

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **February 20, 2018 at 7 p.m.**

Juan de Fuca Local Area Services Building, #3 – 7450 Butler Road, Otter Point, BC

AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of January 16, 2018
4. Chair's Report
5. Planner's Report
6. Variance Application
 - a) VA000144 – Lot A, Block 453, Malahat District, Plan EPP72720 (1499 Trail Way)
7. Adjournment



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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, January 16, 2018, at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Mike Hicks (Chair), Stan Jensen, Roy McIntyre, Ron Ramsay, Sandy Sinclair, Art Wynans
Staff: Iain Lawrence, Manager, Local Area Planning; Emma Taylor, Recorder
ABSENT: Dale Risvold
PUBLIC: 5

The meeting was called to order at 7:00 p.m.

1. Approval of the Agenda

MOVED by Art Wynans, **SECONDED** by Roy McIntyre that the agenda be approved. **CARRIED**

2. Approval of the Supplementary Agenda

No supplementary items.

3. Adoption of Minutes from the Meeting of November 21, 2017

MOVED by Sandy Sinclair, **SECONDED** by Roy McIntyre that the minutes from the meeting of November 21, 2017, be adopted. **CARRIED**

4. Chair's Report

The Chair acknowledged Wendy Miller's absence.

The Chair reported that the mediation process for the Regional Growth Strategy (RGS) lasted two days, finishing on December 6, 2017. The mediated outcome identifies the settlement areas in East Sooke, Otter Point and Port Renfrew and provides them the right to receive community water extensions to a set capacity. The CRD Board resolved to refer the mediated RGS to municipalities and municipal responses are requested within 60 days.

5. Planner's Report

Iain Lawrence stated that public hearings are scheduled to be held on January 24, 2018, at the Shirley Hall for proposed Bylaw No. 4179 and proposed Bylaw No. 4188.

6. Rezoning Application

a) RZ000245 – Block 1043, Malahat District (3950 Goldstream Heights Drive)

Iain Lawrence spoke to the staff report to receive referral comments and to consider a modified rezoning proposal that would create a two-lot subdivision and rezone a portion of the property to permit medical marijuana production. Proposed amendments to the Official Community Plan (OCP), including adding industrial use as a supported use in the settlement area designation and identifying the property as a Commercial and Industrial Development Permit Area, were explained.

Staff outlined the referral comments from agencies including stated opposition to the initial campground rezoning proposal due to anticipated traffic concerns, proximity to CRD park and watershed lands, and insufficient RCMP staffing levels to respond to incidents in

remote areas. Comments from a public information meeting held in Shawnigan Lake were also outlined.

The Chair confirmed that the applicants were present.

The applicant, Dennis Nixon, presented a map of the property showing the proposed plan of subdivision and area available for medical marihuana production. The applicant questioned the rationale for 90 metre setbacks from the side and rear property lines adjacent to the park, and compared them to lesser setback regulations for intensive agriculture and industrial uses in the bylaw. The applicant also stated concern about the community's potential reaction to the medical marihuana production use being classified as industrial in the OCP. Preference for holding future public meetings within the Juan de Fuca Electoral Area was stated.

The Chair stated that the question the LUC is considering is whether to refer the revised proposal to agencies.

Comments from LUC members included:

- no traffic impacts resulting from the revised proposal
- medical marihuana production provides employment and property tax revenue
- parkland is adjacent

MOVED by Roy McIntyre, **SECONDED** by Stan Jensen that the Land Use Committee recommend to the CRD Board:

- a) That the referral of Bylaw Nos. 4196 and 4197 directed by the JdF Land Use Committee on July 18, 2017, to a public information meeting, BC Hydro, BC Parks, City of Langford, Cowichan Tribes, Cowichan Valley Regional District, CRD Building Inspection, CRD Integrated Water Services, CRD Protective Services, CRD Regional Parks, CRD Regional and Strategic Planning, Halalt First Nation, Health Canada, Island Health, JdF Electoral Area Parks and Recreation Advisory Commission, Lake Cowichan First Nation, Lyackson First Nation, Malahat First Nation, Ministry of Transportation & Infrastructure, Pauquachin First Nation, Penelakut Tribe, RCMP, School District #79, Stz'uminus First Nation, Te'Mexw Treaty Association, Tsawout First Nation, Tsartlip First Nation and Tseycum First Nation be approved and the comments be received;
- b) That staff be directed to refer revised proposed Bylaw No. 4196, "Malahat Land Use Bylaw, 1981, Amendment Bylaw No 147, 2017" and proposed Bylaw No. 4197, "Malahat Official Community Plan, 2012, Amendment Bylaw No. 2, 2017" to a public information meeting and to the following agencies and department for comment:

Cowichan Tribes	CRD Aboriginal Initiatives	Malahat First Nation
Cowichan Valley Regional District	CRD Regional Planning	MFLNRORD
CRD Integrated Water Services	Island Health	MoTI
CRD Regional Parks	JdF EA Parks & Recreation Advisory Commission	School District #79
CRD Protective Services	Westshore RCMP	

CARRIED

Director Hicks excused himself from the meeting at 7:25pm, declaring a potential conflict of interest as a family member has an interest in an adjacent property.

Art Wynans took position of Chair.

b) RZ000251 – Lot 12, District Lot 17, Renfrew District, Plan 13240 (17239 Parkinson Road)

Iain Lawrence spoke to the staff report and the application to rezone the subject property to permit food service establishments, including the proposed food truck. It was stated that a Riparian Assessment Report will be requested of the applicant as a stream flows through the property that is subject to the *Riparian Areas Regulation*. Proposed Bylaw No. 4216 is recommended for referral to agencies and the Port Renfrew Advisory Planning Commission.

The Chair confirmed that the applicant was present.

The applicant responded to questions from the LUC confirming that:

- the proposal is for a mobile food truck and a picnic shelter
- a stream flows through the property

Iain Lawrence responded to questions from the LUC confirming that:

- a new definition for food service establishment has been drafted that includes food trucks
- notification of an APC meeting would include owners and occupants within 500 metres of the subject property as well as a mail drop
- no other tourist commercial uses are proposed
- setbacks outlined in proposed Bylaw No. 4216 will apply to construction of a picnic shelter

An LUC member commented that commercial taxation may not apply to a mobile food truck.

MOVED by Roy McIntyre, **SECONDED** by Sandy Sinclair that the Land Use Committee recommends to the CRD Board:

That staff be directed to refer proposed Bylaw No. 4216, "Comprehensive Community Plan for Port Renfrew, Bylaw No. 1, 2003, Amendment Bylaw No. 9, 2017" to the Port Renfrew Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment.

BC Hydro	Island Health	RCMP
Cowichan Valley Regional District	Ministry of Transportation and Infrastructure	District of Sooke
Sooke School District #62	Pacheedaht First Nation	

CARRIED

7. Adjournment

The meeting adjourned at 7:32 p.m.

Chair



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, FEBRUARY 20, 2018**

SUBJECT **Development Variance Permit for Lot A, Block 453, Malahat District,
Plan EPP72720 – 1499 Trail Way**

ISSUE

An application has been made for a development variance permit in order to allow the siting of a greenhouse within the front yard setback specified for agricultural buildings in the Greenbelt 3 zone.

BACKGROUND

The 2.43 ha property is located at 1499 Trail Way in the Malahat (Appendix 1). The property is zoned Greenbelt 3 (GB3) under the Malahat Land Use Bylaw, 1981, Bylaw No. 980. The property has frontage on Trail Way to the north, and is adjacent to another GB3 zoned parcel to the south and east, and to the Great Trail to the west.

The applicant is requesting a variance in order to allow the siting of a 253 m² (2,723 ft²) greenhouse within 10.4 m of the front parcel line (Appendices 2 and 3). The Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4), specifies that agricultural buildings in the GB3 zone shall be sited a minimum of 30 m from the front parcel line.

The property is partially designated as a Steep Slopes Development Permit Area (DPA) and a Watercourses, Wetlands and Riparian Area DPA by the Malahat Official Community Plan, Bylaw No. 3721. The survey provided indicates that the greenhouse is not located within either DPA.

The property is affected by a restrictive covenant, registered on the title of the property in order to protect the riparian area. The survey indicates that the greenhouse is located outside the covenant area.

ALTERNATIVES

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

1. That Development Variance Permit VA000144 to reduce the front yard setback for agricultural buildings from 30 m to 10.4 m, as specified by Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4), for the purpose of allowing the siting of a greenhouse on Lot A, Block 453, Malahat District, Plan EPP72720, be approved.
2. That Development Variance Permit VA000144 be denied.
3. That the application be referred back to staff for additional information.

LEGISLATIVE IMPLICATIONS

The Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4) specifies that the front yard setback requirement for agricultural buildings is 30 m. A development variance permit is required in order to allow the greenhouse to be located 10.4 m from the front parcel line.

PUBLIC CONSULTATION IMPLICATIONS

Pursuant to Section 499 of the *Local Government Act*, if a local government proposes to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a distance specified by bylaw. Capital Regional District Bylaw No. 3110, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or

organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 m. Any responses received from the public will be presented at February 20, 2018, Land Use Committee meeting.

LAND USE IMPLICATIONS

The applicant has submitted a development variance permit application to allow the siting of a 253 m² greenhouse within 10.4 m of the front parcel line. Construction of the greenhouse was started without the necessary building permit, and a Stop Work Order was posted by the Building Inspector. Before a building permit can be issued, the unlawful siting of the building must be addressed.

The owners have chosen the present location of the greenhouse due to the building's size and to site constraints imposed by a steep bedrock slope to the south. The greenhouse is required for the growing of plants used by the owners in their commercial landscaping business. Staff note that *agriculture* and *silviculture* are permitted uses in the GB3 zone.

Many of the lots within the Goldstream Heights subdivision are currently undeveloped, including those parcels immediately adjacent to the subject property. A neighbouring property owner, located approximately 900 m to the north, has submitted a letter in support of the requested variance (Appendix 4). The Great Trail is located on an adjoining right-of-way to the west of the subject property; however, it is buffered by a riparian covenant area. Therefore, should the variance be approved, there is no anticipated impact of the greenhouse on the Trail. The greenhouse is located outside any development permit area, and outside the riparian covenant area.

Development Variance Permit VA000144 is included as Appendix 5 for consideration. Staff recommend approval of the development variance permit subject to public notification.

CONCLUSION

The applicant has requested a development variance permit for the purpose of allowing the siting of a greenhouse within the front yard setback specified for agricultural buildings. The setback is requested due to the size of the building and site constraints imposed by a steep, bedrock slope to the south of the building and a riparian area protected by covenant to the west of the building. The proposed variance is to reduce setback requirement from 30 m to 10.4 m. Staff recommend approval of the development variance permit subject to public notification.

RECOMMENDATION

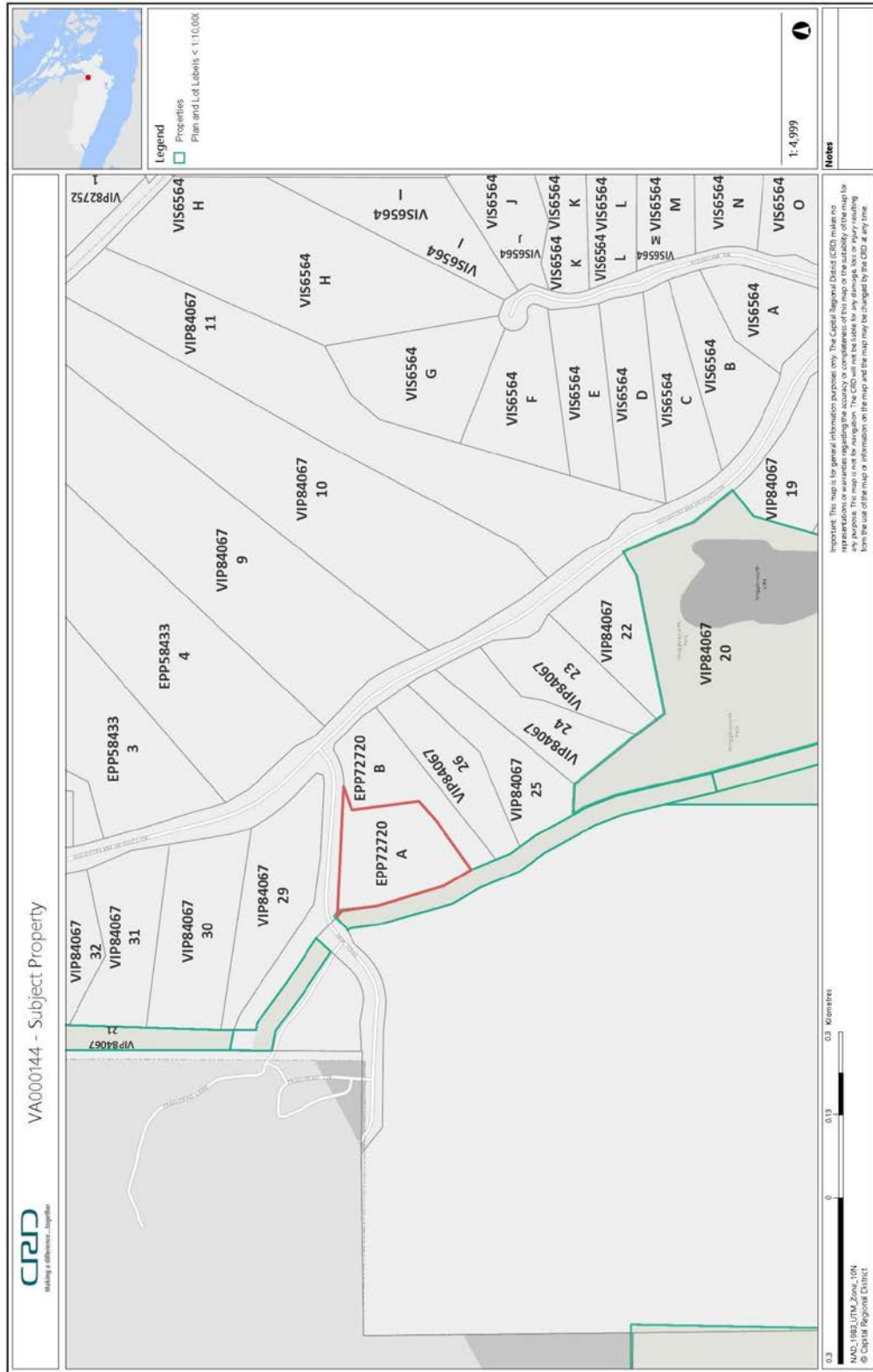
That the Land Use Committee recommends to the Capital Regional District Board:

That Development Variance Permit VA000144 to reduce the front yard setback for agricultural buildings from 30 m to 10.4 m, as specified by Malahat Land Use Bylaw, 1981, Bylaw No. 980, Section 3.4.04(4), for the purpose of allowing the siting of a greenhouse on Lot A, Block 453, Malahat District, Plan EPP72720, be approved.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Bob Lapham, MCIP, RPP, Chief Administrative Officer

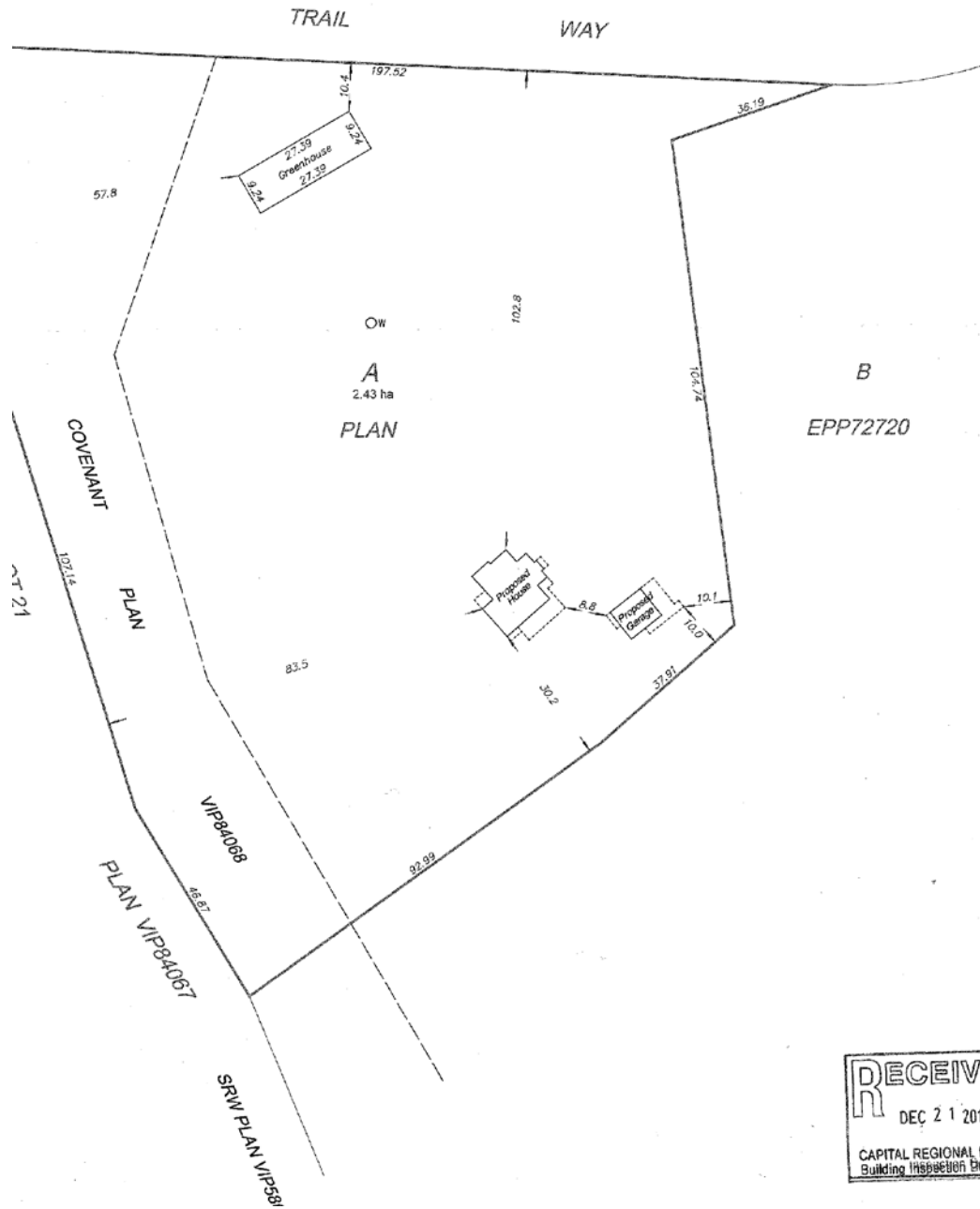
- Appendix 1: Subject Property Map
- Appendix 2: Site Plan
- Appendix 3: Site Photo
- Appendix 4: Letter of Support
- Appendix 5: Development Variance Permit VA000144

Appendix 1: Subject Property Map



Appendix 2: Site Plan

83



Appendix 3: Site Photo



Appendix 4: Letter of Support



October 20, 2017

Mark Cranwell
Capital Regional District
Building Permits & Inspections
625 Fisgard Street
Victoria, BC
V8W 2S6

Dear Mr. Cranwell,

This letter is in regards to a greenhouse under construction at Lot 28 Trail Way in Goldstream Heights. (LOT A BLOCK 453 MALAHAT DISTRICT, PLAN EPP72720.)

The owners received a Stop Work Order recently and have asked us to inform the CRD how we feel about the greenhouse.

We live at [REDACTED] Goldstream Heights Dr. We can't really see the greenhouse from our property, but we walk by often. We think it's great. We also enjoy gardening and appreciate the need for greenhouses in our climate.

This neighbourhood has been previously been a bit of a dumping ground and party spot, and the presence of the greenhouse has already brought a few of the neighbours together to create more of a community atmosphere.

In short, the greenhouse does not bother us at all and we encourage its construction.

Sincerely,

[REDACTED]

Appendix 5: Development Variance Permit VA000144



CAPITAL REGIONAL DISTRICT
DEVELOPMENT VARIANCE PERMIT NO. VA000144

1. This Development Variance Permit is issued under the authority of Section 498 of the *Local Government Act* and subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically authorized by this Permit.
2. This Development Variance Permit applies to and only to those lands within the Regional District described below (legal description), and any and all buildings, structures, and other development thereon:

PID: 027-301-427;
Legal Description: Lot A, Block 453, Malahat District, Plan EPP72720
3. The Capital Regional District's **Bylaw No. 980, Section 3.4.04(4)** is varied under Section 498 of the *Local Government Act* as follows:
 - a. By reducing the front yard setback for agricultural buildings from 30 m to 10.4 m for the purpose of allowing the siting of a greenhouse, as shown on the attached Site Plan, received by the CRD December 21, 2017.
4. Notice of this Permit shall be filed in the Land Title Office at Victoria as required by Section 503 of the *Local Government Act*, and the terms of this Permit (VA000144) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
5. If the holder of a permit does not substantially start any construction permitted by this Permit within 2 years of the date it is issued, the permit lapses.
5. The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit, and any plans and specifications attached to this Permit which shall form a part hereof.
6. The following plans and specifications are attached:
 - 1) Site Plan
7. This Permit is NOT a Building Permit.

RESOLUTION PASSED BY THE BOARD, THE 14th day of March, 2018.

ISSUED this _____ day of _____, 2018

Corporate Officer



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Attachment 1: Site Plan

VA000144

