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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 That Part of Lot 2, Section 60, Renfrew District, Plan 6764 Lying to the South of the 66 Foot Road Dedicated by Said Plan (PID: 003-175-201) – 9333 Invermuir Road**

### **ISSUE SUMMARY**

The landowners have applied to rezone the subject property from the Rural A zone to the Rural Residential 3 zone (RR-3) to facilitate subdivision.

### **BACKGROUND**

The 7.8 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 two existing dwellings and one accessory building that are serviced by septic and water cisterns (~11,365 L & ~13720 L). The cisterns are refilled through water delivery. The property is located within the Shirley Fire Protection Local Service Area.

The landowners have 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-3 zone (Appendix C) to facilitate a 2-lot fee-simple subdivision application (SU000763), proposing one lot for each of the two existing dwellings (Appendix D). Staff have prepared Bylaw No. 4615 (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. 4615, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 165, 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. 4615 be introduced and read a first, second and third time; and

3. That adoption of proposed Bylaw No. 4615 be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for subdivision application SU000763.

*Alternative 2*

That the CRD not proceed with proposed Bylaw No. 4615.

**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 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 advised of the need to be apprised of any archaeological finds when construction starts, and for a copy of the stormwater management plan to be submitted at the time of development. JdF Planning staff note that if a stormwater management plan is required at the time of subdivision, it would be submitted to the Ministry of Transportation and Infrastructure and the Provincial Approving Officer.

BC Hydro expressed no concerns with the application; however, new statutory right of way agreements will be required over the new lots at the time of subdivision.

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 rezoning for the two lots subject to adhering to the recommendations of the environmental and *Riparian Areas Protection Regulation (RAPR)* reports. Isolated 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 wetlands 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 are two wells on the subject property that have not been registered in the Groundwater Wells Database. If there is no plan for the wells to be used, the wells should be decommissioned. The subject property overlays Aquifer 449, which consists of fractured sedimentary rock, mostly overlain by Vashon till. The median well depth for wells in the area is 80 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. 4615:

**MOVED** by Fiona McDannold, **SECONDED** by Emily Anderson that the Shirley-Jordan River Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee support for zoning amendment application RZ000285.

### *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. 4615 removes the property from the Rural A zone and adds it to the RR-3 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 four one-family dwellings, as well as a secondary suite or detached accessory suite, on parcels that are greater than 4 ha but less than 16 ha. The RR-3 zone has minimum parcel size of 2 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-3 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. 4615 does not increase the existing density of one-family dwellings on the 7.8 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 Environmental and RAPR Reports (Appendix G) submitted as part of the application provided an inventory of sensitive ecosystems and wildlife and an impact assessment of the existing development and proposed subdivision. The Environmental Report identified the presence of Mature Forest, Riparian and Shoreline ecosystems, and an eagle's nest on the property. The RAPR Report identified the presence of eight waterbodies on or adjacent to the subject property. With the exception of installation of a new well and pumphouse, no disturbance beyond that already existing on the property is planned as part of the subdivision. The Reports included recommendations for the proposed subdivision to meet the development permit area guidelines and provincial regulations.

While the owner has applied for a two-lot subdivision, should Bylaw No. 4615 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-3 zone permits a maximum density of one dwelling per parcel. Should Bylaw No. 4615 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. 4615 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. 4615 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 SU000763.

## **CONCLUSION**

The purpose of Bylaw No. 4615 is to amend the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 by rezoning the subject property from Rural A to RR-3. 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. 4615 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 SU000763.

**RECOMMENDATION**

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

1. That the referral of proposed Bylaw No. 4615, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 165, 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. 4615 be introduced and read a first, second and third time; and
3. That adoption of proposed Bylaw No. 4615 be withheld pending receipt by the CRD of a Preliminary Layout Review from the Ministry of Transportation and Infrastructure for subdivision application SU000763.

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 3 (RR-3) Zone
- Appendix D: Proposed Subdivision Plan
- Appendix E: Proposed Bylaw No. 4615
- Appendix F: Referral Comments
- Appendix G: Environmental DP Review Report and RAPR Assessment