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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, December 17, 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, Dale Risvold
Sandy Sinclair, Art Wynans
Staff: Iain Lawrence, Manager, Local Area Planning; Emma Taylor, Planner;
Wendy Miller, Recorder
PUBLIC: Approximately 29

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

1. Approval of the Agenda

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

CARRIED

2. Approval of the Supplementary Agenda

MOVED by Art Wynans, **SECONDED** by Ron Ramsay that the supplementary agenda be approved.

CARRIED

3. Adoption of Minutes from the Meeting of November 20, 2018

MOVED by Sandy Sinclair, **SECONDED** by Art Wynans that the minutes from the meeting of November 20, 2018, be adopted.

CARRIED

4. Chair's Report

The Chair thanked attendees for coming to the meeting.

5. Planner's Report

- a) East Sooke Advisory Planning Commission
Date: Wednesday, January 9, 2019
Time: 7 pm
Place: East Sooke Community Hall
- b) Otter Point Advisory Planning Commission
Date: Tuesday, January 22, 2019
Time: 7 pm
Location: Juan de Fuca Local Area Services Building
- c) Public Hearing – Bylaw No. 4259 (9330 Invermuir Road)
Date: January 23, 2019
Time: 7 pm
Location: Shirley Community Hall

- d) Public Hearing – Bylaw Nos. 4246 (6400 Block East Sooke Road), 4257 (5480, 5488 & 5494 Mt. Matheson Road) and 4260 (1021 Parkheights)

Date: January 30, 2019

Time: 7 pm

Location: East Sooke Community Hall

6. Development Permit with Variance Application

a) DV000062 - Lot 10, District Lot 136, Malahat District, Plan 30892 (4133 Rocky Mountain Road)

Iain Lawrence spoke to the staff report and the request for a development permit with variance to reduce the statutory requirement that the minimum frontage on the highway must be 10% of the perimeter of the lot, for the purpose of permitting a two-lot subdivision in the Greenbelt 2 (Gb2) zone.

The Chair confirmed that the applicant was not present.

Iain Lawrence responded to questions from the LUC advising that:

- Section 512 (1) of the *Local Government Act (LGA)* requires that the minimum frontage on the highway must be 10% of the perimeter of the lot
- Section 512 (2) of the *LGA* permits a local government to exempt a parcel from the minimum frontage requirement
- the Gb2 zone allows that parcels that existed prior to adoption of the land use bylaw that are in excess of 2 ha may be subdivided once into two parcels provided that no parcel is less than 1 ha
- the subject property fronts onto a cul-de-sac
- proposed Lot A and proposed Lot B are long and narrow
- proposed Lot B does not meet the frontage requirement

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

That Development Permit with Variance DV000062 to authorize the two-lot subdivision of Lot 10, District Lot 136, Malahat District, Plan 30892, and to exempt proposed Lot B from the statutory frontage requirement by reducing the frontage from 67.6 m (10%) to 23.3 m (~3.5%), be approved.

CARRIED

7. Soil Deposit Permit Application

a) SP000092 - Section 42, Otter District except that part lying 50 feet on each side of the centre line of the right of way shown on Plan 121 RW and except that part in Plan EPP63580 (Clark Road)

Iain Lawrence spoke to the staff report and the request for a soil permit to deposit up to 20,000 cubic metres (m³) of soil on the subject property to complete creek restoration and for road construction associated with a proposed subdivision.

Iain Lawrence clarified that the subject property was not Private Managed Forests Land (PMFL) when the previous owner logged and cleared the subject property. A development permit (DP-06-14) was issued for forestry activity on the subject property.

Iain Lawrence advised that the applicant has submitted a professional report and site remediation plan and that A Permit to Construct, Use, and Maintain Access to a Provincial

Public Highway for road access to the property via Aythree Road to Clark Road has been approved by the Ministry of Transportation and Infrastructure (MoTI).

Iain Lawrence outlined the conditions of the permit and directed attention to the supplementary submissions received from Paul Clarkston, Annette Moyer and James Isram, Jo Phillips and Hillary and Jason Childs which state concern with the application.

The Chair confirmed that the representative for the application was present.

The representative for the application responded to questions from the LUC advising that:

- fill has been certified clean for residential, park land and riparian use
- removal and deposit will be monitored by WSP Canada Ltd.
- fill origin site is in a residential development off of West Shore Parkway
- the applicant supports working with the community, including limiting the hours of work to 8:30 a.m. – 3:00 p.m. and working around Easter break
- four trucks are anticipated each working hour
- permission to access the subject property is requested as the subject property is an active work site

The biologist for the application stated:

- trees have been felled and the creek channel has been leveled which impacts shade protection and filtration
- area has been taken over by weeds
- fill is required to reinstate creek habitat and support tributaries that support fish habitat
- soil work needs to be done between June 15 and September 15 to meet the fisheries window

Iain Lawrence confirmed that the soil would be deposited at a staging area, outside of the Steep Slope and Sensitive Ecosystems Development Permit Areas, prior to June 15 and that soil would then be moved to the restoration site as needed. It was advised that the applicant wishes to deposit the soil before the start of the fisheries window.

The representative for the application responded to questions from the public and the LUC advising that:

- soil is required for riparian restoration and for road development
- soil would be required for tree planting
- approximately 12,000 m³ of soil is required for riparian works
- the initial deposit area has been flatted to create a staging area for further soil deposits
- tarping and sentiment fencing will be used to armour the soil deposit
- improvements will increase the overall aesthetics of the subject property

Members of the public stated:

- support for the LUC visiting the site and access along Otter Point Place and Clark Road
- support for a feasibility study for the proposed subdivision
- general frustration related to ongoing clearing up to the water line of DeMamiel Creek, Muir Creek and King Creek and their tributaries
- concern regarding the feasibility of re-establishing the riparian area
- concern that deposited soil will run into the riparian area
- subject property is re-naturalizing

MOVED by Director Hicks, **SECONDED** by Art Wynans that the Land Use Committee consider application SP000092 at its next meeting to allow for site visits to the origin site and the subject property.

CARRIED

8. Proposed Bylaws

a) **Bylaw No. 4271, “Juan de Fuca Land Use Committee Bylaw No. 1, 2004, Amendment Bylaw No. 8, 2018”**

Iain Lawrence spoke to the staff report and the proposed amendment to Bylaw No. 3166 to update the Juan de Fuca Land Use Committee’s authority to make recommendations to the Board on land use matters including retail cannabis and liquor licences, conversion of previously occupied buildings to strata, radio-communication and broadcasting towers, and applications pertaining to land in the Agricultural Land Reserve.

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

- a) That Bylaw No. 4271, "Juan de Fuca Land Use Committee Bylaw No. 1, 2004, Amendment Bylaw No. 8, 2018", be introduced and read a first and second time;
- b) That Bylaw No. 4271 be read a third time and adopted.

b) **Cannabis Bylaw, Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”**

Emma Taylor spoke to the staff report and the proposed amendment to Bylaw No. 2040 to update definitions and permitted uses in the Agricultural (AG) zone to reflect the current legislative framework for non-medical cannabis.

Emma Taylor outlined the federal licence categories for cannabis growing, production, testing, research and sales for medical purposes. It was confirmed that the *Agricultural Land Reserve (ALR) Regulation* was recently amended to define the lawful production of cannabis as a farm use for the purposes of the *Agricultural Land Commission (ALC) Act*. Cannabis can now be cultivated outdoors or in specified structures. Local government bylaws may not prohibit the lawful production of cannabis in the ALR.

Emma Taylor directed attention to the supplementary agenda that requests an amendment to proposed Bylaw No. 4278 to clarify ancillary production activities included in the proposed definition for Cannabis Production. Staff also request that the referral list for Bylaw No. 4278 be amended to strike MFLNRORD – Archaeology Branch and replace with the Agriculture Land Commission.

Emma Taylor advised that:

- 18 properties in the Sooke Business Park are currently zoned to permit the production of medical marijuana
- there are currently 6 rezoning applications to permit cannabis production in the Juan de Fuca
- separate amendments to the Land Use Bylaw and the Development Procedures Bylaw will be presented to the LUC to address the referral of retail licence applications from the Province
- 2 retail licence applications have been received

Staff confirmed that it has been requested that proposed Bylaw No. 4278 be considered by the Otter Point Advisory Planning Commission (APC) as there are existing and pending applications for cannabis in Otter Point.

Staff responded to questions from the LUC advising that:

- retail licence applications will be considered by the LUC and by the local community
- the ALC requires cannabis grown indoors to be grown on a dirt floor unless the structure predates the amendment to the *ALR Regulation*
- it is understood that properties in the ALR will be assessed and taxed as farm
- production of cannabis on land in the ALR will have to meet federal licensing requirements including security measures

A member of the public stated that outdoor growing falls under the *Hemp Act*. The level of THC produced by a plant determines if the plant is considered hemp. A licence is required for hemp production.

MOVED by Roy McIntyre, **SECONDED** by Art Wynans that staff be directed to refer proposed Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”, as amended, to the Otter Point Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment:

Agricultural Land Commission	Island Health	RCMP
BC Hydro	MFLNRORD – Groundwater Protection Branch	T’Sou-ke First Nation
District of Sooke	Ministry of Transportation and Infrastructure (MoTI)	

CARRIED

9. Rezoning Applications

a) RZ000255 - Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096 (Butler Road)

Emma Taylor spoke to the staff report and the amended request to rezone three properties in the Sooke Business Park development from the General Industrial (M-2) zone to the Sooke Business Park Industrial (M-SBP) zone. The revised application would clarify that licensed *cannabis processing* is a general industrial use on properties that are not adjacent to institutional, rural or rural residential zoned land.

Emma Taylor confirmed that the Otter Point Advisory Planning APC considered the initial application on June 5, 2018, and outlined the concerns expressed by the APC at that time.

Emma Taylor responded to a question from the LUC advising that it is understood that products are shipped off site by way of courier.

MOVED by Dale Risvold, **SECONDED** by Sandy Sinclair:

- a) That comments submitted by the Otter Point Advisory Planning Commission, agencies and CRD departments through the referral of proposed Bylaw No. 4234, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018", be received.
- b) That staff be directed to refer revised proposed Bylaw No. 4234, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018", to the Otter Point Advisory Planning Commission, appropriate CRD departments and to the following agencies for comment:

BC Hydro	Island Health	RCMP
District of Sooke	Ministry of Transportation and Infrastructure (MoTI)	T'Sou-ke First Nation

CARRIED

b) RZ000257 - Strata Lot 10, Section 16, Otter District, Plan VIS7096 (Butler Road)

Emma Taylor spoke to the staff report and the request to rezone the subject property from the General Industrial (M-2) zone to the General Industrial – Medical Marihuana (M-2MM) zone in order to permit a licensed medical cannabis cultivation facility pursuant to Health Canada's former *Access to Cannabis for Medical Purposes Regulations (ACMPR)*. It was advised that, while the owner has requested the M2-MM zone, staff recommend that the bylaw be revised prior to First Reading to apply Sooke Business Park Industrial (M-SBP) zone as the M-SBP has been amended to permit intensive agriculture – medical marihuana production and refine prohibited uses.

The LUC stated support for rezoning applications in the Sooke Business Park to permit medical marihuana not being referred to the Otter Point APC as there has been community support for such facilities being located in the business park.

Iain Lawrence confirmed that, at present, a property would have to be rezoned should a medical cannabis facility wish to cultivate recreational cannabis.

A member of the public stated:

- that it is understood that there will be a transition period for licences issued under the ACMPR to amend the licences to eliminate the difference between medical cannabis and recreational cannabis
- support for small "craft" cultivation facilities to stop black market sales

MOVED by Roy McIntyre, **SECONDED** by Ron Ramsay that staff be directed to refer proposed Bylaw No. 4276, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 139, 2018", to the Otter Point Advisory Planning Commission, to appropriate CRD departments and the following external agencies for comment:

BC Hydro	Island Health	RCMP
District of Sooke	Ministry of Transportation and Infrastructure	T'Sou-ke First Nation

CARRIED

MOVED by Director Hicks, **SECONDED** by Roy McIntyre that staff amend the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, 1992, to eliminate the distinction between medical cannabis production and recreational cannabis production in the Sooke Business Park Industrial (M-SBP) zone.

CARRIED

c) RZ000258 - Lot 2, Section 95, Sooke District, Plan 45068 (1021 Parkheights Drive)

Iain Lawrence spoke to the staff report and the request to rezone the subject property from Rural Residential 3 (RR-3) to a new Rural Residential 6A (RR-6A) zone to permit a two-lot subdivision. Iain Lawrence outlined the referral comments received from agencies including the recommendations received from CRD Regional Parks and the concerns raised by the public at an information held in East Sooke on October 10, 2018.

Attention was directed to the supplementary submissions received from Rhonda Underwood, Nick Wilde, Gerald Hall and Teresa Schrader Hall, and MD Litster in support of the application. The submission from Layton Engwer states concern with the proposed subdivision and the use of lot averaging and the submission received from H el ene and Pierre Rousseau states concerns with:

- construction of additional dwellings in the form of suites
- the minimum parcel size of 0.5 ha permitted by the RR-6A zone
- the professional reports not addressing further construction on Lot B
- water availability in the area
- the riparian area assessment not capturing all the wetlands

Iain Lawrence confirmed that the East Sooke Official Community Plan supports an average parcel size of one hectare and that, in response to comments received from the public, staff recommend that a covenant be considered at the time of subdivision that acknowledges that the lots were created through parcel averaging and that prevents future subdivision. Staff further recommend that as a condition of rezoning, the applicant enter into a covenant that requires that if the supply well accessed via easement is to be used for subdivision, that the provision of a pump test conducted by a qualified professional confirming that the supply well can provide each connection with a sustained flow rate of at least 1,400 litres/day.

In response to comments from Regional Parks, staff recommend that covenant be registered prior to adoption of the bylaw prescribing a 10 m vegetated buffer on the subject property along the boundary of proposed Lot B and East Sooke Regional Park.

The Chair confirmed that the applicant was present.

Iain Lawrence responded to a question from the LUC confirming that a variance will be required as a condition of subdivision as proposed Lot B does not achieve the required frontage of 10% of the lot perimeter.

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

- a) That the referral of proposed Bylaw No. 4260 directed by the Juan de Fuca Land Use Committee to the East Sooke Advisory Planning Commission; BC Hydro; District of Sooke; Island Health; Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Branch; Ministry of Transportation and Infrastructure; RCMP; Scia'new First Nation; Sooke School District #62; T'Sou-ke First Nation and appropriate CRD departments be approved and the comments received;
- b) That proposed Bylaw No. 4260, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 137, 2018" be introduced and read a first time and read a second time; and
- c) That in accordance with the provisions of Section 469 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. 4260.

CARRIED

d) RZ000259 - That Part of Lot 2, Section 90, Renfrew District, VIP6764 Lying to the North of the 66 Foot Road Dedicated by Said Plan – 9330 Invermuir Road

Iain Lawrence spoke to the staff report and the request to rezone the property from the Rural (A) and Forestry (AF) zones for the purpose of permitting agriculture. Iain Lawrence confirmed that no objections were received from referral agencies with the exception of the Shirley/Jordan River APC. In response to comments received from the APC and the applicant, staff have amended proposed Bylaw No. 4259 to outline a new Rural 2 (RU2) zone, as included in the supplementary agenda.

The Chair confirmed that the agent and applicant were present.

Iain Lawrence responded to a question from the LUC confirming that the setback for agricultural uses and farm buildings in the RU2 zone is 30 m, with the exception of grazing of livestock and growing of agricultural crops.

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

- 1) That the referral of proposed Bylaw No. 4259 directed by the Juan de Fuca Land Use Committee to the Shirley/Jordan River Advisory Planning Commission; BC Hydro; District of Sooke; Island Health; Ministry of Agriculture, Ministry of Energy & Mines; Ministry of Forests, Lands, Natural Resource Operations and Rural Development – Archaeology Branch; Ministry of Transportation and Infrastructure; Pacheedaht First Nation; RCMP; Sooke School District #62; T'Sou-ke First Nation and appropriate CRD departments be approved and the comments received;
- 2) That proposed Bylaw No. 4259, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 136, 2018", as amended, be introduced and read a first time and read a second time; and

- 3) That in accordance with the provisions of Section 469 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. 4259.

CARRIED

10. Adjournment

The Chair thanked Art Wynans for his years of service noting that this evening is Mr. Wynans' last meeting.

The meeting adjourned at 8:30 p.m.

Chair