



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, APRIL 16, 2013**

SUBJECT **ZONING AMENDMENT APPLICATION FOR LOT 1, SECTION 31, OTTER DISTRICT,
PLAN 25582 EXCEPT PART IN PLAN VIP63956**

ISSUE

The applicants operate a dog breeding kennel and propose to rezone their property to permit this use.

BACKGROUND

The 4.66 ha parcel is located in Otter Point at 2276 Kemp Lake Road (Appendix 1). The parcel is surrounded by residential parcels. The property is zoned Rural Residential 3 (RR-3) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. There is a single family dwelling, a hay stall, a garage and a barn on the property (Appendix 2).

The applicants are the subject of a bylaw enforcement complaint as they are operating a dog kennel on a parcel zoned RR-3, which does not permit a kennel use. The applicants wish to rezone the property to legalize the existing kennel use.

Staff has prepared Bylaw No. 3872, which would rezone the parcel from RR-3 to a new Rural Residential 3 Kennel (RR-3K) zone (Appendix 3).

At the February 13, 2013 Capital Regional District (CRD) Board meeting the Board directed the proposed rezoning amendment bylaw, Bylaw No. 3872 be referred to the following agencies for comment.

- | | |
|--|-----------------------------------|
| BC Hydro | Otter Point Fire Department |
| District of Sooke | RCMP |
| Ministry of Transportation and
Infrastructure | Sooke School District #62 |
| Otter Point Advisory Planning Commission | T'Sou-ke First Nation |
| | Vancouver Island Health Authority |

Comments have been received from seven agencies and the proposal was considered at the Otter Point Advisory Planning Commission (APC) meeting of March 11, 2013.

ALTERNATIVES

1. Approve proposed Bylaw No. 3872, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 116, 2013" and proceed to the CRD Board for first and second readings and onto a public hearing.
2. Not approve proposed Bylaw No. 3872, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 116, 2013" and recommend the CRD Board deny the application.
3. Refer the application back to staff for more information.

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.

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 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.

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 the Otter Point Official Community Plan (OCP) Bylaw No. 3719. The parcel lies within the Rural/Rural Resource Lands RGS designation, which includes rural and rural residential uses and isolated commercial and industrial uses in areas of predominately rural character. The kennel use is accessory to principal residential use and is therefore not inconsistent with the RGS. The Otter Point OCP designates the parcel as Settlement Area which signifies the predominant land use is for residential purposes. Home-based businesses may be considered within this designation. As the kennel is accessory to the principal residential use the use is compatible with the OCP.

REFERRAL COMMENTS

Comments were received from BC Hydro, the RCMP, the District of Sooke, T'Sou-ke First Nation, the Ministry of Transportation and Infrastructure, Sooke School District #62 and the Vancouver Island Health Authority. Comments were to be submitted by March 14, 2013 and any outstanding comments received from Otter Point Fire Department will be presented at the LUC meeting.

No objections to the proposed bylaw were raised by BC Hydro, the RCMP, T'Sou-ke First Nation, the Ministry of Transportation and Infrastructure, and the Sooke School District #62 (Appendix 4). The District of Sooke clarified that the kennel use should be an accessory use to the principal residential use. Vancouver Island Health Authority outlined its standard requirements for disposal into an approved system as defined in the *Sewerage System Regulation*.

The Otter Point APC considered the proposed bylaw at its meeting on March 11, 2013 (Appendix 5). The APC passed a motion to support the proposed zoning from Rural Residential 3 (RR-3) to a new zone Rural Residential 3 Kennel (RR-3K).

PLANNING ANALYSIS

Bylaw No. 2040 defines "kennel" to be a lot where more than four dogs and/or cats are kept, trained, cared for, bred and/or boarded and where a kennel license has been approved under CRD Animal Regulation and Impounding Bylaw No. 1465. The applicants have more than four dogs on the property and have operated a breeding kennel for Miniature Schnauzers for the past six years. The dogs are kept in the house as well as in the garage behind the house, and there is a fenced pen for the dogs.

The property is zoned RR-3 which permits a residence, agricultural uses, home based businesses, farm buildings, veterinary clinics and animal hospitals and suites. Kennels are allowed in zones which permit intensive agriculture including Rural A, Rural A-1, Agricultural (AG) and Agricultural 1 (AG-1).

The new RR-3K zone would permit a dog kennel as an accessory use to principal residential use of the property. The new zone has all the provisions of the RR-3 zone with the addition of kennel as a permitted use and a yard requirement for kennel buildings has been added. Staff has amended the proposed zone by adding language to clearly indicate the accessory role of the kennel use.

Staff has not received any complaints from adjacent neighbours. The bylaw enforcement complaint which prompted this rezoning application was made by a resident of Sooke who is questioning all kennel operations in the area. Furthermore, the applicants have provided letters of support from adjacent neighbours.

As there were no objections from referral agencies, and the kennel has been in operation for several years with no complaints from neighbours, staff recommends that the proposed bylaw proceed for approval.

CONCLUSION

The applicants have been operating a kennel on the property for several years and wish to legalize the use. Staff has prepared a proposed RR-3K zone which would permit a kennel as an accessory use to the principal residential use of the property. As there were no objections from referral agencies, and the kennel has been in operation for several years with no complaints from neighbours, staff recommends that the proposed bylaw proceed for approval.

RECOMMENDATIONS

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

1. That proposed Bylaw No. 3872, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 116, 2013" 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 proposed Bylaw No. 3872, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 116, 2013".

****ORIGINAL SIGNED****

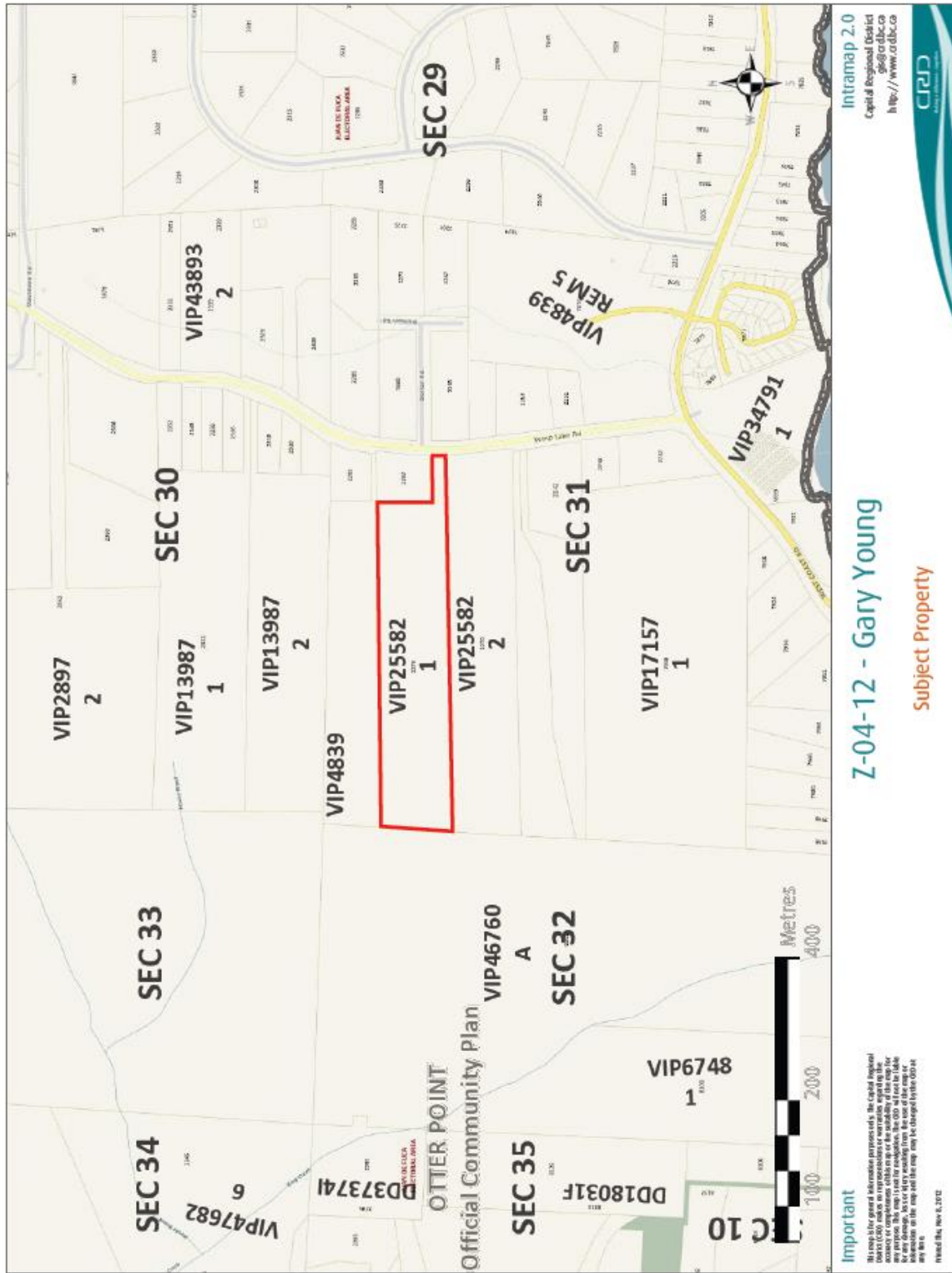
June Klassen, MCIP, RPP
Manager, Local Area Planning

Marg Misek-Evans, MCIP, RPP
Acting General Manager
Planning & Protective Services
Concurrence

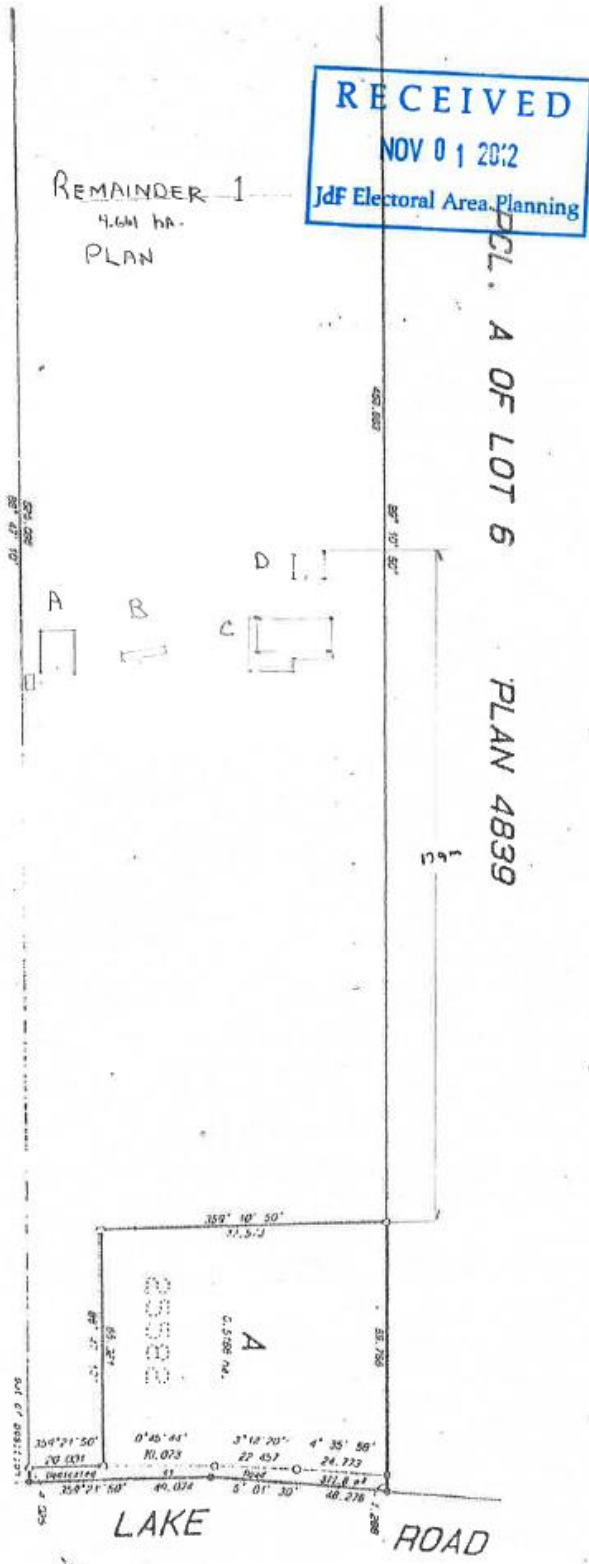
Robert Lapham, MCIP, RPP
Chief Administrative Officer
Concurrence

Appendices:

1. Location
2. Site Plans
3. Proposed Bylaw No. 3872
4. Referral Comments
5. Otter Point Advisory Planning Commission Minutes March 11, 2013

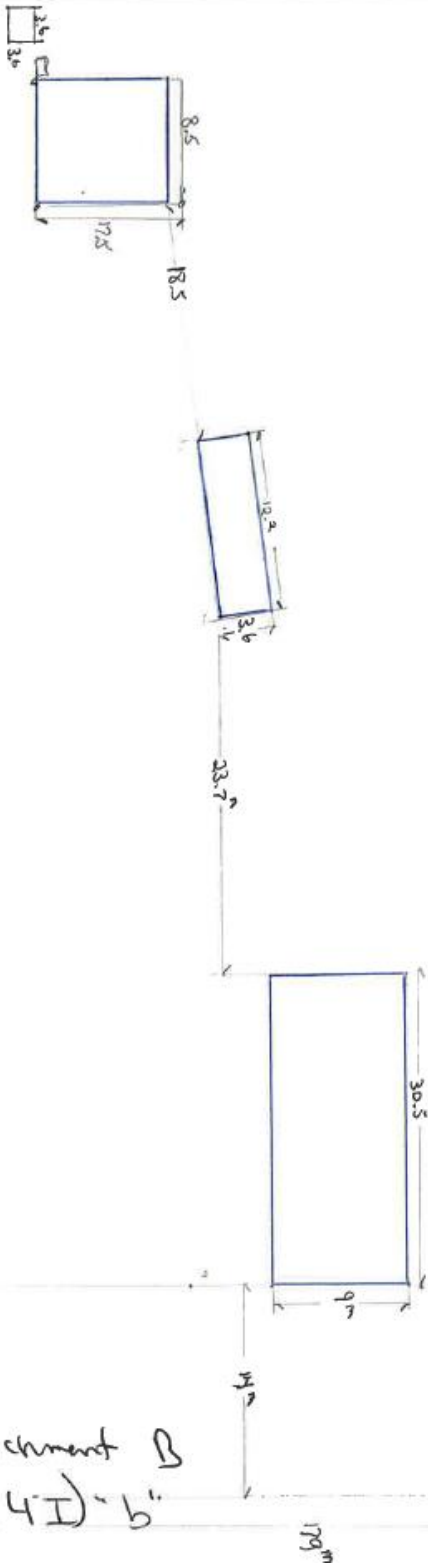


- BARN 38x31' - A
 - HAY STALL 8x40' - B
 - House 28x66' - C
 - GARAGE 18x18' - D
- LOT 2



Attachment A
 4 (VI) "a"
 KEMP
 ALE 40

RECEIVED
NOV 01 2012
JdF Electoral Area Planning



Attachment B
4 (4.I) - b

1 SCALE

CAPITAL REGIONAL DISTRICT
BYLAW NO. 3872

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:
 - (a) Part 1, TABLE OF CONTENTS, PART 2 – ZONING DISTRICTS add the following:
 - i. By adding "Rural Residential 3 Kennel RR-3K" after "Rural Residential 3"
 - (b) Part 1, 3.0 ADMINISTRATION AND ENFORCEMENT, Section 3.07 ZONES
 - i. By adding "RR-3K Rural Residential 3 Kennel" to the list of zones after "RR-3 Rural Residential 3"
 - (c) Part 2 – ZONING DISTRICTS
 - i. By creating a new zone, Rural Residential 3 Kennel (RR-3K), to be inserted after Section 7.0, and to read as follows:

7A.0 RURAL RESIDENTIAL 3 KENNEL ZONE - RR-3K

7A.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 Rural Residential 3 RR-3 Zone:

- (a) One-family dwelling;
- (b) Two-family dwelling;
- (c) Home Based Business Categories One, Two and Three;
- (d) Agriculture;
- (e) Two Boarders or Lodgers;
- (f) Farm buildings on farms;
- (g) Veterinary Clinics and Animal Hospitals;
- (h) Secondary Suite pursuant to Part 1, Subsection 4.19;
- (i) Detached Accessory Suites pursuant to Part 1, Subsection 4.20;
and
- (j) Kennel on parcels 4 ha or larger, as an accessory use to a principal residential use.

7A.02 Minimum Lot Size for Subdivision Purposes

Minimum lot size shall be 2 ha.

7A.03 Number of Residential Buildings

One one-family dwelling or one two-family dwelling is permitted per lot.

7A.04 Height

Maximum height shall be 9 m.

7A.05 Lot Coverage

Maximum lot coverage shall be 15 percent.

7A.06 Maximum Size of Residential Buildings

Provided applicants having either met the *Sewerage System Regulation* (e.g., a filing) or acceptance by VIHA via referral. Residential buildings and structures shall not exceed a Floor Area Ratio of 0.45.

7A.07 Yard Requirements

- (a) Front yards shall be a minimum of 7.5 m;
- (b) Side yards shall be a minimum of 6 m; except where residential uses exceed a Total Floor Area of 418 m², minimum side yards shall be 15 m each side;
- (c) Flanking yards shall be a minimum of 6 m CTS;
- (d) Rear yards shall be a minimum of 10 m.

7A.08 Yard Requirements for Buildings and Structures for Livestock or Keeping of Animals

- (a) Front yards shall be a minimum of 90 m;
- (b) Side, flanking and rear yards shall be a minimum of 30 m each.

7A.09 Yard Requirements – Kennel and Other Farm Buildings

- (a) Front yards shall be a minimum of 30 m;
- (b) Side, flanking and rear yards shall be a minimum of 15 m.

(d) Schedule B ZONING Maps

- i. By amending Map 2: Otter Point Zoning to incorporate the amendment as shown on Map 1 attached to and forming part of this bylaw.
- (e) By deleting from the Rural Residential 3 (RR-3) zone, and adding to the Rural Residential 3 Kennel (RR-3K) zone, for the purpose of permitting a kennel on Lot 1, Section 31, Otter District, Plan 25582 except Plan VIP63956, as shown on Plan No.1, attached to and forming part of this bylaw.

CRD Bylaw No. 3872

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2. This bylaw may be cited as Bylaw 3872, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 116, 2013".

READ A FIRST TIME THIS day of , 2013.

READ A SECOND TIME THIS day of , 2013.

READ A THIRD TIME THIS day of , 2013.

APPROVED by the Minister of Transportation and Infrastructure

THIS day of , 2013.

ADOPTED THIS day of , 2013.

CHAIR

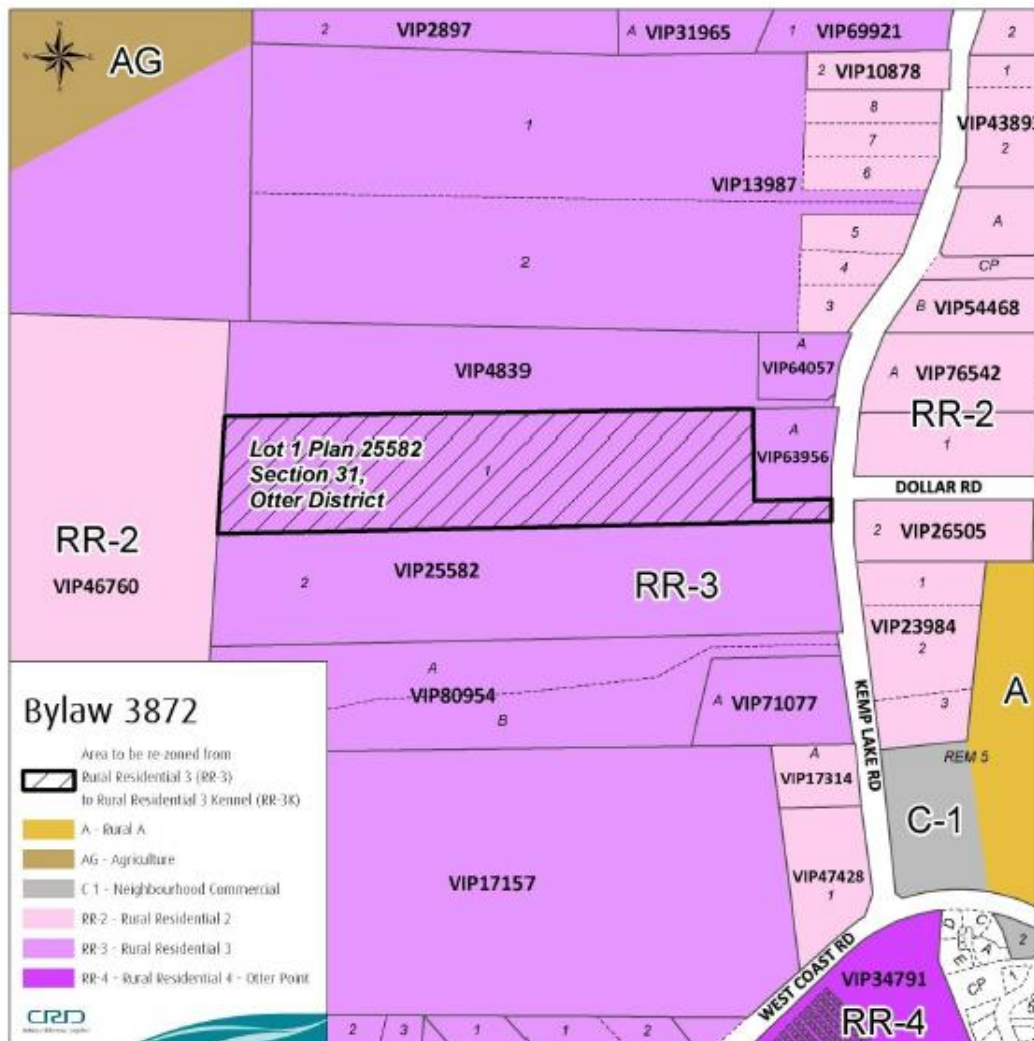
CORPORATE OFFICER

CRD Bylaw No. 3872

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Plan No. 1 of Bylaw No. 3872

Lot 1, Section 31, Otter District, Plan 25582 except Plan VIP63956 shown on this plan attached to and forming part of this bylaw.

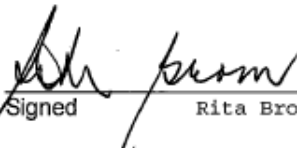


RESPONSE SUMMARY – Z-04-12

- Interest Affected by Proposal for Reasons Outlined Below
- Interest Unaffected by Proposal

Comments:

BC Hydro interests are unaffected by this Rezoning Proposal. We have no Statutory Right of Way charges registered against this property title.


Signed Rita Brom Property Coordinator #1078617
Title
March 12, 2013 BC Hydro - Property Rights Services
Date Agency

Wendy Miller

From: Stephen Wright <stephen.w.wright@rcmp-grc.gc.ca>
Sent: Thursday, February 14, 2013 11:51 AM
To: Wendy Miller
Subject: Re: Rezoning Application Z-04-12

Wendy, I have no issues with this request.

Steve

Wendy Miller

From: Tara Johnson <tjohnson@sooke.ca>
Sent: Tuesday, February 19, 2013 11:23 AM
To: Wendy Miller
Cc: Gerard LeBlanc
Subject: RE: Rezoning Application Z-04-12

Thank you Wendy for sending us this referral. After review, no concerns have been noted.

For clarification, in the staff report it is mentioned that the dog kennel would be an accessory use to a principal residential use but in the proposed bylaw a "kennel on parcels 4 ha or larger" is listed as a permitted use and not accessory. It seems possible that a dog kennel could be a principal permitted use based on the wording of the bylaw.

Kind regards,

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

Wendy Miller

From: Bonnie English <benglish@tsoukenation.com>
Sent: Monday, March 04, 2013 2:44 PM
To: Wendy Miller
Subject: FW: Rezoning Application Z-04-12
Attachments: PPS-JDF-2013-02-14-Z-04-12-T'Sou-ke Nation.pdf; PPS-JDF-2013-01-15-Z-04-12-StaffReport_WithOutSignatures.pdf

Hi Wendy,

Thank you for sending the attached referral.
T'Sou-ke has no comment at this time.

Bonnie English

Wendy Miller

From: Evanoff, Ryan TRAN:EX <Ryan.Evanoff@gov.bc.ca>
Sent: Thursday, February 14, 2013 3:02 PM
To: Wendy Miller
Subject: RE: Rezoning Application Z-04-12

Categories: Orange Category

Wendy,

Please accept this email as official response from the Ministry for the rezoning proposal outlined below.

The Ministry has no objections or conditions of approval for the proposed rezoning of 2276 Kemp Lake Road. The Ministry file number for this referral is 2013-00710.

If you require any additional information from the Ministry please contact myself directly.

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
WEBSITE FOR DEVELOPMENT APPROVALS:
www.th.gov.bc.ca/Development_Approvals/home.htm | MINISTRY WEBSITE: <http://tranbc.ca/>

Wendy Miller

From: Pete Godau <pgodau@sd62.bc.ca>
Sent: Thursday, March 07, 2013 4:02 PM
To: Wendy Miller
Subject: RE: Rezoning Application Z-04-12

Wendy,

No Concerns.

Thank you,

Peter Godau,
Director of Facilities
School District # 62
(250)474-9841
pgodau@sd62.bc.ca

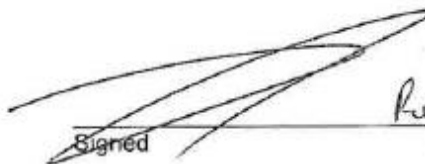
RESPONSE SUMMARY – Z-04-12

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments:

provided all structures that generate domestic sewage are disposed into an approved system as defined in the Sewerage System Regulation.


Signed Ray Beise Title EMO
Date Feb 20, 2013 Agency Vancouver Island Health Authority

Appendix 5: Otter Point Advisory Planning Commission Minutes March 11, 2013

MOVED by Sandy Sinclair, **SECONDED** by Bud Gibbons that the APC support the rezoning of Lot 1, Section 31, Otter District, Plan 25582 except part in Plan VIP63956 from Rural Residential 3 (RR-3) to a new Rural Residential 3 Kennel (RR-3K) zone. **CARRIED**