

OTTER POINT ADVISORY PLANNING COMMISSION

Notice of Meeting on Tuesday, **May 10, 2022 at 7 pm**

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

AGENDA

1. Elections
2. Approval of Agenda
3. Approval of the Supplementary Agenda
4. Adoption of Minutes of November 2, 2021
5. Planner's Report
6. Temporary Use Permit Application
 - a) TP000011 - Lot 4, Section 47, Otter District, Plan VIP52344 (7861 Tugwell Road)
7. Adjournment

Please note that during the COVID-19 situation, the public may attend the meeting in-person or electronically through video or teleconference. Should you wish to attend the meeting in-person, please contact the Juan de Fuca Community Planning Office at 250.642.8100. Should you wish to attend electronically, please contact us by email at jdfinfo@crd.bc.ca so that staff may forward meeting details. Written submissions continue to be accepted until 4:00 pm the day before the meeting.



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**Minutes of a Meeting of the Otter Point Advisory Planning Commission
Held Tuesday, November 2, 2021, at Juan de Fuca Local Area Services Building,
3-7450 Butler Road, Otter Point, BC**

PRESENT: Sid Jorna (Vice Chair), Bud Gibbons, Stephen Smith (EP), Al Wickheim
Staff: Iain Lawrence, Manager, Juan de Fuca Community Planning (EP);
Wendy Miller, Recorder (EP)
ABSENT: Anne Miller (Chair)
PUBLIC: 1 (EP)

EP – Electronic Participation

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

1. Approval of the Agenda

MOVED by Bud Gibbons, **SECONDED** by Al Wickheim that the agenda be approved.

CARRIED

2. Approval of the Supplementary Agenda

MOVED by Bud Gibbons, **SECONDED** by Stephen Smith that the supplementary agenda be approved.

CARRIED

3. Adoption of the Minutes of August 11, 2021

MOVED by Stephen Smith, **SECONDED** by Bud Gibbons that the minutes of the meeting of August 11, 2021, be adopted.

CARRIED

4. Planner's Report

No report.

5. Zoning Amendment Application

a) RZ000274 – Lot 28, Section 15, Otter District, Plan VIP87643 (3312 Otter Point Road)

Iain Lawrence spoke to the staff report for the application to amend the Rural Residential A Kennel (RR-AK) zone to permit an existing accessory athletic facility.

Iain Lawrence highlighted the subject property map and advised that:

- the building permit for the accessory building used for the athletic facility has lapsed and the use to which the uncompleted building permit is being put does not comply with the RR-AK zone
- the zoning amendment would legalize the athletic facility and allow the building permit to be completed
- the athletic facility is serviced by an onsite well and septic
- eleven letters of support submitted at application intake are included in the staff report considered by the Juan de Fuca Land Use Committee
- there have been no bylaw enforcement complaints regarding the athletic facility

Iain Lawrence directed attention to the supplementary agenda which includes a further submission of support, as well as one submission regarding a water licence for use of groundwater for non-domestic purposes.

Iain Lawrence confirmed that the applicant was present.

The applicant responded to questions from the APC stating that:

- the athletic facility has one washroom with a toilet and a sink
- there have been no issues with the well, even during the last drought
- trucked water has not been required
- one septic field services the single family dwelling
- the secondary suite and athletic facility are serviced by a separate septic field
- increased sewerage is not anticipated
- the Province has been contacted regarding the well licence

MOVED by Sid Jorna, **SECONDED** by Bud Gibbons that the Otter Point Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee (LUC) that the zoning amendment proceed and that the well be registered.

CARRIED

6. Adjournment

The meeting adjourned at 7:12 pm.

Chair



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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, APRIL 19, 2022**

SUBJECT **Temporary Use Permit for Lot 4, Section 47, Otter District, Plan VIP52344 – 7861 Tugwell Road**

ISSUE SUMMARY

An application has been made for a new temporary use permit to allow for the continued operation of a microbrewery with new outdoor patio and expanded food service on land zoned Rural Residential 2 (RR-2).

BACKGROUND

The 1.0 ha property is located at 7861 Tugwell Road in Otter Point (Appendix A) and is zoned Rural Residential 2 (RR-2) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The property fronts onto Tugwell Road to the north, and is adjacent to other RR-2 zoned properties to the east, west and south.

The owner applied for a temporary use permit (TP000009) in 2018 to expand a microbrewery operation beyond what would be permitted under the Home Based Business Category 3 (Home Industry) regulations. Changes requested at that time included moving the sales area to an unused portion of the building and expanding the brewing operation to include the area used for sales. Two outdoor, covered storage areas for refrigeration equipment, an air compressor, forklift, empty kegs and other brewery equipment were also proposed (Appendices B and C). The microbrewery has been issued a manufacturer's brewing licence with on-site store endorsement and picnic area endorsement from the Liquor and Cannabis Regulation Branch (LCRB). The picnic area endorsement allows the operator to host up to 30 persons on the property for the purpose of consuming products outdoors.

On April 10, 2019, the CRD Board passed a resolution approving the issuance of TP000009 subject to conditions. The permit was issued on August 30, 2019, following registration of a restrictive covenant and indemnity, and will expire on August 30, 2022, three years after the date of issuance of the Permit.

The initial operation occupied an indoor floor area of 59.4 m² within an accessory building. A building permit (BP005329) to increase the indoor floor area to 96.7 m² was completed in December 2019, and a building permit (BP008015) to construct an 82 m² covered, outdoor storage area is in progress. The combined area devoted to the brewery use does not exceed the conditions set by TP000009.

The owner has now applied for a new temporary use permit to allow for the continued operation of the brewery and to add a new outdoor patio and expanded food service. Concurrent applications have been submitted to the provincial LCRB and to the CRD for the proposed changes to the licence and permit. The owner has also provided a letter of intent (Appendix D).

Staff have prepared temporary use permit TP000011 (Appendix E) for consideration.

ALTERNATIVES

Alternative 1:

That staff be directed to refer Temporary Use Permit TP000011 to the Otter Point Advisory Planning Commission, to appropriate CRD departments, and to the following external agencies and First Nation for comment:

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

Alternative 2:

That the temporary use permit not be referred.

IMPLICATIONS

Legislative

Section 492 of the *Local Government Act (LGA)* enables a local government to designate areas where temporary uses may be allowed and to specify general conditions regarding the issuance of temporary use permits in those areas. Temporary use permits may be issued throughout the Otter Point Official Community Plan (OCP) area as outlined in Bylaw No. 3819, and in accordance with Sections 493 of the *LGA*.

Public Consultation

If a local government proposes to pass a resolution to issue a temporary use permit, it must give notice in accordance with Section 494 of the *LGA*. Sections 494(3) and 494(4) require notice to be published in a newspaper at least 3 days and not more than 14 days before the adoption of the resolution to issue the permit, and to be given to each resident/tenant within a given distance as specified by bylaw. CRD Bylaw No. 3885, Development Procedures Bylaw, states that a notice of intent must be mailed to the owners and occupants of land adjacent to the site under consideration within a distance of not more than 500 m.

CRD Bylaw No. 3885, also provides for the Board to refer an application to an agency or organization for their comment. The CRD Board determines which bodies are consulted in accordance with the *LGA*.

Land Use

The subject property is designated as Settlement Area 1 under the Otter Point OCP, Bylaw No. 3819. In accordance with Section 4.1(b), the Settlement Area 1 designation supports industrial uses on lands zoned industrial, as well as temporary industrial uses with a valid temporary use permit on non-industrial zoned lands. The designation also supports home based business uses that are compatible with the community's character, including having minimal traffic, parking, noise or nuisance impacts.

The Otter Point OCP directs that the following should be considered during the evaluation of a temporary use permit application:

- The use must be clearly temporary or seasonal in nature.
- The use should be compatible with adjacent uses.
- The potential impact of the proposed use on the natural environment.
- The intensity of the proposed use.
- The opportunity to conduct the proposed use on other land in the Plan area.
- Remedial measures to mitigate any impact to the natural environment.

The existing microbrewery operation was established in 2017 under the Home Based Business Category 3 (Home Industry) regulations. Based on the size of the dwelling, the area devoted to the brewery was restricted to 60 m² (640 sq. ft.) in an accessory building. Temporary use permit TP000009 was issued in 2019 to allow the brewery to expand to occupy the entire 96.7 m² (1,040 sq. ft.) accessory building and an 82 m² (884 sq. ft.) outdoor covered storage area. The permit allowed up to 30 members of the public and a total of up to 10 vehicles to be present at the facility at one time.

The owner obtained a *manufacturer's licence* for brewing from the BC Liquor and Cannabis Regulation Branch in 2017. A *picnic endorsement* was also granted at that time under a process that did not require public consultation or a local government resolution. Liquor consumption in the picnic area is restricted to that which is served or sold from the on-site store, and to that registered under the *manufacturer's licence*. In accordance with TP000009, the *picnic endorsement* allowed the operator to host up to 30 members of the public.

In November 2020, the LCRB granted a *Temporary Expanded Service Area (TESA)* to support compliance with the Provincial Health Officer's orders and guidelines regarding physical distancing due to COVID-19. Currently approved *TESAs* throughout the province will expire June 1, 2022. To continue operation of the expanded service area, the owner has applied to the LCRB for a *lounge endorsement* and outdoor patio. The owner has submitted a concurrent CRD liquor licence referral application (LP000031) to seek public comment and obtain a local government resolution to meet the requirements of the provincial approval process, and has provided a letter of intent to describe the proposal (Appendix D). The *lounge endorsement* would permit the sale and service of liquor for onsite consumption, as well as entertainment. The lounge may be located indoors or on a patio or both, and food must be available to patrons in the lounge.

As outlined in the letter of intent, the owner wishes to operate a food trailer as part of the lounge service, in addition to selling snacks and non-alcoholic beverages through the existing on-site store. The food trailer would require a permit to operate a food service establishment from Island Health in accordance with the provincial *Food Premises Regulation*. The letter of intent notes that there is no plan to provide amplified music as part of the lounge service.

To limit impact on the public road, Temporary Use Permit TP000009 included a condition that all parking spaces required for temporary use must be located on the subject property. To limit nuisances caused by the temporary use, TP000009 included a condition that restricts nuisances or annoyances caused by noise, odour or unsightliness. The owner also agreed to restrict the hours of operation of the store and picnic area to between 11:00 am and 7:00 pm. These same restrictions would remain conditions of TP000011.

To date, the Juan de Fuca planning office has received no complaints from neighbouring residents regarding noise, odour or traffic related to the existing operation.

Staff have prepared Temporary Use Permit TP000011 to maintain the conditions established by TP000009, and to reflect the application for the *lounge endorsement* and new outdoor patio from the LCRB.

Staff recommend proceeding with referrals and public notification of the temporary use permit application.

CONCLUSION

An application has been submitted for a new temporary use permit to allow for the operation of a brewery with outdoor patio and expanded food service. The application for a temporary use permit for the brewery with outdoor patio and food service is in keeping with the Otter Point OCP policies. Staff recommend proceeding with referrals and public notification of the temporary use permit application.

RECOMMENDATIONS

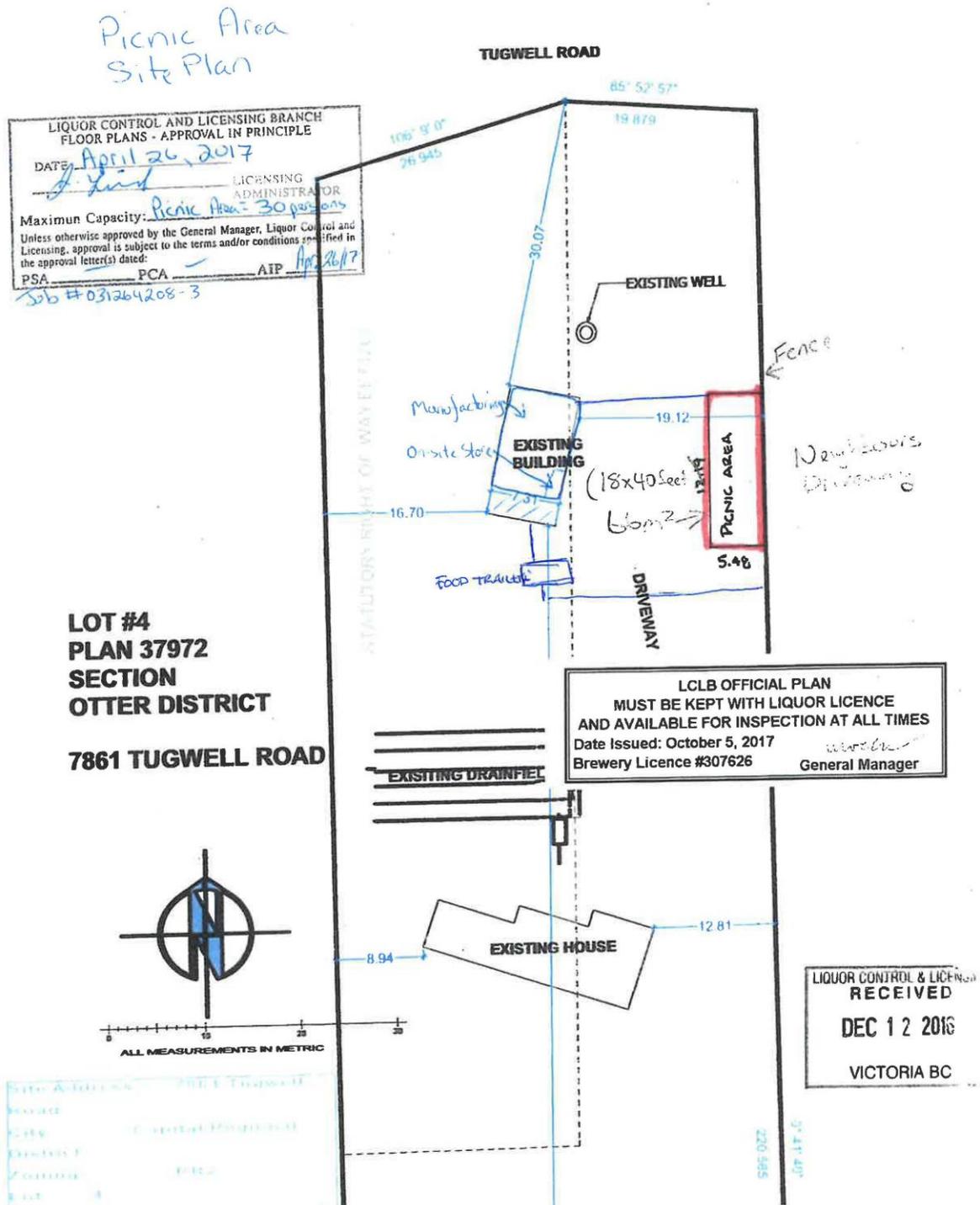
That staff be directed to refer Temporary Use Permit TP000011 to the Otter Point Advisory Planning Commission, to appropriate CRD departments, and to the following external agencies and First Nation for comment:

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

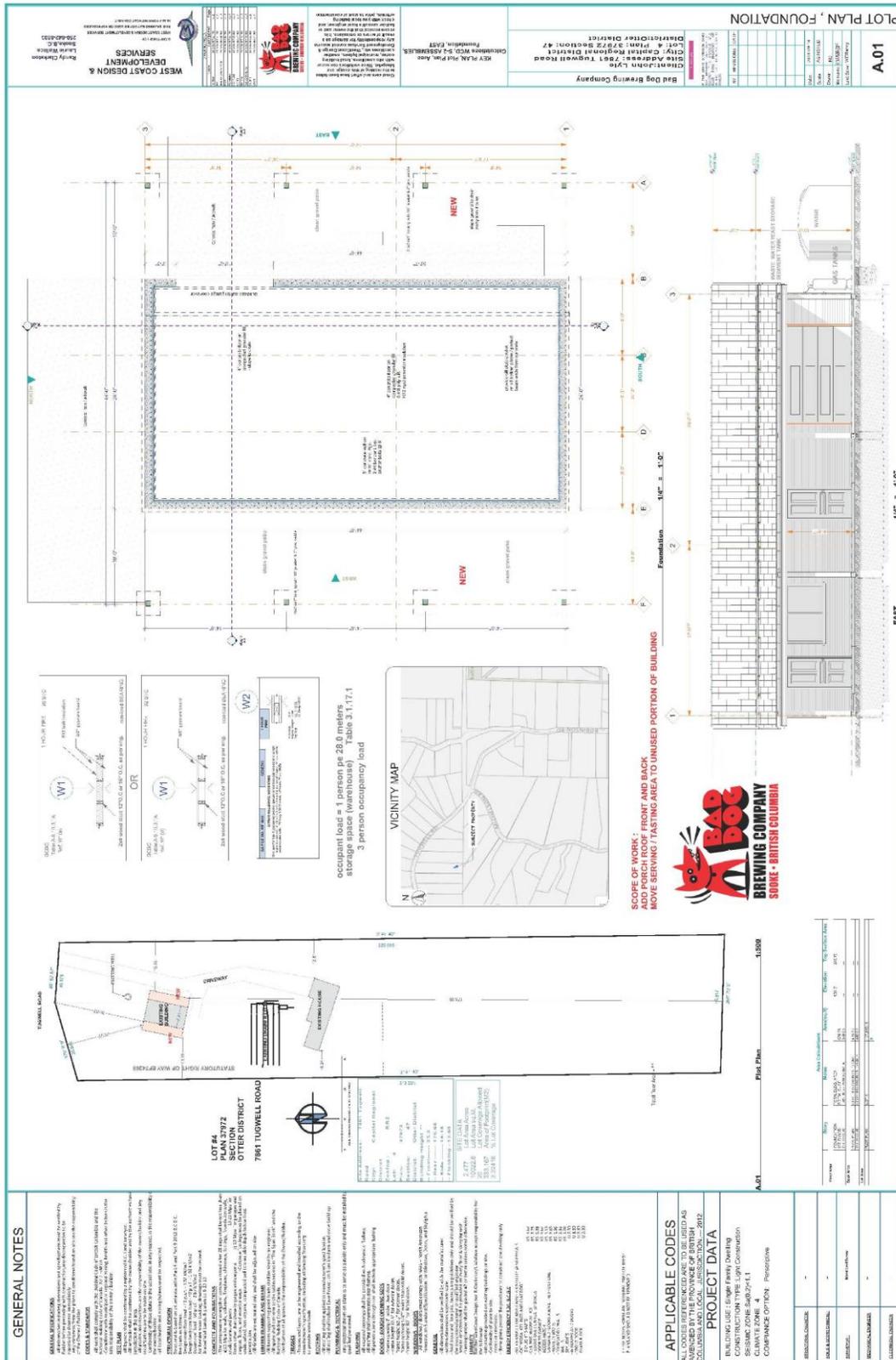
Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, JdF Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

ATTACHMENTS

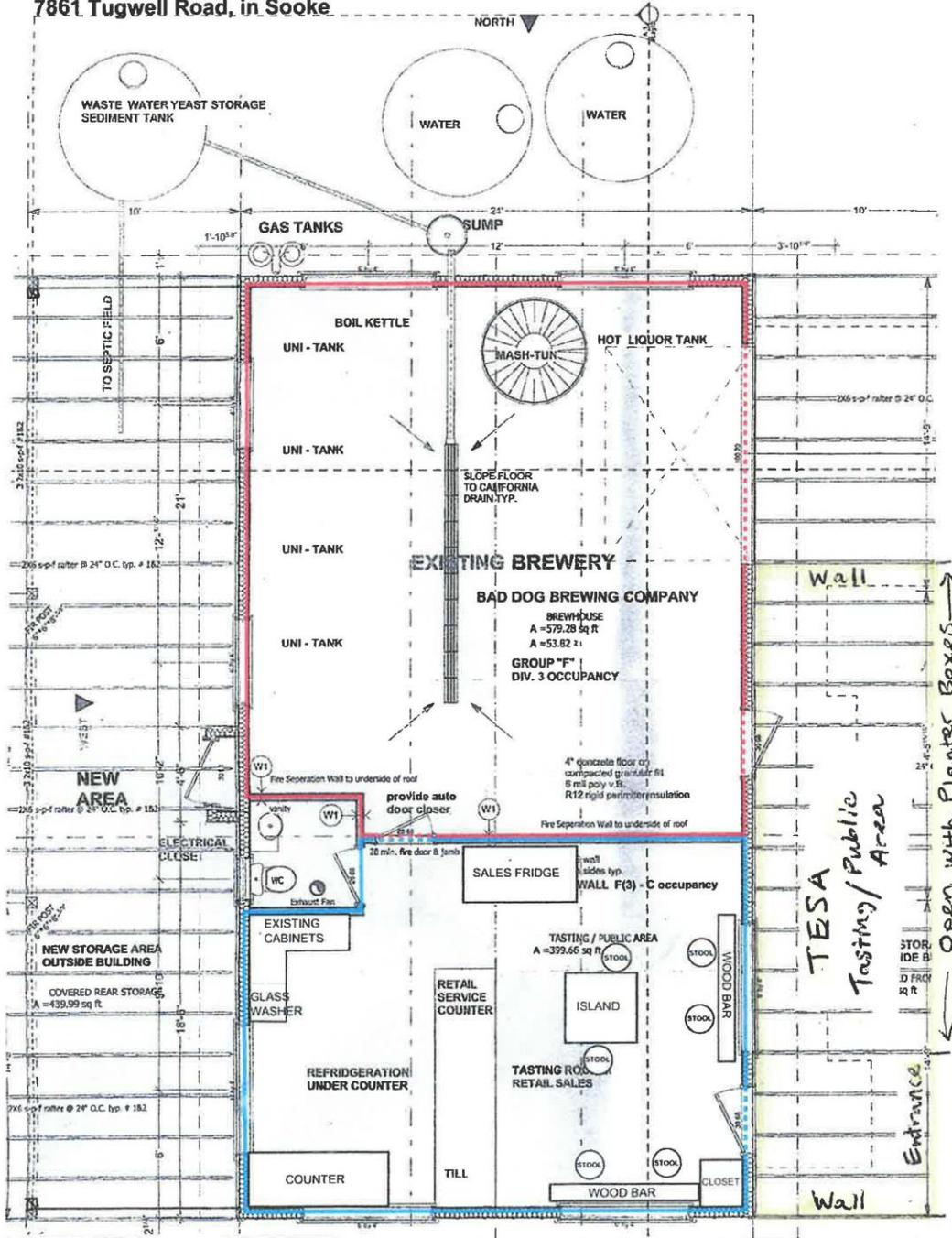
Appendix A: Subject Property Map
Appendix B: Site Plan
Appendix C: Building Drawings
Appendix D: Letter of Intent
Appendix E: Temporary Use Permit TP000011



Appendix C: Building Drawings



Manufacturing Area and On-Site Store/ Tasting Room
7861 Tugwell Road, in Sooke



LIQUOR AND CANNABIS REGULATION BRANCH
 APPROVAL IN PRINCIPLE

Subject to the terms and/or conditions specified in the approval in principle letter(s) dated: 2020-03-09

Job #: 31264208-14 Max Person Capacity N/A

Authority: *Jenna En*

LCRB OFFICIAL PLAN
MUST BE KEPT WITH LIQUOR LICENCE AND
AVAILABLE FOR INSPECTION AT ALL TIMES
 Date Issued: March 30, 2020

RECEIVED
 OCT 29 2023

Appendix D: Letter of Intent

Bad Dog Brewing Company Inc.
Liquor License # 307626
7861 Tugwell Rd
Sooke, BC V9Z 0J7
PH. 250-642-3621

February 4, 2022

Re: Letter of Intent for proposed Lounge Area with Patio Service

To whom it may concern,

In addition to the packaged snacks and non-alcoholic beverages that we currently have available for our patrons, Bad Dog Brewing Company is purchasing a food trailer to offer hot meals during our hours of operation. We have recently paid a deposit for the food trailer, which is being built to suit by Food Truck Canada.

Because we are located in a rural residential area, there are no plans to add amplified music of any kind, to ensure nearby residents are not disturbed by our establishment. We have had no complaints to date from our local government.

In order to have continued use of our Temporary Expanded Service Area after June 1, 2022, we are required to apply for a Lounge Endorsement and Patio Service area. We have gone to the expense of adding outdoor heaters to the area and hope that we can continue to use it in the future.

Sincerely,



John Lyle
Owner/Brewer
Bad Dog Brewing Company Inc.



CAPITAL REGIONAL DISTRICT

TEMPORARY USE PERMIT NO. TP000011

1. This Permit is issued under the authority of Section 493 of the *Local Government Act* and subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically authorized by this Permit.
2. This Permit applies to and only to those lands within the Regional District described below (legal description), and to any and all buildings, structures, and other development thereon:
PID: 017-338-085;
Legal Description: Lot 4, Section 47, Otter District, Plan VIP52344 (the "Land")
3. This Permit authorizes the operation of a micro-brewery, including brewing, fermenting, packaging and canning, kegging, keg cleaning, tasting and sales, outdoor patio and food service establishment (the "temporary use") on the Land, in accordance with the plans submitted to the CRD and subject to the conditions set out in this Permit.
4. The conditions under which the temporary use referred to in Section 3 may be carried out are as follows:
 - a) The components of the temporary use shall occur within the areas identified on the Site and Building Plans attached to this Permit.
 - b) Nothing shall be done which is or will become an annoyance or nuisance to the surrounding areas by reason of unsightliness, the emission of odours, liquid effluence, dust, fumes, smoke, vibration, noise or glare; nor shall anything be done which creates or causes a health, fire or explosion hazard, electrical or navigation interference.
 - c) The temporary use shall not be open to members of the public, except during the hours of 11:00 am and 7:00 pm.
 - d) Not more than thirty (30) members of the public may be present on the Land at any one time.
 - e) All parking required for the temporary use shall be provided on the Land.
 - f) There shall be no increase in vehicular traffic flow and parking by the public by more than ten (10) additional vehicles at a time.
 - g) The use of commercial vehicles for the delivery of materials to and from the premises shall be limited to a maximum of two vehicles per day.
5. Notice of this Permit shall be filed in the Land Title Office at Victoria as required by Section 503 of the *Local Government Act*, and the terms of this Permit (TP000011) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
6. The land described herein shall be developed strictly in accordance with the terms and conditions and provisions of this Permit, and any plans and specifications attached to this Permit which shall form a part hereof.
7. The following plans and specifications are attached:
Appendix 1: Site and Building Plans
8. In default of compliance with any of the provisions of this Permit, the Permit shall lapse.
9. The owner agrees to indemnify and save harmless the CRD against all costs and expenses incurred by the CRD, in default by the owner, in the conversion, demolition or removal of the temporary use, and/or legal costs incurred in pursuing such legal remedies as the CRD sees fit.

TP000011

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10. This Permit is NOT a Building Permit.

11. This Permit shall expire 3 years after the date of issuance of the permit.

RESOLUTION PASSED BY THE BOARD, THE ____ day of _____, 2022

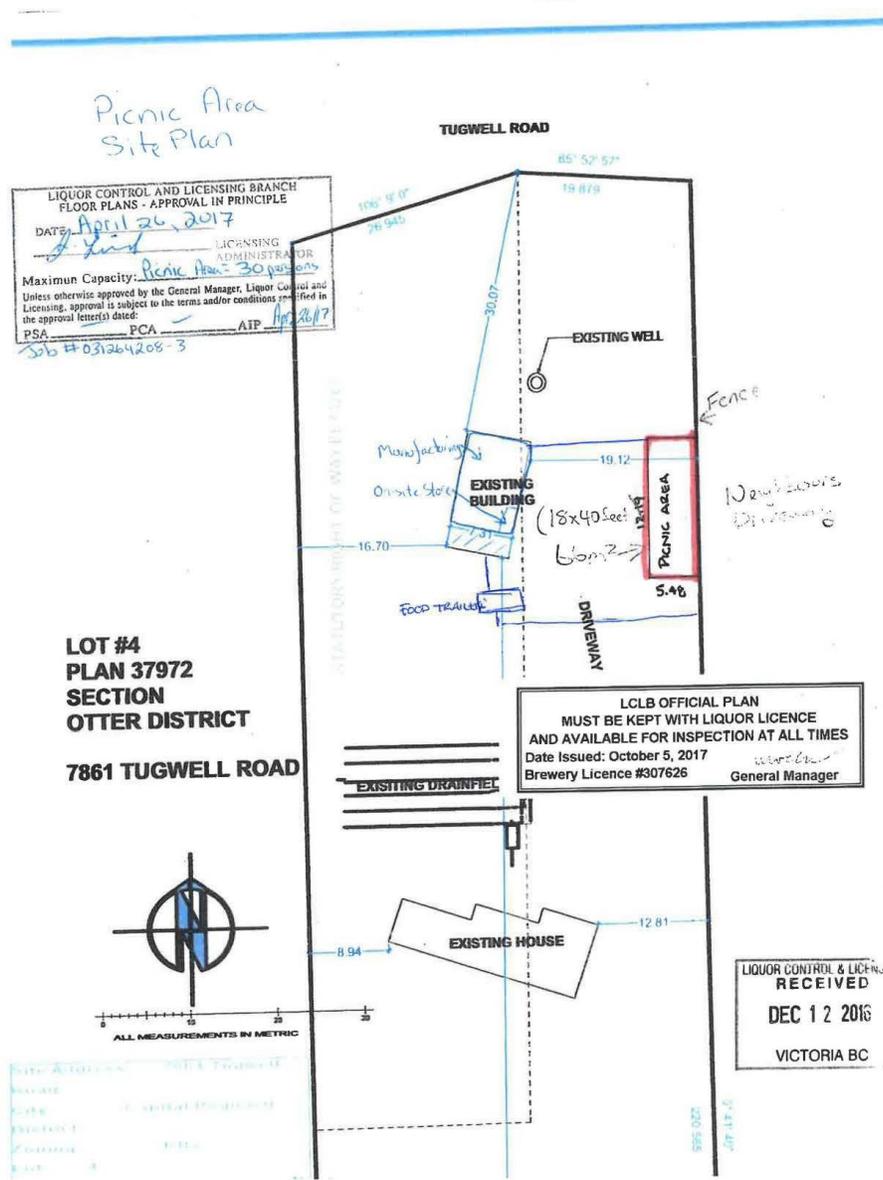
ISSUED this ____ day of _____, 2022

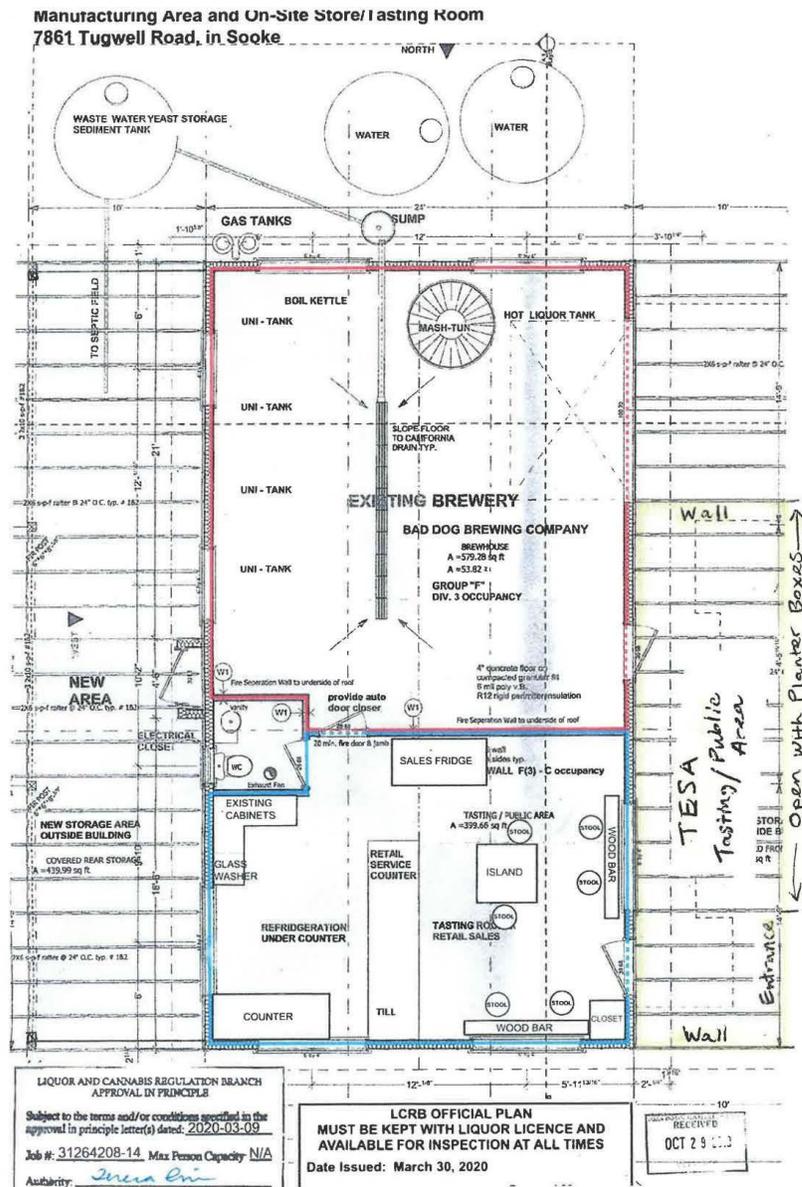
Corporate Officer

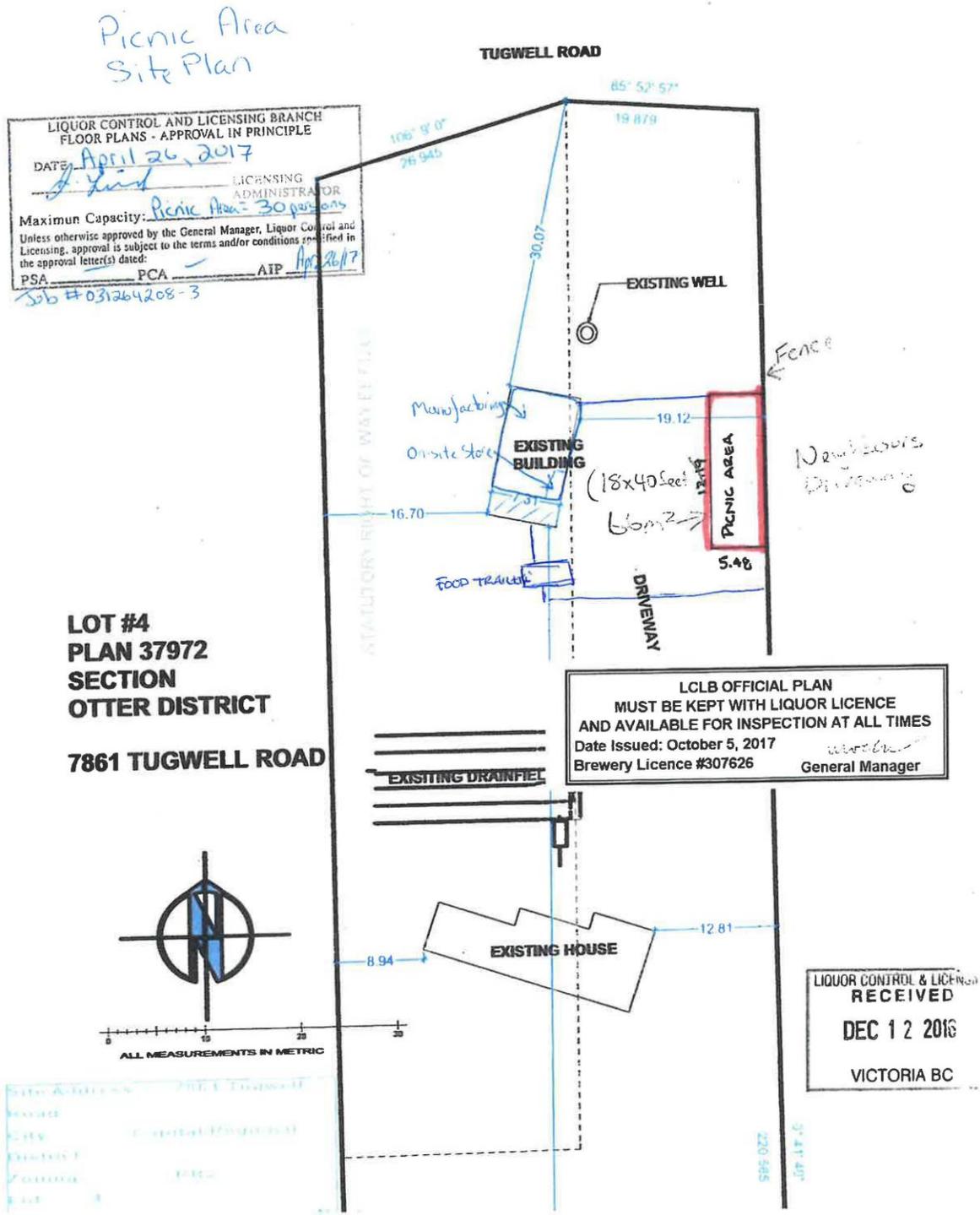
TP000011

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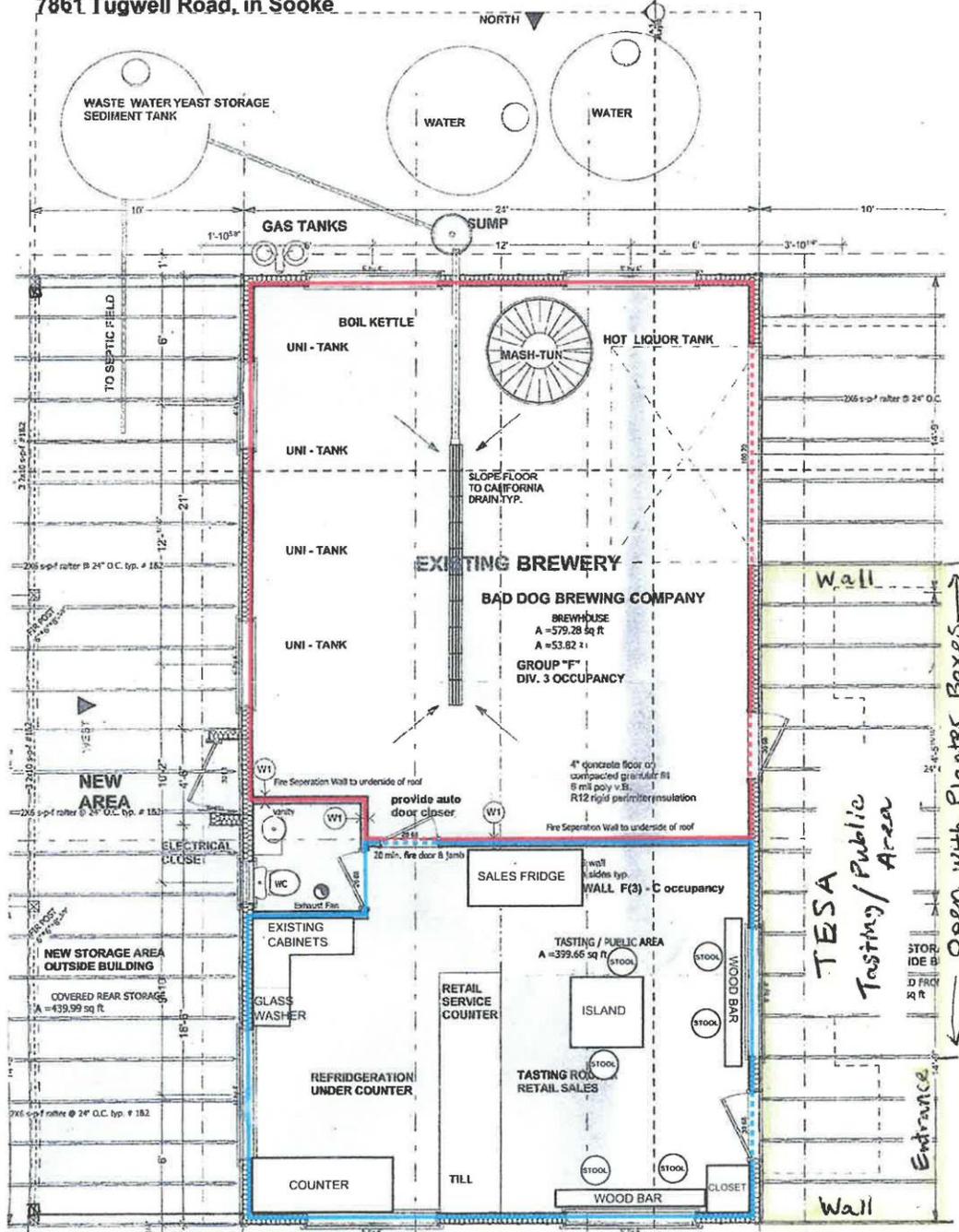
Appendix 1: Site and Building Plans







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Job #: 31264208-14 Max Person Capacity N/A

Authority: *Maria Liu*

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AVAILABLE FOR INSPECTION AT ALL TIMES

Date Issued: March 30, 2020

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