

**CAPITAL REGIONAL DISTRICT  
JUAN DE FUCA LAND USE COMMITTEE  
Minutes of Meeting held February 21, 2012 – Juan de Fuca Electoral Area Office  
#2 – 6868 West Coast Road, Sooke, BC**

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**PRESENT:** Director Mike Hicks (Chair)  
Kara Middleton  
Heather Phillips  
Harold Shipton  
John Wells  
Art Wynans

**REGRETS:** Darren Wright

**CRD Staff:** June Klassen, Local Area Planning Manager; Wendy Miller, Recording Secretary

**PUBLIC:** Approximately 32

The Chair called the meeting to order at 7:00 pm and introduced Committee members.

**1. Election of the Vice Chair**

The Chair called for nominations for the position of Vice Chair of the Juan de Fuca Land Use Committee for 2012 and Heather Phillips' name was put forward. The Chair called two times for further nominations and, as there were none, Heather Phillips was declared Vice Chair.

**2. Approval of Agenda**

The Chair asked that Item 10a) (ALR-01-11) be discussed after Item 7 (Planner's Report).

**MOVED** by John Wells, **SECONDED** by Harold Shipton that the agenda be approved as amended.

**CARRIED**

**3. Approval of the Supplementary Agenda**

**MOVED** by Harold Shipton, **SECONDED** by John Wells that the supplementary agenda be approved.

**CARRIED**

At this time, the Chair received a written submission from East Sooke residents Dan and Merell Harlow regarding DP-31-11.

**4. Adoption of LUC Minutes of November 15, 2011**

**MOVED** by Heather Phillips, **SECONDED** by Director Hicks that the minutes of November 15, 2011 be adopted as presented.

**CARRIED**

**5. Receipt of Otter Point Advisory Planning Commission Minutes of November 15, 2011**

**MOVED** by Heather Phillips, **SECONDED** by Art Wynans that the draft minutes of the Otter Point Advisory Planning Commission meeting of November 15, 2011 be received.

**CARRIED**

**6. Chair's Remarks**

The Chair welcomed the Committee members and the public to the first meeting of 2012.

**7. Planner's Report**

June Klassen reported that CRD Regional Parks is hosting a public consultation meeting in Sooke on Wednesday, February 22 at the Sooke Community Hall from 6:00 – 9:00 pm to receive public input on the park boundary for the new Jordan River Regional Park Reserve.

It was further reported that land use and zoning mapping will be available on the CRD Atlas on

Tuesday, February 28 and that the 2012 consolidation of Bylaw No. 2040 will be available shortly.

**8. Agricultural Land Reserve Application for Inclusion**

- a) ALR-01-11 – Lots 1 and 2, Section 30, Otter District, Plan 13987 (Shaw – 2322 Kemp Lake Road)

June Klassen directed attention to the two supplementary letters received from Otter Point residents Bev and Milt Randall and Jack and Lynne Wormald stating concern regarding a development permit area buffer.

June Klassen spoke to the staff report advising that the applicant is requesting consideration of an application to include two lots comprising of 11.7ha in the Agricultural Land Reserve (ALR). The applicant owns three properties within the District of Sooke comprising 16.56ha that are within the ALR and has made application to exclude those lands in exchange for including the two Otter Point properties in the ALR according to the Sooke Official Community Plan policy of 'no-net-loss' of agricultural land.

June Klassen advised that the application was referred to seven agencies for comment on October 19, 2011 and that six agency responses have been received as summarized in the staff report.

Should the inclusion of land be supported, the Regional Growth Strategy (RGS) designation, Official Community Plan (OCP) designation and zoning designation should ultimately reflect the change in land use status to ensure the consistency between these bylaws. The Otter Point OCP currently establishes a 15m Protection of Farming Development Permit Area adjacent to ALR land. The re-alignment of the Protection of Farming Development Permit Area to reflect an inclusion of land in the ALR may have implications for adjacent property owners. June Klassen circulated mapping depicting the approximate location of a 15m buffer on the properties adjacent to the subject parcels.

The Chair advised that he would support the application if there is was no buffer on the properties adjacent to the subject parcels.

A Committee member forwarded comment noting concern for land use change to the adjacent properties. Another Committee member, noting general CRD and provincial support for the protection of farmland, suggested that the larger adjacent properties may have good potential for farming and that a buffer on these larger parcels would have minimal impact, providing benefit to the greater community.

The Chair opened the floor to the applicant, Ed Shaw. Ed Shaw had no comment.

Maria Nagy, Otter Point, stated no support for the buffer.

Zach Doeding, East Sooke, stated that, although a buffer may not be considered for this application, some area owners have just become aware that their lands are impacted by a Protection of Farming Development Permit Area buffer implemented in 2007. Unlike the setbacks associated with riparian and steep slope development permit areas, the farmland buffer is imposed on the adjacent property. It was asked that this issue be considered during the Otter Point Official Plan review.

At the request of a Committee member, June Klassen confirmed and read aloud the letter submitted by the owners of Lot 1 and 2 authorizing Ed Shaw to act as agent for the inclusion application.

**MOVED** by Harold Shipton, **SECONDED** by Art Wynans that the Juan de Fuca Land Use Committee support the staff report and recommendation as amended and recommend to the CRD Board:

1. That a letter of support be forwarded to the Agricultural Land Commission with the application to include Lots 1 and 2, Section 30, Otter District, Plan 13987 in the Agricultural Land Reserve

advising that, should the application be given favorable consideration, the Regional Growth Strategy, Official Community Plan and zoning bylaw will be amended to reflect the change in land use designation.

2. That, should the land be included in the Agricultural Land Reserve, a 15m Farmland Protection Development Permit buffer not be implemented on the adjacent properties as part of the future OCP amendment.

A Committee member questioned whether the swap for the three properties within the District of Sooke could be considered an equitable swap.

Another Committee member stated support for the inclusion application but raised concern regarding the cross jurisdictional process that supports the District of Sooke removing good farmland from the ALR for development.

The Chair called the question and it was five in favour, Kara Middleton opposed.

**CARRIED**

### **9. Development Permit with Variance Applications**

- a) DP-31-11 – Lot A, Section 98, Sooke District, Plan 23047 Except Part in Plan 23938 (Waller/Letain – 6084 Timberdoodle Road)

June Klassen directed attention to the five supplementary letters received from East Sooke residents Joel and Stephanie Koett, Darell Julien, Karin and Kim Amorim and Dan and Merell Harlow and the East Sooke Fire Department. The Harlow letter was read aloud.

June Klassen spoke to the staff report advising that the applicant is requesting a steep slope and foreshore development permit with variance to relax the requirement that 10% of a lot fronts onto a road for the purpose of permitting a three-lot subdivision.

June Klassen made note of two revisions to the report advising that the property is 2.2ha and the existing house was built in approximately 1974.

It was advised that geotechnical engineer's report has been submitted identifying safe building areas. It is recommended the report be secured as a restrictive covenant as part of the subdivision process. As proposed Lot 1 will not meet the requirement that 10% of the perimeter of a lot fronts onto a road, access to proposed Lot 1 will be via easement over proposed Lot 2 due to the steep terrain.

A Committee member questioned the blasting required for the construction of Timberdoodle Road and protection of an adjacent property septic field.

The applicant, Trinita Waller, confirmed that blasting will be required.

June Klassen advised that the Ministry of Transportation & Infrastructure has set the grade requirement and construction of a 'hammer-head' turn-around. The applicant will need the assistance of a civil engineer to comply with the requirements. The applicant will have to work with the neighbours to provide due care.

Trinita Waller advised that blasting will take place beyond the neighbouring septic field.

Further to written comment by the East Sooke Fire Department, June Klassen clarified that driveway accesses will be off of Timberdoodle Road.

A Committee member forwarded support for amending the staff recommendation to closer reflect the language for road frontage in Bylaw No. 2040.

**MOVED** by Heather Phillips, **SECONDED** by Kara Middleton that the Juan de Fuca Land Use Committee support the staff report and recommendation as amended and recommend to the CRD Board:

1. That the steep slopes and foreshore development permit (DP-31-11) for Lot A, Section 98, Sooke District, Plan 23047 except part in Plan 23938 for the proposed three-lot subdivision and the request for relaxation of the road frontage from 10% to 8% (from 32m to 25.8m) for proposed Lot 1, as shown in Appendix 2, be approved subject to the following conditions:
  - i. that the proposed development comply with the recommendations outlined in the geotechnical engineer's report prepared by Brimmell Engineering dated November 3, 2011, as shown in Appendix 3 and it be secured as a restrictive covenant as part of the subdivision process.

**CARRIED**

The Chair opened the floor to Darell Julien, East Sooke. Darell Julien stated that he is not assured that his drainage field will not be impacted from the blasting and questioned who is responsible for compensation should his field be damaged.

A Committee member stated that the Land Use Committee does not have the ability to enforce compensation. Assurance rests with the applicant and the professional blaster.

- b) DP-32-11 – Lot 6, Section 44, Sooke District, Plan 1958 (Pollock – 7726 Davidson Road)

June Klassen spoke to the staff report advising that the applicant is requesting a steep slope and riparian development permit with variance for the purpose of legalizing an addition and the construction of new decks.

A report has been submitted from a Qualified Environmental Professional recommending a setback from Kemp Lake, a drinking water supply area, and outlining mitigation measures for construction, monitoring and restoration. The report recommends a "flexing" of the SPEA around the encroachment and addition of an equal area outside the standard SPEA including restoration work in an area of approximately 95m<sup>2</sup>.

The Chair opened the floor to the applicant, Lynn Pollock. Lynn Pollock advised that the off-grid cabin is approximately thirty years old and that construction was to rebuild an existing deck to connect to a new deck over existing cement pads. A building permit application for this construction has been submitted. It was advised that the 0.11m overhang referenced in the staff report has been removed. Lynn Pollock advised that no salal has been removed and no heavy equipment brought in. Lynn Pollock advised that she is supportive of the recommended restoration measures.

June Klassen drew attention to the two supplementary submissions from John and Debbie Halusiak and Cox, Taylor on behalf of the Halusiaks.

The Chair advised that he cannot support the request for a zero setback but consideration could be given if the neighbour submitted a letter supporting the application. In response, Lynn Pollock advised that the neighbour has subsequently erected a fence along the property line.

John Halusiak stated that the applicant has constructed an expanded, fully enclosed addition. John Halusak stated no support for the application.

John Brohmann, Otter Point, stated support for the variance. As stated in the staff report, the side yard setback established by the Rural Residential RR-3 Zone is 6m. The structure was built prior to establishment of the zoning. John Brohmann stated that it is due to a CRD zoning change that the property is deemed legal non-conforming. It was stated that, in past, other narrow strip properties at Kemp Lake not meeting the setback have had building permits for alteration/repair approved by the Board of Variance. It was stated that bylaw changes are required to legalize properties.

A Committee member stated that the construction has gone outside of the original building envelope. It was suggested that more appropriate zoning for this property and adjacent RR-3 properties could be considered as part of the Otter Point OCP and Bylaw No. 2040 review. It was noted that the RR-3 properties are within the settlement containment area but not within the Otter Point fire protection area.

The Chair stated support for tabling the application in support of a site visit to determine the impact of the application on the direct adjacent property.

In response to an enquiry from a Committee member, June Klassen spoke to legal non-conforming properties and types of construction permitted on such properties.

The applicant and John Halusiak agreed to permit Committee members onto the properties.

**MOVED** by Director Hicks, **SECONDED** by Harold Shipton that the Juan de Fuca Land Use Committee table application DP-32-11. **CARRIED**

#### 10. Development Variance Permit Application

- a) VAR-09-11 – Lot 20, Section 15, Otter District, Plan VIP87643 (Hacmanjek – 7574 LeMare Crescent)

June Klassen spoke to the staff report advising that the applicant is requesting a development variance permit to relax the side yard setback from 7.5m to 7.1m for the purpose of legalizing the siting of a single-family dwelling. It was advised that when the building permit was issued, the site plan indicated that the building would be sited well in compliance with the setback requirements; however, when the building was constructed there was an encroachment and due to the speed of the construction the error was not verified until after the building was completed. The building inspector has issued a conditional certificate of occupancy pending approval of a variance. If the variance is not approved there would be significant hardship on the owners that have subsequently purchased the property.

The Chair opened the floor to the applicant, Steve Hacmanjek. Steve Hacmanjek requested no further hardship.

In response to a Committee member's question, June Klassen advised that practice is to request a survey to confirm siting at the time of footings. In this instance, due to speed of the project and availability of staff, the survey was not requested at footings.

In response to a Committee member's comments regarding the need for fewer errors and greater accountability of professionals, the Chair confirmed that changes have been made to ease processes including requesting a survey at the time of footings.

A Committee member questioned why the siting of the house was changed. Al Steenbergen, builder, advised that lay of the land determined the siting.

**MOVED** by John Wells, **SECONDED** by Art Wynans that the Juan de Fuca Land Use Committee support the staff recommendation and report and recommend to the CRD Board:

1. That Development Variance Permit (VAR-09-11) for Lot 20, Section 15, Otter District, Plan VIP87643 to relax the side yard setback from 7.5m to 7.1m, as shown in Appendix 3, for the purpose of legalizing the siting of the residence be approved.

**CARRIED**

## 11. Rezoning Application

- a) Z-02-11 – Lot 1, Section 36, Township 13, Renfrew District, Plan VIP50819 (Port Renfrew Recreation Centre)

June Klassen spoke to the staff report advising that the Port Renfrew Recreation Centre Operating Committee is proposing to permit office uses in the community hall as an option to generate revenue to assist in covering the operating expenses of the hall. It was advised that the current zone does not permit office uses in the hall. As the Port Renfrew Advisory Planning Commission is inactive, staff proposes holding a public information session at the hall to obtain community comments.

The Chair opened the floor to Loretta Rose Deutscher, Port Renfrew Recreation Centre Operating Committee member. Loretta Rose Deutscher relayed that four existing spaces have been traditionally used for office use. Legalizing office use is considered important and timely as the community post office is scheduled to move in on March 1. Other agencies have expressed an interest in office space.

In response to the Chair, June Klassen confirmed that there is no application fee as the building is held by the CRD.

Loretta Rose Deutscher advised that the 40% office use allows for continued recreation use. Loretta Rose Deutscher advised that, as an Operating Committee member, she is striving to support more recreational and youth orientated opportunities at the hall.

**MOVED** by John Wells, **SECONDED** by Harold Shipton that the Juan de Fuca Land Use Committee support the staff report and recommendation:

That the Juan de Fuca Land Use Committee recommend that staff be directed to refer the January 17, 2012 staff report and proposed Bylaw No. 3791 for Lot 1, Section 36, Township 13, Renfrew District, Plan VIP50819, to the appropriate CRD departments and the following agencies for comment and hold a public information session at the hall to obtain community comments.

BC Hydro  
Cowichan Tribes  
Cowichan Valley Regional District  
Halalt First Nation  
Hul'qumi'num Treaty Group  
Lake Cowichan First Nation  
Lyackson First Nation  
Ministry of Environment  
Ministry of Forests, Lands and Natural  
Resource Operations  
Ministry of Transportation and  
Infrastructure

Pacheedaht First Nation  
Penelakut Tribe  
Port Renfrew Fire Department  
RCMP  
Scia'new First Nation  
Sooke School District #62  
Stz'uminus First Nation  
Te'Mexw Treaty Association  
T'Sou-ke First Nation  
Vancouver Island Health Authority

Upon enquiry, June Klassen confirmed that the permitted uses proposed by the Community Use CU-1 Zone can be examined as part of the rezoning process.

**CARRIED**

## 12. New Business

## 13. Adjournment

On motion, the meeting was adjourned at 8:20 pm.