



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, MARCH 19, 2019**

SUBJECT **Zoning Amendment Application for Strata Lots 13, 26 and 27, Section 16, Otter District, Plan VIS7096**

ISSUE

The applicant is proposing to rezone three properties from the general Industrial (M-2) zone to the Sooke Business Park Industrial (M-SBP) zone.

BACKGROUND

The applicant applied to rezone Strata Lots 13, 26 and 27 to the Sooke Business Park Industrial (M-SBP) zone for the purpose of permitting licensed medical marihuana production in February, 2018 (Appendix 1). At their meeting of April 17, 2018, the Land Use Committee directed referral of the application to agencies and to the Otter Point Advisory Planning Commission (APC) for comment.

Since that time, the federal government implemented the legalization of cannabis and a national licensing framework. Due to questions initially raised by the APC regarding potential impacts of cannabis cultivation facilities, and the release of the federal *Cannabis Act* licencing scheme, the applicant requested their application be revised to permit a cannabis processing/packaging facility, similar to an industrial processing use. The revised proposal was considered by the Land Use Committee (LUC) on December 17, 2018. The LUC directed re-referral of the revised application to agencies and the Otter Point APC for comment. Referral comments are included in Appendix 2.

At their December 17, 2018, meeting the LUC also passed the following resolution:

MOVED by Director Hicks, **SECONDED** by Roy McIntyre that staff amend the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, 1992, to eliminate the distinction between medical cannabis production and recreational cannabis production in the Sooke Business Park Industrial (M-SBP) zone.

CARRIED

Based on the LUC's direction, staff have prepared a separate bylaw amendment to permit all cannabis-related licence uses in the M-SBP zone for consideration (Bylaw No. 4278).

If proposed Bylaw No. 4278 is approved, the M-SBP zone would permit all forms of cannabis production, processing and research related uses, but not retail sales. Considering this new context, rezoning application RZ000255 is again revised to include the subject properties in the Sooke Business Park Industrial (M-SBP) zone. Staff have prepared Bylaw No. 4234 for consideration (Appendix 3).

ALTERNATIVES

Alternative 1:

That the Land Use Committee recommends to the Capital Regional District (CRD) Board:

- a) That the referral of the proposed bylaw directed by the Juan de Fuca land Use Committee on April 18, 2018 and December 17, 2018 to the Otter Point Advisory Planning Commission; BC Hydro; District of Sooke; Island Health; Ministry of Transportation and Infrastructure; RCMP; T'Sou-ke First Nation; and appropriate CRD departments be approved and the comments received;
- b) That proposed Bylaw No. 4234, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018" be introduced and read a first time and read a second time; and

- c) That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4234.

Alternative 2:

That the CRD Board not proceed with Bylaw No. 4234.

Alternative 3:

That more information be provided by staff.

LEGISLATIVE AND PUBLIC CONSULTATION IMPLICATIONS

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

REFERRAL COMMENTS

Referrals were sent on April 18, 2018, and December 17, 2018, to 10 agencies, the Otter Point APC and to appropriate CRD departments. Comments are noted below and included in Appendix 2.

CRD Bylaw Enforcement does not anticipate significant bylaw enforcement implications as a result of the proposal.

District of Sooke stated no objection.

Island Health provided comment about federally licensed marihuana production facilities and recommended that odour control containment measures be implemented to reduce potential health risks of exposure. Comments also stated consideration of establishing buffers between residential and industrial zones to limit impact on residents and community. Island Health also requires compliance with the *Drinking Water Protection Act & Regulation* and the *Sewerage System Regulation*. Reference to the Medical Health Officer's public health approach to cannabis is included.

JdF Emergency Services stated concern with possible radio communication interference from electrical equipment used in large-scale marihuana cultivation facilities.

MoTI stated no objections to the proposal.

RCMP stated no comment.

The Otter Point APC considered the application on June 5, 2018, and 10 members of the public were present at the meeting. Discussion focused on the pending federal government legalization of cannabis and about the applicant's involvement with the industry. Concerns regarding water usage, site contamination, drainage and waste disposal for medical marihuana production facilities, as well as interference with radio-communication systems were stated. The Otter Point APC made the following motion:

MOVED by Bud Gibbons, **SECONDED** by Stephen Smith that the Otter Point APC accepts this application subject to more information being provided by the applicant on water use, drainage, ground water, light pollution and disclosure of the proposed medical marijuana use, and impact on emergency radio communications, and given assurances from potential developers to reduce impact of these concerns.

CARRIED

The Otter Point APC reconsidered the proposal in light of the federal *Cannabis Act* on January 22, 2019, and made the following motion:

MOVED by Sid Jorna, **SECONDED** by Al Wickheim that the Otter Point APC supports rezoning application RZ000255 and proposed Bylaw No. 4234, as revised.

CARRIED

PLANNING ANALYSIS

The Settlement Area designation specifies that the predominant land use is rural residential; however, industrial uses on lands zoned industrial or with a valid temporary use permit are also permitted in the Settlement Area designation. The subject properties are currently zoned for general industrial uses and the proposed rezoning is consistent with the Settlement Area designation.

The Sooke Business Park Industrial (M-SBP) zone currently applies to 11 lots within the Sooke Business Park development at 7450 Butler Road. The M-SBP zone currently permits *intensive agriculture – medical marihuana production*, as well as a limited set of commercial uses such as business office and support services, and allows parking within the front yard setback on lots that front an internal strata road. This zone was also drafted to remove gravel processing as a permitted use and to clarify those uses that are prohibited by covenant FB0424654.

Details about the *Cannabis Act* and related legislation were not available at the time this application was initially considered by the LUC, referral agencies and the Otter Point APC. Subsequent consideration of the federal legalization of cannabis by the LUC prompted preparation of a bylaw amendment, proposed Bylaw No. 4278, which proposes that all federal cannabis licence categories be permitted in the M-SBP zone.

With regards to the proposed cannabis licence uses, Health Canada's regulations require license holders to abide by strict security and quality control measures including release of any odour. Local governments can also consider implementing regulations to enhance enforcement of nuisance odour if it is deemed warranted. Water and septic requirements are addressed through the building permit process.

In response to the concern raised by the JdF Emergency Program regarding electrical interference, JdF Planning staff contacted BC Hydro to determine areas of responsibility and potential solutions. Electrical interference can arise from a number of potential sources, including BC Hydro's infrastructure. Where such infrastructure is determined to be the cause, BC Hydro would be responsible for resolving the issue. Interference caused by electrical equipment within the facility would be operating in contravention of the standards set by Industry Canada. In those cases, Industry Canada should be notified.

Finally, the subject property is designated as a Commercial and Industrial Development Permit Area and is subject to the form and character guidelines in the Otter Point Official Community Plan. A development permit will be required prior to building construction.

Staff recommend Alternative 1, to receive the referral comments and proceed with readings of the bylaw and holding of a public hearing.

CONCLUSION

The purpose of this zoning amendment application is to include the three subject properties in the Sooke Business Park Industrial (M-SBP) zone. Staff recommend proceeding with first and second reading and public hearing.

RECOMMENDATIONS

That the Land Use Committee recommends to the Capital Regional District (CRD) Board:

- a) That the referral of the proposed bylaw directed by the Juan de Fuca Land Use Committee on April 18, 2018 and December 17, 2018 to the Otter Point Advisory Planning Commission; BC Hydro; District of Sooke; Island Health; Ministry of Transportation and Infrastructure; RCMP; T'Sou-ke First Nation; and appropriate CRD departments be approved and the comments received;
- b) That proposed Bylaw No. 4234, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 133, 2018" be introduced and read a first time and read a second time; and

- c) That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4234.

Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

ET:wm

Attachments:

- Appendix 1. Subject Properties Map
- Appendix 2. Referral Comments
- Appendix 3. Proposed Bylaw No. 4234
- Appendix 4. M-SBP Zone