

SHIRLEY/JORDAN RIVER ADVISORY PLANNING COMMISSION

Notice of Meeting on Tuesday, **March 15, 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 June 7, 2021
5. Planner's Report
6. Zoning Amendment Application
 - a) RZ000275 - Lots A-H, and J and K, District Lot 87, Renfrew District, Plan EPP31225 (Kirby Creek Road)
7. Adjournment

PLEASE NOTE: 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 or by email at jdfinfo@crd.bc.ca. 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.

**Minutes of a Meeting of the Shirley/Jordan River Advisory Planning Commission
Held June 7, 2021 at Juan de Fuca Local Area Services Building, 3-7450 Butler Road,
Otter Point, BC**

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

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

ABSENT: Emily Anderson, Blair Hughes

PUBLIC: 5 (EP)

EP – Electronic Participation

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

1. Approval of the Agenda

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

2. Approval of the Supplementary Agenda

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

3. Adoption of the Minutes of April 6, 2021

MOVED by Vivi Curutchet, **SECONDED** by Melody Kimmel that the minutes of April 6, 2021, be adopted.
CARRIED

4. Planner's Report

Iain Lawrence reported that Brenda Mark has stepped down from her position on the Advisory Planning Commission (APC) and extended a thank you to Brenda for her ten years of service on the APC. Emily Anderson has been appointed to the position. Emily has passed along regrets for this evening's meeting but her comments are included in supplementary agenda.

Iain Lawrence reported that the APC considered a zoning amendment application for a brewery in Jordan River (Bylaw No. 4381) at its December 9, 2020, meeting. The Juan de Fuca Land Use Committee (LUC) will consider recommending that proposed Bylaw No. 4381 be given first and second reading and direction to proceed to public hearing at its meeting of June 15, 2021.

Iain Lawrence reported that the APC considered a zoning amendment application for a portable sawmill operation in Shirley (Bylaw No. 4407) at its April 6, 2021, meeting. The LUC will consider recommending that proposed Bylaw No. 4407 be given first and second reading and direction to proceed to public hearing at its meeting of June 15, 2021.

Iain Lawrence responded to a question for the APC advising that proposed Bylaw No. 4381 was amended to reflect the APC's support for a reduction in Total Floor Area.

5. Administrative Bylaws

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

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

Emma Taylor highlighted the present definitions for outdoor recreation and reported that:

- the definition of outdoor recreation was added to the Land Use Bylaw for the Rural Resource Lands in 2010 and to the Juan de Fuca Land Use Bylaw in 2013
- the definition in the Land Use Bylaw for the Rural Resource Lands was amended in 2015 to clarify those activities that are permitted under the definition
- the Juan de Fuca Land Use Bylaw was amended in 2018 to add the Restricted Development – Flood Hazard Area (RD-1) zone which permits outdoor recreation, but specifically excludes overnight camping
- since these amendments, staff have continued to receive inquiries regarding the scope of permitted outdoor recreation uses
- in particular, proponents have requested clarification as to what constitutes “low impact wilderness camping” in order to determine the feasibility of developing campgrounds
- provincially managed sites such as Tanksy, Avatar Grove, Lizard and Fairy Lakes, and the Kludahk Trail are not subject to the local government zoning
- outdoor recreation facilities operating prior to adoption of the amending bylaws would be considered legal non-conforming

Emma Taylor highlighted the uses permitted in all zones prescribed by the Land Use Bylaw for the Rural Resource Lands and the Juan de Fuca Land Use Bylaw and the zoning maps for Bylaw Nos. 3602 and 2040.

Emma Taylor responded to questions from the APC advising that, should the amendment bylaws be adopted:

- outdoor recreation proposals, such as low impact campgrounds, wilderness camping or zip line facilities, would be reviewed against the Official Community Plans (OCPs) for the Rural Resource Lands (Bylaw No. 3591) and Shirley-Jordan River (Bylaw No. 4001)
- each OCP has policies in place for consideration of outdoor recreation proposals, but the OCPs do not provide regulations for such items as scale, density, site servicing, ingress/egress, number of sites, size of buildings or setbacks
- when inquiries are received, staff cannot direct to specific regulations for scale and scope
- proposals for outdoor recreation activities would be considered on a site-by-site basis through a zoning amendment application initiated by individual land owners

Iain Lawrence reported that, upon its initial consideration of Bylaw Nos. 4412 and 4413, the LUC stated support for considering deleting camping from the definitions of outdoor recreation as a means of addressing development scale concerns, as well as reviewing uses permitted in all zones in Land Use Bylaw for the Rural Resource Lands and the Juan de Fuca Land Use Bylaw.

Heather Phillips, Otter Point, stated that:

- she was initially concerned regarding deleting outdoor recreation
- there are agreements in place with private property owners that allow for access to the Matterhorn, Camp Barnard and Private Managed Forest Lands
- if outdoor recreation is struck as a permitted use, private property owners may retract their access agreements
- her concerns might be addressed by amending the uses permitted in all zones in the Land Use Bylaw for the Rural Resource Lands to include parks, hiking trails, horse trails and bicycle paths
- if a use is not permitted by a zoning bylaw, the use is not allowed
- questioned how a structure built without a building permit can be considered grandfathered
- understands that there regulations to direct that buildings built without a building permit must be taken down

Brenda Mark, Shirley, stated that:

- it appears the proposed amendment bylaws have been drafted to address commercial, economically driven ventures
- current definitions of outdoor use are open to interpretation
- she supports deletion of outdoor recreation use to facilitate site specific rezoning

Iain Lawrence stated that inquires have focused on large sections of lands with an interest in some degree of financial return through commercial components.

Gerard LeBlanc, Shirley, stated:

- there have been issues with unregulated camping on the lands located to the north of his home
- issues include wildfire concerns, roaming dogs, lack of onsite caretakers and ingress/egress
- camping has not been limited to tenting
- structures have been built to support camping use
- he supports regulation of outdoor recreation
- he is concerned how sites will be deemed grandfathered and how the scale of such sites will be regulated

Karl Ablack, Port Renfrew, stated that:

- he supports regulation as opposed to deletion of outdoor recreation
- since COVID-19, Port Renfrew has seen an increase in interest in outdoor camping/recreation opportunities

Staff replied to questions from the public and the APC reporting that:

- grandfathered properties are reviewed to determine what uses/structures were in place at the time of grandfathering
- grandfathered properties cannot expand
- conferring legal non-conforming status to a use requires that the use was lawful at the time they started
- market demands change so quickly it is hard to anticipate what outdoor recreation uses will be proposed

APC comments included:

- it appears camping and related services/activities are the main issues
- camping concerns include wildfire concerns, lack of caretaker oversight, potable water, washroom facilities, noise and litter
- support for commercial ventures triggering the requirement for rezoning
- support for the uses permitted in all zones in the Juan de Fuca Land Use Bylaw
- support for amending the uses permitted in all zones in the Land Use Bylaw for the Rural Resource Lands to include parks, hiking trails, horse trails and bicycle paths
- Shirley/Jordan River OCP supports economic development through consideration of camps and guiding lodges
- concerned that, if outdoor recreation use is deleted, the use becomes invisible and cannot be supported
- update of zoning bylaws to complement the current OCPs is overdue

MOVED by Vivi Curutchet, **SECONDED** by Melody Kimmel that the APC recommends to the LUC that it supports the uses permitted in all zones as prescribed by the Juan de Fuca Land Use Bylaw, Bylaw No. 2040. **CARRIED**

MOVED by Vivi Curutchet, **SECONDED** by Melody Kimmel that the APC recommends to the LUC that it supports amending the uses permitted in all zones as prescribed by the Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, to include parks, hiking trails, horse trails and bicycle paths. **CARRIED**

MOVED by Fiona McDannold, **SECONDED** by Melody Kimmel that the APC recommends to the LUC that it supports deleting the outdoor recreation definition and permitted use from the Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, and from the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, to support review of site specific proposals. **CARRIED**

6. Adjournment

The meeting adjourned at 8:47 pm.

Chair



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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, FEBRUARY 15, 2022

SUBJECT **Zoning Amendment Application for Lots A-H, and J and K, District Lot 87,
Renfrew District, Plan EPP31225 – Kirby Creek Road**

ISSUE SUMMARY

Property owners on Kirby Creek Road have submitted a joint application to rezone the subject properties from Forestry (AF) to Rural 2 (RU2).

BACKGROUND

The ten subject properties are located on Kirby Creek Road in Shirley and include Lots A-H, and J and K in Plan EPP31225, which are all approximately 4 hectares (ha) in area (Appendix A). The properties are zoned Forestry (AF) in Bylaw No. 2040 (Appendix B) and designated as Coastal Upland in the Shirley-Jordan River Official Community Plan Bylaw No. 4001, with portions of the properties in the steep slope, sensitive ecosystems and riparian development permit areas. The area is within the Shirley Fire Protection Service Area, but outside a community water service area.

Since the properties in Plan EPP31225 were created in 2015, residential uses have been established and there is interest from the owners in pursuing agricultural activities in keeping with rural residential and other rural zones, but that are not currently permitted in the AF zone. The ten property owners have submitted an application to rezone the properties from Forestry (AF) to Rural 2 (RU2) for the purpose of permitting agricultural uses and farm buildings (Appendix C). Staff have prepared Bylaw No. 4464 for consideration (Appendix D).

ALTERNATIVES

Alternative 1

That staff be directed to refer proposed Bylaw No. 4464, “Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022” to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments and the following external agencies and First Nations for comment:

BC Hydro
District of Sooke
FLNR - Archaeology Branch
FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development
FLNR - Water Protection Section
Island Health
Ministry of Agriculture
Ministry of Transportation & Infrastructure
RCMP
Shirley Fire Department
Sooke School District #62
Pacheedaht First Nation
T’Sou-ke First Nation

Alternative 2

That proposed Bylaw No. 4464 not be referred.

LEGISLATIVE AND PUBLIC CONSULTATION 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)*. Therefore, staff recommend referring the proposed amendment bylaw to the Shirley/Jordan River APC.

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 subject property will be sent notice of the proposed bylaw amendment and a public hearing will be advertised in the local paper and on the CRD website.

Where groundwater is used for non-domestic purposes, a license is required pursuant to the *Water Sustainability Act*. This approval is issued by the Province and is not a precondition for rezoning. Staff recommend referral to the provincial Groundwater Protection Section for comment.

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 Shirley-Jordan River 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 OCP.

LAND USE IMPLICATIONS

The Shirley-Jordan River OCP, Bylaw No. 4001, designates the subject properties as Coastal Upland. The primary use for the Coastal Upland policy area is to support the continued use of these lands for forestry. Single-family residential and agriculture are also supported in this designation provided the density does not exceed one parcel per 4 ha and one dwelling per parcel. The AF zone permits silviculture and residential uses reflective of the historical use of the lands as working forests. The Rural 2 (RU2) zone is considered consistent with the uses and density supported by the Coastal Upland designation and allows for the scale of agricultural activities desired by the applicants. The RU2 zone permits agriculture, farm buildings and residential uses. Density is restricted through a minimum lot size of 4 ha, and an allowance of one dwelling and one suite per parcel (Appendix C). This is in keeping with the density permitted by the AF zone. The RU2 zone incorporates specific definitions for the proposed uses, as follows:

Agriculture means the growing, rearing, producing or harvesting agricultural crops or livestock; apiculture; horticulture; silviculture; the use and storage of associated farm machinery, implements and agricultural supplies; includes the ancillary sale, storage and processing on a parcel of the primary products harvested, reared or produced on that parcel; excludes intensive agriculture, intensive agriculture – medical marihuana, licenced cannabis production pursuant to the *Cannabis Act*, kennels, aquaculture, growing of mushrooms within a building and the permanent confinement of livestock or animals of any kind within a building.

Farm Building means a structure which does not contain a residential occupancy and is: i) associated with and located on land devoted to the practice of farming; and ii) used essentially for the housing of agricultural crops or equipment or livestock including storage and processing of agricultural products produced on site; but excludes abattoirs, indoor equestrian riding arenas, and buildings for the permanent confinement of livestock or animals of any kind.

Past proposals to amend the Forestry (AF) zone to permit agriculture have been considered by

the CRD Board. Bylaw No. 4179 proposed to add agriculture as a permitted use on all lands zoned AF, but was withdrawn in 2018 in favour of considering zoning amendments to allow agriculture on a case-by-case basis. A site specific rezoning of a split zoned Rural A and AF parcel in Shirley to a new Rural 2 (RU2) zone was completed in 2019 (Bylaw No. 4259). Staff consider the RU2 zone appropriate for properties in the 4 ha range that have been removed from forestry programs, have established rural residential uses, and wish to conduct agricultural activities.

Based on the information provided by the applicants and the policies of the Shirley-Jordan River OCP, staff recommend referral of the rezoning application to the Shirley/Jordan River APC, appropriate CRD departments, external agencies and First Nations for comment.

CONCLUSION

The purpose of this zoning bylaw amendment application is to rezone ten 4 ha properties property on Kirby Creek Road from the Forestry (AF) zone to the Rural 2 (RU2) zone for the purpose of permitting agriculture and farm buildings. Staff have prepared proposed Bylaw No. 4464 and recommend referral to the Shirley/Jordan River Advisory Planning Commission, First Nations, CRD departments and external agencies for comment. All comments received will be brought back to the Land Use Committee. At that time, the Committee may consider a recommendation for first and second reading.

RECOMMENDATION

That staff be directed to refer proposed Bylaw No. 4464, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022" to the Shirley/Jordan River Advisory Planning Commission, appropriate CRD departments and the following external agencies and First Nations for comment:

BC Hydro
District of Sooke
FLNR - Archaeology Branch
FLNR - Ministry of Forests, Lands, Natural Resource Operations and Rural Development
FLNR - Water Protection Section
Island Health
Ministry of Agriculture
Ministry of Transportation & Infrastructure
RCMP
Shirley Fire Department
Sooke School District #62
Pacheedaht First Nation
T'Sou-ke First Nation

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 Properties
Appendix B: Forestry AF Zone
Appendix C: Rural 2 RU2 Zone
Appendix D: Proposed Bylaw No. 4464

Appendix A: Subject Properties



Appendix B: Forestry AF Zone

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

3.0 **FORESTRY ZONE - AF**

3.01 **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 Forestry AF Zone:

- (a) Silviculture except within 300m of a highway;
- (b) Offices, mechanical shops, fuel storage, and storage buildings accessory to mining or silviculture;
- (c) One-family dwelling;
- (d) Home Based Business Categories One, Two and Three; *Bylaw 3705*
- (e) Two Boarders or lodgers;
- (f) Secondary Suite pursuant to Part 1, Subsection 4.19; *Bylaw 3849*
- (g) Detached Accessory Suite pursuant to Part 1, Subsection 4.20. *Bylaw 3849*

3.02 **Minimum Parcel Size for Subdivision Purposes**

The minimum lot size is 4ha;

3.03 **Density**

One one-family dwelling per lot is permitted.

One secondary suite or one detached accessory suite per lot is permitted. *Bylaw 3849*

3.04 **Height**

Maximum height shall be 11m.

3.05 **Lot Coverage**

Maximum lot coverage shall be 10 percent.

3.06 **Maximum Size of for 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.

3.07 **Yard Requirements**

For all structures, the front, side, rear and flanking yards shall be a minimum of 15m. *Bylaw 3849*

Appendix C: Rural 2 RU2 Zone

3A.0 RURAL 2 ZONE – RU2

Bylaw 4259

3A.01 Permitted Principal Uses & Buildings

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 by the Rural 2 RU2 Zone:

- (a) Agriculture;
- (b) Farm Buildings on Farms;
- (c) Residential;
- (d) One-family Dwelling.

3A.02 Permitted Accessory Uses

- (a) Accessory buildings and structures ancillary to a permitted use pursuant to Part 1, section 4.01;
- (b) Secondary Suite pursuant to Part 1, Subsection 4.19;
- (c) Detached Accessory Suite pursuant to Part 1, Subsection 4.20;
- (d) Home Based Business Categories One, Two and Three;
- (e) Two Boarders or Lodgers;
- (f) One recreation vehicle 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) Composting of waste generated on-site.

3A.03 Minimum Parcel Size for Subdivision Purposes

- (a) The minimum lot size is 4 ha.

3A.04 Density

- (a) One one-family dwelling per lot is permitted.
- (b) One secondary suite or one detached accessory suite per lot is permitted.
- (c) Farm buildings and structures shall not exceed a total floor area 1,000m².
- (d) Residential buildings and structures shall not exceed a total floor area of 418 m².

3A.05 Height

- (a) The maximum height of principal buildings is 11 m.

3A.06 Lot Coverage

- (a) The maximum lot coverage shall be 10%.

3A.07 Yard Requirements

- (a) Residential buildings and structures shall be set back a minimum of:
 - a. 7.5 m from the front lot line;
 - b. 6 m from side lot lines;
 - c. 10 m from the rear lot line; and
 - d. 6 m CTS from flanking lot lines.
- (b) Except for grazing of livestock and growing of agricultural crops, agricultural uses and farm buildings shall be set back a minimum of:
 - a. 30 m from the front lot line;
 - b. 15 m from side, rear and flanking lot lines.

3A.08 Watercourse Setbacks

- (a) Agricultural uses and farm buildings and structures shall be a minimum of 15 m from the natural boundary of a watercourse.

3A.09 Definitions

- (a) For the purpose of the RURAL 2 zone – RU2, the following definitions apply:

Agriculture means the growing, rearing, producing or harvesting agricultural crops or livestock; apiculture; horticulture; silviculture; the use and storage of associated farm machinery, implements and agricultural supplies; includes the ancillary sale, storage and processing on a parcel of the primary products harvested, reared or produced on that parcel; excludes intensive agriculture, intensive agriculture – medical marihuana, licenced cannabis production pursuant to the *Cannabis Act*, kennels, aquaculture, growing of mushrooms within a building and the permanent confinement of livestock or animals of any kind within a building.

Farm Building means a structure which does not contain a residential occupancy and is: i) associated with and located on land devoted to the practice of farming; and ii) used essentially for the housing of agricultural crops or equipment or livestock including storage and processing of agricultural products produced on site; but excludes abattoirs, indoor equestrian riding arenas, and buildings for the permanent confinement of livestock or animals of any kind.

Appendix D: Proposed Bylaw No. 4464

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4464**

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. 3 – SHIRLEY JORDAN RIVER ZONING MAP

- (a) By deleting

Lot A, District Lot 87, Renfrew District, Plan EPP31225

Lot B, District Lot 87, Renfrew District, Plan EPP31225

Lot C, District Lot 87, Renfrew District, Plan EPP31225

Lot D, District Lot 87, Renfrew District, Plan EPP31225

Lot E, District Lot 87, Renfrew District, Plan EPP31225

Lot F, District Lot 87, Renfrew District, Plan EPP31225

Lot G, District Lot 87, Renfrew District, Plan EPP31225

Lot H, District Lot 87, Renfrew District, Plan EPP31225

Lot J, District Lot 87, Renfrew District, Plan EPP31225

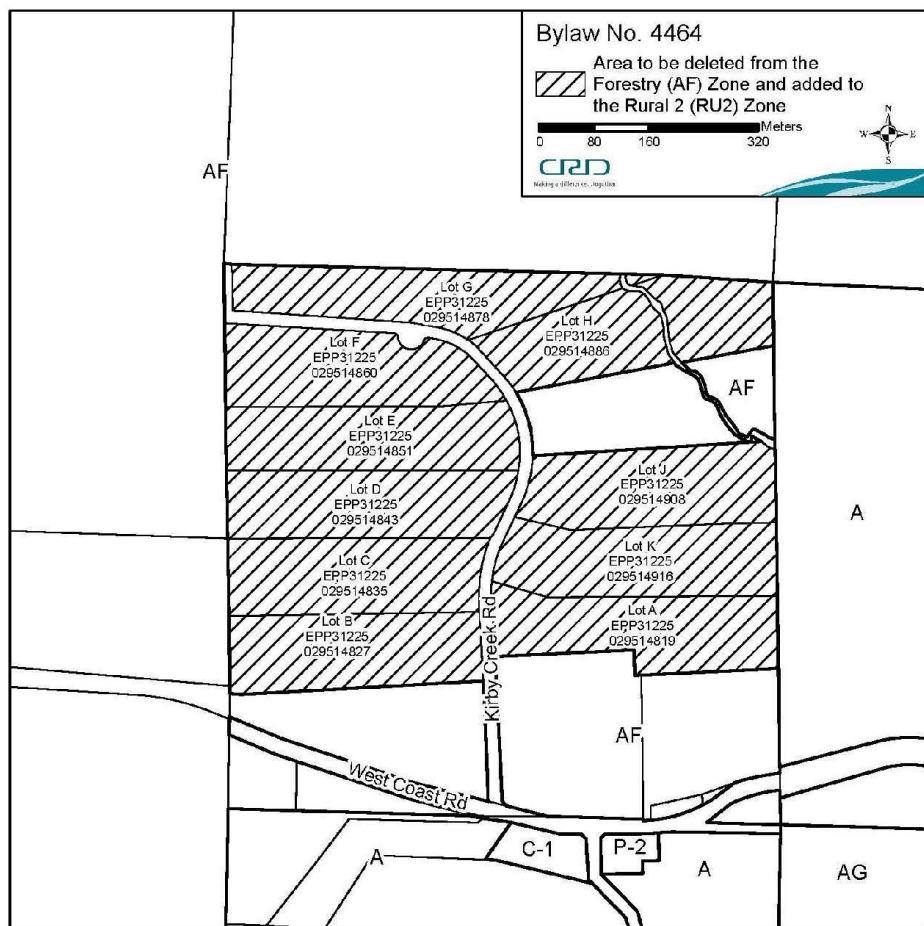
Lot K, District Lot 87, Renfrew District, Plan EPP31225

from the Forestry (AF) zone and adding to the Rural 2 (RU2) zone, as shown on Plan No. 1.

CRD Bylaw No. 4464

2

Plan No. 1 of Bylaw No. 4464, an amendment to Bylaw No. 2040



2. This bylaw may be cited as "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 155, 2022".

READ A FIRST TIME THIS _____ day of _____, 2022.

READ A SECOND TIME THIS _____ day of _____, 2022.

READ A THIRD TIME THIS _____ day of _____, 2022.

ADOPTED THIS _____ day of _____, 2022.

CHAIR

CORPORATE OFFICER