

Appendix C: Referral Comments

CRD Regional & Strategic Planning:

From: Jeff Weightman
Sent: Friday, June 04, 2021 9:47 AM
To: Iain Lawrence <ilawrence@crd.bc.ca>
Cc: Emily Sinclair <esinclair@crd.bc.ca>
Subject: Land Use Bylaw for Bylaw No. 3602 and 2040 to delete the outdoor recreation definition

Hi Iain,

Thank you for the opportunity to provide referral comments on the proposed amendments to remove the outdoor recreation use in the Juan de Fuca Land Use Bylaw. Comments from Regional and Strategic Planning are provided below. Comments relate to a review of the proposed amendment against the 2018 Regional Growth Strategy (RGS) Bylaw No. 4017.

Please note that the CRD Board will need to consider the proposed amendments and make a determination of consistency with the RGS once the Land Use Committee directs first and second bylaw reading. The 2018 Regional Growth Strategy (RGS) designates the planning area affected mostly as part of the Rural/Rural Residential Policy Area and Renewable Resource Lands Policy Area. Section 445 of the LGA requires that all bylaws adopted by a regional district board after the board has adopted a Regional Growth Strategy (RGS) be consistent with the RGS. Since the proposal includes an amendment to the Land Use Bylaw for the Rural Resource Lands, evaluation for consistency is needed for all OCP amendments in the Juan de Fuca Electoral Area and the land use bylaw for the rural resource lands as it does not have an OCP.

RGS Action 1.2(1) is to maintain working landscapes including agriculture, forestry and outdoor recreation activities that contribute to the region's economy.

The proposed bylaw proposes to remove the outdoor recreation use within the Rural/Rural Residential Policy Area. The intent of this change is due to the ambiguity and lack of policy details around what can be permitted under an outdoor recreation use. Existing outdoor recreation sites such as Avatar Grove, Fairy and Lizard Lakes would be maintained as legal non-conforming. However, future consideration for future outdoor recreation uses would be considered on a case by case basis.

There is an underlying land use consideration in the policy change whereby, Juan de Fuca planning staff receive inquiries regarding types of uses that could be considered under outdoor recreation, namely, higher density development inquiries such as cabins and resort style developments not previously considered as outdoor recreation.

RGS Policy 1.1 protects rural communities by requiring that local municipalities and the Juan de Fuca Electoral Area provide for land uses consistent with the Growth Management Concept Plan and adopt policies that would prevent lands designated as Rural/Rural Residential from becoming future urban areas. Strengthening the character and quality of rural communities can be achieved by planning for development in accordance with the principles set out. Removing the outdoor recreation use from the Bylaws provides support to RGS principles 1.2.3 to protect the natural environment and working landscapes and 1.2.2 that avoids future urban areas through development patterns that support rural density, scale and character.

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Thanks,

Jeff

Jeff Weightman, RPP, MCIP, PMP | Planner
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CRD Bylaw Enforcement:

From: Shayne Gorman
Sent: Tuesday, June 08, 2021 12:45 PM
To: Wendy Miller <wmiller@crd.bc.ca>
Subject: RE: Referral - Proposed Bylaws Nos. 4412 and 4413 (Outdoor Recreation)

Good Afternoon Wendy

I have asked for input and our response is below.

CRD Bylaw Enforcement Services has reviewed the staff report for the amendment Bylaws to Land Use Bylaw for the Rural Resource Lands , Bylaw No. 3602 (Bylaw No. 4412) and Juan de Fuca Land Use bylaw No. 2040 (Bylaw No. 4413) to delete the “Outdoor Recreation” definition and permitted use.

CRD Bylaw Services understands that the current definition of “Outdoor Recreation” being broad in scope and not adequately defined in regulatory measures to address density, servicing, access or other associated infrastructure poses implications. The potential impacts for CRD Bylaw Services Department as a result of this broad scope interpretation would be in addressing public concerns regarding allowable uses in relation to this broad definition. Such undefined regulatory definitions makes mitigating public concerns from an enforcement perspective difficult. The proposed method of considering individual zoning amendment applications and public consultation for such uses on a site specific basis is the proposed alternative and would allow for control of density, servicing, access or other associated infrastructure on a case by case basis.

CRD Bylaw Enforcement supports the approval of Bylaw’s No. 4412 & 4413 to remove the ambiguity of the definition of “Outdoor Recreation”.

Thank you

Shayne Gorman | Senior Bylaw Officer
Bylaw and Animal Care Services | Capital Regional District
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CRD Protective Services:

Wendy Miller

From: Jonathan Reimer
Sent: Thursday, June 10, 2021 11:01 AM
To: Wendy Miller
Cc: 'shirleychief@shaw.ca'; Iain Lawrence
Subject: RE: Referral - Proposed Bylaws Nos. 4412 and 4413 (Outdoor Recreation)

Thank you. CRD Open Fire Bylaw 3452 applies within Fire Protection Areas only, meaning that most CRD Resource Lands default to Provincial jurisdiction for fire regulation. I suspect that CRD would not have to the ability to restrict fire use in these areas through the proposed bylaw change. If the intention is to limit overnight use for social or ecological reasons, Protective Services has no objection.

Jonathan Reimer
Manager, Electoral Area Fire and Emergency Programs
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For emergencies, contact the CRD Duty Officer at 250-360-3223 or eocreports@crd.bc.ca

From: Wendy Miller
Sent: Tuesday, June 08, 2021 9:17 AM
To: Jonathan Reimer <jreimer@crd.bc.ca>
Cc: 'shirleychief@shaw.ca' <shirleychief@shaw.ca>
Subject: Referral - Proposed Bylaws Nos. 4412 and 4413 (Outdoor Recreation)

Good Morning,

At its meeting of May 18, 2021, the Juan de Fuca Land Use Committee (LUC) directed referral of proposed Bylaw Nos. 4412 and 4413.

Proposed Bylaw No. 4412 would amend Land Use Bylaw for the Rural Resource Lands, Bylaw No. 3602, by deleting the outdoor recreation definition and permitted use.

Proposed Bylaw No. 4413 would amend the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, by deleting the outdoor recreation definition and permitted use.

The amendments are proposed to support review of specific proposals for outdoor recreation uses through submission of individual zoning amendment applications and public consultation on a site-specific basis.

I attach the staff report considered by the LUC at its May meeting.

Referral comments are summarized in the staff report to the LUC; the actual comments received are inserted verbatim into the staff report as an appendix.

Comment is requested by June 17, 2021.

Thank you,

Wendy Miller
Administrative Clerk | JDF Community Planning | 250.642.8100

Shirley/Jordan River APC:

Shirley/Jordan River Advisory Planning Commission Meeting Minutes
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5. Administrative Bylaws

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

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

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

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

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

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

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

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

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Heather Phillips, Otter Point, stated that:

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

Brenda Mark, Shirley, stated that:

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

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

Gerard LeBlanc, Shirley, stated:

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

Karl Ablack, Port Renfrew, stated that:

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

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

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

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APC comments included:

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

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

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

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

6. Adjournment

The meeting adjourned at 8:47 pm.

Chair