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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, AUGUST 20, 2024

- SUBJECT** **Zoning Bylaw Amendment Application for Two Properties Located at 11237 West Coast Road – described as:**
- **Lot A Section 74 Renfrew District Plan VIP71883 – 11237 West Coast Road; PID: 024-937-207; and**
 - **That Part of Section 74, Renfrew District Lying to the North of the Northerly Boundary of Plan 109RW; PID: 009-590-412**

ISSUE SUMMARY

To rezone the subject property from the Forestry (AF) zone to an amended Rural Commercial Recreation (Campground) (CR-2) zone with amendments.

BACKGROUND

The 78.11 ha subject property is comprised of two parcels including a 7.7 ha waterfront parcel and a 70.4 ha upland Private Managed Forest Land (PMFL) parcel. The subject properties are located on the north and south sides of West Coast Road, adjacent to the eastern boundary of Jordan River Regional Park – Sandcut Beach (Appendix A). Both parcels are zoned Forestry (AF) under the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040, and adjoin AF zoned lands to the east and west, and Resource Land (RL) zoned land to the north. The subject property is designated Coastal Upland (CU) in the Shirley-Jordan River Official Community Plan (OCP), Bylaw No. 4001. Portions of the property are located in Steep Slopes, Sensitive Ecosystem, and Riparian development permit areas.

At its meeting of January 17, 2023, the Juan de Fuca Land Use Committee (LUC) recommended referral of proposed Bylaw No. 4518 to rezone the subject property from AF to an amended CR-2 zone. The Bylaw was referred to the Shirley-Jordan River Advisory Planning Commission (APC); Pacheedaht First Nation; T'Sou-ke First Nation; CRD departments; BC Hydro; District of Sooke; Archaeology Branch, Ministry of Environment and Climate Change Strategy – Water Protection Section; Island Health; Ministry of Transportation & Infrastructure; RCMP; and Sooke School District #62.

The applicant responded to the referral comments by revising the proposed CR-2 zone amendments to reduce the overall tourist accommodation density by approximately 50%, remove the *assembly use*, add an *outdoor recreational facility use*, and offer a public trail amenity contribution (Appendix B). The proposal includes an updated concept plan (Appendix C), an Environmental Assessment Report, Geotechnical Report, Wildfire Plan, Emergency Plan, historical information, and a Water Supply Assessment (Appendix D). Staff have revised Bylaw No. 4518 in accordance with the applicant's proposal for consideration (Appendix E).

ALTERNATIVES

Alternative 1

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

1. That the referral of proposed Bylaw No. 4518, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 158, 2022", to the Shirley-Jordan River Advisory Planning Commission, Pacheedaht First Nation; T'Sou-ke First Nation; CRD departments, BC Hydro; District of Sooke; the Archaeology Branch and Water Protection; the Ministry of Land, Water, and Resource Stewardship; the Ministry of Transportation & Infrastructure; RCMP;

- and Sooke School District #62 be approved and comments be received;
2. That proposed Bylaw No. 4518 be introduced and read a first time and read a second time;
 3. That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director of the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4518; and
 4. That prior to adoption of Bylaw No. 4518:
 - a. That a commercial access permit be issued by the Ministry of Transportation and Infrastructure; and
 - b. That the landowner provide an amenity contribution by registering a statutory right-of-way adjacent to West Coast Road in favour of the Capital Regional District for the purpose of establishing a public trail, and that staff be directed to ensure that all conditions are satisfied towards completion and registration.

Alternative 2

That proposed Bylaw No. 4518 not proceed.

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 February 7, 2023.

Should the proposal proceed, a public hearing pursuant to Part 14, Division 3 of the *LGA* will be required subsequent to the amendment passing second reading by the CRD Board. Property owners within 500 m of the subject properties will be sent notice of the proposed bylaw amendment and a public hearing will be advertised in the local paper and on the CRD website.

A water licence is required for non-domestic ground or surface water use pursuant to the *Water Sustainability Act*. This approval is issued by the Province and is not a precondition for rezoning.

Regional Growth Strategy Implications

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

First Nations Implications

The CRD pursues enhancement of reciprocal engagement and procedures with First Nation communities towards advancing reconciliation, including but not limited, to the application referral process. The subject property is located within the asserted traditional territory of the Pacheedaht and T'Sou-ke First Nations and each nation will be invited to participate in the land use review process to better inform consideration of the proposal.

Referral Comments

Referrals were sent to 11 agencies, Pacheedaht and T'Sou-ke First Nations, appropriate CRD departments, and to the Shirley-Jordan River APC. Comments received are summarized below and included in Appendix F.

BC Hydro, District of Sooke and CRD Bylaw Enforcement stated that they have no comments or concerns with the proposal.

Ministry of Forests – Archaeological Branch stated that while a permit is not required as records indicate that there are no known archaeological sites, shoreline areas of the subject property have a high potential for previously unidentified sites. Because of this high potential, if archaeological materials are exposed during future development activities, then a permit will be required. The Archaeology Branch strongly recommends engaging in an eligible consulting archaeologist prior to any land-altering activities.

Ministry of Forests – Island District stated that proposed stream crossings will require applications under Section 11 of the *Water Sustainability Act*, before such work may start.

Ministry of Land, Water and Resource Stewardship advised that a *Riparian Areas Protection Regulation* (RAPR) assessment had been received and is awaiting review. While awaiting provincial consideration, the Ministry prescribed recommendations to mitigate loss of wildlife habitat, as well as potential human-wildlife conflicts by proposing adherence to the environmental protection measures described in the Environmental Assessment. Additionally, development of the property cannot be considered by the local government prior to provincial approval of the RAPR assessment, which may stipulate additional measures.

Island Health cited provincial regulation and stated that the drinking water and sewage systems require approval and filing with Island Health. The proposed development will require a drinking water system permit issued by Island Health prior to operation and use by members of the public. Issuance of a permit is also required before any food may be sold and or produced for public consumption.

Ministry of Transportation and Infrastructure (MOTI) advised that the proposal does not fall within Section 52 of the *Transportation Act* and will not require formal Ministry approval. However, a commercial access permit will be required prior to operation.

Pacheedaht First Nation advised that it holds rights and title in this area, that members carryout traditional uses in relation to the watercourses and land, emphasizing the importance of mutual engagement regarding the proposed land uses. While recognizing the demand for camping opportunities in the Jordan River area, the Nation explained that commercial assembly uses can often be problematic and that this use needs to be further specified within the proposed bylaw. The Nation also commented that the application does not appear to contemplate the critical community need for long-term residences.

T'Sou-ke First Nation stated that it does not have confidence in this proposal and recommended that any development (following the rezoning application) should be required to develop a management strategy to address waste management; the preservation and protection of watercourses; on-going wildlife monitoring; and systems to protect and preserve species-at-risk. It was also recommended that access to areas of potential cultural and archaeological significance, such as shoreline areas that may contain a shell midden, should be restricted and investigated by an archaeologist.

CRD – First Nations Relations commented that while there are no registered archaeological sites within the subject properties, the physical characteristics and location of the development are commonly associated with such sites. The department recommended that an archaeologist be retained to conduct an archaeological assessment and apply for a permit prior to development.

CRD – Building Inspection noted that building permits will be required for each of the proposed buildings.

CRD – Protective Services, Fire and Emergency Programs confirmed that this property is within the Shirley Fire Protection Area. However, the parcels are considered “unprotected” as they are 9 km away from the nearest fire hall. The department will require a report from a qualified professional to ensure that it meets the emergency access and National Fire Protection Association Standards during the development or building permit process. The division

recommended that a report from a registered professional to address potential wildfire hazards at the property be obtained and that best practices regarding tsunami safety be followed since lower elevations of the property are within the hazard area. The division also recommended that the landowner consider severe wind and rainstorms, earthquakes, flooding, extreme heat and land subsidence for the design and management of the proposed commercial campground.

CRD – Regional Parks stated that there is support for the provision of outdoor recreation opportunities where the Sandcut Creek waterfalls, surrounded by the subject property, attracts visitors. The division was concerned about the visual impact of cabins from the beach areas and recommended that a 50 m buffer be provided on the subject property for lands abutting the regional park and parallel to West Coast Road. The division expressed interest in pursuing a coordinated approach to the management of any impacts that result from increased traffic and supported the connection of a pedestrian and bike friendly trail between the regional park and lands beyond. The department also expressed interest in acquiring the small, segmented areas of the subject property that are adjacent to the regional park.

CRD – Regional Planning advised that the proposed land uses are consistent with the OCP and RGS, and that a review by the full CRD Board is not required at this time. The division noted that communities have the ability to define low-impact uses through OCPs and zoning bylaws, as well as during the public input stages of a bylaw amendment application.

The Juan de Fuca Electoral Area Parks and Recreation Advisory Commission reviewed the application at its meeting on January 24, 2023, and provided the following recommendation by resolution:

MOVED by Commissioner McKay, **SECONDED** by Commissioner Sloan that the Juan de Fuca Electoral Area Parks and Recreation Advisory Commission recommends to the Juan de Fuca Land Use Committee:

1. That the Commission supports zoning amendment application RZ000280 as the proposal would provide economic benefit to tourism and recreation in the Shirley –Jordan River area;
2. That the Commission recognizes that additional visitors require additional trails and accesses by residents and visitors alike;
3. That, with this application, the Commission recommends expansion of the trail network to existing trails and future trails for connectivity; and
4. That the Commission supports the expansion of Jordan River Park to its natural boundary on the south-east boundary of Sandcut Creek.

The Shirley-Jordan River APC met on February 7, 2023, to consider the application with 59 members of the public in attendance and made the following motion:

MOVED by Melody Kimmel, **SECONDED** by Vivi Curutchet that the Shirley-Jordan River Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee that that the Advisory Planning Commission does not support the proposal in its current form and that the proposal return to the Advisory Planning Commission at a smaller scale and with the assembly uses more clearly specified and that the applicant address the concerns expressed by the community.

Land Use Implications

The Shirley-Jordan River OCP designates the subject properties as Coastal Upland. The intent of the Coastal Upland land use designation is to support the continued use of such lands for forestry. Lands in this designation consist primarily of parcels enrolled in the PMFL program or zoned for forestry uses. If lands are removed from the PMFL program, then uses such as low-impact recreation and low-impact tourism are supported. Community parks, single-family residential, and agriculture are also supported in this designation.

Development proposals should demonstrate that community values can be protected and

implemented subject to the criteria outlined by the OCP, including geotechnical constraints, protection of environmental and culturally significant features, emergency planning, appropriate scale of development, provision of adequate setbacks and vegetated buffers, and protection of lands that are considered regionally or locally significant. Where the OCP provides flexibility on terminology such as low-impact tourism, metrics can be established in proposed zones through the referral process and public consultation and comment.

Comments received through the referral process conveyed that the scale, *assembly use*, and tourism accommodation density presented in the initial proposal was inconsistent with low-impact tourism. It was also recommended that additional information be provided to better inform the proposed zone and stipulate regulations to address the noted concerns. In particular, the APC did not support the initial application, directing the proponent to reduce the scale of potential development, provide contextually appropriate conditions for the assembly use, and address the environmental; emergency management; traffic; and burdening of local amenity concerns expressed by the community.

The revised proposal maintains permissions for a *campground* that includes camping spaces, tourist cabins; *staff accommodation*; a *convenience store*; one *caretaker dwelling*; and one *one-family dwelling*. However, in response to the referral process, the permitted tourist accommodation density has been reduced from 2 camping spaces per hectare and a maximum of 100 camping spaces, to 0.9 camping spaces per hectare (55% decrease) and a maximum of 64 camping spaces per parcel (36% decrease); and from 2 tourist cabins per hectare and a maximum of 20 cabins per parcel, to 0.3 tourist cabins per hectare (85% decrease) and a maximum of 23 tourist cabins per parcel (23% decrease). This represents an overall average decrease of approximately 50%.

The applicant has removed *assembly use* from the proposal and submitted a separate temporary use permit (TUP) application (TP000013) with conditions to establish a gathering space at a scale intended to address the concerns expressed by the APC. The initial application intended for the *assembly use* to also encompass spaces for play and leisure related outdoor recreation activities commonly associated with a campground. With the removal of *assembly use*, the application intends to accommodate those outdoor recreation activities by permitting an *outdoor recreation facility* accessory use to establish permit parks, trails, open spaces, playing fields, and playgrounds for a commercial campground.

In response to comments from the JdF EA Parks and Recreation Advisory Commission, the proposal offers a public trail amenity contribution in the form of a statutory right-of-way through the property along West Coast Road, connecting Jordan River Regional Park to lands to the east.

The proposal also includes an Environmental Report, Geotechnical Report, Wildfire Report, Emergency Plan, historical information, and a Water Supply Assessment.

The Environmental Report responds to comments from the Ministry of Land, Water, and Resources Stewardship and public concerns. This report assesses the vegetation, riparian areas, climate, wildlife and species-at-risk features on the subject property, which informs future development and anticipated permitting requirements. Should the proposed bylaw be approved, additional reports will be required through the development permit processes along with the *Water Sustainability Act* and *Riparian Areas Regulation* requirements for works in a stream and impacts within 30 m of the watercourse. The application also provides a Water Supply Assessment anticipating that the entire proposed development has an estimated peak demand of 62 cubic meters per day. The anticipated quantity exceeds the current water license withdrawal rate of 13.6 cubic meters per day from Rockbottom Creek. The assessment identifies that an investigation of Rockbottom Creek flow rates will be required to support a new water license application. Furthermore, Island Health identified that any water system serving members of the public would require permitting by that agency.

CRD Protective Services, Fire and Emergency Programs and Building Inspection identified that future emergency management of the site is regulated and overseen by the building inspection service, the Shirley Fire Department and CRD Bylaw Enforcement. The applicant has responded to the recommendation for additional professional reports by providing a Geotechnical Report, Wildfire Report and Emergency Plan to guide hazard and risk management for the commercial campground's revised proposal.

Some members of the public expressed concern that a commercial campground would generate additional traffic impacting West Coast Road, which is the only route connecting the local area to other communities. The MoTI advised that future development would require a commercial access permit. Staff recommend that the commercial access permit be granted prior to adoption of Bylaw No. 4518.

The Archaeology Branch, CRD Archaeology, and T'Sou-ke First Nation emphasized that while there are no recorded archaeological sites, it is anticipated that the shoreline areas are of high potential; therefore, investigation by an Archaeologist is recommended. The geotechnical report identified that some of those shoreline areas are unsuitable for development, and that further geotechnical study would be necessary prior to development. In response to these comments and the information provided by the reports, the proponent has reduced the scale of development near shoreline areas. Buildings and structures adjacent to the sea will also be required to meet a 9 m setback from the shoreline property boundary and all future development will be required to comply with the requirements of the *Heritage Conservation Act*, including the potential requirement for a permit, as outlined by the Archaeological Branch.

Comments from the JdF EA Parks and Recreation Advisory Commission address public safety, recreation opportunities and connectivity along West Coast Road by recommending the establishment of a roadside trail. The applicant has committed to providing a statutory right-of-way in favour of the CRD for a roadside trail connecting the adjacent Jordan River Regional Park with land to the east as an amenity contribution should Bylaw No. 4518 proceed. Such a trail would separate pedestrians, cyclists and other users from highway traffic, and potentially reduce vehicle trips generated by campground patrons. Staff note that there is opportunity to extend the trail corridor along the frontage of the adjoining property to the east through the park dedication requirements related to an active subdivision application.

Staff are of the opinion that the proposed development is aligned with the Coastal Uplands land use designation and broader OCP policies. The OCP does not support the development of recreational vehicle parks; however, staff would not consider the proposed campground development to be of a scale and density typical of such a facility. For comparison, the Otter Point Coop is zoned Intermittent Rural Residential (RR-4), which expressly permits "campsites used for intermittent accommodation in Recreation Vehicles" with a density of 20 sites per hectare. Furthermore, the proposed zone permits a *caretaker dwelling* and *staff accommodation*, to address housing goals identified in the OCP and concerns expressed by some community members during the referral process.

Should proposed Bylaw No. 4518 proceed, future development involving building construction will require the issuance of building permits, as well as development permit applications where land alteration or building construction occurs within designated development permit areas. Geotechnical, Environmental, and Archaeological concerns would be addressed at that time. Based on revisions to the application in response to the comments received, policies of the Shirley-Jordan River OCP, and approval requirements for future development, staff recommend that that proposed Bylaw No. 4518 be introduced, read a first and second time, and that a public hearing with respect to the Bylaw be held.

CONCLUSION

The purpose of Bylaw No. 4518 is to amend Bylaw No. 2040 by removing the subject properties from the Forestry (AF) zone and adding them to an amended Rural Commercial Recreation (Campground) (CR-2) zone. Staff have prepared proposed Bylaw No. 4518 and recommend receipt of the referral comments, first and second reading, and advancement to a public hearing.

RECOMMENDATION

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

1. That the referral of proposed Bylaw No. 4518, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 158, 2022", to the Shirley-Jordan River Advisory Planning Commission, Pacheedaht First Nation; T'Sou-ke First Nation; CRD departments, BC Hydro; District of Sooke; the Archaeology Branch and Water Protection; the Ministry of Land, Water, and Resource Stewardship; the Ministry of Transportation & Infrastructure; RCMP; and Sooke School District #62 be approved and comments be received;
2. That proposed Bylaw No. 4518 be introduced and read a first time and read a second time;
3. That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director of the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4518; and
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Submitted by:	Iain Lawrence, RPP, MCIP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Shawn Carby, CD, MAL, Acting General Manager, Planning & Protective
Concurrence:	Shawn Carby, CD, MAL, Chief Administrative Officer

ATTACHMENTS

- Appendix A: Subject Property and Zoning Map
- Appendix B: Proposed Amendments to the CR-2 Zone
- Appendix C: Updated Concept Plan
- Appendix D: Supplemental Reports and Supporting Information:
1. Environmental Assessment Report, May 2022
 2. Geotechnical Report, July 24, 2022
 3. Wildfire Assessment Report, June 2, 2021
 4. Campground Emergency Plan, June 28, 2023
 5. Property History, December 2023 (Fall 1984)
 6. Water Supply Assessment, April 2023
- Appendix E: Proposed Bylaw No. 4518
- Appendix F: Referral Comments