

OTTER POINT ADVISORY PLANNING COMMISSION

Notice of Meeting on Tuesday, **January 22, 2019 at 7 p.m.**

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

AGENDA

1. Elections
2. Approval of Agenda
3. Adoption of Minutes of June 5, 2018
4. Planner's Report
5. Temporary Use Permit Application
 - a) TP000009 - Lot 4, Section 47, Otter District, Plan VIP52344 (7861 Tugwell Road)
6. Proposed Bylaw
 - a) Cannabis Bylaw, Bylaw No. 4278, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018"
7. Rezoning Applications
 - a) RZ000255 - Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096 (7450 Butler Road)
 - b) RZ000257 - Strata Lot 10, Section 16, Otter District, Plan VIS7096 (7450 Butler Road)
8. Adjournment



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**Minutes of a Meeting of the Otter Point Advisory Planning Commission
Held June 5, 2018 at Juan de Fuca Local Area Services Building, 3-7450 Butler Road,
Otter Point, BC**

PRESENT: Al Wickheim (Chair), Bud Gibbons, Anne Miller, Stephen Smith
Staff: Emma Taylor, Planner; Joyce Volek, Recorder
ABSENT: Sid Jorna
PUBLIC: 10

The meeting was called to order at 7:00 p.m.

1. Elections

Staff stated that elections are required for the Advisory Planning Commission as this is the first meeting of the year and the elections process was explained. The call for elections was declared open.

Al Wickheim accepted his nomination by Bud Gibbons for the Chair position of the Commission. As no further nominations were received, Al Wickheim was acclaimed as Chair.

Anne Miller accepted her nomination by Bud Gibbons for the Vice Chair position of the Commission. As no further nominations were received, Anne Miller was acclaimed as Vice Chair.

The Chair welcomed everyone to the meeting and provided a brief overview of the role of the Advisory Planning Commission (APC) noting that the APC is an advisory body to the Juan de Fuca Land Use Committee (LUC). The LUC makes recommendations to the Capital Regional District Board.

2. Approval of the Agenda

MOVED by Bud Gibbons, **SECONDED** by Anne Miller that the agenda be approved.

CARRIED

3. Adoption of the Minutes of September 25, 2017

MOVED by Stephen Smith, **SECONDED** by Anne Miller that the minutes of the meeting of September 25, 2017, be adopted.

CARRIED

4. Planner's Report

Emma Taylor provided an update for the Official Community Plan, East Sooke, Bylaw No. 4000 and the Official Community Plan, Shirley-Jordan River, Bylaw No. 4001. It was stated that consideration of Third Reading will take place at the Regional Board meeting in June. If Third Reading is granted, the bylaws would then be sent to the Ministry of Transportation & Infrastructure for approval.

5. Rezoning Applications

a) RZ000255 - Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096 (Butler Road – Sooke Business Park)

Emma Taylor provided an overview of the rezoning application for the three lots from General Industrial (M-2) to the Sooke Business Park Industrial (M-SBP) zone. Lot 13 is occupied by a warehouse building, Lot 26 is occupied by an industrial shelter and Lot 27 is vacant. The parcels are designated as Settlement Area One and as an Industrial

Development Permit Area in the Official Community Plan for Otter Point. The permitted uses in the M-SBP zone were outlined and staff explained that the prohibited uses are also listed in a registered covenant on title. Staff are recommending that another covenant be registered requiring remediation of any building used for medical marihuana production prior to commencement of any subsequent use. The Land Use Committee recommended referral to various agencies and to the Otter Point Advisory Planning Commission for comment.

Staff made reference to the M-SBP zone handout and stated that 18 properties in the Sooke Business Park have already been rezoned to permit medical marihuana production, but that it is not clear how many are in operation. A discussion ensued regarding the federal government regulations for medical marijuana production, the pending laws for recreational marihuana production and information regarding the applicants' long-term business plans. Staff explained that the current federal licensing regulations require verification of local government land use zoning. There is not yet information about requirements for recreational marihuana production.

It was noted that one of the applicants, Jeff Green, was present at the meeting. Jeff Green stated he is the owner of Lot 13 and has submitted a rezoning application with the other applicant as a cost effective method. He is relocating his sporting goods business to a larger property and is rezoning Lot 13 to potentially make the sale of Lot 13 more attractive and increase the property value.

A Commission member made reference to a recent news article about the applicant for Lots 26 and 27 which stated they were involved with recreational marihuana production. Members raised concerns about lack of information from the applicant about their intent and about potential recreational marihuana production. The applicant was not present to address the Commission's questions.

Members of the public stated concern regarding water usage, site contamination, drainage and waste disposal for medical marihuana production facilities.

Additional concerns were raised of what the distribution process would be and whether this was for recreational or medical marijuana. Another Commission member advised that these issues would be addressed by the Federal Health Licensing regulations.

A Commissioner stated that existing medical marihuana production facilities in the Sooke Business Park have been known to cause interference with JDF Emergency Services radio communication systems.

Rob Peters, a member of the public, stated that he is aware of a medical marijuana facility which is a "closed" system where the water is recycled. It uses LED lighting and has a high fence with security cameras in place. He stated the federal government is very strict.

A further discussion ensued regarding light pollution, building height, security, drainage and chemical residue. Staff confirmed that the maximum height requirement in the M-SBP zone is 14 m. Staff further described the drainage regime of the properties as flowing into Kemp Lake and DeMamiel Creek watersheds, as well as undersurface drainage patterns established during previous industrial activity.

A public member addressed the Commission stating concern with:

- light pollution resulting in negative impacts to wildlife and to adjacent residential neighbourhood;

- fire protection, increased fire risk and the potential to cause higher insurance rates in the area;
- the possibility of wells being contaminated by pesticides;
- remediation action;
- height and design of buildings.

It was clarified that the proposed covenant addresses the remediation of the building and not the entire site after a medical marijuana production use ceases.

Staff confirmed that the Industrial development permit guidelines in the Otter Point Official Community Plan outline the form and character requirements, including lighting, for industrial buildings and that the General Manager of Planning and Protective Services is delegated approval of development permits. It was further explained that a review of the disposal system capacity and covenants would be conducted as part of the building permit process. It was noted the CRD does not issue business licences.

A Commission member suggested a report be provided by the applicant addressing the proposed uses on the property and how waste disposal and drainage will be addressed.

Richard Ashton, a member of the public, stated that rezoning applications already have this approved zone in the Sooke Business Park and questioned the APC's role.

The Chair responded saying that, although the M-SBP zone has been approved on other properties, it is important to review the merits of each application and to ensure no negative impacts to the community will result.

A Commission member confirmed the APC would like to hear input from Otter Point residents and that the rezoning process allows opportunity for public input. There is no opportunity for public input in the building permit or development permit process.

A public member stated concern with a 45' building and the federal government requirement for lighting 24 hours/day.

Larry Swaykoski, a public member, asked whether the building will look like the concrete structure on the Pat Bay highway.

Staff advised that the development permit outlines the form and character for industrial buildings such as lighting and natural plantings.

Jeff Green stated that there are several other lots with this zoning already and it is unlikely all will be built out for marijuana production use. There are other permitted uses and that recent federal regulations could change and be more restrictive in the future.

Rob Peters, a public member, raised concerns with fire protection and questioned the ability of the Otter Point Fire Department to put out a potential fire.

Richard Ashton stated agreement with all that was said and wanted assurance that these concerns will be looked at by the CRD and that strict guidelines are in place.

The Chair asked the Commission if there were any other concerns with other permitted uses.

A Commission member asked if 'caretaker' had been defined. Staff advised that the term has not been defined in the bylaw.

The Chair asked if there had been any complaints or concerns with current production places. Staff advised no and referred to the most recent development permit with variance application that was supported and approved.

MOVED by Bud Gibbons, **SECONDED** by Stephen Smith that the Otter Point APC accepts this application subject to more information being provided by the applicant on water use, drainage, ground water, light pollution and disclosure of the proposed medical marijuana use, and impact on emergency radio communications, and given assurances from potential developers to reduce impact of these concerns. **CARRIED**

6. Adjournment

MOVED by Bud Gibbons, **SECONDED** by Al Wickheim that the meeting adjourn. **CARRIED**

The meeting adjourned at 8:35 p.m.

Chair



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, NOVEMBER 20, 2018**

SUBJECT **Temporary Use Permit for Lot 4, Section 47, Otter District, Plan VIP52344 – 7861 Tugwell Road**

ISSUE

A request has been made for a temporary use permit to allow the expansion of a home based microbrewery in the Rural Residential 2 (RR-2) zone.

BACKGROUND

The 1.0 ha property is located at 7861 Tugwell Road in Otter Point (Appendix 1) and is zoned Rural Residential 2 (RR-2) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The property fronts onto Tugwell Road to the east, and other RR-2 zoned properties to the east, west and south.

The Home Based Business Category 3 (Home Industry) regulations specify that home industries are restricted to lots over one hectare. The subject property is slightly greater than one hectare and has been the site of a home-based microbrewery in accordance with the regulations. The owner now requires additional floor area to expand the operation in response to market demand. Changes include moving the sales area to a currently unused portion of the building and expanding the brewing operation to include the area currently used for sales. Two outdoor, covered storage areas for refrigeration equipment, an air compressor, forklift, empty kegs and other brewery equipment would also be added.

The current operation occupies an indoor floor area of 59.4 m² (640 sq. ft.) within an accessory building. The proposed expansion would increase the indoor floor area to 96.7 m² (1,040 sq. ft.), and create 82 m² (884 sq. ft.) of covered, outdoor storage (Appendix 2). The Home Based Business regulations limit the area devoted to the home industry to 60 m² (645 sq. ft.) or 40% of the area of the dwelling, whichever is less; therefore, the property would either need to be rezoned, or the owner would need to obtain a temporary use permit to allow the expansion. The home based business regulations place no limitation on the total area that may be used for outdoor storage.

The owner has applied for a temporary use permit to authorize the proposed expansion, with the intention of finding appropriately zoned industrial land within the next several years.

ALTERNATIVES

1. That staff be directed to refer proposed Temporary Use Permit TP000009 to the Otter Point Advisory Planning Commission, to appropriate CRD departments, and to the following agencies for comment:

BC Hydro	Ministry of Transportation and Infrastructure	RCMP
District of Sooke	Ministry of Public Safety and Solicitor General – Liquor and Cannabis Regulation Branch	T'Sou-ke First Nation
Island Health		

2. That proposed Temporary Use Permit TP000009 not be referred.
3. That more information be provided by staff.

LEGISLATIVE IMPLICATIONS

Section 492 of the *Local Government Act (LGA)* enables a local government to designate areas where temporary uses may be allowed and to specify general conditions regarding the issuance of temporary use permits in those areas. Temporary use permits may be issued throughout the Otter Point Official

Community Plan (OCP) area as outlined in Bylaw No. 3819, and in accordance with Sections 493 of the *LGA*.

If a local government proposes to pass a resolution to issue a temporary use permit, it must give notice in accordance with Section 494 of the *LGA*. Sections 494(3) and 494(4) require notice to be published in a newspaper at least 3 days and not more than 14 days before the adoption of the resolution to issue the permit, and to be given to each resident/tenant within a given distance as specified by bylaw. CRD Bylaw No. 3110, Development Procedures Bylaw, states that a notice of intent must be mailed to the owners and occupants of land adjacent to the site under consideration within a distance of not more than 500 m.

CRD Bylaw No. 3110, also provides for the Board to refer an application to an agency or organization for their comment. The CRD Board determines which bodies are consulted in accordance with the *LGA*.

LAND USE IMPLICATIONS

The subject property is designated as Settlement Area 1 under the Otter Point OCP, Bylaw No. 3819. In accordance with Section 4.1(b), the Settlement Area 1 designation supports industrial uses on lands zoned industrial, as well as temporary industrial uses with a valid temporary use permit on non-industrial zoned lands. The designation also supports home based business uses that are compatible with the community's character, including having minimal traffic, parking, noise or nuisance impacts.

The Otter Point OCP directs that the following should be considered during the evaluation of a temporary use permit application:

- The use must be clearly temporary or seasonal in nature.
- The use should be compatible with adjacent uses.
- The potential impact of the proposed use on the natural environment.
- The intensity of the proposed use.
- The opportunity to conduct the proposed use on other land in the Plan area.
- Remedial measures to mitigate any impact to the natural environment.

The existing microbrewery operation has operated in its present location since 2017 under the Home Based Business Category 3 (Home Industry) regulations. Based on the size of the dwelling, the regulations restrict the area devoted to the microbrewery to 59.4 m² (640 sq. ft.), which allows the use to occupy only part of an existing accessory building. While the microbrewery would continue to be operated from the same building, the temporary use permit (Appendix 3) would authorize the use to be carried out at a scale greater than the home based business regulations allow, and occupy the entire 96.7 m² (1,040 sq. ft.) building, as well as 82 m² (884 sq. ft.) of additional outdoor covered storage space.

To date, the Juan de Fuca planning office has received no complaints from neighbouring residents regarding noise, odour or traffic for related to the existing use. Should further expansion of the business be required in the future, the applicant would need to either request an amendment to this permit or find appropriately zoned industrial land.

Staff recommend proceeding with referrals and public notification of the temporary use permit application.

CONCLUSION

The application for a temporary use permit to authorize the expansion of a home based microbrewery is in keeping with the Otter Point OCP policies. Should further expansion of the business be required in the future, the applicant would need to either request an amendment to this permit or find appropriately zoned industrial land. Staff recommend proceeding with referrals and public notification of the temporary use permit application.

RECOMMENDATION

That staff be directed to refer proposed Temporary Use Permit TP000009 to the Otter Point Advisory Planning Commission, to appropriate CRD departments, and to the following agencies for comment:

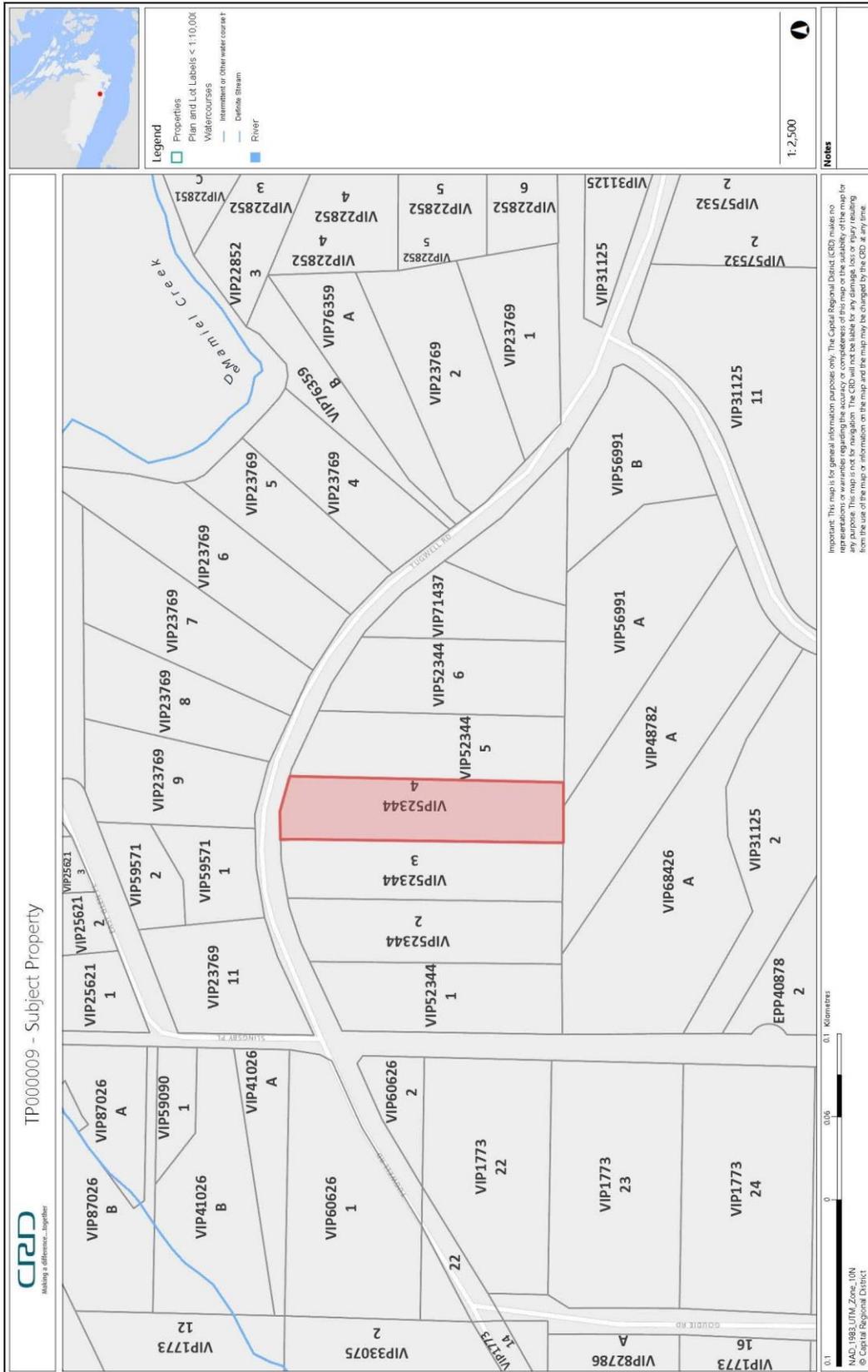
BC Hydro	Ministry of Transportation and Infrastructure	RCMP
District of Sooke	Ministry of Public Safety and Solicitor General – Liquor and Cannabis Regulation Branch	T'Sou-ke First Nation
Island Health		

Submitted By:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, MBA, P.Eng., General Manager, Planning & Protective Services

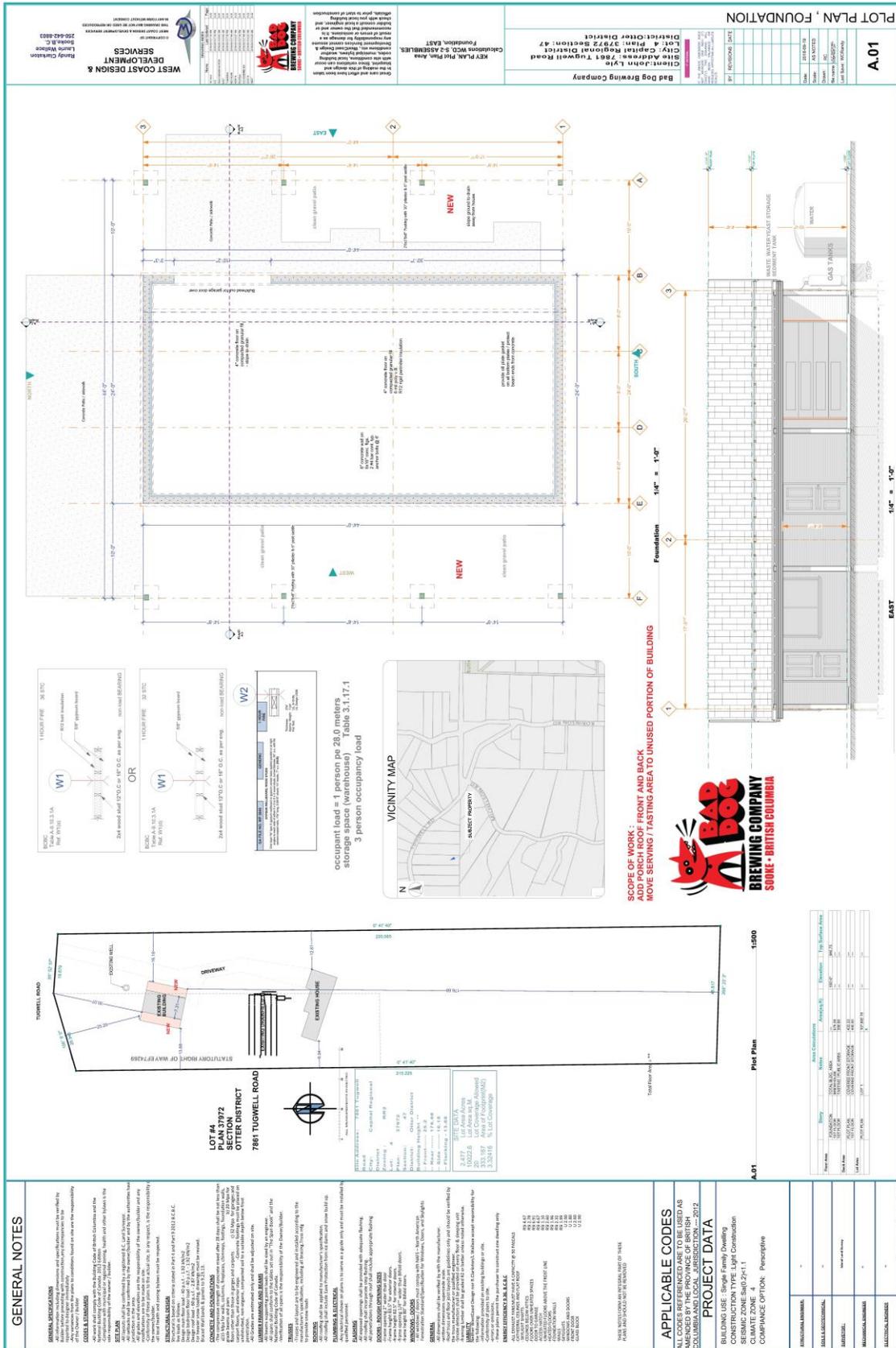
Attachments:

- Appendix 1. Subject Property Map
- Appendix 2. Site and Building Plans
- Appendix 3. Temporary Use Permit TP000009

Appendix 1: Subject Property Map



Appendix 2: Site and Building Plans



Appendix 3: Temporary Use Permit TP000009



CAPITAL REGIONAL DISTRICT

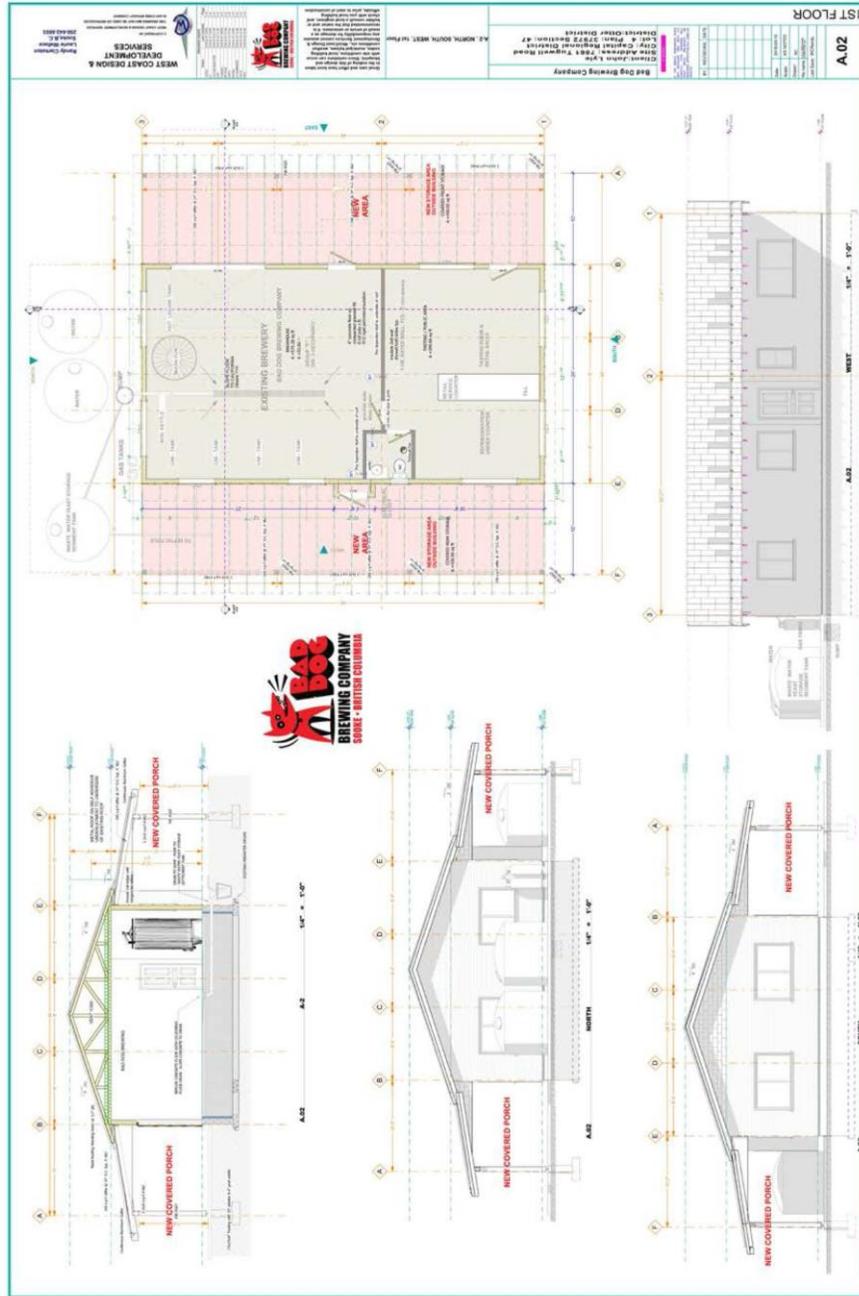
TEMPORARY USE PERMIT NO. TP000009

1. This Permit is issued under the authority of Section 493 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 Permit applies to and only to those lands within the Regional District described below (legal description), and to any and all buildings, structures, and other development thereon:
PID: 017-338-085;
Legal Description: Lot 4, Section 47, Otter District, Plan VIP52344 (the "Land")
3. This Permit authorizes the operation of a micro-brewery, including brewing, fermenting, packaging and canning, kegging, keg cleaning, tasting and sales (the "temporary use"), on the Land, in accordance with the plans submitted to the CRD and subject to the conditions set out in this Permit.
4. The conditions under which the temporary use referred to in section 3 may be carried out are as follows:
 - a) The components of the temporary use shall occur within the areas identified on the Site and Building Plans attached to this Permit.
 - b) Nothing shall be done which is or will become an annoyance or nuisance to the surrounding areas by reason of unsightliness, the emission of odours, liquid effluence, dust, fumes, smoke, vibration, noise or glare; nor shall anything be done which creates or causes a health, fire or explosion hazard, electrical or navigation interference.
5. 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 (TP000009) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
6. 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.
7. The following plans and specifications are attached:
Appendix 1: Site and Building Plans
8. In default of compliance with any of the provisions of this Permit, the Permit shall lapse.
9. The owner agrees to indemnify and save harmless the CRD against all costs and expenses incurred by the CRD, in default by the owner, in the conversion, demolition or removal of the temporary use, and/or legal costs incurred in pursuing such legal remedies as the CRD sees fit.
10. This Permit is NOT a Building Permit.
11. This Permit shall expire 3 years after the date of issuance of the permit.

RESOLUTION PASSED BY THE BOARD, THE ____ day of _____, 2019.

ISSUED this ____ day of _____, 2019

Corporate Officer





**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF MONDAY, DECEMBER 17, 2018**

SUBJECT **Local Government Considerations to Address Cannabis Production and Distribution**

ISSUE

Background information regarding federal and provincial cannabis regulations and proposed zoning amendments to address cannabis production.

BACKGROUND

The Federal government has legalized recreational cannabis consumption and has established a national framework for regulating its cultivation and distribution. The federal jurisdiction includes: setting possession limits, licensing, setting industry standards and criminal enforcement. New requirements for federally licensed producers of recreational cannabis are outlined in the *Cannabis Act* and *Regulations*. Medical cultivation and possession licences issued under the *Access to Cannabis for Medical Purposes Regulation (ACMPR)* are deemed to be valid under the *Cannabis Act*.

Federal licence categories have been established for cannabis cultivation, processing, analytical testing, sales, import/export and research (Appendix 1). New micro-cultivation licences allow facilities up to 200 m², whereas standard cultivation licenses allow larger production areas. All licences that authorize the possession of cannabis must provide notice to local authorities (local government, police and fire) to ensure land use compliance. Production of cannabis cannot occur adjacent to a school, public playground, daycare facility or other public place frequented by youth.

The *Agricultural Land Reserve (ALR) Regulation* was recently amended to define the lawful production of cannabis as a farm use for the purposes of the *Agricultural Land Commission (ALC) Act*. Cannabis can now be cultivated outdoors or in specified structures. Local government bylaws may not prohibit the lawful production of cannabis in the ALR.

The Provincial *Cannabis Control and Licensing Act* and *Cannabis Distribution Act* establishes a distribution system and retail licensing scheme for recreational cannabis. The BC Liquor & Cannabis Regulation Branch now administers retail sales and licensing. Retail store and marketing license categories are issued by the Province. Local governments will be notified of a license application and can conduct community consultation, provide comment or make recommendations. Local governments can also impose fees to recover the costs incurred in assessing the application. A Board may delegate the authority to provide comments and recommendations.

Certain roles and responsibilities pertaining to cannabis consumption, the location, scale and density of cannabis cultivation and retail facilities have been devolved to local governments. There are several issues related to land use management that local governments may wish to consider. Appendix 3 outlines jurisdictional responsibilities for different levels of government.

The Province of BC has established 19 as the minimum age for consumption and set the possession limit for an adult in a public place at 30 grams or equivalent. Up to four personal plants per dwelling are permitted provided there is no community care facility involving youth at that address. The provincial legislation establishes cannabis-related offences and consumption is restricted on school property, health facilities or outdoor public places such as parks. Local governments can implement more stringent regulations where desired. For example, the CRD Clean Air Bylaw No. 3962 was amended to restrict the burning or vaping of cannabis in public spaces.

Staff have prepared proposed Bylaw No. 4278 (Appendix 2) to amend the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, to update definitions and permitted uses in the AG zone to reflect the current legislative framework for non-medical cannabis. Separate amendments to the Juan de Fuca Land

Use Committee Bylaw and the Development Procedures Bylaw, as well as a future public consultation procedure, are intended to address the referral of retail licence applications from the Province.

Staff recommend referring the application and Bylaw No. 4278 to the Otter Point Advisory Planning Commission (APC), to appropriate CRD departments and to external agencies for comment.

ALTERNATIVES

Alternative 1

That staff be directed to refer proposed Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018” to the Otter Point Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment:

BC Hydro	MFLNRORD – Archaeology Branch	RCMP
District of Sooke	MFLNRORD – Groundwater Protection Branch	T’Sou-ke First Nation
Island Health	Ministry of Transportation and Infrastructure (MoTI)	

Alternative 2

That staff not proceed with proposed Bylaw No. 4278.

Alternative 3

That more information be provided by staff.

PUBLIC CONSULTATION IMPLICATIONS

The 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*. Since the Otter Point APC will be considering other applications related to cannabis production in the near future, staff recommend referring the proposed amendment to the Otter Point APC.

Should the proposal proceed, a public hearing pursuant to Section 464 of the *LGA* will be required subsequent to the amendments passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent a notice of the proposed bylaw amendments and it will be advertised in the local paper and on the website.

PLANNING IMPLICATIONS

Local government land use bylaws require review in light of the new legislative framework for cannabis. Amendments are proposed to Bylaw No. 2040 to update terminology from marijuana to cannabis to reflect legislated definitions.

Personal Use:

Personal cultivation of up to four cannabis plants by adults at a private residence are permitted by the *Cannabis Act* and the *Cannabis Control and Licensing Act*, but this can be further regulated by local governments if it is deemed practical and warranted (Appendix 4). The proposed bylaw amendments do not seek to further restrict personal cannabis cultivation. Staff propose adding a general regulation to Bylaw No. 2040 to clarify that no more than four cannabis plants may be cultivated at a dwelling.

Agricultural Land:

Commercial cannabis cultivation is now considered a farm use in the ALR subject to ALC policies that allow production outdoors in a field, in a structure with a soil base, or in a grandfathered structure (Appendix 5). Activities designated as a farm use in the ALR must not be prohibited by local government. Therefore, staff propose an amendment to the AG zone to include a new definition for *cannabis production* that is consistent with the ALC policy. As the AG zone also applies to land outside

the ALR, the amendment specifies that *cannabis production* is a permitted use on lands in the ALR only. Setbacks for cannabis production are 30 m from front, side and rear parcel boundaries.

Land Use:

Local governments are able to regulate the density and location of cannabis facilities outside the ALR. Considerations for locating cannabis facilities may include public tolerance for the use, location and proximity to civic uses, scale of the operation, policing and bylaw enforcement, as well as the capacity of local utilities. In the Juan de Fuca, factors such as water use, septic capacity, hydro-electrical availability and electro-magnetic interference, waste management and fire protection have been raised as factors that inform land use decisions. Local governments may also wish to specify setbacks from non-compatible uses such as schools and parks.

Bylaw No. 2040 currently specifies that *intensive agriculture - medical marihuana production* is a permitted use in the General Industrial – Medical Marihuana (M2-MM) zone (7 properties) and the Sooke Business Park Industrial (M-SBP) zone (11 properties) (Appendix 6). Existing licensed producers of cannabis for medical purposes under the *ACMPR* must transfer their licenses under the *Cannabis Act*. These licenses will be deemed to be valid until such time they expire or are revoked (section 158, *Cannabis Act*). New cannabis licenses for the sale for medical purposes under part 2, section 26 of the *Cannabis Regulations* would be permitted under the existing *intensive agriculture – medical marihuana production* definition. Further, cannabis processing may be considered an existing permitted *general industrial use*. However, local governments may not wish to distinguish between federal cannabis license categories if there is no discernable justification. Subject to public consultation, the zoning categories that currently permit medical marihuana production may be considered suitable for standard cannabis cultivation and processing, research or testing.

There are currently six properties in the JdF EA seeking rezoning to permit cannabis-related uses (RZ000245, RZ000255, RZ000257 and RZ000261). Each application will be considered on an individual basis; however, staff recommend that a consistent approach to reviewing these applications be applied to consider potential impacts. Consultation with affected agencies such as RCMP, ALC, school districts and parks departments is also recommended to ensure a coordinated approach.

Beyond zoning authority, other tools are available to local governments to address local issues arising from certain types of development, such as development permit (DP) guidelines to regulate the form and character of buildings, and development cost charges to assist with paying the capital costs of providing utility infrastructure or park facilities that directly or indirectly service the development. For example, the East Sooke OCP, Bylaw No. 4000, designates DP areas for medical marihuana production facilities.

Retail:

Local governments can specify land use zones where cannabis retail outlets are permitted. Alternatively, cannabis retail sales can be considered a general retail use under provincial license. While provincial legislation does consider proximity to property where youth may locate, as well as the number of retail licences an individual may hold, local government can further regulate factors to address local circumstances. Other considerations for locating cannabis retail sales may include location, proximity to civic uses, size of facility, hours of operation, traffic and parking, socio-economic information and the impact on the surrounding community. Local governments will be notified of licence applications for retail cannabis sales and marketing and are requested to consult and to provide comments and recommendations. Application fees and procedures for cannabis retail referrals in the JdF EA are being considered separately, and staff recommend that a policy approach be developed to guide the review of the referrals.

CONCLUSION

The legalization of cannabis presents local government with land use and public consultation considerations. The staff report outlines the current federal and provincial licensing schemes and potential implications for local government regulations. Proposed Bylaw No. 4278 has been prepared to update definitions and address the legal cultivation of cannabis in the Agricultural Land Reserve.

RECOMMENDATION

That staff be directed to refer proposed Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018” to the Otter Point Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment:

BC Hydro	MFLNRORD – Archaeology Branch	RCMP
District of Sooke	MFLNRORD – Groundwater Protection Branch	T’Sou-ke First Nation
Island Health	Ministry of Transportation and Infrastructure (MoTI)	

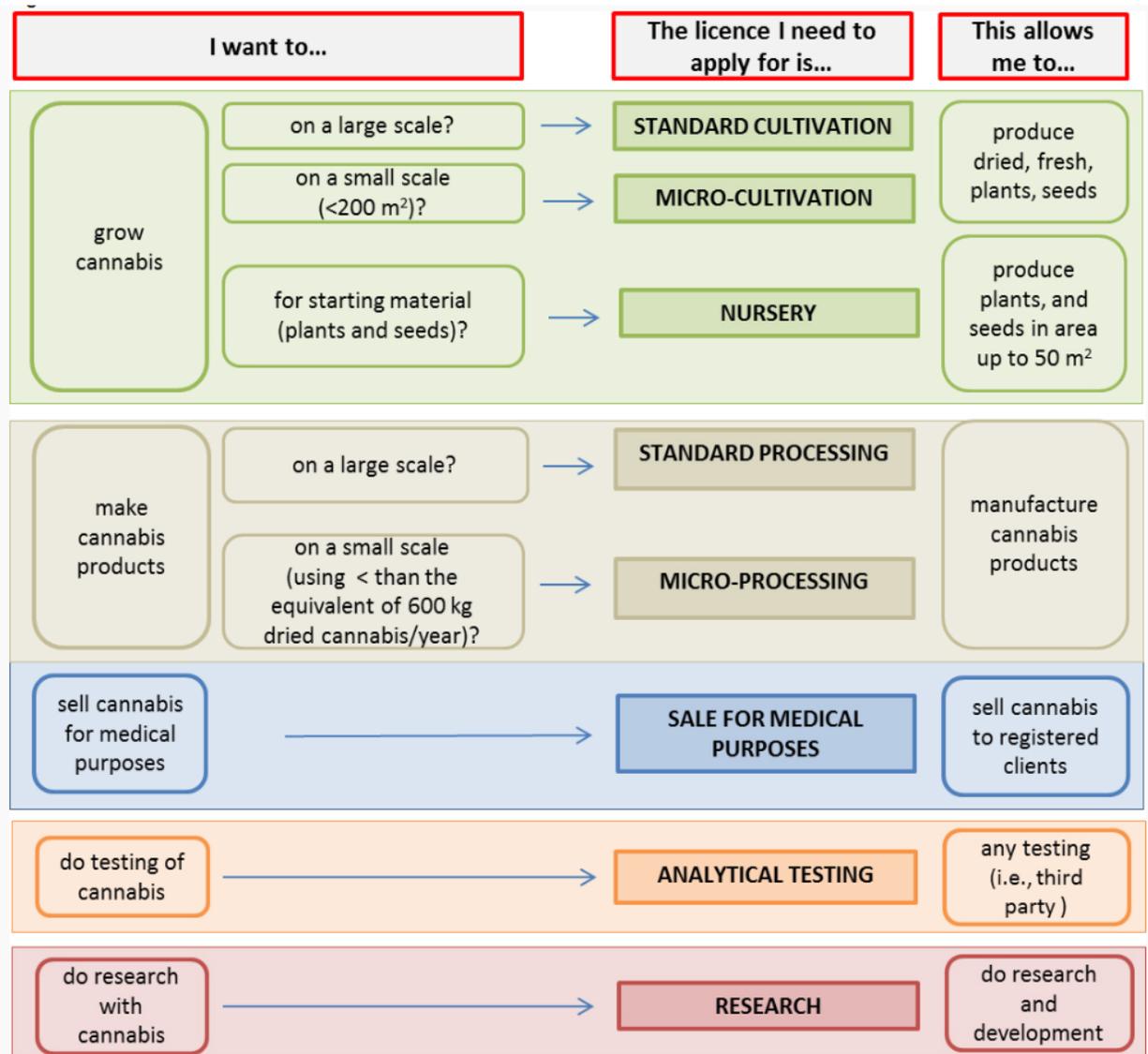
Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

ET:wm

Attachments:

- Appendix 1. Federal Licence Categories
- Appendix 2. Proposed Bylaw No. 4278
- Appendix 3. Jurisdictional Responsibilities
- Appendix 4. Personal Cannabis Cultivation
- Appendix 5. Order in Council 380/2018 - Amendment to ALR Regulation
- Appendix 6 Zoning Map

Appendix 1: Federal Licence Categories



An industrial hemp licence and a cannabis licence are two other types of licences, but are outside the scope of this guide.

Source: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/industry-licensees-applicants/licensing-summary/guide.html#a5.2>

Appendix 2: Jurisdictional Responsibilities

Summary of possible roles and responsibilities

Federal	Provincial/Territorial	Municipal
Cannabis production Cannabis possession limits Trafficking Advertising Minimum age limits (18) Oversight of medical cannabis regime, including personal cultivation registration	Wholesale and retail distribution of cannabis Selection of retail distribution model Workplace safety Discretion to set more restrictive limits for: <ul style="list-style-type: none"> • minimum age for consumption • possession amount 	Zoning (density, location) Retail locations Home cultivation Business Licensing Building Codes Nuisance Smoking restrictions Odours Municipal workplace safety Enforcement Regulations around public consumption Personal possession Municipal cost considerations related to local policing

Reference: Municipal Guide to Cannabis Legislation, Federation of Canadian Municipalities, Spring 2018.

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4278**

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 1, SECTION 2.0 DEFINITIONS

- (a) By amending the definition of “AGRICULTURE” by adding “excludes cannabis production and personal cannabis production.”
- (b) By adding a new definition for “CANNABIS” before the word “CANOPY” as follows:
“CANNABIS has the same meaning as in the *Cannabis Act* (Canada), subject to any prescribed modifications.”
- (c) By adding a new definition for “CANNABIS PRODUCTION” before the word “CANOPY” as follows:
“CANNABIS PRODUCTION means the commercial production, cultivation, synthesis, harvesting, altering, propagating, processing, packaging, storage, distribution or scientific research of cannabis or cannabis products as permitted by the *Cannabis Act*, and any subsequent regulations or acts which may be enacted henceforth, but excludes personal cannabis production.”
- (d) By adding a new definition for “CANNABIS PRODUCTION – PERSONAL” after the definition of “CANNABIS PRODUCTION” as follows:
“CANNABIS PRODUCTION – PERSONAL means the growing of non-medical cannabis plants for personal use at a dwelling as permitted by the *Cannabis Act* and the *Cannabis Control and Licensing Act*.”
- (e) By adding a new definition for “CANNABIS PRODUCTS” before the word “CANOPY” as follows:
“CANNABIS PRODUCTS means plant material from cannabis and any products that include cannabis or cannabis derivatives, intended for human use or consumption.”

B. SCHEDULE A, PART 1, SECTION 4.15 USES PERMITTED IN ANY ZONE

- (a) By adding a new subsection (h) as follows: “(h) *Cannabis production - personal* is permitted at a dwelling.”

C. SCHEDULE A, PART 2 – ZONING DISTRICTS

- (a) By amending section 4.0, subsection 4.01(c) by deleting the words “Intensive Agriculture – Medical Marihuana Production on lands within the Agricultural Land Reserve” and replacing with the words “Cannabis Production on lands within the Agricultural Land Reserve”.
- (b) By amending section 4.0, subsection 4.11 by deleting the words “Intensive Agriculture – Medical Marihuana” and replacing with the words “Cannabis Production”.

Cannabis Control and Licensing Act

Personal growing of cannabis plants – non-medical cannabis

56 An adult must not grow a cannabis plant that is not medical cannabis at a dwelling house unless the following requirements are met:

- (a) the adult ordinarily resides at the dwelling house;
- (b) no part of the dwelling house
 - (i) is authorized to operate as a community care facility under a licence issued under the *Community Care and Assisted Living Act* to provide care programs prescribed by the Child Care Licensing Regulation, B.C. Reg. 332/2007, or
 - (ii) is used or operated for a prescribed purpose;
- (c) no more than 4 cannabis plants are growing at the dwelling house;
- (d) the adult is not growing cannabis plants at different dwelling houses at the same time;
- (e) if 2 or more adults ordinarily reside at the same dwelling house and none of the adults is authorized under the *Cannabis Act* (Canada) to grow medical cannabis at the dwelling house, no more than 4 cannabis plants are growing at the dwelling house;
- (f) the cannabis plant is not from a seed or plant material that the adult knows is illicit cannabis;
- (g) the cannabis plant is not visible from a place described in paragraph (a) of the definition of "public place" by an individual unaided by any device other than a device to correct vision;
- (h) any prescribed requirements relating to the adult, cannabis plant or dwelling house.

Appendix 5: Order in Council 380/2018 - Amendment to ALR Regulation



**INFORMATION BULLETIN 04
CANNABIS PRODUCTION IN THE ALR**

August 15, 2018

SCOPE OF THIS INFORMATION BULLETIN

This information bulletin provides guidance to assist in interpreting the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (ALCA) and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, BC Reg. 171/2002 (the ALR Regulation), in relation to cannabis production in the agricultural land reserve (ALR). The ALCA and ALR Regulation will govern if inconsistent with this bulletin.

This information bulletin is directed only to interpretation of the ALCA and the ALR Regulation. All other applicable laws, regulations and bylaws related to cannabis production must also be complied with.

RECENT REGULATORY CHANGES

The ALR Regulation has recently been amended. The changes came into force on July 13, 2018. Section 2(2)(p) of the ALR Regulation, which designated as farm use “the production of marihuana in accordance with the Marihuana for Medical Purposes Regulation, SOR/2013-119 (Canada)”, has been repealed. The following has been added as section 2(2.5) to the ALR Regulation:

The lawful production of cannabis is designated as farm use for the purposes of the [ALCA] if produced outdoors in a field or inside a structure

- (a) that has a base consisting entirely of soil, or
- (b) that was, before the date on which this section came into force,
 - (i) constructed for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis, or
 - (ii) under construction for the purpose referred to in subparagraph (i), if that construction
 - (A) was being carried out in accordance with all applicable authorizations and enactments, and
 - (B) continues without interruption from the date it began to the date the structure is completed, other than work stoppages considered reasonable in the building industry, and

that has not been altered since that date to increase the size of its base or to change the material used as its base.

Section 2(1.1) of the ALR Regulation provides:

The activities designated under [section 2 of the ALR Regulation] as farm uses for the purposes of the [ALCA] must not be prohibited

- (a) by any local government bylaw except a bylaw under section 552 of the *Local Government Act*, or
- (b) by a law of the applicable treaty first nation government, if the activity is undertaken on treaty settlement lands.

GENERAL INTERPRETATIVE PRINCIPLES

The ALCA prohibits “non-farm use” of land in the ALR unless the owner of the land successfully makes an application to the Agricultural Land Commission for permission to undertake that use or that use is expressly permitted under section 3 of the ALR Regulation: ALCA, section 20. Sections 20(3), 25 and 34 of the ALCA and Part 10 of the ALR Regulation are among the provisions relevant to non-farm use applications.

A “non-farm use” is a “use of land other than a farm use”: ALCA, s. 1.

The form of cannabis production described in section 2(2.5) of the ALR Regulation is designated as farm use. Therefore, producing cannabis on the ALR in the manner described in section 2(2.5) of the ALR Regulation does not require a non-farm use application to the Agricultural Land Commission.

However, section 2(2.5) of the ALR Regulation does not designate as farm use:

- cannabis production that does not meet the description in section 2(2.5). Having regard to the regulatory framework, this information bulletin treats forms of cannabis production that are not described in section 2(2.5), together with all activities associated with forms of cannabis production not described in section 2(2.5), as non-farm uses.
- non-production activities associated with the cannabis production described in section 2(2.5). Having regard to the regulatory framework, this information bulletin treats those activities as non-farm uses except to the extent that they fall into exceptions found elsewhere in section 2 or 3 of the ALR Regulation.

PLACEMENT OF FILL IN THE ALR

Placement of fill onto land in the ALR for any reason related to cannabis production, **whether it is a form of production described in section 2(2.5) of the ALR Regulation or not**, cannot be undertaken without a successful non-farm use application to the Agricultural Land Commission. That is, if a producer wishes to place fill on the land even for the purpose of cannabis production described in section 2(2.5) of the ALR Regulation, he or she will not be able to do so without obtaining permission from the Agricultural Land Commission through a non-farm use application.

This is because section 20(2) of the ALCA generally defines the placement of fill as a non-farm use, subject to certain exceptions. Those exceptions do not apply to cannabis production.

Though sections 2(4) and (5) of the ALR Regulation designate as farm use certain fill placement related to uses designated under sections 2(2)-(2.2) of the ALR Regulation, cannabis production is addressed in section 2(2.5), so sections 2(4) and (5) do not apply. Please consult the Agricultural Land Commission's Bylaw No. 2 – Placement of Fill in the ALR and Policy L-23 – Placement of Fill for Soil Bound Agricultural Activities.

CANNABIS PRODUCTION IN THE ALR

Section 2(2.5) of the ALR Regulation requires that to be designated as farm use, production of cannabis must meet various requirements including that the production is "lawful". The production of cannabis is not lawful unless it is licensed by the Government of Canada (excluding exemptions for personal cultivation). As such producers need to be very careful about taking steps in reliance on section 2 of the ALR Regulation without first ensuring that federal preconditions (as well as preconditions that other governments may impose) are or will be met before production occurs.

Field Production

Lawful production of cannabis in the ALR **outdoors in a field** is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission.

Soil Based Structure Production

Lawful production of cannabis in the ALR **inside a structure that has a base consisting entirely of soil** is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission. Note:

- The base – that is, what the structure rests on – must be "entirely" of soil in order for production in it to qualify under section 2(2.5)(a) of the ALR Regulation. Production in a structure that has a base consisting partly of a material other than soil, even if the non-soil material constitutes a very small portion of the base, does not qualify under section 2(2.5)(a) of the ALR Regulation. Structures that do not have a base consisting entirely of soil are structures that have a base consisting partly or entirely of other materials, such as structures with cement footings or a cement floor.
- "Soil" means material native to the property, not material brought onto the property for the purpose of creating the base or for any other purpose. If imported onto the property, the material is "fill", the placement of which requires a non-farm use application: ALCA, section 20.

Production in Existing Structures

Lawful production of cannabis in the ALR **inside a structure that had been, before July 13, 2018, constructed for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis**, is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission. Note:

- Existing structures used for the lawful production of cannabis do not have to have a base made entirely of soil.

- The structure must not have been altered on or after July 13, 2018 to increase the size of its base or to change the material used as its base.
- The structure must have been built for the purpose of growing “crops”. Livestock are not crops and, as such, production of cannabis in a converted livestock barn is not designated as farm use under section 2(2.5) of the ALR Regulation.

Production in Structures that Were Under Construction

If the requirements outlined in the bullet points set out later in this paragraph are met, lawful production of cannabis inside a structure (even if its base is not entirely soil) that was under construction before July 13, 2018 for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis, is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission. For a structure to have been “under construction” before July 13, 2018, ground disturbance (such as excavation for laying foundation) must have commenced before that date; it would not be sufficient for the property owner to have made a permit application or received a permit for construction before July 13, 2018. The further requirements for lawful cannabis production to be designated under this portion of section 2(2.5) of the ALR Regulation are as follows:

- The pre-July 13, 2018 construction was being carried out in accordance with all applicable authorizations and enactments.
- The construction must continue without interruption from the date it began to the date the structure is completed, other than work stoppages considered reasonable in the building industry.
- The construction must not be altered on or after July 13, 2018 to increase the size of the structure’s base or to change the material used as its base.

Other Cannabis Production

Cannabis production not described in section 2(2.5) of the ALR Regulation is not designated as farm use. Neither that production nor activities related to that production (such as the construction, maintenance or operation of a building or structure, or processing of the cannabis) can be undertaken without a successful non-farm use application to the Agricultural Land Commission.

CONSTRUCTING, OPERATING OR MAINTAINING CANNABIS PRODUCTION FACILITIES

A non-farm use application to the Agricultural Land Commission is not required in order to construct, maintain or operate a building, structure, driveway, ancillary service or utility that is necessary for the lawful production of cannabis described in section 2(2.5) of the Regulation: ALR Regulation, section 2(3). Note:

- Section 2(2.5)(a) of the ALR Regulation refers to lawful production of cannabis inside a structure “that has a base consisting entirely of soil”. Construction, maintenance or operation of the soil-based structure necessary for that production can be undertaken without applying to the Agricultural Land Commission.

- Section 2(2.5)(b) refers to lawful production of cannabis inside a structure that meets certain requirements addressed earlier in this information bulletin. Completion of the structure referred to in section 2(2.5)(b)(ii), and maintaining and operating either that structure or the structure referred to in section 2(2.5)(b)(i), can be undertaken without applying to the Agricultural Land Commission.
- Other than as described in section 2(2.5) of the ALR Regulation, a building or structure is unlikely to be necessary for the form of cannabis production described there, as section 2(2.5) already addresses where the production is located. Possible exceptions may be a small washroom facility or small office for a required supervisor no greater than necessary for that form of cannabis production to occur on the land.
- Though associated with the form of cannabis production described in section 2(2.5), construction, maintenance or operation (including for a conference centre) of a building, structure, driveway, ancillary service or utility that is not necessary for that production on the land, may not occur without a successful non-farm use application to the Agricultural Land Commission. Proponents of such uses should be prepared to justify in their application materials why such use, both in that nature/scale and at all, is appropriate in the ALR rather than, for example, in an industrial park outside the ALR.

Construction, maintenance or operation of a building, structure, driveway, ancillary service or utility necessary for a form of cannabis production that is not described in section 2(2.5) of the ALR Regulation cannot be undertaken without a successful non-farm use application to the Agricultural Land Commission.

STORING, PACKING, PREPARING OR PROCESSING CANNABIS

Storing, packing, preparing or processing cannabis yielded by the form of cannabis production described in section 2(2.5) of the ALR Regulation (and construction, maintenance or operation of a building, structure, driveway, ancillary service or utility necessary for that storing, packing, preparing or processing) can be undertaken without a non-farm use application to the Agricultural Land Commission if at least 50% of the cannabis being stored, packed, prepared or processed is produced on the "farm" (for this purpose being one or several parcels of land or tenured areas of Crown land that are being occupied or used together for designated or other farm uses), or produced by an association as defined in the *Cooperative Association Act* to which the owner of the farm belongs: section 2(2)(c) of the ALR Regulation.

Storing, packing, preparing or processing cannabis yielded by a form of production not described in section 2(2.5) of the ALR Regulation is not designated as farm use. These activities cannot be undertaken without a successful non-farm use application to the Agricultural Land Commission.

LOCAL GOVERNMENT

Local governments can have an important role to play in the regulatory framework related to cannabis production.

However, local government bylaws may not prohibit the lawful production of cannabis in the ALR if it is produced as described in section 2(2.5) of the ALR Regulation.

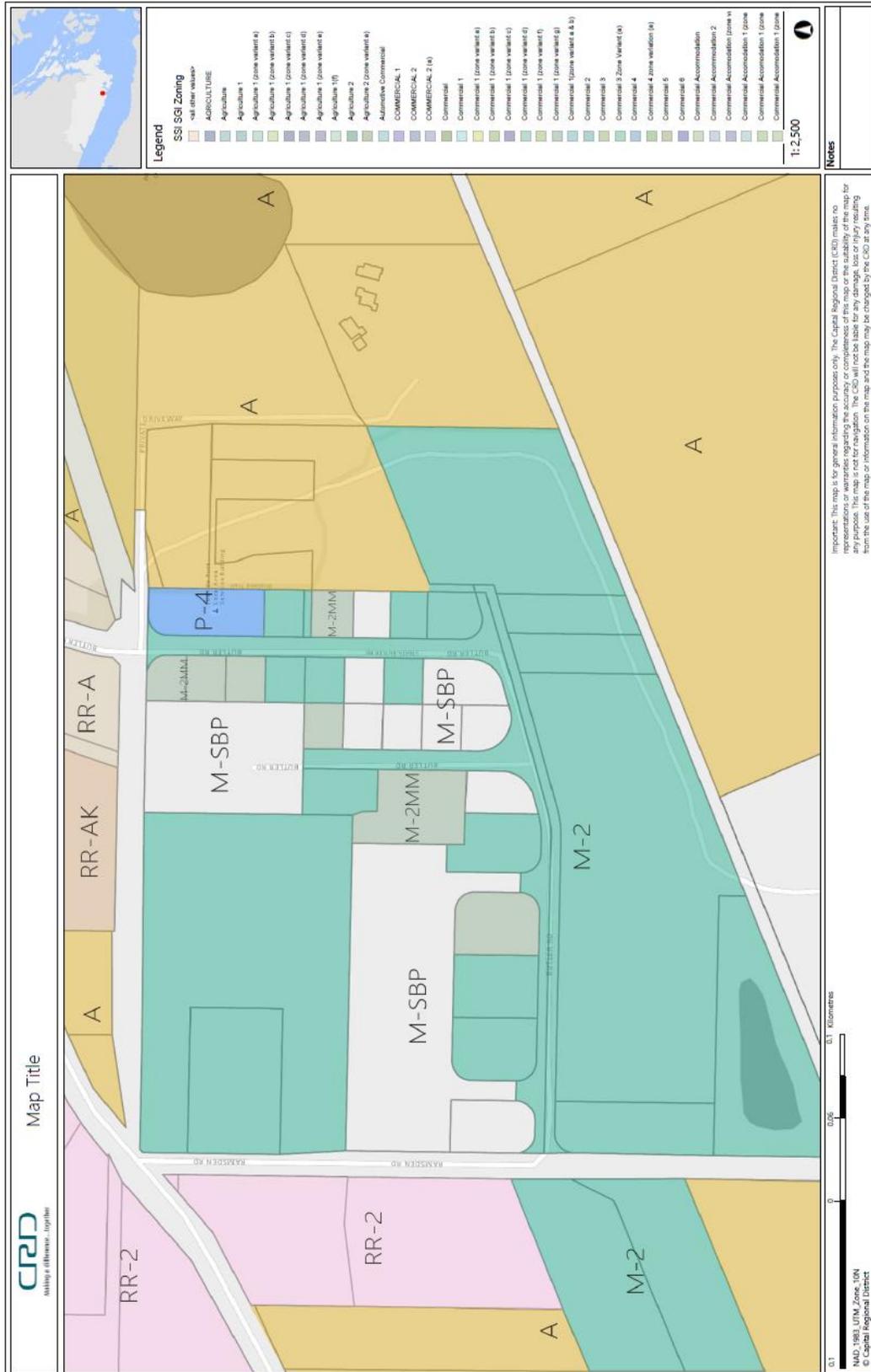
Local governments also play a role when non-farm use applications related to cannabis production and associated activities are made to the Agricultural Land Commission. Sections 25 and 34 of the ALCA are among the relevant provisions that they should consult.

FURTHER EXPLANATORY NOTES

Also note the following:

- The word “necessary” (for a designated farm use) figures in several of the above-discussed scenarios. It is within the purview of the Agricultural Land Commission to determine whether and to what extent activities are “necessary”.
- In determining whether an activity is “necessary” to a designated farm use, the Agricultural Land Commission may consider whether the nature and size of the activity are proportionate to the designated farm use.
- If someone claims that an activity is “necessary” for a designated farm use that has not yet commenced, the Agricultural Land Commission may require satisfactory evidence that the proposed use is in fact going to occur, and that the nature and size of activity characterized as “necessary” (such as construction of a driveway) will in fact be necessary to that use.
- Except for exemptions for personal cultivation, the “lawful” production of cannabis required for section 2(2.5) of the ALR Regulation requires licensing at the federal level. As noted earlier in this information bulletin, producers need to be very careful about taking steps in reliance on section 2 of the ALR Regulation without first ensuring that federal preconditions (as well as preconditions that other governments may impose) are or will be met before production occurs.
- For the purposes of sections 2(2)(o) and 4 of the ALR Regulation, structures in which cannabis is produced are not considered to be “greenhouses”. Section 2(2.5) of the ALR Regulation does not use the term “greenhouse” for any of the structures it describes. This indicates that under the ALR Regulation the concepts were to be treated as distinct and not to be confused.

Appendix 6: Zoning Map



**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4278**

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 1, SECTION 2.0 DEFINITIONS

- (a) By amending the definition of "AGRICULTURE" by adding "excludes cannabis production and personal cannabis production."
- (b) By adding a new definition for "CANNABIS" before the word "CANOPY" as follows:
"CANNABIS has the same meaning as in the *Cannabis Act* (Canada), subject to any prescribed modifications."
- (c) By adding a new definition for "CANNABIS PRODUCTION" before the word "CANOPY" as follows:
"CANNABIS PRODUCTION means the commercial cultivation and ancillary synthesis, harvesting, altering, propagating, processing, packaging, storage, distribution or scientific research of cannabis or cannabis products as permitted by the *Cannabis Act*, and any subsequent regulations or acts which may be enacted henceforth, but excludes personal cannabis production."
- (d) By adding a new definition for "CANNABIS PRODUCTION – PERSONAL" after the definition of "CANNABIS PRODUCTION" as follows:
"CANNABIS PRODUCTION – PERSONAL means the growing of non-medical cannabis plants for personal use at a dwelling as permitted by the *Cannabis Act* and the *Cannabis Control and Licensing Act*."
- (e) By adding a new definition for "CANNABIS PRODUCTS" before the word "CANOPY" as follows:
"CANNABIS PRODUCTS means plant material from cannabis and any products that include cannabis or cannabis derivatives, intended for human use or consumption."

B. SCHEDULE A, PART 1, SECTION 4.15 USES PERMITTED IN ANY ZONE

- (a) By adding a new subsection (h) as follows: "(h) *Cannabis production - personal* is permitted at a dwelling."

C. SCHEDULE A, PART 2 – ZONING DISTRICTS

- (a) By amending section 4.0, subsection 4.01(c) by deleting the words "Intensive Agriculture – Medical Marihuana Production on lands within the Agricultural Land Reserve" and replacing with the words "Cannabis Production on lands within the Agricultural Land Reserve".
- (b) By amending section 4.0, subsection 4.11 by deleting the words "Intensive Agriculture – Medical Marihuana" and replacing with the words "Cannabis Production".



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF MONDAY, DECEMBER 17, 2018**

SUBJECT **Zoning Amendment Application for Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096**

ISSUE

The applicants are proposing to amend their application, which was to rezone three properties in the Sooke Business Park development from the General Industrial (M-2) zone to the Sooke Business Park Industrial (M-SBP) zone. The revised application would clarify that licensed cannabis processing is a general industrial use on properties that are not adjacent to institutional, rural or rural residential zoned land.

BACKGROUND

In February 2018, the applicant applied to rezone Strata Lots 13, 26 and 27 to the Sooke Business Park Industrial (M-SBP) zone for the purpose of permitting licensed medical cannabis production (Appendix 1). At their meeting of April 17, 2018, the Land Use Committee directed referral of the application to agencies and to the Otter Point Advisory Planning Commission (APC) for comment. Referral responses were received from three agencies (Appendix 2). The Otter Point APC considered the application at their meeting of June 5, 2018 (Appendix 3).

Since that time, the federal government has implemented the legalization of cannabis and has established a national licensing framework. Due to comments raised by the APC regarding potential impacts of cannabis cultivation facilities, the applicants have requested to revise their application to request zoning approval for licensed cannabis processing facilities, rather than to request a zone that would permit medical cannabis cultivation.

Staff have amended Bylaw No. 4234 to amend the definition of *General Industrial Use* to include licenced cannabis processing on parcels that are not adjacent to land in institutional, rural and rural residential zones. Staff recommend re-referring the revised application and Bylaw No. 4234 to agencies and the Otter Point APC for comment (Appendix 4).

ALTERNATIVES

Alternative 1:

1. a) That comments submitted by the Otter Point Advisory Planning Commission, agencies and CRD departments through the referral of proposed Bylaw No. 4234, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018", be received.
- b) That staff be directed to refer revised proposed Bylaw No. 4234, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018", to the Otter Point Advisory Planning Commission, appropriate CRD departments and to the following agencies for comment:

BC Hydro	Island Health	RCMP
District of Sooke	Ministry of Transportation and Infrastructure (MoTI)	T'Sou-ke First Nation

Alternative 2:

2. That proposed Bylaw No. 4234 not be referred.

Alternative 3:

3. That more information be provided by staff.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

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)* therefore, staff recommend referring the proposed amendment to the Otter Point APC.

Should the proposal proceed, a public hearing pursuant to Section 464 of the *LGA* will be required subsequent to the amendments passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent a notice of the proposed bylaw amendments and it will be advertised in the local paper and on the website.

REFERRAL COMMENTS

Island Health provided comment about federally licensed medical marihuana production facilities and recommended that odour control containment measures be implemented to reduce potential health risks of exposure. Comments also stated consideration of establishing buffers between residential and industrial zones to limit impact on residents and community. Island Health also requires compliance with the *Drinking Water Protection Act & Regulation* and the Sewerage System Regulation.

MoTI stated no objections to the proposal.

RCMP stated no comment.

JdF Emergency Services stated concern with possible radio communication interference from electrical equipment used in large-scale marihuana cultivation facilities.

The Otter Point APC considered the application on June 5, 2018 and 10 members of the public were present at the meeting. Discussion focused on the pending federal government legalization of cannabis and about the applicant's involvement with the industry. Concerns regarding water usage, site contamination, drainage and waste disposal for medical marihuana production facilities as well as interference with radio-communication systems were stated. The Otter Point APC made the following motion:

MOVED by Bud Gibbons, **SECONDED** by Stephen Smith that the Otter Point APC accepts this application subject to more information being provided by the applicant on water use, drainage, ground water, light pollution and disclosure of the proposed medical marijuana use, and impact on emergency radio communications, and given assurances from potential developers to reduce impact of these concerns. **CARRIED**

PLANNING ANALYSIS

Since the time that application RZ000255 was considered by referral agencies and the Otter Point APC, the federal legalization of cannabis has come into effect. Details about the *Cannabis Act* and related legislation was not available at the time this application was initially considered.

Additional information was requested by APC members regarding the potential impacts from large-scale medical marihuana cultivation facilities on local utilities and the environment. The applicant has not provided additional details, but has instead amended their application to request zoning for licensed cannabis processing facilities.

Under the *Cannabis Act* and Regulation, there is a licence category for cannabis processing. Authorized activities include possessing cannabis, producing cannabis other than by cultivating, propagating or harvesting, and selling cannabis. The micro-processing category further limits production of cannabis by synthesis and implements cannabis possession thresholds. Federal cannabis license requirements include designation of authorized staff, security and site monitoring

protocols, and product destruction requirements. Prior to submitting a license for cannabis processing, notification is required to be delivered to local government, police and fire departments. Provincial regulations for cannabis distribution and retail sales are in effect that further control the product supply.

Consideration can be given to the proposed cannabis processing use and whether it falls within what is defined as general industrial uses in the M-2 zone. The M-2 zone currently permits *general industrial* uses defined as:

INDUSTRIAL USE, GENERAL means a use providing for the research, design, manufacture, testing, servicing, storage, transportation and distribution, wholesale, wrecking or salvaging of goods, materials or things. Includes vehicle paint and body shops, soil improvement operations, food and beverage processing and high tech.

The proposed definition would read as follows:

INDUSTRIAL USE, GENERAL means a use providing for the processing, fabricating, research, design, manufacture, testing, servicing, storage, transportation and distribution, wholesale, wrecking or salvaging of goods, materials or things. Includes vehicle paint and body shops; soil improvement operations; food and beverage processing; high tech; and licenced cannabis processing, analytical testing, sale and research pursuant to the Cannabis Act, except adjacent to insitutional, rural and rural-residential zones.

Outside the Sooke Business Park, general industrial uses are permitted on five parcels. Three of those parcels are immediately adjacent to Rural and Rural Residential zoned land, so this definition would preclude the processing of cannabis on those properties. The remaining two parcels are currently used for an auto body repair business and are adjacent to Sooke Business Park.

The M-2 zone also permits offices, drive-in theatres, vehicle sales, equipment sales, bulk fuel sales, auction rooms, retail sale of lumber and gravel processing (Appendix 5). However, properties in the Sooke Business Park development are encumbered by Covenant FB424654, which further limits use of the land by prohibiting specific uses including: kennels, salvage yards, refuse disposal, chemical industries, hazardous material storage, fuel storage, treated wood processing, or waste processing.

As licenced cannabis processing facilities are not anticipated to have the same potential impacts to local utilities or the environment as the previously considered cannabis cultivation facilities, staff propose supporting this use on lands zoned General Industrial (M-2), except where such lands are adjacent to non-industrial zoned parcels. In addition, due to the federally imposed licence conditions, such as security protocols and the provincially regulated cannabis distribution scheme, no significant negative impacts to the surrounding community are anticipated.

Staff have revised proposed Bylaw No. 4234 in response to a request by the applicant. The bylaw will now clarify the definition of general industrial use to include cannabis processing pursuant to a valid licence issued under the *Cannabis Act*. Staff recommend Alternative 1, referral of revised Bylaw No. 4234 to the Otter Point APC, appropriate CRD departments and to agencies.

CONCLUSION

The purpose of this zoning amendment application is to include licenced cannabis processing facilities in the General Industrial Use definition in the Juan de Fuca Land Use Bylaw No. 2040. The definitions would preclude such facilities on industrial parcels adjacent to institutional, rural or rural residential zoned land. Staff recommend referring the proposed bylaw to relevant CRD departments, the Otter Point APC and other agencies for comment.

RECOMMENDATION

- a) That comments submitted by the Otter Point Advisory Planning Commission, agencies and CRD departments through the referral of proposed Bylaw No. 4234, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018”, be received.
- b) That staff be directed to refer revised proposed Bylaw No. 4234, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018”, to the Otter Point Advisory Planning Commission, appropriate CRD departments and to the following agencies for comment

BC Hydro	Island Health	RCMP
District of Sooke	Ministry of Transportation and Infrastructure (MoTI)	T’Sou-ke First Nation

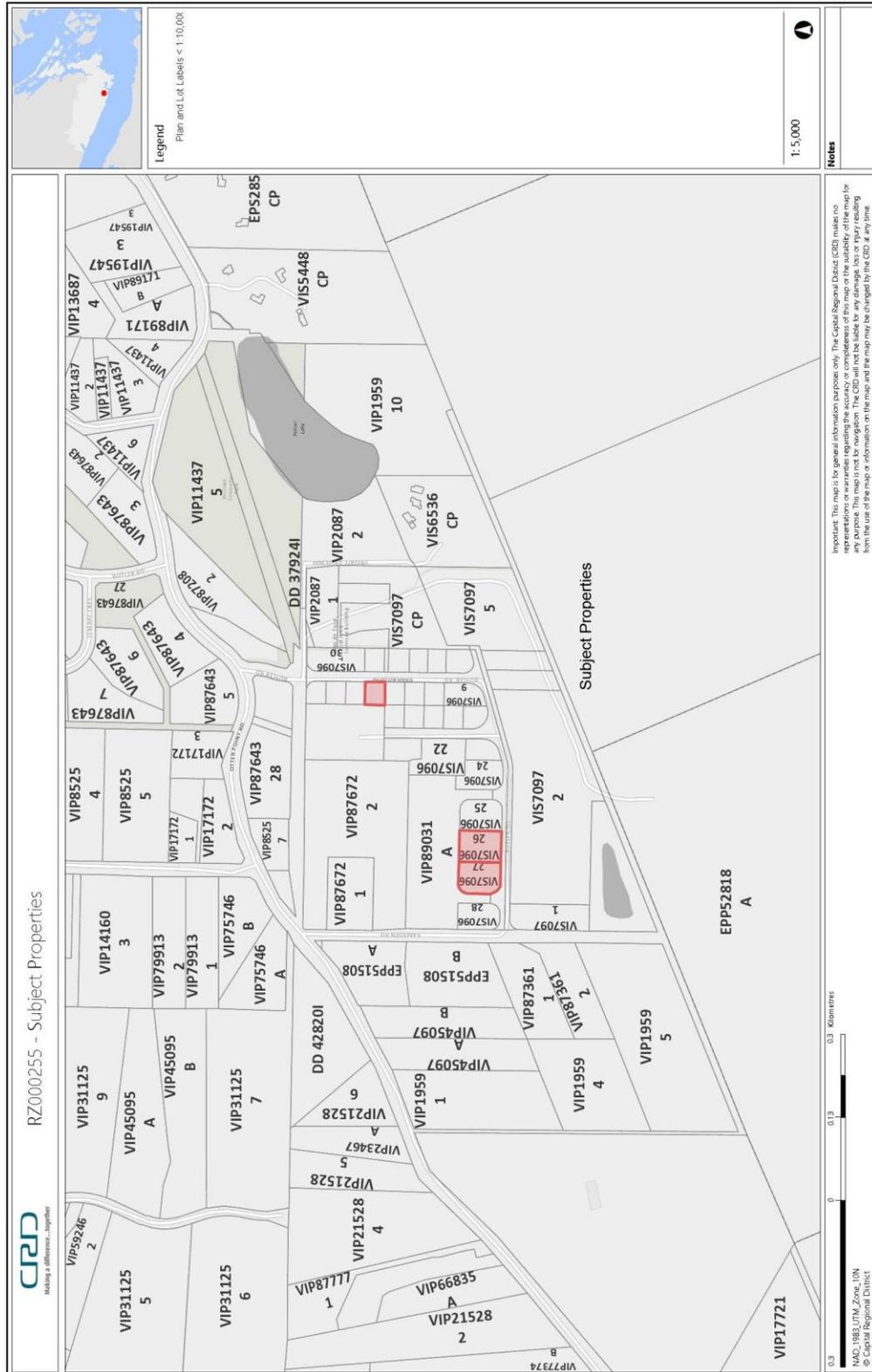
Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

ET:wm

Attachments:

- Appendix 1. Subject Properties Map
- Appendix 2. Referral Comments
- Appendix 3. Otter Point APC Minutes
- Appendix 4. Revised Proposed Bylaw No. 4234
- Appendix 5. General Industrial (M-2) Zone

Appendix 1: Subject Properties Map



Response Summary Rezoning Application RZ000255

Comments:

1. This rezoning is to allow for a Health Canada licensed medical marijuana production facility. As a licensed facility it will be subject to federally established practice standards. However, particular attention should be given to odour control containment measures for this operation. Studies have shown that exposure to environmental odours can lead to physiological stresses that may cause headaches, nausea, loss of appetite, and emotional disturbances. Exposure to odours may also exacerbate underlying medical conditions. Good odour control practices at the facility level will help reduce/eliminate these risks. If odour problems prevail, in addition to the physiological stress it can cause, there is the added risk of people remaining in the indoor environments as there may be reduced enjoyment in the outdoor environment. This in turn can have negative impacts on physical activity as well as engagement with nature. Both physical activity and engagement with nature has been shown to reduce stress and risk of chronic diseases for an overall improvement in health outcomes.
2. Locating a medical marijuana facility within an industrial zone area will help provide separation to area residents. Consider the use of buffer zones from residential and industrial zones to provide further assurance that the facility operations will have limited impact on residents and community.
3. Ensure compliance with the *Drinking Water Protection Act/Regulation* and Sewerage System Regulation.

From: [Schneider, Nikki TRAN:EX](#)
To: [Joyce Volek](#)
Subject: RE: RZ000255 Butler Road 7450, SL 13, 26 & 27
Date: Thursday, April 26, 2018 12:54:59 PM

Good Afternoon,

Please accept this as official response from the Ministry of Transportation and Infrastructure in regards to the proposed rezoning of strata lots 13, 26 & 27 on Butler Road; Ministry File 2018-02199.

The Ministry has no objections to the rezoning. There are no conditions to be met at this time.

If you have any questions or concerns , please do not hesitate to contact me.

Have a great day,

Nikki Schneider
District Development Technician
Saanich Area Office

From: [Jeffrey McArthur](#)
To: [Joyce Volek](#)
Subject: Re: RZ000255 Butler Road 7450, SL 13, 26 & 27
Date: Tuesday, April 24, 2018 12:26:57 PM

Thank you, no issues, no comments.

Jeff

>>> Joyce Volek <jvolek@crd.bc.ca> 2018/04/24 11:56 AM >>>

Good morning, please find attached a referral form and staff report for rezoning application RZ000255.

The Juan de Fuca Land Use Committee directed referral of proposed Bylaw No. 4234 at its April 17, 2018 meeting.

Comment is requested by May 23, 2018.

Thanks

Joyce Volek | Administration
Juan de Fuca Local Area Services
Capital Regional District | 3-7450 Butler Road, Sooke, BC V9Z 1N1
T: 250.642.8100 | F: 250-642-5274 | www.crd.bc.ca

To:

Emma Taylor
Juan de Fuca Planning Services
Juan de Fuca Local Services Building
#3-7450 Butler Rd.
Sooke, BC
V9Z 1N1

I am writing this letter in regards to the expanding Cannabis Production Facilities within the Sooke Business Park located at 7450 Butler Road, Sooke, BC. Namely Strata lots 13, 26 and 27 RZ000255.

The Juan de Fuca Emergency Program (JdF EP) is mostly neutral when it comes to what kind of business is in the business park. We do however have concerns with the electrical noise produced by the lighting systems required for growing their product. This “electrical noise” interferes with our Emergency Radio Communications interoperability. Presently it is affecting our HF band (3-20 MHz) on our radios. HF is the radio band we would use in a large event. It gives us the ability to send and receive both voice and digital messages to a recipient located outside the disaster zone.

We would request that before any new production facilities are approved that the developer does a radio frequency study covering the 3-20 MHz frequency range and ensure that once the facility is in operation, no additional increase in the noise floor is present. The developer is required to ensure that all lighting and electronic systems installed in the facilities have the lowest amount of RF interference possible. All transformers, ballasts, etc. are to be fully shielded and grounded to reduce interference.

We understand that even with the best equipment that there will still be some RF interference, we request that the developer place \$3,000 in trust with the CRD (JdF EP) for further interference testing and filtering to remove the noise.

To help with the current interference from the existing facilities we request that the developer give JdF EP \$2,000 to purchase a specialised commercial HF antenna that will help to reduce the sensitivity of the interference.

Regards,
Jeri Grant
Juan de Fuca Emergency Program Coordinator

Brain Webb
Juan de Fuca Emergency Radio Coordinator
Deputy Emergency Program Coordinator



Making a difference...together

**Minutes of a Meeting of the Otter Point Advisory Planning Commission
Held June 5, 2018 at Juan de Fuca Local Area Services Building, 3-7450 Butler Road,
Otter Point, BC**

PRESENT: Al Wickheim (Chair), Bud Gibbons, Anne Miller, Stephen Smith
Staff: Emma Taylor, Planner; Joyce Volek, Recorder
ABSENT: Sid Jorna
PUBLIC: 10

The meeting was called to order at 7:00 p.m.

1. Elections

Staff stated that elections are required for the Advisory Planning Commission as this is the first meeting of the year and the elections process was explained. The call for elections was declared open.

Al Wickheim accepted his nomination by Bud Gibbons for the Chair position of the Commission. As no further nominations were received, Al Wickheim was acclaimed as Chair.

Anne Miller accepted her nomination by Bud Gibbons for the Vice Chair position of the Commission. As no further nominations were received, Anne Miller was acclaimed as Vice Chair.

The Chair welcomed everyone to the meeting and provided a brief overview of the role of the Advisory Planning Commission (APC) noting that the APC is an advisory body to the Juan de Fuca Land Use Committee (LUC). The LUC makes recommendations to the Capital Regional District Board.

2. Approval of the Agenda

MOVED by Bud Gibbons, **SECONDED** by Anne Miller that the agenda be approved.

CARRIED

3. Adoption of the Minutes of September 25, 2017

MOVED by Stephen Smith, **SECONDED** by Anne Miller that the minutes of the meeting of September 25, 2017, be adopted.

CARRIED

4. Planner's Report

Emma Taylor provided an update for the Official Community Plan, East Sooke, Bylaw No. 4000 and the Official Community Plan, Shirley-Jordan River, Bylaw No. 4001. It was stated that consideration of Third Reading will take place at the Regional Board meeting in June. If Third Reading is granted, the bylaws would then be sent to the Ministry of Transportation & Infrastructure for approval.

5. Rezoning Applications

a) RZ000255 - Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096 (Butler Road – Sooke Business Park)

Emma Taylor provided an overview of the rezoning application for the three lots from General Industrial (M-2) to the Sooke Business Park Industrial (M-SBP) zone. Lot 13 is occupied by a warehouse building, Lot 26 is occupied by an industrial shelter and Lot 27 is vacant. The parcels are designated as Settlement Area One and as an Industrial

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Development Permit Area in the Official Community Plan for Otter Point. The permitted uses in the M-SBP zone were outlined and staff explained that the prohibited uses are also listed in a registered covenant on title. Staff are recommending that another covenant be registered requiring remediation of any building used for medical marihuana production prior to commencement of any subsequent use. The Land Use Committee recommended referral to various agencies and to the Otter Point Advisory Planning Commission for comment.

Staff made reference to the M-SBP zone handout and stated that 18 properties in the Sooke Business Park have already been rezoned to permit medical marihuana production, but that it is not clear how many are in operation. A discussion ensued regarding the federal government regulations for medical marijuana production, the pending laws for recreational marihuana production and information regarding the applicants' long-term business plans. Staff explained that the current federal licensing regulations require verification of local government land use zoning. There is not yet information about requirements for recreational marihuana production.

It was noted that one of the applicants, Jeff Green, was present at the meeting. Jeff Green stated he is the owner of Lot 13 and has submitted a rezoning application with the other applicant as a cost effective method. He is relocating his sporting goods business to a larger property and is rezoning Lot 13 to potentially make the sale of Lot 13 more attractive and increase the property value.

A Commission member made reference to a recent news article about the applicant for Lots 26 and 27 which stated they were involved with recreational marihuana production. Members raised concerns about lack of information from the applicant about their intent and about potential recreational marihuana production. The applicant was not present to address the Commission's questions.

Members of the public stated concern regarding water usage, site contamination, drainage and waste disposal for medical marihuana production facilities.

Additional concerns were raised of what the distribution process would be and whether this was for recreational or medical marijuana. Another Commission member advised that these issues would be addressed by the Federal Health Licensing regulations.

A Commissioner stated that existing medical marihuana production facilities in the Sooke Business Park have been known to cause interference with JDF Emergency Services radio communication systems.

Rob Peters, a member of the public, stated that he is aware of a medical marijuana facility which is a "closed" system where the water is recycled. It uses LED lighting and has a high fence with security cameras in place. He stated the federal government is very strict.

A further discussion ensued regarding light pollution, building height, security, drainage and chemical residue. Staff confirmed that the maximum height requirement in the M-SBP zone is 14 m. Staff further described the drainage regime of the properties as flowing into Kemp Lake and DeMamiel Creek watersheds, as well as undersurface drainage patterns established during previous industrial activity.

A public member addressed the Commission stating concern with:

- light pollution resulting in negative impacts to wildlife and to adjacent residential neighbourhood;

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- fire protection, increased fire risk and the potential to cause higher insurance rates in the area;
- the possibility of wells being contaminated by pesticides;
- remediation action;
- height and design of buildings.

It was clarified that the proposed covenant addresses the remediation of the building and not the entire site after a medical marihuana production use ceases.

Staff confirmed that the Industrial development permit guidelines in the Otter Point Official Community Plan outline the form and character requirements, including lighting, for industrial buildings and that the General Manager of Planning and Protective Services is delegated approval of development permits. It was further explained that a review of the disposal system capacity and covenants would be conducted as part of the building permit process. It was noted the CRD does not issue business licences.

A Commission member suggested a report be provided by the applicant addressing the proposed uses on the property and how waste disposal and drainage will be addressed.

Richard Ashton, a member of the public, stated that rezoning applications already have this approved zone in the Sooke Business Park and questioned the APC's role.

The Chair responded saying that, although the M-SBP zone has been approved on other properties, it is important to review the merits of each application and to ensure no negative impacts to the community will result.

A Commission member confirmed the APC would like to hear input from Otter Point residents and that the rezoning process allows opportunity for public input. There is no opportunity for public input in the building permit or development permit process.

A public member stated concern with a 45' building and the federal government requirement for lighting 24 hours/day.

Larry Swaykoski, a public member, asked whether the building will look like the concrete structure on the Pat Bay highway.

Staff advised that the development permit outlines the form and character for industrial buildings such as lighting and natural plantings.

Jeff Green stated that there are several other lots with this zoning already and it is unlikely all will be built out for marihuana production use. There are other permitted uses and that recent federal regulations could change and be more restrictive in the future.

Rob Peters, a public member, raised concerns with fire protection and questioned the ability of the Otter Point Fire Department to put out a potential fire.

Richard Ashton stated agreement with all that was said and wanted assurance that these concerns will be looked at by the CRD and that strict guidelines are in place.

The Chair asked the Commission if there were any other concerns with other permitted uses.

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A Commission member asked if 'caretaker' had been defined. Staff advised that the term has not been defined in the bylaw.

The Chair asked if there had been any complaints or concerns with current production places. Staff advised no and referred to the most recent development permit with variance application that was supported and approved.

MOVED by Bud Gibbons, **SECONDED** by Stephen Smith that the Otter Point APC accepts this application subject to more information being provided by the applicant on water use, drainage, ground water, light pollution and disclosure of the proposed medical marijuana use, and impact on emergency radio communications, and given assurances from potential developers to reduce impact of these concerns. **CARRIED**

6. Adjournment

MOVED by Bud Gibbons, **SECONDED** by Al Wickheim that the meeting adjourn.

CARRIED

The meeting adjourned at 8:35 p.m.

Chair

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4234**

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 1, SECTION 2.0 DEFINITIONS

(a) By deleting the definition for “INDUSTRIAL USE, GENERAL” and replacing with the following:

“INDUSTRIAL USE, GENERAL means a use providing for the processing, fabricating, research, design, manufacture, testing, servicing, storage, transportation and distribution, wholesale, wrecking or salvaging of goods, materials or things. Includes vehicle paint and body shops; soil improvement operations; food and beverage processing; high tech; and licenced cannabis processing, analytical testing, sale and research pursuant to the *Cannabis Act*, except adjacent to insitutional, rural and rural-residential zones”.

2. This bylaw may be cited as “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018”.

READ A FIRST TIME THIS _____ day of _____, 2019.

READ A SECOND TIME THIS _____ day of _____, 2019.

READ A THIRD TIME THIS _____ day of _____, 2019.

ADOPTED THIS _____ day of _____, 2019.

CHAIR

CORPORATE OFFICER

Appendix 5: General Industrial M-2 Zone

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

27.0 GENERAL INDUSTRIAL ZONE - M-2

27.01 Permitted Uses

In addition to the uses permitted by Section 4.15 of Part 1 of this Bylaw, the following uses and no others are permitted in the General Industrial M-2 Zone:

- (a) General Industrial Uses excluding:
 - (i) Uses for which a permit is required under the Waste Management Act or Regulation;
 - (ii) Refuse and garbage dumps;
 - (iii) The burning of vehicles and other salvage;
- (b) Offices accessory to the principal use;
- (c) Drive-in theatres;
- (d) Vehicle Sales/rentals;
- (e) Equipment Sales/rentals;
- (f) Bulk fuel sales;
- (g) Auction rooms and places;
- (h) Retail sales of lumber and/or building supplies;
- (i) Gravel processing;
- (j) One dwelling unit for the use of a caretaker;
- (k) Unenclosed storage.

27.02 Minimum Lot Size for Subdivision Purposes

The minimum lot size shall be 900m².

27.03 Minimum frontage for Subdivision Purposes

The minimum lot frontage shall be 16m.

27.04 Minimum Lot Width for Subdivision Purposes

The minimum average lot width shall be 16m.

27.05 Number of Dwelling Units

One dwelling unit per lot is permitted.

27.06 Height

- (a) Maximum height shall be 14m for all buildings and structures;
- (b) Maximum height of any unenclosed storage use shall be 3.5m within 30m of a Residential Zone, Multiple Family Residential Zone, Commercial Zone, Rural Zone, Agricultural Zone or Institutional Zone.

27.07 Lot Coverage

Maximum lot coverage shall be 60 percent.



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF MONDAY, DECEMBER 17, 2018**

SUBJECT **Zoning Amendment Application for Strata Lot 10, Section 16, Otter District, Plan VIS7096**

ISSUE

The applicant is proposing to rezone the subject property from the General Industrial (M-2) zone to the General Industrial – Medical Marihuana (M-2MM) zone in order to permit a licensed medical cannabis cultivation facility pursuant to Health Canada’s former *Access to Cannabis for Medical Purposes Regulations (ACMPR)*.

BACKGROUND

The applicant has applied to rezone a strata property within the Sooke Business Park development located at 7450 Butler Road in Otter Point (Appendix 1). The parcel is zoned General Industrial (M-2) in the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, and is adjacent to parcels zoned Sooke Business Park Industrial (M-SBP). The parcels are designated as Settlement Area One (SA1) and as an Industrial Development Permit Area (DPA) in the Official Community Plan (OCP) for Otter Point, Bylaw No. 3819.

The subject property was created by subdivision in 2011 as part of a 25-lot bare land strata. The strata lots share a common property access off Butler Road and have a common disposal field. A development permit was issued in 2013 for construction of an industrial building on the property; however, the building permit remains incomplete.

The proposed application to rezone the property to M-2MM would allow for the current set of permitted uses under the M-2 zone, as well as federally-licensed medical cannabis production facilities. In addition, the range of industrial uses are limited by covenant FB0424654 registered on the title of all the lots within the Sooke Business Park.

Staff have prepared Bylaw No. 4276, which would delete Lot 10 from the M-2 zone and add it to the M-2MM zone (Appendix 2).

ALTERNATIVES

1. That staff be directed to refer proposed Bylaw No. 4276, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 139, 2018”, to the Otter Point Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment:

BC Hydro	Island Health	RCMP
District of Sooke	Ministry of Transportation and Infrastructure (MoTI)	T’Sou-ke First Nation

2. That proposed Bylaw No. 4276 not be referred.

3. That more information be provided by staff.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

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)*; therefore, staff recommend referring the proposed amendment to the Otter Point APC.

Should the proposal proceed, a public hearing pursuant to Section 464 of the *LGA* will be required subsequent to the amendments passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent a notice of the proposed bylaw amendments and it will be advertised in the local paper and on the website.

PLANNING ANALYSIS

The Settlement Area designation specifies that the predominant land use is rural residential; however, industrial uses on lands zoned industrial or with a valid temporary use permit are also permitted in the Settlement Area designation. The subject property is currently zoned for general industrial uses and the proposed rezoning is consistent with the Settlement Area designation.

The Juan de Fuca Land Use Bylaw No. 2040 was amended in 2014 by Bylaw No. 3922 to define medical marijuana production facilities as an *intensive agriculture* use in keeping with the Agricultural Land Commission's determination that medical marijuana production is an agricultural use. Bylaw No. 3923, which was also adopted in 2014, established a new General Industrial Medical Marijuana (M-2MM) zone (Appendix 3), which added *intensive agriculture – medical marijuana production* to the list of permitted uses, and now applies to seven lots in the Sooke Business Park.

More recently, Bylaw No. 4187 added the Sooke Business Park Industrial (M-SBP) zone to Bylaw No. 2040, and applied it to eleven lots within the Sooke Business Park. The M-SBP zone permits *intensive agriculture – medical marijuana production*, as well as a limited set of commercial uses such as business office and support services, and allows parking within the front yard setback on lots that front an internal strata road. This zone was also drafted to remove gravel processing as a permitted use and to clarify those uses that are prohibited by covenant FB0424654. While the owner has requested the M2-MM zone, staff recommend that the bylaw be revised prior to First Reading to apply the M-SBP zone.

The federal legalization of cannabis and the new licencing regime under the *Cannabis Act* create multiple categories for medical and non-medical cannabis cultivation and processing. Licences issued under the federal *Access to Cannabis for Medical Purposes Regulation (ACMPR)* are deemed to be valid under section 158 (1) of the *Cannabis Act*. Local government land use approval is required for such facilities to operate.

Similar proposals for medical cannabis cultivation facilities have been considered in the Sooke Business Park. Additional information was recently requested by Otter Point Advisory Planning Commission members regarding the potential impacts from large-scale medical marijuana cultivation facilities on local utilities and the environment. The applicant has provided an overview of operational details for consideration (Appendix 4).

With regards to the *intensive agriculture – medical marijuana production* use, there are no anticipated nuisances, odours, or security concerns related to the proposed use as the facilities are contained indoors and Health Canada's regulations require license-holders to abide by strict security and quality control measures.

As a condition of rezoning, staff recommend that a covenant be registered on the title of the subject properties requiring the remediation of any buildings used for medical cannabis production prior to commencement of any subsequent use.

Staff recommend Alternative 1, referral of proposed Bylaw No. 4276, to the Otter Point APC, to appropriate CRD departments and external agencies.

CONCLUSION

The purpose of this zoning amendment application is to allow medical cannabis at property within the Sooke Business Park. Staff recommend referring the proposed bylaw to relevant CRD departments, the Otter Point APC and other agencies for comment.

RECOMMENDATION

That staff be directed to refer proposed Bylaw No. 4276, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 139, 2018”, to the Otter Point Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment:

BC Hydro	Island Health	RCMP
District of Sooke	Ministry of Transportation and Infrastructure	T’Sou-ke First Nation

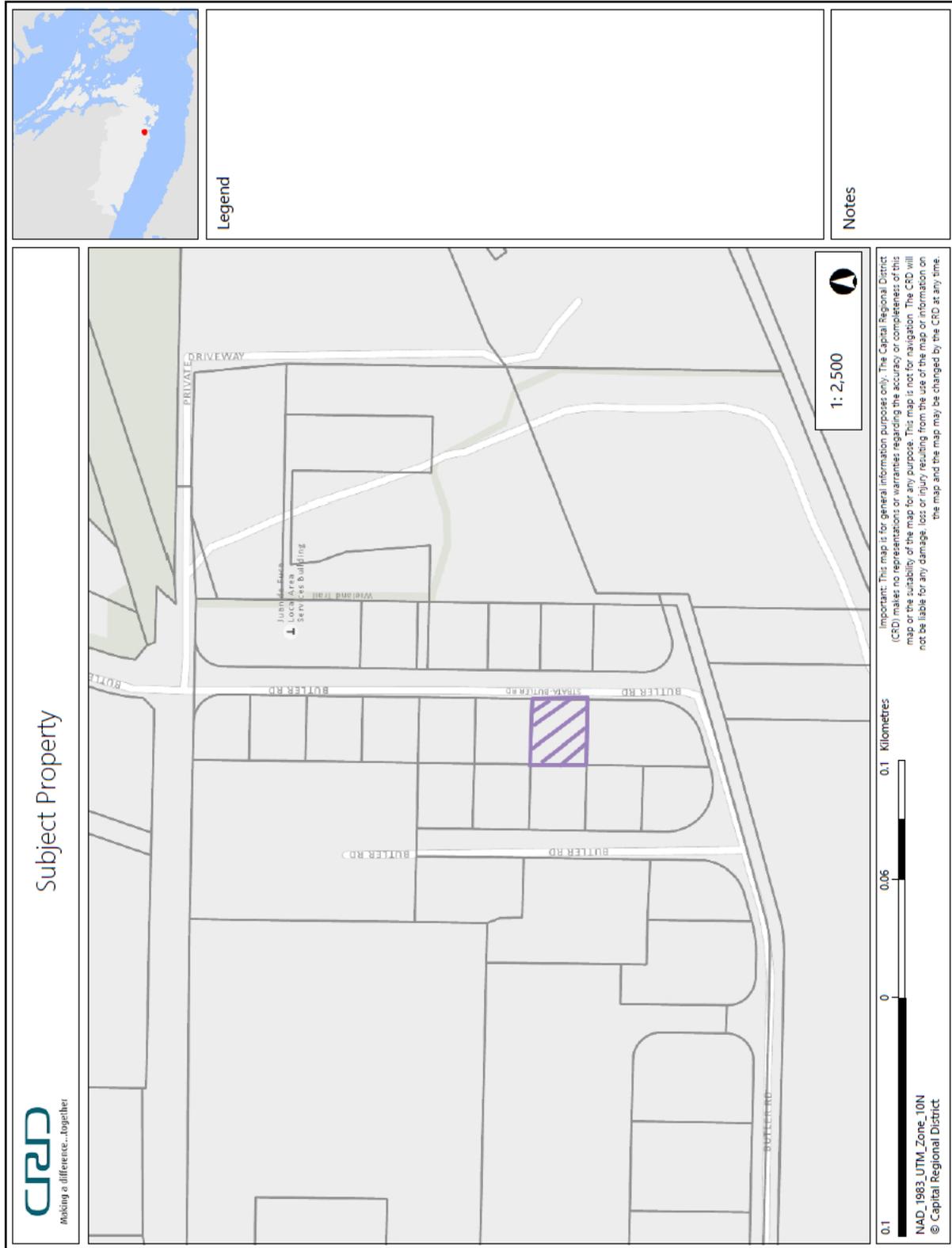
Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner, Local Area Planning
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

ET/wm

Attachments:

- Appendix 1. Subject Properties Map
- Appendix 2. Proposed Bylaw No. 4276
- Appendix 3. General Industrial – Medical Marihuana zone (M-2MM)
- Appendix 4. Proposal

Appendix 1: Subject Property



**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4276**

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

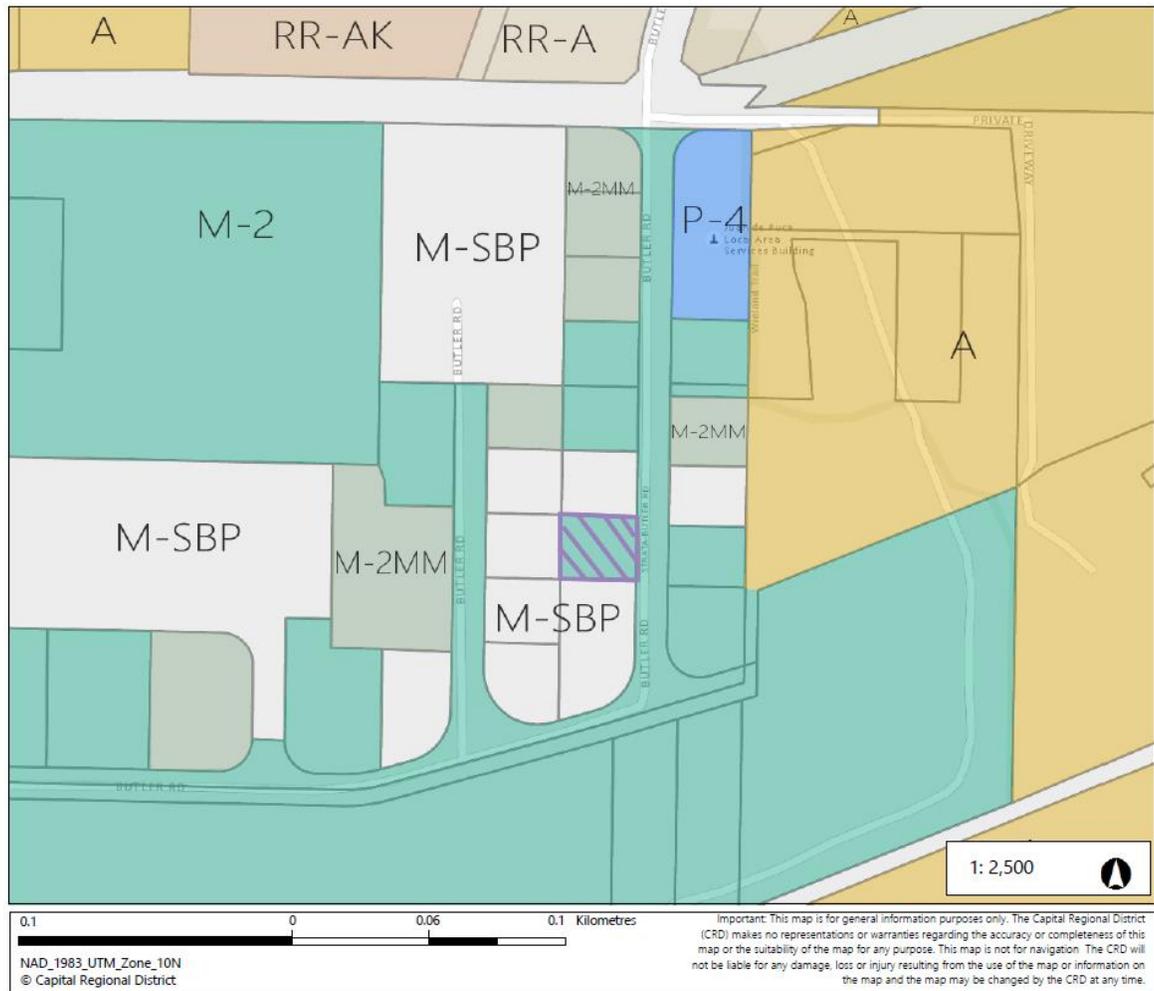
The Capital Regional District Board, in open meeting assembled, enacts as follows:

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

A. SCHEDULE B, MAP NO. 2 – OTTER POINT ZONING MAP

- (a) By deleting Strata Lot 10, Section 16, Otter District, Plan VIS7096 from the General Industrial (M-2) zone, and adding said lot to the General Industrial – Medical Marihuana (M-2MM) zone, as shown on Plan No. 1.

Plan No. 1 of Bylaw 4276, an amendment to Bylaw No. 2040



Appendix 3: General Industrial – Medical Marihuana zone M-2MM

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

27A.0 GENERAL INDUSTRIAL MEDICAL MARIHUANA - M-2MM

Bylaw 3923

27A.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 are permitted in the General Industrial Medical Marihuana M-2MM Zone:

- (a) General Industrial Uses excluding:
 - (i) Uses for which a permit is required under the *Environmental Management Act* or Regulation;
 - (ii) Refuse and garbage dumps;
 - (iii) The burning of vehicles and other salvage;
- (b) Offices accessory to the principal use;
- (c) Drive-in theatres;
- (d) Vehicle Sales/rentals;
- (e) Equipment Sales/rentals;
- (f) Bulk fuel sales;
- (g) Auction rooms and places;
- (h) Retail sales of lumber and/or building supplies;
- (i) Gravel processing;
- (j) One dwelling unit for the use of a caretaker;
- (k) Unenclosed storage;
- (l) Intensive Agriculture - Medical Marihuana Production.

27A.02 Minimum Lot Size for Subdivision Purposes The minimum lot size shall be 900 m².

27A.03 Minimum frontage for Subdivision Purposes The minimum lot frontage shall be 16 m.

27A.04 Minimum Lot Width for Subdivision Purposes The minimum average lot width shall be 16 m.

27A.05 Number of Dwelling Units One dwelling unit per lot is permitted.

27A.06 Height (a) Maximum height shall be 14 m for all buildings and structures;
(b) Maximum height of any unenclosed storage use shall be 3.5 m within 30 m of a Residential Zone, Multiple Family Residential Zone, Commercial Zone, Rural Zone, Agricultural Zone or Institutional Zone.

27A.07 Lot Coverage Maximum lot coverage shall be 60 percent.

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

27A.08 Required Yards

- (a) Front yards shall be a minimum of 7.5 m;
- (b) Side yards shall be a minimum of 4.5 m, except:
 - (i) when the lot abuts a Residential, Rural Residential, or Multiple Family Residential Zone, the side yard shall be a minimum of 15m;
 - (ii) when the lot abuts an Industrial Zone, the side yard may be zero;
 - (iii) when the lot abuts any other Zone, the side yard shall be a minimum of 3 m;
- (c) Flanking yards shall be a minimum of 6 m CTS;
- (d) Rear yards shall be a minimum of 7.5 m, except:
 - (i) where a rear lot line abuts a Residential, Rural Residential, or Multiple Family Residential Zone the rear yard shall be a minimum of 15 m;
 - (ii) where a rear lot line abuts an Industrial Zone, the rear yard may be reduced to not less than 4.5 m.

27A.09 Storage

Storage shall not be permitted in required yards adjacent to any Residential or Multiple Family Residential Zone.

Hi Iain,

It was nice talking to you today. If you have any further questions pertaining to our business or the industry, please feel free to contact me.

Regarding the amount of water we will consume, the answer to this question is determined by the number of plants in the facility. We project to consume anywhere from 100gallons to 150 gallons a day. The amount of water use will vary for other growers as it will depend on the system they have in place. Some may use more and some may use less.

The inputs and outputs - The nutrients that we will be using is called Canna. We use their organic line which is OMRI. The amount of ppm outflowing back out to the sewer system will vary as it will vary on the number of nutrients the plant intake. For example, if we provide 1000ppm for the plants to intake, it may only absorb 800ppm, hence, the output to the sewer may be 200ppm. We aim to output less than 100ppm as we want to minimize spoilage.

For herbicide and pesticide, the amount we use is minimal. We strive to use none of it, but there are occasions where it may be used. If we do use, we use the over the counter products which can be purchased from Canadian Tire - bug be gone (which is safe). At the ideal environment, there should not be a need for herbicides and pesticides.

If you have any further questions, please do not hesitate to contact me.

Thanks!