



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 15, 2014**

SUBJECT

**AMENDMENT TO THE OTTER POINT OFFICIAL COMMUNITY PLAN BYLAW NO. 3719
(AMENDMENT BYLAW NO. 3963)**

**AMENDMENT TO BYLAW NO. 2040, JUAN DE FUCA LAND USE BYLAW, 1992 (AMENDMENT
BYLAW NO. 3964)**

ISSUE

Amendments are requested to the Official Community Plan (OCP) for Otter Point, Bylaw No. 3719 and the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, to re-designate and rezone the subject property, Lot A, Section 51, Otter District, Plan VIP89485, to permit a two lot subdivision.

BACKGROUND

The 2.03 ha property is located at 4039 Otter Point Road and lies adjacent to Otter Point Road and Eagle Crest Drive (Appendix 1). There is an existing dwelling and several accessory buildings on the property. As well, an easement provides access to Lot B, Section 51, Otter District, Plan VIP89485 to the north.

The property is designated as Settlement Area pursuant to the Otter Point OCP and Section 4.2.1.2 item 1(c) states:

“Residential development outside the settlement containment areas should consist of parcels greater than 2 ha. (5 acres).”

The property is zoned Rural Residential 3 (RR-3) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 which establishes a minimum parcel size for subdivision of 2 ha.

The applicants are proposing to subdivide the parcel to provide a lot for a family member. A subdivision application was submitted to the Ministry of Transportation and Infrastructure (MOTI) in 2013 pursuant to Section 946 of the *Local Government Act (LGA)* but was denied by the Provincial Approving Officer as the remainder parcel would not meet the 2 ha minimum parcel size for the RR-3 zone. The applicants wish to designate the parcel as Settlement Containment Area which would permit a minimum parcel size in the 1 ha range and then rezone the property to RR-2 which permits a 1 ha minimum parcel size for subdivision. This would permit proceeding with the subdivision for a family member.

Staff has prepared two amending bylaws – Bylaw No. 3963 would designate the parcel as Settlement Containment Area and Bylaw No. 3964 would rezone the parcel from RR-3 to RR-2 (Appendix 2 and 3).

ALTERNATIVES

1. Recommend to the CRD Board that proposed Bylaw No. 3963, “Official Community Plan for Otter Point Bylaw No. 1, 2010, Amendment Bylaw No. 1, 2014” and proposed Bylaw No. 3964, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 121, 2014” be referred to relevant CRD departments and agencies for comment.
2. Recommend that the CRD Board not refer proposed Bylaw No. 3963, “Official Community Plan for Otter Point Bylaw No. 1, 2010, Amendment Bylaw No. 1, 2014” and proposed Bylaw No. 3964, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 121, 2014”.
3. Request more information be provided by staff.

LEGISLATIVE IMPLICATIONS

Pursuant to Section 879 of the *LGA*, an amendment to an OCP requires that local governments provide one or more opportunities for consultation it considers appropriate to persons, organizations and authorities the local government considers may be affected by the adoption, repeal or amendment of an OCP.

Specific consideration must be given to referring the proposed amendment to the adjacent regional districts or municipalities, and First Nations. Consideration should also be given to referring the proposed amendment to improvement districts and applicable Provincial and Federal agencies.

Pursuant to Section 881 of the *LGA*, a proposed amendment to an OCP must also be referred to the School District and pursuant to Section 924 of the *LGA* an amendment to a land use bylaw that will apply to land within 800 metres of an intersection of a controlled access highway, must be referred to the MOTI for approval.

Consultation under the above noted sections of the *LGA* must occur prior to the requirement under Section 882 (3) (d) to hold a public hearing as part of the amendment process. In this case, the comments will be received prior to proceeding to first reading of the bylaws.

PUBLIC CONSULTATION IMPLICATIONS

The Advisory Planning Commissions were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 26 of the *LGA*, therefore, the proposal should be referred to the Otter Point Advisory Planning Commission.

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 IMPLICATIONS

In the evaluation of Official Community Plan and zoning amendments consideration must be given to the Capital Regional District's Regional Growth Strategy policy. The application will be referred to the CRD Regional and Strategic Planning Division for comment on possible implications.

PLANNING ANALYSIS

The applicants are proposing to subdivide the parcel to provide a lot for a family member pursuant to Section 946 of the *LGA*. However, when a previous subdivision application was submitted to the MOTI it was denied by the Provincial Approving Officer as the remainder parcel would not meet the 2 ha minimum parcel size for the RR-3 zone. The applicants wish to amend the Otter Point OCP to designate the parcel as Settlement Containment Area as Section 4.2.1.2 item 1(b) states:

"The desired parcel size for residential development within the Settlement Containment Area should be in the 1 ha. (2.5 acres) range."

Once the parcel is designated as Settlement Containment Area, which would permit a parcel size in the 1 ha range, the applicants wish to subsequently rezone the parcel to permit a smaller parcel size. This would result in allowing the remnant parcel to meet the requirements of the Provincial Approving Officer.

The applicants have been waiting to proceed with the rezoning pending the adoption of the proposed Otter Point OCP, Bylaw No. 3819 which proposes to designate the parcel as Settlement Area 2. Section 4.1.1 item 1(b) of the new OCP establishes a 1 ha desired average parcel size for residential development within Settlement Area 2 with a minimum parcel size of 0.8 ha. However, this bylaw is only at second reading and the applicant has requested that due to the financial institution's requirements that this application for a site specific OCP amendment proceed at this time. Should the new OCP be adopted before this OCP amendment is completed, the applicants will withdraw this OCP amendment application and proceed with the rezoning application.

As mentioned, once the parcel has been designated as Settlement Containment Area, a rezoning from RR-3 to RR-2 could be considered. The RR-3 zone has a minimum parcel size of 2 ha while the RR-2 zone has a minimum parcel size of 1 ha. There is a difference between the permitted uses in the zones as the RR-2 zone would permit horticulture, silviculture and the temporary accommodation of non-paying guests or visitors in a travel trailer or camper which is not included in the existing RR-3 zone. However, the RR-2 zone would not include veterinary clinics or hospitals which are permitted in the RR-3 zone.

The proposed OCP amendment is in accordance with the parcel designation in the proposed new OCP Bylaw No. 3819 and the proposed rezoning from RR-3 to RR-2 would then comply with the OCP; therefore staff recommends that the amending bylaws be referred to the community and agencies for comment.

SUMMARY/CONCLUSIONS

The applicants have applied for an amendment to the Otter Point Official Community Plan Bylaw No. 3719 and to the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The applicant proposes a subdivision for a family member and therefore requires that the remnant parcel meet a smaller minimum parcel size. Staff recommends that the amending bylaws be referred for comment.

RECOMMENDATION

That the Land Use Committee recommends to the CRD Board:

That proposed Bylaw No. 3963, "Official Community Plan for Otter Point Bylaw No. 1, 2010, Amendment Bylaw No. 1, 2014" and proposed Bylaw No. 3964, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 121, 2014" as included in Appendix 2 and 3, be referred to appropriate CRD departments and the following agencies for comment:

BC Hydro
Cowichan Valley Regional District
District of Sooke
Island Health
Ministry of Highways and Transportation

Otter Point Advisory Planning Commission
Otter Point Fire Department
RCMP
Sooke School District #62
T'Sou-ke First Nation

****ORIGINAL SIGNED****

June Klassen, MCIP, RPP
Manager Local Area Planning

Kevin Lorette, P.Eng., MBA
General Manager
Planning and Protective Services
Concurrence

Robert Lapham, MCIP, RPP
Chief Administrative Officer
Concurrence

Appendices

1. Location Map
2. Proposed Bylaw No. 3963
3. Proposed Bylaw No. 3964

Appendix 2: Proposed Bylaw No. 3963

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 3963**

**A BYLAW TO AMEND BYLAW NO. 3719, THE "OFFICIAL
COMMUNITY PLAN FOR OTTER POINT, 2010"**

The Board of the Capital Regional District in open meeting assembled enacts as follows:

1. Bylaw No. 3719, "Official Community Plan for Otter Point Bylaw No. 1, 2010", is hereby amended as follows:
 - A. Map 2: Land Use Designations
 - a) By adding the Settlement Containment Area Boundary as shown on Plan No. 1 attached to and forming part of this bylaw.

This bylaw may be cited as Bylaw No. 3963, "Official Community Plan for Otter Point Bylaw No. 1, 2010, Amendment Bylaw No. 1, 2014".

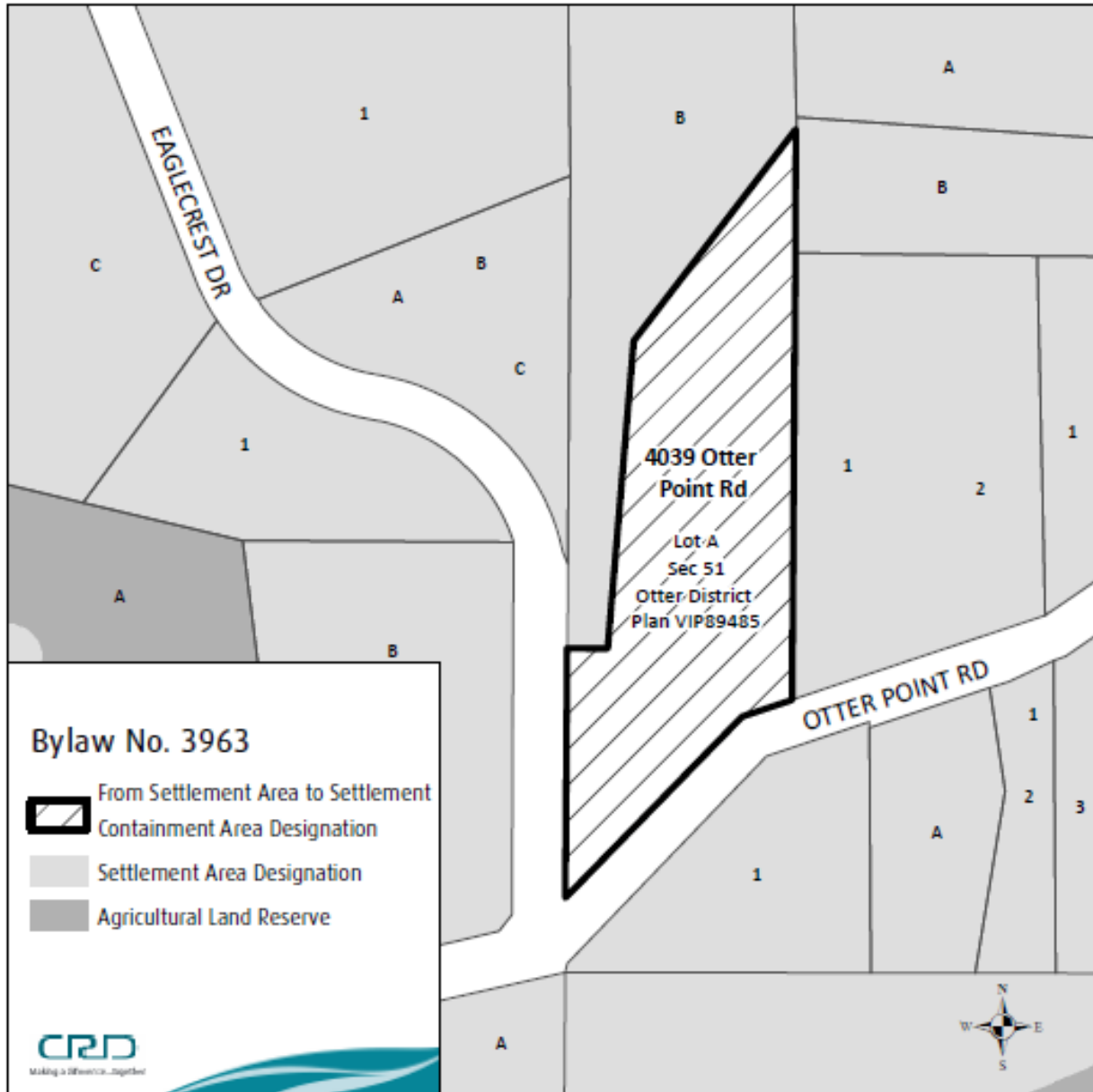
READ A FIRST TIME THIS	DAY OF	2014
READ A SECOND TIME THIS	DAY OF	2014
READ A THIRD TIME THIS	DAY OF	2014
ADOPTED THIS	DAY OF	2014

CHAIR

CORPORATE OFFICER

Plan No. 1 of Bylaw No. 3963

Lot A, Section 51, Otter District, Plan VIP89485 shown hatched on this plan attached to and forming part of this bylaw.



**CAPITAL REGIONAL DISTRICT BYLAW
BYLAW NO. 3964**

A BYLAW TO AMEND BYLAW NO. 2040, THE "JUAN DE FUCA LAND USE BYLAW, 1992"

The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 2040 being the "Juan de Fuca Land Use Bylaw, 1992" is hereby amended:
 - (a) By deleting from the Rural Residential 3 (RR-3) zone, and adding to the Rural Residential 2 (RR-2) zone, for the purpose of permitting a two lot subdivision of Lot A, Section 51, Otter District, Plan VIP89485, shown attached on Plan No.1, attached to and forming part of this bylaw.
2. This bylaw may be cited as Bylaw No. 3964, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 121, 2014".

READ A FIRST TIME	THIS	DAY OF	2014
READ A SECOND TIME	THIS	DAY OF	2014
READ A THIRD TIME	THIS	DAY OF	2014
ADOPTED	THIS	DAY OF	2014

CHAIR

CORPORATE OFFICER

Plan No. 1 of Bylaw No. 3964

Lot A, Section 51, Otter District, Plan VIP89485 shown hatched on this plan attached to and forming part of this bylaw.

