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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, July 20, 2021, at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Director Mike Hicks (Chair) (EP), Stan Jensen (EP), Vern McConnell (EP), Roy McIntyre, Ron Ramsay (EP), Sandy Sinclair (EP)
Staff: Iain Lawrence, Manager, Community Planning (EP); Wendy Miller, Recorder (EP)
ABSENT: Dale Risvold
PUBLIC: Approximately 17 EP

EP – Electronic Participation

The meeting was called to order at 7:04 pm.

The Chair provided a Territorial Acknowledgment.

1. Approval of the Agenda

MOVED by Ron Ramsay, **SECONDED** by Vern McConnell that the agenda be approved. **CARRIED**

2. Approval of the Supplementary Agenda

MOVED by Ron Ramsay, **SECONDED** by Stan Jensen that the supplementary agenda be approved. **CARRIED**

3. Adoption of Minutes from the Meeting of June 15, 2021

MOVED by Stan Jensen, **SECONDED** by Vern McConnell that the minutes from the meeting of June 15, 2021, be adopted. **CARRIED**

4. Chair's Report

The Chair thanked everyone for coming to the meeting and advised that the CRD Board will be adjourning for the month of August. Items at this meeting requiring consideration by the CRD Board will be considered in September.

5. Planner's Report

After consulting with the Chair, the LUC will adjourn for the month of August, unless there is a pressing matter.

6. Radio Communication and Broadcasting Antenna Systems Application

a) LP000021 - Section 42, Otter District (2540 Aythree Way)

Iain Lawrence spoke to the staff report for the application received by Rogers Communications for a 45 m radio communication tower with attached antennas and satellite dishes for the purpose of expanding telecommunications services.

Iain Lawrence highlighted the subject property map, site plan and images showing properties within 500 m of the proposed tower site and the distance of the proposed tower site to the closest residential property, located beyond the eastern boundary of the subject property (343.20 m from the tower), and to the closest dwelling, located to the south of the subject property (350.19 m from the tower).

Iain Lawrence outlined the public consultation process required by the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy.

Iain Lawrence directed attention to the submissions included in the supplementary agenda. It was advised that concerns that pertain to health and Health Canada's Safety Code 6 fall outside the scope of local government consultation.

The Chair confirmed that the application representatives were present.

Brian Gregg, representative for Rogers, stated:

- Rogers is working in partnership with the Province and with private property owners and First Nations to provide contiguous service from Sooke to Port Renfrew
- area has been historically under-served
- the Province is providing funding support for this initiative without which, the project would likely not be financially viable given the low density of cell traffic in the area
- tower sites in the service corridor will be linked
- tower sites are selected to be respectful of existing land uses and residences
- at this time, eight sites are being considered for this initiative

Gord Horth, Capital Region Emergency Telecommunications (CREST), responded to questions from the LUC advising that:

- CREST anticipates co-locating on five to eight towers of the proposed Rogers towers
- opportunity to co-locate will be determined once sites are secured
- CREST does not have the financial means to provide services without the opportunity to co-locate

Brian Gregg responded to a question from the public advising that twenty-one antennas for current and future technologies are anticipated for the subject tower.

Iain Lawrence responded to questions from the public and the LUC advising that:

- the CRD Board supports co-location for emergency service telecommunications
- the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy states that antenna systems are set back at least three times the height of the antenna system from existing adjacent dwellings
- the closest existing residence to the proposed tower is approximately 300 m away which is greater than the CRD Policy guideline of 135 m

The Chair reported that he visited the subject property. One house can be viewed from the subject location. The subject location is buffered by trees.

MOVED by Vern McConnell, **SECONDED** by Sandy Sinclair that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

That a statement of concurrence be provided to Rogers Communications for the proposed 45 m radio communication and broadcasting antenna system on 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.

CARRIED

7. Development Permit with Variance Applications

a) DV000077 – Lot 3, Sections 45-A and 46-A, Highland District, Plan 22641 (6606 Mark Lane)

Iain Lawrence spoke to the staff report for the application for a development permit with variance to address the Steep Slope development permit (DP) guidelines and to vary the front yard setback requirement for the purpose of constructing an accessory building in the Community Residential - One (CR-1) zone.

Iain Lawrence highlighted the subject property map and site plan with proposed garage location. It was advised that the staff recommendation should note that the request is to reduce the front setback from 6 m to 1.3 m.

Iain Lawrence directed attention to the submissions of support included in the supplementary agenda.

The Chair confirmed that the applicant was not present.

MOVED by Vern McConnell, **SECONDED** by Sandy Sinclair that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

That Development Permit with Variance DV000077, for Lot 3, Sections 45-A and 46-A, Highland District, Plan 22641, to authorize construction in a Steep Slope Development Permit Area, and to vary the Comprehensive Community Plan for Willis Point, Bylaw No. 3027, Schedule B, Part III, Section 22(2)(d)(i) by reducing the front setback from 6 m to 1.3 m for construction of a carport be approved.

CARRIED

b) DV000079 – Lot 1, District Lot 155, Renfrew District, Plan 18813, Except that Part in Plans 31230 and VIP59413 (6402, 6410, and 6340 Cerantes Road)

Iain Lawrence spoke to the staff report for the application for a development permit with variance to address the Shoreline Protection development permit (DP) guidelines, to vary the maximum height of an accessory building, and to address the minimum required exterior side yard setback for the purpose of authorizing a two lot subdivision and construction of a garage.

Iain Lawrence highlighted the subject property map, proposed subdivision plan and site plan with variance. It was advised that the staff recommendation should state that the requested variance is to increase the maximum height of an accessory building from 4.8 m to 6.9 m, not 5.6 m as was noted in the staff report.

Iain Lawrence confirmed that no comments were received in response to the notice of intent mailed to adjacent property owners within 500 m of the subject property.

The Chair confirmed that the applicant was not present.

LUC comments included:

- Botanical Beach (Juan de Fuca Provincial Park) is adjacent to the subject property
- the applicant has submitted an Environmental Assessment report to address the creation of proposed Lot A relative to the Shoreline Protection DP guidelines
- adjacent property views will not be impacted by the proposal

MOVED by Roy McIntyre, **SECONDED** by Sandy Sinclair that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

That Development Permit with Variance DV000079, for Lot 1, District Lot 155, Renfrew District, Plan 18813, Except that Part in Plans 31230 and VIP59413, to authorize a two lot subdivision and the construction of a garage within a Shoreline Protection Development Permit Area, and to vary the Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 3109 as follows:

- a) Part IV, Section 22(2)(f) be varied by increasing the maximum height of an accessory building from 4.8 m to 6.9 m in accordance with the Garage Design Drawings; and
- b) Part IV, Section 22(2)(g)(iii) be varied by reducing the exterior side setback requirement from 4.6 m (4.1 m) to 0.9 m for the siting of the existing deck in accordance with the Dwelling and Deck Site Plan;

be approved.

CARRIED

c) DV000080 - Lot A, Section 7, Otter District, Plan VIP75055 (8709 West Coast Road)

Iain Lawrence spoke to the staff report for the application for a development permit with variance to address the Marine Shoreline Development Permit (DP) Area guidelines for a seawall and single-family dwelling, and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, by allowing height to be measured from finished grade, by allowing the elevation of the lot to be increased and by decreasing the front yard setback.

Iain Lawrence highlighted the subject property map, proposed strata plan, site plan and building drawings.

Iain Lawrence advised that:

- the property was rezoned to Gordon's Beach Recreation Residential 4 (R-4) in 2000 and would have allowed the property to be subdivided into 500 m² parcels, each with a single dwelling unit
- the property has not been subdivided and the R-4 zone allows existing dwellings shown on the proposed strata plan to be rebuilt in their present locations; however, the zone prohibits changes to the elevation of the lot and allows a maximum building height of 7.5 m as measured from average natural grade
- since the time that the bylaw introducing the R-4 zone was adopted, the Province has updated the flood hazard guidelines for coastal areas, which affects how flood construction level (FCL) is determined
- to meet flood construction elevation and maximum building height requirements, variances to permit an increase in the elevation of the lot is required
- since the final height of the building depends on the amount of fill required, it is not known with certainty what the final height of the building would be above natural grade.
- it is known, however, that the final height will be less than 7.5 m above final grade
- the applicant has submitted geotechnical reports which provide a FCL, address the Marine Shoreline DP Area guidelines and provide recommendations for the

development to be located within 7.5 m of the natural boundary of the sea in accordance with Bylaw No. 2040

Iain Lawrence directed attention to the submissions included in the supplementary agenda. Further to comments received from the public, it was advised that there is a strip of land between the subject property and the ocean that was once held under licence of occupation. The land that was subject to the licence of occupation has been returned to the Crown.

The Chair confirmed that the applicants were present.

Iain Lawrence responded to questions from the LUC and the public advising that:

- the Ministry of Transportation and Infrastructure has granted an access permit
- R-4 zoned properties may have a crawl space provided that goods that may be damaged by flood waters, including mechanical and electrical services, are not below the FCL
- the proposed accessory building has its own entrance and is only attached to the proposed dwelling by a common roof/breezeway
- the accessory space cannot be used for dwelling purposes
- the natural boundary of the sea is at the base of the seawall
- similar variance applications are anticipated in future for properties at Gordon's Beach

Lynne Masse Danes, Otter Point:

- concerned that the accessory building will be used as a living space, which would exceed the allowable footprint
- proposal is not in keeping with the character of Gordon's Beach

Dana LeComte, Otter Point:

- owns property directly across from Gordon's Beach
- questioned if there is a maximum height above road level
- structures at Gordon's Beach are getting higher and higher
- supports a maximum height above road level

Bob Liptrot, Otter Point:

- expansion of Highway 14 is underway
- highway right of way will be located closer to Gordon's Beach
- residential parking is already tight at Gordon's Beach
- has lived in the subject area for twenty-five years and have witnessed numerous accidents
- it appears the proposed structure will be built on a large concrete berm adjacent to the highway
- information on the highway access permit is required
- flooding is an issue on the adjacent property
- road culvert is blocked during storms/high tide events and regularly floods Highway 14 and the property across the highway from the subject property
- the raised foundation, regardless of an engineer's recommendation, will be undermined by these water events

Heather Phillips, Otter Point:

- understood that the seawall was going to be riprap
- drawings show a solid concrete seawall

- subject area is a low bank area
- low bank area has an increased probability of being impacted by natural erosion
- Highway 14 regularly floods
- one side of the seawall be impacted by sea level rise and storm surge; the other side will be impacted by flooding
- the community should have a say in what it considers to be an acceptable risk

LUC comments included:

- proposal does not directly infringe on adjacent property owners
- a geotechnical engineer has recommended a FCL
- proposal is in keeping with provincial requirements

Iain Lawrence responded to questions from the LUC advising that:

- properties being rebuilt at Gordon's Beach can be anticipated to be elevated 1.5 m
- some properties were elevated before the new provincial guideline
- liability is mitigated through the requirement for a geotechnical report and reliance on a qualified professional, as well as registration of a covenant saving the CRD harmless

MOVED by Sandy Sinclair, **SECONDED** by Vern McConnell that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

- 1) That Development Permit with Variance DV000080, for Lot A, Section 7, Otter District, Plan VIP75055, to authorize construction of a seawall and a single-family dwelling in a Marine Shoreline Development Permit Area, and to vary the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, as follows:
 - a) Part 1, Section 2.0 by varying the definition of *height* as it applies to the proposed building to mean the average vertical distance from finished grade at the outermost corners of the building to the mean level of the highest roof plan between the eaves and the ridge of a sloping roof;
 - b) Part 2, Section 13A.11(b) to allow that the elevation of the lot may be increased in accordance with the Building Design Drawings and Geotechnical Reports; and
 - c) Part 2, Section 13A.13(a) to reduce the front yard setback from 4.5 m to 2.3 m in accordance with the Site Plan;

be approved.

- 2) That a restrictive covenant be registered on the title of the lands securing the geotechnical reports for 8709 West Coast Road, certified by Scott Currie, P. Eng., dated March 23, 2021, and June 14, 2021, and saving the CRD harmless in accordance with Section 219 of the *Land Title Act* and Section 56 of the *Community Charter*.

CARRIED

8. Zoning Amendment Application

- a) **RZ000273 - That Part of Section 17, Otter District, Lying East of Otter Point Road, Except Parcel C (DD43782I) And Except Parts in Plans 3054 And 17721 (3542 & 1-3542 Otter Point Road)**

Iain Lawrence spoke to the staff report for the application to rezone a portion of the subject property to permit a range of general industrial and commercial uses.

Iain Lawrence highlighted the subject property map, proposed subdivision plan (SU000711) and proposed Bylaw No. 4423.

Iain Lawrence responded to a question from the LUC advising that the area subject to the rezoning application could be subdivided into four lots under Bylaw No. 4423.

The Chair confirmed that the applicant was presented.

The applicant stated that the owner wishes to rezone the Industrial Sawmill (M-3) zoned area to permit a broader range of uses as the M-3 area exceeds the area needed for sawmill use.

Heather Phillips, Otter Point:

- Bylaw No. 4423 proposes a range of new uses/business types
- referral will allow the community to comment on the number and type of uses
- the District of Sooke is identified as a referral agency and borders the subject property
- the riparian area is part of the King Creek system which feeds past ALM Farm

MOVED by Sandy Sinclair, **SECONDED** by Roy McIntyre that staff be directed to refer proposed Bylaw No. 4423, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 153, 2021" to the Otter Point Advisory Planning Commission, appropriate CRD departments and the following external agencies and First Nations for comment:

BC Hydro

District of Sooke

FLNR - Archaeology Branch

FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development

FLNR - Water Protection Section

Island Health

Ministry of Environment & Climate Change Strategy – Environmental Protection and Sustainability

Ministry of Transportation & Infrastructure

Otter Point Fire Department

RCMP

Sooke School District #62

Sc'ianew

T'Sou-ke First Nation

CARRIED

9. Administrative Bylaws

a) **Bylaw No. 4412, "Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021" and Bylaw No. 4413, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021" (Outdoor Recreation)**

Iain Lawrence spoke to the staff report and proposed Bylaw Nos. 4412 and 4413 which would delete the outdoor recreation definition and permitted use from the Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, and from the Juan de Fuca Land Use Bylaw, Bylaw No. 2040.

Iain Lawrence advised that the LUC directed referral of the proposal to agencies and to the Shirley/Jordan Advisory Planning Commission (APC) at its May 18, 2021, meeting.

Iain Lawrence outlined the referral comments as included in the staff report and advised that the Shirley/Jordan River APC and Pacheedaht Nation submitted comment in support of proposed Bylaw No. 4412 and 4413. It was advised that Bylaw No. 4413 has been

amended to permit parks, hiking trails, horse trails and bicycle paths as uses permitted in all zones, in response to comment received through the referral process.

Heather Phillips, Otter Point:

- LUC comment was made at a previous meeting regarding supporting continued use of ATVs through private agreement
- proposed bylaws do not address this use

Iain Lawrence responded to questions from the LUC advising that:

- Bylaw No. 2040 and 3602 apply to both private and public land
- public land use is not necessarily restricted by local government bylaws as the Province may approve certain land uses contrary to local government zoning
- forestry use on Managed Forest Land is not regulated by local government bylaws until such time that the land is removed from the Managed Forest Land program
- amending land use bylaws to permit ATV use requires more in-depth review

MOVED by Stan Jensen, **SECONDED** by Roy McIntyre that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That the referral of proposed Bylaw No. 4412, "Land Use Bylaw for the Rural Resources Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021" and proposed Bylaw No. 4413, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021" directed by the Juan de Fuca Land Use Committee to the Shirley/Jordan River Advisory Planning Commission, CRD departments, T'Sou-ke First Nation and Pacheedaht First Nation be approved and the comments received;
2. That proposed Bylaw No. 4412, "Land Use Bylaw for the Rural Resources Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021" be introduced and read a first time and read a second time;
3. That proposed Bylaw No. 4413, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021" be introduced and read a first time and read a second time;
4. 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. 4412 and Bylaw No. 4413.

CARRIED

The meeting adjourned at 8:32 pm.

Chair