

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **February 21, 2023, at 7 pm**

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

AGENDA

1. Territorial Acknowledgment
2. Approval of Agenda
3. Approval of Supplementary Agenda
4. Adoption of Minutes of January 17, 2023
5. Chair's Report
6. Planner's Report
 - a) Powers of the Committee as Prescribed by Bylaw No. 3166, "Juan de Fuca Land Use Committee Bylaw No. 1, 2004"
7. Agricultural Land Reserve Application
 - a) AG000082 - Lot B Section 110 Sooke District Plan 32912 (6040 East Sooke Road)
8. Zoning Amendment Application
 - a) RZ000279 – Strata Lots 1, 2, 3, & 4, Section 85, Sooke District, Strata Plan EPS1027 Together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V (476, 478, 480 & 482 Becher Bay Road)
9. Adjournment

PLEASE NOTE: The public may attend the meeting in-person or electronically through video or teleconference. To attend electronically, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details.



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**Minutes of a Meeting of the Juan de Fuca Land Use Committee
Held Tuesday, January 17, 2023, at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC**

PRESENT: Director Al Wickheim (Chair), Natalia Day, Vern McConnell, Roy McIntyre, Ron Ramsay, Dale Risvold, Anna Russell
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services; Darren Lucas, Planner; Wendy Miller, Recorder
PUBLIC: Approximately 32 in-person; 23 EP

EP – Electronic Participation

The meeting was called to order at 7:00 pm.

1. Territorial Acknowledgement

The Chair provided a Territorial Acknowledgment.

2. Election of Vice Chair

MOVED by Anna Russell, **SECONDED** by Natalia Day that election of the Vice Chair be held after considering the development applications.

CARRIED

3. Approval of the Agenda

MOVED by Vern McConnell, **SECONDED** by Anna Russell that the agenda be approved as amended to consider election of Vice Chair as Agenda Item 11.

CARRIED

4. Approval of the Supplementary Agenda

MOVED by Roy McIntyre, **SECONDED** by Anna Russell that the supplementary agenda be approved.

CARRIED

5. Adoption of Minutes from the Meeting of October 18, 2022

MOVED by Roy McIntyre, **SECONDED** by Ron Ramsay that the minutes from the meeting of October 18, 2022, be adopted.

CARRIED

6. Chair's Report

The Chair thanked everyone for coming to the first meeting of the newly appointed Juan de Fuca Land Use Committee (LUC), introducing first time appointees Natalia Day and Anna Russell.

7. Planner's Report

a) Powers of the Committee as Prescribed by Bylaw No. 3166, "Juan de Fuca Land Use Committee Bylaw No. 1, 2004"

Iain Lawrence outlined the LUC's composition and its powers, as granted by the CRD Board by Bylaw No. 3166.

At 7:10 pm Natalia Day recused herself from participating in the proceedings related to the application at 6246 Gordon Road due to a non-pecuniary conflict of interest as a resident living in proximity to the proposed site.

8. Radiocommunication and Broadcasting Antenna Systems Application

a) LP000034 - Lot 2, District Lots 143 and 200, and Section 154, Sooke District, Plan 42290 (6246 Gordon Road)

Iain Lawrence spoke to the staff report for the application received from 1291956 BC ULC for a 49 m radio communication antenna system for the purpose of providing long-range, high-throughput data communications in the high frequency band to support business activities in the area of data communications.

Iain Lawrence outlined the public consultation process required by the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy. It was advised that CRD First Nations Relations responded to the referral sent to CRD departments commenting that the closest registered archaeological site is located ~800 m north of the proposed tower. CRD Regional Parks commented that its primary concern is that the tower be sited in such a way as to minimize the height difference between the tower and the surrounding trees in order to reduce its visual impact on park visitors. CRD Regional Parks further replied that it does not support any trail or road development from the tower compound into East Sooke Regional Park.

Iain Lawrence highlighted the subject property, tower proposal and site photos. The existing towers on site and adjacent to the subject property were identified.

Iain Lawrence advised that nine submissions and a web petition with 90 names were received for LP000034 during the notification period. Attention was directed to the 24 submissions and the updated petition received and circulated in the supplementary agenda. It was reported that the updated petition with 221 names is in opposition to the proposal and that submission comments state concern regarding radiofrequency electromagnetic fields (EMF) impact on the public and wildlife, the outdatedness of Health Canada's standards, the experimental nature of the proposal, impact of construction on roads, and benefit to the community. Staff is recommending that a statement of concurrence be provided, as the proposal addresses the evaluation criteria in the CRD's Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy and as the concerns raised in the submissions are outside the scope of the Innovation, Science and Economic Development Canada's Procedures Circular (ISED) CPC-2-0-03.

The Chair confirmed that the application representatives were present.

Liv Desaulniers introduced herself as counsel for 1291956 BC ULC, Fred Mullie with Core One Consulting and Wayne Logan, director and part owner of 1291956 BC ULC.

Wayne Logan stated that:

- the application representatives have reviewed the comments received
- Health Canada's Safety Code 6 is current and tested
- the purpose of the tower is to test short wave radio
- the data collected is the extent of the experiment
- 1291956 BC ULC has three approved towers in Ontario

Fred Mullie stated a Radio Frequency Engineer has provided a report confirming compliance with Safety Code 6

Lindsay Trowell, East Sooke

- asked where the three towers in Ontario are located
- asked why the subject property in East Sooke was selected
- East Sooke is rural and residents wish to keep it that way
- technology moves faster than regulation
- regulations are not keeping up with technology

Sean Minaker, East Sooke

- asked how close the Ontario towers are to residential uses

Eric Hughes, East Sooke

- asked the output of the Ontario towers
- asked if 1000W is considered a high transmission
- 1000W is considered a high transmission under US standards
- Safety Code 6 is outdated
- questioned if the proponent has Radio Frequency Engineers on staff
- application is causing tension in the community
- residents have moved to East Sooke due to its rural nature and distance from radio towers
- requested that consideration of the application be postponed, noting that this is the first meeting of the new LUC membership
- more information is required regarding frequencies/outputs

Shandelle Conrad, East Sooke

- Safety Code 6 is outdated
- the subject property is designated Settlement by the East Sooke Community Plan
- land for settlement/development in East Sooke is limited
- the subject property is capable of receiving piped water
- the subject property is not in an industrial area
- the subject property is not in the middle of nowhere
- more details are required before a decision is made
- residents have been consulted but opportunity to appeal has not been given

Connor Nicol, East Sooke

- the CRD recently purchased a property across the street from the subject property to enhance East Sooke Regional Park and protect species at risk such as the Warty Jumping-slug

Member of the public, East Sooke

- questioned the residency of the representatives
- questioned the number of protesters required for an alternative location to be considered
- asked the representatives to explain what they mean by traditional, terrestrial transport technologies, as stated in responses to residents
- asked how long it takes to install a tower
- did not move to East Sooke to live beside a 49 m tower
- asked that consideration of the application be postponed as experts in the field of radio frequency are not in attendance

Member of the public, East Sooke

- questioned if other industrial locations in western Canada could be considered for the project

Linda Minaker, East Sooke

- moved to East Sooke to live in a rural residential neighbourhood
- questioned how an industrial tower can be installed in a rural residential neighbourhood
- Regional Parks supports the tower being lower than the tree canopy
- asked the representatives to explain what they mean by traditional, terrestrial transport technologies, as stated in responses to residents

Josh Stewart, East Sooke

- minimal data has been provided
- questioned how changes in wattage and/or ownership are communicated
- questioned if the tower will be permanent

Ron King, East Sooke

- questioned how long the testing will last
- communications from the applicant indicate that the intent of the tower was for the duration of the testing

Zig Readers, East Sooke

- with testing there is generally an expected result/desired outcome
- questioned who the end customer will be, should the experiment be deemed successful

Member of the public, East Sooke

- questioned who is responsible for removing the tower

Kyle Darling, Port Renfrew

- questioned if 1291956 BC UCL would be selling, renting, or leasing space to another company

Dana Livingstone, East Sooke

- had to move from her previous home due health impacts from a radio tower
- asked the LUC to learn more before making a recommendation on the proposal
- other local governments have listened to residents
- concerned for the community, East Sooke Regional Park, local wildlife, including insects, and those who live with electromagnetic hypersensitivity (EHS)

Member of the public, East Sooke

- many concerns have been expressed
- good questions have been asked
- if residents are being heard, another site should be considered

Charlotte Senay, East Sooke

- questioned who would own/operate of the tower
- questioned if there have been any studies on radio frequency impact on wildlife, including insects
- residents move to East Sooke to live with nature
- residents are taking issue with the proposal

Marg Friesen

- not all increases in tower height require public consultation
- 10.7 – 11.7GHz is not short wave
- the World Health Organization has established a task group on radiofrequency fields and health risks
- requested that consideration of the application be postponed until all requested information is made available including information on the Ontario towers

Steve Pridgeon, East Sooke

- questioned if the technology is related to commercial drone control
- questioned if sight lines into/out of East Sooke Regional Park have been determined

Marcia Waterway, East Sooke

- questioned how many other sites were considered and where those sites are and why there were rejected

NJ Hewitt, East Sooke

- questioned why the environment and health are not considered relevant

Iain Lawrence read aloud from the ISED Client Procedures Circular CPC-2-0-03 which outlines public consultation items that are considered reasonable or unreasonable in the evaluation of the proposal.

Iain Lawrence responded to questions from the public advising that:

- health concerns are outside the scope of the matters that are considered relevant by the ISED Client Procedures Circular CPC-2-0-03
- health concerns are outside the scope of land use
- the Juan de Fuca Land Use Committee may recommend issuance of a statement of concurrence or non-concurrence to the CRD Board
- the CRD Board does not have the authority to approve or not approve antenna towers

The representatives responded to questions from the public advising that:

- the subject property was selected due to local climate and the property's proximity to microwave and potential for long-term testing
- the subject property is not in a densely populated area and has existing towers on site
- the proposed tower will have low visual impact
- it was determined that co-location on existing structures was not possible
- the towers in Ontario are located in an industrial area
- the Ontario towers were tested, meeting Safety Code 6 standards
- there are Radio Frequency Engineers on staff but not in attendance
- willing to appoint a communications representative to answer questions
- the technology is not new
- the technology that is being tested is short wave radio and not related to drone control
- the proposed tower and compound are located outside of the area designated sensitive by the CRD
- line of sight study has not been done
- CRD Regional Parks has stated that its interests will not be unduly impacted by the tower
- should concurrence be received, installation could start within six months with construction taking approximately two months
- 1291956 BC UCL would be the owner/operator of the tower
- ISED would need to be informed of changes to the tower
- 1291956 BC UCL has a one-year license for development/testing purposes
- the desired outcome of the experiment is to provide an alternative to fiberoptic cable for data transmission
- the long-term intention is a permanent tower
- there is no intention to invite co-location on this tower unless co-location is required by ISED
- 1291956 BC UCL would be responsible for tower removal
- the proposal is compliant with Health Canada's Safety Code 6
- the evaluation criteria in the CRD's Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy has been met

LUC comments included:

- have heard the concerns expressed by the community
- acknowledge that health concerns are outside the scope of land use considerations
- insufficient information has been provided regarding the rationale for the proposed location and alternate locations
- information on the Transport Canada's requirements for aeronautical markings has not been provided
- information on why the tower needs to be so high has not been provided
- it appears that a tower with flashing light will be at ground level with Mt. Maguire
- plan dimensions are difficult to understand as no scale has been provided
- it appears that the antenna will be 10 – 15 m wide and 6 – 11 m above the tree canopy
- no sight line report has been provided
- it appears that the tower will be visible from the beginning of the Coppermine Road trail, from residences on Gillespie Road and from Sooke Harbour
- proposal does not provide critical infrastructure for public benefit
- cannot overlook community concerns
- additional information from the applicant could be received at a future meeting, should the proposal be referred or postponed
- the CRD makes the final recommendation to ISED

- ISED is the authority for approving antenna towers

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

That a statement of non-concurrence be provided to 1291956 BC UCL. for the proposed 49 m radio communication and broadcasting antenna system on Lot 2, District Lots 143 and 200, and Section 154, Sooke District, Plan 42290.

Opposed: Director Wickheim, Vern McConnell

CARRIED

At 9:10 pm Natalia Day returned to the meeting.

9. Provision of Park Land for Subdivision

- a) **SU000748 - The Easterly ½ of the North West ¼ of Section 36 Township 13 Renfrew District Except that part shown coloured red on Plan 346-R and except those parts in Plans 22475, 24267, 24755, 26515, 41154, 50819, VIP59967 and EPP116278; AND The West ½ of the North West ¼ of Section 36 Township 13 Renfrew District except those parts in Plans 5109, 24267, and 24755 (Beachview Rise)**

Iain Lawrence spoke to the staff report addressing the provision of 5% park land or cash-in-lieu pursuant to Section 510 of the *Local Government Act (LGA)* for a five-lot bare land strata subdivision.

Iain Lawrence highlighted the subject properties, area of subdivision, proposed subdivision plan and the trail network proposed by the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission.

Iain Lawrence stated that the trail network was proposed after CRD staff met with the Ministry of Transportation and Infrastructure (MOTI) to discuss community concerns regarding safe walking routes. Through dialogue with the MOTI, it was determined that sidewalks could not be accommodated in the road right-of-way due to required ditching and lack of a maintenance work function.

Iain Lawrence highlighted existing trail segments and related infrastructure.

Iain Lawrence responded to questions from the LUC advising that:

- the Juan de Fuca Community Park Program would be responsible for trail maintenance costs
- the trail surface would be gravel
- the *LGA* prescribes the requirement for either the provision of land or cash-in-lieu
- the staff recommendation enables the developer to retain land for a sellable lot as opposed to park dedication
- the staff recommendation enables the Juan de Fuca Community Park Program to not expend funds on construction
- the proponent supports continuing the existing trail into the current phase of subdivision

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

That in accordance with Section 510 of the *Local Government Act*, park dedication in the amount of 5% that encompasses the area required for trail be required for proposed subdivision of The Easterly ½ of the North West ¼ of Section 36 Township 13 Renfrew District except that Part shown coloured Red on Plan 346R and Except those Parts in Plans 22475, 24267, 24755, 26515, 41154, 50819, VIP59967 and EPP116278; PID: 000-468-291 and The West ½ of the North West ¼ of Section 36 Township 13 Renfrew District Except Those Parts in Plans 5109, 24267, and 24755; PID: 009-565-787 (SU000748), except that a lesser amount may be acceptable where the owner agrees to register a Statutory Right-of-way located on the common property of the proposed strata to the Capital Regional District connecting Beachview Drive to the established Statutory Right-of-Way shown on plan VIP50141, and that the owner agrees to construct a trail built to JdF Community Parks and Recreation standards prior to subdivision approval; and that the owner is requested to retain native vegetation on the land adjacent to the trail.

CARRIED

10. Zoning Amendment Applications

a) RZ000280 – Lot A Section 74 Renfrew District Plan VIP71883 (11237 West Coast Road) and That Part of Section 74, Renfrew District Lying to the North of the Northerly Boundary of Plan 109RW

Iain Lawrence spoke to the staff report for an application to rezone the subject properties from the Forestry (AF) zone to the Rural Commercial Recreation (Campground) (CR-2), as amended, for the purpose of permitting 39 cabins; 84 campsites; staff accommodation; office and reception space combined with a convenience store and a caretaker dwelling unit; assembly uses; and accessory and utility buildings.

Iain Lawrence highlighted the subject properties and concept plan. It was reported that portions of the property are located in Steep Slopes, Sensitive Ecosystem, and Riparian development permit areas and that an environmental assessment has been provided by the applicant which would be circulated to the Advisory Planning Commission and the LUC, should the proposal be referred.

Iain Lawrence outlined Bylaw No. 4518 and directed attention to the two submissions received and circulated in the supplementary agenda.

The Chair confirmed that the applicant was present.

The applicant responded to questions from the LUC advising that an amendment to the CR-2 zone was requested to permit staff accommodation and that the staff accommodations would not be allowed to be subletted or leased.

Kyle Darling, Port Renfrew:

- staff housing is an issue in Port Renfrew as it is more profitable to provide accommodation for tourists
- supports the applicant's intent to provide staff accommodation

Gerard LeBlanc, Shirley

- application needs to be reviewed against the policies of the Official Community Plan
- area is sensitive in regards to water supply as area creeks are very susceptible to drought

- campground use is highest in the summer when wildfire risk is at its greatest
- application proposes approximately 50 temporary residential uses in the forest
- proposal does not address emergency planning or evacuation routes in the event of a wildfire or earthquake
- the subject properties are serviced by the Shirley Volunteer Fire Department which, although equipped to respond to residential/structural fires, is not responsible for responding to wildfire
- the Environmental Assessment maps included in the staff report identify species at risk and riparian areas but no further information is provided on those areas
- there is no information on the water source for the proposed commercial use, which will require a provincial water license
- the application is premature and requires referral back to staff and the applicant for further information

The applicant responded to questions from the LUC advising that a wildfire assessment has been completed and a plan has been developed based on the assessment's recommendations. A cistern and structural designs are being considered to mediate fire concerns. Emergency training would be provided to staff.

Iain Lawrence responded to questions from the LUC advising that:

- the proposal will be sent to CRD departments, including Protective Services for comment on fire servicing
- the wildfire assessment would be provided to Protective Services
- it is anticipated that the provincial Water Protection Section will provide comment on the aquifer
- if a zoning bylaw amendment application is consistent with an Official Community Plan, the zoning bylaw amendment does not proceed to the full CRD Board for a determination of consistency with the Regional Growth Strategy
- through meetings with the applicant, it was decided to amend the CR-2 rather than creating a site specific zone as there are no other lands currently zoned CR-2
- Bylaw No. 2040 provides a definition of campground which permits a stay of not more than 30 consecutive days
- feedback from the APC and the community would indicate the scale of low-impact recreation supported

MOVED by Vern McConnell, **SECONDED** by Dale Risvold that the agency referral list for Bylaw No. 4518 be amended to include BC Wildfire Service.

CARRIED

MOVED by Ron Ramsay, **SECONDED** Vern McConnell that staff be directed to refer proposed Bylaw No. 4518, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 158, 2022", to the Shirley-Jordan River Advisory Planning Commission, appropriate CRD departments, the following external agencies and First Nations for comment:

BC Hydro

BC Wildfire Service

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 Transportation & Infrastructure

Pacheedaht First Nation
RCMP
Sooke School District #62
T'Sou-ke First Nation

CARRIED

b) RZ000281 – Strata Lot A (3692 Waters Edge Drive) and Strata Lot B (12051 West Coast Road), Section 2, Renfrew District, Strata Plan VIS6939

Iain Lawrence spoke to the staff report for an application to rezone the subject property from the Rural Residential 2A (RR-2A) zone to the Rural Residential 1 (RR-1) zone for the purposes of dissolving a building strata and subdividing the property into two fee-simple parcels.

Iain Lawrence highlighted the subject property and proposed subdivision plan. It was advised the LUC directed referral of the proposal to agencies and to the Shirley-Jordan River Advisory Planning Commission at its meeting of October 18, 2022. Attention was directed to the referral comments as included in the staff report.

MOVED by Anna Russell, **SECONDED** by Natalia Day that the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

1. That the referral of proposed Bylaw No. 4519, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 159, 2022", to the Shirley-Jordan Advisory Planning Commission, CRD departments, BC Hydro; District of Sooke; the Archaeology Branch and Water Protection Section within the Ministry of Forests; the Ministry of Land, Water, and Resource Stewardship; the Ministry of Transportation & Infrastructure; the Pacheedaht First Nation; RCMP; Sooke School District #62; and the T'Sou-ke First Nation be approved and the comments received;
2. That proposed Bylaw No. 4519 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. 4519.

CARRIED

11. Election of Vice Chair

Item moved from Agenda Item 2 to Agenda Item 11.

The Chair called for nominations for the position of Vice Chair of the Juan de Fuca Land Use Committee (LUC) for 2023 and Roy McIntyre's name was put forward. The Chair called two additional times for further nominations and, as there were none, Roy McIntyre was acclaimed Vice Chair.

12. Adjournment

The meeting adjourned at 10:15 pm.

Chair



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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, FEBRUARY 21, 2023

SUBJECT: Subdivision Application within the Agricultural Land Reserve for Lot B, Section 110, Sooke District, Plan 32912; PID: 000-210-897 – 6040 East Sooke Road

ISSUE

To consider a 2-lot, fee-simple subdivision of land within the Agricultural Land Reserve (ALR), in accordance with Section 34.1 of the *Agricultural Land Commission Act (ALC Act)*.

BACKGROUND

The 10.2 ha subject property is located in East Sooke at 6040 East Sooke Road, and is bounded by Covina Road to the east, East Sooke Road to the south and Sooke Basin to the north (Appendix A). That part of the property located in the ALR is designated Agriculture in the East Sooke Official Community Plan, Bylaw No. 4000, while the remainder is designated Settlement. The entire property is zoned Agricultural (AG) under Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, and is adjacent to AG zoned land to the east and west, and to Rural A zoned land in the southeast. The property is partially designated as steep slopes and shoreline protection development permit areas (DPAs); however, in accordance with the East Sooke OCP, normal farm practices as defined in the *Farm Practices Protection (Right to Farm) Act* and farm uses defined in the *ALR Use, Subdivision and Procedure Regulation*, are exempt from the requirement for a development permit.

The landowner has made an application to subdivide the subject properties (File: AG000082) to create one 6.2 ha parcel and one 4.0 ha parcel (Appendix B). The applicant has stated that while the proposed 4.0 ha portion is intended to be sold, both proposed parcels will remain in the ALR. The subdivision application related to this application (File: SU000750) was referred to the CRD by the Ministry of Transportation and Infrastructure (MoTI) on behalf of the Provincial Approving Officer (PAO). However, since the property is located in the ALR, approval for subdivision by the ALC is required prior to approval by the PAO. In accordance with the *ALC Act*, applications for the subdivision of land within the ALR require local government resolution prior to review and determination by the ALC (Appendix C).

The CRD Board supported a *non-farm use* application (AG000078) for the subject property in December 2012 to permit 20% of the land area to be used for Royal Canadian Marine Search and Rescue (Canadian Coast Guard Auxiliary) headquarters and training operations. The application for *non-farm use* was approved by the ALC on January 16, 2013. The proposed plan of subdivision includes all approved non-farm uses on the 6.2 ha portion leaving the 4.0 ha portion as vacant agricultural land.

Staff recommend referring AG000082 to the Juan de Fuca Agricultural Advisory Planning Commission, applicable CRD departments, external agencies, and First Nations for comment.

ALTERNATIVES

Alternative 1

That the Juan de Fuca Land Use Committee direct staff to refer Agricultural Land Reserve application AG000082 for Lot B, Section 110, Sooke District, Plan 32912, to the Juan de Fuca

Electoral Area Agricultural Advisory Planning Commission, the T'Sou-ke and Scia'new First Nations, and to appropriate CRD departments.

Alternative 2

That ALR application AG000082 be denied.

IMPLICATIONS

Legislative Implications

Section 25 of the *ALC Act*, establishes requirements for applications that propose subdivision within the ALR. Applicants are not required to provide public notice; however, Subsection 25(3) requires that applications be submitted to the ALC together with a resolution from the local government if the land is zoned to permit farm use. Should the subdivision be supported, the resolution would be forwarded to the ALC. Should the subdivision be denied, the resolution would not be forwarded to the ALC and the application and any outstanding fees would be returned to the applicant. Alternatively, the Board may decide to forward the application to the ALC without comment.

Advisory Planning Commissions (APCs) were established to make recommendations to the Juan de Fuca Land Use Committee on land use planning matters referred to them by the Committee or the CRD Board. The Juan de Fuca Agricultural Advisory Planning Commission (AAPC) was established by Bylaw No. 4120 to provide advice on the potential impacts of planning decisions on agriculture. The Juan de Fuca Agricultural Land Reserve Application Policy provides direction to refer an application to the AAPC, or if inactive, to the applicable community APC. In accordance with the Policy, staff recommend referring AG000082 to the AAPC.

Notice of application AG000082 will be mailed to property owners and occupiers of land within 500 m of the subject property 10 days in advance of the February 21, 2023, Land Use Committee meeting. Any responses received from the public will be presented at the meeting.

Regional Growth Strategy Implications

Section 445 of the *LGA* requires that all bylaws and services undertaken or provided by a regional district after the board has adopted a regional growth strategy (RGS) must be consistent with the RGS. In accordance with CRD policy, consistency with the RGS is considered when an application is associated with an amendment to the RGS, OCP, or zoning bylaw. This application is not related to a bylaw amendment, and the lot sizes of the proposed subdivision meet the AG zone regulations of Bylaw No. 2040. Staff are of the opinion that this application is consistent with the OCP; therefore, the application does not proceed to the CRD Board for a determination of consistency with the RGS.

Food & Agriculture Strategy Implications

In accordance with Section 6.1 of the RGS and the CRD's Juan de Fuca Agricultural Land Reserve Application Policy (BRD05); implications with the CRD's Food and Agricultural Strategy will be considered through a referral to the Regional and Strategic Planning Division. The recommendations of the Strategy are intended to support the development and future success of food and agriculture by improving the CRD's capacity to address regional food and agricultural issues. The Strategy recommends increasing access to agricultural food lands and supporting regional economic development.

Land Use Implications

Areas of the subject property, including buildings and structures, are currently used for training

and administration by Royal Canadian Marine Search and Rescue (RCM-SAR). The plan of subdivision proposes an irregular north-to-south lot line that contains all non-farm uses associated with RCM-SAR's activities within proposed Lot 2. The proposed subdivision contemplated by application AG000082 would provide separate title to that part of the land used for approved non-farm uses and to that part that remains presently available for agricultural uses. Both parcels would remain in the ALR.

The East Sooke OCP designates the majority of the property as Agriculture, with a small southeastern portion designated as Settlement. The Agriculture designation is intended to protect farmland from other types of development for current and future agricultural activities. Section 464(D) of the OCP states that the subdivision of lands designated Agriculture will only be supported in accordance with the *ALC Act*.

The land is zoned AG under the Juan de Fuca Land Use Bylaw, which permits agricultural and intensive agricultural uses. The AG zone specifies a minimum parcel size of 4.0 ha, as well as increased setbacks for agricultural and intensive agricultural uses and buildings. The proposed plan of subdivision indicates that the proposed lots will meet the minimum lot size. Setbacks from the proposed lot line to existing buildings will be confirmed as part of the formal subdivision review process under the Ministry of Transportation and Infrastructure (MoTI).

In order to assess the potential impact of the proposed subdivision on agriculture, staff recommend that the application be referred to the Juan de Fuca Agricultural Advisory Planning Commission for comment. In order to determine the impact on First Nations' interests, the application should also be referred to the T'Sou-ke and Scia'new First Nations.

CONCLUSION

The purpose of application AG000082 is to consider a 2-lot, fee-simple subdivision of land located in the ALR. The *ALC Act* requires that local governments provide a resolution supporting the proposal in order for it to be considered by the ALC. Staff recommend that the application be referred to the Agricultural Advisory Planning Commission, applicable CRD departments, and First Nations for comment. All comments received will be brought back to the Land Use Committee. At that time, the Committee may consider a recommendation to the CRD Board.

RECOMMENDATION

That the Juan de Fuca Land Use Committee direct staff to refer Agricultural Land Reserve application AG000082 for Lot B, Section 110, Sooke District, Plan 32912, to the Juan de Fuca Electoral Area Agricultural Advisory Planning Commission, the T'Sou-ke and Scia'new First Nations, and to appropriate CRD departments.

Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services

ATTACHMENTS

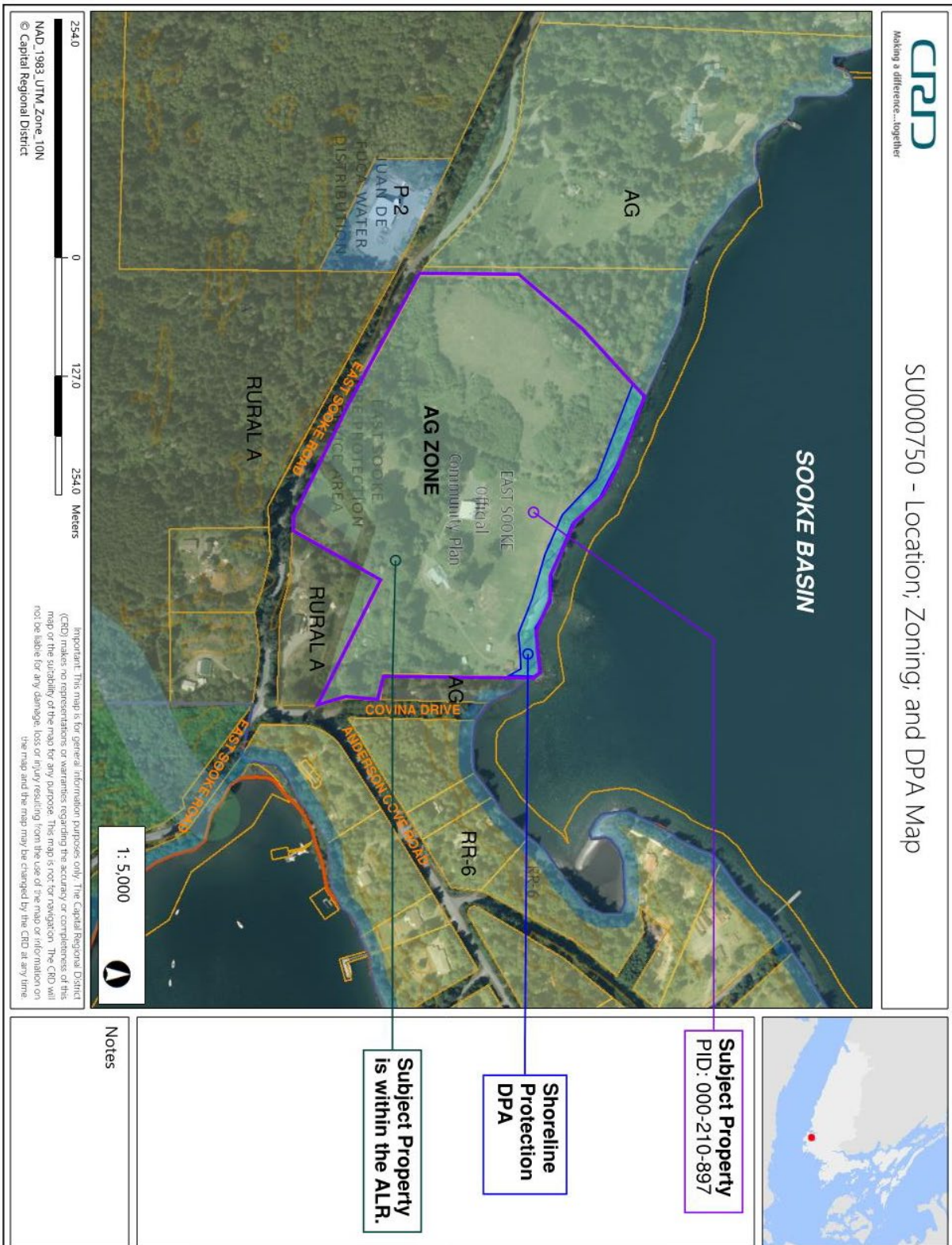
Appendix A: Subject Property and Zoning Map

Appendix B: Plan of Subdivision

Appendix C: Juan de Fuca Agricultural Land Reserve Application Policy

Appendix D: Agricultural Zone - AG

Appendix A: Subject Property and Zoning Map



[illegible]

Appendix C: Juan de Fuca Agricultural Land Reserve Application Policy



**CAPITAL REGIONAL DISTRICT
CORPORATE POLICY**

Policy Type	Board		
Section			
Title	JUAN DE FUCA AGRICULTURAL LAND RESERVE APPLICATION POLICY		
Adopted Date	December 9, 2020	Policy Number	BRD05
Last Amended			
Policy Owner	Juan de Fuca Community Planning		

1. POLICY:

To provide a formal procedure for the CRD Board's review and consideration of Agricultural Land Reserve applications in the Juan de Fuca (JdF) Electoral Area.

2. PURPOSE:

To establish policy and procedures for review and consideration of Agricultural Land Reserve applications in the JdF.

3. SCOPE:

The *Agricultural Land Commission Act (ALC Act)* requires that local government review applications submitted for land in the Agricultural Land Reserve and may forward to the Agricultural Land Commission (the Commission) the application together with comments and recommendations in respect of the application or notify the applicant that the application will not be forwarded to the Commission.

This policy applies to the following types of applications in the JdF that are subject to the *Agricultural Land Commission Act and Regulations*:

- Non-adhering residential use;
- Non-farm use;
- Subdivision;
- Exclusion and block exclusion;
- Inclusion and block inclusion;
- Soil use for placement of fill or removal of soil.

The Juan de Fuca Land Use Committee may make comments and recommendations to the CRD Board on matters relating to applications under the *Agricultural Land Commission Act and Regulations* in the JdF in accordance with CRD Bylaw No. 3166, "Juan de Fuca Land Use Committee Bylaw No. 1, 2004".

The Advisory Planning Commissions are established pursuant to section 461 of the *Local Government Act*, and by CRD Bylaw No. 2945, "Capital Regional District Advisory Planning Commission Bylaw No. 1, 2002", and CRD Bylaw No. 3517, "Capital Regional District Agricultural Advisory Planning Commission Bylaw No. 1, 2008".

4. DEFINITIONS:

AAPC means the Agricultural Advisory Planning Commission for the Juan de Fuca Electoral Area of the Capital Regional District established by bylaw;

APC means an Advisory Planning Commission for the Juan de Fuca Electoral Area of the Capital Regional District established by bylaw;

ALC means the Agricultural Land Commission of British Columbia;

COMMUNITY PLANNING means the Juan de Fuca Community Planning Division of the Planning & Protective Services Department of the Capital Regional District;

CRD means the Capital Regional District;

JdF means the Juan de Fuca Electoral Area of the Capital Regional District;

LUC means the Juan de Fuca Land Use Committee of the Capital Regional District Board;

ALR means land in the Agricultural Land Reserve as designated by the *Agricultural Land Commission Act*.

5. PROCEDURE:

ALR applications submitted to Community Planning shall be reviewed in accordance with the following procedure:

1. Applications are received by Community Planning through the ALC portal.
2. Community Planning shall confirm the required application documents are submitted.
3. Community Planning shall accept the fee payment as specified by the ALC.
4. Community Planning shall confirm any public notification required by the ALC and prepare public notification of the LUC, AAPC and APC meeting.
5. Community Planning will prepare a report to the LUC that includes the application information, reference to the applicable official community plan policies and zoning bylaw regulations, and any other applicable information.
6. Applications will be considered by LUC and a recommendation forwarded to the CRD Board.
7. Should the CRD Board refer the application to the AAPC or APC, Community Planning staff will prepare the public notification of the meeting.
8. Community Planning staff will prepare a report to the LUC outlining the APC recommendation, public comments received, planning analysis, and draft resolutions for consideration.
9. The LUC will consider the public comments, AAPC or APC recommendation, and provide a recommendation on the application to the CRD Board, unless otherwise delegated.
10. Should the CRD Board forward the application to the ALC, Community Planning staff will prepare the required documents and upload it to the ALC portal.
11. Should the CRD Board not forward the application to the ALC, Community Planning will notify the applicant and return the ALC portion of the application fee to the applicant.

Public Consultation:

12. The CRD Board may refer the application to the AAPC or, if inactive, to the community APC.
13. Public notification of the LUC, AAPC and APC meeting will include information about the public meeting at which the application will be considered.
14. Notices will be mailed or otherwise delivered to owners and occupants of all parcels within a distance of 500 metres of the parcel(s) that is subject to the application.
15. Notices of the LUC, AAPC or APC meeting will be mailed or otherwise delivered at least 10 days prior to the meeting.
16. Meetings are open to the public and advertised in the local newspaper and on the CRD website.
17. Where an application is associated with a Regional Growth Strategy amendment, an Official Community Plan amendment and/or a zoning amendment, the procedure for considering that application shall be used to obtain public input on the ALR application.

Evaluation Criteria:

18. The CRD may consider the following criteria when reviewing an ALR application:
 - a) Compliance with Regional Growth Strategy and official community plan policies, zoning regulations, agricultural strategies;
 - b) Agricultural suitability and potential of the land to support farm uses;
 - c) Agricultural capability;
 - d) Alternative locations for the proposed development on non-ALR lands;
 - e) Proximity of the proposed development to existing farms;
 - f) Provision of landscaping and buffering, or existing natural topographical features, of sufficient dimension to separate and minimize impacts between agricultural and non-agricultural uses;
 - g) Referral responses and comments received through public notification;
 - h) Potential impact on the community if the application is approved.
19. In addition to the above criteria, exclusion or block exclusion applications may be considered subject to:
 - a) Exclusion or block exclusion applications can only be considered in conjunction with an amendment to the Regional Growth Strategy, official community plan and zoning bylaw;
 - b) Accommodating government/Crown corporation facilities where it is demonstrated that the facility cannot practically be located on non-ALR lands;
 - c) The land proposed to be excluded from the ALR abuts existing non-ALR land and is a 'sliver' of land comprising less than 25% of the subject parcel;
 - d) The land proposed to be excluded from the ALR forms a logical extension to the existing non-ALR area and does not constitute an intrusion into the ALR (the ALR boundary will not be significantly lengthened as a result of the extension);
 - e) The land proposed to be excluded from the ALR is contained within permanent well-defined boundaries (i.e. roads, topographic or other natural features);
 - f) The land has a Soil Capability Rating of, or is improvable to, a Class 5-7 and is not suitable to support the growing of crops or use by farm animals for grazing, as demonstrated by a Qualified Professional;
 - g) An alternate parcel of land in the JdF is proposed to be included in the ALR that is of a higher soil capability rating, adjacent to existing ALR land, and is of an equivalent size of the parcel proposed to be excluded, so there is no-net-loss of ALR land.

20. In cases where soils have been degraded due to poor land use practices, illegal dumping, soil deposit or soil removal, favorable consideration of an application may not be given.
21. The applicant is responsible for retaining services of a Qualified Professional, as necessary, to provide information and to demonstrate the criteria in this policy has been satisfied.

Decisions:

22. The LUC will consider the application, the AAPC or APC recommendation, and any public comments received, and make a recommendation to the CRD Board, unless otherwise delegated.
23. The CRD Board, unless otherwise delegated, must review the application subject to section 34(4) of the *Agricultural Land Commission Act* and may resolve to:
 - a) Not forward the application to the ALC subject to the *Agricultural Land Commission Act*;
 - b) Forward the application to the ALC with comments and a recommendation to support the application;
 - c) Forward the application to the ALC with comments and a recommendation to reject the application;
 - d) Forward the application to the ALC without comments or a recommendation.
24. If the CRD Board exercises its authority as set out in the *Agricultural Land Commission Act* and does not authorize the application to proceed, the application will not be considered by the ALC.

7. AMENDMENT(S):

Adoption Date	Description:
9 December, 2020	

8. REVIEW(S):

Review Date	Description:

Appendix D: Agricultural Zone - AG

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

4.0 AGRICULTURAL ZONE - AG

4.01 Permitted Uses

In addition to the uses permitted in Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Agricultural AG Zone:

- (a) Agriculture;
- (b) Intensive Agriculture;
- (c) One-family dwellings; *Bylaw 4278*
- (d) Home Based Business Categories One, Two and Three; *Bylaw 3705*
- (e) Farm Buildings;
- (f) One travel trailer or one camper may be permitted in conjunction with a permitted residential use on a lot, which may be used but not rented for the temporary accommodation of guests or visitors;
- (g) Accessory uses such as on-site logging, and pole- or post- or shake-cutting, from trees grown on the lot;
- (h) Two boarders or lodgers;
- (i) Secondary Suite pursuant to Part 1, Subsection 4.19; *Bylaw 3849*
- (j) Detached Accessory Suite pursuant to Part 1, Subsection 4.20 on ALR lands with the approval of the Agricultural Land Commission; *Bylaw 3849*
- (k) Detached Accessory Suite pursuant to Part 1, Subsection 4.20 on non-ALR lands without an additional dwelling pursuant to Section 4.07. *Bylaw 3849*

4.02 Minimum Lot Size for Subdivision Purposes

The minimum lot size shall be 4ha.

4.03 Density

On non-ALR lands, one one-family dwelling plus one additional dwelling unit is permitted on a lot.

On ALR lands, one one-family dwelling plus two additional dwelling units are permitted on a lot with the approval of the Agricultural Land Commission.
Bylaw 3849

4.04 Height

Maximum height shall be 11m.

4.05 Lot Coverage

The maximum lot coverage shall be 20 percent.

4.06 Maximum Size of Residential Buildings

Provided applicants having either met the *Sewerage System Regulation* (e.g., a filing) or acceptance by VIHA via referral: *Bylaw 3705*

- (i) On lots of less than 1ha in area, residential buildings and structures shall not exceed a Floor Area Ratio of 0.45 or a Total Floor Area of 418m², whichever is less;
- (ii) On lots of 1ha or more in size, residential buildings and structures shall not exceed a Floor Area Ratio of 0.45.

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

- 4.07 **Additional Dwellings** Notwithstanding Section 4.03 above, one additional one-family dwelling for the sole purpose of housing employees may be located on a lot classified as a farm pursuant to the *Assessment Act* where such lot is 4ha or more in area, and where approved by the B.C. Agricultural Land Commission.
- 4.08 **Yard Requirements, Agriculture and Farm Buildings** (a) Front yards shall be a minimum of 30m;
(b) Side, rear and flanking yards shall be a minimum of 15m.
- 4.09 **Yard Requirements for Intensive Agriculture uses and Buildings** (a) Front yards shall be a minimum of 90m;
(b) Side, flanking and rear yards shall be a minimum of 30m.
- 4.10 **Yard Requirements for All Other Permitted Uses and Buildings** (a) Front yards shall be a minimum of 7.5m;
(b) Side yards shall be a minimum of 6m; except that for lots of greater than 1ha in size and where residential uses exceed a Total Floor Area of 418m², minimum side yards shall be 15m each side;
(c) Flanking yards shall be a minimum of 6m CTS;
(d) Rear yards shall be a minimum of 10m.
- 4.11 **Yard Requirements for Cannabis Cultivation Buildings** (a) Front, side, flanking and rear yards shall be a minimum of 30m.

Bylaw 3922, Bylaw 4278



Making a difference...together

REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, FEBRUARY 21, 2023

SUBJECT **Zoning Bylaw Amendment Application for Strata Lots 1, 2, 3, & 4, Section 85, Sooke District, Strata Plan EPS1027 Together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V – 476, 478, 480 & 482 Becher Bay Road**

ISSUE SUMMARY

Landowners of a 4-lot building strata property on Becher Bay Road have submitted a joint application to amend Bylaw No. 2040 by changing the zone from Rural Zone – A (Rural A) to the Rural Residential 6A Zone (RR-6A) for the purpose of dissolving the strata and facilitating subdivision to create an equivalent number of parcels.

BACKGROUND

The 4.5 ha building strata property is located in East Sooke on Becher Bay Road and is subject to the Rural A zone in Bylaw No. 2040 (Appendix A). The property is designated as Settlement under the East Sooke Official Community Plan (OCP), Bylaw No. 4000.

The four single-family detached strata units are dispersed throughout the subject property and cover 2.4% (1,102 m²) of the subject land area. The property is located within the East Sooke Fire Protection Service Area and each parcel will be required to provide proof of septic and a source of potable water at the time of subdivision.

The landowners have made a joint application to change the current Rural A zone (Appendix B) to the Rural Residential 6A (RR-6A) zone (Appendix C). The RR-6A zone would allow for a subdivision application to dissolve the existing building strata and create four fee-simple or bare land strata properties that complement the existing arrangement of buildings and have an average parcel size of 1 ha (Appendix D). The owners of Strata EPS1027 have submitted a subdivision application (SU000753) to run concurrently with the proposed Bylaw No. 4505 (Appendix E).

At its meeting of September 20, 2022, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaw to the East Sooke Advisory Planning Commission; CRD departments; BC Hydro; District of Sooke; Island Health; Ministry of Forests – Archaeology Branch; Ministry of Forests – Water Protection Section; Ministry of Land, Water and Resource Stewardship; Ministry of Transportation & Infrastructure; RCMP; Sc'ianew First Nation; Sooke School District #62; and T'Sou-ke First Nation. Comments have been received and are included in Appendix F.

ALTERNATIVES

Alternative 1

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

1. That the referral of proposed Bylaw No. 4505, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 157, 2022", to the East Sooke Advisory Planning Commission; CRD departments; BC Hydro; District of Sooke; Island Health; Ministry of Forests – Archaeology Branch; Ministry of Forests – Water Protection Section; Ministry of Land, Water and Resource Stewardship; Ministry of Transportation & Infrastructure; RCMP; Sc'ianew First Nation; Sooke School District #62; and T'Sou-ke First Nation be approved and the comments received;
2. That proposed Bylaw No. 4505 be introduced and read a first time and read a second time;

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. 4505; and
4. That adoption of proposed Bylaw No. 4505 be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for subdivision application SU000753.

Alternative 2

That the CRD not proceed with proposed Bylaw No. 4505.

IMPLICATIONS

Legislative Implications

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them related to Part 14 of the *Local Government Act (LGA)*. The East Sooke APC considered the application at its meeting on November 7, 2022.

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendment passing second reading by the CRD Board. Property owners within 500 m of the land will be sent notice of the proposed bylaw amendment and the public hearing will be advertised in the local paper and on the CRD website.

Regional Growth Strategy Implications

Section 445 of the *LGA* requires that all bylaws adopted by a regional district board after the board has adopted a Regional Growth Strategy (RGS) be consistent with the RGS. In accordance with CRD policy, where a zoning bylaw amendment that applies to land within the East Sooke OCP area is consistent with the OCP, it does not proceed to the full CRD Board for a determination of consistency with the RGS. The proposed zoning amendment is consistent with the policies of the East Sooke OCP.

Referral Comments

Referrals were sent to 11 agencies, CRD departments, and to the East Sooke APC. Comments received are summarized below and included in Appendix F.

BC Hydro expressed no concerns with the application; however, new statutory right of way agreements will be required over the new lots at the time of subdivision. They also referred their correspondence to the BC Hydro Field Operations' Distribution Engineering & Design Department in Victoria, BC for potential comment. No additional comments were received at the time this report was written.

Ministry of Forests – Water Protection Section stated that the bed rock aquifer consists of fractured crystalline rock, which is known to have low productivity and high vulnerability to contamination. This Ministerial Branch cites the regulations of the *Public Health Act Health Hazard Regulation* and advises that in accordance with the *Water Sustainability Act* a water licence is required for surface water and non-domestic ground water use. The Water Protection Section provided links to the regulations and emphasized that wells are required to be setback 30 m from a potential source of contamination, such as a septic system.

Ministry of Transportation and Infrastructure (MoTI) had no objection to the application and stated that Section 52 of the *Transportation Act*, which requires Ministry approval of zoning bylaw amendments within a radius of 800 m of a controlled access highway, does not apply. To ensure that all requirements of the related subdivision application are met, the Ministry encouraged landowners to review the Province's Subdivision Approval Manual.

Sooke School District #62 stated that they have no concerns.

T'Sou-ke First Nation stated that they have no comment at this time regarding the application.

CRD First Nations Relations stated that they have no comments related to archaeology at this time.

CRD Bylaw Enforcement stated that they have no concerns.

CRD Protective Services expressed that approval of the future subdivision be conditional upon ensuring that future access to each of the proposed fee simple lots are engineered to meet or exceed driveway standards. These driveway standards are included in Appendix F.

The East Sooke APC considered the application at their meeting on November 7, 2022, with approximately 10 members of the public in attendance. The East Sooke APC passed the following motion with respect to Bylaw No. 4505:

MOVED by Zac Doeding, **SECONDED** by Tim Marks that the East Sooke Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee that it supports the application and proposed Bylaw No. 4504 to rezone the subject property from Rural Zone – A (Rural A) to Rural Residential 6A Zone (RR-6A).

Land Use

All of the parcels that abut the building strata property are subject to the Rural A zone, and two properties located to the east across Becher Bay Road are subject to the Agricultural Zone (AG). The East Sooke OCP, Bylaw No. 4000, designates the subject property as Settlement Area. The intent of the Settlement Area land use designation is to support residential uses; agricultural uses; suites to increase housing affordability; home based businesses; small-scale commercial and tourism activities; cottage industry; civic and institutional uses; and community parks subject to consideration in any individual circumstances of the anticipated impact of the use. Furthermore, OCP policies support the rezoning of Rural A zoned lands and existing building strata developments for the purposes of subdivision as an alternative to a building strata to create an equivalent number of lots. Proposed Bylaw No. 4505 removes the Strata property from the Rural A zone and adds it to the RR-6A zone. The proposal is in alignment with the OCP and its intention to maintain the neighbourhood's rural character.

The RR-6A zone does not permit intensive agriculture; animal hospitals; veterinary clinics; accessory on-site logging; pole, post, or shake cutting from on-site trees; and finfish culture, which are all permitted uses within the current Rural A zone. The RR-6A zone has a minimum average parcel size of 1 ha and permits one one-family dwelling per parcel with either a secondary suite or a detached accessory suite. In comparison, the current Rural A zone has a minimum parcel size of 4 ha and permits up to four one-family dwellings on parcels that are greater than 4 ha, but less than 16 ha. Proposed Bylaw No. 4505 does not increase the existing density of one-family dwellings on the 4.5 ha property; however, individual parcel could include a suite in accordance with the OCP's goals to address housing affordability and the regulations of Bylaw No. 2040.

Procedures and Future Development

Should Bylaw No. 4505 be approved, the active subdivision application (SU000753) will likely require approval of a development permit as the lands are subject to the Steep Slopes, Sensitive Ecosystem, and Riparian development permit areas. The subdivision application will also require compliance with MoTI and CRD standards, including proof of potable water. While Island Health has not provided comment regarding this bylaw amendment application, compliance with the applicable regulations is required during subdivision as they pertain to onsite septic systems.

The RR-6A zone permits a maximum density of one dwelling per parcel. Should Bylaw No. 4505 be adopted and subdivision of the strata not be completed, the existing development would

become non-conforming in accordance with Section 528 of the *LGA*. This may result in constraints on the future use, repair and development of the property, or on reconstruction of dwellings in the event of damage to the structures to the extent of 75% or more of their value above the foundation. For this reason, staff recommend that adoption of Bylaw No. 4505 be withheld until such time as MoTI has issued a Preliminary Layout Review (PLR) for the associated subdivision, and the full set of subdivision requirements, including proof of potable water, have been provided to the owners.

Based on the information provided by the applicants, referral comments received and the policies of the East Sooke OCP, staff recommend that proposed Bylaw No. 4505 be introduced, read a first and second time, that a public hearing be held, and that the adoption of the Bylaw be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for the concurrent subdivision application (File: SU000753).

CONCLUSION

The purpose of Bylaw No. 4505 is to amend the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 by rezoning the subject property from Rural A to RR-6A. Staff have prepared proposed Bylaw No. 4505 and recommend receipt of referral comments, first and second reading, advancement to public hearing. Staff further recommend that adoption of the Bylaw be withheld until the CRD has received a Preliminary Layout Review from MoTI for subdivision application SU000753.

RECOMMENDATION

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

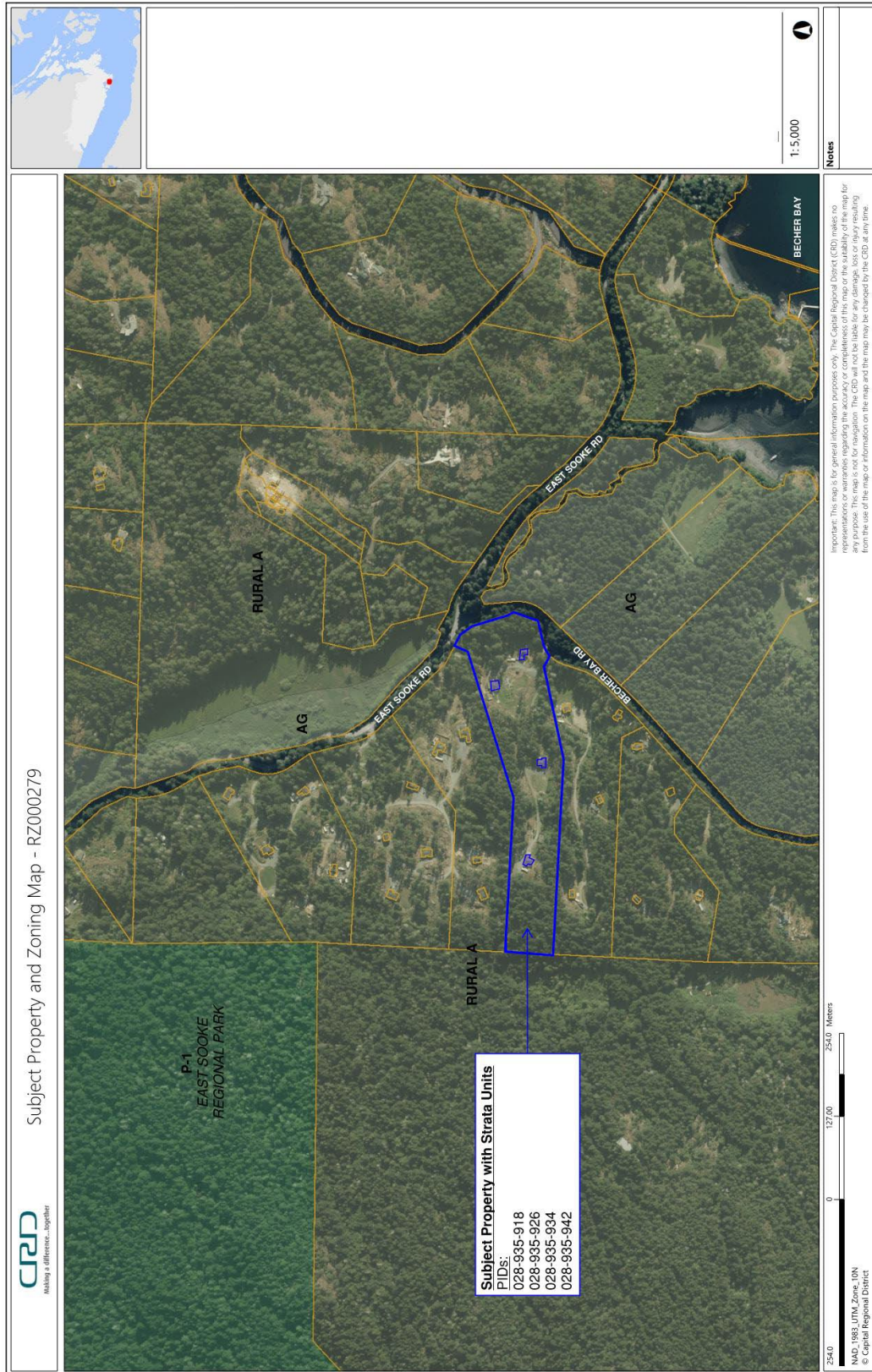
1. That the referral of proposed Bylaw No. 4505, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 157, 2022", to the East Sooke Advisory Planning Commission; CRD departments; BC Hydro; District of Sooke; Island Health; Ministry of Forests – Archaeology Branch; Ministry of Forests – Water Protection Section; Ministry of Land, Water and Recourse Stewardship; Ministry of Transportation & Infrastructure; RCMP; Sc'ianew First Nation; Sooke School District #62; and T'Sou-ke First Nation be approved and the comments received;
2. That proposed Bylaw No. 4505 be introduced and read a first time and read a second time;
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. 4505; and
4. That adoption of proposed Bylaw No. 4505 be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for subdivision application SU000753.

Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property and Zoning Map
Appendix B: Current Rural Zone – A
Appendix C: Proposed Rural Residential 6A Zone - RR-6A
Appendix D: Lot Plan
Appendix E: Proposed Bylaw No. 4505
Appendix F: Referral Comments

Appendix A: Subject Property and Zoning Map



Appendix B: Current Rural Zone – A

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

2.0 RURAL ZONE - A

2.01 Permitted Uses

In addition to the uses permitted by Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Rural A Zone:

- (a) Agriculture;
- (b) Intensive Agriculture, except that sites for piggeries, fur farming and other similar agricultural, horticultural and animal raising activities in which the intensity and nature of the use would be materially more offensive by reason of noise, odour or appearance shall be located at least 150m from the nearest Residential or Multiple Family Residential Zone;
- (c) Silviculture;
- (d) Home Based Business Categories One, Two and Three; *Bylaw 3705*
- (e) One-family dwelling;
- (f) Two-family dwelling;
- (g) Animal Hospitals;
- (h) Veterinary Clinics;
- (i) One travel trailer or one camper may be permitted in conjunction with a permitted residential use on a lot, which may be used but not rented for the temporary accommodation of guests or visitors;
- (j) Two Boarders or Lodgers;
- (k) Accessory uses such as on-site logging, and pole- or post- or shake-cutting from trees grown on-site;
- (l) Finfish culture, land-based;
- (m) One secondary suite per lot pursuant to Part 1, Subsection 4.19; *Bylaw 2674*
- (n) Detached Accessory Suites pursuant to Part 1, Subsection 4.20. *Bylaw 3605*

2.02 Minimum Parcel Size for Subdivision Purposes

The minimum lot size shall be 4.0ha.

2.03 Number of Dwelling Units

The maximum density for residential buildings (comprised of one- and/or two-family dwellings) shall not exceed the following:

- (a) On lots of 0.4ha or less, one one-family dwelling;
- (b) On lots of more than 0.4ha and less than 0.8ha, not more than two one-family or one two-family dwelling;
- (c) On lots of more than 0.8ha and less than 4ha, not more than three one-family dwellings or three dwelling units;
- (d) On lots of more than 4ha and less than 16ha, not more than four one-family dwellings or four dwelling units;
- (e) On lots of more than 16ha and less than 32ha, not more than five one-family dwellings or five dwelling units;
- (f) On lots of more than 32ha, not more than eight one-family dwellings or eight dwelling units.

2.04 Height

The maximum height permitted shall be 11m.

2.05 Lot Coverage

The maximum lot coverage permitted shall be 15 percent.

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

- 2.06 Maximum Size of Residential Buildings** Provided applicants having either met the *Sewerage System Regulation* (e.g., a filing) or acceptance by VIHA via referral:
- Bylaw 3705*
- (a) On lots of less than 1ha in area, residential buildings and structures shall not exceed a Floor Area Ratio of 0.45 or a Total Floor Area of 418m², whichever is less;
 - (b) On lots of 1ha or more in size, residential buildings and structure shall not exceed a Floor Area Ratio of 0.45.
- Bylaw 3705*
- 2.07 Yard Requirements for Residential Buildings**
- (a) Front yards shall be a minimum of 7.5m;
 - (b) Side yards shall be a minimum of 6m except for lots of greater than 1ha in size and where residential uses exceed a Total Floor Area of 418m², minimum side yards shall be 15 m each side;
 - (c) Flanking yards shall be a minimum of 6m CTS;
 - (d) Rear yards shall be a minimum of 11m.
- 2.08 Yard Requirements for Farm Buildings**
- (a) Front yards shall be a minimum of 30m;
 - (b) Side, flanking and rear yards shall be a minimum of 15m.
- 2.09 Yard Requirements for Finfish Culture, Land-Based Uses and Structures** Front, side, flanking and rear yards shall be a minimum of 30m.
- 2.10 Yard Requirements for Intensive Agriculture Uses and Buildings**
- (a) Front yards shall be a minimum of 30 m;
 - (b) Side, rear and flanking yards shall be a minimum of 30m.
- Bylaw 2103*

Appendix C: Proposed Rural Residential 6A Zone - RR-6A

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

10A.0 RURAL RESIDENTIAL 6A ZONE – RR-6A

Bylaw 4246

10A.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 6A (RR-6A) zone:

- (a) One-family dwelling;
- (b) Agriculture;
- (c) Silviculture;
- (d) Two Boarders or Lodgers;
- (e) Farm/Agriculture Buildings;
- (f) Home Based Business Categories One, Two and Three;
- (g) One travel trailer or one camper may be permitted in conjunction with a permitted residential use on a lot, to be used, but not rented, for the temporary accommodation of guests or visitors.
- (h) Secondary suite pursuant to Part 1, Section 4.19;
- (i) Detached accessory suite pursuant to Part 1, Section 4.20.

10A.02 Minimum Lot Size for Subdivision Purposes

- (a) The minimum average lot size for subdivision purposes is 1 ha and no lot shall be created with a lot size smaller than 0.5 ha.
- (b) For the purposes of this zone, the total area of land in a plan of subdivision, prior to the removal of land for road and park dedication or for common property, divided by the number of lots intended to be created shall not be less than the minimum average lot size specified in Section 10A.02(a).

10A.03 Number of Dwellings

One one-family dwelling and one of either a secondary suite or a detached accessory suite, but not both.

10A.04 Height

Maximum height shall be 9 m.

10A.05 Lot Coverage

Lot coverage shall not exceed 25 percent.

10A.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:

- (a) On lots of less than 1 ha in area, residential buildings and structures shall not exceed a Total Floor Area of 418 m²;
- (b) On lots of 1 ha or more in size, residential buildings and structures shall not exceed a Floor Area Ratio of 0.045.

Schedule "A" of Capital Regional District Bylaw No. 2040
Juan de Fuca Land Use Bylaw

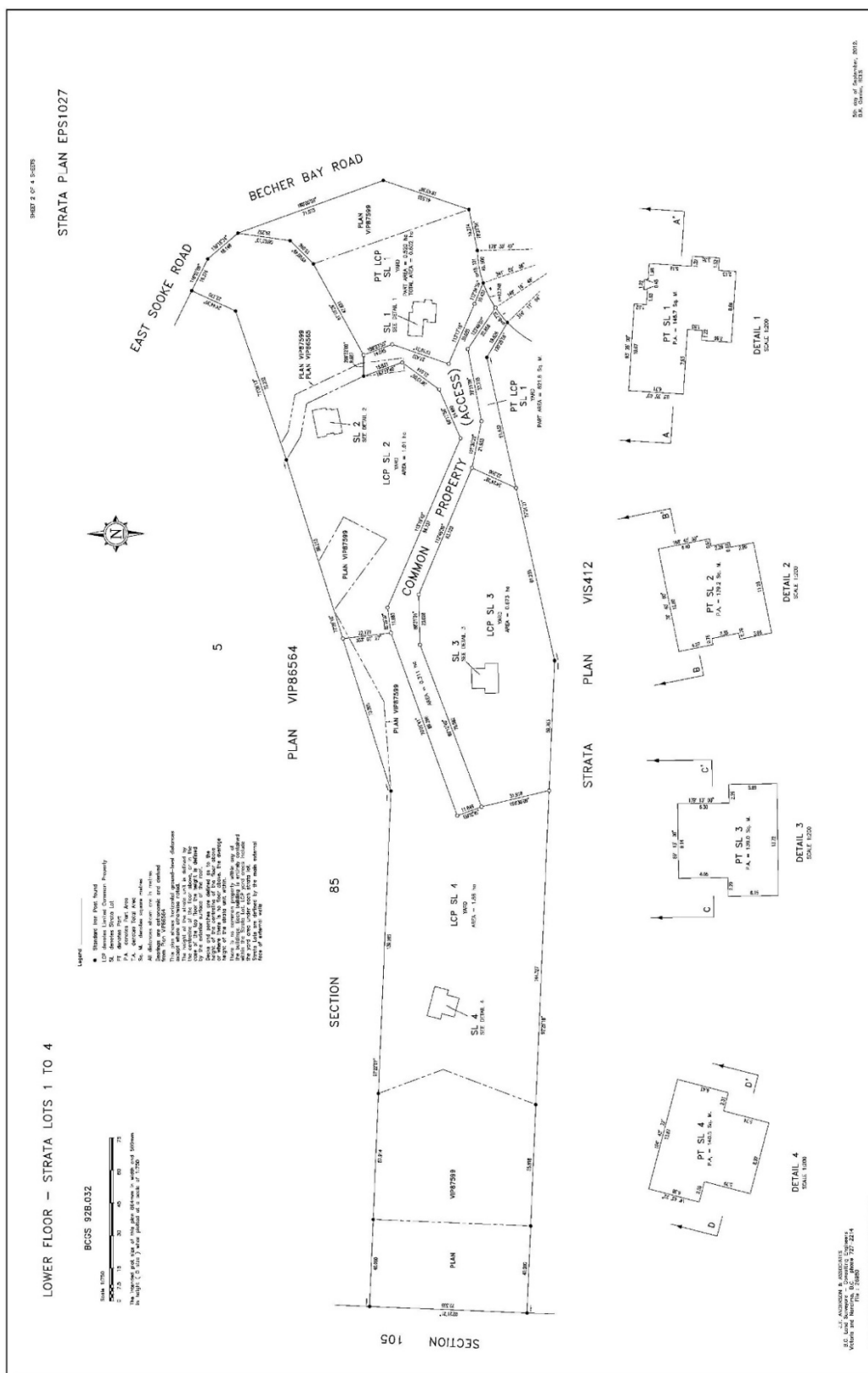
10A.07 Yard Requirements

- (a) Front yards shall be a minimum of 7.5 m;
- (b) Side yards shall be a minimum of 6 m; except that for lots of greater than 1 ha in size and 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.

**10A.08 Yard Requirements for
Agricultural Buildings
and Structures**

Farm buildings and structures for agricultural uses shall be not less than 30 m from the front lot line and not less than 15 m from any other boundary of the lot.

Appendix D: Lot Plan



Appendix E: Proposed Bylaw No. 4505

CAPITAL REGIONAL DISTRICT
BYLAW NO. 4505

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 as follows:

A. SCHEDULE B, Map No. 1 – EAST SOOKE ZONING MAP

- (a) By deleting

Strata Lot 1 Section 85 Sooke District Strata Plan EPS1027;

Strata Lot 2 Section 85 Sooke District Strata Plan EPS1027;

Strata Lot 3 Section 85 Sooke District Strata Plan EPS1027;

Strata Lot 4 Section 85 Sooke District Strata Plan EPS1027; and

Together with an interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lots as Shown on Form V from the Rural Zone – A (Rural A) and adding to the Rural Residential 6A (RR-6A) zone, as shown on Plan No. 1.

Plan No. 1 of Bylaw No. 4505, an amendment to Bylaw No. 2040



CRD Bylaw No. 4505

2

2. This bylaw may be cited as "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 157, 2022".

READ A FIRST TIME THIS day of , 2023.

READ A SECOND TIME THIS day of , 2023.

READ A THIRD TIME THIS day of , 2023.

ADOPTED THIS day of , 2023.

CHAIR

CORPORATE OFFICER

Appendix F: Referral Comments

From: [Mann, Elaine](#)
To: [Wendy Miller](#)
Cc: [Reidy, Drew](#); [Design, SVI](#)
Subject: RE: Zoning Amendment Application RZ000279 - CRD Referral (Strata Dissolution - East Sooke)
Date: Friday, October 07, 2022 10:20:42 AM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Hi Wendy

BC Hydro have no issue with the zoning amendment application. Once the proposed subdivision comes through, we will require new statutory right of way agreements over the new lots.

In the event that BC Hydro Field Operations' Distribution Engineering & Design Department in Victoria wishes to comment, they will provide you with a response under separate cover. If you wish to follow up with that office, please contact them at email.

The registered owner can contact the BC Hydro Electric Service Coordination Centre for new construction power connections and to speak with a distribution designer at the following toll-free number: 1-877-520-1355.

Regards,

Elaine Mann | Property Coordinator, Property Rights Services

BC Hydro
Vancouver Island
400 Madsen Road | Nanaimo, BC V9R 5M3

P 250-755-7169
E elaine.mann@bchydro.com

bchydro.com

Smart about power in all we do.

RESPONSE SUMMARY – REZONING APPLICATION RZ000279

X Interest Affected by Proposal for Reasons Outlined Below

 Interest Unaffected by Proposal

Comments:

The Ministry of Forests, Water Protection, has received a referral with respect to proposed land-use change of the subject area (Strata Lots 1, 2, 3, & 4, Section 85, Sooke District, Strata Plan EPS1027).

Four wells have been drilled on the subject area lot (shown in the table below), in bedrock Aquifer 606 (AQ 606; Fact Sheet: <https://apps.nrs.gov.bc.ca/gwells/aquifers/606>), which consists of fractured crystalline rock, known to have a low productivity and high vulnerability. The median finished depth of 62 bedrock wells registered in the Groundwater Wells database (GWELLS <https://apps.nrs.gov.bc.ca/gwells>) within 1 km of this site is 99 m, ranging from 0.6 m to 238 m.

Well Tag Number	Finished Well Depth (m)	Potential Yield (US gpm)
95616	111	2
105330	78	4
95571	154	0.75
105332	151	0.75

As this area does not appear to have a local water service provider, the applicants should be advised that a water licence for surface water or for non-domestic groundwater use is required under the *Water Sustainability Act* (<https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/14015>). Information about water application requirements and process can be found here: <https://portal.nrs.gov.bc.ca/web/client/-/water-licence-application>. Increased development in the area and low aquifer yield may result in groundwater availability issues and impacts to other water supply wells in the area. If a water service is planned a licence for diversion of groundwater is required which also requires approval from Vancouver Island Health Authority under the [Drinking Water Protection Act](#) and the [Drinking Water Protection Regulation](#) which regulate protection of drinking water.

The nearest water body, an unnamed creek, lies approximately 25 m to the east of the property. The creek is listed as Fully Recorded with Exceptions (FR-EXC). For more information on water licensing and rights refer to: <https://www2.gov.bc.ca/gov/content/environment/air-land-water/water/water-licensing-rights>. A groundwater license for domestic use on a single lot is not required for domestic parcels serviced by individual wells.

Aquifer 606 is classified as having an overall high vulnerability to contaminants introduced at the land surface because of the thin layer of unconsolidated material overlying the aquifer. Intrinsic vulnerability mapping (<https://catalogue.data.gov.bc.ca/dataset/drastic-aquifer-intrinsic-vulnerability>) indicates that aquifer vulnerability to contamination in the area of the subject parcel may be low. Animal grazing areas, paddocks and locations of manure storage can be a source of nutrient and bacterial contamination of surface and groundwater sources, therefore adequate (minimum 30 m) setbacks of these contaminant source from wells and surface water sources is required (in accordance with *Public Health Act*, Health Hazard Regulation https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/216_2011), and agricultural best practices (Code of Practice for Agricultural Environmental Management https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/8_2019) to reduce runoff of

contaminants are recommended to be employed.

No additional concerns are noted with respect to the proposed bylaw.

David van Everdingen

Signed

Regional Hydrogeologist

Title

October 31, 2022

Date

Ministry of Forests, Water Protection

Agency

RESPONSE SUMMARY – REZONING APPLICATION RZ000279

☐ Interest Affected by Proposal for Reasons Outlined Below

☒ Interest Unaffected by Proposal

Comments:

The property does not fall within Section 52 of the Transportation Act and will not require Ministry formal approval. The Ministry has no objections to the rezoning, however, a subdivision application to the Ministry will be required once the strata has been dissolved.

Applications can be submitted online:

<https://www2.gov.bc.ca/gov/content?id=98219C50C0A74658AB8CC813D5A92558>

The applicants should familiarize themselves with the Subdivision Approval Manual, specifically the access requirements as all lots will require public road frontage. If seeking alternative means of access(via easement), the applicants should ensure that they meet all requirements prior to submitting an application. Alternative access will only be accepted by the Ministry if it is proven that public road access is not achievable.



Signed

October 5, 2022

Date

Senior Development Officer

Title

Ministry of Transportation and Infrastructure

Agency

From: [Pete Godau](#)
To: [Wendy Miller](#)
Cc: [Scott Stinson](#); [Harold Cull](#); [Windy Beadall](#); [Kristina Ross](#)
Subject: FW: Zoning Amendment Application RZ000279 - CRD Referral (Strata Dissolution - East Sooke)
Date: Thursday, September 29, 2022 2:43:01 PM
Attachments: [REFERRAL-FORM-AGENCIES-RZ000279.pdf](#)
[PPS-JDF-2022-09-20-RZ000279-Referral-LUC-Report.pdf](#)

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Afternoon Wendy,

At this time the school district does not have any concerns with this referral.

Thank you,

Pete

Peter Godau

Director of Facilities | School District # 62

P (250)474-9840 Ext 203 | C (250)361-7330 | pgodau@sd62.bc.ca

Shaping Tomorrow Today



2154 Lazzar Road, Sooke B.C., V9Z 1G1
Ph.:250-642-3957 Fax: 250-642-7808

20 October 2022

Re: Zoning Amendment Application RZ000279

File: RZ000279

Attention: Wendy Miller

Dear Wendy:

T'Sou-ke Nation has no comment at this time. If you have any questions or follow up, please do not hesitate to contact our office.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Coggins".

Sam Coggins, PhD RPF
A/Lands Manager, T'Sou-ke Nation

Cc:
Michelle Thut; T'Sou-ke Nation Administration

From: [Shauna Huculak](#)
To: [Wendy Miller](#)
Cc: [Sandra Allen](#); [Caitlyn Vernon](#)
Subject: RE: Zoning Amendment Application RZ000279 - Referral (Strata Dissolution - East Sooke)
Date: Wednesday, October 12, 2022 3:14:49 PM

Thank you Wendy,

No comments related to archaeology at this time.

shauna

From: [Mark Groulx](#)
To: [Wendy Miller](#)
Cc: [Shayne Gorman](#); [Coral L. Henderson](#)
Subject: RE: Zoning Amendment Application RZ000279 - Referral (Strata Dissolution - East Sooke)
Date: Thursday, September 29, 2022 11:57:41 AM

Good day Wendy,

I have reviewed the submission and we do not have any concerns with this proposed change.

Regards,

Mark Groulx | Chief Bylaw Officer
Bylaw and Animal Care Services | Capital Regional District
212-2780 Veterans Memorial Parkway, Victoria BC V9B 3S6
T: 250.474.3351 | F : 250.391.9727
mgroulx@crd.bc.ca

From: [Darren Lucas](#)
To: [Wendy Miller](#)
Subject: FW: Zoning Amendment Application RZ000279 - Referral (Strata Dissolution - East Sooke)
Date: Tuesday, October 25, 2022 1:08:20 PM
Attachments: [Driveway standards per document supplied by CRD.pdf](#)
[image001.png](#)

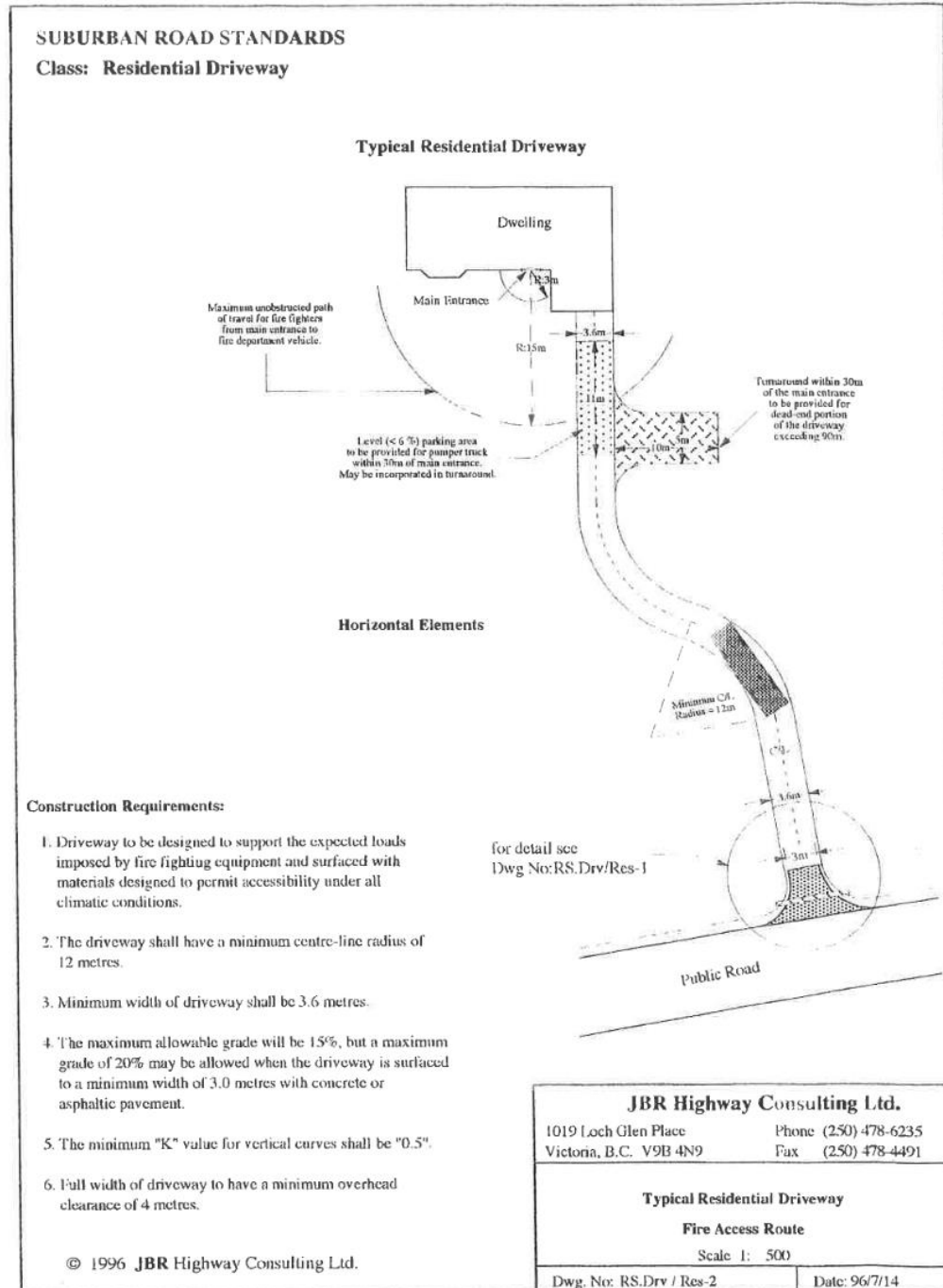
From: Chris Vrabel
Sent: Tuesday, October 25, 2022 1:07 PM
To: Darren Lucas <DLucas@crd.bc.ca>
Subject: RE: Zoning Amendment Application RZ000279 - Referral (Strata Dissolution - East Sooke)

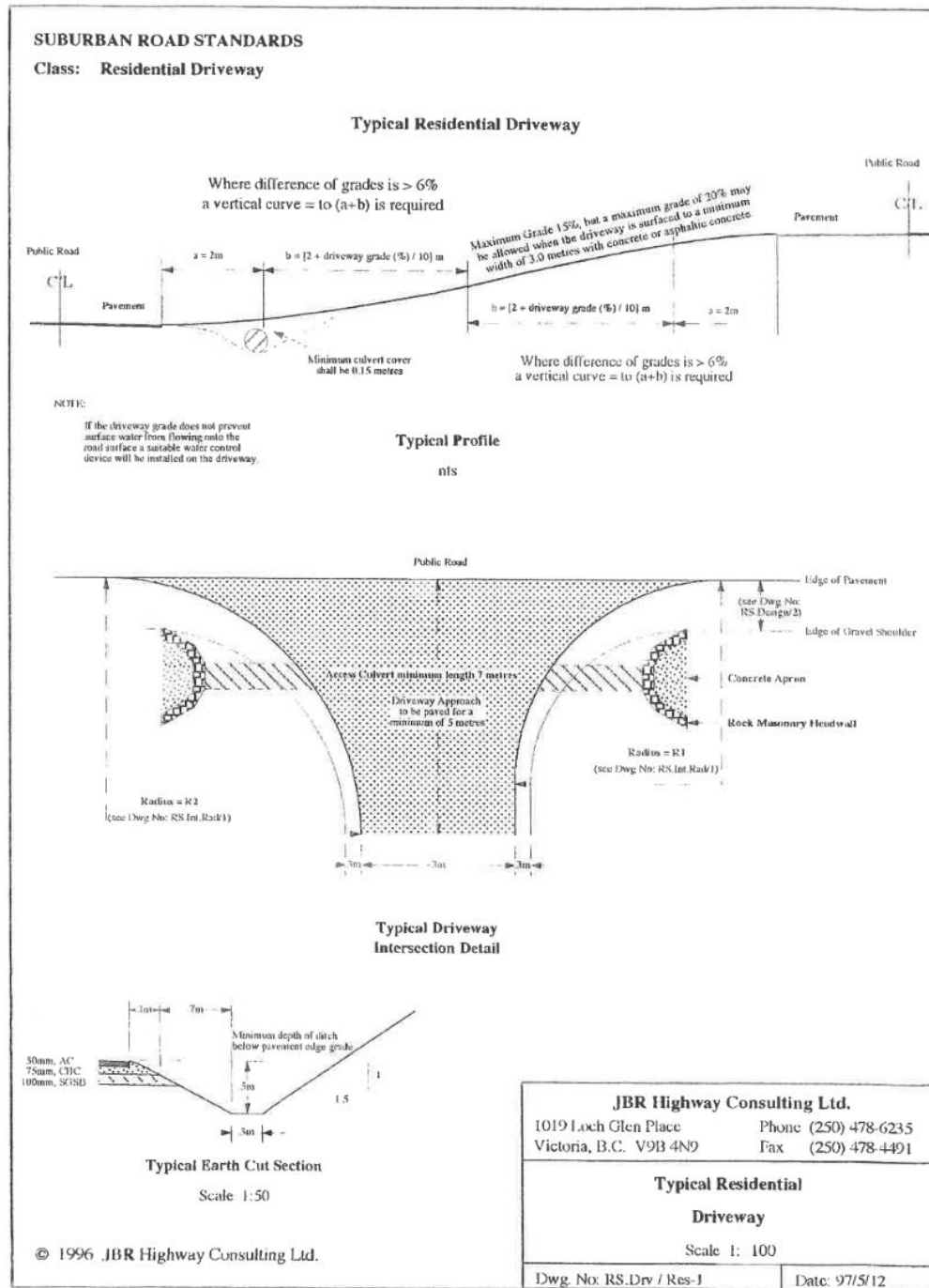
Hi Darren,
Please use the following:

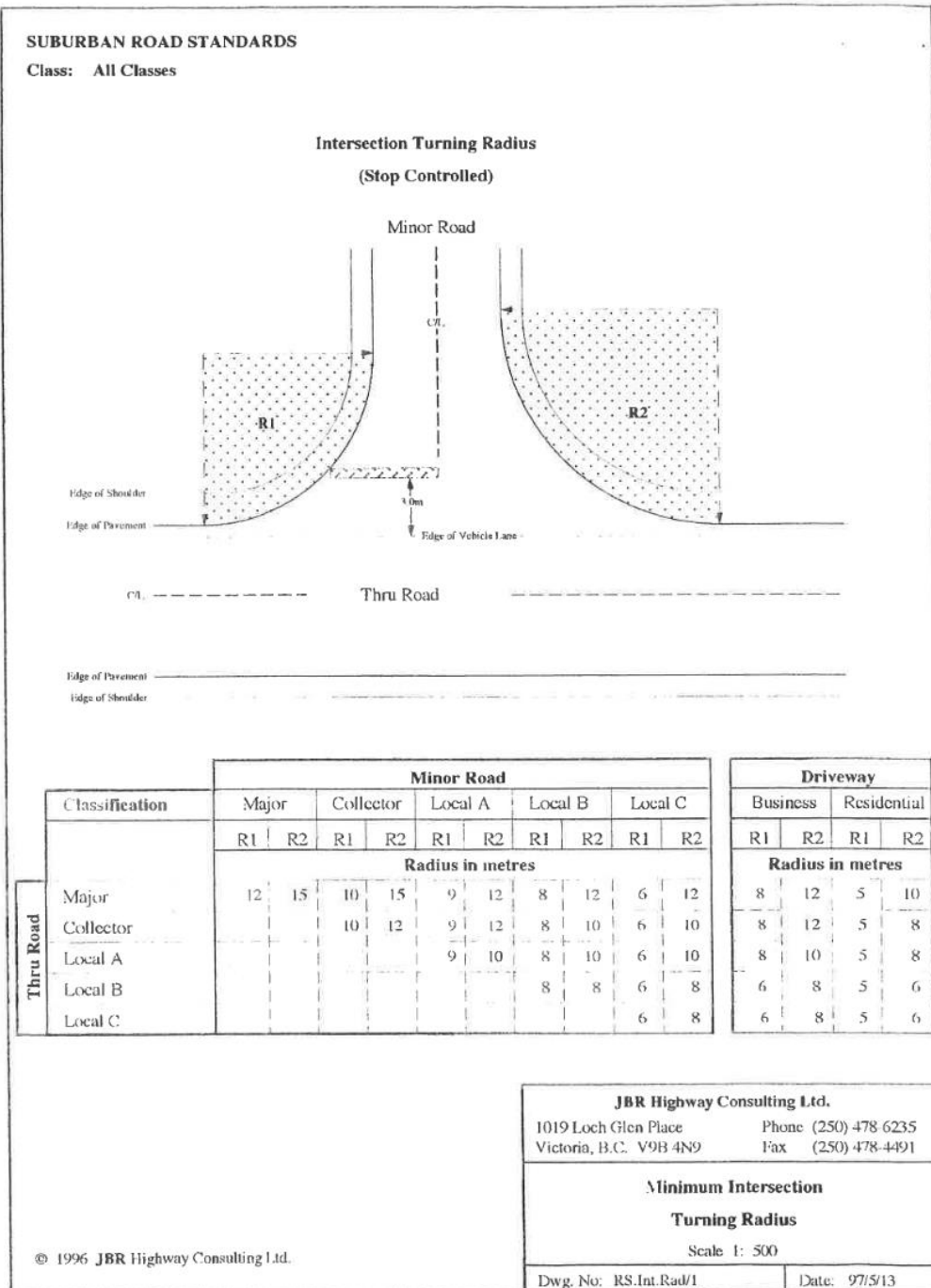
This application should be conditional on ensuring the access roads to each of the proposed fee simple lots are engineered and built to meet or exceed the attached standards. A report from an engineer may be required.

I don't recommend including the fire chief's comments in blue as the statement above achieves the same objective.

Sincerely,
Chris









Minutes of a Meeting of the East Sooke Advisory Planning Commission
Held Monday, November 7, 2022 at the East Sooke Community Hall, 1397 Coppermine Road, East Sooke, BC

PRESENT: Zac Doeding, Tim Marks, Janice St. John
ABSENT: **Staff:** Iain Lawrence, Senior Manager, Juan de Fuca Local Area Services;
Darren Lucas, Planner; Wendy Miller, Recorder
PUBLIC: 10

The meeting was called to order at 7:00 pm.

Iain Lawrence provided a Territorial Acknowledgment.

1. Elections

Iain Lawrence called for nominations for the position of Chair of the East Sooke APC for 2022 and Zac Doeding's name was put forward. Iain Lawrence called two times for further nominations and, as there were none, Zac Doeding was acclaimed Chair. Noting that this will be the first and last meeting of the APC in 2022, the election for the position of Vice Chair was not held.

2. Approval of the Agenda

MOVED by Janice St. John, **SECONDED** by Tim Marks that the agenda be approved. **CARRIED**

3. Approval of the Supplementary Agenda

No supplementary items.

4. Adoption of Minutes from the Meeting of September 9, 2019

MOVED by Tim Marks, **SECONDED** by Janice St. John that the minutes of September 9, 2019, be adopted. **CARRIED**

5. Planner's Report

Iain Lawrence extended a thank you to the APC for its work over the last four years, noting that the term of the current APC concludes December 31, 2022. Certificates of appreciation as issued by the CRD Board Chair were presented to the APC.

It was advised that residents interested in becoming a member of the APC need to submit interest by November 18, 2022.

It was advised that Natalia Day was elected by acclamation to fill the East Sooke position on the Juan de Fuca Land Use Committee.

Iain Lawrence introduced Darren Lucas, Planner.

East Sooke Advisory Planning Commission Meeting Minutes
November 7, 2022

2

6. Zoning Amendment Application

- a) **RZ000279 - Strata Lots 1, 2, 3, & 4, Section 85, Sooke District, Strata Plan EPS1027 Together with an interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form V (476, 478, 480 & 482 Becher Bay Road)**

Darren Lucas spoke to the staff report for a joint application to rezone the subject property from Rural Zone – A (Rural A) to the Rural Residential 6A Zone (RR-6A) for the purposes of dissolving the strata and facilitating subdivision to create the equivalent number of parcels.

The Chair confirmed that the applicants were present.

An applicant stated that subdivision is being pursued due in part to the cost of house insurance for the common property.

The APC noted that, through the Official Community Plan (OCP) review, policies were established to support rezoning of existing building strata developments for the purposes of subdivision to create an equivalent number of lots.

Veronica Somers, East Sooke, questioned if there will be more than one access into the subject property and if rezoning would increase density.

An applicant stated that only one access onto the property is planned.

Staff responded to questions from the APC advising that:

- the road standard for the driveway will be determined by the Provincial Approving Officer, Ministry of Transportation and Infrastructure
- road standards may differ depending on whether the applicants pursue a bareland strata subdivision or a fee simple subdivision
- should a bareland subdivision be pursued, the driveway could remain common property and, as such, remain the responsibility of the owners
- based on the definition of "lot" in Bylaw No. 2040, the current Rural A zone would allow the strata plan as a whole the opportunity for either one secondary suite or one detached accessory suite
- should the rezoning and subsequent subdivision proceed, each fee simple or bareland strata lot would be permitted one one-family dwelling per parcel, as well as either one secondary suite or one detached accessory suite per parcel

MOVED by Zac Doeding, **SECONDED** by Tim Marks that the East Sooke Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee that it supports the application and proposed Bylaw No. 4504, to rezone the subject property from Rural Zone – A (Rural A) to Rural Residential 6A Zone (RR-6A).

CARRIED

7. Adjournment

The meeting adjourned at 7:18 pm.

Chair