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## REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, SEPTEMBER 24, 2024

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**SUBJECT**      **Zoning Bylaw Amendment Application for That Part of Section 90, Renfrew District, Shown Outlined in Red on Plan 913R Lying to the South of the Southerly Boundary of Plan 503RW and to the West of a Boundary Parallel to and Perpendicularly Distant 575 Feet from the Easterly Boundary of that Part of Said Section Shown Outlined in Red on Said Plan 913R, Except Part in Plan VIP80043 (PID: 009-592-130) – 9285 Invermuir Road**

### **ISSUE SUMMARY**

The landowner has applied to rezone the subject property from the Rural A zone to the Rural Residential 6A zone (RR-6A) to facilitate subdivision.

### **BACKGROUND**

The 3.11 ha oceanfront subject property is located on Invermuir Road in Shirley and is zoned Rural A in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Appendix A). The property is designated Pacific Acreage in the Shirley-Jordan River Official Community Plan (OCP), Bylaw No. 4001. Abutting properties along the south side of Invermuir Road are zoned Rural A, and parcels on the north side of Invermuir Road are a mixture of Rural A, Rural 2 (RU-2), and Forestry (AF) zoned lands. Portions of the property are designated as Steep Slopes, Shoreline Protection, and Sensitive Ecosystem development permit areas. There are three existing dwellings and four accessory buildings that are serviced by three separate septic systems and one water supply well. The property is entirely within the Shirley Fire Protection local service area.

The landowner has submitted an application to amend Bylaw No. 2040 by removing the property from the Rural A zone (Appendix B) and adding it to the (RR-6A) zone (Appendix C) to facilitate a 3-lot fee-simple subdivision application (SU000766), proposing one lot for each existing dwelling (Appendix D). Staff have prepared Bylaw No. 4616 (Appendix E) for consideration.

At its meeting of June 18, 2024, the Juan de Fuca Land Use Committee recommended referral of the proposed bylaw to the Shirley-Jordan River Advisory Planning Commission; CRD departments; Pacheedaht First Nation, T'Sou-ke First Nation; BC Hydro; District of Sooke; Island Health; Ministry of Forests – Archaeology Branch; Ministry of Forests – Water Protection Section; Ministry of Water, Land and Resource Stewardship; Ministry of Transportation & Infrastructure; RCMP; and Sooke School District #62. Comments have been received and are included in Appendix F.

### **ALTERNATIVES**

#### *Alternative 1*

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

1. That the referral of proposed Bylaw No. 4616, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 166, 2024", to the Shirley-Jordan River Advisory Planning Commission; CRD departments; Pacheedaht First Nation; T'Sou-ke First Nation; BC Hydro; District of Sooke; Island Health; Ministry of Forests – Archaeology Branch; Ministry of Forests – Water Protection Section; Ministry of Water, Land and Resource Stewardship; Ministry of Transportation & Infrastructure; RCMP; and Sooke School District #62 be approved and the comments received;
2. That proposed Bylaw No. 4616 be introduced and read a first, second and third time; and

3. That adoption of proposed Bylaw No. 4616 be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for subdivision application SU000766.

*Alternative 2*

That the CRD not proceed with proposed Bylaw No. 4616.

**IMPLICATIONS**

*Legislative Implications*

The Advisory Planning Commissions (APCs) were established to make recommendations to the Land Use Committee on land use planning matters referred to them related to Part 14 of the *Local Government Act (LGA)*. The Shirley-Jordan River APC considered the application at its meeting on July 9, 2024.

Since the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development, in accordance with Section 464(3)(c) of the *LGA*, the CRD must not hold a public hearing. Notice of the proposed bylaw amendment with respect to the date of first reading will be provided in accordance with Sections 466 and 467 of the *LGA*.

*Regional Growth Strategy Implications*

Section 445 of the *LGA* requires that all bylaws adopted by a regional district board after the board has adopted a regional growth strategy (RGS) be consistent with the RGS. In accordance with CRD policy, where a zoning bylaw amendment that applies to land within the Shirley-Jordan River OCP area is consistent with the OCP, it does not proceed to the CRD Board for a determination of consistency with the RGS. Staff are of the opinion that the proposed amendment is consistent with the policies of the Shirley-Jordan River OCP.

*Referral Comments*

Referrals were sent to 11 agencies, CRD departments, and to the Shirley-Jordan River APC. Comments received are summarized below and included in Appendix F.

CRD Bylaw Enforcement stated that they have no concerns with the proposed bylaw.

CRD Electoral Area Fire Services responded that the applicant must produce a report by a Qualified Professional that recommends how the proposed development provides satisfactory access for emergency vehicles. JdF Planning staff note that confirmation of access for emergency vehicles would be addressed at the time of subdivision.

CRD First Nations Relations commented that a search of the Remote Access to Archaeological Data managed by the BC Archaeology Branch indicated that the property is not located within or immediately adjacent to a protected archaeological site and that a permit is not required to undertake work unless archaeological materials are exposed or impacted during land-altering activities.

Pacheedaht First Nation stated that they have no comment at this time regarding the application.

T'Sou-ke First Nation commented that they agreed with the recommendations of the environmental report and advised of the need to be apprised of any archaeological finds when construction starts. They asked that there be the opportunity for T'Sou-ke Nation Guardians to be onsite when excavation is undertaken. JdF Planning staff advise that such a site visit would be an arrangement between the Nation and the landowner and is beyond the scope of local government authority.

BC Hydro expressed no objection in principle to the proposed rezoning and 3-lot subdivision.

District of Sooke stated that they had no concerns with the proposed rezoning.

Ministry of Forests – Archaeology Branch advised that according to Provincial records, there are no known archaeological sites recorded on the subject property and that a permit is not required to undertake work unless archaeological materials are exposed or impacted during land-altering activities.

Ministry of Water, Land and Resource Stewardship – Ecosystem Section had no objection to approval of the proposed rezoning subject to adhering to the recommendations of the environmental report. Streams and wetlands that have been deemed to be outside of the scope of *RAPR* are still protected under the *Water Sustainability Act*. Future activities that may affect those waterbodies would require approval from the Provincial Water Authorizations Branch. JdF Planning staff note that a development permit to authorize the subdivision and any associated works in DP areas will be required through the subdivision process. Confirmation of Provincial approvals is a requirement of the development permit process.

Ministry of Water, Land and Resource Stewardship – Water Protection Section noted that the rezoning and subdivision is not expected to result in increased housing density. There is one existing well on the subject property and two new wells are proposed as part of the subdivision application such that one well supplies each lot. The existing well supplied 30 litres/minute in 2005 and was completed in Aquifer 449, which consists of fractured sedimentary rock, mostly overlain by Vashon till. The median well depth for wells in the area is 79 m with yields between 7.5 to 190 litres/minute. Aquifer 449 was flagged in 2019 due to “Possible Water Shortage” associated with its connection to streams in the area. The Aquifer is considered to have overall low vulnerability to contaminants introduced at the land surface due to the consistent till layer.

Ministry of Transportation and Infrastructure (MoTI) had no objection to the zoning bylaw amendment and noted that approval of the bylaw pursuant to Section 52 of the *Transportation Act* is not required.

The Shirley-Jordan River APC considered the application at its meeting on July 9, 2024, with approximately 11 members of the public in attendance. The APC passed the following motion with respect to Bylaw No. 4616:

**MOVED** by Fiona McDannold, **SECONDED** by Melody Kimmel that the Shirley-Jordan River Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee support for zoning amendment application RZ000286 with a lot coverage of 20%.

JdF Planning staff advise that the maximum lot coverage is 15% in the Rural A zone and 25% in the RR-6A zone. However, the maximum floor area ratio is 45% in the Rural A zone and 4.5% in the RR-6A zone. On one 4 ha lot in the Rural A zone, this would allow for a total maximum residential floor area of 18,000 m<sup>2</sup>; whereas, on an equivalent area of land in the RR-6A zone the total maximum residential floor area would be 1,800 m<sup>2</sup>. Staff's observation is that RR-6A zoned land is principally used for residential and ancillary purposes, and on that basis maximum lot coverage could not be reached. Staff also note that minor, site-specific changes to siting and lot coverage regulations can lead to an increased risk of administrative errors. Therefore, staff recommend that the lot coverage prescribed by the RR-6A zone not be changed as part of this application.

### *Land Use*

The Shirley-Jordan River OCP designates the subject property as Pacific Acreage (PA), which generally consists of rural and rural residential zoned lands outside Settlement areas and west of Muir Creek. The PA designation supports an average minimum parcel size of one parcel per two hectares provided that no new parcels are created with an area of less than one hectare. The OCP generally supports a density of one single-family dwelling or one two-family dwelling per parcel for land designated PA. Policy 484(U) of the OCP supports the rezoning of lands zoned Rural A to facilitate

subdivision based on a ratio of one parcel in the proposed plan of subdivision per hectare of land in the parent parcel prior to the subtraction of any area for road or park dedication. Further, policy 484(V) supports the rezoning of Rural A zoned lands for the purposes of subdivision to create a number of parcels equivalent to the number of existing dwellings. Proposed Bylaw No. 4616 removes the property from the Rural A zone and adds it to the RR-6A zone. This is consistent with the OCP's policy regarding Rural A zoned land and its intention to maintain the neighbourhood's rural character.

The Rural A zone specifies a minimum parcel size of 4 ha and permits up to three one-family dwellings, as well as a secondary suite or detached accessory suite, on existing parcels that are greater than 0.8 ha but less than 4 ha. The RR-6A zone has minimum average parcel size of 1.0 ha, with an absolute minimum parcel size of 0.5 ha and permits one one-family dwelling or one duplex per parcel with either a secondary suite or a detached accessory suite permitted where there is no duplex. The RR-6A zone does not permit intensive agriculture; silviculture; animal hospitals; veterinary clinics; accessory on-site logging; pole, post, or shake cutting from on-site trees; and finfish culture, which are all permitted uses within the Rural A zone. Proposed Bylaw No. 4616 does not increase the existing density of one-family dwellings on the 3.11 ha property; however, each potential parcel could support either a secondary suite or detached accessory suite, in accordance with OCP policy and the Provincial housing regulation with respect to affordable housing options.

The Water and Sewerage Servicing Assessment and Environmental Assessment (Appendix G) submitted as part of the application provided an overview of potential impacts to the aquifer and natural environment. The Water and Sewerage Servicing Assessment concluded that there appears to be sufficient area to provide adequate on-site sewage and that the likelihood that new private groundwater wells with sustained yields of 2,500 litres/day can be completed for proposed Lots 1 and 3 is high. The Environmental Assessment provided an inventory of the sensitive ecosystems, wildlife and non-riparian watercourses and wetlands associated with the subject property, and included recommendations for the proposed rezoning and subdivision application in keeping with the development permit guidelines.

Should Bylaw No. 4616 be adopted, the property could be subdivided into three parcels. At the time of subdivision, the owner will be required to obtain a development permit to address the Steep Slopes, Shoreline Protection, and Sensitive Ecosystem DP guidelines and authorize any land alteration or construction activity. The subdivision application will also require compliance with MoTI, Island Health and CRD standards, including proof of potable water and onsite septic.

The RR-6A zone permits a maximum density of one dwelling per parcel. Should Bylaw No. 4616 be adopted, but the subdivision not completed, the existing development would become non-conforming in accordance with Section 528 of the *LGA*. This may result in constraints on the future use, repair and development of the property, or on reconstruction of dwellings in the event of damage to the structures to the extent of 75% or more of their value above the foundation. For this reason, staff recommend that adoption of Bylaw No. 4616 be withheld until such time as MoTI has issued a Preliminary Layout Review (PLR) for the associated subdivision, and the full set of subdivision requirements, including proof of potable water and septic standards, have been provided to the owners.

Based on the information provided by the applicants, referral comments received and the policies of the Shirley-Jordan River OCP, staff recommend that proposed Bylaw No. 4616 be read a first, second and third time, and that the adoption of the Bylaw be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for concurrent subdivision application SU000766.

**CONCLUSION**

The purpose of Bylaw No. 4616 is to amend the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 by rezoning the subject property from Rural A to RR-6A. Since the proposed bylaw permits a residential development, a public hearing must not be held with respect to the zoning bylaw. Staff have prepared proposed Bylaw No. 4616 and recommend receipt of referral comments, first, second and third readings, and that adoption of the Bylaw be withheld pending receipt by the CRD of Preliminary Layout Review from MoTI for subdivision application SU000766.

**RECOMMENDATION**

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

1. That the referral of proposed Bylaw No. 4616, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 166, 2024", to the Shirley-Jordan River Advisory Planning Commission; CRD departments; Pacheedaht First Nation; T'Sou-ke First Nation; BC Hydro; District of Sooke; Island Health; Ministry of Forests – Archaeology Branch; Ministry of Forests – Water Protection Section; Ministry of Water, Land and Resource Stewardship; Ministry of Transportation & Infrastructure; RCMP; and Sooke School District #62 be approved and the comments received;
2. That proposed Bylaw No. 4616 be introduced and read a first, second and third time; and
3. That adoption of proposed Bylaw No. 4616 be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for subdivision application SU000766.

Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

**ATTACHMENTS**

- Appendix A: Subject Property and Zoning Map
- Appendix B: Rural (A) Zone
- Appendix C: Rural Residential 6A (RR-6A) Zone
- Appendix D: Proposed Subdivision Plan
- Appendix E: Proposed Bylaw No. 4616
- Appendix F: Referral Comments
- Appendix G: Water and Sewerage Servicing Assessment and Environmental Assessment