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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, FEBRUARY 16, 2021**

SUBJECT **Building Conversion to Strata for Lot A, Section 11, Otter District, Plan 33095
– 4090 Otter Point Road**

ISSUE SUMMARY

A request has been made to convert a single-family dwelling to strata at 4090 Otter Point Road.

BACKGROUND

The 2.5 hectare (ha) property is located at 4090 Otter Point Road (Appendix A). Approximately 1.0 ha of the subject property is within the Agricultural Land Reserve (ALR) and is zoned Agricultural (AG), and the remaining portion is zoned Rural (A) in the Juan de Fuca Land Use Bylaw No. 2040. The property is adjacent to Otter Point Road to the north and west, ALR properties to the north, west and south, and Crown and Rural (A) zoned land to the east. King Creek flows through the rear of the property and is designated as a Watercourses and Wetlands development permit area in the Otter Point Official Community Plan, Bylaw No. 3819.

The property was created by subdivision in 1979 and a building permit was issued in 1980 for a single-family dwelling on the AG portion of the property. The permit lapsed in 1987 and was never completed. In addition to the dwelling, there are various sheds and stables on the property. The Rural A portion of the property is currently vacant; however, three additional dwellings are permitted to be constructed within that zone. The property is serviced by a septic system and groundwater well, and is within the Otter Point fire protection service area.

The owners are proposing to register a building strata in three phases, and have applied to CRD for approval to convert the existing single-family dwelling to strata under Section 242 of the *Strata Property Act* (Appendix B).

ALTERNATIVES

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

1. That Building Conversion Strata BC000024, for Lot A, Section 11, Otter District, Plan 33095, to obtain individual title for two single-family dwellings as part of phase 1 of the Proposed Phased Building Strata shown on the Plan prepared by Summit Land Surveying, dated December 2, 2020, be approved subject to the following conditions:
 - i. Submission of a Qualified Professional's report to confirm that the existing dwelling substantially complies with the *BC Building Code* and describe the life expectancy and projected major increases in maintenance costs due to the condition of the building;
 - ii. Completion of a building permit for the existing dwelling;
 - iii. Completion of any building permits and development permits required for the existing accessory buildings;
 - iv. Submission of a Qualified Professional's report confirming completion of the improvements to the existing domestic groundwater as outlined in the report prepared by Wellmaster Pumps and Water Systems Ltd., dated July 19, 2020, and certifying that well complies with the *Groundwater Protection Regulation*;
 - v. Submission of proof of a potable water supply for the proposed dwelling;
 - vi. Confirmation that the subject property can accommodate a sewerage system or systems that meet the requirements of the *Sewerage System Regulation*, for proposed phased strata;

- vii. Substantial completion of a second dwelling on the subject property, as confirmed by CRD Chief Building Inspector, to form part of phase 1 of the proposed phased building strata as identified on the survey prepared by Summit Land Surveying dated December 2, 2020;
 - viii. The submission of a final survey plan for endorsement by the General Manager, Planning & Protective Services Department.
2. That Building Conversion Strata BC000024 be denied.
 3. That the application be referred back to staff for more information.

LEGISLATIVE IMPLICATIONS

Section 242 of the *Strata Property Act* establishes the CRD Board as the approving authority for conversion of previously occupied buildings to strata and requires that approval shall only be granted if the building(s) substantially comply with the applicable bylaws of the Regional District and the *BC Building Code*.

The Capital Regional District (CRD) Land Use Committee Bylaw No. 3166 gives powers to the Committee to make recommendations to the CRD Board on applications for the conversion of previously occupied buildings to strata. Juan de Fuca Development Fees and Procedures Bylaw No. 3885 and the Juan de Fuca Building Conversion to Strata Application Policy outline application requirements for building conversions to strata.

PUBLIC CONSULTATION IMPLICATIONS

Bylaw No. 3885 does not require public notification of the application; however, at any time during the building conversion strata application process, the Board may refer the application to any agency or organization for their comments and suggestions. Notice of the Land Use Committee meeting and CRD Board meeting are posted on the CRD website.

LAND USE IMPLICATIONS

The eastern portion of the property is designated as Settlement Area 2 in the Otter Point Official Community Plan (OCP) and zoned Rural A. The Settlement Area 2 designation signifies that the predominant land use is rural residential and supports a 1 ha average lot size. The Settlement Area designation supports parcels with multiple dwellings constructed or building stratas registered prior to adoption of the OCP being considered for rezoning to permit subdivision to create the equivalent number of parcels that may not meet the average parcel size of 1 ha. However, since the dwellings have not yet been constructed, this policy does not apply; therefore, the only option available to create individual title is through a building conversion to strata. Affordable housing is encouraged and two-family and multiple-family dwellings are supported within the Settlement Area designation subject to the land use bylaw. The 1.5 ha Rural A zoned portion of the property permits the construction of up to three dwellings, which could be granted individual title through a building strata.

The western 1 ha portion of the property is designated as Rural Lands-Agricultural Land Reserve and is zoned Agriculture (AG). The Rural-ALR designation identifies that agriculture is the priority land use in the ALR and is encouraged. Development should be designed to minimize impacts on land, groundwater, vegetation and agricultural lands. Development of land adjacent to the ALR may be supported where the site will have minimal impact on the existing man-made and natural physical features of the area; and a buffer between the development and the ALR parcel should be considered. King Creek provides a natural buffer between the subject property and ALR land to the south and Otter Point Road separates the subject property from ALR lands to the north and west. Any development within 30 m of King Creek will require a development permit and a

Riparian Areas Protection Regulation (RAPR) report to identify a minimum natural buffer area for the protection of fish habitat.

The applicant wishes to pursue conversion of the previously occupied dwelling to strata prior to constructing the three additional dwellings.

CRD is the approving authority for conversion of previously occupied buildings, as outlined in the *Strata Property Act*. Section 242(6) of the *Strata Property Act* requires the approving authority to consider the following:

- (a) the priority of rental accommodation over privately owned housing in the area,
- (b) any proposals for the relocation of persons occupying a residential building,
- (c) the life expectancy of the building,
- (d) projected major increases in maintenance costs due to the condition of the building, and
- (e) any other matters that, in its opinion, are relevant.

The Policy also outlines application requirements and evaluation criteria in more detail.

Rental accommodation: The Otter Point OCP encourages rural forms of affordable housing by supporting suites, manufactured homes, and two-family dwellings. Both the AG and Rural (A) zones permit construction of a secondary suite which could add to the available rental housing on the subject property, or it is possible that the dwelling units in the proposed strata may become available for rent. However, at the present time, only one unit exists and the strata form of tenure provides a mechanism by which the construction of additional units can be financed.

Relocation proposal: With respect to any proposals for relocation of current occupants of the dwelling, one of the property owners is living at 4090 Otter Point Road so no tenants would need to be relocated as a result of the strata conversion.

Life expectancy of the building and maintenance costs: The dwelling at 4090 Otter Point Road was constructed in the 1980s and never received a certificate of occupancy from CRD. The applicant has submitted an engineer's inspection report outlining that the existing house is in good condition (Appendix D). Staff recommend that a building permit be obtained for the existing dwelling and that a Qualified Professional's report be submitted confirming compliance with the *BC Building Code*, describing the life expectancy and outlining information about any projected major increases in maintenance costs. Building permits and development permits should also be obtained for the existing accessory buildings.

Other relevant matters: There is one existing domestic groundwater well on the property that was drilled in 1980. The applicant has obtained a report from Wellmaster Pumps & Water Systems Ltd., dated July 19, 2020, addressing the well performance and equipment evaluation (Appendix E). The report describes the well as having a low water level, and requiring improvements to bring its construction into compliance with current standards. A water quality analysis was not completed, but the water was observed to have discolouration. Staff recommend that the applicant obtain proof of a potable water supply and confirmation from a Qualified Professional that improvements have been completed to bring the well into compliance with standards in the *Groundwater Protection Regulation* of the *Water Sustainability Act*. If the owners propose to use one well to supply potable water to two or more dwelling units in the strata, a permit will be required for a water supply well in accordance with the *Drinking Water Protection Act*, through Island Health.

The applicant has provided a report from Complete Septic Solutions, dated December 10, 2020 (Appendix F), confirming that the existing Type 1, gravity sewerage system with traditional trench dispersal field is functioning as per design and that there appears to be no indication the system is incapable of handling the flow rates for the dwelling at 4090 Otter Point Road. Additional

dwellings to be constructed in the phased strata will require either new individual septic systems, or a common system, that complies with current regulatory requirements and agency standards.

Registration of phase one of the proposed building strata requires construction of a second dwelling on the property. Staff recommend that consideration of the strata conversion application be conditional on substantial completion of the new dwelling, as determined by CRD Building Inspection division. Approval of the phased strata is the authority of the Provincial Approving Officer who will determine timelines for construction of the dwelling units in phases two and three of the strata.

The *Strata Property Act* requires that approval of the building conversion to strata only be granted if the building(s) substantially comply with the applicable bylaws of the Regional District and the *BC Building Code*. As the existing dwelling and accessory buildings and related on-site services do not currently comply with CRD bylaws, staff recommend that the applicant provide a qualified professional's report certifying that necessary improvements to the buildings and on-site services have been completed and upgraded to meet current standards. In addition, staff recommend that consideration of approval of the application be subject to substantial completion of the second dwelling unit and submission of a final survey plan for endorsement by the General Manager, Planning & Protective Services Department.

CONCLUSION

An application has been received to convert an existing dwelling to strata at 4090 Otter Point Road for the purpose of registering a phased building strata. The 2.5 ha property is split-zoned AG and Rural A, and a total of four dwellings are permitted. Staff recommend the applicant provide a qualified professional's report certifying that necessary improvements to the buildings and on-site services have been completed and upgraded to meet current standards. In addition, staff recommend that consideration of approval of the application be conditional on issuance of required building permits, substantial completion of the second dwelling unit and submission of a final survey plan.

RECOMMENDATION

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

1. That Building Conversion Strata BC000024, for Lot A, Section 11, Otter District, Plan 33095, to obtain individual title for two single-family dwellings as part of phase 1 of the Proposed Phased Building Strata shown on the Plan prepared by Summit Land Surveying, dated December 2, 2020, be approved subject to the following conditions:
 - i. Submission of a Qualified Professional's report to confirm that the existing dwelling substantially complies with the *BC Building Code* and describe the life expectancy and projected major increases in maintenance costs due to the condition of the building;
 - ii. Completion of a building permit for the existing dwelling;
 - iii. Completion of any building permits and development permits required for the existing accessory buildings;
 - iv. Submission of a Qualified Professional's report confirming completion of the improvements to the existing domestic groundwater as outlined in the report prepared by Wellmaster Pumps and Water Systems Ltd., dated July 19, 2020, and certifying that well complies with the *Groundwater Protection Regulation*;
 - v. Submission of proof of a potable water supply for the proposed dwelling;
 - vi. Confirmation that the subject property can accommodate a sewerage system or systems that meet the requirements of the *Sewerage System Regulation*, for proposed phased strata;

- vii. Substantial completion of a second dwelling on the subject property, as confirmed by CRD Chief Building Inspector, to form part of phase 1 of the proposed phased building strata as identified on the survey prepared by Summit Land Surveying dated December 2, 2020;
- viii. The submission of a final survey plan for endorsement by the General Manager, Planning & Protective Services Department.

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| Submitted by: | Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning |
| Concurrence: | Kevin Lorette, P.Eng., MBA, Acting Chief Administrative Officer |

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Proposed Phased Building Strata Plan
- Appendix C: Scott Engineering Inc. Report
- Appendix D: Wellmaster Pumps & Water Systems Ltd. Report
- Appendix E: Complete Septic Solutions Report