

SHIRLEY/JORDAN RIVER ADVISORY PLANNING COMMISSION

Notice of Meeting on Monday, **June 7, 2021 at 7 pm**

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

AGENDA

1. Approval of Agenda
2. Approval of the Supplementary Agenda
3. Adoption of Minutes of April 6, 2021
4. Planner's Report
5. Administrative Bylaw
 - a) Bylaw No. 4412, "Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021" and Bylaw No. 4413, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021" (Outdoor Recreation)
6. Adjournment

Please note that during the COVID-19 situation, the public may attend the meeting electronically through video or teleconference. Should you wish to attend, 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 on June 4, 2021.



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**Minutes of a Meeting of the Shirley/Jordan River Advisory Planning Commission
Held April 6, 2021, at Juan de Fuca Local Area Services Building, 3-7450 Butler Road,
Otter Point, BC**

PRESENT: Fiona McDannold (Chair) (EP), Vivi Curutchet (EP), Blair Hughes (EP),
Melody Kimmel (EP)

Staff: Iain Lawrence, Manager, Community Planning (EP);
Emma Taylor, Planner (EP); Wendy Miller, Recorder (EP)

ABSENT: Brenda Mark

PUBLIC: 6 (EP)

EP – Electronic Participation

The meeting was called to order at 7:03 pm.

1. Elections

Iain Lawrence called for nominations for the position of Chair of the Shirley/Jordan River APC 2021 and Fiona McDannold's name was put forward. Iain Lawrence called two times for further nominations and, as there were none, Fiona McDannold was acclaimed Chair.

Iain Lawrence called for nominations for the position of Vice Chair of the Shirley/Jordan River APC 2021 and Melody Kimmel's name was put forward. Iain Lawrence called two times for further nominations and, as there were none, Melody Kimmel was acclaimed Vice Chair.

2. Approval of the Agenda

MOVED by Vivi Curutchet, **SECONDED** by Melody Kimmel that the agenda be approved. **CARRIED**

3. Approval of the Supplementary Agenda

MOVED by Melody Kimmel, **SECONDED** by Blair Hughes that the supplementary agenda be approved. **CARRIED**

4. Adoption of the Minutes of December 9, 2020

MOVED by Melody Kimmel, **SECONDED** by Blair Hughes that the minutes of December 9, 2020, be adopted. **CARRIED**

5. Planner's Report

Iain Lawrence suggested that consideration of the application start with staff overview of the proposal followed by comments/questions from the APC for the Planner and the applicant, followed by comments/questions from the public. Iain Lawrence advised that at the close of discussion, a recommendation from the APC is requested for consideration by the Juan de Fuca Land Use Committee (LUC).

The Chair extended support for the proposed meeting format.

Further to the December APC meeting, Iain Lawrence reported that the zoning amendment application for the brewery proposal (RZ000270) in Jordan River has yet to return to the LUC.

6. Zoning Amendment Application

a) RZ000271 – PID: 006-452-230 (9662 West Coast Road)

Emma Taylor spoke to the staff report and the application to amend the Forestry (AF) zone to add a site specific provision to permit an industrial sawmill and associated log and lumber storage uses on the subject property as the current operation has expanded beyond the scope of the Home Industry regulations.

Emma Taylor reported that:

- Bylaw No. 2040 was recently amended (Bylaw No. 4316) to define Industrial Sawmill in response to a zoning amendment in Otter Point (RZ000267)
- the subject property is designated Coastal Uplands by the Shirley – Jordan River Official Community Plan (OCP), Bylaw No. 4001
- the Coastal Uplands designation supports continued use of lands for forestry
- the OCP provides policies for consideration of rezoning/development proposals

Emma Taylor highlighted the subject property, site plan and photos showing the sawmill operation. It was confirmed that the applicants have done some work to address noise levels.

Emma Taylor reported that:

- amendment Bylaw No. 4407 was drafted to address the application proposal
- the Ministry of Transportation and Infrastructure (MoTI) has advised that the property owner will need to apply for and receive a highway access permit
- highway access permits are not required for residential driveways
- the supplementary agenda includes 26 letters in support of the application and 4 letters opposed to the proposal
- the APC may recommend changes to Bylaw No. 4407 to address the concerns received

The Chair requested comment from the APC.

APC comments included:

- acknowledge and appreciate the letters received supporting the business
- although the letters in support of the application indicate that the business provides good service to local residents, the APC needs to consider if the zoning amendment will change the character of Shirley
- appreciate requirements included in proposed Bylaw No. 4407 to limit expansion of the sawmill operation
- concern regarding the highway access
- concern regarding the scale of the operation, should the current owners sell
- the Total Floor Area proposed by Bylaw No. 4407, 1000 m², seems very large
- the Light Industrial Zone specifies a floor area of 900 m²
- through the OCP review process, the community supported light industrial uses in Jordan River
- concern that the proposal will set precedence
- support for Bylaw No. 4407 stipulating that the operator must reside on site
- Bylaw No. 4407, as currently drafted, does not specify hours of operation
- support for increasing the minimum height of solid fencing required by Bylaw No. 4407 to mitigate screening and noise concerns
- support for changing the permitted use to a portable sawmill as that is what is being operated by the current property owners
- support for Bylaw No. 4407 addressing lighting restrictions

Iain Lawrence responded to questions from the APC advising that:

- zoning applies to the land and does not change when there is a change in ownership
- temporary use permits allow a use not permitted by a zoning bylaw to a maximum of six years
- temporary use permit holders have indicated that financial institutions are hesitate to support uses not permitted by a zoning bylaw

The Chair requested comment from the applicants.

The applicants stated that:

- they were unaware that the sawmill operation had expanded beyond the scale permitted by the Home Industry regulations
- the sawmill operation has been operating at its current scale for a few years
- pursuing rezoning to be in compliance
- there are no plans to expand the current operation
- improvements have been made to decrease noise and increase screening

Iain Lawrence advised that:

- the zoning amendment application was received due in part to a noise complaint
- he has visited the site twice to view the improvements made to date
- improvements have made an overall reduction in sound
- CRD Bylaw Enforcement has been asked to comment on an appropriate decibel level for the sawmill operation

The Chair requested comment from the public.

Jeff Roby, Shirley, stated:

- letters of support received from satisfied customers should not be discounted
- letters from adjacent property owners should be given greatest consideration
- happy that traffic concern has not been raised at this meeting considering that highway improvements are underway to improve traffic flow
- that he supports small business

Jay Evans, Shirley, stated:

- that he lives directly adjacent to the subject property
- he has not had issues with noise
- the applicants want to come into compliance
- the applicants do not wish to expand the sawmill operation
- the applicants are receptive to amending the proposed bylaw to address concerns raised by the community regarding expansion of the sawmill operation

Emily Anderson, stated:

- that she lives the closest to the subject property
- she has lived on her property since 2012
- she was aware that she was buying property adjacent to a sawmill operation
- she does not believe property values are affected by the operation
- sawmill operator has been respectful of adjacent property owners
- she has not had issue with traffic related to the sawmill operation
- applicants are not proposing a "big box" operation
- some degree of processing/refining should be supported to promote community sustainability
- if local businesses are not supported, residents will go elsewhere

Emma Taylor responded to a question from a member of the public advising that the proposal was referred to external agencies to confirm requirements, if any. Staff will contact the MoTI to confirm design requirements/options for the highway access permit.

APC discussion ensued regarding the Total Floor Area proposed by Bylaw No. 4407.

The applicants stated that:

- a Total Floor Area of 1000 m² would allow the portable sawmill operation including all equipment to be moved indoors
- there are no plans to construct new structures at this time

Staff advised that:

- a survey has not been submitted confirming floor area of existing structures
- the Building Division has yet to comment on the proposal
- if the Total Floor Area of 1000 m² was reduced, the applicants would have opportunity to apply for a variance in future, if required
- a development variance permit (DVP-22-07) was approved in 2007 to increase the total floor area of accessory buildings
- existing accessory buildings are considered accessory to the residential use
- there may be opportunity to convert some existing accessory buildings to sawmill use
- full buildout as currently proposed would include the house, the 808.7 m² accessory total floor area permitted by DVP-22-07 and the 1000 m² total floor area proposed for the sawmill operation

MOVED by Melody Kimmel, **SECONDED** by Blair Hughes that the APC report to the Land Use Committee that the APC has reviewed proposed Bylaw No. 4407 and:

- a) That it recommends that the principal industrial sawmill use be amended to portable sawmill use accessory to a permitted principal use;
- b) That it supports the maximum area devoted to an industrial sawmill and accessory log and lumber storage being 0.5 ha;
- c) That it recommends that proposed Bylaw No. 4407 specify the hours of operation for the portable sawmill operation be Monday – Friday from 9:00 am to 5:00 pm, excluding statutory holidays;
- d) That it recommends that staff work with the applicants to reduce the Total Floor Area of 1000 m² proposed for the sawmill operation;
- e) That it supports 30 m being that setbacks for the sawmill operation;
- f) That it recommends that the minimum height of a solid fence be increased from 1.8 m to 2.5 m;
- g) That it supports proposed Bylaw No. 4407 including language to address noise/nuisance enforcement measures.

CARRIED

7. Adjournment

The meeting adjourned at 8:39 pm.

Chair



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**REPORT TO THE LAND USE COMMITTEE
MEETING OF TUESDAY, MAY 18, 2021**

SUBJECT **Outdoor Recreation Bylaw Amendments**

ISSUE SUMMARY

To consider an amendment to the Land Use Bylaw for the Rural Resource Lands Bylaw No. 3602 and to the Juan de Fuca Land Use Bylaw No. 2040 to delete the *outdoor recreation* definition and permitted use from Bylaw Nos. 2040 and 3602.

BACKGROUND

The Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, was adopted in 2010 and established the Resource Land (RL) zone, Rural Resource Lands (RRL) zone and Resource Land – Meteorological Tower (RL-MT) zone. These zones all permit *outdoor recreation* as a permitted use. The definition of *outdoor recreation* at that time was:

OUTDOOR RECREATION means a recreational activity undertaken where the outdoor setting and landscape is a significant element in the activity, and the density of recreational users is not a significant element and includes: parks, trails, open space, playing fields, playgrounds, low-impact wilderness camping and hunting.

In response to inquiries regarding the scope of permitted *outdoor recreation* uses in Bylaw No. 3602, the definition for the use was amended in 2015 by Bylaw No. 3958 in order to clarify those activities that are permitted under the definition. The definition in Bylaw No. 3602 currently reads as follows:

OUTDOOR RECREATION means a recreational activity undertaken where the outdoor setting and landscape and the density of recreational users are not significant elements in the activity; excludes tourist lodges and cabins, marinas, recreational vehicle sites, resorts, and drive-in campgrounds.

The Juan de Fuca Land Use Bylaw No. 2040 was amended in 2013 by Bylaw No. 3759 to zone lands in Shirley and Jordan River that were previously regulated by the Juan de Fuca Subdivision Bylaw No. 189 and had no associated land use regulations. As part of the amendment, the Resource Land (RL) zone was added and included the following definition of *outdoor recreation*:

OUTDOOR RECREATION means a recreational activity undertaken where the outdoor setting and landscape is a significant element in the activity, and the density of recreational users is not a significant element and includes: parks, trails, open space, playing fields, playgrounds, and low-impact wilderness camping.

Bylaw No. 2040 was further amended in 2018 to add the Restricted Development – Flood Hazard Area (RD-1) zone, which permits *outdoor recreation*, but specifically excludes overnight camping.

Staff have continued to receive inquiries regarding the scope of permitted *outdoor recreation* uses on land zoned RL in both the Bylaw No. 2040 and Bylaw No. 3602 areas. In particular, proponents have requested clarification as to what constitutes “low-impact wilderness camping” in order to

determine the feasibility of developing campgrounds. As written, the bylaws have no controls for regulating the density, servicing, accessory buildings or siting for such operations.

The *outdoor recreation* definitions continue to pose challenges for interpretation and may result in unintended forms of development. Therefore, staff have prepared Bylaw Nos. 4412 and 4413 to delete the *outdoor recreation* definition and all related references to the term (Appendix A and B).

ALTERNATIVES

Alternative 1:

That staff be directed to refer proposed Bylaw Nos. 4412 and 4413 to appropriate CRD departments, the Shirley/Jordan River Advisory Planning Commission, T'Sou-ke First Nation and Pacheedaht First Nation for comment.

Alternative 2:

That proposed Bylaw Nos. 4412 and 4413 not proceed.

Alternative 3:

That more information be provided by staff.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

Should the *outdoor recreation* use be removed from Bylaws 2040 and 3602 as a permitted use, outdoor recreation facilities operating prior to adoption of the amending bylaws would be considered legal non-conforming (i.e. grandfathered), and would be allowed to continue in accordance with Section 528 of the *Local Government Act (LGA)*.

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 14 of the *LGA*. Staff recommend referring the proposed bylaw amendments to the Shirley/Jordan River APC. There is no APC established for the Rural Resource Lands. Staff also recommend referring the bylaws to T'Sou-ke and Pacheedaht First Nations.

Should the proposals proceed, public hearings pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendments passing second reading by the CRD Board. As more than 10 properties and property owners are affected by the proposed bylaw amendments, individual property owners will not be directly notified; however, public hearings on the proposed bylaw amendments 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. Since the proposal includes an amendment to the Land Use Bylaw for the Rural Resource Lands, the bylaw will be considered by the Planning and Protective Services Committee and the CRD Board for a determination of consistency with the RGS prior to first reading. This procedure is consistent with the Board's Juan de Fuca Development Application RGS Consistency Policy, 2012.

LAND USE IMPLICATIONS

The policies in the Official Community Plan (OCP) for the Rural Resource Lands, Bylaw No. 3591, support uses including outdoor recreation; tourism, including agri-tourism; and parks and wilderness activities.

Lands zoned RL and RD-1 in Bylaw No. 2040 are designated either Coastal Upland or Renewable Resource in the Shirley-Jordan River OCP, Bylaw No. 4001. The Coastal Uplands policies support consideration of low-impact recreation and low-impact tourism uses if removed from the Private Managed Forest Land program. Lands designated Renewable Resource in Bylaw No. 4001 are intended to support forestry and resource use.

Outdoor recreation opportunities in the Rural Resource Lands and in Shirley-Jordan River OCP areas are valued by local residents and by the region. Formal recreation sites and trails in the area, such as Tanksy, Avatar Grove, Lizard and Fairy Lakes, and the Kludahk Trail, are managed by the Province and not subject to the local government zoning. There are also many informal outdoor recreation opportunities occurring on Crown, forestry and private lands, such as hunting, fishing, off-road motorcycling, and hiking. The commercial tourism sector relies considerably on access to parks, trails and wilderness areas. As such, the scope of outdoor recreation in the Resource Lands and Shirley-Jordan River areas is broad and not easily captured in one definition.

The broad scope of what may be permitted as *outdoor recreation* in the bylaws is problematic as there are no regulatory measures to control density, servicing, access or other associated infrastructure. Such implications were not fully contemplated when the definitions were added to the bylaws and staff suggest that such uses are best addressed through submission of a zoning amendment application and public consultation. Therefore, staff propose deleting the definitions of *outdoor recreation* and all references to the term from Bylaw No. 2040 and Bylaw No. 3602. Deleting the term from the bylaws is not intended to minimize the significance of these lands for outdoor recreation by the regional population; rather, it is an approach that aims to protect the lands from undesired development and allow for site-specific approvals and public consultation. Proposals for outdoor recreation activities that include low-impact or wilderness camping could be considered on a site-by-site basis through a zoning amendment application initiated by individual land owners, in accordance with the policies of the applicable OCP.

Proposed Bylaw Nos. 4412 and 4413 have been prepared for consideration (Appendix A and B). Staff recommend referring the proposed bylaws to the Shirley-Jordan River APC, T'Sou-ke and Pacheedaht First Nations for comment.

CONCLUSION

Outdoor recreation is a permitted use in the Resource Land (RL) and Restricted Development – Flood Hazard (RD-1) zones in the Juan de Fuca Land Use Bylaw No. 2040 and in the Resource Land (RL), Rural Resource Land (RRL) and Resource Land – Meteorological Tower (RL-MT) zones in the Land Use Bylaw for the Rural Resource Lands Bylaw No. 3602. There are no regulatory measures to limit the density of *outdoor recreation* uses or structures in the bylaws. Staff recommend that specific proposals for outdoor recreation uses be addressed through submission of individual zoning amendment applications and public consultation on a site-specific basis, and that the definitions and related references to the term be deleted from the bylaws. Staff have prepared proposed Bylaw No. 4412 and 4413 and recommend referral to the Shirley/Jordan River APC and to T'Sou-ke and Pacheedaht First Nations for comment.

RECOMMENDATION

That staff be directed to refer proposed Bylaw Nos. 4412 and 4413 to appropriate CRD departments, the Shirley/Jordan River Advisory Planning Commission, T’Sou-ke First Nation and Pacheedaht First Nation for comment.

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| Submitted by: | Iain Lawrence, MCIP, RPP, Manager Juan de Fuca Community Planning |
| Concurrence: | Kevin Lorette, P.Eng., MBA, General Manager, Planning and Protective Services |
| Concurrence: | Robert Lapham, MCIP, RPP, Chief Administrative Officer |

ATTACHMENTS

Appendix A: Proposed Bylaw No. 4412

Appendix B: Proposed Bylaw No. 4413

CAPITAL REGIONAL DISTRICT

BYLAW NO. 4412

A BYLAW TO AMEND BYLAW NO. 3602, THE "LAND USE BYLAW FOR THE RURAL RESOURCE LANDS, BYLAW NO. 1, 2009"

The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 3602 being the "Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009" is hereby amended as follows:
 - A. SCHEDULE A, II DEFINITIONS**
 - (a) By deleting the "OUTDOOR RECREATION" definition in its entirety.
 - B. SCHEDULE A, PART 4, SECTION 4.1 RESOURCE LAND (RL) ZONE**
 - (a) By deleting Subsection 4.1.1, Paragraph "d) Outdoor Recreation; and" and re-numbering the section accordingly.
 - C. SCHEDULE A, PART 4, SECTION 4.1A RESOURCE LAND – METEOROLOGICAL TOWER (RL-MT) ZONE**
 - (a) By deleting Subsection 4.1A.1, Paragraph "d) Outdoor Recreation".
 - D. SCHEDULE A, PART 4, SECTION 4.2 RURAL RESOURCE LAND (RRL) ZONE**
 - (a) By deleting Subsection 4.2.1, Paragraph "d) Outdoor Recreation".
2. This Bylaw may be cited as "Land Use Bylaw for the Rural Resources Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 8, 2021".

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| READ A FIRST TIME THIS | day of | 2021 |
| READ A SECOND TIME THIS | day of | 2021 |
| READ A THIRD TIME THIS | day of | 2021 |
| ADOPTED THIS | day of | 2021 |

Chair

Corporate Officer

CAPITAL REGIONAL DISTRICT

BYLAW NO. 4413

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**
 - (b) By deleting the “OUTDOOR RECREATION” definition in its entirety.
 - B. SCHEDULE A, PART 2, SECTION 1A.0 RESOURCE LAND ZONE – RL**
 - (a) By deleting Subsection 1A.01, Paragraph “d) Outdoor Recreation” and re-numbering the section accordingly.
 - C. SCHEDULE A, PART 2, SECTION 34.0 RESTRICTED DEVELOPMENT – FLOOD HAZARD AREA – RD-1**
 - (a) By deleting Subsection 34.01, Paragraph “l) outdoor recreation, but excludes overnight camping”.
2. This Bylaw may be cited as "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 151, 2021".

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| READ A FIRST TIME THIS | day of | 2021 |
| READ A SECOND TIME THIS | day of | 2021 |
| READ A THIRD TIME THIS | day of | 2021 |
| ADOPTED THIS | day of | 2021 |

Chair

Corporate Officer