

OTTER POINT ADVISORY PLANNING COMMISSION

Notice of Meeting on Tuesday, **January 22, 2019 at 7 p.m.**

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

SUPPLEMENTARY AGENDA

- 1. Correspondence received to be dealt with under the following agenda item:**
 - a) Agenda Item 5 a) TP000009 - Lot 4, Section 47, Otter District, Plan VIP52344 (7861 Tugwell Road)
 - Lynda and Dr. Neil McKinney, Otter Point
 - b) Agenda Item 7 a) RZ000255 - Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096 (7450 Butler Road)
 - John Pitts, Otter Point
 - c) Agenda Item 7 b) RZ000257 - Strata Lot 10, Section 16, Otter District, Plan VIS7096 (7450 Butler Road)
 - John Pitts, Otter Point
- 2. Receipt of information:**
 - December 17, 2018 Juan de Fuca Land Use Committee Minutes Excerpt
- 3. Additional information to be dealt with under the following agenda items:**
 - a) Agenda Item 6 a) Cannabis Bylaw, Bylaw No. 4278, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 141, 2018”
 - Revised Proposed Bylaw No. 4278
 - b) Agenda Item 7 a) RZ000255 - Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096 (7450 Butler Road)
 - Revised Proposed Bylaw No. 4234
 - c) Agenda Item 7 b) RZ000257 - Strata Lot 10, Section 16, Otter District, Plan VIS7096 (7450 Butler Road)
 - Revised Proposed Bylaw No. 4276

Wendy Miller

From: Dr. Neil McKinney
Sent: Tuesday, January 15, 2019 12:45 PM
To: Wendy Miller
Subject: Tugwell Rd Microbrewery

Ms. Miller:

My wife Lynda McKinney and I own land in Otter Point, but currently reside in Victoria. We are unable to attend in person the meeting to discuss the application for a permit to expand the microbrewery on Tugwell Road.

It is our intention to build a home and retire in the next few years to our Otter Point property, in proximity to the Bad Dog Microbrewery.

Lynda and I are strongly in support of this local business. John and family are very good neighbours, and their family business is welcome in our neighbourhood. We give our unequivocal support to their expansion.

Sincerely yours,

Lynda and Dr. Neil McKinney, ND

jdf info

From: John Pitts
Sent: Tuesday, January 22, 2019 11:34 AM
To: jdf info
Subject: Rezoning Application 3-7450 Butler Rd

To Whom it may concern,

I received your notice of the rezoning request of the above address. I live just up the road and now can understand why I often get the luxury of the overwhelming smell of fresh Marijuana everywhere. I typically am not opposed to marijuana or the industry, however I don't ingest it myself and my concern is really just around the smell. The smell is at times overwhelming and frankly gets physically sickening after a while as there is no way to get away from it including going in my home. My entire family is forced to "live with it" and given a choice I would prefer to not have this affect the enjoyment of my property. I bought my property 7 years ago to enjoy the fresh air of rural living and chose to not live next to a farm due to the aforementioned reasons, and now the "Business Park" down the road from me is looking to allow its "Business" to include indoor farming activities that have the side effect of an unappealing smell that lingers across a significant radius of the site when there is minimal wind. This I think is unacceptable unless there can be some strict requirements around odor control. Would you allow someone to re-zone these units to allow for say Pig production without some kind of controls in place for odor? The original intended use of these lots in the business park to the best of my knowledge was never for farming or cultivation which is what your rezoning request is basically doing.

As stated above, if there can be strict requirements and documented accountabilities / penalties with respect to controlling odor (which I believe is only a concern at the later stage of plant production), then I would have zero objections as this I find affects my quality of life by negatively impacting my ability to enjoy my property both inside and outside of my home.

Thank you for your consideration of my letter,

John Pitts

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

CARRIED

8. Proposed Bylaws

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

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

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

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

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

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

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

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

Emma Taylor advised that:

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

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

Staff responded to questions from the LUC advising that:

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

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

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

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

CARRIED

9. Rezoning Applications

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

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

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

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

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

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

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

CARRIED

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

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

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

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

A member of the public stated:

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

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

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

CARRIED

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

CARRIED

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

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

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

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

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

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

The Chair confirmed that the applicant was present.

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4278**

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 A, PART 1, SECTION 2.0 DEFINITIONS

- ~~(a)~~ ~~By amending the definition of "AGRICULTURE" by adding "excludes cannabis production and personal cannabis production."~~
- ~~(b)~~(a) By adding a new definition for "CANNABIS" before the word "CANOPY" as follows:
"CANNABIS has the same meaning as in the *Cannabis Act* (Canada), subject to any prescribed modifications."
- ~~(c)~~(b) By adding a new definition for "CANNABIS PRODUCTION" before the word "CANOPY" as follows:
"CANNABIS PRODUCTION – ~~COMMERCIAL~~ means the commercial cultivation, ~~and ancillary~~ synthesis, harvesting, altering, propagating, processing, packaging, storage, distribution or scientific research of cannabis or cannabis products as permitted by the *Cannabis Act*, and any subsequent regulations or acts which may be enacted henceforth~~er~~, but excludes personal cannabis production."
- ~~(d)~~(c) By adding a new definition for "CANNABIS PRODUCTION – PERSONAL" after the definition of "CANNABIS PRODUCTION – ~~COMMERCIAL~~" as follows:
"CANNABIS PRODUCTION – PERSONAL means the growing of ~~non-medical~~ cannabis plants for personal use at a dwelling as permitted by the *Cannabis Act* and the *Cannabis Control and Licensing Act*."
- ~~(e)~~(d) By adding a new definition for "CANNABIS PRODUCTS" before the word "CANOPY" as follows:
"CANNABIS PRODUCTS means plant material from cannabis and any products that include cannabis or cannabis derivatives, intended for human use or consumption."

B. SCHEDULE A, PART 1, SECTION 4.15 USES PERMITTED IN ANY ZONE

- (a) By adding a new subsection (h) as follows: "(h) *Cannabis production - personal* is permitted at a dwelling."

C. SCHEDULE A, PART 2 – ZONING DISTRICTS

- (a) By amending section 4.0 AGRICULTURAL ZONE (AG), subsection 4.01(c) by deleting the words "Intensive Agriculture – Medical Marihuana Production on lands within the Agricultural Land Reserve" ~~and replacing with the words "Cannabis Production on lands within the Agricultural Land Reserve"~~.
- ~~(b)~~ By amending section 4.0, subsection 4.11 by deleting the words "Intensive Agriculture – Medical Marihuana" and replacing with the words "Cannabis ~~Production~~Cultivation".
- ~~(b)~~(c) By amending section 27B.0 SOOKE BUSINESS PARK INDUSTRIAL ZONE (M-SBP), subsection 27B.01(k) by deleting the words "Intensive Agriculture – Medical Marihuana Production" and replacing with the words "Cannabis Production - Commercial".

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4234**

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. 2 – OTTER POINT ZONING MAP

- (a) By deleting Strata Lots 13, 26 and 27, Otter District, Plan VIS7096 from the General Industrial (M-2) zone, and adding said lots to the Sooke Business Park Industrial (M-SBP) zone, as shown on Plan No. 1.

Plan No. 1 of Bylaw No. 4234, an amendment to Bylaw No. 2040



