

REPORT OF PUBLIC HEARING
held at the Shirley Community Hall
2795 Sheringham Point Road, Shirley, BC
August 31, 2011 at 7:00 p.m.

SUBJECT: **BYLAW NO. 3717**, cited as the "Official Community Plan for Shirley/Jordan River Bylaw No. 1, 2010"

PRESENT: **Alternate Director W. Vowles**, Chair by Resolution of the Capital Regional District Board on Wednesday, August 10, 2011
CRD Staff: J. Klassen, Local Area Planning Manager; W. Miller, Recording Secretary

PURPOSE OF THE HEARING:

To repeal and replace CRD Bylaw No. 3352, cited as the "Official Community Plan for Shirley/Jordan River No. 1, 2006" and update the Official Community Plan by including:

- a Greenhouse Gas Reduction statement,
- amending the Development Permit Area No.1: Steep Slopes by changing the lands designated from areas having slopes exceeding 20 percent or 11 degrees in slope over a minimum 6 metre run to areas having slopes exceeding 30 percent or 16.7 degrees in slope over a minimum 10 metre run,
- providing additional exemptions for development permits,
- reflecting adoption of the Parks Plan, and
- incorporating revised mapping

NOTICE: Property owners and occupiers were given notice as set out under Section 892 of the *Local Government Act*. Notices were inserted in two (2) consecutive issues of the Sooke Mirror appearing on August 17 and August 24, 2011.

ATTENDANCE: There were approximately 12 people in attendance.

The Chair declared the Public Hearing open at 7:05 p.m. The guidelines and procedures of the Public Hearing and Notice of Public Hearing were read to those present and the Chair called for comments from those in attendance.

June Klassen advised that written submissions were received from four property owners. The submission from Heather Phillips, Otter Point, states concerns regarding process, public consultation and steep slope determination. Gerard LeBlanc, Shirley, has advised that he will speak to his submission. The submission from Bud Gibbons supports the change in steep slope determination. The submission from Ender Ilkay, representative of the Sheringham Point development, notes mapping discrepancies regarding the development property and questions the development being identified as a Development Approval Information Area.

Fiona McDannold, Shirley

- Spoke to a written comment stating that the Shirley/Jordan River Advisory Planning Commission reviewed the Steep Slope Development Permit exemption in June 2010
- At this time, steep slope determination was 20 percent or 11 degrees over a 6 meter run
- Questioned why the current proposed steep slope determination was not referred to the APC and questioned the need for this change and the resulting implications

Gerard LeBlanc, Shirley

- Spoke to his written submission, questioning if the proposed bylaw was presented at a public information meeting
- Noted that all proposed amendments, barring the change to steep slope determination, were referred to the APC
- Stated concern with *4.4.3 General Exemptions for a Development Permit* and suggested that this section be broken down to clarify what is being exempted
- Comment 10 under *4.4.3 General Exemptions for a Development Permit* does not clearly explain what features are being referred to and what level of protection is required
- Questioned why subdivisions would be exempted for *4.4.3 10*
- Stated that *4.5.4 Guidelines* should be strengthened to require a Development Permit should the requirement for protection be identified
- OCP should include identification and measures related to Wildland Urban Interface
- Questioned need to repeal the existing OCP
- Advised that he will be revising his written submission prior to the close of the Public Hearing

June Klassen clarified that Bylaw No. 3352 was approved under a CRD Board voting structure that the court has determined to be invalid. Legal counsel advised that the Board should not amend a bylaw that could be deemed invalid. Revision beyond the current proposed updates will be done at such time that the OCP proceeds to community review.

Brenda Mark, Shirley

- Stated that the language of comment 10 and 11 under *4.4.3 General Exemptions for a Development Permit* is confusing
- Questioned what criteria determines a qualified professional
- Stated that guidelines for reports are required to determine what reports and/or certification are deemed acceptable to the CRD
- Change in steep slope determination has resulted in a significant decrease in steep slope development permit areas
- Change in steep slope determination has decreased protection to properties

Karen, Vanveen, Shirley

- Identification of steep slopes protects water quality and quantity

Harold Shipton, Shirley

- Questioned mapping accuracy and protection measures if mapping does not identify a steep slope or water course when such features exist on a property
- Stated need for proper mapping

June Klassen clarified that applicants must declare if a water course is present at the time of application and further noted that the Building Inspector is on site for all permits and can request professional reports.

Myron Teneycke, Shirley

- Measures are required to ensure water quality
- Water quality is a public health issue
- Coordination is required between government levels to coordinate legislation with maintenance, enforcement and protection

June Klassen advised that watershed and groundwater development permit areas can be considered as part of the OCP review and that water can be considered regionally as part of the Regional Sustainability Strategy.

Phillip Bradshaw, Shirley

- Supports the change in steep slope determination as it applies to his area and larger community parcels

Brenda Mark

- Opposed to adoption of a new OCP reflecting inaccurate mapping
- Mapping does not accurately reflect water courses with drinking water licenses
- Spoke to damage done to Swallow Creek, a drinking water source, due to inaccurate mapping
- Questioned if a citizen committee could be formed to map water courses

Bud Gibbons, Otter Point

- Supports change in steep slope determination

The Chair clarified that mapping would have to be done by a qualified professional. Mapping and identification of specific water courses can be considered as part of the OCP review.

Karen Vanveen

- Supports utilizing forest company mapping to increase accuracy

June Klassen clarified that all mapping information is obtained from the Province and spoke to the process of applying for funds from the Federal Gas Tax Transfer to support an OCP review.

Fiona McDannold

- Opposed to change in steep slope determination until such time that the OCP undergoes review

Phillip Bradshaw

- Questioned course of action if a steep slope has been developed without a permit

Brenda Mark

- Questioned the concern regarding validity of the OCP bylaw and the need to hurry repeal and replacement of the OCP bylaw

Harold Shipton

- Understands the need to reflect the required Greenhouse Gas Reduction statement but stated that water concerns far outweigh the inclusion of the reduction statement

Phillip Bradshaw

- Stated that development permits are onerous for large property owners particularly as applied to smaller projects such as sheds

The Chair called three times for further discussion on the bylaw and hearing none closed the Public Hearing on Bylaw No. 3717 at 8:03 p.m.


CHAIR, Alternate Director W. Vowles


RECORDING SECRETARY, W. Miller

Submission to Public Hearing on adoption of Bylaw 3717

The Shirley/Jordan River Advisory Planning Commission reviewed the Steep Slopes Development Permit exemption along with the other exemptions as set out in Bylaw 3717 in June of 2010.

At that time, the criteria for a Steep Slope Development Permit was land in which the slope exceeds 20 percent or 11 degrees over a minimum 6 meter run. Subsequent to that review in June 2010, the criteria for a Steep Slope Development Permit is proposed to be amended to lands in which the slope exceeds 30 percent or 16.7 degrees over a minimum 10 metre run.

Several questions arise from this issue:

1. Why was this change not sent back to the Advisory Planning Commission for review, especially in light of the prior discussion by the APC about exemptions under the Steep Slopes Development Permit area.
2. What is the need for this change?
3. What are the policy implications for changing degree and run of slope?

This is a substantive change and had the Advisory Planning Commission been aware of the new criteria, their recommendation regarding the Steep Slope Development Permit exemptions may have been different. By changing the criteria for the discussion after the fact, the recommendation by the APC regarding the Steep Slope Development Permit area exemptions is in effect meaningless.

Submitted by

Fiona McDannold

Shirley, B.C



GERARD V. LEBLANC

Shirley, B.C.

August 31, 2011

Capital Regional District
Juan de Fuca Electoral Area
#2 - 6868 West Coast Road
Sooke, BC, V9Z 0S9

Attn.: June Klassen, Manager
Local Area Planning Services

*Revised at the
Public Hearing*

Dear Ms. Klassen:

Re: Public Hearing – Bylaw No. 3717 – OCP for Shirley/Jordan River

I have had the opportunity to review the proposed amendments to the noted OCP and voice the following concerns in objection to the proposed bylaw adopting it.

First, I am puzzled why the entire OCP is being re-adopted when there are only a few amendments being proposed. Demographic data has not been updated to include 2006 Census data thus making the information on population provided questionable. Has the population of Shirley/Jordan River changed since 2001? I assume that it has, possibly only marginally. New population data from the 2006 Census should have been included in any 'new' OCP that is adopted for our area.

Also in this vein, have there been any public information meetings held in the community regarding the adoption of this new OCP as part of the consultation process. I note other governments and agencies have been consulted but have not seen any 'public comments'. I was away for the entire month of May and may have missed any public meeting that was held to inform the public of the proposed changes. If one has not been held then this public hearing shouldn't proceed until the public can be heard.

My concerns deal with Sections 4.4.3 10., and 11., and 4.5.4 1] of the OCP:

4.4.3 General Exemptions for a Development Permit

10. subdivision and development applications on lands subject to steep slopes or watercourses, wetlands or riparian development permit, where a qualified professional submits a report or provides certification acceptable to the CRD that the parcel does not include slopes exceeding

30-percent or 16.7 degrees in slope over a minimum 10 metre run, or not to contain a watercourse or wetland (that is, no features requiring protection are located on the parcel);

11. development applications on lands subject to steep slopes or watercourse, wetlands or riparian development permit, where a qualified professional submits a report or provides certification acceptable to the CRD that the proposed development is located outside the steep slope or riparian assessment area, or the setback for non-fish bearing watercourses or wetlands (that is, no feature requiring protection will be affected). This exemption does not apply to subdivision applications.

Section 4.4.3 10., and 11., both need to be made more understandable. The intent of providing for DP exemptions is understood but exactly what this section actually does is not understood. I suggest that both sections be broken down to deal with each of the requirements that are being exempted and should deal with steep slopes, watercourses, wetlands and riparian areas separately.

The statement in 10., "that is, no features requiring protection are located on the parcel" is vague. What are the features referred to and what is the level of protection required; is it relative or specific? A reader or applicant would be hard pressed to interpret what is meant.

Also, why would subdivisions be exempted for the item referenced in 4.4.3 10.? This is one of the items that could have been clarified at a public information meeting, and that may already have if one was held.

My second concern lies with Section 4.5.4.

4.5.4 Guidelines

1] As a part of an application for a zoning change or the issuance of a Development Permit, applicants must provide, at their expense, an assessment by a qualified professional, as outlined in the Development Approval Information Bylaw, of the impact that the proposed development may have on any of the above-referenced matters.

I believe a second subsection, 2] should be added that notes that if the assessment that is completed identifies a requirement for protection, mitigation of impacts, improvements, etc., are required that the CRD may require the applicant to apply for and go through a Development Permit process. This would ensure adequate protection is provided.

Thank you for providing this opportunity to voice these concerns and objections. I ask that serious consideration be given to holding a public information meeting in the community if none has been held to date.

Yours truly,



Gerard V. LeBlanc

In addition, I have a serious concern there has not been any public information or community meeting regarding the adoption of this new OCP. There have been a number of APD & LUC meetings but no community meeting or public information meeting held in Amley or Jordan River on the new OCP. This has prevented residents from being able to comment on the

OCP before Bylaw 3717 was adopted. This is a breach of the process of natural justice. Residents of the plan area should have been offered an opportunity to ask questions or comment ~~of~~ ^{on} a draft OCP before it went to bylaw adoption stage. ~~They~~ ^{current process} does not show the required respect that should be shown to the community in the adoption of a new OCP for the Shuley/Jordan River OCP area.

The issues ^{public health issues} for steep slopes, watershed protection, development permits, wild-land/urban interface, fire protection and development controls, ^{brought up tonight} are clear evidence that better community consultation should have occurred prior to this bylaw, Bylaw 3717, being adopted.

~~The~~ Bylaw 3717 should be rescinded and a fair & thorough public consultation process ^{needs to} be conducted to obtain community views on a new OCP.

The current bylaw does not protect nor respect the ^{needs of concern to} residents of the Plan area & needs to be rescinded & a new OCP adopted through a ~~full~~ ^{process of} complete community engagement.

David L. Banc

Wendy Miller

From: Gerard LeBlanc
Sent: Wednesday, August 31, 2011 2:08 PM
To: Wendy Miller; June Klassen
Cc:
Subject: RE: Shirley/JR OCP

Thanks for the information Wendy. I find it disturbing that there was no mention in the ad of the entire OCP being reconsidered though. I didn't go to that meeting because the requirements of Bill 27 have been responded to in a very 'generic' manner by most local governments, as has JDF EA. There is a lot more being amended in the OCP that having the considerations of Bill 27 satisfied.

Gerard

Gerard V. LeBlanc

Shirley, BC,

Telephone:

 Please consider the environment before printing this e-mail

Wendy Miller

From: June Klassen
Sent: Wednesday, August 31, 2011 11:25 AM
To: Wendy Miller
Subject: FW: Concerns regarding 3717 mapping
Attachments: Sheringham Point Site Plan.pdf

For SJR OCP public hearing file

From: Ender Ilkay
Sent: Tuesday, August 30, 2011 6:26 PM
To: June Klassen
Subject: Concerns regarding 3717 mapping

Hi June,

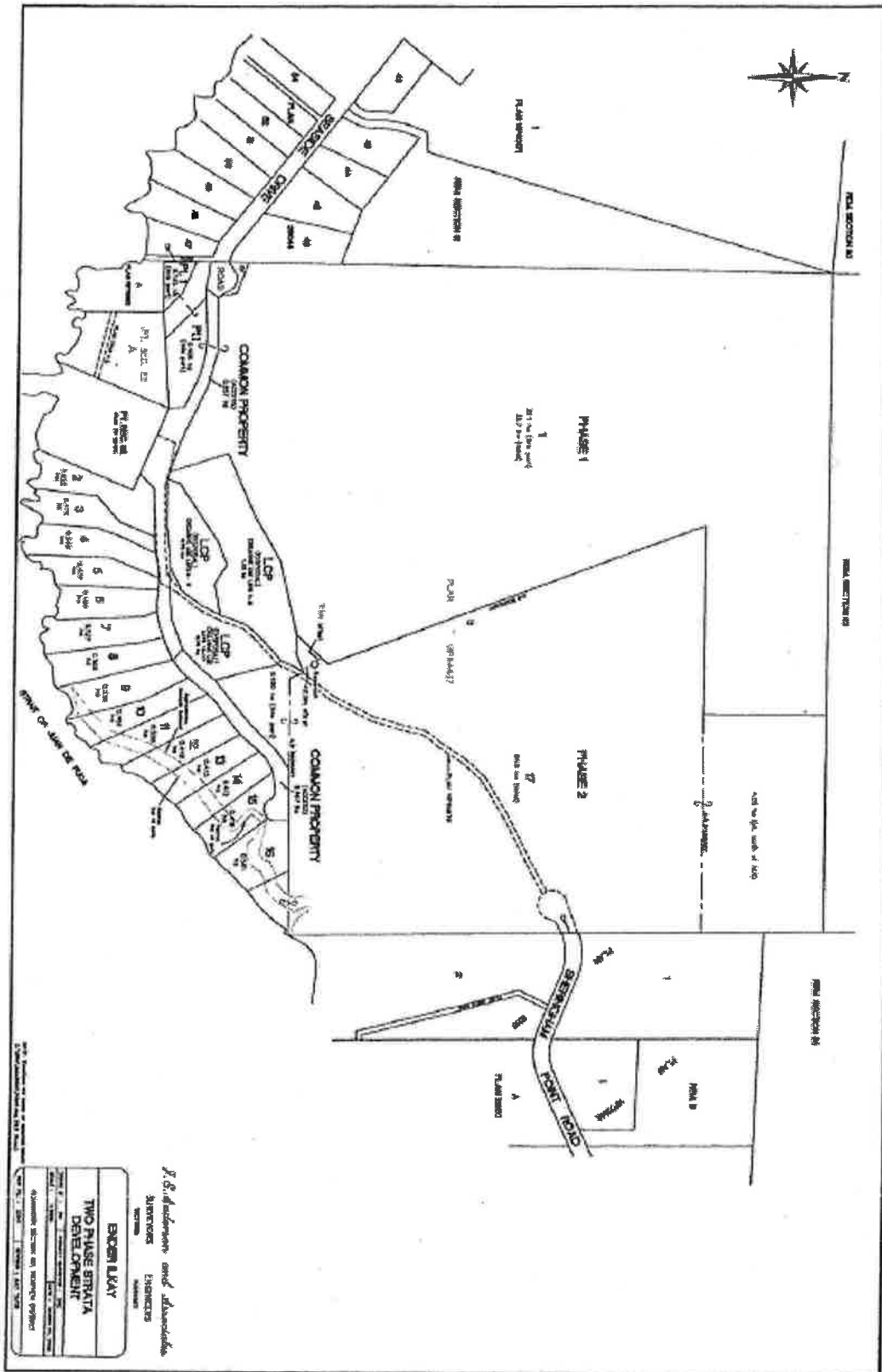
Thanks for sending these along today. Having reviewed the maps, there are a number of inaccuracies and inconsistencies in regards to my development on Section 82 east of the lighthouse that I'd like to bring to your attention.

1. Sheringham Point Rd is inaccurately labeled as extending much further southwest than it actually does. It ends at the eastern boundary of Section 82, but since there is a public easement to access the trail parking area about halfway through Section 82, I would not object to it being labeled as extending to there, though even that is not technically correct. See attached site plan.
2. Lighthouse Point Rd is not labeled at all. That is the strata road that is the extension of Seaside Drive, which ends at the western boundary of Section 82.
3. IMPORTANT - The ALR does not go beyond the boundaries of our Lot 17. See attached plan which indicates the ALR boundary as surveyed by JE Anderson. Your mapping shows the ALR as including part of Lot 16 and our strata road.
4. Why are my developed lots included as part of a Development Approval Information Area, whereas all of the Seaside lots and seemingly random lots on Sheringham Point Rd and elsewhere are not? I'm not sure if this matters as we have already subdivided, but it doesn't seem to make sense.
5. "Sheringham" in Sheringham Point Park on map 3 has an extra r which shouldn't be there.
6. As with my point 4 above, I wonder why the Settlement Containment Area does not include our lots along the waterfront.

Please consider these comments from Guiding Owl Investment Company, as the owner of the lands in question.

Thanks,

Ender



Wendy Miller

From: Wendy Miller
Sent: Wednesday, August 31, 2011 2:45 PM
To: Wendy Miller
Subject: Bylaw 3717

From: wilma gibbons
Sent: Wednesday, August 31, 2011 2:02 PM
To: Wendy Miller
Subject: Bylaw 3717

Hi Wendy, I am in favour of the change in steep slope from 20 % to 30 % for development permits.
Yours respectfully ,
Bud Gibbons, Otter Point.

Wendy Miller

From: Bob & Heather Phillips
Sent: Tuesday, August 23, 2011 10:37 AM
To: jdf info
Cc: directorjdf; denise.blackwell@shaw.ca; mayor@colwood.ca; bsprinkling@sooke.ca; jranns@metchosin.ca
Subject: Public Hearing for Bylaw No. 3717, OCP for Shirley, Jordan River
Attachments: Public Hearing for Bylaw No. 3717, OCP for Shirley, Jordan River 11 08 22.docx

22 August 2011

To: Land Use Committee A
From: Heather Phillips

Re: Public Hearing for CRD Bylaw No. 3717, OCP bylaw for Shirley/Jordan River

The process by which the proposed new OCP for Shirley/Jordan River has been introduced has been flawed by
–the assumption that “private” consultation by JDF LUC members is equivalent to “public” consultation through duly advertised opportunities for consultation when the change to the steep slopes designation was proposed and
–errors in preparing the motions necessary to effect the proposed changes.

For the reasons described above and explained in more detail below, I do not support the adoption of Bylaw 3719 in its present form. I draw to your attention the following irregularities which may be of concern to you.

On the Agenda and in the draft minutes for the CRD Board meeting on 10 August 2011, the motion for first and second reading of Bylaw No. 3717 was introduced as follows:

4. Proposed Amendments to Bylaw 3717 and 3719 (Shirley/Jordan River and Otter Point Official Community Plans - Additional Exemptions for Development Permits/Greenhouse Gas Reduction Statement/Adoption of the Parks Plan)

The business is described in the draft minutes as follows:

Bylaw 3717 – Proposed Amendment of the Shirley/Jordan River Official Community Plan Bylaw No. 3352

MOVED by Alternate Director Vowles, **SECONDED** by Director Blackwell,
That Bylaw No. 3717, “Official Community Plan for Shirley/Jordan River Bylaw No. 1, 2010” be introduced and read a first time and second time.
CARRIED

In the introduction to the motion, committee members are advised that they are considering proposed amendments to Bylaw No. 3717, not proposed amendments to Bylaw No. 3352 and not the repeal of Bylaw No. 3352. Since Bylaw 3717 has not yet been adopted, people may have been misled by the description that it is the Shirley/Jordan River OCP to be amended. The motion that carried was for first and second reading of Bylaw No. 3717.

-Bylaw No. 3717 will repeal the present CRD Bylaw No. 3352, cited as “Official Community Plan for Shirley/Jordan River Bylaw No. 1, 2006”. This is by no means made clear by the motion passed by LUC A on 10 August 2011.

-The change to the steep slope designation, section 4.4.4, in the proposed Bylaw No. 3717 is not an exemption to the development permit requirements. It is a change in the designation of the development permit area.

-Although the recital for Bylaw No. 3717 states the “the residents of Shirley/Jordan River, the adjacent municipality and various external provincial and federal government agencies have reviewed this community plan”, this is not the case.

-The agendas and minutes for the APC meetings in June 2010 and in June 2011 do not make any reference to the intention that Bylaw No. 3352 would be repealed and replaced with Bylaw No. 3717, which was presented as an amendment to Bylaw No. 3352.

-The advertisement for the Public Hearing may state clearly that the current OCP will be repealed, but a Public Hearing is not an opportunity for public consultation.

-Minutes for the Shirley/Jordan River APC meeting on 16 June 2010 reflect that the public was consulted on the principles of the additional development permit exemptions and agree to the principles. The public was consulted on the deletion of the steep slope development permit category and did not agree to such deletion. The public was consulted on the green house gas emission statement and were supportive of the planner's recommendation.

-The change to the designation of the steep slope development permit area was never on any agenda. It was made solely at the discretion of the JDF LUC at the 15 March 2011 meeting.

* The Chair asked that the LUC consider changing the Steep Slope Development Permit designation to reflect 30 percent as opposed to 20 percent, advising that the majority of adjacent municipalities use 30 percent. Staff confirmed that the District of Sooke, District of Metchosin, Langford, Colwood, Highlands, Central Saanich and North Saanich use 30 percent."

* Committee comment suggested that the change in slope criteria reflects a reasonable construction standard.

MOVED by George Miller, **SECONDED** by Ted Mehler that the Juan de Fuca Land Use Committee revise the East Sooke, Malahat, Otter Point and Shirley/Jordan River Official Community Plans Steep Slope Development Permit designation from 20% to 30% and from a 6 metre run to a 10 metre run. **CARRIED"**

-Minutes for the Shirley/Jordan River APC meeting on 22 June 2011 reflect that the public was not consulted on the final set of development permit exemptions or on the change to the steep slope designation. The public was further consulted on the green house gas emission statement and were supportive of the planner's recommendation.

-The change in the designation of the steep slope development permit area has not been made with adequate public consultation, given that the intention to make such a change was never advertised to the residents of the Shirley/Jordan River OCP area.

Sincerely,

Heather Phillips

Sooke [Otter Point] B.C.