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**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