

JUAN DE FUCA LAND USE COMMITTEE

Notice of Meeting on Tuesday, **June 21, 2022 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 May 17, 2022
4. Chair's Report
5. Planner's Report
6. Development Variance Permit Application
 - a) VA000155 – Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 (Clark Road & Aythree Way)
7. Development Permit with Variance Application
 - a) DV000088 - Lot 12, Section 10, Otter District, Plan VIP77477 (2193 Otter Ridge Drive)
8. Temporary Use Permit Applications
 - a) TP000010 Renewal – Lot 4, Section 47, Otter District, Plan 23769 (7822 Tugwell Road)
 - b) TP000011 - Lot 4, Section 47, Otter District, Plan VIP52344 (7861 Tugwell Road)
9. Proposed Bylaw
 - a) New Bylaw for Juan de Fuca Electoral Area Advisory Planning Commissions, Bylaw No. 4120
10. 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 Juan de Fuca Land Use Committee
Held Tuesday, May 17, 2022 at the Juan de Fuca Local Area Services Building
3 – 7450 Butler Road, Otter Point, BC

PRESENT: Director Mike Hicks (Chair), Stan Jensen (EP), Vern McConnell,
Roy McIntyre (EP), Ron Ramsay, Dale Risvold (EP), Sandy Sinclair
Staff: Iain Lawrence, Senior Manager, JdF Local Area Services (EP);
Wendy Miller, Recorder
PUBLIC: 2 in-person; 1 EP

EP – Electronic Participation

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

The Chair provided a Territorial Acknowledgment.

1. Approval of the Agenda

MOVED by Vern McConnell, **SECONDED** by Sandy Sinclair that the agenda be approved.
CARRIED

2. Approval of the Supplementary Agenda

MOVED by Vern McConnell, **SECONDED** Sandy Sinclair that the supplementary agenda be approved.
CARRIED

3. Adoption of Minutes from the Meeting of April 19, 2022

MOVED by Ron Ramsay, **SECONDED** by Vern McConnell that the minutes from the meeting of April 19, 2022, be adopted.
CARRIED

4. Chair's Report

No report.

5. Planner's Report

Iain Lawrence reported that Darren Lucas will be starting on May 30, 2022, filling the Planner position that has been vacant since January.

6. Radiocommunication and Broadcasting Antenna Systems Application

a) LP000032 – Lot A, Section 23, Highland District, Plan VIP83970 (6933 Willis Point Road)

Iain Lawrence spoke to the staff report for an application for a 41 m telecommunications antenna system at 6933 Willis Point Road for the purpose of replacing an existing tower and improving telecommunication services.

Iain Lawrence highlighted the subject property, site plan, tower elevation and air photo showing the current tower location and the proposed tower location. It was advised that the proposed tower is 5 m taller than the current tower and that the Willis Point Fire and Recreation Commission (WPFRC) is in support of the application and that the Willis Point Community Association (WPCA) has been provided updates by the WPFRC regarding the intent to replace the tower.

Iain Lawrence outlined the consultation process prescribed by the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy and advised that the concerns related to EMF health risks fall under Health Canada's jurisdiction and are beyond the scope of local government public consultation.

The Chair confirmed that the applicant representatives were present.

Rob Kemp and Sam Sugita, representatives for Rogers, responded to questions from the LUC advising that:

- the current tower is nearing the end of its service life
- the current location is considered the most optimal location for providing services to the community
- the tower will accommodate two cellular service carriers, Rogers and Freedom Mobile
- a taller tower will provide more dispersed coverage
- carriers are mandated to operate in accordance with Health Canada's Safety Code 6
- the conduit has been rerouted to avoid a newly paved area and buried infrastructure
- the tower will be 5G capable
- the federal government encourages carriers to seek local government participation and public input
- feedback from the local government and the public is reported back to Industry Canada

Jason Hillis, Willis Point:

- has been working with the WPCA to make improvements to the playground and tennis court located on the subject site and is pursuing grant funding for a gazebo
- is not aware of another community welcoming a tower so close to community facilities
- not all community members are aware of the tower application
- the community expectation for public consultation established prior to COVID-19 has not been met
- requests a public meeting in Willis Point to allow broader community consideration of the application

Iain Lawrence responded to a question from the Chair regarding consultation advising that:

- an earlier request for a meeting in Willis Point initiated a dialogue with the WPFRC
- through that earlier dialogue the WPFRC relayed that it has provided the WPCA with regular briefings at its general meetings
- consultation was done in accordance with the CRD Board approved policy which included two mail notices and the posting of a notice in the Peninsula News
- six submissions from the public were received during the initial consultation period and an additional submission is included in the supplementary agenda
- prior to approval of the policy, carriers followed Industry Canada's default consultation process
- applications from Freedom Mobile and Rogers for towers from Otter Point to Port Renfrew have been considered prior to this application in accordance to the policy
- the policy provides an evaluation criteria for consideration by the LUC and the CRD Board when reviewing antenna systems

Brent Kornelson, WPFRC

- the WPFRC was approached by Freedom Mobile five years ago
- the WPFRC has been more recently approached by Rogers
- the minute records for the WPFRC reflect the intention to replace the existing tower
- the intention has been communicated to the WPCA and through a local publication, The Pointer

Daniel Kenway, WPCA

- notices as described by staff have been received
- has attended WPFRC meetings occasionally as an invited guest and was aware of the intention to replace the tower
- some community members have expressed concern regarding the replacement tower
- in past, a public meeting at the community hall would be been considered
- the WPCA has not taken a position of support or non-support for the application and, as such, has not pursued a public information meeting, but such a meeting would be welcomed

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

That a statement of concurrence be provided to Rogers Communications for the proposed 41 m radio communication and broadcasting antenna system on Lot A, Section 23, Highland District, Plan VIP83970 (LP000032).

Opposed: Ron Ramsay
CARRIED

A LUC member stated that further comment on the application could be directed to the CRD Board.

7. Adjournment

The meeting adjourned at 7:27 pm.

Chair



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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 21, 2022**

SUBJECT **Development Variance Permit for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121 RW and Except That Part in Plan EPP63580 (Clark Road & Aythre Way)**

ISSUE SUMMARY

A request has been made for a variance to reduce the requirement that 10% of a parcel front onto a highway, and to reduce the minimum width of a panhandle access strip for the purpose of creating a seven-lot subdivision.

BACKGROUND

The 57.8 hectare (ha) property is zoned Forestry (AF) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, and located at the end of Aythre Road in Otter Point (Appendix A). The subject property is adjacent to other AF zoned parcels to the north and west, and to Rural (A) zoned parcels to the east and south. Portions of the proposed parcels are designated as Steep Slope, Watercourses and Wetlands, and Sensitive Ecosystem development permit areas. A large wetland and several watercourses are located on the parcel.

The owners have submitted subdivision and development permit applications (SU000704, DP000291, and DP000371) to create seven rural lots and a 15.5 ha remainder parcel (Appendix B). Proposed Lots 2-7 do not meet the requirement specified in Part 1, Section 3.10(4)(a) of Bylaw No. 2040 that one-tenth of the perimeter of the lot front a public highway; therefore, the applicants have requested variances.

In addition, proposed Lot 2 is a panhandle configuration and the applicants have requested a variance to reduce the minimum width of the panhandle strip from 20 m to 15.7 m. Development Variance Permit VA000155 is included as Appendix C for consideration.

ALTERNATIVES

Alternative 1:

The Land Use Committee recommends to the CRD Board:

That Development Variance Permit VA000155 for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121 RW and Except That Part in Plan EPP63580 to vary:

- a) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) by reducing the required frontage for:
 - i. Lot 2 from 231 m (10%) to 15.7 m (0.68%);
 - ii. Lot 3 from 112 m (10%) to 46 m (4.13%);
 - iii. Lot 4 from 116 m (10%) to 100 m (8.61%);
 - iv. Lot 5 from 134 m (10%) to 51.7 m (3.85%);
 - v. Lot 6 from 116 m (10%) to 38.3 m (3.3%);
 - vi. Lot 7 from 124 m (10%) to 49.4 m (3.99%); and
- b) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(5)(b) by reducing the minimum width of a panhandle access strip from 20 m to 15.7 m;

for the purpose of creating a seven-lot subdivision, be approved.

Alternative 2:

The Land Use Committee recommends to the CRD Board:

That the development variance permit be denied and require that the subdivision comply with zoning requirements.

IMPLICATIONS

Legislative Implications

Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) specifies that the minimum frontage on the highway shall be one tenth of the perimeter of the lot that fronts on the highway. Proposed Lots 2-7 do not meet this requirement; therefore, variances are requested.

Part 1, Section 3.10 (5)(b) of Bylaw No. 2040 requires that if a panhandle lot is capable of being further subdivided under the provisions of the bylaw, the minimum width of the access strip at any point shall be 20 m. Proposed Lot 2 does not meet this requirement; therefore, a variance is requested.

Public Consultation Implications

Pursuant to Section 499 of the *Local Government Act*, if a local government proposes to pass a resolution to issue a development variance permit, it must give notice to each resident/tenant within a distance specified by bylaw. Capital Regional District Bylaw No. 3885, Juan de Fuca Application Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 m. Any responses received from the public will be presented at the June 21, 2022, Land Use Committee meeting.

Land Use Implications

Frontage:

The Rural Lands accommodate larger rural residential parcel sizes with a density of one parcel per four hectares in the Otter Point Official Community Plan, Bylaw No. 3819. The proposed plan is consistent with the Rural Lands designation.

In evaluating whether a frontage exemption is justified, the following technical criteria are normally considered:

- How does it relate to the topography of the area?
- Does it create any environmental impacts?
- Will reducing the frontage produce an awkward lot configuration?
- Will reducing the frontage eliminate future subdivision potential of the lot and of lots beyond?
- Does the proposed reduction disturb existing residences?
- Will the exemption reduce road network and access options?

The land that is the subject of this application is designated as Steep Slope, Watercourses and Wetlands, and Sensitive Ecosystem Development Permit Areas by the Otter Point OCP. Development permits DP000291 and DP000371 were issued to authorize the 7-lot subdivision and the construction of roads and works and services related to subdivision approval.

Part 1, Section 3.10(7) of Bylaw No. 2040 requires that side lot lines be substantially at right angles or radial to street lines unless the Approving Officer is satisfied that it is impractical to comply. The applicant has submitted the proposed access design to the Provincial Approving Officer as part of the subdivision review. With the exception of proposed Lot 2, the angle of the side lot lines to the north of the constructed road meet design requirements. The remainder parcel can only be accessed from Clark Road in the north due to the large wetland and watercourses on the lot. The requested variances are for vacant parcels within a proposed plan of subdivision and each lot has adequate frontage to provide individual accesses from the public roadway.

Panhandle:

The applicants have also requested a variance to reduce the panhandle width requirement specified in Part 1, Section 3.10 (5)(b) of Bylaw No. 2040 from 20 m to 15.7 m. The proposed panhandle extends approximately 135 m from the property's boundary at Aythree Road at a width of 15.7 m. Proposed Lot 2 is 11.6 ha and is capable of further subdivision under the current zone.

A 20 m wide panhandle is the standard requirement for designing vehicle access to any additional lots created by subdivision. Under this proposal, the 15.7 m panhandle would serve as access for Lot 2 from Aythree Road. While the minimum lot size specified by the zone would facilitate subdivision to create up to one additional lot, the owner's intended use of the property as an equestrian facility would make use of the entire parcel.

Through the public notification process, any residences that may be affected by the proposed frontage reduction will have an opportunity to come forward with their concerns. Staff recommend Alternative 1, subject to public notification and consideration of comments from neighbouring residents.

CONCLUSION

The applicant has submitted a seven-lot subdivision application and has requested a reduction of the minimum frontage requirement from 10% of the lot perimeter for several proposed parcels. A variance has also been requested to reduce the minimum width of the panhandle strip for proposed Lot 2 from 20 m to 15.7 m. Staff recommend approval of development variance permit VA000155 (Appendix C), subject to public notification.

RECOMMENDATION

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

That Development Variance Permit VA000155 for Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan121 RW and Except That Part in Plan EPP63580 to vary:

- a) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(4) by reducing the required frontage for:
 - i. Lot 2 from 231 m (10%) to 15.7 m (0.68%);
 - ii. Lot 3 from 112 m (10%) to 46 m (4.13%);
 - iii. Lot 4 from 116 m (10%) to 100 m (8.61%);
 - iv. Lot 5 from 134 m (10%) to 51.7 m (3.85%);
 - v. Lot 6 from 116 m (10%) to 38.3 m (3.3%);
 - vi. Lot 7 from 124 m (10%) to 49.4 m (3.99%); and
- b) Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Schedule A, Part 1, Section 3.10(5)(b) by reducing the minimum width of a panhandle access strip from 20 m to 15.7 m;

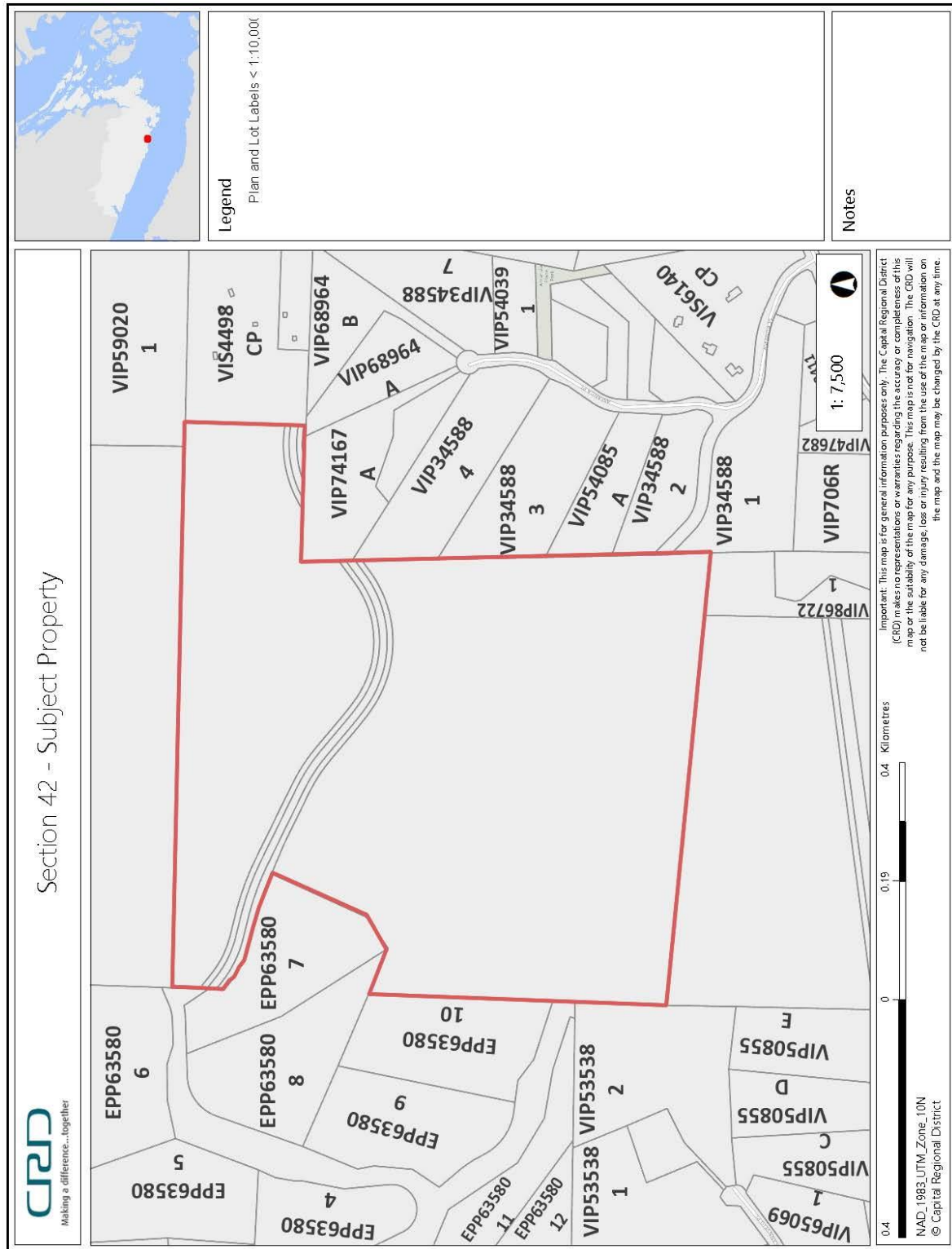
for the purpose of creating a seven-lot subdivision, be approved.

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

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Sketch Plan of Proposed Subdivision
- Appendix C: Permit VA000155

Section 42 - Subject Property



Sketch Plan of Proposed Subdivision of Section 42, Otter District, except that Part Lying 50 Feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121 RW and Except that Part in Plan EPP63580.

Legend:

- decided proposed Right Line as defined by Susan Burdell, R. Geo
- decided 30m offset from natural boundary of creek
- decided proposed non-disturbance area
- DW decided proposed driveway location
- decided well location (approximate only)
- decided park hole (approximate only)

Table:

Lot	Area	Perimeter	Frontage
Rem 42	15.0 ha	2,683 m	110.0
1	5.1 ha	1,757 m	271.0 m
2	11.6 ha	2,310 m	157.7 m
3	4.2 ha	1,115 m	46.0 m
4	4.2 ha	1,101 m	100.0 m
5	4.1 ha	1,344 m	317.7 m
6	4.2 ha	1,101 m	306.5 m
7	4.2 ha	1,239 m	49.4 m

Notes:

- All distances are in metres and decimals thereof unless otherwise indicated.
- The intended plot size of this plan is 565 mm in width by 432 mm in height (C size) when plotted at a scale of 1:2500.

McIntosh & McIntosh Surveying Inc.
 1000 Highway 101, Suite 101
 Victoria, B.C. V8P 1H1
 Tel: 250-363-5338
 Fax: 250-363-5339
 Email: info@mcintoshsurveying.com
 Web: www.mcintoshsurveying.com

October 2021 - driveway & park holes
 September 2021

Appendix C: Permit VA000155



CAPITAL REGIONAL DISTRICT

DEVELOPMENT VARIANCE PERMIT NO. VA000155

1. This Development Variance Permit is issued under the authority of Section 498 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 Development Variance Permit applies to and only to those lands within the Regional District described below (legal description), and any and all buildings, structures, and other development thereon:

PID: 009-497-790;

Legal Description: Section 42, Otter District except that part lying 50 feet on each side of the Centre Line of the Right of Way shown on Plan 121 RW and except that part in Plan EPP63580

3. The Capital Regional District's Bylaw No. 2040 is varied under Section 498 of the Local Government Act as follows:
 - a. That Part I, Section 3.10(4) be varied by reducing the frontage requirement for the following:
 - i. Proposed Lot 2 from 231 m (10%) to 15.7 m (0.68%);
 - ii. Proposed Lot 3 from 112 m (10%) to 46 m (4.13%);
 - iii. Proposed Lot 4 from 116 m (10%) to 100 m (8.61%);
 - iv. Proposed Lot 5 from 134 m (10%) to 51.7 m (3.85%);
 - v. Proposed Lot 6 from 116 m (10%) to 38.3 m (3.3%);
 - vi. Proposed Lot 7 from 124 m (10%) to 49.4 m (3.99%); and
 - b. That Part I, Section 3.10(5)(b) be varied by reducing the minimum width of a panhandle access strip from 20 m to 15.7 m,for the purpose of creating a seven-lot subdivision, as shown on the Proposed Sketch Plan of Subdivision, prepared by McIlvaney Riley Land Surveying Inc, dated October, 2021, attached.
4. 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 (**VA000155**) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
5. If the holder of a permit does not substantially start any construction permitted by this Permit within 2 years of the date it is issued, the permit lapses.
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:

Attachment 1: Sketch Plan of Proposed Subdivision, dated October, 2021.
8. This Permit is NOT a Building Permit.

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

ISSUED this ____ day of _____, 2022

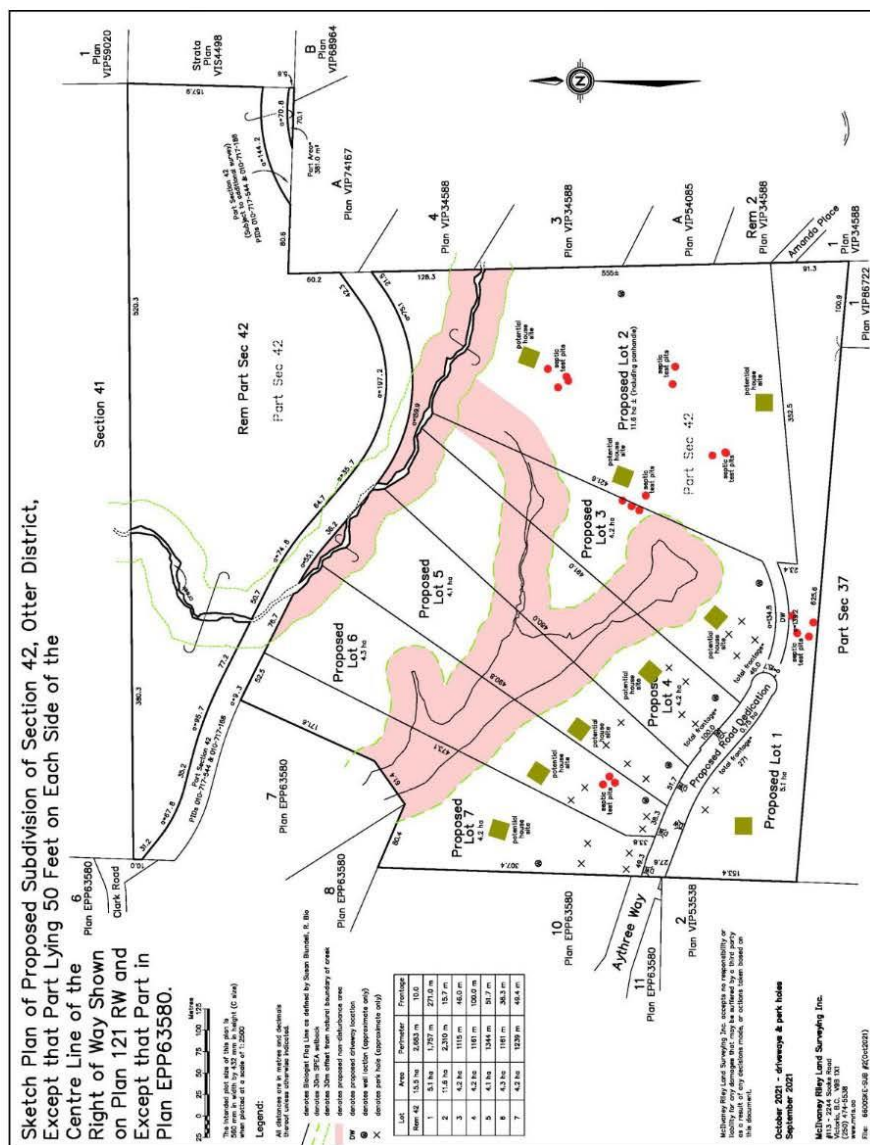
Corporate Officer
Kristen Morley



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VA000155

Attachment 1: Sketch Plan of Proposed Subdivision





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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JUNE 21, 2022

SUBJECT **Development Permit with Variance for Lot 12, Section 10, Otter District, Plan VIP77477 – 2193 Otter Ridge Drive**

ISSUE SUMMARY

A request has been made for a development permit with variance to authorize subdivision on a parcel designated as a Sensitive Ecosystem Development Permit (DP) area, and to reduce the requirement that 10% of the lot perimeter of a parcel front onto a public highway.

BACKGROUND

The 0.7 hectare (ha) property is located at 2193 Otter Ridge Drive and is zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw No. 2040 (Appendix A). The subject property is bounded by Rural Residential 2 (RR-2) zoned parcels to the north and south, a Rural Residential 3 (RR-3) zoned parcel to the west, and by Otter Ridge Drive to the east. There is a single-family dwelling and accessory building accessed by an existing driveway located in the southeast corner of the parcel, adjacent to the road.

The applicant has submitted an application for a two-lot fee-simple subdivision (SU000737) (Appendix B). The RR-2 zone establishes an average minimum lot size of one hectare (ha); however, the application was made under Section 514 of the *Local Government Act* (Subdivision for a Relative). Including the panhandle, proposed Lot B is 0.28 ha, and the remainder parcel is 0.42 ha.

Portions of the parcel are designated as a Sensitive Ecosystem development permit area within the Otter Point Official Community Plan, Bylaw No. 3819; therefore, a development permit is required. Proposed Lot B does not meet the 10% minimum frontage requirement in Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4); therefore, a frontage variance is also requested.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the CRD Board:

That Development Permit with Variance DV000088 for Lot 12, Section 10, Otter District, Plan VIP77477, to authorize the subdivision of land designated as a Sensitive Ecosystems Development Permit Area; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10% (31.6 m) of the lot perimeter to 1.93% (6 m) of the lot perimeter for proposed Lot B, as shown on the plans prepared by West Coast Design and Development Services, dated August 3, 2021, be approved.

Alternative 2

That the Development Permit with Variance DV000088 be denied.

IMPLICATIONS

Legislative Implications

The Otter Point Official Community Plan, Bylaw No. 3819, designates development permit areas (DPAs) and outlines development permit guidelines (Appendix C). The property is located within the Sensitive Ecosystem DPA; therefore, a development permit is required for subdivision. CRD Delegation of Development Permit Approval Authority Bylaw, 2009, Bylaw No. 3462, grants the General Manager, Planning and Protective Services, the authority to issue a development permit; however, the delegated authority does not include development permits that require a variance, as stated in Section 5(a) of the bylaw.

The Juan de Fuca Land Use Bylaw No. 2040, Part 2, Section 3.10(4), specifies that road frontage shall be a minimum of 10% of the perimeter of a parcel. A variance to reduce the minimum required frontage has been requested for proposed Lot B in order to permit the subdivision.

Public Consultation Implications

Pursuant to Section 499 of the LGA, if a local government is proposing to pass a resolution to issue a development variance permit it must give notice to each resident/tenant within a given distance as specified by bylaw. Juan de Fuca Development Fees and Procedures Bylaw No. 3885, states that the Board may, at any time, refer an application to an agency or organization for their comment. In addition, it states that a notice of intent must be mailed to adjacent property owners within a distance of not more than 500 metres. Any responses received from the public will be presented at the June 21, 2022, Land Use Committee meeting. There is no requirement for public consultation if a local government is considering a development permit.

Land Use Implications

Development Permit:

An Environmental Review report was prepared by Patrick Lucey, R.P.Bio., of Aqua-Tex Scientific Consulting, to review the proposed subdivision in relation to the Sensitive Ecosystem DP guidelines. The report described the site conditions and characteristics, identified a man-made wetland on the adjacent parcel to the south and a natural wetland on the parcel to the west, noted that the remainder lot is fully developed with a dwelling and associated services, and confirmed that none of the trees within the designated Sensitive Ecosystem meet the definition of Mature Forest (being greater than 80 years old). The man-made wetland was determined to not be subject to the *Riparian Areas Protection Regulations (RAPR)* and the subject property is outside the 30 m Riparian Assessment Area associated with the natural wetland.

Recommendations from the report included that the panhandle driveway be constructed to avoid disturbance to the bed rock outcrop south of the existing dwelling on the proposed remainder lot, and that any cleared tree tops be checked by a botanist for the presence of Seaside Bone Lichen. If this species is identified, the top 2 m of any felled trees should be left on the parcel to encourage reproduction. The professional report is attached to the draft development permit with variance as an appendix.

Variance:

The Juan de Fuca Land Use Bylaw requires that where a lot being created by a subdivision fronts on a public highway, the minimum frontage on the highway shall be one-tenth of the perimeter of the lot. The applicant has proposed to reduce the minimum frontage requirement from 10% (31.6 m) to 1.93 % (6 m) for proposed Lot B.

In evaluating whether a frontage exemption is justified, the following technical criteria are normally considered:

- How does it relate to the topography of the area?
- Does it create any environmental impacts?
- Will reducing the frontage produce an awkward lot configuration?
- Will reducing the frontage eliminate future subdivision potential of the lot and of lots beyond?
- Will the exemption reduce road network and access options?
- Does the proposed reduction disturb existing residences?

The proposed lot boundaries are not at right angles to the road; however, the panhandle configuration is considered conforming on a cul-de-sac. The proposed panhandle meets the 6 m width requirement in the bylaw, and the parcel would be limited to a maximum lot coverage of 25%. The creation of one additional parcel is not expected to substantially affect the public road network or neighboring properties as the permitted uses support a single-family dwelling and related accessory uses, including one secondary suite subject to regulations.

Development Permit with Variance DV000088 has been prepared for consideration to authorize subdivision within a Sensitive Ecosystems Development Permit Area, and to grant a variance to reduce the minimum frontage requirement for proposed Lot B (Appendix D). Any residents that may be affected by the proposal will have an opportunity to come forward with their comments through the public notification process. Staff recommend approval of the development permit with variance subject to public notification.

CONCLUSION

The applicant has requested a development permit with variance for the purpose of authorizing a 2-lot subdivision and wishes to reduce the minimum frontage requirement for proposed Lot B from 10% (31.6 m) of the lot perimeter to 1.9% (6 m) of the lot perimeter. A professional report was received to address the Sensitive Ecosystem DP guidelines. If the Permit is approved by the Board, the Corporate Officer will proceed to issue the Permit and register a Notice of Permit on Title.

RECOMMENDATION

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

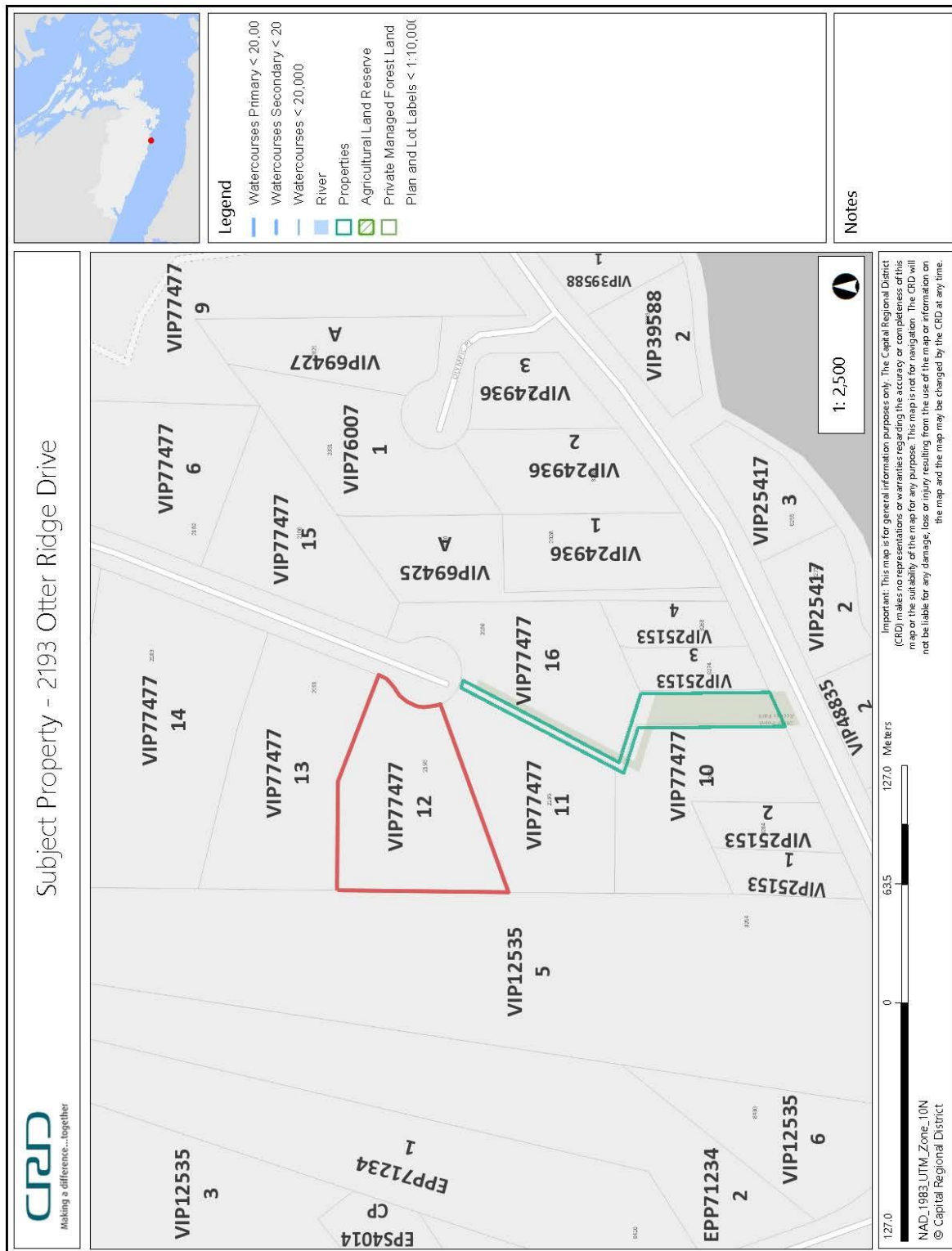
That Development Permit with Variance DV000088 for Lot 12, Section 10, Otter District, Plan VIP77477 to authorize the subdivision of land designated as a Sensitive Ecosystems Development Permit Area; and to vary Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, Part 2, Section 3.10(4) by reducing the minimum frontage requirement from 10 % to 1.93 % for proposed Lot B, as shown on the plans prepared by West Coast Design and Development Services, dated August 3, 2021, be approved.

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

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Proposed Subdivision Plan
Appendix C: Development Permit Guidelines
Appendix D: Permit DV000088

Appendix A: Subject Property Map



[illegible]

Appendix C: Development Permit Guidelines

1. No development, subdivision or sewage disposal system will be permitted in the “Sensitive Ecosystems DPA”, except as allowed by a Development Permit or subject to the general exemptions as outlined in Section 6.2 of this Plan.
2. Avoid intrusion of development into Development Permit Areas and to minimize the impact of any activity in these areas. Development shall generally only be supported where the applicant provides compelling reasons supported by a Qualified Environmental Professional's recommendations for mitigation to support the request or if there are no alternate building locations. Variances from other applicable regulations, including height, setback and location regulations may be considered in order to minimize encroachment into the Development Permit Area.
3. Development or subdivision of land should be designed to comply with the policies in Section 5.3.2 of the Plan.
4. The applicant for a Development Permit for land within the “Sensitive Ecosystems DPA” must provide an assessment by a Qualified Environmental Professional on the environmental conditions on the proposed development site and recommendations on the suitability of the site for the proposed development. The assessment must include recommendations for vegetation protection, enhancement or retention, where applicable. A plan prepared by a British Columbia Land Surveyor may be required as a condition of the Development Permit.
5. As a condition of the issuance of a Development Permit, compliance with any or all conditions recommended in the report prepared by the Qualified Environmental Professional may be required.
6. Disturbance to existing vegetation that is not directly affected by the footprint of building, ancillary uses, and driveways must be minimized. Any disturbed areas shall be rehabilitated with appropriate landscaping and habitat compensation measures. Loss of natural habitat shall be minimized.
7. A buffer zone within which land alteration or structures will be limited to those compatible with the characteristics of the sensitive ecosystems, or those that can be mitigated in a manner recommended by a Qualified Environmental Professional may be required and the specific or general location of the buffer zone may be designated.
8. In order to ensure unnecessary encroachment does not occur into the Development Permit area at the time of construction, permanent or temporary fencing measures may be required.
9. Environmentally sensitive areas and the habitat requirements for wildlife species at risk as defined in the federal Species at Risk Act should remain in their natural state and should not be developed or disturbed.
10. Where possible, large tracts of wildlife habitat or continuous habitat corridors should be preserved, in order to facilitate movement of wildlife. In addition, where possible, landscape plans should enhance, expand or create wildlife habitat such as wetlands, native aquatic and terrestrial plants.
11. Planting of invasive species adjacent to or within designated “Sensitive Ecosystems DPA” will not be permitted.
12. Changes in the land surface which could affect the health of vegetation or the biodiversity of any plant communities and disturbance of mature vegetation and under-storey plants will be minimized.
13. Any development must be designed to avoid storm water runoff and the development or subdivision may be required to be carried out in accordance with recommendations contained in a drainage plan that the applicant may be required to provide.
14. Removal of gravel, sand, soil or peat in “Sensitive Ecosystems DPA” will be strictly limited and only permitted if impacts can be mitigated in a manner recommended by a Qualified Environmental Professional.
15. Development should generally conform to Develop with Care 2012: Environmental Guidelines for Urban and Rural Land Development in British Columbia.
16. Development may be required to incorporate environmentally sound building practices where appropriate, such as natural drainage, or use of permeable paving materials.
17. A subdivision application which proposes the creation of parcels less than the average parcel size supported by this Plan and located within a smaller footprint of the parent parcel may be supported where the conditions are secured for the permanent on-going protection or restoration of environmentally sensitive features without an amendment to this Plan. However, the overall number of parcels must be consistent with the Land Use Designation.
18. Where the Qualified Environmental Professional or Qualified Professional recommends re-vegetation or remediation works, a landscaping plan and security deposit may be required.

Appendix D: Permit DV000088



CAPITAL REGIONAL DISTRICT

DEVELOPMENT PERMIT WITH VARIANCE NO. DV000088

1. This Development Permit with Variance is issued under the authority of Sections 490 and 498 of the *Local Government Act* and subject to compliance with all of the bylaws of the Regional District applicable thereto, except as specifically varied or supplemented by this Permit.
2. This Development Permit with Variance applies to and only to those lands within the Regional District described below (legal description), and any and all buildings, structures, and other development thereon:

PID: 026-023-105;

Legal Description: Lot 12, Section 10, Otter District, Plan VIP77477 (the "Land")

3. This development permit authorizes a 2-lot fee-simple subdivision and related services (the "development") on the Land, located within the development permit areas established under the Otter Point Official Community Plan, Bylaw No. 3819, Section 6.6 (Sensitive Ecosystems) 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 development referred to in section 3 may be carried out are as follows:
 - a. That the components of the development occur in conformity of the Subdivision Plan prepared by West Coast Design and Development Services, dated August 3, 2021; and
 - b. That the proposed development comply with the recommendations outlined in the report prepared by Patrick Lucey, RP.Bio., dated May 6, 2022 (the "Environmental Report").
5. The Capital Regional District's Bylaw No. 2040, Part 2, Section 3.10(4), is varied under section 498 of the *Local Government Act* as follows:
 - a. That the the minimum frontage requirement of proposed Lot B be reduced from 10% to 1.93%;
6. 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 (DV000088) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.
7. If the holder of a permit does not substantially start any construction permitted by this Permit within 2 years of the date it is issued, the permit lapses.
8. 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.
9. The following plans and specifications are attached to and form part of this Permit:
 - Appendix A: Subdivision Plan
 - Appendix B: Environmental Report
10. This Permit is NOT a Building Permit.

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

ISSUED this ____ day of _____, 2022.

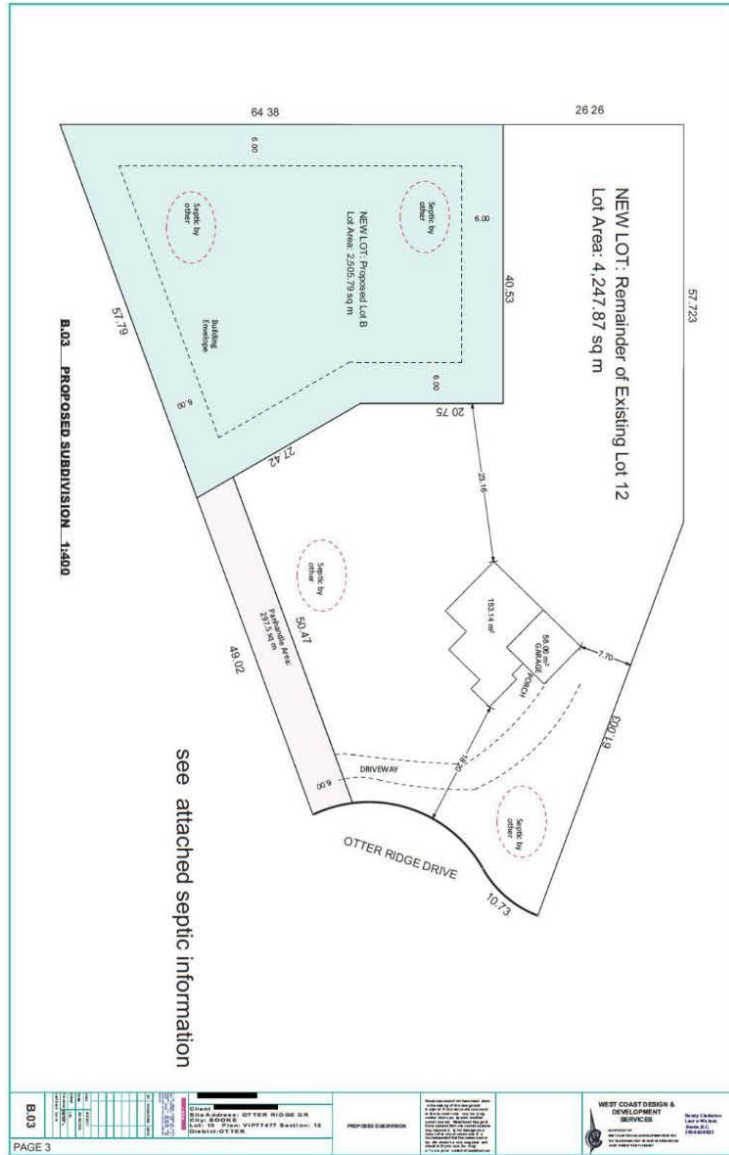
Kristen Morley
Corporate Officer



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Appendix A: Subdivision Plan





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Appendix B: Environmental Report



390-7th Avenue,
Kimberley, B.C. V1A 2Z7
Tel: (250) 427-0260
Fax: (250) 427-0260
e mail: aqua-lex@islandnet.com

201-3690 Shelbourne St
Victoria, B.C. V8R 4H2
Tel: (250) 598-0266
Fax: (250) 598-0263

Iain Lawrence, MCIP, RPP
Manager
Juan de Fuca Community Planning
CRD, Sooke, B.C.

May 6th, 2022

Re: 2193 Otter Ridge Drive – Environmental Review – DPAs

Dear Iain:

Aqua-Tex was retained by [REDACTED], home owner at 2193 Otter Ridge Drive, to conduct a site assessment determine whether any Sensitive Ecosystems, as inventoried by the Province (CDC Conservation Data Centre) and the CRD, exist on the property (Figure 1 and Figure 2). [REDACTED] has applied to subdivide the property to create a second dwelling on the subdivided parcel (Figure 3).

Aqua-Tex staff (Wm. Patrick Lucey, RP Bio.) and a specialist in sensitive botanical species (Mr. Ted Lea, former Ministry of Environment scientist) conducted a site visit (April 15, 2022), having reviewed the background information associated with the Environmental Inventory assessments associated with the property and its surrounding areas (Figure 4 – Figure 9). Subsequently, Mr. Lucey had a phone discussion with Erica Wheeler, a Botanist and specialist on Slimleaf onion. Ms. Wheeler's comments on Slimleaf onion and Seaside Bone Lichen have been incorporated into our recommendations.

Our review of the literature in the CDC Occurrence Map of Species and Ecosystems at Available Occurrences (Figure 6) indicated that two species of concern had been historically identified in the area. In addition, the CRD Environmental Inventory Map (Figure 4 and Figure 5) indicated there might be Mature Forest associated with the subject property or adjacent properties. A review of the CRD Aquatic Mapping did not reveal any freshwater landscape features associated with the subject property or on adjacent properties.

Schedule "A" of Capital Regional District Bylaw No. 3819 Otter Point Official Community Plan (Appendix A) outlines Development Permit Areas (DPAs) associated with Sensitive Ecosystems for which conservation measures may be applied to proposed development, including Watercourses, Herbaceous, and Mature Forest.

The *Otter Point Sensitive Ecosystem Inventory* (Schaefer, C., Page, N., and Harrison, D. 2011. Report Prepared for the CRD. 32 pg. (Appendix – Sensitive Ecosystems Inventory of Otter Point) makes reference to a Mature Forest category (Figure 5 and Figure 7) on



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the parent property and the CDC Conservation Data Centre lists two sensitive species associated with the property and/or adjacent areas (Figure 6).

Summary Findings & Recommendations

1. Two sensitive species identified in the CDC Data Base have been reported from the Otter Point region - Slimleaf onion (*Allium amplexans*) and Seaside Bone Lichen (*Hypogymnia heterophylla*). Neither species was observed during the site assessment.
2. It is acknowledged that a single site visit was conducted to both a) observe whether either of the species was present and b) to ascertain whether habitat associated with these species is present on the property, especially the Slimleaf onion. This species is associated with the Herbaceous Sensitive Ecosystem. The Herbaceous category is a true Sensitive Ecosystem category.
3. There is a small, inland Herbaceous area on the parent property, restricted to a bed rock outcrop, that will not be impacted by the proposed subdivision development. This Herbaceous area is found at the southeast boundary of the parent lot. A fragment of a second bed rock outcrop occurs on the proposed daughter lot adjacent to, but separated from, the larger bed rock outcrop. This fragment has minimal Slimleaf onion habitat.
4. If the Slimleaf onion (Figure 6 and Figure 9) was to occur on this property, it may occur in the Herbaceous bed rock knoll, although aspects of this habitat are not appropriate to support Slimleaf onion. Slim leaf onion is frequently found on rocky shoreline ledges, especially where vernal pools are present. No such habitats occur on the subject property.
5. If the parhandle driveway is constructed to avoid disturbance to the bed rock outcrop, at the entrance to the proposed subdivided Lot, there will be no impact from the development on this Herbaceous ecosystem area.
6. On Southern Vancouver Island, Seaside Bone Lichen has a very narrow habitat range. All known populations occur within about 100 m of the ocean in the driest subzones of the Coastal Western Hemlock Biogeoclimatic Zone and the neighbouring Coastal Douglas-fir Zone. Here it characteristically colonizes the branches of young to mid-seral Shore Pine (*Pinus contorta* var. *contorta*) forests, especially on rocky, windswept ledges. (Excerpted from the Federal Recovery Strategy for the Seaside Bone Lichen (*Hypogymnia heterophylla*) in Canada, 2017. Species at Risk Act Recovery Strategy Series. Environment and Climate Change Canada, Ottawa. vi + 28 pp.)
7. The Shore Pines in these relatively uncommon sites are somewhat stunted and prone to branch destruction and damage from offshore winds and winter storms. Seaside Bone Lichen appears to be excluded from less exposed sites by other arboreal lichen species (Ibid).
8. The main threats to Seaside Bone Lichen are climate change and removal of, or damage to, its host trees. All populations face the risk of destruction or damage of host trees via the increasing severity and frequency of winter storms predicted with climate change. It is also suggested that a mean minimum winter temperature above freezing was the most important environmental variable for identifying suitable habitat (Ibid).



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9. The Federal Recovery Strategy for the Seaside Bone Lichen (2017) identified critical habitat as wherever the following biophysical attributes occur:
 - Areas with high exposure to wind and sunlight, and
 - Early to intermediate seral stage shoreline forest habitat, including one or more known host trees and shrubs: Shore Pine, Douglas-fir, Sitka Spruce, Oceanspray.
10. The property under review is at least 225 m from the marine shoreline, lying at an elevation of ~40 – 45 m above sea-level.
11. No Shore Pine were observed growing on the subject property, nor on adjacent neighbouring properties, though Douglas-fir, Oceanspray, and a few isolated Sitka Spruce were observed. A visual examination of conifer needles did not reveal any Seaside Bone Lichens.
12. Based upon a review of the scientific literature, the extremely narrow habitat requirements required to support a population of Seaside Bone Lichen strongly favour our observation that this species is not expected to occur in the subject property.
13. It is recommended that when the trees are to be removed from the panhandle driveway and for the residential building, and when the septic disposal field is installed, that a qualified Botanist check the tree tops for the presence of Seaside Bone Lichen. Tree tops (2 m in length) shall be left on the property to function as potential recruitment sources of the lichen. Trunks shall be left under the forest canopy to provide woody debris for wildlife habitat, providing the trunks do not increase forest floor fuel loading, associated with wildland-urban interface fire management.
14. The Mature Forest Category starts at 80 years old - which is what is mapped in the Otter Point SEI Report (CRD, 2011).
15. No forest stands of the age that meets the Mature Forest category were seen on the portion of the parent property proposed to be subdivided to create the daughter Lot.
16. There was only a young forested copse of conifers (< 40 years old) that occurred on the proposed building site or what would be within the panhandle corridor on which the driveway access would be constructed (Figure 3).
17. An isolated pond was observed on the adjacent property to the south (2195 Otter Ridge Drive) (Figure 2).
18. The isolated pond is not connected by surface stream channel to any fisheries habitat, therefore the pond is not subject to the Riparian Areas Protection Regulation (RAPR), nor to the Federal *Fisheries Act*.
19. The pond appeared to be man-made and, as such, is not subject to the *Water Sustainability Act (WSA)* (i.e., it is not a natural watercourse).
20. The isolated, man-made pond is not subject to the CRD Watercourses DPA.

The section following provides the study method, our observations and findings, and relevant background information on which we based the above Summary Findings.

We would be pleased to discuss with you our Recommendations should you have any questions.

Sincerely,



DV000088

A handwritten signature in black ink, appearing to read 'Wm. Patrick Lucey', is positioned above the printed name.

Wm. Patrick Lucey, B.Sc., B.A. (WD), M.Sc., R.P. Bio., CBiol., MRSB

Sr. Aquatic Ecologist & President

Aqua-Tex Scientific Consulting Ltd.

Cc: [REDACTED] Home Owner

Ted Lea, Botanical Scientist

/Users/Patrick/Documents/Projects/2193 Otter Ridge Drive [REDACTED] /Final Report to CRD
Planning/2193 Otter Ridge Drive_Environmental Report_2022-05-06.docx



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Study method, Background Habitat Information, Findings

A site visit to 2193 Otter Ridge Drive was conducted on the morning of April 15, 2022 by [REDACTED] and the author, with [REDACTED] (property owner) assisting.

The subject property was walked in its entirety, with brief forays onto adjacent properties.

The intent of the field visit was to document the vegetation cover on the subject property to ascertain whether 1) either of the two species identified in the Sensitive Species Inventory (Figure 6) presently occur on the subject, or adjacent, property, and 2) whether any of the Sensitive Ecosystems identified in the Otter Point Official Community Plan Bylaw No. 3819 (Figure 4) are present on the subject property. In particular, habitats associated with the two species identified in the Sensitive Species Inventory – Slimleaf Onion and Sea Bone Lichen – were assessed to verify if either of these species are present or are likely to be present on the subject property. Aquatic landscape features were also assessed, though the CRD Habitat Mapping does not list this habitat type as occurring on any of the properties in this area (Figure 10 and Figure 11).

The site assessment included photographs representative of what was observed during the tour of the properties.

Background Species Habitat Information and Field Observations

Prior to conducting the site assessment, a review of scientific literature on the two sensitive species of concern (Figure 6), associated with the subject property and the surrounding area, was conducted. The findings of that literature review (prepared by Mr. Lea) follow.

Slimleaf Onion (Allium amplexans)

The following botanical and habitat information regarding this species was abstracted from the Garry oak ecosystems recovery team (GOERT) factsheet.

<https://goert.ca/wp/wp-content/uploads/SAR-factsheet-allium-amplexans.pdf>

Habitat

Slimleaf Onion inhabits a variety of sites which are moist in the spring and dry out later in summer. Occupied sites include vernal moist coastal bluffs, shallow swales among rock outcrops in larger meadow or oak woodland complexes, and along the bases of riverside cliffs supplied with seasonal seepage. **The majority of sites in which Slimleaf onion occurs are on rocky bluffs and ledges within a short distance of the ocean.** Plants generally occur as diffuse colonies in thin soils over bedrock. Tree and shrub cover are generally sparse or lacking entirely. Mosses and grasses such as California Oatgrass (*Danthonia californica*), Roemer's Fescue (*Festuca roemerii*), Sweet Vernalgrass* (*Anthriscus odoratum*), Common Velvet-grass* (*Holcus lanatus*), and hairgrass species* (*Aira spp.*) are often dominant. Species commonly found with Slimleaf Onion include Broad-leaved Stonewort (*Sedum spathulifolium*), Chocolate Lily (*Fritillaria affinis*), Menzies' Larkspur (*Delphinium menziesii*), Sea Blush (*Plectritis congesta*),



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camas species (*Camassia spp.*), and Oceanspray (*Holodiscus discolor*). [NB. * refers to non-native species.]

Slimleaf Onion on 2193 Otter Ridge Drive

Our site assessment was unable to determine whether this species occurs on the bed rock outcrop at the entrance to the proposed panhandle driveway (Figure 3) (Photo 1, Photo 2, Photo 4 – Photo 7). Given that the literature indicates that this species is almost always observed on coastal bluff areas, in close approximation to the exposed shoreline, it strongly suggests that the subject property's bed rock outcrop habitat, as a possible location for this species to thrive, is too far from the ocean.

- Since the proposed driveway access can be constructed to avoid disturbing the two bed rock outcrops at the entrance to the driveway (Photo 7), this potential Slimleaf onion habitat shall remain on the parent property.
- The panhandle driveway access shall be constructed to prevent any disturbance of the two bed rock outcroppings to conserve potential Slimleaf onion habitat.

Seaside Bone Lichen

Habitat

Seaside Bone Lichen is restricted to the branches and terminal twigs of conifers, and occasionally woody shrubs, in exposed seaside habitats along the Pacific coast of temperate North America. It primarily occurs on trees growing on rocky, windswept ledges, in early to intermediate seral Shore Pine (*Pinus contorta* var. *contorta*) forests. The trees in these locations are somewhat stunted and prone to branch destruction and damage from offshore winds and winter storms. [NB. The following references were excerpted from the Federal Recovery Strategy for the Seaside Bone Lichen (*Hypogymnia heterophylla*) in Canada, 2017. Species at Risk Act Recovery Strategy Series. Environment and Climate Change Canada, Ottawa. vi + 28 pp.]

Seaside Bone Lichen **appears to be excluded from less exposed sites** by other arboreal lichen species (Goward 1996). Shore Pine is the most common host tree for Seaside Bone Lichen in Canada. However, this species has also been found on Douglas-fir (*Pseudotsuga menziesii*) (Goward and Knight 1991; Marsh 2012), Sitka Spruce (*Picea sitchensis*) (Noble 1975), and Oceanspray (*Holodiscus discolor*) (Goward and Knight 1991). It is usually found on live branches but occurs frequently on dead branches as well (Marsh 2012). No Shore Pine were observed growing on the subject property, nor on adjacent neighbouring properties, though Douglas-fir, Oceanspray, and a few isolated Sitka Spruce were observed. A visual examination of conifer needles did not reveal any Seaside Bone Lichens.

Seaside Bone Lichen grows in **close proximity to the coast** and, in Canada, is found within 100 m of the ocean (Goward 1996) (at its closest, the property lies ~225 m from the exposed shoreline and known historical siting (Figure 6 and Figure 8). This may indicate a requirement for salts associated with sea spray, as hypothesized for other coastal arboreal lichens (Glavich 2003). Alternatively, it may point to pronounced sensitivity to subfreezing winter temperatures. Proximity to the ocean has a strong moderating influence on temperature. The subject property lies at an elevation of ~40 m



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above sea level, at elevation at which freezing temperatures occur during the winter months.

Habitat requirements *Hypogymnia heterophylla* is restricted to the branches and terminal twigs of conifers, especially shore pine (*Pinus contorta* var. *contorta*) in exposed seaside habitats along the northwest Pacific coast. *H. heterophylla* occupies the driest subzones of the Coastal Western Hemlock Zone of the British Columbia Biogeoclimatic Ecosystem Classification System (Meidinger & Pojar 1991), in a region of rain shadow-induced Mediterranean climate.

In Canada, this species appears to be restricted to younger forest stands and may therefore be indirectly dependent on early seral forest attributes. Its distribution, for the most part, may further be controlled by a requirement for salts associated with sea spray (Goward 1996). Other lichens are similar; for instance, Clavich (2003) speculates that the epiphytic species *Bryoria pseudocapillaris* and *B. spiratifer* may be dependent on oceanic salts because they are only found in locations in close proximity to the coastline in the Pacific Northwest.

The climate in the region of Vancouver Island in which the four locations containing *Hypogymnia heterophylla* were found can be characterized as oceanic. The Sheringham Point weather station, located approximately 8 km west of the Sooke area, reported a mean annual temperature of 10.4°C, mean December minimum temperature of 3.7°C, extreme minimum temperature of -3.5°C, mean maximum August temperature is 17.9°C and extreme maximum temperature is 29.8 °C (1996–2004) (Environment Canada 2006). It should be noted that during the 2021 'heat dome' maximum temperatures exceeding 29.8 °C most likely occurred along the southern shoreline of Vancouver Island.

Though actual data are lacking, the microsites colonized by *Hypogymnia heterophylla* are expected to have a distinct thermal profile due to their locations along the outer coast and are subject to a strong moderating influence from the adjacent ocean. In addition, Coxson *et al.* (1984) demonstrated that thallus temperatures in *Hypogymnia* (specifically *H. physodes* (L.) Nyl.) exposed to full sunlight are much higher than adjacent air temperatures, notwithstanding strong convective wind cooling. Because *H. heterophylla* occurs primarily in rather exposed, well-illuminated sites, elevated temperatures must constitute an important part of its operating environment (Goward 1996).

Recovery Strategy for Seaside Bone in Canada *Hypogymnia heterophylla* (2017)

A treatise on conservation strategies for this species can be found at:

COSEWIC report for Seaside Bone - https://www.registrelep-sararegistry.gc.ca/virtual_sara/files/cosewic/sr%5Fseaside%5Fbone%5F0808%5Fc%2Epdf

Seaside Bone on 2193 Otter Ridge Road

It is unlikely that Seaside Bone occurs at 2193 Otter Ridge Road, due to its distance from the ocean, which is more than two times (~225 metres) (Figure 6) the distance of 100 metres from the coast line that the species has been found and is expected to be found to meet its habitat requirements. As well, the main host species for Seaside Bone, which is shore pine, was not found on the subject property. Multiple terminal branches were



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assessed for this species, but the species was not seen (Photo 17 – Photo 20). Additional information can be found at: https://www.crd.bc.ca/docs/default-source/jdf-pdf/otter-point-ocp/otter-point-sensitive-ecosystem-inventory.pdf?sfvrsn=11e289e9_0

- The site assessment revealed that based upon a review of the scientific literature, the extremely narrow habitat requirements required to support a population of Seaside Bone Lichen strongly favour our observation that this species is not expected to occur in the subject property.

Herbaceous Ecosystems

Herbaceous ecosystems are non-forested (less than 10% tree cover), generally with shallow soils and often with bedrock outcroppings. Outwash deposits left in rock crevices and depressions sheltered from prevailing winds give rise to dry nutrient-poor soils that support limited plant growth. Herbaceous ecosystems in the Otter Point study area are predominantly coastal headlands or rocky bluffs along the shoreline, vegetated fairly sparsely with grasses and herbs or sometimes low shrubs, and often dominated by numerous moss and lichen species.

Subclass definitions

The defining concept of this class (HB:hb) is an inland, non-forested ecosystem with less than 10% tree cover, generally with shallow soils and often with exposed bedrock; it has a mix of grasses and forbs which typically account for 20% cover or more, and lichens and mosses are prevalent. This subclass was not mapped in the study area but is included here for context. When these same characteristics are found at the coast, the subclass coastal herbaceous (HB:cs) is used.

SEI for 2193 Otter Ridge Road

The Herbaceous category is a true Sensitive Ecosystem category. The only example of this habitat category we observed was the bed rock outcrop at the entrance to the proposed daughter Lot (Photo 4 – Photo 7).

It has vegetation dominated by mosses, grasses and forbs, including the native forbs, licorice fern, heuchera, blue-eyed Mary and fool's onion. If the species at risk – slim-leaved onion – was to occur on this property it may occur here, although aspects of habitat are not appropriate.

- As stated, there will be no impact from the development on this ecosystem's plant community.
- These two bed rock outcrops shall be left undisturbed.

Mature Forests

Mature forests are usually conifer-dominated, typically older than 80 years in age, and can range from dry to moist. They have a more complex structure than young forests, with more differentiation between canopy layers and more coarse woody debris on the forest floor. Other SEIs (e.g. East Vancouver Island and Gulf Islands SEI, Sunshine Coast SEI) only mapped mature forests that were larger than 25 ha; however, since



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mature forests were uncommon in the study area all stands, regardless of size, were mapped.

Sensitivity and importance

Mature forests are not as fragile as the ecosystems described above, but are included in SEIs for the following reasons:

- They represent the future old-growth forests. There were no remnant old forests in Otter Point. The only way Otter Point can regain these important ecosystems is to protect the existing mature forests.
- The mature forests provide landscape connectivity with other natural areas. This connectivity allows for the movement and dispersal of many forest dwelling species.
- These older second-growth forests can act as buffers, minimizing disturbance to sensitive ecosystems that occur within or adjacent to the forest.
- Buffers provide a vegetated area that bears the brunt of edge effects such as windthrow, invasive species colonization and human disturbance factors, thereby sheltering wetlands, woodlands and sparsely vegetated rock outcrops that are often found adjacent to, or surrounded by, mature forest.
- The forest stand may also maintain the micro-climate conditions that may be critical to the adjacent wetland or riparian ecosystem.
- Mature forest removal typically has negative repercussions on sensitive ecosystems in the watershed, from increasing sediment in watercourses and negatively affecting fish habitat, to reducing precipitation infiltration and changing the hydrology of wetlands.

The Mature Forest Category starts at 80 years old - that is what is mapped in the Otter Point SEI. The Mature Forest Category is not considered a Sensitive Ecosystem. The 2011 *Otter Point Sensitive Ecosystem Inventory Report* categorizes these areas under "Other Important Ecosystems" noting they represent "future old growth". Other than a single mature tree whose top half had been broken off, no trees of this age category were observed on the subject property; a few mature aged trees were observed on the adjacent property.

Watercourses DPA

On the adjacent property to the south (2195 Otter Ridge Drive) there is an isolated, man-made wetland / pond was assessed to inventory its habitat and to verify whether it was connected by a surface channel to fisheries habitat downstream (Photo 10 – Photo 12). The feature has a shallow depressional pond surrounded by sedges and rushes. There is a young red alder canopy that surrounds the feature, providing shade and organic leaf litter. The pond may be a breeding and rearing habitat for amphibians during the spring and summer months. However, it is not known if this wetland / pond dries up during the summer months, nor what temperatures the water could reach if the pond retains surface water during the summer months.

An assessment of discharge channels leading from the wetland / pond was made (Photo 14 and Photo 15) and **no surface channels (i.e., streams) were observed** – the feature is isolated. Therefore, the feature is not subject to the RAPR nor to the Federal *Fisheries*



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Act. Given that the feature is man-made the *Water Sustainability Act (WSA)* does not apply (*i.e.*, it is not a natural watercourse).

The Otter Point OCP (Bylaw No. 3819, September, 2014) defines a 'watercourse' as:

- WATERCOURSE means a permanent or non-permanent (containing water at least six months of the year) source of water supply that is natural or man-made, including a pond, lake, river, creek, brook, ditch, spring or wetland that is integral to a stream, with well-defined banks and a bed of 0.6 m or more below the surrounding land serving to give direction to or containing a current of water but **does not apply to a man-made pond that does not connect to a stream;**
- The aquatic man-made feature on 2195 Otter Ridge Drive is not subject to the Otter Point OCP.

There was a second wetland / pond identified on 8354 West Coast Road, lying to the west of the subject property (Photo 13). It was not determined if this wetland / pond is connected to downstream fisheries habitat; however, it appears to lie more than 30 m from any proposed development on the subject property. If the RAPR applies to this wetland / pond the SPLA would be 15 m to the east, such that the SPLA would not extend onto the subject property.

Neither the wetland / pond on 8354 West Coast Road or on 2195 Otter Ridge Drive are mapped (Figure 10 and Figure 11) in the Otter Point OCP Bylaw No. 3819 Map 5c: *Watercourse and Wetlands Development Permit Areas*. The 2011 Otter Point Sensitive Ecosystem Inventory Report acknowledged that small natural and man-made wetland / ponds, often isolated and unconnected to watercourses have not been mapped and, therefore, are not identified on common reference documents.

Recommendations to Conserve Sensitive Ecosystem Habitats

Based upon the ecological characteristics observed on the subject property, the following land use BMPs shall guide proposed development on the daughter Lot:

- The isolated wetland / pond lies entirely on the 2195 Otter Ridge Drive property.
- This isolated wetland / pond is not subject to the *WSA*, the Federal *Fisheries Act*, the RAPR, or to the Otter Point OCP.
- The proposed driveway and residential dwelling on the daughter lot shall be at least 5 m from the High Water Mark of the wetland / pond or the side yard setback width, whichever is greater, unless an alternative riparian setback is approved by a QEP.
- The proposed pan handle driveway and any building construction shall not disturb the soils or roots of the plant community within the riparian setback.
- Trees removed from the panhandle to facilitate an access driveway shall not result in disturbance to vegetation within the riparian setback unless approved by an Arborist and a QEP. Damaged or killed trees and/or shrubs within the driveway access shall be replaced based upon a replanting plan provided by the QEP.
- Runoff from the driveway and dwelling shall be designed to infiltrate and be treated within the native soils, acknowledging that the natural drainage pattern from the daughter Lot is south to the wetland / pond on 2195 Otter Ridge Drive.



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- The proposed development on the daughter Lot will not have any effect on the wetland / pond on the 8354 West Coast Road property, given the forest stand that lies between the wetland / pond and proposed development.
- The wetland / pond on 8354 West Coast Road lies entirely on the adjacent property to the west of the subject property; the wetland's HWM was field estimated to be ~30 m from the west property boundary of the parent lot (Figure 2) and from any proposed development on the daughter Lot. If subject to the RAPR, the SPEA for this wetland / pond would be 15 m to east, the SPEA lying entirely on the 8354 West Coast Road property.



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Figures



Figure 1. CRD NAA map showing the subject property (yellow arrow) relative to the exposed marine shoreline (Figure 4).

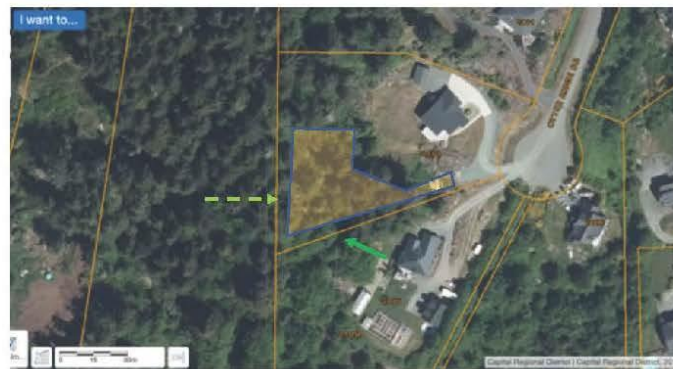


Figure 2. Close up of Figure 1 showing the location of the isolated, man made wetland (green arrow), on 2195 Otter Ridge Drive and the location of the aquatic feature on 8354 West Coast Road (dashed green arrow ~ 30 m). The trees lying within the orange polygon consist of a mixed deciduous / coniferous stand, <40 years of age, with the building envelope (Figure 3) consisting of a shrub dominated plant community, with a few young conifers and red alders (Photo 22 – Photo 24).



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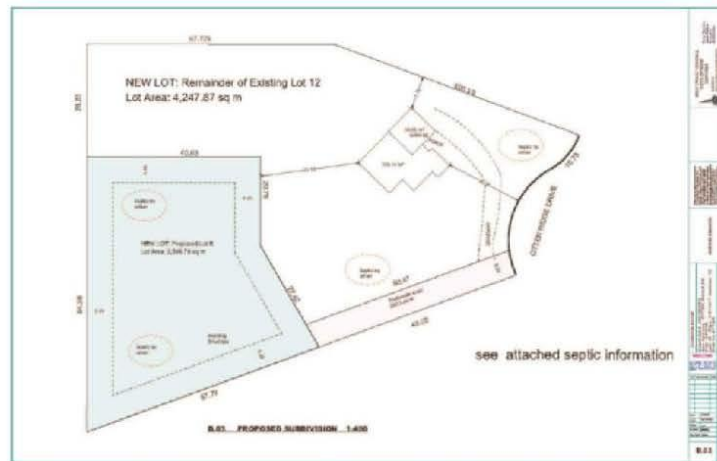


Figure 3. Site Plan showing the location of the proposed subdivision lots, location of the building area, septic disposal fields (approved by Island Health), and the panhandle access driveway.



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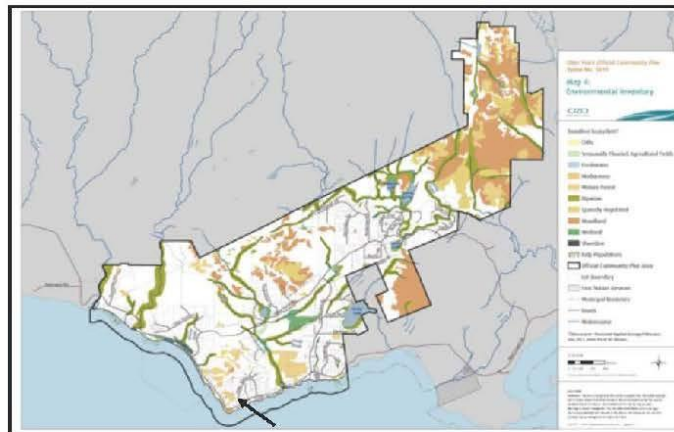


Figure 4. Extract Map showing the Sensitive Ecosystem Inventory associated with the Otter Ridge Drive property and the latter's proximity to the marine shoreline (black arrow). Otter Point Sensitive Ecosystem Inventory. Schaefer, C., Page, N., and Harrison, D. 2011. Report Prepared for the CRD. 32 pg. (Appendix Sensitive Ecosystems Inventory of Otter Point).



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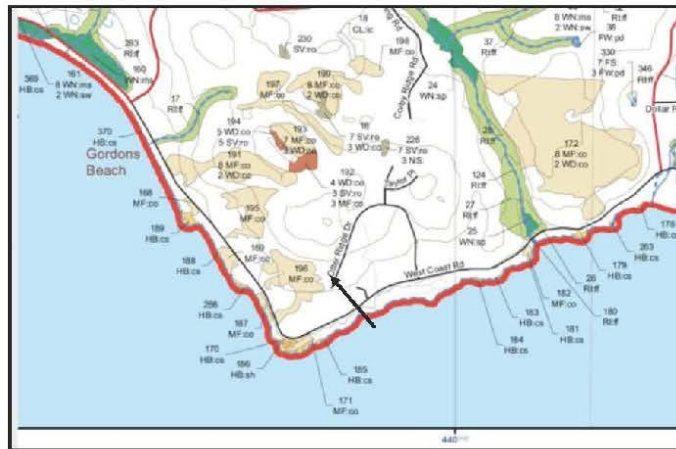


Figure 5. Close-up of the Map in Figure 4. The subject property is shown by the black arrow.



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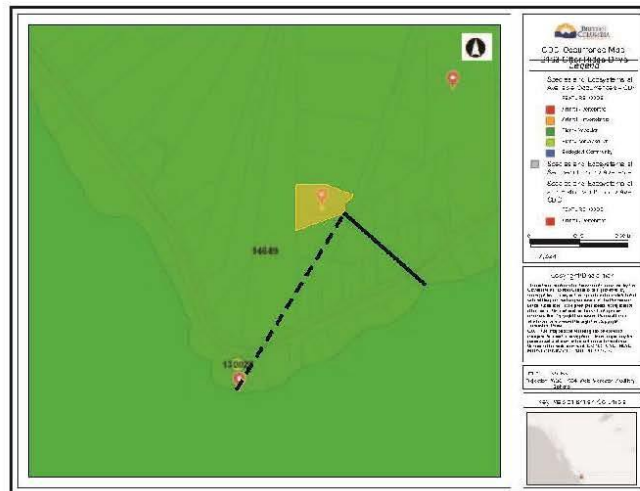


Figure 6. CDC Conservation Data Centre Map of reported sensitive species that historically occurred within the area surrounding the subject property (orange polygon). 130028 = Seaside Bone Lichen (*Hypogymnia heterophylla*) (Figure 8); 14649 = Slimleaf Onion (*Allium amplexans*) (Figure 9). Solid black line = ~220 m; dashed black line = ~425 m. The apex of the two black lines is the location of the Herbaceous ecosystem located on the bed rock outcrop.



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Figure 7. CRD Map of the Mature Forest. No trees within the subject property were >80 years of age, the age cohort which defines mature Forest. The blue boundary line indicates the parent property (Figure 3).



DV000088

BC Conservation Data Centre: Species Occurrence Report	
Shape ID: 130028	
Scientific Name:	<i>Hypogymnia heterophylla</i>
English Name:	seaside bone
Identifiers	
Occurrence ID:	18155
Shape ID:	130028
Taxonomic Class:	
Element Group:	Fungi
Status	
Provincial Rank:	S2
BC List:	Red
Global Rank:	G1
COSEWIC:	— (MAR 2006)
SARA Schedule:	1
Locators	
Survey Site:	OTTER POINT, VANCOUVER ISLAND
Directions:	Along trail to ocean
Biogeoclimatic Zone:	
Prescription:	17V
Area Description	
General Description:	
Vegetation Zone:	Lowland
Min. Elevation (m):	
Max. Elevation (m):	
Habitat:	Sub-LITHAL: Lp phyllocladus/needle leaf

Figure 8. BC Conservation Data Centre information sheet for the species of Seaside Bone.



DV000088

BC Conservation Data Centre: Species Occurrence Report
Shape ID: 14649

Scientific Name: *Allium ampeloprasum*
English Name: **slimleaf onion**

Identifiers

Occurrence ID: 787
Shape ID: 14649
Taxonomic Class: macrophyte
Element Group: Vascular Plant

Status

Provincial Rank: S1
BC List: Blue
Global Rank: G4
COSEWIC:
SARA Schedule:

Locators

Survey Sheet: OTTER FGV
Directions:
Biogeoclimatic Zone:
Ecoregion: LNW12F

Area Description

General Description:
located in grassy open area on crest of hill.
Vegetation Zone: Lowland
Min. Elevation (m): 6096
Habitat: PRRNL: Coastal Bluffs

© Rod Innes (Photo ID #6788)

Click on the image below to view an expanded illustration for this species.

Illustration Source: The Illustrated Flora of British Columbia

Max. Elevation (m):

General:
Perennial bulb from an egg-shaped to nearly globe-shaped, scaly bulb. The upper scales somewhat to gray with a strong scarious network, the lower scales red or white; flowering stems erect, 10-40 cm tall, slender, round in cross-section, smooth.

Leaves:
Basal leaves 2 to 4, withering early, linear, channelled to cylindrical, shorter than the flowering stem, very slender, smooth, the margins entire; stem leaves lacking.

Flowers:
Inflorescence a compact, often head-like, terminal umbel of several to many, stalked flowers, above 2 to 3 membranous, egg-shaped bracts, the scales 0.5 to 1.5 cm long. Bracts white to pink, lance-shaped, or 8 to 12 cm long, the bracts 0.5 to 1 cm long. Anthers with pointed tips, protruding in fruit. Securing pedicel and bract over the ovary, stamens 6, usually are long as the tepals; pistil 1, 3-4 chambered.

Fruit:
Capsules, more or less egg-shaped, 3-lobed, with 3 low, rounded creases, seeds 6 or fewer, black.

Source: The Illustrated Flora of British Columbia

Figure 9. BC Conservation Data Centre information sheet for the species of Slimleaf onion. Inserts show plant in the wild and botanical taxonomic attributes.



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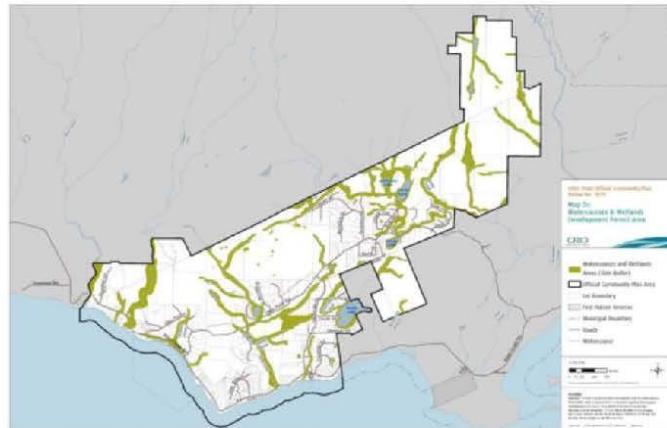


Figure 10. Otter Point OCP Plan identifying watercourses and wetlands mapped and subject to Aquatic Habitat Regulations.



Figure 11. Close-up of Figure 10 for the subject property. Note that neither streams nor wetlands are identified as being associated with the subject property, nor adjacent properties.



DV000088

Photographs



Photo 1. Looking south at the bed rock mounds adjacent to the proposed daughter Lot driveway (dashed yellow line). The large bed rock outcrop on the left would remain as part of the parent Lot. The small outcrop on the right would remain undisturbed as part of the daughter Lot.



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Photo 2. Looking southeast at the proposed daughter Lot driveway (dashed yellow line). The large bed rock outcrop on the left would remain as part of the parent Lot.



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Photo 3. Looking across the proposed driveway access. Note the young (<50 years old) conifer stand through which the panhandle driveway would be constructed.



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Photo 4. The large bed rock outcrop has a thin soil layer in which an herb, fern, and forb plant community exists. This outcrop is south facing and subject to extreme dry conditions during the late spring to early autumn months.



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Photo 5. Grasses are found at the base of the outcrop. Note the mosses, forbs, ferns, and lichens.



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Photo 6. The small bed rock outcrop at the edge of the parent Lot property boundary has a thin, dry, soil layer in which mosses, lichens, grasses are growing. There is a single, drought stressed conifer growing at the peak of the outcrop, with a conifer trunk that was topped and left as a wildlife tree. The Scotch broom plant shall be removed.



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Photo 7. Looking across the proposed panhandle daughter Lot access driveway. A narrow (5 m wide) road can be constructed that would leave the two bed rock outcrops undisturbed. The conservation of the bed rock outcrop plant communities would be a prescribed environmental management objective.



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Photo 8. Looking along the parent property boundary property line. The conifer stand delineates the subject property from the adjacent property (Figure 2).



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Photo 9. The young conifer stand associated with the proposed panhandle driveway access road (Figure 3) has a salal understory.



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Photo 10. Looking southwest across the adjacent property (2195 Otter Ridge Drive) at the man made, isolated pond/wetland (Figure 2).



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Photo 11. Looking southwest across the dense sedge community that surrounds the pond. Note the young red alder in the background (2195 Otter Ridge Drive).



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Photo 12. Looking across the wetland / pond landscape feature towards the adjacent dwellings (Figure 2). The property boundary lies within the red alder copse of trees on the left hand side of this image. The feature does not lie on the subject property (2195 Otter Ridge Drive).



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Photo 13. There is a small pond with a dense sedge community surrounding the pond on the adjacent property to the west (8354 West Coast Road). This pond and its riparian plant community is not connected to the isolated wetland pond on 2195 Otter Ridge Drive.



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Photo 14. Looking southwest across the west edge of 2195 Otter Ridge Drive. There are no discharge channels emanating from the wetland / pond on this property.



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Photo 15. Looking south across the rear 2195 Otter Ridge Drive. There are no discharge channels emanating from the wetland / pond on 2195 Otter Ridge Drive.



DV000088



Photo 16. Mature spruce on 8354 West Coast Road. This was one of a few remnant mature trees in the area.



DV000088



Photo 17. Potential habitat for Seaside Bone Lichen was checked for the presence of this species. None was observed.



DV000088



Photo 18. Potential habitat for Seaside Bone Lichen was checked for the presence of this species. None was observed. No Shore Pines were observed on the subject property, nor on adjacent properties.



DV000088



Photo 19. Potential habitat for Seaside Bone Lichen was checked for the presence of this species. None was observed.



DV000088

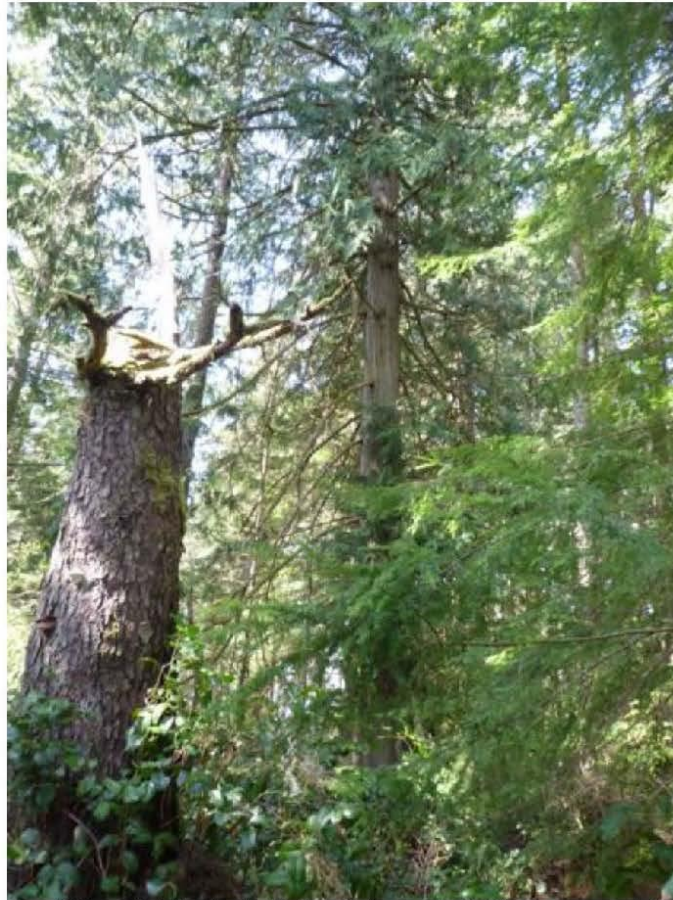


Photo 20. Potential habitat for Seaside Bone Lichen was checked for the presence of this species. None was observed.



DV000088

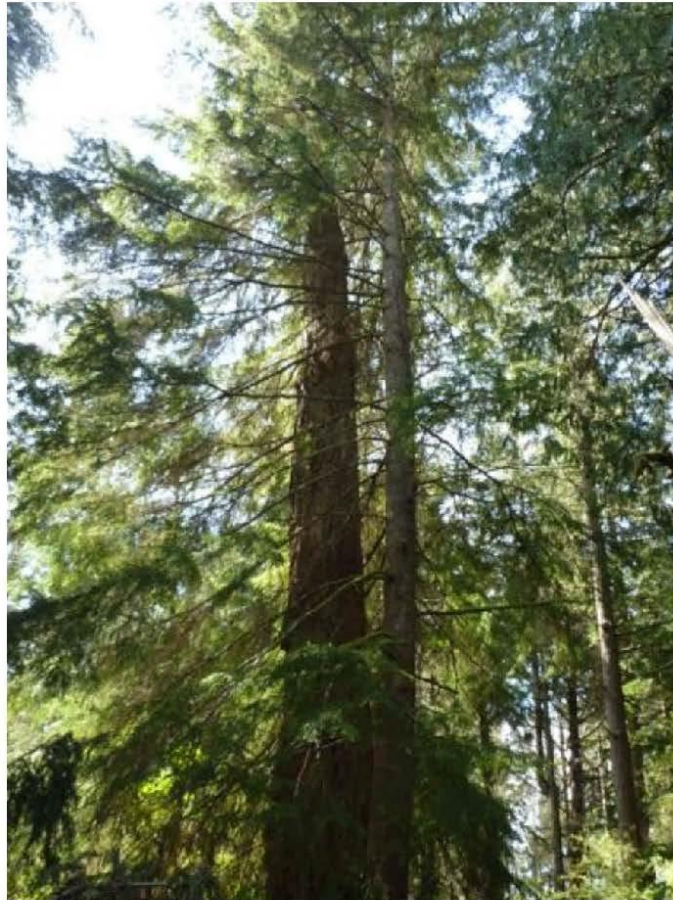


Photo 21. Mature conifer that has been topped during severe winter wind storms. This was one of a few remnant mature trees in the area.



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Photo 22. Looking east across the rear portion of the proposed daughter lot showing the shrub understory with a few immature conifers.



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Photo 23. Looking southeast across the rear portion of the proposed daughter lot showing the shrub understory with a few immature conifers and red alders.



DV000088



Photo 24. Looking northeast across the rear portion of the proposed daughter lot showing the shrub understory with a few immature conifers and red alders.



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Appendix A – Watercourses & Sensitive Ecosystems

Schedule "A" of Capital Regional District Bylaw No. 3819

Otter Point Official Community Plan

- c. registering restrictive covenant(s) or conservation covenant(s) securing the measures prescribed in the Qualified Environmental Professional assessment report;
5. Developers are encouraged to exceed the minimum standards set out in the RAR.
6. Development Permits may include requirements for environmental monitoring where riparian areas must be protected, remediation must be completed or where construction requires environmental controls. Environmental monitoring reports, when required, must be prepared by the Qualified Environmental Professional.

Additional Guidelines Applicable to Non-RAR Lakes, Wetlands, and Other Watercourses:

1. Before development is permitted in a "Watercourses DPA" not subject to a RAR, the applicant may be required to supply an assessment, prepared by a Qualified Environmental Professional. The report must inventory the site to identify existing environmentally sensitive feature(s) and assess the environmental impact of the proposed development. The report must provide recommendations for construction, mitigation, and protection of environmentally sensitive features and sensitive habitat, to ensure that the impacts of development are minimized and to preserve and/or restore the natural ecosystem components and processes which are important to maintain ecosystem function and health.
2. Compliance with any or all conditions recommended in the report prepared by the Qualified Environmental Professional may be required in a development permit.

6.6 Development Permit Area No. 4: Sensitive Ecosystems Areas

6.6.1 Designation

That part of the Otter Point area within the boundaries of areas marked "Cliffs", "Seasonally Flooded Agricultural Fields", "Herbaceous", "Mature Forest", "Sparsely Vegetated" and "Woodland" on Map 5d, which is attached to and forms a part of this bylaw, is designated as a Development Permit Area, the "Sensitive Ecosystems DPA", under Section 919.1(1)(a) of the LGA for the protection of the natural environment, its ecosystems and biological diversity.

The "Sensitive Ecosystems DPA" boundaries include Seasonally Flooded Agricultural Fields and the following ecosystems identified in the Sensitive Ecosystem Inventory prepared in July 2011 by Raincoast Applied Ecology/HB Lanarc: Herbaceous, Mature Forest, Sparsely Vegetated and Woodland.

6.6.2 Justification

These are important vegetation communities that have been identified by the Sensitive Ecosystem Inventory. Maintaining this vegetation is important to the protection of habitat and the natural environmental character of Otter Point. Land clearing, tree cutting, construction of buildings or roads, or other site disturbance in these areas could harm their functions and value to the community.

6.6.3 Objective

The primary objective of this Development Permit Area designation is to minimize the impact of development on the natural environment. The natural environment provides essential habitat and corridors for plants, fish, birds and other organisms. Furthermore, as concerns over climate change grow, it should be recognized that functioning ecosystems are more efficient at consuming carbon dioxide as well as carbon storage.

Sensitive ecosystems support a number of provincially Red and Blue-listed species (extirpated, endangered, threatened, and vulnerable) and federally listed species at risk. This Development Permit Area is intended to protect habitat for rare and endangered species of native vegetation or wildlife and to provide wildlife corridors and secondary habitat within Otter Point.

6.6.4 Guidelines

Development Permits issued in "Sensitive Ecosystems DPA" will be in accordance with the following:

1. No development, subdivision or sewage disposal system will be permitted in the "Sensitive Ecosystems DPA", except as allowed by a Development Permit or subject to the general exemptions as outlined in Section 6.2 of this Plan.

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Schedule "A" of Capital Regional District Bylaw No. 3819
Otter Point Official Community Plan

2. Avoid intrusion of development into Development Permit Areas and to minimize the impact of any activity in these areas. Development shall generally only be supported where the applicant provides compelling reasons supported by a Qualified Environmental Professional's recommendations for mitigation to support the request or if there are no alternate building locations. Variances from other applicable regulations, including height, setback and location regulations may be considered in order to minimize encroachment into the Development Permit Area.
3. Development or subdivision of land should be designed to comply with the policies in Section 5.3.2 of the Plan.
4. The applicant for a Development Permit for land within the "Sensitive Ecosystems DPA" must provide an assessment by a Qualified Environmental Professional on the environmental conditions on the proposed development site and recommendations on the suitability of the site for the proposed development. The assessment must include recommendations for vegetation protection, enhancement or retention, where applicable. A plan prepared by a British Columbia Land Surveyor may be required as a condition of the Development Permit.
5. As a condition of the issuance of a Development Permit, compliance with any or all conditions recommended in the report prepared by the Qualified Environmental Professional may be required.
6. Disturbance to existing vegetation that is not directly affected by the footprint of building, ancillary uses, and drive-ways must be minimized. Any disturbed areas shall be rehabilitated with appropriate landscaping and habitat compensation measures. Loss of natural habitat shall be minimized.
7. A buffer zone within which land alteration or structures will be limited to those compatible with the characteristics of the sensitive ecosystems, or those that can be mitigated in a manner recommended by a Qualified Environmental Professional may be required and the specific or general location of the buffer zone may be designated.
8. In order to ensure unnecessary encroachment does not occur into the Development Permit area at the time of construction, permanent or temporary fencing measures may be required.
9. Environmentally sensitive areas and the habitat requirements for wildlife species at risk as defined in the federal *Species at Risk Act* should remain in their natural state and should not be developed or disturbed.
10. Where possible, large tracts of wildlife habitat or continuous habitat corridors should be preserved, in order to facilitate movement of wildlife. In addition, where possible, landscape plans should enhance, expand or create wildlife habitat such as wetlands, native aquatic and terrestrial plants.
11. Planting of invasive species adjacent to or within designated "Sensitive Ecosystems DPA" will not be permitted.
12. Changes in the land surface which could affect the health of vegetation or the biodiversity of any plant communities and disturbance of mature vegetation and under-storey plants will be minimized.
13. Any development must be designed to avoid storm water runoff and the development or subdivision may be required to be carried out in accordance with recommendations contained in a drainage plan that the applicant may be required to provide.
14. Removal of gravel, sand, soil or peat in "Sensitive Ecosystems DPA" will be strictly limited and only permitted if impacts can be mitigated in a manner recommended by a Qualified Environmental Professional.
15. Development should generally conform to *Develop with Care 2012: Environmental Guidelines for Urban and Rural Land Development in British Columbia*.

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Schedule "A" of Capital Regional District Bylaw No. 3819

Otter Point Official Community Plan

16. Development may be required to incorporate environmentally sound building practices where appropriate, such as natural drainage, or use of permeable paving materials.
17. A subdivision application which proposes the creation of parcels less than the average parcel size supported by this Plan and located within a smaller footprint of the parent parcel may be supported where the conditions are secured for the permanent on-going protection or restoration of environmentally sensitive features without an amendment to this Plan. However, the overall number of parcels must be consistent with the Land Use Designation.
18. Where the Qualified Environmental Professional or Qualified Professional recommends re-vegetation or remediation works, a landscaping plan and security deposit may be required.

6.7 Development Permit Area No. 5: Commercial and Industrial Development Areas

6.7.1 Designation

That part of the Otter Point area marked "Commercial DPA" and "Industrial DPA" shown on Map 5a, which is attached to and forms a part of this bylaw, is designated as a Development Permit Area, the "Commercial and Industrial DPA", under Section 919.1(1)(f) of the LGA for the form and character of commercial and industrial development.

The "Commercial and Industrial DPA" boundaries include lands zoned commercial or industrial under the Land Use Bylaw.

6.7.2 Justification

The various commercial and industrial areas in Otter Point merit designation as Development Permit Areas for the form and character of commercial and industrial development due to their unique location and their relationship to surrounding land uses.

6.7.3 Objective

To encourage a building design theme and form that is complementary to and respectful, as possible, of the natural setting and the rural character of Otter Point.

6.7.4 Guidelines

Development Permits issued in "Commercial and Industrial DPA" will be in accordance with the following:

1. No development, building, subdivision or sewage disposal system will be permitted in the Commercial and Industrial Development Permit Area, as specified in the Justification above, except as allowed by a Development Permit or subject to the general exemptions as outlined in Section 6.2 of this Plan.
2. Design buildings to take advantage of natural contours and features of the landscape so that buildings and structures fit into the natural surroundings.
3. Design buildings in a form which can make best use of the natural setting, which allows for retention of natural vegetative cover and which reinforces existing aesthetic and natural advantages of the area.
4. Retain existing second-growth forest and native understorey plants in areas where there are no buildings, structures, parking areas or other constructed features.
5. Minimize outdoor storage and screen outdoor storage and loading/unloading facilities from neighbouring properties through the retention of trees and native understorey plants, or through the planting of native or complementary species, or by using fencing.
6. Screen parking areas to the greatest extent possible with existing and new landscaping, as described in subparagraph (5).
7. Install outdoor lighting which is of low intensity and pedestrian-oriented or which is directed down and away from surrounding residential areas so as to reduce and minimize glare into the environment.

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Appendix B – Development Permit Areas

Schedule "A" of Capital Regional District Bylaw No. 3819

Otter Point Official Community Plan

PART 6.0 DEVELOPMENT PERMIT AREAS

Development Permits are a planning tool for sites, buildings and structures that warrant special protection or development control. Unless authority is delegated, Development Permits must be approved by the CRD Board and may require some sort of security to ensure that the conditions in the Development Permit have been achieved. The guiding principle for the use of Development Permits is found within Section 519.1 of the LGA. Development Permit Areas can be designated for purposes such as, but not limited to the following:

- to protect the natural environment, its ecosystems and biological diversity;
- to protect development from hazardous conditions;
- to establish the form and character of commercial, industrial or multi-family residential development; or
- to promote energy conservation, water conservation and the reduction of Green House Gas emissions.

With respect to areas designated as Development Permit Areas, the OCP must:

- describe the conditions or objectives that justify the designation; and
- specify guidelines respecting the manner by which the special conditions or objectives will be addressed.

6.1 General Development Permit Policies

1. Where a development site lies within more than one Development Permit Area, all of the applicable permit guidelines must be met.
2. In accordance with the LGA, a Development Permit must be obtained prior to subdivision, construction, alteration of land, soil deposit or removal, or any other development or activity that would impact on any of the elements protected by a Development Permit.
3. Any additional information, including the preparation of covenants, requested by the CRD as outlined in the following sections will be provided at the applicant's expense.
4. A Development Permit is not required where it can be demonstrated that the proposed development is located outside the designated Development Permit Area. A Qualified Professional or Qualified Environmental Professional must submit a report or provide certification acceptable to the CRD that the proposed development is not within the designated Development Permit Area.

6.2 General Exemptions for a Development Permit

No Development Permit will be required for the following:

1. internal alterations to a building;
2. boundary adjustments between parcels when no new parcels are created and the boundary is not located within 30 metres of a watercourse or wetland;
3. external alterations, including adding a second storey, that are entirely within the building footprint;
4. landscaping, or constructing fences and not located within 30 metres of a stream or wetland;
5. structures which are not greater in area than 10.0 square metres (107 square feet) and are not located within 30 metres of a watercourse or wetland;
6. walkways, ramps and/or stairways, at-grade patios and retaining walls not requiring a building permit and not located within 30 metres of a watercourse or wetland;
7. removal of hazard trees;
8. emergency actions for flood or erosion protection;

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Schedule "A" of Capital Regional District Bylaw No. 3819

Otter Point Official Community Plan

9. emergency works to repair or replace public utilities or infrastructure;
10. removal of invasive non-native vegetation from within 30 metres of a watercourse or wetland;
11. in-stream habitat development or restoration that complies with provincial and federal legislation and requirements;
12. agricultural activities and developments on farms on ALR lands.

References in this section to a distance from a watercourse or wetland shall be deemed to be references to a distance from the natural boundary of the watercourse.

6.3 Development Permit Area No. 1: Steep Slopes

6.3.1 Designation

That part of the Otter Point area shown as "Steep Slopes" on Map 5a, which is attached to and forms a part of this bylaw, is designated as a Development Permit Area, the "Steep Slopes DPA", under Section 919.1(1)(b) of the LGA, for protection of development from hazardous conditions.

The "Steep Slopes DPA" boundaries include areas having slopes exceeding 30% or 16.7 degrees in slope over a minimum 10 metre run. Notwithstanding the areas identified on Map 5a, the actual Development Permit Area will in every case be verified.

6.3.2 Justification

The topography of the area, as well as the slope gradation and thin soil cover, renders the area highly susceptible to erosion hazard. Careful control of development or other alteration of these slopes is needed to reduce the risk to life and property, to prevent erosion and potential risks to down-slope properties, and to prevent destabilization of slopes. Land clearing, road construction, changes in slope profiles, construction of buildings, structures, improvements or roads or other site disturbance in these areas could increase risk to life and property and harm the environmental values of the slopes and are examples of development to be controlled.

6.3.3 Objective

To regulate development in the area with a view to protecting the integrity of the slopes and reducing the risk of injury to persons or damage to property resulting from erosion, landslide and slope slippage.

6.3.4 Guidelines

Development Permits issued in "Steep Slope DPA" will be in accordance with the following:

1. No development, subdivision or sewage disposal system will be permitted in a "Steep Slopes DPA", as specified in the Justification above, except as allowed by a Development Permit or subject to a general exemption as outlined in Section 6.2 of this Plan.
2. Avoid intrusion of development into Development Permit Areas and to minimize the impact of any activity in these areas. Development shall generally only be supported where the applicant provides compelling reasons supported by a Qualified Professional's recommendations for mitigation to support the request or if there are no alternate building locations. Variances from other applicable regulations, including height, setback and location regulations may be considered in order to minimize encroachment into the "Steep Slopes DPA".
3. Development or subdivision of land should be designed to comply with the policies in Section 5.4 of the Plan.



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Appendix C
MOTI-Referral-Report-Updated-SU000737



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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JUNE 21, 2022

SUBJECT Temporary Use Permit Renewal for Lot 4, Section 47, Otter District, Plan 23769 – 7822 Tugwell Road

ISSUE SUMMARY

A request has been made for a three year renewal of temporary use permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility in the Rural Residential 2 (RR-2) zone.

BACKGROUND

The subject property is currently zoned Rural Residential 2 (RR-2) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, and is adjacent to other RR-2 zoned properties to the east and west, Tugwell Road to the south, and a Rural A zoned property and DeMamie Creek to the north (Appendix A). The parcel is designated as Settlement Area One (SA1) and is partly designated as a Steep Slopes and a Riparian Development Permit Area (DPA) in the Official Community Plan (OCP) for Otter Point, Bylaw No. 3819.

The property is approximately 0.8 ha and is serviced by on-site septic and a groundwater well. There is an existing single-family dwelling on the property that was constructed in 1978.

The CRD Board passed a resolution approving the issuance of TP000010 subject to conditions on May 8, 2019. The permit was subsequently issued on July 24, 2019, for a period of three years and will expire on July 24, 2022.

The temporary use permit authorized the operation of a micro-cannabis cultivation facility, including propagation, harvesting, testing and authorized sales via shipping. Since the date at which the permit was issued, the applicant has been working to meet Health Canada's requirements for a licensed facility and no activities authorized by the permit have been undertaken. The application for renewal requests a three year extension to the permit.

The *Local Government Act (LGA)* allows that the holder of a temporary use permit may apply to have the permit renewed, but that the permit may only be renewed once. Planning staff recommend that temporary use permit TP000010 be renewed for a period of three years.

ALTERNATIVES

Alternative 1:

The Land Use Committee recommends to the Capital Regional District Board that a three year renewal for Temporary Use Permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility be approved.

Alternative 2:

That the temporary use permit renewal be denied.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

Section 492 of the *LGA* enables a local government to issue temporary use permits within areas designated by the Official Community Plan (OCP). Temporary use permits may be issued throughout the Otter Point OCP area as outlined in Bylaw No. 3819 and in accordance with Sections 493 to 497 of the *LGA*.

Section 497(2) of the *LGA* states that a temporary use permit holder may apply to have the permit renewed, but that the permit may only be renewed once.

The LGA does not require that notice be given of the CRD's intent to pass a resolution regarding the renewal of a temporary use permit, and CRD Bylaw No. 3885 has no requirement for public notification or consultation of a temporary use permit renewal. However, notice of the June 21, 2022, Land Use Committee agenda will be published in the Sooke News Mirror and on the CRD website.

LAND USE IMPLICATIONS

The subject property is designated Settlement Area One (SA1) under the Otter Point OCP, Bylaw No. 3819. The designation supports 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.

In comparison with the federally licensed industrial cultivation facilities, such as those located in the Sooke Business Park, the scale of a micro-cultivation facility may be more in keeping with a home based business. Micro-cultivation licences issued by Health Canada permit a maximum cultivation area of 200 m², which is less than the 250 m² maximum allowable floor area of accessory buildings on parcels greater than 0.5 ha.

Micro-cultivation licences allow for cannabis possession, cultivation, propagation, harvesting, testing and authorized sales via shipping. Health Canada's regulations include requirements for professional production practices including pest control, air filtration, sanitation, quality assurance, product disposal, packaging and labelling. Licence holders undergo security clearance reviews and are required to maintain records of individuals on site. Physical security measures are also required for micro-cultivation facilities that prevent unauthorized access and create a physical barrier around the site. The applicant proposes that these measures can be implemented while maintaining the rural residential character of the property.

Since this is the first licenced micro-cultivation operation to be proposed on rural residential land in the Juan de Fuca, the full range of impacts are not yet known. At the time the Land Use Committee considered a recommendation for issuance of TP000010, staff advised that the use could be evaluated during the term of the temporary use permit and that should conditions of the permit not be met, the permit could be revoked. In addition, the use could be reviewed prior to renewal for a second three-year term.

The applicant has now requested that TP000010 be renewed, but has confirmed that Health Canada has not yet issued a licence as the building in which the use is to occur has not been completed. The applicant has also advised that the application to Health Canada has been amended to reduce the scale such that an existing shipping container, rather than a new accessory building, will be used and that a licence for a nursery area will be submitted to Health Canada after the initial licence has received approval.

The adjacent properties are zoned for rural, rural residential and agricultural uses. The proposed facility is not anticipated to alter the rural character of the area as the use is directed towards the rear of the parcel and the subject property is fenced and screened by vegetation. Conditions of the permit include the maintenance of the vegetative buffer and screening of the property. The proposed setbacks from the property lines for the facility are similar to what is required for agricultural buildings. Nuisance odour, light and noise will be restricted in a similar fashion to home based business regulations. Traffic and visitation to the property is also to be kept to a minimum and no retail sales are permitted from the facility.

Staff have prepared Temporary Use Permit TP000010 – RENEWAL (Appendix B) to continue to authorize cannabis cultivation in accordance with the *Cannabis Act* on the subject property. The permit includes conditions to screen the use from the road and adjacent properties, limit traffic flow, establish 15 m setbacks from parcel boundaries, protect DeMamie Creek, and restrict

nuisances. Any buildings or structures required for the use will need to either be removed or converted to accommodate a permit use upon expiration of the permit.

Staff recommend that temporary use permit TP000010 be renewed, subject to public notification. The temporary use permit can only be renewed once; therefore, the property would be required to be rezoned in order to permit the use in perpetuity.

CONCLUSION

A temporary use permit to authorize a federally licensed micro-cannabis cultivation facility in the Rural Residential 2 (RR-2) zone was issued on July 24, 2019. The owner has submitted an application to renew the permit for a second three-year term. At this time, no activities associated with the proposed use have occurred on the property as a licence from Health Canada has not been issued; however, the applicant continues to work towards meeting Health Canada's requirements. Staff recommend that the permit be renewed for a period of three years.

RECOMMENDATION

The Land Use Committee recommends to the Capital Regional District Board that a three year renewal for Temporary Use Permit TP000010 to authorize a federally licensed micro-cannabis cultivation facility be approved.

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

ATTACHMENTS

Appendix A: Subject Property Map

Appendix B: Temporary Use Permit TP000010 – Renewal

Legend

- Watercourses Primary < 20.00
- Watercourses Secondary < 20
- Watercourses < 20,000
- River

Scale: 1:2,500

Parcel Numbers: 7894, 7895, 7896, 7897, 7898, 7899, 7900, 7901, 7902, 7903, 7904, 7905, 7906, 7907, 7908, 7909, 7910, 7911, 7912, 7913, 7914, 7915, 7916, 7917, 7918, 7919, 7920, 7921, 7922, 7923, 7924, 7925, 7926, 7927, 7928, 7929, 7930, 7931, 7932, 7933, 7934, 7935, 7936, 7937, 7938, 7939, 7940, 7941, 7942, 7943, 7944, 7945, 7946, 7947, 7948, 7949, 7950, 7951, 7952, 7953, 7954, 7955, 7956, 7957, 7958, 7959, 7960, 7961, 7962, 7963, 7964, 7965, 7966, 7967, 7968, 7969, 7970, 7971, 7972, 7973, 7974, 7975, 7976, 7977, 7978, 7979, 7980, 7981, 7982, 7983, 7984, 7985, 7986, 7987, 7988, 7989, 7990, 7991, 7992, 7993, 7994, 7995, 7996, 7997, 7998, 7999, 8000.

Streets: SLINGSBY PL, ROBINSON RD, PRIVATE DRIVEWAY, DE NEGROES DR, PRIVATE DRIVEWAY.

Notes: This map is for general information purposes only. It does not constitute a warranty or representation of accuracy or completeness of the information contained herein. The user assumes all responsibility for the use of this map. The user acknowledges that the use of this map may result in errors or omissions. The user agrees to hold the provider harmless from and against all claims, damages, costs and expenses, including reasonable attorneys' fees, arising from the use of this map.

Scale Bar: 0 81.30 127.0 Meters

North Arrow: N

Inset Map: Shows the location of the study area within the larger context of the region.

Appendix B: TP000010 – Renewal



CAPITAL REGIONAL DISTRICT

TEMPORARY USE PERMIT NO. TP000010 – RENEWAL

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: 001-679-503;
Legal Description: Lot 4, Section 47, Otter District, Plan VIP23769 (the "Land")
3. This Permit authorizes the operation of a micro-cannabis cultivation facility, including propagation, harvesting, testing and authorized sales via shipping (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 temporary use shall occur at least 15 m from the property boundaries;
 - b) The temporary use shall be screened from view the public road and adjacent properties through installation of a fence or natural coniferous landscaping at least 1.5 m in height;
 - c) The temporary use shall be conducted fully within an accessory building and occupy a floor area no greater than 200 m²;
 - d) Composting of plant material shall be conducted in an enclosed bin and not result in nuisances;
 - e) No runoff or discharge shall be permitted that would impact DeMamie Creek riparian area or groundwater quality;
 - f) 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;
 - g) Exterior lighting shall be ground-oriented;
 - h) Persons employed on the premises are limited to owners and residents of the property plus up to two non-resident employees;
 - i) Up to five additional temporary workers may be employed for a period of up to 7 days during a 60 day period;
 - j) There shall be no increase in vehicular traffic flow and parking by more than two additional vehicles at a time;
 - k) 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.
 - l) That a covenant be registered prior to issuance of the permit pursuant to Section 219 of the *Land Title Act* to permit the temporary use for the period of the permit. The covenant shall also include an agreement by the owner 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.
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 (TP000010) or any amendment hereto shall be binding upon all persons who acquire an interest in the land affected by this Permit.



Making a difference...together

TP000010 – RENEWAL

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 Plan
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.
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



Making a difference...together

TP000010 – RENEWAL

Appendix 1: Site Plan

7822 TUGWELL RD

Nov 20/2018

1) EXISTING HOME

2) EXISTING GREENHOUSE

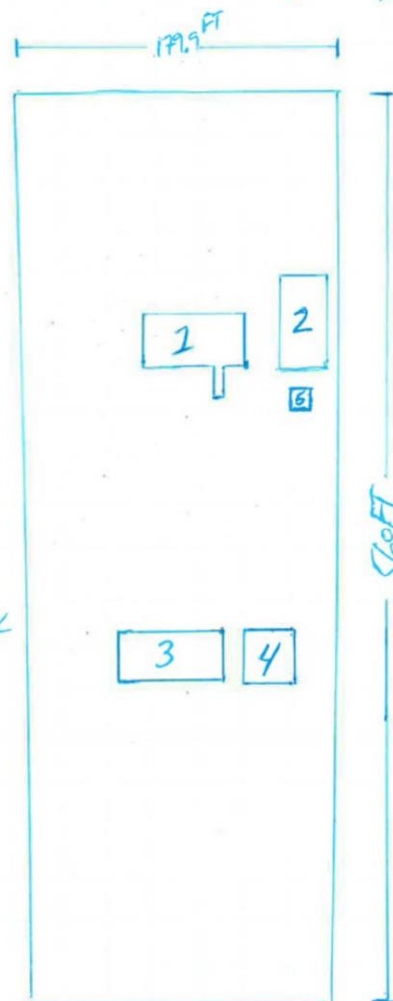
3) PROPOSED MICRO
CULTIVATION SITE

4) EXISTING AGRICULTURAL
OUT BUILDING

5) SHED FOR CISTERN

SCALE

 = 25.6 FT





Making a difference...together

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 21, 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).

At its meeting of April 19, 2022, the Juan de Fuca Land Use Committee directed staff to proceed with referral of the application to the Otter Point Advisory Planning Commission (APC) and to agencies for comment. Referral comments are included in Appendix E.

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

ALTERNATIVES

Alternative 1:

The Juan de Fuca Land Use Committee recommends to the CRD Board:

1. That the referral of Temporary Use Permit TP000011, directed by the Juan de Fuca Land Use Committee on April 19, 2022, to the Otter Point Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, Island Health, Ministry of Transportation and Infrastructure, RCMP and T'Sou-ke First Nation, be approved and comments be received; and
2. That Temporary Use Permit TP000011, to allow for the continued operation of a microbrewery with new outdoor patio and expanded food service, on Lot 4, Section 47, Otter District, Plan VIP52344, be approved.

Alternative 2:

That the agency referral comments and public submissions be received, and that Temporary Use Permit TP000011 be denied.

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.

A public notice of intent to issue temporary use permit TP000011 will be published in the Sooke News Mirror prior to the CRD Board meeting at which the resolution to issue the permit will be considered.

Referral Comments

Referrals were sent on April 20, 2022, to 6 agencies, the Otter Point APC and to appropriate CRD departments. Comments are noted below and included in Appendix E.

CRD Bylaw Enforcement stated that they have no comments to add.

Ministry of Transportation and Infrastructure stated no objections to the proposed temporary use permit.

The Fire Chief for the Otter Point Volunteer Fire Department responded on behalf of CRD Protective Services advising that the Fire Department has no concerns with the issuance of the permit as long as Tugwell Road does not become blocked by parked vehicles.

The Otter Point APC considered the application on May 10, 2022, and three members of the public were present at the meeting. The applicants responded to concern raised in a submission to the APC regarding adequate parking by advising that the site does not normally reach the 30 person maximum, that parking is not an issue during the week and that parking could be improved with the installation of additional/directional signage. The applicants responded to the APC regarding expansion of the existing use advising that the establishment is a family business and that there are no affordable alternative sites at this time. The Otter Point APC made the following motion:

MOVED by Bud Gibbons, SECONDED by Al Wickheim that the Otter Point Advisory Planning Commission (APC) recommends to the Juan de Fuca Land Use Committee (LUC) that it supports the application and that it recommends that the applicant manage parking by designating parking areas through improved signage and that the APC state to the LUC its concern regarding the use of temporary use permits for ongoing uses.

T'Sou-ke First Nation stated no concerns with the addition and food truck.

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 LCRB 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. Authorized TESAs throughout British Columbia were set to expire on June 1, 2022. The LCRB, through Policy Directive No: 22-05, extended existing TESA authorizations up to March 31, 2023. To ensure continued operation of the expanded service area, the owner has applied to the LCRB for a *lounge endorsement* and outdoor patio. The owner 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. At its meeting on April 19, 2022, the LUC passed a resolution of support for the *lounge endorsement* subject to issuance of the temporary use permit.

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 will require a permit from Island Health to operate a food service establishment 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.

APC discussion focussed on the opportunity to improve on-site parking and concern that the temporary use could be extended beyond the intentions of the temporary use permit legislation through slight adjustments to the use. In response to comments received at the APC meeting, the owner has submitted a revised site plan indicating designated parking spaces (Appendix B). Staff recommend that the number of parking spaces specified in the permit be increased from a maximum of ten, which was specified in TP000009, to a minimum of thirteen. The maximum number of persons that may be permitted on site at any one time remains thirty.

To limit nuisances caused by the temporary use, TP0000011 includes a condition that restricts nuisances or annoyances caused by noise, odour or unsightliness and that hours of operation be limited to 11:00 am - 7:00 pm. Should further expansion of the business be required in the future, the applicant would need to either request an amendment to this permit or find appropriately zoned industrial land.

Given the proposed scale of the use, the lack of complaints from the neighbouring property owners outside the referral process during daily operations, as well as the apparent community support expressed through the APC, staff recommend that temporary use permit TP000011 be approved, subject to public notification.

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 that the referral of the application to the Otter Point APC, agencies and T'Sou-ke First Nation be approved; that the public submissions and referral comments be received; and that Temporary Use Permit TP000011 be approved subject to public notification.

RECOMMENDATIONS

The Juan de Fuca Land Use Committee recommends to the CRD Board:

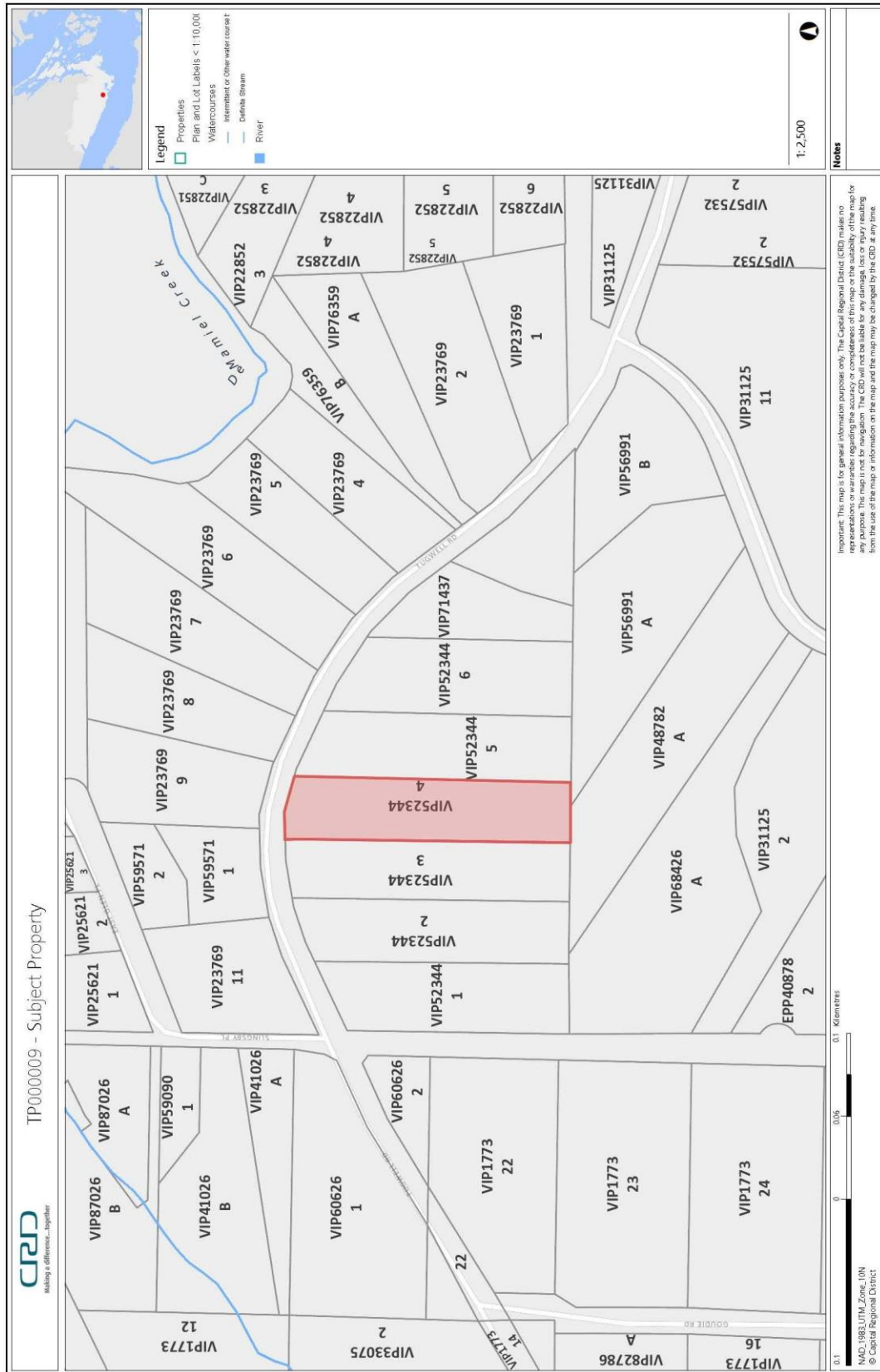
1. That the referral of Temporary Use Permit TP000011, directed by the Juan de Fuca Land Use Committee on April 19, 2022, to the Otter Point Advisory Planning Commission, appropriate CRD departments, BC Hydro, District of Sooke, Island Health, Ministry of Transportation and Infrastructure, RCMP and T'Sou-ke First Nation, be approved and comments be received; and
2. That Temporary Use Permit TP000011, to allow for the continued operation of a microbrewery with new outdoor patio and expanded food service, on Lot 4, Section 47, Otter District, Plan VIP52344, be approved.

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

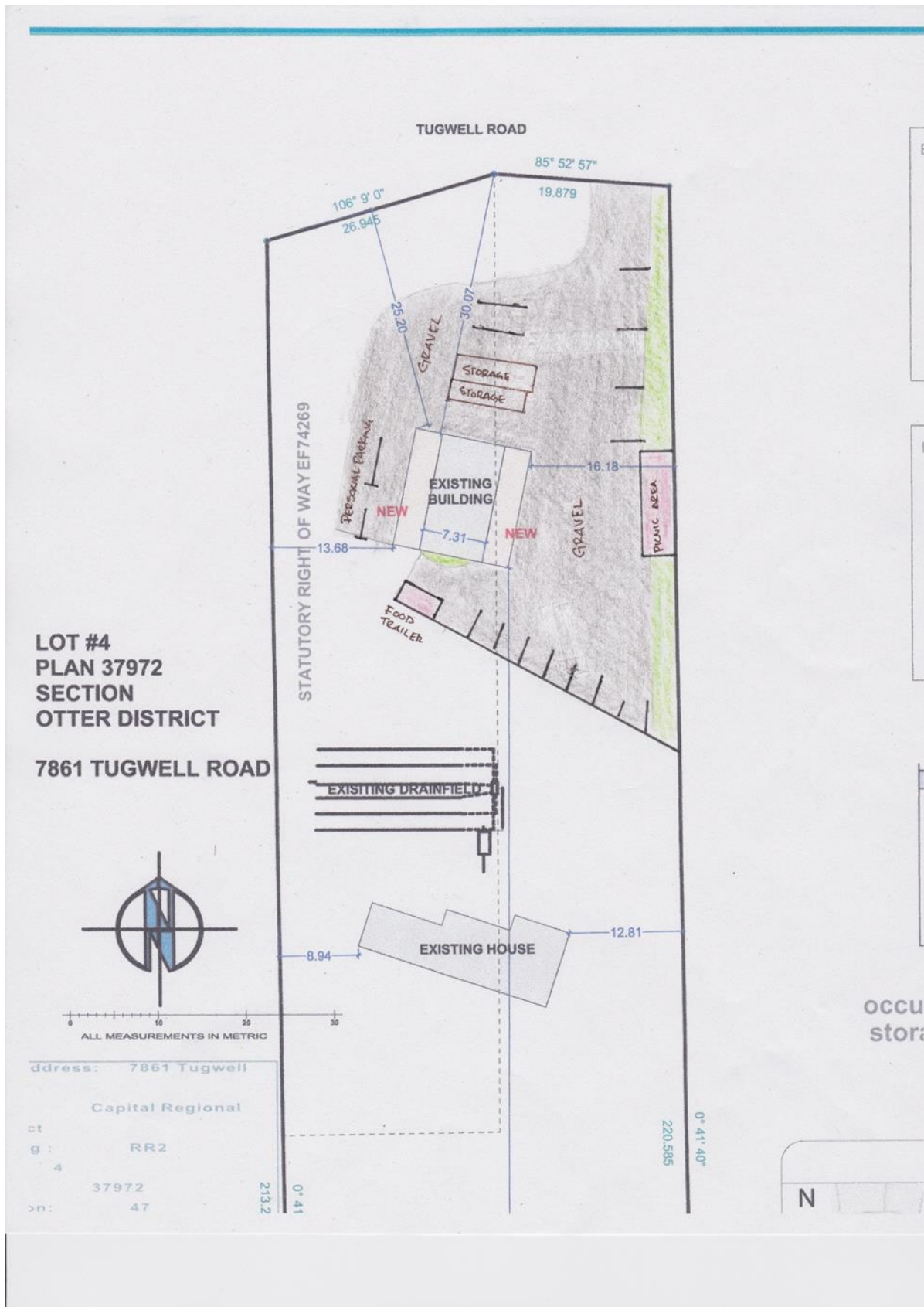
ATTACHMENTS

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

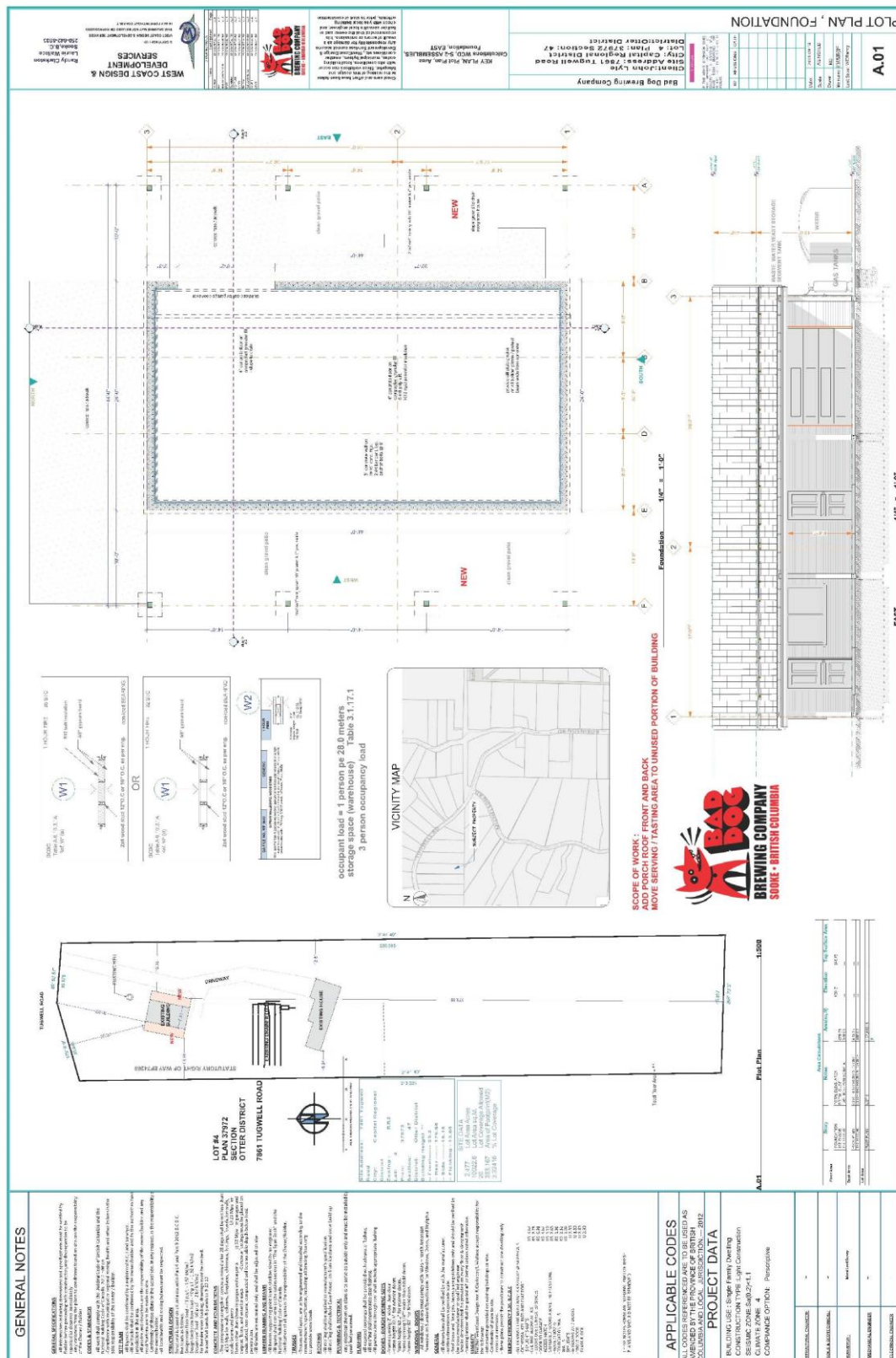
Appendix A: Subject Property Map

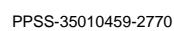


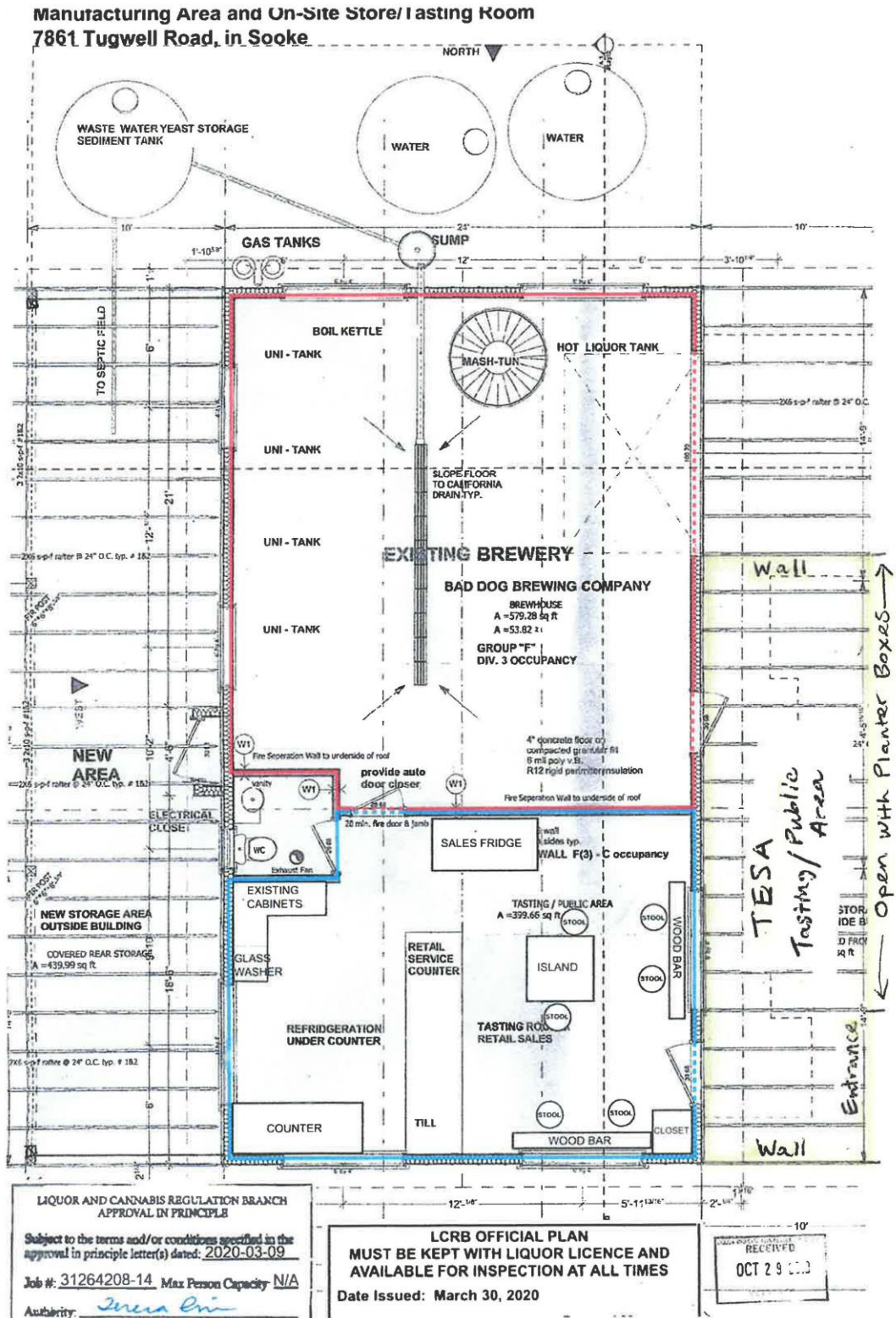
Appendix B: Revised Site Plan



Appendix C: Building Drawings







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

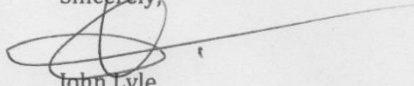
To whom it may concern,

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.

Appendix E: Referral Comments

From: [Mark Groulx](#)
To: [Wendy Miller](#)
Cc: [Shawn Carby](#); [Coral L. Henderson](#)
Subject: RE: Temporary Use Permit Application TP000011 - Referral (7861 Tugwell Road)
Date: Wednesday, April 20, 2022 3:30:42 PM

Good day Wendy,

We don't have any comments to add!

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

RESPONSE SUMMARY – TEMPORARY USE PERMIT APPLICATION TP000011

 Interest Affected by Proposal for Reasons Outlined Below

X Interest Unaffected by Proposal

Comments: The Ministry has no objections to the proposed TUP.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

James

Jennifer Dyer

Senior Development Officer

Signed

Title

May 9, 2022

Ministry of Transportation and Infrastructure

Date _____

Agency

From: [John McCrea](#)
To: [Wendy Miller](#)
Cc: [Jonathan Reimer](#); chief@otterpointfire.bc.ca; [Chris Vrabel](#)
Subject: Re: Temporary Use Permit Application TP000011 - Referral (7861 Tugwell Road)
Date: Thursday, April 21, 2022 9:09:12 AM

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

Good Morning Wendy

I have reviewed the Report To The JDF Land Use Committee regarding the Temporary Use Permit for Lot 4, Otter District, Plan VIP52344-7861 Tugwell Road.

Thank you for the opportunity to comment on this report.

The Otter Point Fire Department has no concerns with the issuance of this permit as long as Tugwell Road does not become blocked by vehicles parking to access this facility.

Regards

John

John McCrea; Fire Chief
Otter Point Fire Department and Training Centre
3727 Otter Point Road
Sooke, BC. V9Z 0K1
P: 250 642-6211
C: 250 213-7745

From: [Forestry and Environment](#)
To: [Wendy Miller](#)
Cc: [Lands Manager](#); [Administrator](#); [Guardian1](#); [Guardian2](#)
Subject: temporary use permit application crd referral 7861 tugwell road
Date: Wednesday, May 11, 2022 9:41:18 AM

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

Good morning, Wendy

Larry Underwood from Sooke Nation met with me and our guardian took a drive up to 7861 Tugwell Road and talked to the owner.

She showed us around and we have no concerns with the addition and the food truck.

Otter Point Advisory Planning Commission Meeting Minutes
May 10, 2022

2

6. Temporary Use Permit Application

a) TP000011 - Lot 4, Section 47, Otter District, Plan VIP52344 (7861 Tugwell Road)

Iain Lawrence spoke to the staff report 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).

Iain reported that the Juan de Fuca Land Use Committee (LUC) considered the application at its meeting of April 19, 2022, and directed referral of the proposal to agencies and to the APC. At that same meeting, the LUC considered a concurrent application for liquor lounge endorsement and outdoor patio (LP000031) for the expanded service and recommended support in-principle subject to issuance of Temporary Use Permit TP000011.

Iain Lawrence highlighted the subject property and site plan of the brewery, showing the licensed brewery and picnic area as permitted by current temporary use permit TP000009, as issued in 2018, and the proposed outdoor patio location.

Iain Lawrence reported that:

- the Liquor and Cannabis Regulation Branch (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
- to continue operation of the expanded service area, the establishment has applied to the LCRB for a lounge endorsement and outdoor patio
- the lounge endorsement would also permit the patio
- food must be available to patrons in the lounge
- proposed Temporary Use Permit TP000011 has been prepared to maintain the conditions established by TP000009, including a maximum of 30 persons on site at any one time, as well as a maximum of 10 vehicles at any one time
- the proposed permit conditions are in keeping with the Home Industry regulations prescribed by the Juan de Fuca Land Use Bylaw, Bylaw No. 2040

Iain Lawrence directed attention to the supplementary agenda which includes one submission that states concern regarding adequate parking.

Iain Lawrence confirmed that the applicants were present.

Iain Lawrence responded to questions from the APC advising that:

- staff and the LUC supported a new temporary use permit application rather than renewal of the existing temporary use permit to support broader public consultation regarding the expanded service
- renewal would have extended the current temporary use permit for a further three years
- should a new temporary use permit be issued, that permit would be for three years with an option to renew for an additional three years
- the opportunity to apply to renew the permit does not guarantee that the permit will be renewed by the local government
- the LUC may support issuance of a temporary use permit as a way to gauge the community's support for the proposed use
- the applicants are not restricted from applying to rezone

Otter Point Advisory Planning Commission Meeting Minutes
May 10, 2022

3

The applicants responded to questions from the APC stating that:

- the site does not normally approach the 30 person maximum
- parking is not an issue during the week
- the establishment will direct patrons off the road-side
- an adjacent property has offered overflow parking, if required
- vehicle turnaround is available on site
- the brewery is a family business
- there are no affordable alternative sites at this time
- additional/directional signage for parking would assist in outlining parking areas

Iain Lawrence confirmed that a Licence of Occupation from the Ministry of Transportation and Infrastructure would be required for the purpose of establishing a parking area in the road right-of-way and that a new site plan will be requested from the applicants to show designated parking areas.

APC comments included:

- concern that the temporary use could be extended beyond the intentions of the temporary use permit legislation through slight adjustments to the use
- supports the applicants establishing designated parking areas and parking signage
- supports the applicants working with the Ministry of Transportation and Infrastructure, as required, to improve parking

MOVED by Bud Gibbons, **SECONDED** by Al Wickheim that the Otter Point Advisory Planning Commission (APC) recommends to the Juan de Fuca Land Use Committee (LUC) that it supports the application and that it recommends that the applicant manage parking by designating parking areas through improved signage and that the APC state to the LUC its concern regarding the use of temporary use permits for ongoing uses.

CARRIED

At this time, staff confirmed that the proposal has been referred to the Otter Point Volunteer Fire Department through CRD Protective Services.

7. Adjournment

The meeting adjourned at 7:50 pm.

Chair

Appendix F: TP000011



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) A minimum of thirteen (13) parking spaces shall be provided on the Land.
 - f) 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

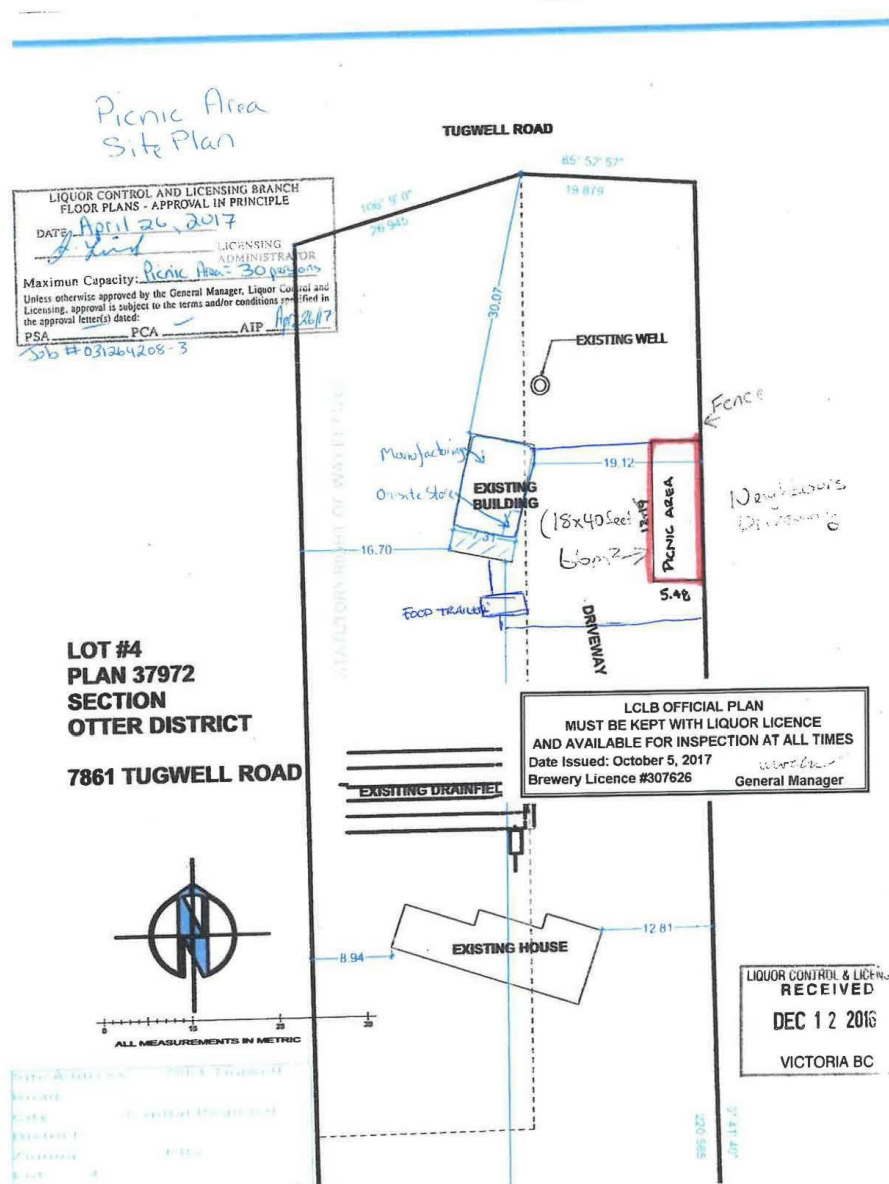
ISSUED this ____ day of _____, 2022

Corporate Officer

TP000011

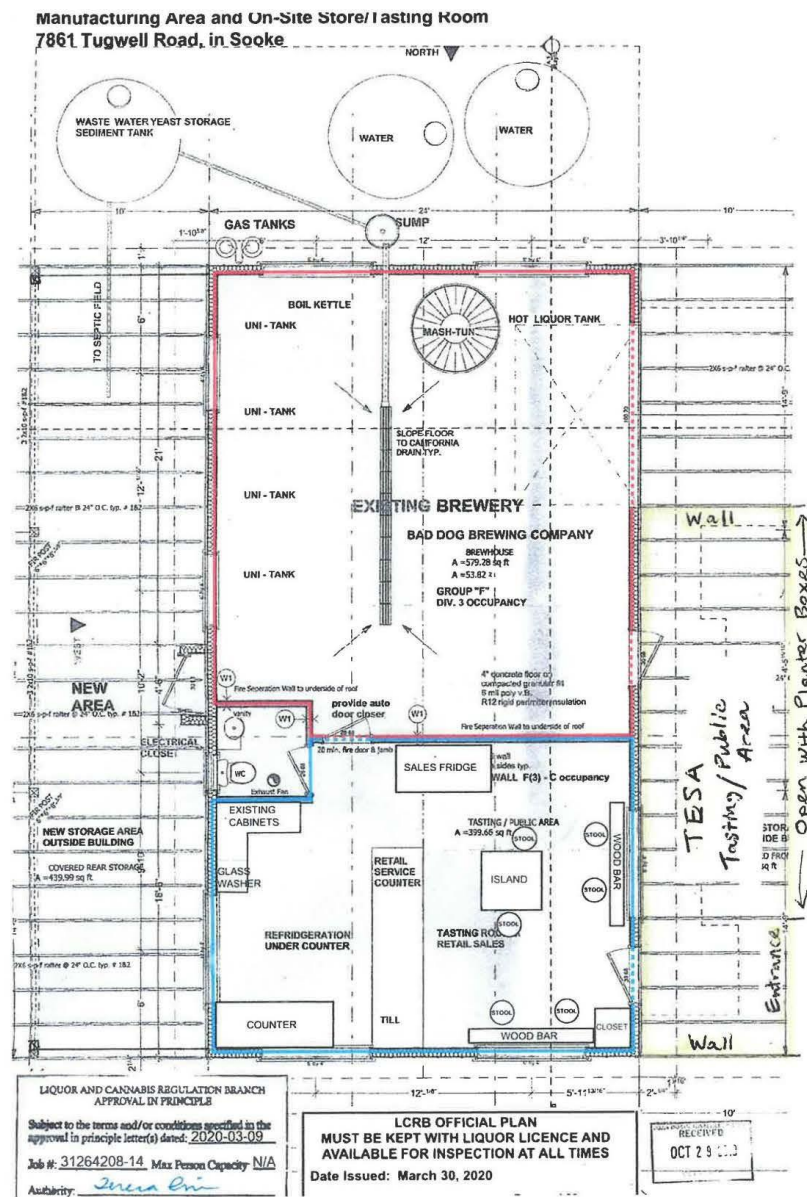
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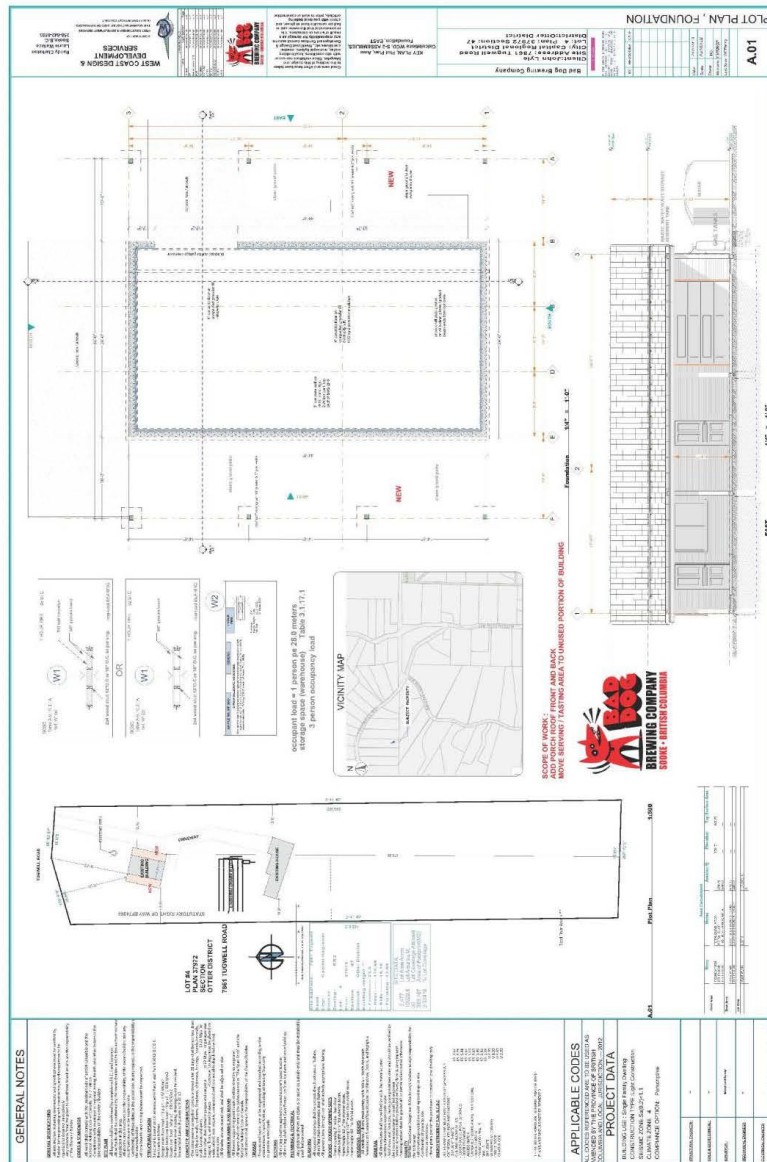
Appendix 1: Site and Building Plans



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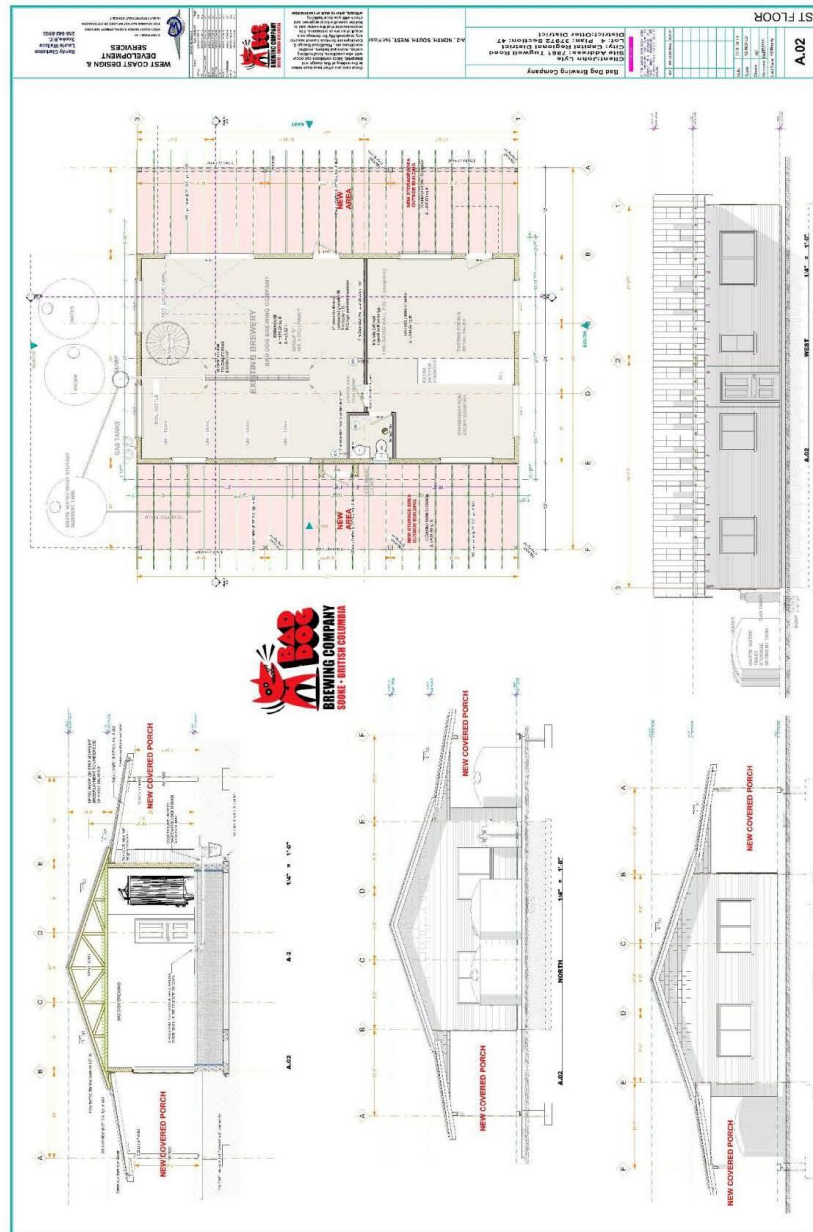
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TP000011

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Making a difference...together

REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, JUNE 21, 2022

SUBJECT **New Bylaw for Juan de Fuca Electoral Area Advisory Planning Commissions**

ISSUE SUMMARY

To update the role of the Advisory Planning Commissions (APCs) and continue their operation in the Juan de Fuca Electoral Area under a new bylaw.

BACKGROUND

The Advisory Planning Commissions (APCs) in the Juan de Fuca Electoral Area (JdF EA) were established by bylaw between 1994 and 1996 to make recommendations to the Board on land use matters related to Part 14 of the *Local Government Act (LGA)*. The initial bylaws were replaced by a single bylaw for the JdF EA, Bylaw No. 2945, in 2002.

Bylaw No. 2945 (Appendix B) no longer reflects the actual working relationship between the APCs, the Juan de Fuca Land Use Committee (LUC) and the CRD Board. Furthermore, Bylaw No. 2945 does not reflect the current corporate procedures in the CRD Board Procedures Bylaw, Bylaw No. 3828, or CRD Board policy *Guidelines for the Preparation of Minutes of CRD Board, Committee and Commission Meetings*.

Staff have drafted a new APC Bylaw, Bylaw No. 4120, to update the role of the APCs and to reflect current CRD procedures (Appendix A).

ALTERNATIVES

Alternative 1

The Juan de Fuca Land Use Committee recommends to the CRD Board:

1. That Bylaw No. 4120, "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 2022", be introduced, read a first time, a second time and a third time; and
2. That Bylaw No. 4120, "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 2022" be adopted.

Alternative 2

That the CRD Board not proceed with proposed Bylaw No. 4120.

IMPLICATIONS

Legislative Implications

Pursuant to Section 461 of the *LGA*, a board may establish an advisory planning commission for portions of an electoral area to advise the board, or a regional district director, on all matters referred to the commission respecting land use, the preparation and adoption of an official community plan or a proposed bylaw or permit under Part 14.

The APCs were first established in the 1990s to advise the CRD Board's Land Use Committees that were created by Order-in-Council No. 1048. Changes to the CRD's governance structure have occurred since that time, due in part to municipal incorporations and boundary adjustments.

The current CRD Advisory Planning Commission Bylaw, Bylaw No. 2945, was adopted in 2002 and established advisory planning commissions in six communities of the Juan de Fuca Electoral Area: Willis Point, Malahat, East Sooke, Otter Point, Shirley/Jordan River and Port Renfrew. The primary role of the APC is to provide recommendations to the Juan de Fuca Land

Use Committee on land use matters including zoning and official community plan amendments. Bylaw No. 2945 has been amended three times to update the function of the Commission; however, more significant changes are proposed in Bylaw No. 4120 in order to reflect the current decision-making structure, Board procedures and CRD policies (Appendix A).

A notable change proposed in Bylaw No. 4120 is to have members appointed through a process of community notification and recommendation by the electoral area director, rather than through election and appointment. The Land Use Committee, which receives input from the APCs and makes recommendations to the Regional Board on land use matters in the Electoral Area, would continue to have its members appointed following election by the communities they represent. The proposed Bylaw also reduces the minimum number of commission members from five to three and sets a maximum of five.

Other proposed updates to the APC bylaw are intended to clarify that all meetings of an APC are open to the public, that APCs consider items referred to them by the LUC or Board, and to ensure alignment with the CRD Procedures Bylaw No. 3828 and Board guidelines for preparation of meeting minutes.

The Agricultural Advisory Planning Commission (AAPC) was established for the Juan de Fuca Electoral Area in 2008 by Bylaw No. 3517 (Appendix C). The AAPC's primary role at that time was to undertake an agricultural inventory project and to provide ongoing advice to the LUC on Agricultural Land Reserve applications. The AAPC consists of up to nine members, but the Commission is currently inactive due to a lack of expressions of interest in membership and of items for the Commission's consideration. Proposed Bylaw No. 4120 would include the AAPC among the six general APCs and set a maximum of five members, in keeping with the other APCs.

Public Consultation Implications

This is an administrative bylaw and, therefore, does not require public consultation.

Financial Implications

The election process is currently budgeted at \$6,500; however, this does not reflect the true cost of the service, which has been subsidized during past municipal elections by CRD Legislative Services under its larger election budget. The portion covered by the Juan de Fuca Community Planning service is funded through tax requisition.

The proposed change to replace election of members with a process of notification and JdF EA director recommendation would result in an annual reduction to the Juan de Fuca Community Planning operational budget.

CONCLUSION

The current APC bylaws, Bylaw No. 2945 and Bylaw No. 3517, reflect the roles and responsibilities of the commissions prior to the establishment of the LUC and current Board voting structure. A new APC bylaw has been prepared, Bylaw No. 4120, to reflect the current role of the APCs, to have the members appointed rather than elected, to align with current CRD Board procedures and meeting practices, and to update the AAPC membership. Staff recommend that Bylaw No. 4120 be read a first, second and third time, and that Bylaw No. 4120 be adopted.

RECOMMENDATION

The Juan de Fuca Land Use Committee recommends to the CRD Board:

1. That Bylaw No. 4120, "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 2022", be read a first time, a second time and a third time; and
2. That Bylaw No. 4120, "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 2022" be adopted.

Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, JdF Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, RPP, MCIP, Chief Administrative Officer

ATTACHMENT

- Appendix A: Proposed Bylaw No. 4120
Appendix B: CRD Advisory Planning Commission Bylaw No. 2945
Appendix C: CRD Agricultural Advisory Planning Commission Bylaw No. 3517

Appendix A: Proposed Bylaw No. 4120

CAPITAL REGIONAL DISTRICT
BYLAW NO. 4120

A BYLAW TO ESTABLISH ADVISORY PLANNING COMMISSIONS
IN THE JUAN DE FUCA ELECTORAL AREA

WHEREAS:

- A. The Board may, by bylaw, pursuant to Section 461(2) of the *Local Government Act* establish an Advisory Planning Commission for one or more electoral areas or portions of an electoral area;
- B. The Board wishes to establish Advisory Planning Commissions to advise the Juan de Fuca Land Use Committee and the Board;

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

1. DEFINITIONS

In this bylaw the following definitions apply:

Advisory Planning Commission means one or more of the bodies created under Section 2 of this bylaw;

Agent means a person or registered corporate entity, who has been authorized in writing by the owner(s) of a parcel to make an application and to act on an owner's behalf;

Alternate Director means the individual appointed by the Juan de Fuca Electoral Area Director to act in the Director's absence in accordance with the *Local Government Act*;

Applicant means an owner, or their agent, who has submitted an application;

Application means an application to amend an official community plan, a zoning bylaw or other bylaw, or to issue a permit under Part 14 of the *Local Government Act*;

Board means the Capital Regional District Board;

Commission means an Advisory Planning Commission, established by the Board, as outlined in the *Local Government Act* and under Section 2 of this bylaw;

Commission Area means that part of the Juan de Fuca Electoral Area in respect of which a Commission is established under Section 2 of this bylaw;

Commission Member means a resident appointed by the Board;

Community Planning means the Juan de Fuca Community Planning Division of the Capital Regional District;

Director means the individual elected as the Juan de Fuca Electoral Area Director of the Regional District;

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

General Manager means the Regional District's General Manager, Planning and Protective Services Department;

Land Use Committee Member means an individual appointed by the Board to the Juan de Fuca Land Use Committee pursuant to CRD Bylaw No. 3166, as amended;

Meeting means a scheduled meeting of the Commission;

CRD Bylaw No. 4120

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Member means a member of the Commission as appointed by the Board;

Public Facility means a school, fire hall, community hall, municipal office, church hall or any other public assembly area;

Regional District means the Capital Regional District;

Resident means a person who has lived at least 30 days within a Commission Area, as determined in accordance with Section 67 of the *Local Government Act*.

2. ADVISORY PLANNING COMMISSIONS

The Board hereby establishes for each of those portions of the Juan de Fuca Electoral Area described below, the following:

- (a) A Commission to be known as the "East Sooke Advisory Planning Commission" for that portion of the Electoral Area shown as "East Sooke" on Map 1, which is attached to and forms a part of this bylaw.
- (b) A Commission to be known as the "Malahat Advisory Planning Commission" for that portion of the Electoral Area shown as the "Malahat" on Map 1, which is attached to and forms a part of this bylaw.
- (c) A Commission to be known as the "Otter Point Advisory Planning Commission" for that portion of the Electoral Area shown as "Otter Point" on Map 1, which is attached to and forms a part of this bylaw.
- (d) A Commission to be known as the "Port Renfrew Advisory Planning Commission" for that portion of the Electoral Area shown as "Port Renfrew" on Map 1, which is attached to and forms a part of this bylaw.
- (e) A Commission to be known as the "Shirley-Jordan River Advisory Planning Commission" for that portion of the Electoral Area shown as "Shirley-Jordan River" on Map 1, which is attached to and forms a part of this bylaw.
- (f) A Commission to be known as the "Willis Point Advisory Planning Commission" for that portion of the Electoral Area shown as "Willis Point" on Map 1, which is attached to and forms a part of this bylaw.
- (g) A Commission to be known as the "Agricultural Advisory Planning Commission" for the Juan de Fuca Electoral Area as shown on Map 2, which is attached to and forms a part of this bylaw.

3. COMPOSITION

- (a) Not more than five members may be appointed to each Commission in accordance with Section 5 of this bylaw.
- (b) Where a Commission for a Commission Area is composed of fewer than three members, the Commission is deemed to be inactive for the Commission Area.
- (c) Members must be residents of the Commission Area.
- (d) In accordance with Section 461(5) of the *Local Government Act*, the Director, Alternate Director, officer or employee of the CRD, or a Provincial approving officer are not eligible to be appointed as a member of any Commission.
- (e) In addition to the statutory prohibitions referred to in Subsection (c), a Land Use Committee member is not eligible for appointment to an advisory planning commission.

CRD Bylaw No. 4120

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4. TERM OF OFFICE

- (a) A Commission member's term of office is for a period of up to four (4) years in conjunction with the local government general election cycle. The term will begin upon appointment by the Board after January 1 of the year subsequent to the local government general election and ends on December 31 of the year during which a local government general election is held.
- (b) Notwithstanding anything elsewhere contained within this bylaw, the Board may at any time, or from time to time, terminate the appointment of any member of any Commission for any reason, including but not limited to: failure to attend three (3) consecutive meetings of the Commission without leave of the Commission; ceasing to reside in their respective Commission Area during their term of appointment; or, failing to declare a conflict of interest prior to a question being called during a Commission meeting.
- (c) The terms of office of the existing members of the Commissions continues until their expiry under Bylaw No. 2945.

5. APPOINTMENT

- (a) The Regional District will advertise or post locally all vacancies on a Commission for at least 30 days prior to an appointment being made.
- (b) To be eligible for appointment to a Commission, an individual must be a resident of the Commission Area of the respective Commission.
- (c) Residents interested in becoming a member of a Commission must provide an expression of interest in the form of a letter and supporting information to the Community Planning office outlining their interests and experience, and requesting consideration for appointment on the Commission.
- (d) All expressions of interest will be forwarded to the Director. The Director will review the expressions of interest and make recommendations to the Board for all Commission appointments.
- (e) The Board will appoint all members of a Commission.
- (f) A member of a Commission may not appoint an alternate to take his or her place.
- (g) In the event of the death, resignation or disqualification of a member of a Commission, the Board may appoint a successor for the remainder of such member's term in accordance with Section 5(a-e).

6. COMMISSION PROCEDURES

- (a) The rules and procedures which govern the Board apply to the Commission where applicable.
- (b) A majority of members of a Commission constitutes a quorum.
- (c) All Commission meetings must be held in a public facility, must be open to all members of the public, and must not be closed to the public except as permitted by law.
- (d) The Regional District will notify the Commission of any matter referred to it by the Board or by the Director.
- (e) The Regional District must notify an applicant at least seven days prior to a Commission meeting at which the application will be heard.
- (f) When a Commission makes a motion, it is decided by a simple majority vote of all members present at the meeting. In the case of a tie vote, the question is defeated.
- (g) The Secretary to a Commission will be a staff member from Community Planning.

CRD Bylaw No. 4120

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- (h) The General Manager or designate may attend any meeting of the Commission in a resource capacity.
- (i) The Director or his or her alternate can attend any meeting of the Commission in a resource capacity.

7. POWERS OF THE COMMISSION

- (a) A Commission may make recommendations on all matters referred to the Commission by the Board or by the Director respecting land use, the preparation and adoption of an official community plan, or a proposed bylaw or permit that may be enacted under Part 14 of the *Local Government Act*.

8. SEVERABILITY

- (a) If any section, subsection, sentence, clause, definition, phrase or map in this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.

9. REMUNERATION AND EXPENSES

- (a) The members of a Commission must serve without remuneration.
- (b) Expenses incurred by a Commission while engaged in the business of the Commission will be reimbursed in accordance with the policies of the Board.

10. INCORPORATION OF MAPS

- (a) Map Nos. 1 and 2 attached hereto are hereby made a part of this bylaw.

11. REPEAL

- (a) The following bylaw is hereby repealed:
 - 1. Capital Regional District Bylaw No. 2945, cited as the "Capital Regional District Advisory Planning Commission Bylaw No. 1, 2002".
 - 2. Capital Regional District Bylaw No. 3517, cited as the "Capital Regional District Agricultural Advisory Planning Commission Bylaw No. 1, 2008".

12. CITATION

This bylaw may be cited as "Juan de Fuca Advisory Planning Commission Bylaw No. 1, 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

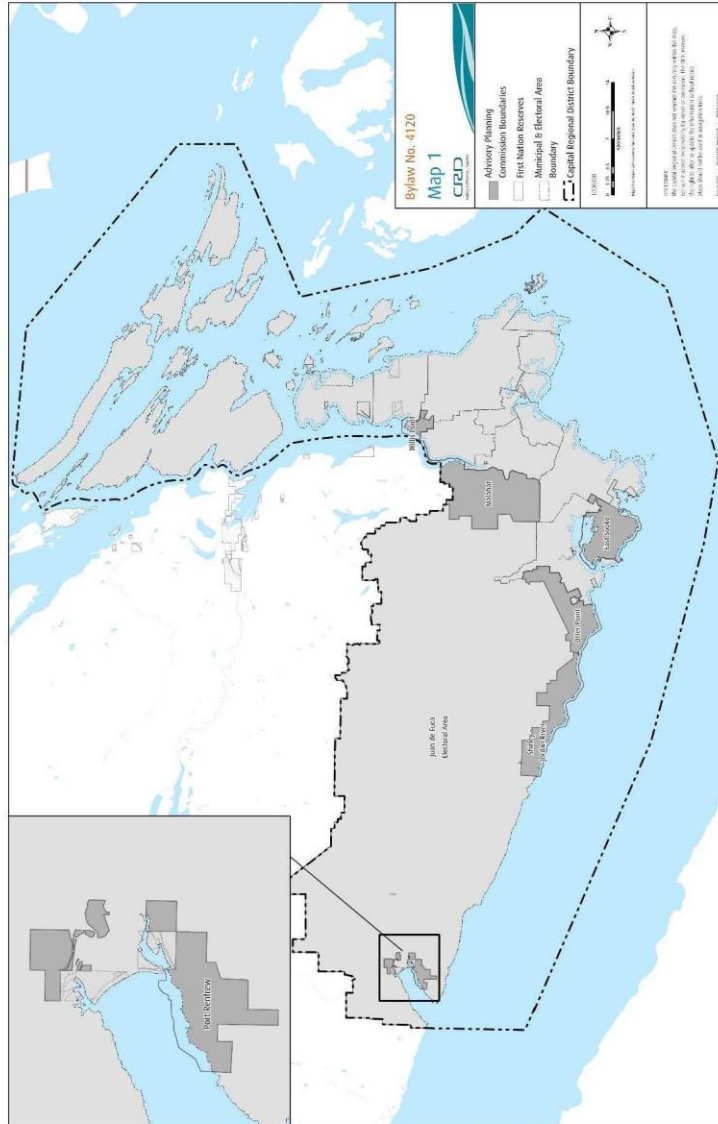
CHAIR

CORPORATE OFFICER

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CRD Bylaw No. 4120

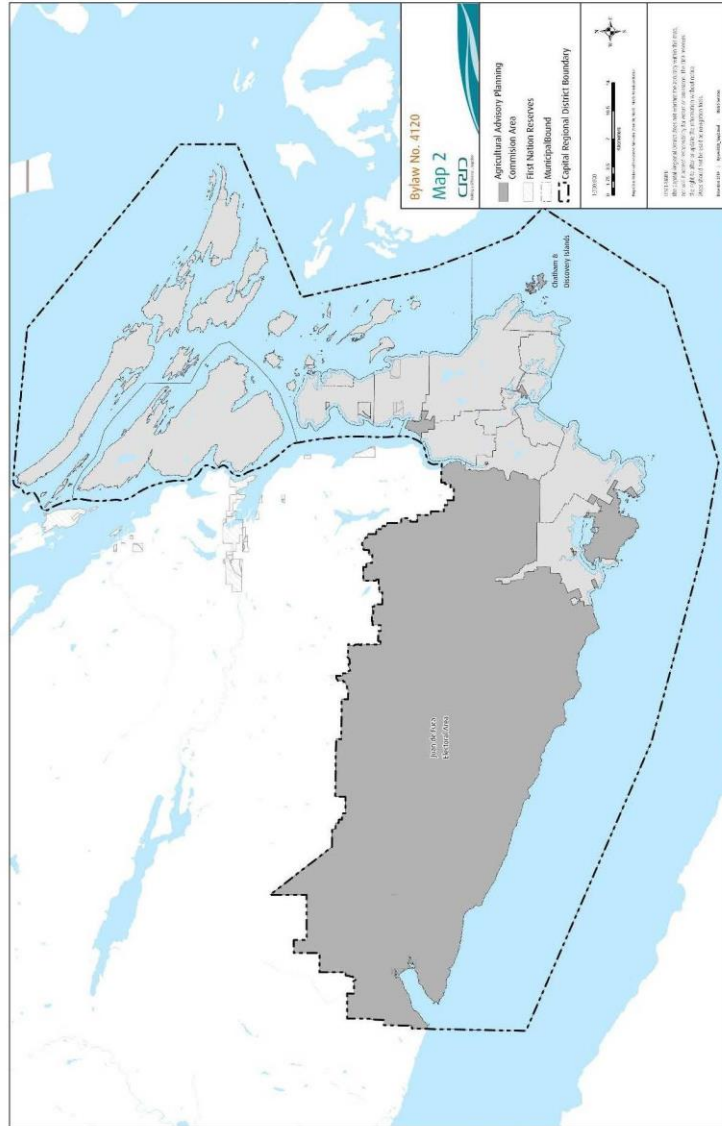
Map No. 1



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CRD Bylaw No. 4120

Map No. 2



Appendix B: CRD Advisory Planning Commission Bylaw No. 2945

CAPITAL REGIONAL DISTRICT

BYLAW NO. 2945

A BYLAW TO ESTABLISH ADVISORY PLANNING COMMISSIONS
IN THE JUAN de FUCA ELECTORAL AREA

CONSOLIDATED FOR PUBLIC CONVENIENCE
with Bylaw Nos. 3151, 3303 & 3735

WHEREAS the Board may, by bylaw, pursuant to Section 898 (2) of the Local Government Act establish an Advisory Planning Commission for one or more electoral areas or portions of the electoral area;

AND WHEREAS the Board wishes to establish Advisory Planning Commissions to advise the Board's Land Use Committees; *Bylaw No. 3151*

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

SECTION 1 DEFINITIONS

In this bylaw the following definitions apply:

Agent

means the individual the applicant has authorized to act on their behalf, with respect to the land use application or referral. A written copy of this authorization must be sent in with any Part 26 land use application;

Alternate Director

means the individual appointed by the Juan de Fuca Electoral Area Director to act in the Director's absence in accordance with the Local Government Act;

Applicant

means the owner of the parcel of land in respect of which an application has been made;

Application

means an application to:

- (a) Amend an Official Community Plan, a zoning bylaw, or other bylaw, or
- (b) To issue a permit,

under Part 26 of the Local Government Act and for which a fee has been paid to the Capital Regional District;

CRD Bylaw No. 2945
Consolidated for Public Convenience

September 11, 2014²

Board

means the Board of Directors of the Capital Regional District;

Commission Area

means that part of the Juan de Fuca Electoral Area in respect of which a Commission established under this bylaw has jurisdiction;

Commission

means an Advisory Planning Commission, established by the Board, as outlined in the Local Government Act and under Section 2.1 of this bylaw;

Conflict of Interest

means when a Commission Member has a direct or indirect pecuniary interest in the matter or any other reason;

Council Member

means an individual elected as either a Councillor or Mayor for a municipality within or adjacent to the Capital Regional District region;

Director

means the individual elected the Juan de Fuca Electoral Area Director of the Regional District;

Electoral Area

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

Land Use Committee

means individuals appointed by the Board, to advise the Board on matters associated with Part 26 of the Local Government Act involving land within the Electoral Area.

Bylaw No. 3151

Bylaw No. 3303

Meeting

means a regularly scheduled meeting of the Commission;

Member

means a member of the Commission as appointed by the Board;

Public Facility

means a school, fire hall, community hall, municipal office, church hall or any other public assembly area;

CRD Bylaw No. 2945
Consolidated for Public Convenience

September 11, 2014³

Regional District

means the Capital Regional District;

Special Meeting

means a non-scheduled meeting of the Commission, that is set at the call of the Chairperson of the respective Commission, by a two-thirds (2/3's) majority vote of the respective Commission Members, the Land Use Committee or the Board;

Year

means a twelve month period starting on January 1 of a year and ending on December 31 of the same year.

SECTION	2	ESTABLISHMENT, APPOINTMENTS AND TERMS OF THE COMMISSIONS
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- 2.1. The Board hereby establishes for each of those portions of the Juan de Fuca Electoral Area described below, the following:
- (a) A Commission to be known as the "East Sooke Advisory Planning Commission" for that portion of the Electoral Area shown as East Sooke on Map 1, which is attached to and forms a part of this bylaw.
 - (b) A Commission to be known as the "Otter Point Advisory Planning Commission" for that portion of the Electoral Area shown as Otter Point on Map 1, which is attached to and forms a part of this bylaw.
Bylaw No. 3151
 - (c) A Commission to be known as the "Port Renfrew Advisory Planning Commission" for that portion of the Electoral Area shown as Port Renfrew on Map 1, which is attached to and forms a part of this bylaw.
 - (d) A Commission to be known as the "Willis Point Advisory Planning Commission" for that portion of the Electoral Area shown as Willis Point on Map 1, which is attached to and forms a part of this bylaw.
 - (e) A Commission to be known as the "Malahat Advisory Planning Commission" for that portion of the Electoral Area shown as the Malahat on Map 1, which is attached to and forms a part of this bylaw.
 - (f) A Commission to be known as the "Shirley/Jordan River Advisory Planning Commission" for that portion of the Electoral Area shown as Shirley/Jordan River on Map 1, which is attached to and forms a part of this bylaw.
Bylaw No. 3151

- 2.2 The names of the nominees to a commission must come forward to the Board through the assent of the electors of the area for consideration, for appointment by the Board. The Board has the option of appointing one or more of these nominees to their respective Advisory Planning Commission or asking for further recommendations from the Director.
- 2.3 All members of their Commission must be residents of the respective Commission area as outlined on Map Number 1, which is attached to and forms a part of this bylaw.
- 2.4 No Electoral Area Director, Alternate Director or Council Member is eligible to be appointed as a member of any Commission. The Juan de Fuca Electoral Area Director or his or her Alternate can attend any meeting or special meeting of the Commission in a resource capacity.
- 2.5 No officer, employee of the Regional District or any Approving Officer is eligible to be appointed as a member of any Commission, but they can attend any meeting or special meeting of the Commission in a resource or administrative support capacity.
- 2.6 Trustees of a School Board having jurisdiction within a Commission Area or an employee or agent of either the provincial or federal governments may attend any meeting or special meeting in a resource capacity.
- 2.7 Each Commission must consist of not less or more than five (5) members.
- 2.8 Commission members must serve without remuneration but they may be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- 2.9 The first term of the Commissions must commence on January 1, 2003 and end on December 31st of 2005. Each successive Commission must be for a four (4) year term. Notwithstanding Section 2.11 of this bylaw, each successive Commission appointee must be appointed as outlined in Section 2.2 of this bylaw.
- 2.10 Notwithstanding anything elsewhere contained within this bylaw, the Board may at any time or from time to time, terminate the appointment of any member of any Commission appointed pursuant to this bylaw. This will include any Commission member, who fails to attend three (3) consecutive meetings of the Commission without leave of the Commission, a Commission member who moves out of their Commission area during their term of appointment or any Commission member who fails to declare a conflict of interest prior to a question being called during a Commission meeting or special meeting.
- 2.11 If a Commission position is not filled after seeking the assent of the electors or is declared vacant during their term, the Director may either submit the name of the Commission member to the Board to fill that position or call for a byelection for the respective vacant Commission position. If a byelection is held then the appointee must be appointed as outlined in Section 2.2 of this bylaw.

CRD Bylaw No. 2945
Consolidated for Public Convenience

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September 11, 2014

SECTION 3 COMMISSION PROCEDURES

- 3.1 The Commission must elect one (1) of its members as Chairperson, another as Vice-Chairperson to act in the absence of the Chairperson. The Chairperson and Vice Chairperson will hold these positions for a term of one (1) year or until their successors are elected. Such elections must take place at the first meeting of each new calendar year.
- 3.2 The Secretary to each of the Commissions will be an individual from the Juan de Fuca Electoral Area Land Use Planning Department. The Secretary must attend meetings of the Commission, take minutes of the meetings, record expenses and perform other administrative support duties reasonably required for the efficient functioning of a Commission.
- 3.3 In the absence of the Chairperson or Vice Chairperson the Commission must select from the members present a meeting or special meeting Chairperson, before commencing the meeting.
- 3.4 A majority of members of a Commission constitutes a quorum, for either a meeting or special meeting. If a quorum is not present within fifteen (15) minutes after the time appointed for a meeting or special meeting, the names of those present will be recorded and the meeting or special meeting will be adjourned.
- 3.5 A Commission may hold a special meeting at the call of the Commission Chairperson, by a two-thirds (2/3) vote of the Commission members at a meeting, or as required by the Land Use Committee or the Board.
- 3.6 All meetings and special meetings of each Commission must be held in a public facility and must be open to all members of the public. No in-camera meetings are allowed.
- 3.7 The Regional District must send copies of the agendas to the respective Commission members at least 7 days prior to any meeting or special meeting. The delivery of the agendas may be by email, regular mail, registered mail, courier, fax or by hand. Each Commission member must advise the appointed Secretary on his or her preferred method of delivery.
- 3.8 All Commission meeting and special meeting minutes must be kept and, on request, made available to the public.
- 3.9 Each Commission must submit to the Juan de Fuca Electoral Area Director and the Regional District at the end of October of each year an annual budget estimate for the upcoming year, to cover reasonable and necessary expenses that arise directly out of the performance of their duties to the Regional District.
- 3.10 Each Commission Chairperson, in consultation with the Juan de Fuca Electoral Area Director, is responsible for developing the agenda for each meeting or special meeting. If at the start of the meeting or special meeting the Commission members wish to amend the agenda, a two-thirds (2/3) vote of the members present is required to approve the agenda change.

- 3.11. Each Commission Chairperson may also post the meeting or special meeting notices on any community bulletin boards within areas of the Commission's jurisdiction. The Regional District may advertise the date, time, location and issues to be considered at this meeting, in a local newspaper, if applicable.
- 3.12. Each Commission Chairperson must arrange, through the Commission Secretary, for the contact of an owner or his or her agent at least seven (7) days prior to any meeting or special meeting of a Commission at which the owner's application will be heard.
- 3.13. Any member of the public, who wishes to be heard on any land use planning referral, may do so by making a written request to the Commission Chairperson, through the Commission Secretary, at least five (5) days prior to the meeting or special meeting taking place. A member of the public may also be heard at a meeting or special meeting by permission of a majority of the Commission members present. Each member of the public speaking at the meeting or special meeting must keep his or her presentation to three (3) minutes or less. The Chairperson shall ensure that this time limit is followed and that proper order is maintained at every meeting and special meeting.
- 3.14. A member of the Commission present at a meeting or special meeting at the time of a vote who abstains from voting must be deemed to have voted in the affirmative.
- 3.15. All matters brought before the Commission must be decided by a simple majority vote of all members of the Commission present at the meeting or special meeting.
- 3.16. In the case of a tie vote the question is defeated.
- 3.17. The Commission Chairperson must decide any point of procedure, which arises during any meeting or special meeting of the Commission.
- 3.18. Where any member of the Commission challenges any ruling of the Chairperson, the Chairperson's ruling shall immediately be put to a vote without a debate and the results of the vote must govern.
- 3.19. Where any member of the Commission considers that they are not entitled to participate in the discussion of a matter or to vote on a question in respect of that matter, the member must declare this and state the general nature of why the member considers this to be the case. After making this declaration the member must not take part in either the discussions or vote on any question in respect to this matter. The member must also leave the meeting or special meeting or part of the meeting or special meeting during which the matter is under consideration. The Commission Secretary must record the member's declaration, the reasons given and the time that the member departed from the meeting or the special meeting and if applicable the member's return. If after the meeting or special meeting the Commission member is deemed to be in a conflict of interest position, by the Board, and has voted on the question, their vote will not be counted in the affirmative or the negative and the Board has the option to remove the Commission member immediately and reappoint a new Commission member.

CRD Bylaw No. 2945
Consolidated for Public Convenience

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3.20 The Commission may adopt rules for its procedure and may from time to time vary such rules by the affirmative vote of a majority of all members of the Commission present at a meeting. Procedural rules cannot be changed during a special meeting. Where no rule has been made then the rules of the Capital Regional District's Procedural Bylaw No. 1, 1999 and amendments thereto must apply to the meeting or special meeting.

3.21 Commission minutes must include the following:

- (a) Date, time and location of the meeting or special meeting
- (b) Members of the Commission present and absent
- (c) Other persons in an official capacity present for the duration of the meeting
- (d) Items dealt with by the Commission - agenda additions/deletions
- (e) Delegations who made representations to the Commission
- (f) Discussions of the items dealt with by the Commission
- (g) Recommendations of the Commission, which may include:
 - (i) Approval with reasons
 - (ii) Approval subject to conditions, and conditions to be stated
 - (iii) Refusal and reasons for the refusal
- (h) The Mover and Seconder of a motion
- (i) Commissioner's roundtable discussions

The Commission Chairperson and the Secretary of the Commission must sign the minutes. The meeting minutes must be completed within ten (10) days from the end of the meeting or special meeting.

SECTION 4 POWERS OF THE COMMISSIONS

- 4.1 A Commission may make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 26 of the Local Government Act: *Bylaw No. 3151*
- The development of or any amendment to any Official Community Plan
 - The development of or any amendment to any Zoning Bylaw
 - The issuance of a temporary commercial or industrial use permit
 - The issuance of a development permit or development variance permit
 - Any other land use planning matter referred to the Commission by either the Land Use Committee or the Board

SECTION 5 SEVERABILITY

- 5.1 If any section, subsection, sentence, clause, definition, phrase or map in this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

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SECTION 6 REPEAL

6.1 The following bylaws are hereby repealed:

- Capital Regional District Bylaw No. 2407 cited as the "East Sooke Commission Bylaw No.1, 1996",
- Capital Regional District Bylaw No. 2367 cited as the "Otter Point and Shirley Commission Bylaw No. 1, 1996",
- Capital Regional District Bylaw No. 2300 cited as the "Port Renfrew Area Advisory Planning Commission Bylaw No.1, 1995", and
- Capital Regional District Bylaw No. 2192 cited as the "Malahat Willis Point Commission Bylaw No.1 1994".

SECTION 7 INCORPORATION OF MAPS

7.1 Map No. 1 attached hereto is hereby made a part of this bylaw.

SECTION 8 BYLAW COMES INTO EFFECT

8.1 This bylaw comes into effect on January 1, 2003

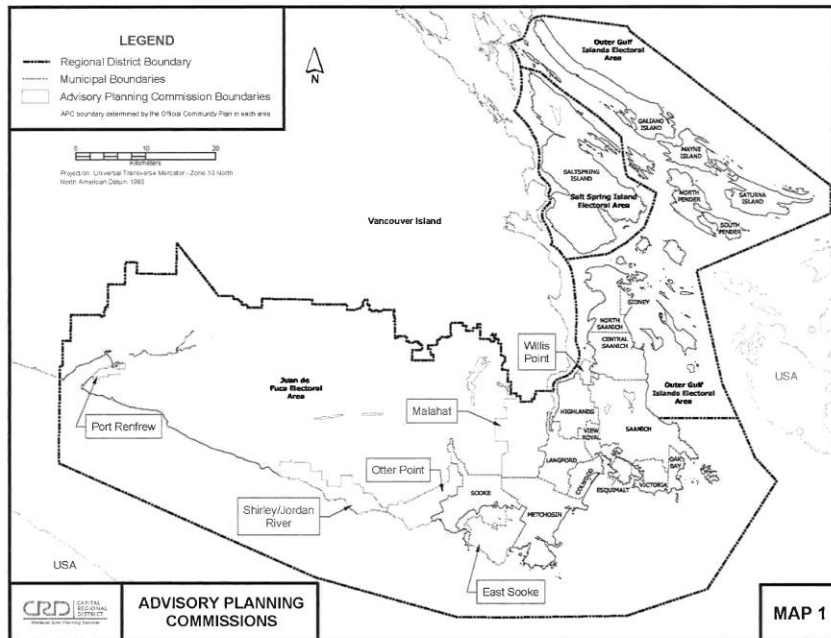
SECTION 9 TITLE

This bylaw may be cited for all purposes as the "Capital Regional District Advisory Planning Commission Bylaw No. 1, 2002".

READ A FIRST TIME THIS	14 th	day of	August	2002
READ A SECOND TIME THIS	14 th	day of	August	2002
READ A THIRD TIME THIS	14 th	day of	August	2002
ADOPTED THIS	14 th	day of	August	2002

C. Causton
Chair

S.M. Norton
Secretary



Appendix C: CRD Agricultural Advisory Planning Commission Bylaw No. 3517

CAPITAL REGIONAL DISTRICT

BYLAW NO. 3517

CONSOLIDATED FOR PUBLIC CONVENIENCE WITH BYLAW NOS. 3538 and 3611

A BYLAW TO ESTABLISH AN AGRICULTURAL ADVISORY PLANNING
COMMISSION

IN THE JUAN de FUCA ELECTORAL AREA

WHEREAS the Board may, by bylaw, pursuant to Section 898 (2) of the *Local Government Act* establish an Advisory Planning Commission for one or more electoral areas or portions of the electoral area;

AND WHEREAS the Board wishes to establish an Agricultural Advisory Planning Commission to advise the Board's Land Use Committee or the Juan de Fuca Electoral Area Director on any land use planning matter referred to a Commission under Section 898 (2) of the *Local Government Act*;

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

SECTION 1 DEFINITIONS

In this bylaw the following definitions apply:

Agent

means the individual the applicant has authorized to act on their behalf, with respect to the land use application or referral. A written copy of this authorization must be sent in with any Part 26 land use application;

Alternate Director

means the individual appointed by the Juan de Fuca Electoral Area Director to act in the Director's absence in accordance with the *Local Government Act*;

Applicant

means the owner of the parcel of land in respect of which an application has been made;

Application

means an application to:

- (a) Amend an Official Community Plan, a zoning bylaw, or other bylaw, or
- (b) To issue a permit,

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under Part 26 of the *Local Government Act* and for which a fee has been paid to the Capital Regional District;

Board

means the Board of Directors of the Capital Regional District;

Commission

means the Agricultural Advisory Planning Commission, established by the Board, as outlined in the *Local Government Act* and under Section 2.1 of this bylaw;

Conflict of Interest

means when a Commission Member has a direct or indirect pecuniary interest in the matter or any other reason;

Director

means the individual elected the Juan de Fuca Electoral Area Director of the Regional District;

Electoral Area

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

Land Use Committee

means individuals appointed as a result of Order-in-Council No. 1048, to administer matters associated with Part 26 of the *Local Government Act* involving land within the Electoral Area;

Meeting

means a regularly scheduled meeting of the Commission;

Member

means a member of the Commission as appointed by the Board;

Public Facility

means a school, fire hall, community hall, municipal office, church hall or any other public assembly area;

Regional District

means the Capital Regional District;

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Special Meeting

means a non-scheduled meeting of the Commission, that is set at the call of the Chairperson of the respective Commission, by a two-thirds (2/3's) majority vote of the respective Commission Members, the Land Use Committee or the Board;

Year

means a twelve month period starting on January 1 of a year and ending on December 31 of the same year.

SECTION 2 ESTABLISHMENT, APPOINTMENTS AND TERMS OF THE COMMISSION

2.1. The Board hereby establishes for the Juan de Fuca Electoral Area, the following:

A Commission to be known as the “Agricultural Advisory Planning Commission” for the Electoral Area including those areas known as Malahat, Willis Point, East Sooke, Otter Point, Shirley/Jordan River, Port Renfrew and the remainder of lands known as the Resource Lands as shown on Map 1, which is attached to and forms a part of this bylaw.

2.2 The names of the nominees to the Commission shall come forward for appointment by the Board. The Board has the option of appointing these nominees to the Agricultural Advisory Planning Commission or asking for further recommendations from the Director. *Bylaw 3538*

2.3 All members of the Commission must be an elector of the Juan de Fuca Electoral Area. *Bylaw 3611*

2.4 No Electoral Area Director, Alternate Director or Council Member is eligible to be appointed as a member of the Commission. The Juan de Fuca Electoral Area Director or his or her Alternate can attend any meeting or special meeting of the Commission in a resource capacity.

2.5 No officer, employee of the Regional District or any Approving Officer is eligible to be appointed as a member of the Commission, but they can attend any meeting or special meeting of the Commission in a resource or administrative support capacity.

2.6 Trustees of a School Board having jurisdiction within a Commission Area or an employee or agent of either the provincial or federal governments may attend any meeting or special meeting in a resource capacity.

2.7 The Commission will consist of up to nine (9) members. *Bylaw 3538*

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- 2.8 Commission members must serve without remuneration but they may be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- 2.9 The terms of office of Commission members shall be as follows: up to five (5) members from June 1, 2008 to December 31, 2009 and up to four (4) members from June 1, 2008 to December 31, 2010. Thereafter, the Board shall appoint or reappoint members to the Commission to fill the term of office of those members whose terms expire as of December 31st in each year. Notwithstanding Section 2.11 of this bylaw, each successive Commission appointee must be appointed as outlined in Section 2.2 of this bylaw. *Bylaw 3538*
- 2.10 Notwithstanding anything elsewhere contained within this bylaw, the Board may at any time or from time to time, terminate the appointment of any member of any Commission appointed pursuant to this bylaw. This will include any Commission member, who fails to attend three (3) consecutive meetings of the Commission without leave of the Commission, a Commission member who moves out of their Commission area during their term of appointment or any Commission member who fails to declare a conflict of interest prior to a question being called during a Commission meeting or special meeting.
- 2.11 If a Commission position is not filled after seeking applications or is declared vacant during their term, the Director may submit the name of a Commission member to the Board to fill that position.

SECTION 3 COMMISSION PROCEDURES

- 3.1 The Commission must elect one (1) of its members as Chairperson, another as Vice-Chairperson to act in the absence of the Chairperson. The Chairperson and Vice Chairperson will hold these positions for a term of one (1) year or until their successors are elected. Such elections must take place at the first meeting of each new calendar year.
- 3.2 The Secretary to the Commission will be an individual from the Juan de Fuca Electoral Area Land Use Planning Department. The Secretary must attend meetings of the Commission, take minutes of the meetings, record expenses and perform other administrative support duties reasonably required for the efficient functioning of a Commission.
- 3.3 In the absence of the Chairperson or Vice Chairperson the Commission must select from the members present a meeting or special meeting Chairperson, before commencing the meeting.

- 3.4 A majority of members of a Commission constitutes a quorum, for either a meeting or special meeting. If a quorum is not present within fifteen (15) minutes after the time appointed for a meeting or special meeting, the names of those present will be recorded and the meeting or special meeting will be adjourned.
- 3.5 A Commission may hold a special meeting at the call of the Commission Chairperson, or as required by the Land Use Committee or the Board.
- 3.6. All meetings and special meetings of each Commission must be held in a public facility and must be open to all members of the public. No in-camera meetings are allowed.
- 3.7 The Regional District must send copies of the agendas to the respective Commission members at least 7 days prior to any meeting or special meeting. The delivery of the agendas may be by email, regular mail, registered mail, courier, fax or by hand. Each Commission member must advise the appointed Secretary on his or her preferred method of delivery.
- 3.8 All Commission meeting and special meeting minutes must be kept and, on request, made available to the public.
- 3.9 The Commission Chairperson, in consultation with the Juan de Fuca Electoral Area Director, is responsible for developing the agenda for each meeting or special meeting. If at the start of the meeting or special meeting the Commission members wish to amend the agenda, a two-thirds (2/3) vote of the members present is required to approve the agenda change.
- 3.10 The Commission Chairperson may also post the meeting or special meeting notices on any community bulletin boards within areas of the Commission's jurisdiction. The Regional District may advertise the date, time, location and issues to be considered at this meeting, in a local newspaper, if applicable.
- 3.11 A member of the Commission present at a meeting or special meeting at the time of a vote who abstains from voting must be deemed to have voted in the affirmative.
- 3.12 All matters brought before the Commission must be decided by a simple majority vote of all members of the Commission present at the meeting or special meeting.
- 3.13 In the case of a tie vote the question is defeated.
- 3.14 The Commission Chairperson must decide any point of procedure, which arises during any meeting or special meeting of the Commission.
- 3.15 Where any member of the Commission challenges any ruling of the Chairperson, the Chairperson's ruling shall immediately be put to a vote without a debate and the results of the vote must govern.

- 3.16 Where any member of the Commission considers that they are not entitled to participate in the discussion of a matter or to vote on a question in respect of that matter, the member must declare this and state the general nature of why the member considers this to be the case. After making this declaration the member must not take part in either the discussions or vote on any question in respect to this matter. The member must also leave the meeting or special meeting or part of the meeting or special meeting during which the matter is under consideration. The Commission Secretary must record the member's declaration, the reasons given and the time that the member departed from the meeting or the special meeting and if applicable the member's return. If after the meeting or special meeting the Commission member is deemed to be in a conflict of interest position, by the Board, and has voted on the question, their vote will not be counted in the affirmative or the negative and the Board has the option to remove the Commission member immediately and reappoint a new Commission member.
- 3.17 The Commission shall operate under the rules of the Capital Regional District's Procedural Bylaw No. 1, 2004 and amendments thereto must apply to the meeting or special meeting.
- 3.18 Commission minutes must include the following:
- (a) Date, time and location of the meeting or special meeting
 - (b) Members of the Commission present and absent
 - (c) Other persons in an official capacity present for the duration of the meeting
 - (d) Items dealt with by the Commission - agenda additions/deletions
 - (e) Delegations who made representations to the Commission
 - (f) Discussions of the items dealt with by the Commission
 - (g) Recommendations of the Commission, which may include:
 - (i) Approval with reasons
 - (ii) Approval subject to conditions, and conditions to be stated
 - (iii) Refusal and reasons for the refusal
 - (h) The Mover and Seconder of a motion
 - (i) Commissioner's roundtable discussions

The Commission Chairperson and the Secretary of the Commission must sign the minutes. The meeting minutes must be completed within ten (10) days from the end of the meeting or special meeting.

SECTION 4 POWERS OF THE COMMISSIONS

- 4.1 The Agricultural Advisory Planning Commission may make recommendations to the Land Use Committee or the Juan de Fuca Electoral Area Director on land use planning matters referred to them relating to Part 26 of the *Local Government Act*:

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- The development of or any amendment to any Official Community Plan
- The development of or any amendment to any Zoning Bylaw
- The issuance of a temporary commercial or industrial use permit
- The issuance of a development permit or development variance permit
- Any other land use planning matter referred to the Commission by either the Land Use Committee or the Board and in particular those that may involve agricultural issues.

SECTION 5 SEVERABILITY

- 5.1 If any section, subsection, sentence, clause, definition, phrase or map in this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

SECTION 6 BYLAW COMES INTO EFFECT

- 7.1 This bylaw comes into effect on June 1, 2008

SECTION 7 TITLE

This bylaw may be cited for all purposes as the "Capital Regional District Agricultural Advisory Planning Commission Bylaw No. 1, 2008".

READ A FIRST TIME THIS 12th day of March, 2008.

READ A SECOND TIME THIS 12th day of March, 2008.

READ A THIRD TIME THIS 12th day of March, 2008.

ADOPTED THIS 12th day of March, 2008.

Denise Blackwell
Chair

Carmen Thiel
Secretary

