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TUP-04-13 – THREE POINT PROPERTIES

REPORT TO JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, MARCH 19, 2013

SUBJECT **TEMPORARY USE PERMIT APPLICATION FOR PLAN 334R, SECTION 97,
RENFREW DISTRICT AND DISTRICT WATER LOT 751, BLOCK A AND B**

ISSUE

Application for a temporary use permit for the operation of a commercial marina.

BACKGROUND

An application has been received for a temporary use permit for the operation of a commercial marina on lands located along the waterfront north of Baird Road (Appendix 1). The lands were recently conveyed from TFL Forest Ltd. to Three Point Properties which has operated a commercial marina seasonally on these parcels over the past two years. Three Point Properties has been assigned the Water Lot Lease and Licence of Occupation (111792) for District Water Lot 751 Block A and B which was issued to TFL Forest Ltd. in 2005. This license permits a causeway boat launch and boat moorage and states that the licensee must store bulk hazardous petroleum products and other toxic substances in accordance with the provisions of the *Environmental Management Act*.

The subject properties are designated as Renewable Resource Lands in the Regional Growth Strategy which does not reflect the existing settlement. These properties are designated Residential and Marine Protection in the Port Renfrew Official Community Plan (OCP). The proposed commercial marina does not conform to the existing zoning. A rezoning application has also been submitted to rezone the lands in Plan 344R from the Community Residential One (CR-1) zone which permits residential use and District Water Lot 751 Block A and B from the Marine (M) zone which permits private boat docks to a new zone that would permit a commercial marina. However, the owners wish to operate the marina for this fishing season and have requested a temporary use permit as the rezoning process will take some time. The temporary use permit is for a marina which includes moorage for private fishing and pleasure craft as well as ancillary uses including fuel sales, sport-caught fish processing using salt water, two recreation vehicles units and a small retail food and beverage service (Appendix 2). These uses do not require community water or sewer services. Most of the site area is within the Port Renfrew Fire Service area but lies outside the Port Renfrew Water Service area.

ALTERNATIVES

1. Proceed with referrals and public notification of the intent to issue a temporary use permit.
2. Not proceed with referrals or notification.
3. Refer the application back to staff for more information.

LEGISLATIVE IMPLICATIONS

Section 920.2 of the *Local Government Act (LGA)* enables a local government to issue temporary use permits within areas designated by the OCP. Temporary commercial permits may be issued throughout the Port Renfrew Comprehensive Community Development Plan area as outlined in Section 4.5 of Bylaw No. 3109 and in accordance with Section 921 of the *LGA*.

If a local government proposes to pass a resolution allowing a temporary use permit to be issued, it must give notice in accordance with Sections 892 (4) to (7) and 921 of the *LGA*. Sections 921(4) and 922(4) require notice 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 adjacent property owners 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 *LGA* requirements.

PUBLIC CONSULTATION & APPLICATION PROCESS IMPLICATIONS

The temporary use application will be heard by the Land Use Committee in March with recommendation for the CRD Board to proceed with public notification and referral to selected ministries, agencies and First Nations. As there is no newspaper in circulation in Port Renfrew staff will distribute the notice to residents through a Canada Post unaddressed mail drop. Any responses received from the public will be presented at the March 19, 2013 Land Use Committee meeting.

The CRD Board will consider the application at their meeting in April, following which the referrals will be sent out for the standard 20 working-day comment period. To ensure timely processing of the permit application, the referral comments from agencies will be considered by the CRD Board at their meeting of May 9, 2013.

GROWTH MANAGEMENT IMPLICATIONS

In the evaluation of the temporary use permit, consideration must be given to the Capital Regional District's Regional Growth Strategy and Port Renfrew Comprehensive Community Development Plan. The Regional Growth Strategy designates Port Renfrew as Renewable Resource Lands which does not reflect the existing settlement.

One of the primary goals for the Comprehensive Community Development Plan is to assist and support tourism as the renewable forestry employment has been in decline. The Residential designation supports consideration of mixed commercial/residential/tourism uses as a venue for additional economic development activities. The proposal to operate a commercial marina to support fishing and tourism is not inconsistent with the Regional Growth Strategy which supports the long-term use of the lands as renewable resource working landscapes.

LAND USE IMPLICATIONS

As noted above, the commercial marina has been operated for the past two years; however, the use does not conform to the zoning for the land lots or the water lots. The owners were notified of this violation and are proceeding with a rezoning application. The temporary use permit is to allow for the operation of the commercial marina for the 2013 fishing season while the rezoning application is processed.

The Comprehensive Community Development Plan supports tourism through Economic Goal 3.1.3 – to assist with the establishment of a healthy tourism sector, and through plan objective 11 – support an improvement of the tourism infrastructure in Port Renfrew. The establishment of a marina and related services provides infrastructure for fishing and boating tourists.

Section 4.5 of the Comprehensive Community Development Plan states that the CRD Board may issue a temporary use permit if the following conditions have been met:

- a. The impacts to any of the existing land uses are kept to a minimum.
- b. It does not involve the construction or erection of a new building.
- c. It does not involve numerous delivery trucks travelling to the site on a daily basis, to either pick up or drop off freight or other materials.
- d. The activity serves the needs of the community or is a part of the tourism sector.
- e. The activity will be carried out wholly within the principal building.
- f. There must be no on street parking.

With respect to the Comprehensive Community Development Plan Temporary Commercial Use Permit conditions, the proposed marina generally complies with all conditions.

The proposed development sites are within traditional First Nations' territory and may have significant archaeological features and/or historical significance. Staff recommends referring the applications to local First Nations and the Archaeology Branch of the Ministry of Forests, Lands and Natural Resource Operations for comment.

Staff recommend proceeding with referrals and public notification of the temporary use permit application as indicated in Alternative 1 as there is sufficient evidence that the application meets the

requirements for a temporary use permit and adequate information has been provided by the applicant to proceed.

CONCLUSION

The commercial marina has been operated for the past two years; however, the use does not conform to the zoning for the land lot or the water lots. The owners were notified of this violation and are proceeding with a rezoning application. The temporary use permit is to allow for the operation of the commercial marina for the 2013 fishing season. The application for the temporary use permit is consistent with Comprehensive Community Development Plan policies for the area. Staff recommend proceeding with referrals and public notification of the temporary use permit application and will report back to the CRD Board after the referral period for a decision on the temporary use permit.

RECOMMENDATIONS

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

1. That public notification and referrals to relevant CRD departments and to the following agencies proceed for the Temporary Use Permit TUP-04-13 for the purpose of operating a commercial marina on Plan 344R, Section 97, Renfrew District and on District Water Lot 751, Block A and B:

Archaeology Branch
BC Hydro
Cowichan Valley Regional District
Department of Fisheries and Oceans
Ministry of Environment

Ministry of Transportation and Infrastructure
Pacheedaht First Nation

****ORIGINAL SIGNED****

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Concurrence

- Appendices
1. Location Map
 2. Site Plan

Appendix 1: Location Map



