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Z-01-12 - Stokes

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, SEPTEMBER 18, 2012**

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**SUBJECT**      **ZONING AMENDMENT APPLICATION FOR LOT 7, SECTION 129, SOOKE DISTRICT,  
PLAN VIP67208**

**ISSUE**

The applicants are proposing to rezone the property to permit the subdivision of three fee simple parcels in order that each dwelling unit currently located on the property may be individually titled.

**BACKGROUND**

The 4 ha subject property is located in East Sooke at 470 Seedtree Road (Appendix 1). The property is designated as Settlement Containment Area (SCA) in the East Sooke Official Community Plan (OCP), Bylaw No. 3353, and is partially designated as a Steep Slope development permit (DP) area; a Watercourses, Wetlands and Riparian Areas DP area; and a Sensitive Ecosystem DP area. The property is zoned Rural A in the Juan de Fuca Electoral Area Land Use Bylaw No. 2040, 1992. At the present time, there are three dwelling units located on the property (Appendix 2); however, based on the parcel size the Rural A zone would support four dwelling units and either one detached accessory suite or one secondary suite.

A geotechnical report, certified by Richard Brimmell, P.Eng., dated March 8, 2008, identified two future building sites located to the north and northwest of the primary SFD. The report described the site to the northwest as free of geotechnical hazards and safe for the intended residential use. That site is now the location of the "cottage". The report described the site to the north as capable of being "developed for foundations, however, a rockfall hazard exists" in that area due to its proximity to a southwest facing rock bluff. This second site is the proposed location of a new home, to be built upon successful completion of the rezoning and subdivision applications, and removal of the mobile home.

A DP with variance application (DP-05-12) has been submitted by the applicant in order to address the DP Guidelines of the East Sooke OCP with respect to the geotechnical, riparian and sensitive ecosystem concerns associated with the property. A variance has been requested as part of the DP application in order to reduce the minimum frontage requirement of 10% lot perimeter for two of the proposed lots. Approval of the DP with variance would be required in fulfillment of the subdivision application requirements (S-02-12).

Staff have prepared Bylaw No. 3829 to rezone the 4 ha parcel from Rural A to Rural Residential 2 (RR-2) (Appendix 3).

The LUC first considered this proposal at its meeting on May 15, 2012. At that time, staff were directed to refer the proposed bylaw to the following agencies and groups for comment:

BC Hydro	Ministry of Transportation and Infrastructure
District of Metchosin	Scai'new First Nation
District of Sooke	Sooke School District #62
East Sooke Advisory Planning Commission	T'Sou-ke First Nation
East Sooke Fire Department	Vancouver Island Health Authority
Ministry of Environment	

Comments were received from BC Hydro, District of Sooke, Ministry of Transportation and Infrastructure, Sooke School District, T'Sou-ke First Nation, VIHA and CRD Integrated Water Services (Appendix 4). The proposed bylaw was considered at the East Sooke Advisory Planning Commission at a meeting held on June 25, 2012.

## **ALTERNATIVES**

1. Approve the proposed amendment Bylaw 3829, “Juan de Fuca Electoral Area Land Use Bylaw, 1992, Amendment Bylaw No. 110, 2012” to rezone the subject parcel from Rural A to Rural Residential 2 (RR-2) and proceed to the CRD Board for first and second readings and to direct the bylaw to public hearing.
2. Not approve the proposed amendment to the Juan de Fuca Land Use Bylaw to rezone the property.
3. Request more information be provided by the applicant to clarify agency concerns and recommendations.

## **LEGISLATIVE IMPLICATIONS**

Pursuant to Section 879 of the *Local Government Act (LGA)*, an amendment to a zoning bylaw requires that the local government provide one or more opportunities for consultation it considers appropriate to the persons, organizations and authorities the local government considers may be affected by the adoption, repeal or amendment of a zoning bylaw. The decision on which bodies are consulted in accordance with the *LGA* has been delegated to the Juan de Fuca Land Use Committee in Bylaw No. 3166.

Pursuant to Section 881 of the *LGA*, a proposed amendment to a zoning bylaw must be referred to the school district. Where an amendment or new land use and subdivision bylaw will apply to land within 800 m of a controlled access highway, the bylaw must be referred to the Ministry of Transportation and Infrastructure.

## **PUBLIC CONSULTATION IMPLICATIONS**

Should the proposal proceed, a public hearing pursuant to Section 890 of the *LGA* will be required subsequent to the amendment passing second reading by the CRD Board. Property owners within 500 m of the subject property will be sent a notice of the proposed bylaw amendment, and it will be advertised in the local paper and on the CRD website.

## **REGIONAL GROWTH STRATEGY AND OFFICIAL COMMUNITY PLAN IMPLICATIONS**

In the evaluation of a zoning amendment, consideration must be given to the CRD's Regional Growth Strategy (RGS) Bylaw No. 2952 and East Sooke Official Community Plan (OCP) Bylaw No. 3353. The proposal to rezone for the purpose of subdividing to create 1 ha parcels is supported by the Settlement Containment Area policies of the OCP and is not inconsistent with the RGS.

## **PLANNING ANALYSIS**

Referrals were forwarded on May 30, 2012, to those agencies specified by the LUC. Most of the referral agencies indicated their interest was not affected by the proposal. The T'Sou-ke First Nation commented that they supported the wishes of Becher Bay First Nation (Scia'new First Nation). To date, no comments have been received from Scia'new First Nation. The Ministry of Transportation and Infrastructure advised that they have no objections to the proposed rezoning, and that Ministry requirements for subdivision will be considered during the subdivision application process. CRD Integrated Water Services commented that there are currently no plans to enlarge the Wilderness Mountain Water Service Area. CRD Integrated Water also believes that they are several years away from making a decision about whether the system could handle any additional servicing area capacity. Vancouver Island Health Authority (VIHA) has “no objections, in principle, to the rezoning application.” VIHA will, however, require additional information as part of the subdivision application process. BC Hydro has no objection to the proposed zoning amendment; however, they recommend that each of the new lots acquire a right-of-way for the existing electrical services in order to protect the rights of future owners.

The application was also considered by the East Sooke Advisory Planning Commission (APC) at its meeting on June 25, 2012. The APC supports the rezoning application based upon input from the community and from the applicant, and recommends to the LUC that the application move forward through the review process.

At the APC meeting, the majority of members of the public expressed support for the proposed zoning amendment. Some individuals, however, raised questions regarding the provision of water to the Seedtree Road area in general. Staff advised that since properties along Seedtree Road are located within the Settlement Containment Area, the area could be served by a community water system in the

future. Other residents expressed concern regarding the impact of blasting for development on existing wells, the steepness of the property and potential rock-fall hazard. Staff advise that a Steep Slopes development permit will be required prior to subdivision. Any issues raised by the engineer should be addressed at that time. In terms of density, the property is currently permitted four dwelling units and one detached accessory suite or secondary suite, for a total potential of five units. Under the proposed zoning and subdivision layout, each of the three lots would be permitted one dwelling unit and one detached accessory suite or secondary suite, for a total potential density of six units. In order to ensure that the number of lots contemplated as part of the zoning amendment process, staff recommend that a covenant restricting the number of lots to three be registered on the title of the property prior to 4<sup>th</sup> reading of the amending bylaw.

The East Sooke OCP designates the subject property as Settlement Containment Area. This designation states that the desired parcel size for residential development should be in the 1 ha range. The proposed subdivision of a 4 ha parcel into 3 parcels will reflect the current residential density on the property and is consistent with the SCA policy regarding desired lot size.

### **CONCLUSION**

At the present time, a “primary” single-family dwelling, a “cottage”, and one mobile home, equivalent to three dwelling units, are located on the property, in accordance with the Rural A zone. The purpose of this zoning amendment application is to allow subdivision of the property into three fee simple parcels, reflecting the current dwelling unit density on the property. The proposed subdivision to create lots in the 1 ha range is supported by the East Sooke OCP. As there were no objections from referral agencies and the majority of residents have expressed support for this application, staff recommend that the proposed bylaw proceed for 1<sup>st</sup> and 2<sup>nd</sup> readings, and that the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated to hold a Public Hearing.

### **RECOMMENDATIONS**

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board that:

1. That Bylaw No. 3829, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 110, 2012” be introduced and read a first time, read a second time; and
2. That in accordance with the provisions of Section 890 and 891 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 3829, “Juan de Fuca Land Use Bylaw, 1992, Amendment No. 110, 2012”.

Original Signed

Iain Lawrence  
Planner, Local Area Planning

Original Signed

June Klassen, MCIP  
Manager, Local Area Planning Services

Original Signed

Robert Lapham, MCIP  
General Manager  
Planning and Protective Services

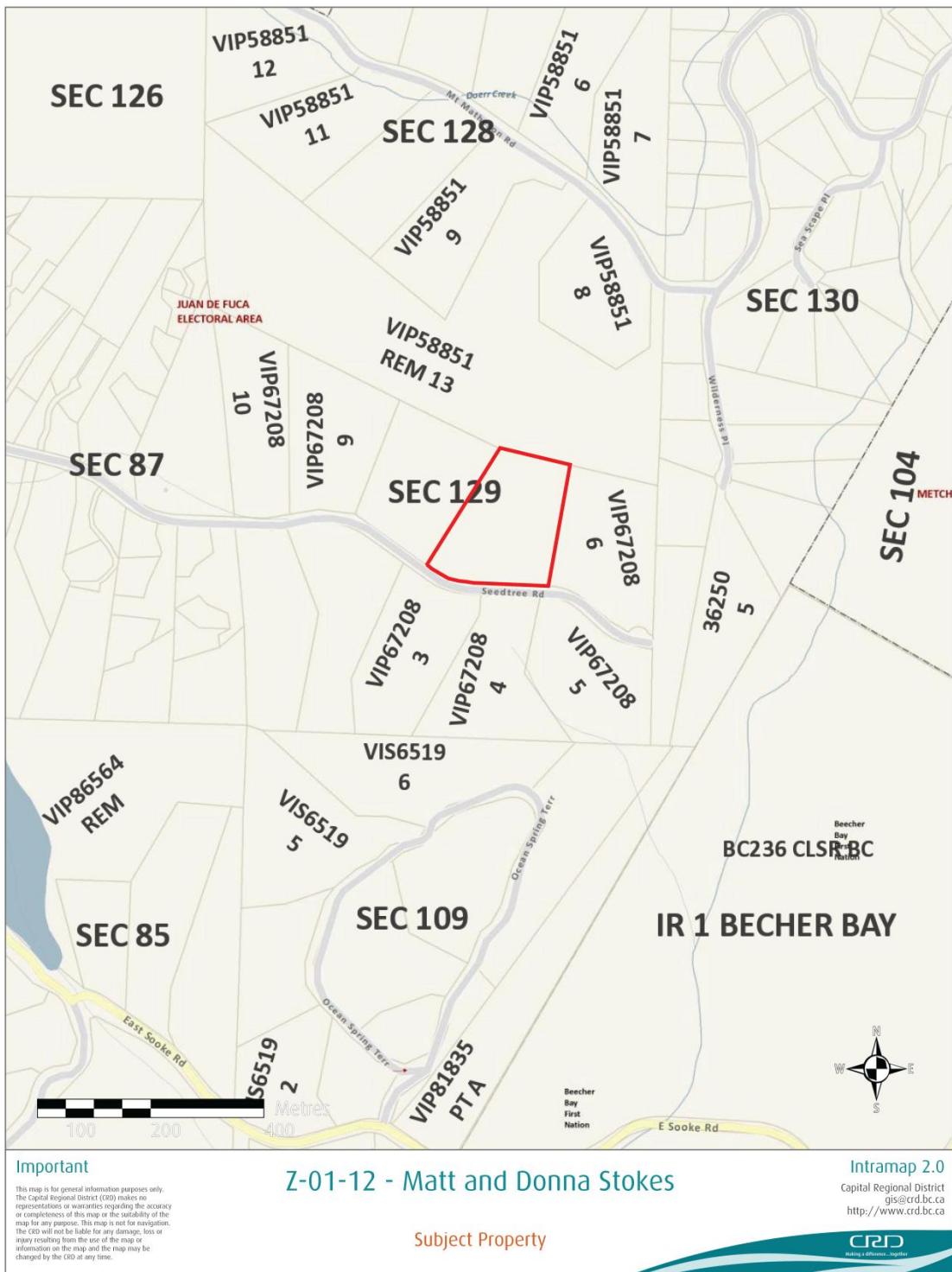
Original Signed

Kelly Daniels  
Chief Administrative Officer  
Concurrence

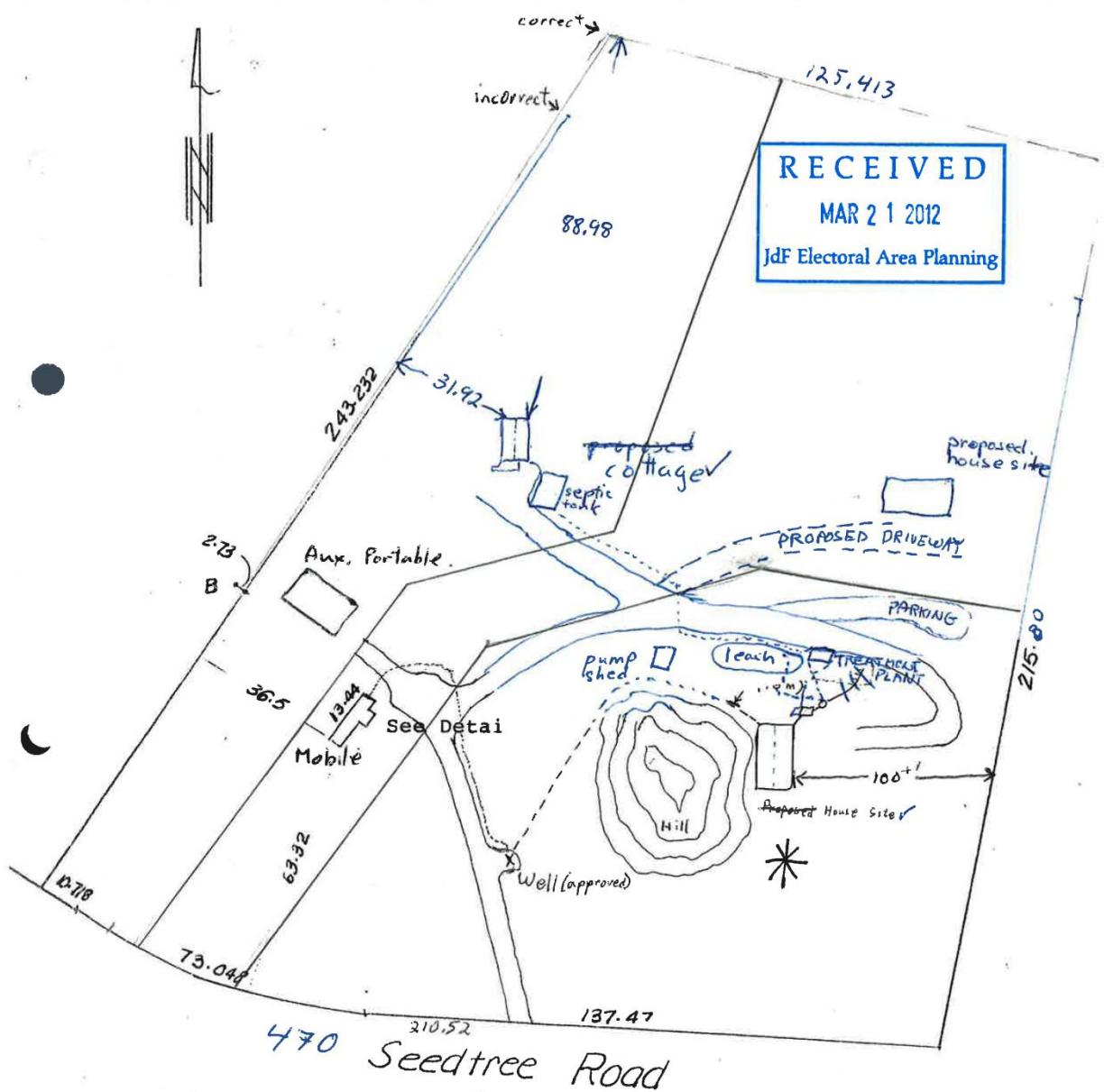
Appendices:

1. Subject Property Map
2. Proposed Site Plan
3. Proposed Bylaw No. 3829
4. Referral Comments

Appendix 1: Subject Property



Appendix 2: Proposed Site Plan



TITLE: **LOT 7, SECTION 129, SOOKE DISTRICT, PLAN VIP 67208**

# **Capital Regional District Bylaw No. 3829**

**A BYLAW TO AMEND BYLAW NO. 2040, THE "JUAN DE FUCA ELECTORAL AREA 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 Electoral Area Land Use Bylaw, 1992" is hereby amended:
    - (a) By deleting from the Rural A zone, and adding to the Rural Residential 2 (RR-2) zone, for the purpose of permitting a 3-lot subdivision of Lot 7, Section 129, Sooke District, Plan VIP67208, as shown on Plan No.1, attached to and forming part of this bylaw.
  2. This bylaw may be cited as Bylaw 3829, "Juan de Fuca Electoral Area Land Use Bylaw, Amendment Bylaw No. 110, 2012".

**READ A FIRST TIME THIS** \_\_\_\_\_ **day of** \_\_\_\_\_ , 2012.

READ A THIRD TIME THIS day of , 2012.

APPROVED by the Minister of Transportation and Infrastructure

THIS \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2012.

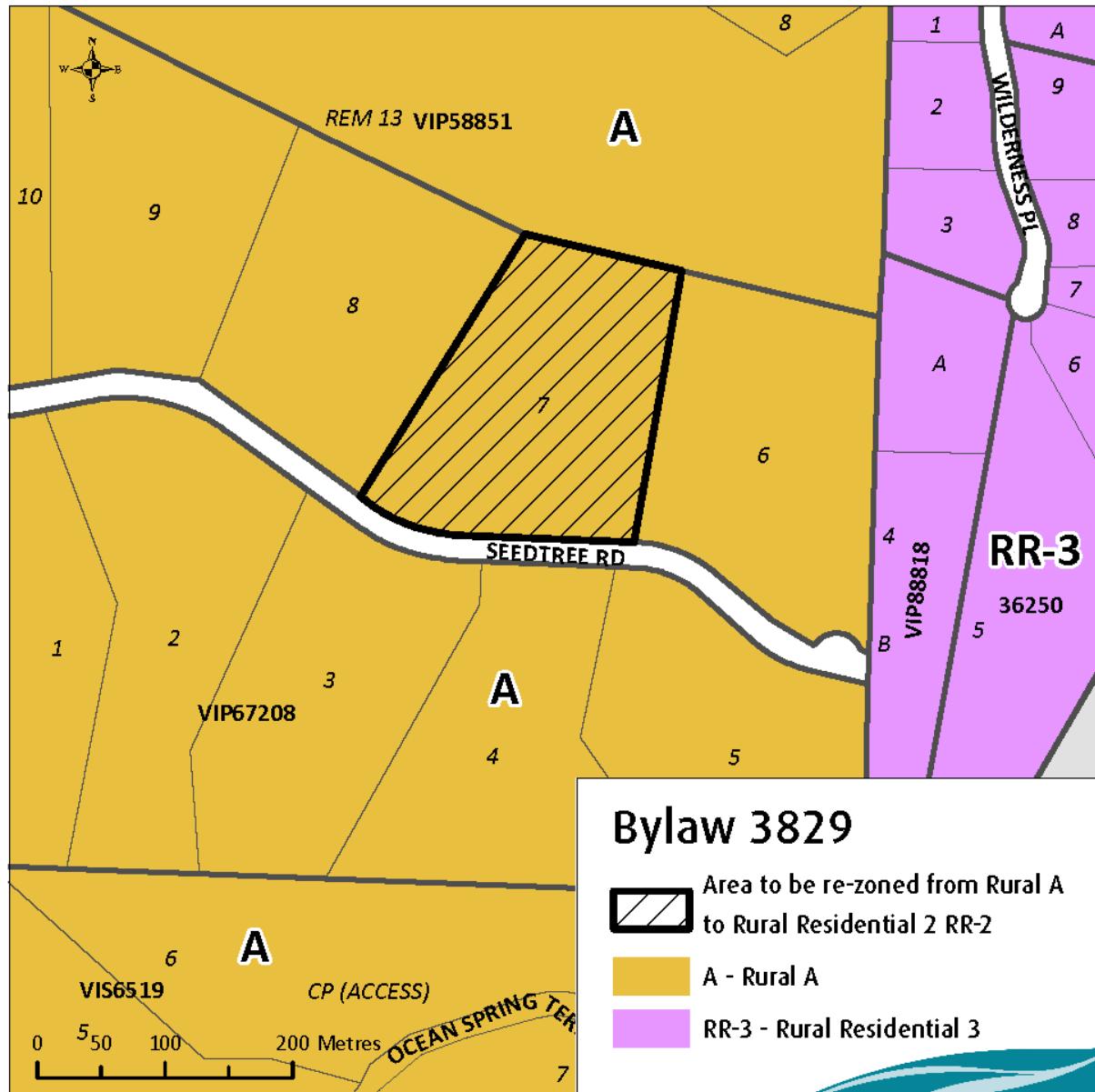
CHAIR

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## CORPORATE OFFICER

## **Plan No. 1 of Bylaw 3790**

Lot 7, Section 129, Sooke District, Plan VIP67208 shown on this plan attached to and forming part of this bylaw.



**Appendix 4: Referral Comments**

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**Wendy Miller**

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**From:** Wendy Miller  
**Sent:** Monday, June 04, 2012 10:23 AM  
**To:** Wendy Miller  
**Subject:** FW: Proposed Bylaw 3829 - 470 Seedtree Road

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**From:** Tim Tanton  
**Sent:** Wednesday, May 30, 2012 12:14 PM  
**To:** Wendy Miller  
**Subject:** RE: Proposed Bylaw 3829 - 470 Seedtree Road

The properties on Seedtree are not in the Water Service Area and there are currently no plans to enlarge the area to include properties on Seedtree. It is an old idea, but we are currently not sure whether the Wilderness mtn system has enough reservoir capacity to service additional lots on Seedtree. I think we are several years away from making a final decision about whether the system could handle any additional servicing area. I also know that there would be some opposition from local residents, based on what the Wilderness Committee members have told me.

Please let me know if you need more info.

Tim

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**Wendy Miller**

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**From:** Evanoff, Ryan TRAN:EX <Ryan.Evanoff@gov.bc.ca>  
**Sent:** Thursday, May 31, 2012 9:49 AM  
**To:** Wendy Miller  
**Subject:** RE: Proposed Bylaw 3829 - 470 Seedtree Road

Hello Wendy,

**Please accept the following as official Ministry response to the rezoning referral #Z-01-12 below**

The Ministry has reviewed the proposed rezoning of 470 Seedtree Road and offer the following comments:

- The Ministry has no objection to the rezoning as proposed.
- Ministry requirements for subdivision will be considered during the subdivision application process.

If you have any questions or comments regarding this approval please feel free to contact myself directly. The Ministry file number for this approval application is 2012-02565.

Thank you,

**RYAN EVANOFF** | DISTRICT DEVELOPMENT TECHNICIAN | BC MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE | VANCOUVER ISLAND DISTRICT | 240-4460 CHATTERTON WAY, VICTORIA, BC V8X 5J2 |  
T: 250.952.4495 | F: 250.952.4508 |  
EMAIL: [ryan.evanoff@gov.bc.ca](mailto:ryan.evanoff@gov.bc.ca) | WEBSITE FOR DEVELOPMENT APPROVALS:  
[www.th.gov.bc.ca/Development\\_Approvals/home.htm](http://www.th.gov.bc.ca/Development_Approvals/home.htm) | MINISTRY WEBSITE: <http://tranbc.ca/>



June 5, 2012

Our File: 19/12  
Your File: Z-01-12

June Klassen  
Manager, Local Area Planning, District of Sooke  
P.O. Box 283, 2-6868 West Coast Road,  
Sooke, BC V9Z 0S9

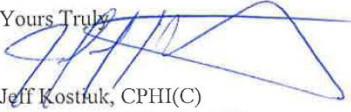
Dear Ms Klassen:



**Re: Zoning Amendment Application for Lot 7, Section 129, Sooke District, Plan VIP67208, 470 Seedtree Road: Response Summary Z-01-12 Interest Affected by Proposal for Reasons Outlined below:**

We have no objections, in principle, to the rezoning application of Lot 7, Section 129, Sooke District, Plan VIP 67208 to permit the creation of three fee simple parcels. However, as part of the subsequent subdivision process we would require the following information to do an accurate assessment:

- Appendix A and B of the Vancouver Island Health Authority subdivision standards should be included with all applications.
- Individual wells will be required for each lot and must be at least 30 metres from the onsite sewage disposal fields. The well locations must be provided on the site map.
- Individual onsite sewage systems will be required for each lot. Distances of the onsite sewage systems from the property lines must be indicated on the site map.
- Road access to the lots should be indicated on the site map and the location of these roads in relation to the onsite sewage systems must be clearly indicated.
- Other setback distances may be required depending on the information provided in the subdivision proposal and observations made on site.

Yours Truly,  
  
Jeff Kostuk, CPHI(C)  
Environmental Health Officer

JK/gch

**Gateway Office**  
201 - 771 Vernon Avenue, Victoria, B.C. V8X 5A7  
Phone: 250.519.3401 • Fax: 250.519.3402

*Our Vision: Healthy People, Healthy Island Communities, Seamless Service*

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**Wendy Miller**

**From:** Tara Johnson <tjohnson@sooke.ca>  
**Sent:** Monday, June 11, 2012 11:09 AM  
**To:** Wendy Miller  
**Subject:** Re: Proposed Bylaw 3829 - 470 Seedtree Road  
**Attachments:** DoS.pdf; PPS-JDF-2012-05-15-Z-01-12-LUCReferralReport\_final.pdf

Good Morning Wendy,

Planning has reviewed the referral for your Rezoning application # Z-01-12 and do not have any concerns or comments.

Sincerely,

*Tara Johnson, MCIP*  
Planner II- District of Sooke  
2205 Otter Point Road, Sooke BC V9Z 1J2  
Email: [\(tjohnson@sooke.ca\)](mailto:tjohnson@sooke.ca)  
(250) 642-1628 Fax: (250) 642-0541

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**Wendy Miller**

**From:** Bonnie English <benglish@tsoukenation.com>  
**Sent:** Thursday, June 28, 2012 2:07 PM  
**To:** Wendy Miller  
**Subject:** FW: Proposed Bylaw 3829 - 470 Seedtree Road  
**Attachments:** PPS-JDF-2012-05-15-Z-01-12-LUCReferralReport\_final.pdf; T'Sou-ke Nation.pdf

Hi Wendy,

T'Sou-ke Nations comments would be to support what Beecher Bay First Nation would like.

Thank you,  
Bonnie

**RESPONSE SUMMARY – Z-01-12**

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

AT THIS TIME THE SCHOOL DISTRICT  
DOES NOT HAVE ANY CONCERN WITH  
THIS REZONING APPLICATION.

P Godar  
Signed

Manger of Facilities  
Title

JUNE 18, 2012.  
Date

School District #62  
Agency



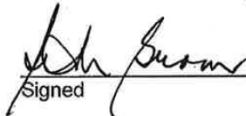
RESPONSE SUMMARY – Z-01-12

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

BC Hydro Property Rights Services has no objection to proposed Bylaw 3829 for the rezoning of Lot 7, Section 129, Sooke District, Plan VIP67208 from Rural A to Rural Residential 2 to permit a 3-lot subdivision in order that each existing dwelling may be individually titled. We would, however, encourage the registered owners to acquire a right of way for the existing electrical service in order to protect the rights of each property owner. For information, please contact BC Hydro at 4400 West Saanich Road, Victoria, BC V8Z 3E9, attention: Distribution Engineering & Design Department.

  
John Brown  
Signed

Property Coordinator

Title

June 20, 2012

Date

BC Hydro, Property Rights Services  
Agency