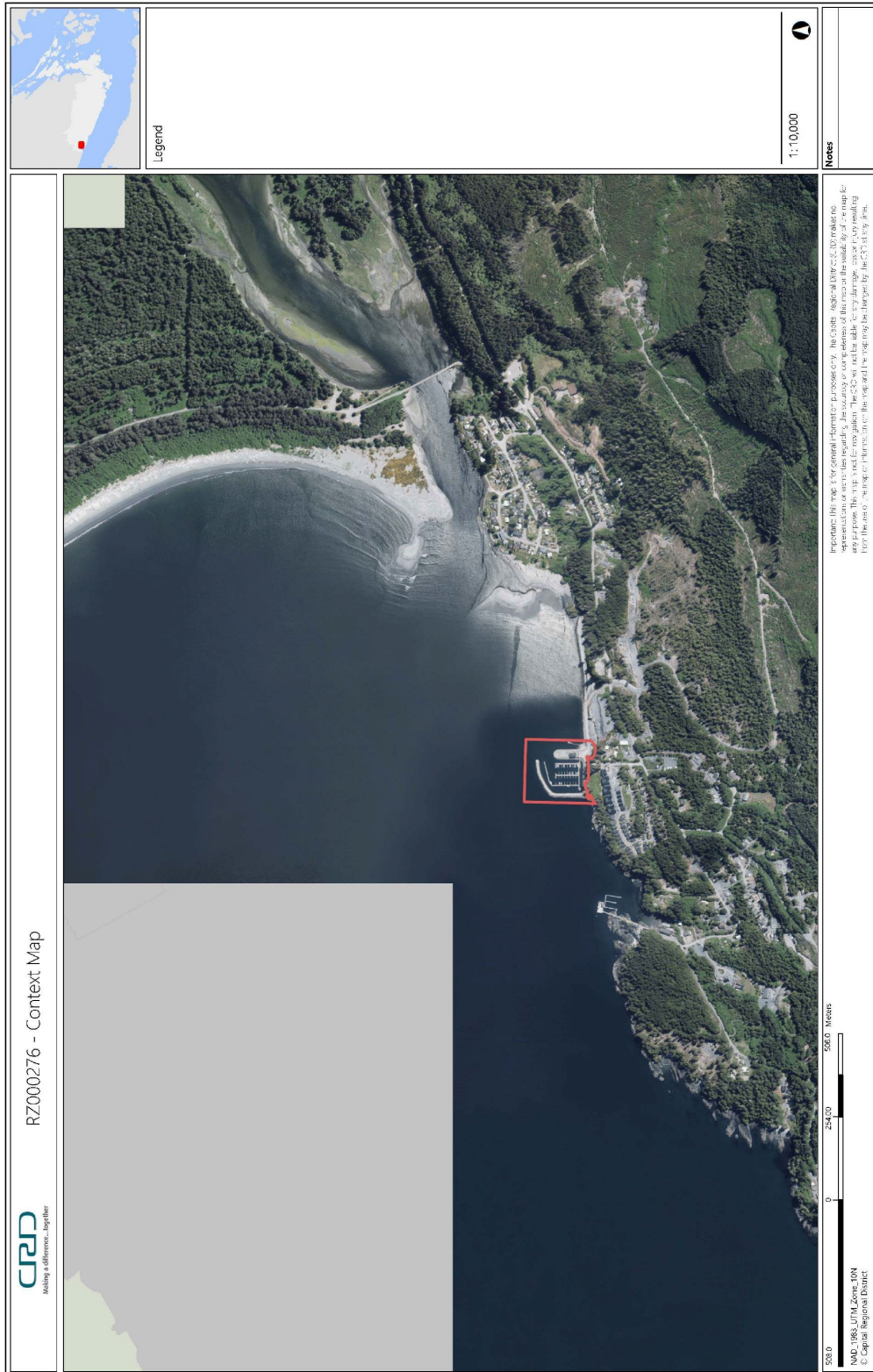
1. That the referral of proposed Bylaw No. 4473, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022”, to Public Information Meeting, CRD departments, BC Hydro, Cowichan Valley Regional District, Department of Fisheries and Oceans, Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR), FLNR - Archaeology Branch, Island Health, Ministry of Transportation & Infrastructure, Pacheedaht First Nation, RCMP, and Sooke School District #62 be approved and the comments received.
2. That proposed Bylaw No. 4473 be introduced and read a first time and read a second time; and;
3. That in accordance with the provisions of section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4473.

Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, RPP, MCIP, Chief Administrative Officer

ATTACHMENTS

- Appendix A: Context Map
- Appendix B: Subject Property Map
- Appendix C: Current Zoning – Marine (M) Zone
- Appendix D: Proposed Bylaw No. 4473
- Appendix E: Referral Comments

Appendix A: Context Map



Appendix C: Current Zoning – Marine Zone

Schedule "B" of
Capital Regional District Bylaw No. 3109

SECTION 27 M (Marine) Zone

Permitted Uses

1. The following uses and no others are permitted in this zone:
 - a) Private boat docks.

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4473**

**A BYLAW TO AMEND BYLAW NO. 3109,
THE "COMPREHENSIVE COMMUNITY PLAN FOR PORT RENFREW, BYLAW NO. 1, 2003"**

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

1. Bylaw No. 3109 being the "Comprehensive Community Plan for Port Renfrew, Bylaw No. 1, 2003" is hereby amended:

A. SCHEDULE B, PART 1, SECTION 1 DEFINITIONS

- a) By adding a new definition for "COMMERCIAL MARINA" before the words "COMMUNITY SEWAGE SYSTEM" as follows:

COMMERCIAL MARINA means a facility providing moorage for commercial vessels and private pleasure craft, as well as offices, fuel sales, boat trailer parking and boat storage.

- b) By adding a new definition for "HERITAGE CONSERVATION" before the words "HOME BASED BUSINESS" as follows:

HERITAGE CONSERVATION means the conservation of lands that have been identified as an area requiring protection or access for cultural or heritage purposes.

B. SCHEDULE B, PART IV – ZONES

- a) By inserting a new "CM-1 (Commercial Marina)" zone, after Section 27, to be read as follows:

SECTION 27A CM-1 (Commercial Marina) Zone

Permitted Uses

1. The following uses and no others are permitted in this zone:
 - a) Commercial marina;
 - b) Community use services;
 - c) Food service establishments;
 - d) Retail establishments.
2. The following accessory uses and buildings are permitted in this zone:
 - a) Any buildings or structures accessory to any of the above listed uses.

Regulations

3. On a parcel of land located in this zone:

Height

 - a) No principal building or structure shall exceed 9.75 metres in height.
 - b) No accessory building or structure shall exceed 6 metres in height.
- b) By inserting a new "HC (Heritage Conservation)" zone, after Section 27, to be read as follows:

SECTION 28 HC (Heritage Conservation) Zone

CRD Bylaw No. 4473

2

Purpose

The intent of this zone is to protect archaeologically and culturally significant features and access to those features.

Permitted Uses

1. The following uses and no others are permitted in this zone:
 - a) Heritage conservation

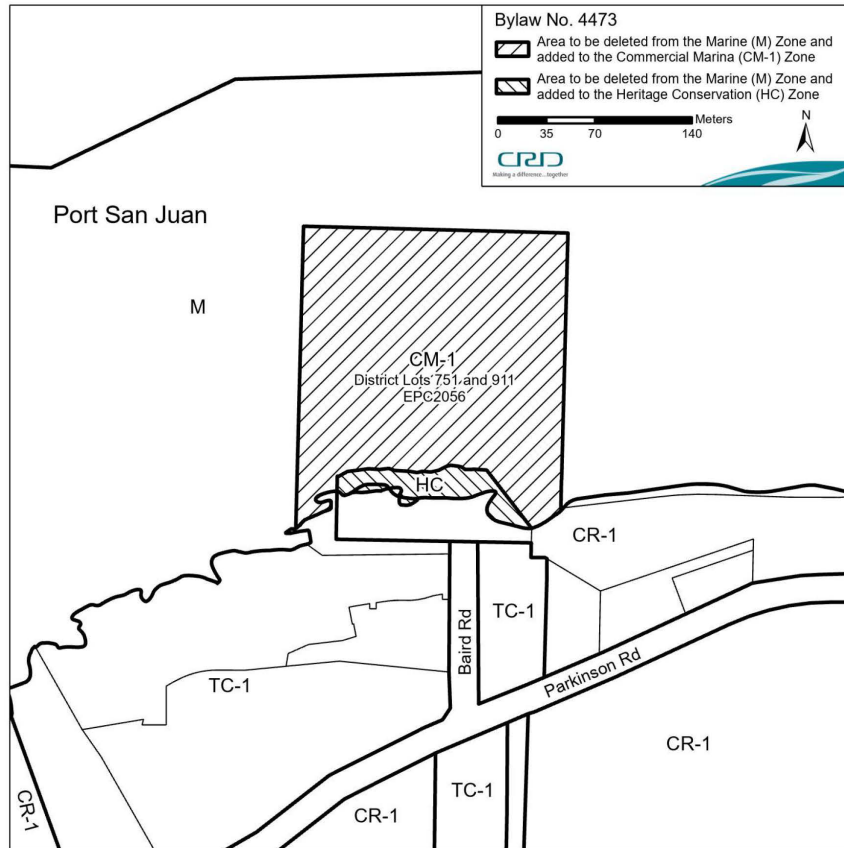
C. SCHEDULE B, MAP NO. 3 – ZONING

- a) By deleting Blocks D and E, District Lots 751 and 911, Renfrew District, Plan EPC2056, Lease #927321, from the Marine (M) zone and adding said Lease area to the CM-1 (Commercial Marina) and HC (Heritage Conservation) zones, as shown on Plan No. 1, attached to and forming part of this bylaw.

CRD Bylaw No. 4473

3

Plan No. 1 of Bylaw 4473, an amendment to Bylaw No. 3109



2. This bylaw may be cited as Bylaw No. 4473, “Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 1, 2003, Amendment Bylaw No. 14, 2022”.

READ A FIRST TIME	THIS	___	DAY OF	_____	2022
READ A SECOND TIME	THIS	___	DAY OF	_____	2022
READ A THIRD TIME	THIS	___	DAY OF	_____	2022
ADOPTED	THIS	___	DAY OF	_____	2022

 CHAIR

 CORPORATE OFFICER

Appendix E: Referral Comments

From: [Wendy Miller](#)
To: [Wendy Miller](#)
Subject: Comprehensive Community Development Plan Amendment Application RZ000276 - Referral (Crown Lease #927321)
Date: Friday, April 22, 2022 11:42:00 AM

From: Mike Taylor
Sent: Friday, April 08, 2022 4:25 PM
To: Wendy Miller <wmill@crd.bc.ca>; Iain Lawrence <ilawrence@crd.bc.ca>
Subject: RE: Comprehensive Community Development Plan Amendment Application RZ000276 - Referral (Crown Lease #927321)

Hello, Iain and Wendy. I am sorry this is very late. I have reviewed the file and completed a site visit on March 15, 2022. My comments are as follows.

-The only concern for existing buildings, that I am aware of, are for the gazebo on the jetty and the shipping containers converted to washrooms. The open gazebo was approved in 2016 with a building permit, however, it has since been altered to that of a fully enclosed restaurant. This building should be returned to that of an open gazebo or, following completion of rezoning to authorize the use, permit approvals are necessary to allow the alterations. Permit approvals will also be necessary for the shipping containers altered for use as washrooms. Permit applications for these buildings will be required to include the involvement of Registered Professionals.

-There are currently several 219 Covenants addressing geotechnical matters on these sites. Further geotechnical reports and covenants will likely be required to address concerns for flooding, land slippage, erosion, subsidence and possible debris and mud flows.

-Approvals for services to new buildings will, of course, be required prior to the issuance of building permits. This will include water, sewerage and storm water.

-I am aware that fire protection is also being reviewed.

Please let me know, Iain, if additional information is needed at this time.
Thank you.
Mike



TO: Iain Lawrence, Manager, Juan de Fuca Local Area Planning
FROM: Joseph Marr, Manager, Water Distribution Engineering and Planning
CRD FILE: 3360-20-PRENW-22-002
DATE: March 16, 2022
SUBJECT: COMPREHENSIVE COMMUNITY DEVELOPMENT PLAN AMENDMENT APPLICATION FOR BLOCKS D AND E, DISTRICT LOTS 751 AND 911, RENFREW DISTRICT, PLAN EPC2056 (CROWN LEASE #927321)

Thank you for your Comprehensive Community Development Plan Amendment received February 16, 2022, which requests that we examine the above referenced proposal with regard to the water supply regulations and policies of the Capital Regional District (CRD) Integrated Water Services as established for the Port Renfrew Utility Service Committee (PRUSC).

Community piped water can be supplied to this property by the CRD.

The CRD will require the following:

- 1) The Owner(s) shall provide a water service application and a development site plan indicating any existing and proposed buildings.
- 2) The Owner(s) provide engineering design drawings for the development showing proposed water servicing and hydrant locations, associated design brief, and confirms domestic and fire flows and pressures.
- 3) The Owner(s) comply with all other relevant bylaws and applicable codes for servicing (CRD land use approvals, Building code, MOTI etc.).
- 4) A Single Family Equivalent (SFE) value for the property shall also be calculated and provided to the CRD for review. There is a currently a limit on the property of 13 SFE's by agreement.
- 5) A new water meter shall be installed at the cost of the owner and monitored to confirm SFE's.
- 6) The Owner(s) pays all applicable connection fees, including parcel taxes and user fees as required.

This memo is for the purpose of providing you with information regarding services available from CRDIWS, and should not be construed as either approval or rejection of the proposed zoning amendment application.

IWSS-1714139953-4716

Mr. Iain Lawrence – March 16, 2022

Comprehensive Community Development Plan Amendment – Crown Lease 927321 2

These conditions are valid for 180 days from date of writing. However, if at any time there is a change in legislation, regulations or CRD Bylaws, which would cause any of the above conditions to be non-conforming, then the CRD reserves the right to revise any or all of the conditions accordingly, at any time during the 180 day period.

Yours truly,



Joseph Marr, P.Eng.
Manager, Water Distribution Engineering and Planning
Infrastructure Engineering
Integrated Water Services

Jm:eu

cc: Ian Jesney, Senior Manager, Infrastructure Engineering

IWSS-1714139953-4716

From: [Jonathan Reimer](#)
To: [Wendy Miller](#)
Cc: [Chris Vrael](#); wtoulmin@telus.net; [Jain Lawrence](#); [Shawn Carby](#)
Subject: RE: Comprehensive Community Development Plan Amendment Application RZ000276 - Referral (Marina/Crown Lease - Port Renfrew)
Date: Friday, March 25, 2022 9:26:32 AM

Protective Services recommends that rezoning bylaw be held at third reading until a Fire Service Area amendment process is substantially complete, as verified by Manager, Electoral Area Fire and Emergency Programs. This Fire Service Area amendment process will evaluate code compliance, infrastructure improvements, and fire department capacity.

Jonathan Reimer
Manager, Electoral Area Fire and Emergency Programs
Protective Services | Capital Regional District
625 Fisgard St, Victoria BC V8W 2S6
T: 250-360-3137 | C: 250-415-1695

For emergencies, contact the CRD Duty Officer at 250-360-3223 or ecoreports@crd.bc.ca

From: Wendy Miller
Sent: Wednesday, February 16, 2022 2:49 PM
To: Jonathan Reimer <jreimer@crd.bc.ca>
Cc: Chris Vrael <CVrael@crd.bc.ca>; wtoulmin@telus.net
Subject: Comprehensive Community Development Plan Amendment Application RZ000276 - Referral (Marina/Crown Lease - Port Renfrew)

Good Afternoon,

At its meeting of February 15, 2022, the Juan de Fuca Land Use Committee (LUC) directed referral of proposed Bylaw No. 4473.

Proposed Bylaw No. 4473 would rezone the subject property in Port Renfrew from the Marine (M) zone to a new Commercial Marine (CM-1) zone for the purpose of permitting a commercial marina, community use services, food service establishments and retail establishments.

I attach the staff report considered by the LUC at its February meeting.

Referral comments are summarized in the staff report to the LUC; the actual comments received are inserted verbatim into the staff report as an appendix.

Comment is requested by March 17, 2022.

Thank you,

Wendy Miller
Administrative Clerk | JDF Community Planning | **250.642.8100**
JDF Local Area Services Building | Capital Regional District
3 – 7450 Butler Road, Sooke, BC V9Z 1N1

From: [FPP,PAC,Enquiries / Renseignements,PPP,PAC \(DFO/MPO\)](#)
To: [Wendy Miller](#)
Subject: FFHPP Response: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew)
Date: Wednesday, February 16, 2022 3:58:49 PM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hi Wendy,

Thank you for contacting the Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO) regarding the above headlined Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew).

The conservation and protection of Canada's marine and freshwater resources is a top priority for Fisheries and Oceans Canada (DFO). DFO's [Fish and Fish Habitat Protection Program](#) (FFHPP) helps conserve and protect fish and fish habitat and restore fish habitat for future generations. The FFHPP administers and ensures compliance for development projects taking place in and around fish habitat, under the *Fisheries Act* and relevant provisions of the *Species at Risk Act*.

DFO's FFHPP is not providing detailed comments on the Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew). However, DFO recommends that land use planning processes consider establishing clear environmental conservation and protection objectives that are reflected in designation of environmentally sensitive areas, setback requirements, stormwater retention/detention requirements, land use restrictions and bylaws (e.g., tree removal). Protection of freshwater and marine resources provides long-term benefits to fish and fish habitat, as well as to the public, by regulating water quality and quantity, providing for stream channel and foreshore stability, and increasing resiliency to climate change impacts.

If you have any further questions about DFO's role in municipal planning processes, please feel free to direct future enquiries to EnquiriesPacific@DFO-mpo.gc.ca.

I hope that the information I have provided is helpful and thank you for the opportunity to provide input.

Kindly,

Stephen Tessovitch (he/him)
Referrals and Client Services Coordinator
Regional Coordination
Fish & Fish Habitat Protection Program
Ecosystems Management Branch
Fisheries and Oceans Canada...><(((o>
E-mail: Xpac.EnquiriesPacific@dfo-mpo.gc.ca

From: Wendy Miller <wmiller@crd.bc.ca>
Sent: Wednesday, February 16, 2022 2:58 PM
To: PAC FPP / PPP PAC (DFO/MPO) <DFO.PACFPP-PPPPAC.MPO@dfo-mpo.gc.ca>
Subject: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD

From: [Cooper, Diana FLNR:EX](#)
To: [Wendy Miller](#)
Subject: RE: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew)
Date: Thursday, March 10, 2022 8:20:14 AM
Attachments: [image002.png](#)
[image003.png](#)

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hello Wendy,

Thank you for your referral regarding Proposed Bylaw No. 4473, which would rezone Blocks D and E, District Lots 751 and 911, Renfrew District Plan EPC2056 (Crown Lease #927321) in Port Renfrew from the Marine (M) zone to a new Commercial Marine (CM-1) zone for the purpose of permitting a commercial marina, community use services, food service establishments and retail establishments. Please review the screenshot of the area below (outlined in yellow) and notify me immediately if it does not represent the area listed in your information request.

Results of Provincial Archaeological Inventory Search

According to Provincial records, previously recorded archaeological site **DdSc-24** is located on the foreshore area (see screenshot below).

Given the subsurface nature of most archaeological deposits, boundaries of archaeological sites are difficult to determine without subsurface testing. Therefore, any mapped boundaries are approximate, and it is possible that the site is more or less extensive than currently mapped.

The waterfront/water location of the area proposed for rezoning also increases the potential for unknown/unrecorded archaeological deposits to exist in this area.

Archaeology Branch Advice

DdSc-24 is recorded as a cave burial. The site is protected under the *Heritage Conservation Act* (HCA) and must not be damaged or altered without a Provincial heritage permit issued by the Archaeology Branch.

If land-altering activities are planned in the vicinity of the protected archaeological site (red area shown in the screenshot below), a Provincial heritage permit is required. Permit applications are available on the [Archaeology Branch website](#). Completing a permit application usually requires archaeological expertise, and an archaeological impact assessment (AIA) may be required before a permit can be issued. Most applicants will therefore engage an eligible consulting archaeologist to review proposed activities, verify archaeological records, and work with the Archaeology Branch on the applicant's behalf to identify permit requirements, prepare permit application(s), and conduct any required archaeological study.

If land-altering activities are planned outside of the archaeological site (red area shown in the

screenshot below), a Provincial heritage permit may not be required prior to commencement of those activities. However, there is high potential for other unidentified archaeological sites to exist within the proposed development area, and a Provincial heritage permit will be required if archaeological deposits are exposed and/or impacted during land-altering activities.

Unpermitted damage or alteration of a protected archaeological site is a contravention of the HCA and requires that land-altering activities be halted until the contravention has been investigated and permit requirements have been established. This can result in significant project delays.

Therefore, the Archaeology Branch strongly recommends engaging an eligible consulting archaeologist prior to any land-altering activities. The archaeologist will review the proposed activities, verify archaeological records, and possibly conduct a walk-over and/or an archaeological impact assessment (AIA) of the project area to determine whether the proposed activities are likely to damage or alter any unrecorded portions of the protected archaeological site, or other unidentified archaeological deposits.

Please notify all individuals involved in land-altering activities (e.g., owners, developers, equipment operators) that if archaeological material is encountered during development, they **must stop all activities immediately** and contact the Archaeology Branch for direction at 250-953-3334.

If there are no plans for land altering activities on the property, no action is required at this time.

Rationale and Supplemental Information

- A protected archaeological site is located within the proposed development area, and there is high potential for previously unidentified portions of the site or for other unknown/unrecorded archaeological deposits to extend to other parts of the development area.
- Archaeological sites are protected under the *Heritage Conservation Act* and must not be damaged or altered without a Provincial heritage permit issued by the Archaeology Branch. This protection applies even when archaeological sites are previously unidentified or disturbed.
- If a permit is required, be advised that the permit application and issuance process takes approximately 8-12 weeks; the permit application process includes referral to First Nations and subsequent engagement.
- The Archaeology Branch must consider numerous factors (e.g., proposed activities and potential impacts to the archaeological site[s]) when determining whether to issue a permit and under what terms and conditions.
- The Archaeology Branch has the authority to require a person to obtain an archaeological impact assessment, at the person's expense, in certain circumstances, as set out in the *Heritage Conservation Act*.
- Occupying an existing dwelling or building without any land alteration does not require a Provincial heritage permit.

How to Find an Eligible Consulting Archaeologist

An eligible consulting archaeologist is one who can hold a Provincial heritage permit to conduct archaeological studies. To verify an archaeologist's eligibility, ask an archaeologist if he or she can hold a permit in your area, or contact the Archaeology Branch (250-953-3334) to verify an archaeologist's eligibility. Consulting archaeologists are listed on the BC Association of Professional

Archaeologists website (www.bcaba.ca) and in local directories.

Questions?

For questions about the archaeological permitting and assessment process, please contact the Archaeology Branch at 250-953-3334 or archaeology@gov.bc.ca.

For more general information, visit the Archaeology Branch website at www.gov.bc.ca/archaeology.

Kind regards,

A handwritten signature in cursive script that reads "Diana".

Please note that subject lot boundaries (yellow) and archaeological site boundaries (red) indicated on the enclosed screenshot are based on information obtained by the Archaeology Branch on the date of this communication and may be subject to error or change. Archaeological site boundaries may not be identical to actual site extent.

Diana Cooper
Archaeologist/Archaeological Information Administrator
Archaeology Branch | Ministry of Forests, Lands, Natural Resource Operations and Rural Development
Phone: [250-953-3343](tel:250-953-3343) | Email: diana.cooper@gov.bc.ca | Website www.gov.bc.ca/archaeology

From: Wendy Miller <wmillers@crd.bc.ca>
Sent: February 16, 2022 2:38 PM
To: Roden, Jacqueline FLNR:EX <Jacqueline.Roden@gov.bc.ca>; Arch Data Request FLNR:EX <ArchDataRequest@gov.bc.ca>; Harvey, Mark FLNR:EX <Mark.Harvey@gov.bc.ca>; South Island District Office, Forests FLNR:EX <Forests.SouthIslandDistrictOffice@gov.bc.ca>
Subject: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew)

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good Afternoon,

Please find attached a referral form and staff report with proposed Bylaw No. 4473 for zoning amendment application RZ000276.

Proposed Bylaw No. 4473 would rezone the subject property in Port Renfrew from the Marine (M) zone to a new Commercial Marine (CM-1) zone for the purpose of permitting a commercial marina, community use services, food service establishments and retail establishments.

As noted in the staff report, we are requesting comment from:

FLNRORD – Arch Branch
FLNRORD – Crown Lands
FLNRORD – Rural Development
MOE - Environmental Protection and Sustainability

Comment is requested by March 17, 2022,

RESPONSE SUMMARY – REZONING APPLICATION RZ000276

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

The affect is positive in nature. The rezoning will align with the Provinces issuance of the lease for Commercial A Marina (Land File 0122104, Disposition Transaction ID 927321). No Further

Comments.



Digitally signed by Jesse
Hopps
Date: 2022.03.10 11:14:33
-08'00'

Signed

Sr. Authorization Specialist

Title

FLNR - Ministry of Forests, Lands, Natural
Resource Operations and Rural Development

Date

Agency



Our file: 2022-01135
Your file: RZ000276
Date: March 3, 2022

Juan de Fuca Planning
3-7450 Butler Road
Sooke, BC V9Z 1N1

Attn: Ian Lawrence, Manager

The Ministry of Transportation and Infrastructure has received and reviewed your referral of February 16, 2022, to rezone the subject property (Blocks D and E, District Lots 751 and 911, Renfrew District, Plan EPC2056 (Crown Lease #927321)) from Marine (M) to a new Commercial Marina (CM-1) zone in order to permit a commercial marina, community use services, food service establishments and retail establishments. The property does not fall within Section 52 of the Transportation Act and will not require Ministry of Transportation and Infrastructure formal approval.

The Ministry has the following comments at this time:

1. As per Section 62 of the Transportation Act, the applicant is required to apply to the Ministry of Transportation and Infrastructure for a 'Commercial Access' permit.

Permits can be applied for online here:

<https://www2.gov.bc.ca/gov/content/transportation/funding-engagement-permits/permits>

Thank you for the opportunity to comment. If you or the proponent has any questions, please contact Jennifer Dyer at 778-576-1109.

Sincerely,

Jennifer Dyer
Development Services Officer
Vancouver Island District – Saanich

Ministry of
Transportation and
Infrastructure

Vancouver Island District

Mailing Address:
District Office Address:
2100 Labieux Road
Nanaimo, BC V1J 6M7

Area Office Locations:
4460 Chatterton Way
Saanich, BC V8X 5J2

From: [Shaw, Kevin](#)
To: [Wendy Miller](#)
Subject: RE: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew)
Date: Wednesday, February 16, 2022 6:21:08 PM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hi Wendy.
The RCMP has no position on this application.

Kevin.

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Wendy Miller <wmiller@crd.bc.ca>
Date: 2022-02-16 3:46 p.m. (GMT-08:00)
To: "Shaw, Kevin" <Kevin.R.Shaw@rcmp-grc.gc.ca>
Subject: FW: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew)

Hello,

I forward at Brett Sinden's request.

Thank you,

Wendy

From: Wendy Miller
Sent: Wednesday, February 16, 2022 2:32 PM
To: 'brett.sinden@rcmp-grc.gc.ca' <brett.sinden@rcmp-grc.gc.ca>
Subject: Comprehensive Community Development Plan Amendment Application RZ000276 - CRD Referral (Marina/Crown Lease - Port Renfrew)

Good Afternoon,

Please find attached a referral form and staff report with proposed Bylaw No. 4473 for zoning amendment application RZ000276.

Proposed Bylaw No. 4473 would rezone the subject property in Port Renfrew from the Marine (M) zone to a new Commercial Marine (CM-1) zone for the purpose of permitting a commercial marina, community use services, food service establishments and retail establishments.



**Notes from a Public Information Meeting
Held March 7, 2022 at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC**

SUBJECT: Comprehensive Community Development Plan Amendment Application for Blocks D and E, District Lots 751 and 911, Renfrew District, Plan EPC2056 (Crown Lease #927321)

PRESENT: Director Mike Hicks
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services (EP);
Wendy Miller, Recorder

EP – Electronic Participation

PUBLIC: Approximately 16 EP; 5 in-person

The meeting was called to order at 6:00 pm.

Director Hicks thanked everyone for coming and advised that public information meetings are normally overseen by staff and that he will be leaving this meeting at 6:30 pm to attend another meeting.

Director Hicks turned the meeting over to Iain Lawrence.

Iain Lawrence provided a Territorial Acknowledgment and advised that the Juan de Fuca Land Use Committee (LUC) directed referral of the application to a public information meeting at its meeting of February 15, 2022.

Iain Lawrence highlighted the subject property and advised that:

- the subject property was granted status as a Licence of Occupation area by the Province on February 25, 2016
- the Province has recently transferred the Licence of Occupation to a Crown Lease for the subject property
- as part of the environmental review during the Licence approval process, the original marina site was shifted to the west side of the existing breakwater

Iain Lawrence highlighted the marina site plan and outlined the uses permitted by Temporary Use Permit TP000008, which expires on July 24, 2022.

Iain Lawrence outlined Bylaw No. 4473, which would create the proposed new CM-1 zone, and advised that three submissions were received in response to the notice of public information meeting. The submissions include comments regarding temporary use building permits, public process, environmental impact, fire protection, water provision, and fuel storage. The submissions will be included in a staff report when the proposal is considered next by the LUC.

Iain Lawrence reported that:

- a building permit was issued for a picnic shelter
- the food truck has received a permit from Island Health
- a liquor license has been issued by the provincial Liquor and Cannabis Regulation Branch
- the marina is now located within the Port Renfrew water service area

PPSS-35010459-2075

Public Information Meeting Notes
March 7, 2022

2

- the applicant has applied to be included in the Port Renfrew fire protection service area
- the proposal has been referred to CRD Protective Services and to the Port Renfrew Fire Chief for review

Iain Lawrence confirmed that the application representatives were present.

Director Hicks stated:

- the applicant was required to provide a water tower prior to the property being included in the water service area
- the water tower has been provided and will add capacity to the fire protection area
- the marina area will be serviced by a hydrant

Iain Lawrence responded to a question from the public confirming that the CM-1 zone would permit Community Use Services as defined by Bylaw No. 3109. Iain Lawrence read aloud the definition. Proposals for community use services requested by the public would need to be directed to the property owner.

A representative responded to a question from the public advising that public facilities, such as washrooms, are open during business hours.

Sienna Hamilton, Port Renfrew, requested comment on the:

- environmental assessment referenced in the staff report for the proposal
- assessment's findings relative to San Juan River and sediment flow
- assessment's findings relative to eel grass

Iain Lawrence reported that the Province required the assessment in 2016 as part of its process of issuing the Licence of Occupation in an area of its jurisdiction.

A representative added that the assessment was required as part of the management plan submission to the Ministry of Forests, Lands and Natural Resource Operations and Rural Development. The management plan included an independent environmental impact assessment, as well as an archeological review. The management plan was referred out by the Province to various government bodies including the Department of Fisheries and Oceans.

Iain Lawrence stated that questions related to San Juan River and eel grass habitat should be directed to the Province as the authority that issued the Licence of Occupation.

Clayton Barbon, Port Renfrew, requested comment on sewage treatment.

The representatives stated that:

- sewage treatment is being considered on a different property located adjacent the marina site
- sewage treatment would add to the overall capacity for the community
- holding tanks are currently used to collect grey/black water in the interim
- water consumption has been reduced by not permitting showers although shower facilities exist at the marina
- the food service uses disposal items to further reduce water consumption

Iain Lawrence stated that a rezoning application has not been received the referenced adjacent property.

**Public Information Meeting Notes
March 7, 2022**

3

Janice Hiles, Port Renfrew:

- the temporary use permit permitted a picnic shelter and food truck
- food service/structures have exceeded the scale permitted by the temporary use permit
- Bylaw No. 4266 was adopted and establishes environmental protection areas
- questioned if Bylaw No. 4266 affects structures constructed before the adoption of Bylaw No. 4266
- existing structures include a fuel tank
- should the proposed zoning be approved, permanent status would be granted without sewer, water or fire protection

Iain Lawrence stated that:

- new structures for proposed permitted uses would require building permits, as would any changes to existing buildings and structures that have been altered beyond what was approved in a building permit
- sewerage would be addressed through the building permit process
- Bylaw No. 4266 would not affect structures constructed before the adoption of the bylaw
- Bylaw No. 4266 establishes a Shoreline Protection Development Permit Area and includes all land lying 15 m upland of the natural boundary of the ocean
- alteration/construction within that DPA can require environmental and/or geotechnical assessment
- the Province regulates fuel tanks

Director Hicks left the meeting at 6:30 pm.

The representatives stated that:

- the Province also has environmental protection requirements
- at the time of construction, existing structures met flood construction levels
- the fuel tank is double-walled to capture any potential leaks
- mitigating technology is in place to control fuel release from the tank

Iain Lawrence reported that the proposal will be considered next at a meeting of the LUC. To receive notice of that meeting, interest can be emailed to jdfinfo@crd.bc.ca. There is also opportunity to subscribe on the CRD website to receive notice of when an LUC agenda is posted to the web.

The meeting adjourned at 6:32 pm.

Public Information Meeting Notes
March 7, 2022

4

From: [Lynne](#)
To: [Wendy Miller](#)
Subject: RZ000276 Plan EPC2056 Port Renfrew comments and questions
Date: Friday, March 04, 2022 2:56:02 PM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Onsite Parking

Restaurant : 1 stall for every 3 seats is required in our OCP. In addition parking for 60 boat slips, boat trailers, retail customers and staff is required. Where will these be located in the CM-1 zone proposed?

Water and Septic

Where is the VIHA approved septic system for the Marina located now and what upgrades are needed for additional buildings? In 2018 the system was for 3-5 years of development.

When will the Marina be required to legally hook up to PR water? Will water be "trucked" in until that is completed? Will PGM be paying a separate hook up fee for CMI zone? How will the user fee be established with all these proposed additional services?

Public Access

Confirmation as agreed at the last public meeting in 2018 that a public trail/ path from Baird staircase to Lot 64 staircase remain open to public. The staircase off Baird has been closed and needs repairs.

Signage and adequate barrier is needed to restrict unauthorized motor vehicle access from PGM to frontage road in Lower Beach camp.

What plans are in place for additional refuse at our transfer station.

Who is responsible if there is contamination in the bay from the Marina, restaurant & bathrooms?

Will commitments made by PGM be upheld if the Marina is sold or changes names again?

Lynne Conlin

Public Information Meeting Notes
March 7, 2022

5

Janice Hiles

[REDACTED]
[REDACTED]

In regards to the Public information meeting for RZ000276, comprehensive community plan amendment Application.

I would first like to state that the Information in the newspaper states that the purpose of the meeting is to rezone, to permit a commercial marina. Mike Hicks has stated on line that the application is for the marina, restaurant and fuel supply only.

So let's first be clear neither of these statements is entirely true.

The rezone allows:

- A) a commercial marina
- B) community use services
- C) food service establishments
- D) retail establishments
- E) Any buildings or structures accessory to any of the listed uses.

I would like to bring forward these inconsistencies before I begin.

I have many concerns with changing the temporary permit into a complete permanent rezone.

- 1) Currently this property has no fire coverage. Yet there exists on this proposed piece of property a large fuel storage tank and gas running along the docks to a fueling station. This proposal states that beyond the restaurant, retail establishments could be created and community services, it seems wrong that this can be encouraged when this property is not within the Port Renfrew fire District.
- 2) The area of this rezone is a flood risk and a tsunami risk. I would like to see the CRD emergency Managements response to this concern. Once again there is a large fuel tank in this risk zone.
- 3) There has been reference to a very outdated Marine protection area based on our very outdated Bylaw 3109(the OCP). No reference has been given to bylaw 4266 and the marine protection it brings in. This bylaw was adopted in September of 2019 I do not understand why the rezone does not have to abide by these new environmental regulations.
- 4) The marina area currently has only a temporary sewage removal system. You are proposing the possibility of more buildings and businesses but have supplied no permanent sewage disposal.
- 5) The access to this marina is very steep and has little or no barriers stopping someone from going into the ocean it seems wrong to expand uses before safe access is looked at.
- 6) Although this parcel has been accepted into the Port Renfrew water district I do not believe at this time that it is hooked up properly.

PPSS-35010459-2684

Public Information Meeting Notes
March 7, 2022

6

- 7) Although I see that expanded use of this property is proposed I do not see any allocation for housing for staff. As there is currently no available housing in Renfrew I question how staff would be available for the possible increased uses of this property.
- 8) Each time Port Renfrew expands more pressure is put on the one way bridges through town. I think MOTI needs to look at overall traffic.

I understand that there is pressure to push this rezone forward because the current Temporary Permit is running out.

I know that this restaurant that originally started as a food truck with a picnic table cover has expanded and expanded all while having only a temporary permit. It is a full scale licensed restaurant now. Just because over the last 12 years they have created and changed this property as they saw fit does not mean it has to be accepted as is. The concept of build it and beg forgiveness later is not necessarily what is best for this or any community.

In breaking out this portion of a rezone we are not looking at the overall impact the complete rezone will have on the community. We are not able to consider drainage, sewer, traffic congestion, road safety, and amenities to the community.

This rezone could leave us with property commercially zoned without proper services.

I understand the breakwater and docks were created with permits I do not believe the restaurant was.

I think it is incorrect to push this rezone through as a separate rezone from the complete package.

Janice Hiles

March 4th 2022

Public Information Meeting Notes
March 7, 2022

7

From: [REDACTED]
To: Wendy Miller
Cc: [REDACTED]
Subject: Pacific gateway marina re-zoning application meeting
Date: Monday, March 07, 2022 3:37:46 AM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Good evening
To JDF director Mike Hicks
Wendy Miller JDF recording secretary
Jeff Jones patched aht First Nations chief

First off my apologies as I cannot attend this meeting in person or by teleconference as I'm a shift worker and my work scheduler put me on nightshifts this week.

Please ensure this email is presented and read in its entirety to the rezoning application meeting members March 07/2022

1.1 opening

I'd like to open this letter by stating the following information is not only mine but a group of Port Renfrew residents whom have tasked me to ask questions on their behalf
As you may or may not be aware that in recent days several residents are "peeling back the onion skin" on the Bylaws within the JDF electoral district and information pertaining to port renfrew with a fine tooth comb, and the abundance of bylaw amendment and development applications, so to say and exposing more and more questions as they decipher the multitude of Bylaws and amendments meeting minutes new and old it's is not clearly placed within a single Port Renfrew port folio on the CRD meeting minutes web site. I have to agree, as some documents are placed in the general CRD folder, land use committee folders, Bylaw folders, port renfrew utilities, so on and so forth, it's very difficult to keep track and that's where items of importance are buried, not user friendly

2.1

Another item of importance is the lack of local community meetings, yes covid has put a snarl in the way we meet, but if you can go grocery shopping within any store utilizing covid regulations you can come to port renfrew and have a meetings with local residents.

So this item just popped into my email box was another very important question needs addressing at this meeting it's

Bylaw 4266 - this Bylaw is to basically support and put some serious teeth into the environment and development within the Port Renfrew it is to put some teeth into protecting shoreline areas within the marine protection designation area, riparian areas, and sensitive eco systems, stream and creek identification and protection, etc, etc This Bylaw 4266 was to be implicated into our Bylaw 3109 port renfrew community plan. However this reading and adoption of the Bylaw has somehow been put on the back burner and stove ignored since May of 2019.

It's is pertinent that before any further development permits are issued or pending permits are in place the original date of May 29, 2019 be adopted as the starting point for adoption of Bylaw 4266

3.1 the beginning

So let's begin as to why this information for the re zoning of the Gateway Marina from temporary permit TP000008 to commercial marina is being stated and answers required by residents of Port Renfrew

Port Renfrew has a Bylaw 3109 or the official community plan. An Official Community Plan is a statement of objectives and policies to guide decisions on planning and land use management, within the area of the plan, respecting the purposes of local government And to involve community input on decision making when it comes to

PPSS-35010459-2684

Public Information Meeting Notes
March 7, 2022

8

development

The official community plan was drafted an adoption in only one year, starting in 2003 and comes to adoption in 2004.

To say the least the official community plan is outdated, needs immediate attention and upgrading to reflect the enormous amounts of development ongoing in the plan area.

4.1

So Let's begin:

We will seek questions and requests answers on both Temporary Permits TP000008

2016 -February 25

2019 - July 10

We are talking about District lot 751, 911, plan EPC2056,

5.1

The first TP000008 was issued in February of 2016, that permit basically laid out the playing field and goal posts for the applicant to construct a marina to meet community needs, however the zoning at the time designated it as Marine 1, meaning under our 3109 official community plan - no log sort or booming grounds permits, all other uses were silent as stated in the first TP000008 application

Within the language of the first TP000008 it also referenced various sections of the Local Government Act 492,493,495,496,497 this essentially takes our official community plan 3109 under temporary use permits the the strict regulations within and relaxes those regulations to allow development in an open forum to be freely developed by applicants to a degree

6.1

However there is two items within the first TP000008 that are binding

The first is

3-(g) in default of compliance with any of the provisions within this permit, the permit shall lapse.

The second is

7. This Permit is NOT a building permit

The applicant provided 3 maps, an over view, an closer view, a map with specific small buildings, offices and restrooms, fish processing, food services location and dock facilities

This application for a temporary use permit was approved by the land use committee and the developer got started construction

7.1

However this allowed the fox into the hen house so to say, the applicant was to begin construction of buildings not applicable or permitted in the first TP 000008 issued immediately blasting, backfilling and construction began from a simple 4 post gazebo to the enormous structure as we see it in place today

The applicant had free rein no permits or inspection from the JDF land use committee

For 3 years this grew into an enormous marine area with a large gazebo structure, washroom facilities, offices fish cleaning, food services

It became a thriving business, charter fisherman are abundant in this marina however it was in violation of its zoning regulations as it was to be no more than a private marina under current zoning. Yet it was largely ignored by those who knew of its prior zoning which was private marina and subsequently grew and expanded into what it is today

8.1

The second TP 000008 was issued in July of 2019, as the applicant failed to meet re-zoning requirements and was subject to closure so a second TP 000008 was granted by the Land use committee

However this is we're it gets interesting as pointed out to me, by a concerned resident

The language and subsections and information within differ greatly from the original TP 00008 application from

PPSS-35010459-2684

Public Information Meeting Notes
March 7, 2022

9

2016, to 2019 temporary use applications

9.1

Item 3 (e) stands out first as a new addition

It reads:

3(e) that the mobile food services be operated in accordance to island health requirements for food services facilities, including permits to operate a water system.

Also

3(f) no additional structures or modifications to structures to be constructed on the said lands for use under this permit until such a time as authorized by bylaw.

3-(I) in default of compliance with any provisions of this permit, the permit shall lapse.

7. This permit is NOT a building permit

10.1

So for an over view of where this is going let's review the first TP000008 - 2016,

The applicant shows maps of basic buildings, etc

This permit is the foundation and the playing field with goal posts permanently engraved in stone

11.1

The second extension (2019) TP000008 also too has similar maps, however in the second application the first map clearly shows a large structure which is in non compliance with the original TP 2016, application, the fourth map is the same map as in the first application however there is no reference to specific structures as those structures were never intended to be constructed.

This in short has created great community animosity towards the applicant, the JDF land use board and area directors who sat back blindly and permitted construction of something completely different than in the original application TP 000008 - 2016

This is in reference to item

3.(I) in default of compliance with any provisions of this permit, the permit will lapse.

12.1 other structures

There are other multitude of other structures built within the 2019 application such as offices, retail and a washroom facility with wheelchair access,

These other structures clearly violate item

3(f) that no additional structures or modifications to structures be constructed on the lands for use under this permit, until such a time as authorized under bylaw.

The JDF land use committee knew full well that additional structures were constructed or modified within the 2019 TP extension application and sat back and let the applicant continue business as usual with enacting item:

3(I) in default of compliance with any provisions of this permit, the permit shall lapse

This is another non compliance item

13.1 washroom facilities

Which brings us to the establishment of wash room facilities

Currently onsite is a separate male and female washrooms, these are functional washrooms supplied by water (water from where?) and the waste is discharged into what?

Septic system?

Community sewer?

Holding tank?

It is being asked by community members to Please point out as to which bylaw meeting approved such facilities?

This existing facility is not mentioned in either the 2016, or 2019 TP000008 application or approved in either,

Public Information Meeting Notes
March 7, 2022

10

Therefore it is non conforming with the permit. An falls under item
3(f) no additional structures to be constructed or modified to existing structures
3(I) if default of compliance of the permit, the permit shall lapse

This is another non compliance item

14.1

Bylaw 4442 - expansion of the port renfrew water services area - amendments to bylaw 1747
Furthermore and this is a big item and is very suspect on how it was adopted and carried without any public
consultation or amendments to the official port renfrew community bylaw plan 3901

Bylaw 4442- adopted as recently as December 08/ 2021 .

How this bylaw came to be:

Documents CRD district board meeting July 14 / 2021 -page 07 - subsection 8.2 - 21.535

“In July 14/2021 the CRD district board meeting” Bylaw 4442 was slipped through without proper consultation or
discussion the area JDF Director, moved bylaw 4442, and presented it three times, it was seconded by alternative
area director, it was unanimously passed and referred to the the JDF director for approval
Bylaw 4442 was adopted December 8 2021 and presented to the applicant (gateway marina) to officially join the
newly extended Port Renfrew water supply local services area

The above mentioned information and documentation can be found in CRD district board minutes from July 14,
2021, subsection 8.2, it can be best described as a questionable deal to specifically benefit the advancement of the
applicant and the pending rezoning application as we see it, and will benefit other area developers and that my
friends as described by another port renfrew resident is a bunch of bullshit, and now this has come to light, many
port renfrew residents felt injustice has occurred by our area director within this application
No community consultation, discussion, feedback or a Bylaw amendments included

This Bylaw must be repealed immediately and JDF area director be tasked to why the area director personally
moved the bylaw 4442 for a first, second and third readings all at one time, was seconded by another alternate
director and was was pushed through in alternate channels rather than proper process.
Then this bylaw was sent to the JDF area director for approval then was presented into this application for rezoning
under subsection background information
Pretty questionable ethics

15.1 Pacific gateway marina: water services

Which brings us to water services to the pacific gateway location:

For years and years there has been a unlawful water connection to the port renfrew water services area. This
connection is located at the end of Baird road, and services the gateway marina from the only cabin at the end of that
road, for years the owner of that cabin has been providing free unmetred water which over the course of inception
totals millions of gallons of community water, this is a well known item of contention within the community of port
renfrew.

This unlawful water connection has never been mentioned in either the 2016, or 2019 TP 0000008 applications.

So again

2016 TP000008 is a non compliance

Only recently as December 8 2021 bylaw 4442 adopted to coverup the past unlawful water connection issues with
the pacific gateway application

This is again referred to

2016 -TP application

3(g) in default of compliance with any provisions with this permit, the permit shall lapse

2019 - TP application

3(I) in default of any compliance with any provisions of this permit, the permit shall lapse

PPSS-35010459-2684

Public Information Meeting Notes
March 7, 2022

11

Again a serious non compliance issue with the unlawful supply of water to the pacific gateway marina

16.1 marine protection area

Let's shift focus onto the marine protection area of the official community plan bylaw 3109 port renfrew

4.2 marine protection area

A marine protection area is established 300 meters out into the San Juan harbor in all directions

The only provision currently prohibited is

4.2.1 there shall be no log booms permit to operate in this area

This is the only non permit activity, all other activities are permitted

There is no teeth in this part of the official community plan bylaw 3109

With no teeth or accountability, the applicant applied to the ministry of lands air and water to construction of a break water in water lot 751, that was approved, however significant in filling of the bay by blast rock of the old road leading from little beach to the marina occurred, this was a non compliant item and is outside of the applicants application area.

17.1 Environmental concerns:

It is without a doubt that the creating of the breakwater as it today has altered the marine habitat in the little beach area by preventing the historic tidal flushing, what once not long ago a area in abundance of elk grasses, is now a barren mud flat devoid of most marine life.

Photographs of within TP0000008 application in 2019 show an over view of the breakwater and the bottom of the little Bay Area, only three years later the photograph on the port renfrew Facebook page provided by JDF director clearly shows in only 3 years the significance of infilling of sands and mud
Irreparable harm to the marine ecosystem.

That is why it is essential to adopt immediately Bylaw 4266 -2019 Marine Protection as an amendments to Bylaw 3109 port renfrew official community plan. This would have given teeth to a non compliance with future development permits.

18.1

Patchedah First Nations:

There are identifying burial caves and significant archaeological sites within the applicants plan area, damage has occurred to some locations.

Theses sites are not mentioned in either the 2016 or the 2019 TP0000008 application for development permits,

They are a separate issue and are being discussed with the First Nations outside of this application

The applicant continued blasting after the fact of identifying theses archeological sites.

19.1 Finally in closing:

If an individual or applicant can simply skirt around Ebylaw 3109 the official community plan and sections within the Temporary Use Permits both 2016, 2019 by utilizing the local government act subsections 492,493,495,496,497 without and ignore for the past 6 years the language within those permits creating non compliance in several sections, should the applicant be allowed to proceed with further applications? Should the applicant be permitted to receive the Rezoning as the applicant seeks?

Should the applicant be allowed to proceed when knowing full well the the buildings constructed today are not that of the original acceptance development temporary use plan 2016 ?

Did the JDF land use committee followup with inspections on construction of those buildings?

Should the applicant be allowed to continue to be non compliance with those current structures?

Should the JDF land use committee and area director and members allow the application to progress knowing full well there is non compliance in several areas within both temporary use permits,

Should the JDF land use committee permit the applicant to bylaw 4442 - port renfrew water supply local services which was adopted without consultation with committees and approved fast tracked to appease the applicant and to bury the knowledge of the unauthorized water connection that has served gateway marina for over six years,

PPSS-35010459-2684

Public Information Meeting Notes
March 7, 2022

12

knowing full well this is in contravention creating non compliance?
Should the applicant be permitted to proceed based upon non compliance?

Should the applicant be permitted to have washrooms onsite knowing full well that there is non compliance with new construction TO000008 -2019 septic field, holding tank, community sewer,? were permits approved, did the applicant make amendments to the TP0000008 - 2016 or 2019 for these existing washrooms?
Should the applicant be permitted to proceed based upon non compliance?

20.1

final thoughts

my personal thought is this;

This application for rezoning the gateway marina should be paused.

Why

I'll tell you why, there are significant non compliance issues when dealing with each individual situation.

First off

1. Unauthorized water connection from the cabin at the end of Baird road to the pacific gateway marina, this connection has been known by all parties including community members and is a contentious point to local residents whom pay for their water quarterly and a marina would use significant more water but who pays? Been going on since the inception of the marina and only just recently a greasy bylaw 4442 - acceptance into port renfrew water system local services was adopted without proper procedures, communication of bylaw amendments.

2. Construction of unauthorized buildings, these buildings as we see today are completely different than those that were presented in the 2016 temporary use permit TP0000008 map #3 and what is onsite today, apples to oranges difference.

Was there consultation, permits, JDF land use committee inspections ?

3. Washrooms facilities

The original washrooms were porta potties, this was because there was no water connection for washrooms.

The current washroom structure is significant and is not mentioned in either the 2016 or the 2019 temporary use permit applications, therefore is non compliant

4. Marine protection area

Within bylaw 3019 official community plan

There is a small subsection for marine protection area, the only non use not permitted is the booming if logs

This subsection on marine protection is wide open for interpretation and must be closed up by adopting Bylaw 4266 which will permit a 15 meter wide (from the high tide line and foreshore topography) a buffer strip preventing further damage not only the marine environment but sensitive ecosystems, area streams and creeks

This bylaw has been put on the back burner since 2019 and needs to re-enacted and adopted into bylaw 3109 the official community plan

21.1

So a final thought

Did or has non compliance occur?

And is the JDF land use committee going to stand behind their written and documented compliance regulations within both the 2016 and 2019 temporary use permits as presented TP0000008

Quote

"In default of compliance with any of the provisions within this permit, the permit will lapse

Quote

That no additional structures or modifications to existing structures be constructed on the lands for a use under this permit until such a time as authorized by bylaw

Quote

This permit is NOT a building permit

So were building permits obtained for the structures as we see them today, was their inspections by JDF staff?

Meeting and bylaw amendments or variance as to the scope of the buildings as we see today?

PPSS-35010459-2684

Public Information Meeting Notes
March 7, 2022

13

So with everything presented in this email will it be presented as a whole, not have sections edited, blacked out or removed as to not to include the reader in all subsections.

Will the JDF land use committee and area director of the JDF electoral area stand by their bylaws?

I guess we wait and see if they JDF land use committee stand by their bylaws and language within the temporary use permits or bow to the applicant and the application and the implications of knowing full well the deficiencies as described above are not to be dealt with and the rezoning application is permitted to proceed

The residents of Port Renfrew patiently wait and see

Sincerely
I'm just the messenger

Scott Phillips
Port Renfrew resident and spokesperson for others who contributed to these questions that need to be addressed as a whole